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## Quick, easy and reliable switching

Statement and consultation on a new landline and broadband switching process and improved information for mobile switching

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[Quick, easy and reliable switching](#) – Welsh overview

NON-CONFIDENTIAL VERSION

### **CONSULTATION:**

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# 1. Overview

People should be able to switch telecoms provider easily, to take advantage of the range of services available. Easier switching allows people to shop around with confidence to find the best price and service for their needs. Difficulties in the switching process can put people off moving providers. Effective switching is also important to support competitive investment in, and take-up of, faster and more reliable broadband.

In February 2021, we consulted on proposals for a new process for residential customers to switch their landline and broadband services. We also proposed some limited changes to the information mobile providers must give residential customers when they want to switch.

## What we have decided

### Easier landline and broadband switching

Providers must develop and operate a new 'One Touch Switch' process for all residential customers who switch landline and broadband services. This new process will replace the existing arrangements from April 2023.

Using One Touch Switch, all customers will be able to use a single process to move providers regardless of who their provider is or the technology or network their provider uses. For example, customers could use One Touch Switch to move their services from Virgin Media to Hyperoptic, or to another provider delivering services using Openreach or CityFibre's network. They will also be able to switch between providers of full-fibre broadband services on the same network.

One Touch Switch will mean customers only need to contact their new provider, who will arrange and manage the switch on their behalf. It will ensure all customers can use a process that is easy, quick, reliable and ensures they have given their informed consent.

### Removing the Notification of Transfer process

We have decided to remove the rules relating to the existing Notification of Transfer process, which some customers switching landline and broadband services use to move providers on the Openreach and KCOM networks. Residential customers who would currently use Notification of Transfer will use One Touch Switch when it is launched.

### Better information for mobile switchers

We are improving the information providers must give to customers who are considering switching their mobile phone service. A customer's current provider will now also need to tell them about the impact of the switch on other services they also have with that provider. This will include any bundled services and specific services for disabled customers. This will help customers understand the implications of switching so they can make an informed decision about whether to go ahead with the switch.

## **Making switching easier simpler for residential customers**

Making sure customers can switch providers easily and reliably is a long-standing priority for Ofcom in light of our duties. We have made several reforms to switching processes to help achieve this.

In October 2020, we put in place new switching rules. These rules apply to residential and business customers switching landline, broadband and mobile services. These include requirements that:

- a customer's new provider takes the lead in managing the switch;
- customers are kept adequately informed before and during the switch and are not switched without their express consent;
- the switch happens in the shortest possible time and on the date agreed by the customer;
- providers minimise or avoid loss of service during the switch; and
- customers are compensated if things go wrong.

## **A new switching process for landline and broadband services**

### **Current arrangements and the need for change**

At present, some customers switching landline and broadband services within the Openreach and KCOM networks can use the existing regulated 'Notification of Transfer' process. However, this process does not cover customers switching between full-fibre broadband providers or between networks. Customers using other networks, for example Virgin Media, need to manage the switch themselves and coordinate the cancellation of the existing contract and the start of the new contract with the new provider.

The current arrangements for switching landline and broadband need to change to comply with our new switching rules. The existing Notification of Transfer process does not meet the requirements of the new switching rules, particularly in relation to information and consent.

### **February consultation: two options for reform**

Industry, with the support of the Office of the Telecommunications Adjudicator (OTA), worked to design a new process for all residential customers switching their landline and broadband services. However, industry were unable to agree on a single process and instead proposed two different solutions which were supported by different providers: One Touch Switch and Code to Switch.

Therefore, in February 2021 we consulted on our assessment of the two industry solutions.

### **Decision to require the use of the One Touch Switch process**

We have decided that industry should develop and operate the One Touch Switch process for all customers switching landline and broadband services, regardless of who their provider is or the technology or network their provider uses. The process is described below.

## Quick, easy and reliable switching

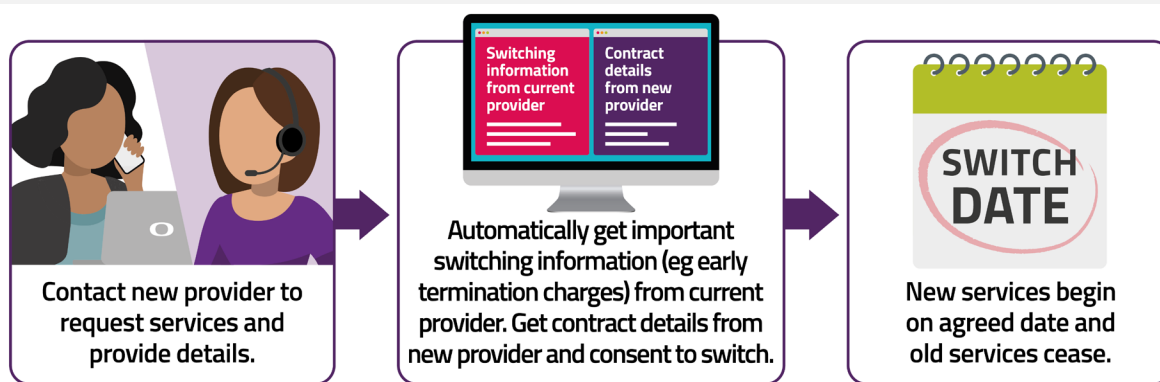
We have decided that the new process should be available for use by customers from April 2023. At the same time, the rules relating to the existing Notification of Transfer process will be removed as they will no longer be needed.

We have chosen One Touch Switch over the alternative option Code to Switch because, in our view, it will be easier for customers to use, be simpler to understand and follow, give customers more control over contact with their existing provider, and involve less effort on the part of customers.

Without further intervention from Ofcom, we are concerned that the absence of industry consensus would result in either no new switching process being put in place or not all providers being part of any system that is developed. To avoid consumer harm, we consider it to be more effective for us to specify the process to be implemented.

In our view, this reform is a proportionate and effective means of ensuring residential customers can switch their landline and broadband services using an effective and efficient process that complies with our new switching rules and does not create unnecessary difficulties or deterrents.

### One Touch Switch process overview



Under One Touch Switch a customer contacts their chosen new provider and provides their details. The current provider automatically gives the customer switching information (for example early termination charges, the impact of the switch on other services). If they decide they want to go ahead, they confirm this with their new provider. The new provider then manages the switch.

## Improved information in the mobile Auto-Switch process

We are also changing the information requirements that apply to mobile providers. We have decided that the current provider will also need to tell customers who are intending to switch about the impact of the switch on other services they have with that provider, in addition to the information they already need to provide. This will include any bundled services and specific services for disabled customers.

These changes will ensure residential customers using the Auto-Switch process are fully informed in line with the information and consent requirements of the new switching rules, ensure consistency for fixed and mobile customers, and provide protection for customers using additional support services.

These changes will come into effect in April 2023.

## Consultation on changes to the General Conditions

We are consulting on proposed amendments to the General Conditions to give effect to our decisions in relation to both fixed and mobile switching from 3 April 2023.

From that date customers will be able to use the One Touch Switch process to switch their landline and broadband services and will be able to benefit from improved information when switching mobile services.

## Next steps

We invite responses to our consultation on changes to the General Conditions by 9 November 2021. Subject to considering the views and evidence submitted in responses, we aim to publish a statement confirming changes to the General Conditions in early 2022.

The industry need to start work immediately to meet our implementation deadline. As a first step, they need to establish governance arrangements so that they can start making decisions. The Office of the Telecommunications Adjudicator (OTA) is already developing an implementation plan, at our request, and we will continue to work closely with them and the rest of the industry to kick start the work. Industry are free to consider other options for managing the implementation process that would enable them to ensure that the new switching process is delivered on time.

## 2. Background

- 2.1 Customers need to be able to switch telecoms providers easily so that they can take advantage of competition in communications markets. Easier switching allows people to shop around with confidence to find the best price and service for their needs, whereas difficulties in the switching process can put people off moving providers. Effective switching is also important to support future competitive investment in, and take-up of, faster and more reliable broadband.
- 2.2 Ensuring customers can switch easily is a long-standing priority for Ofcom in light of our duties (set out in our legal framework below), and we have previously put in a place a number of reforms to help achieve this. Simpler switching remains a strategic priority for Ofcom as set out in our plan of work for 2021/22.<sup>1</sup> The goal of having a smooth switching process is also part of our Fairness for Customers work programme and aligns with the Fairness Commitments, in particular the pledge by signatories to ensure that customers who are leaving do not face additional barriers or hassle compared to those who are signing up to new services.<sup>2</sup>
- 2.3 As part of our recent work to implement the European Electronic Communications Code (EECC) (see below), we have put in place new General Conditions (GCs) for providers of fixed voice and broadband, and mobile services.<sup>3</sup> We decided in our October 2020 Statement (see below) that the switching related GCs would come into force in December 2022.<sup>4</sup>
- 2.4 These new GCs require, among other things, that customers can switch their fixed voice and broadband services using a process led by the gaining provider regardless of the network or technology their existing provider uses.<sup>5</sup>
- 2.5 We asked industry to work together to develop a new gaining provider led switching process that can be used by residential customers who want to switch fixed voice and broadband services, and which would comply with the EECC requirements.<sup>6</sup>
- 2.6 Industry was unable to reach consensus and split into two groups, each proposing its own version of such a process. Given the lack of industry consensus, we were concerned that, without further intervention from Ofcom, no new industry-wide cross-platform switching process would be put in place, which would result in consumer harm and additional costs

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<sup>1</sup> Ofcom, March 2021. [Plan of work 2021/22](#), paragraph 3.17.

<sup>2</sup> In June 2019 Ofcom published [a number of voluntary commitments](#). The aim of these is to help ensure people are always treated fairly by their provider. The signatories are BT, EE, Giffgaff, O2, Plusnet, Post Office, Sky, TalkTalk, Tesco Mobile, Three, Virgin Media and Vodafone. Further information is provided on our [Fairness for Customers website](#).

<sup>3</sup> In this document, we use “voice and broadband” to cover: voice only, broadband only, and voice and broadband combined.

<sup>4</sup> Ofcom, October 2020. [Fair treatment and easier switching for broadband and mobile customers: Implementation of the new European Electronic Communications Code](#) (October 2020 Statement), paragraph 9.194.

<sup>5</sup> For example, a switch between Virgin Media and a provider using the Openreach network or another network (where a choice is available).

<sup>6</sup> In this document, where we refer to ‘customers’, we mean residential customers only, unless we state otherwise.

to providers. We therefore considered it necessary to propose a process to be implemented.

2.7 In our February 2021 Consultation<sup>7</sup> we set out our views on the two industry proposals and consulted on:

- Our assessment of the fixed voice and broadband switching processes developed by industry.
- Our preferred option, and our proposal to require providers to develop and implement the One Touch Switch process.

2.8 At the same time, we proposed to make limited changes to information requirements in the Auto-Switch rules for residential mobile customers, to give full effect to our new information and consent rules, ensure greater consistency in the information fixed and mobile switchers receive, and provide protections for customers using additional support services.

## Switching process work to date

### Previous Ofcom proposals and reforms to switching

#### Improvements to the Notification of Transfer process

2.9 Currently, customers can switch their fixed voice and broadband services between providers on the Openreach and KCOM copper networks (including fibre to the cabinet) using the enhanced Notification of Transfer process (also known as NOT+).<sup>8</sup>

2.10 Before the introduction of the Notification of Transfer process, some customers had to get a Migration Authorisation Code (MAC) to switch their broadband. We found that having multiple processes for switching the same service caused confusion and a lack of clarity over how to switch. We also found that customers were experiencing switching difficulties and deterrents with the MAC process, including delays and unwanted save activity when they had to call the losing provider for the code.<sup>9</sup> We therefore decided to remove the MAC process and harmonise switching, using the Notification of Transfer process.

2.11 Alongside harmonisation, we made several improvements to the Notification of Transfer process.<sup>10</sup> These included measures to improve the information given to customers about the implications of switching and to help address concerns about customers being switched without their knowledge or consent.

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<sup>7</sup> Ofcom, February 2021. [Consultation: Quick, easy and reliable switching](#) (February 2021 Consultation).

<sup>8</sup> Ofcom, August 2013. [A statement and consultation on the processes for switching fixed voice and broadband providers on the Openreach copper network \(Notification of Transfer Statement and Consultation\)](#); Ofcom, December 2013. [Statement on GPL NoT+ elements](#); Ofcom, March 2015. [Statement and consultation on switching fixed voice and broadband on the KCOM copper network](#).

<sup>9</sup> Notification of Transfer Statement and Consultation, paragraph 1.6.

<sup>10</sup> Statement on GPL NoT+ elements, paragraph 1.5.



### Consultation on switching between different physical networks and triple play switching

- 2.12 In 2016, we consulted on changes to make it easier for customers to switch ‘triple play’ services (one or more of their voice, broadband or Pay TV services) between different networks, in response to difficulties and deterrents those customers faced. These difficulties and deterrents primarily related to: loss of service and difficulties coordinating the starting and stopping of services; double paying for services that overlap; and difficulties contacting previous providers or cancelling old services, particularly due to restricted and sometimes lengthy cancellation methods.<sup>11</sup> Specifically, we proposed changing the process so that a customer would only need to contact the gaining provider to initiate the process. The gaining provider would then coordinate the switch with the losing provider.
- 2.13 In 2017, we decided not to proceed with our proposed changes. We noted, however, that our decision did not preclude us from taking action in future and that we would keep these matters under review.<sup>12</sup>

### Introduction of Auto-Switch for mobile services

- 2.14 Since July 2019, mobile customers have been able to switch provider and port up to 24 numbers using the regulated Auto-Switch process.<sup>13</sup> Auto-Switch enables customers to request and receive a unique switching code by text or online, as well as by phone, which they can give to the gaining provider to switch and, where relevant, port their mobile number. This means customers do not need to call their losing provider to initiate the switching process should they prefer not to do so.
- 2.15 When considering reforms to mobile switching, our research showed that a significant minority of customers either found the previous process difficult or were deterred from switching.<sup>14</sup> Notably, some customers experienced difficulties when contacting the losing provider to transfer their number or cancel their old service, including unwanted save activity.<sup>15</sup>
- 2.16 To address these difficulties and ensure a quicker and easier process, Auto-Switch allows customers to control the contact they have with the losing provider when they are considering switching their service, including avoiding a phone conversation if they do not want one. In addition, customers only need to contact the gaining provider once in order to buy a new service and redeem the switching code to transfer their existing number or cancel their old service if they do not want to transfer their number. After they have done this, and on SIM activation, the number transfer or cancellation occurs automatically, and the new service starts.

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<sup>11</sup> Ofcom, July 2016. [Making switching easier and more reliable for consumers](#) (Triple play switching consultation).

<sup>12</sup> Ofcom, July 2017. [Ofcom’s decision on switching landline, broadband and/or pay TV between different platforms.](#)

<sup>13</sup> Ofcom, December 2017, [Consumer switching: Decision on reforming the switching of mobile communication services](#) (Auto-Switch Statement).

<sup>14</sup> Auto-Switch Statement, paragraph 1.2.

<sup>15</sup> Auto-Switch Statement, paragraph 1.3.

## Implementing the European Electronic Communications Code

- 2.17 The EECC is an EU Directive which updated the EU regulatory framework for electronic communications.<sup>16</sup> It entered into force on 20 December 2018 and EU Member States had until 21 December 2020 to transpose it into national law. The ‘End User Rights’ chapter, set out at Title III of Part III of the EECC, contains a package of measures to protect end-users of internet access services (IAS) and number-based interpersonal communications services (NBICS). Article 106 of the EECC addresses the switching and porting of these services.
- 2.18 The UK left the EU on 31 January 2020, with a transition period until 31 December 2020. During the transition period, the UK remained under an obligation to implement EU directives into domestic law. This included the EECC.
- 2.19 In July 2020, the UK Government stated that Ofcom should proceed to implement the customer protections in the EECC, including those related to switching, in full.<sup>17</sup>
- 2.20 As part of transposing the EECC into UK law, the Government made the Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020. These made amendments to the Communications Act 2003 (the Act), with effect from 21 December 2020. These include certain changes to implement the end-user rights provisions, such as introducing a new express power for Ofcom to impose GCs relating to ‘bundled contracts’ and new definitions of ‘bundle’ and ‘electronic communications service’.<sup>18</sup>

### Switching requirements of the EECC

- 2.21 The EECC sets high-level protections to enable customers to make an informed choice and to change providers when it is in their best interest to do so unhindered by legal, technical or practical obstacles including contractual conditions, procedures and charges.<sup>19</sup>
- 2.22 It emphasises that the possibility of switching between providers is important for effective competition. The availability of transparent, accurate and timely information on switching should increase customers’ confidence in switching and make them more willing to engage actively in the competitive process.<sup>20</sup>
- 2.23 To achieve these objectives, the EECC envisages switching and porting as a “one-stop shop” and a seamless experience for end-users,<sup>21</sup> with Article 106 requiring that the processes must:

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<sup>16</sup> [Directive \(EU\) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code \(Recast\)](#)

<sup>17</sup> DCMS, July 2020. [Government response to the public consultation on implementing the European Electronic Communications Code](#).

<sup>18</sup> The new definition of ‘bundle’ makes it clear that in addition to voice and broadband services, a bundle includes digital services such as email and cloud storage; content services, such as TV or video on demand content or music streaming services; and terminal equipment.

<sup>19</sup> Recital 273, EECC.

<sup>20</sup> Recitals 277-283, EECC.

<sup>21</sup> Recital 281, EECC.

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- a) be gaining provider led;
- b) be efficient and simple;
- c) be carried out in the shortest possible time on a date and within the timeframe agreed with the end-user;
- d) ensure continuity of service, unless technically not feasible;
- e) ensure loss of service is no greater than one working day;
- f) allow end-users to port their number for at least a month after termination;
- g) include automatic termination of the end-user's contract with the losing provider;
- h) involve no cost for the end-user to port their number;
- i) ensure that end-users are adequately informed and protected;
- j) ensure that switching and porting is only carried out with explicit consent; and
- k) ensure end-users are compensated when things go wrong.

2.24 In addition to these requirements, Article 106(6) confirms that national regulatory authorities can establish the details of the switching and porting processes, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service for end-users.

## New switching rules

2.25 In October 2020, we published our policy statement on implementing the customer protections in the EECC (October 2020 Statement).<sup>22</sup> We published a statement concerning changes to the General Conditions of Entitlement (GCs) on 17 December 2020 (December 2020 Statement).<sup>23</sup> To implement Articles 106 and 107, of the EECC, we introduced new requirements in the GCs relating to:

- Switching – where a customer changes their provider.
- Porting – where a customer keeps their phone number when they change provider.

2.26 We refer to these requirements throughout this document as the new switching rules.<sup>24</sup> They apply to all switches (both residential and business customers) and to the switching of IAS or NBICS, or both (which encompasses both fixed and mobile services).

2.27 The new switching rules cover:

- a) maintaining switching processes;
- b) the process being gaining provider led;

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<sup>22</sup> Ofcom, October 2020. [Fair treatment and easier switching for broadband and mobile customers](#).

<sup>23</sup> Ofcom, December 2020, [Implementing the new European Electronic Communications Code: Changes to the General Conditions, Metering and Billing Direction and the National Telephone Numbering Plan](#).

<sup>24</sup> In this document, all references to the GCs use the numbering of the draft amended GCs as set out in Annex 9, except where otherwise stated.

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- c) timing and date of a switch;
  - d) continuity of service;
  - e) responsibilities of third party providers;
  - f) information;
  - g) refunds;
  - h) porting;
  - i) compensation; and
  - j) consent.<sup>25</sup>
- 2.28 As required by Article 107 of the EECC, a subset of the new switching rules apply to bundles.<sup>26</sup> These relate to:
- a) ensuring that all switching processes are simple and efficient;
  - b) ensuring that switching is carried out within the shortest possible time on the date and within the timeframe agreed with the end-user;
  - c) ensuring that there is continuity of service, where technically feasible, and that loss of service during the switching process does not exceed one working day;
  - d) requiring the losing provider to continue to supply the end-user on the same terms until they are notified that the new service is active; and
  - e) providing adequate information before and during the switching process.
- 2.29 We also put in place rules that apply to residential customers only (in relation to both fixed and mobile services), covering: information from gaining and losing providers and how it should be provided; maintaining records of sale and consent to switch; a prohibition of notice period charges; and a timeframe for paying compensation for missed appointments or delays to the switch.<sup>27</sup>
- 2.30 We decided in our October 2020 Statement that providers would have to comply with the new switching rules by 19 December 2022.<sup>28</sup> In setting this implementation date, we took into consideration providers' concerns regarding the changes needed to implement the requirements, particularly the development of a new switching process for fixed voice and broadband services.<sup>29</sup>

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<sup>25</sup> October 2020 Statement, paragraphs 9.21-9.68 and 9.78-9.185.

<sup>26</sup> October 2020 Statement, paragraph 9.11.

<sup>27</sup> October 2020 Statement, respectively at paragraphs 9.59-9.61, 9.71-9.75, 9.131-9.133, 9.177-9.179.

<sup>28</sup> October 2020 Statement, paragraph 9.194.

<sup>29</sup> As we explain in Section 5, we have now decided to require providers to comply with the new switching rules by 3 April 2023.

## Current switching arrangements and the need for change

### Fixed voice and broadband services

- 2.31 The current arrangements that providers have in place for switching fixed voice and broadband will need to change to comply with the new switching rules. The Notification of Transfer process does not meet the requirements of the new switching rules, and there is not currently a process for other types of switches. Therefore, providers need to develop a process that covers all types of fixed voice and broadband switches, regardless of technology or network used to deliver them.
- 2.32 In July 2019, we asked the Office of the Telecommunications Adjudicator (OTA) to establish and coordinate an industry working group to develop a new switching process for residential customers of fixed voice and broadband services in line with the EECC requirements.<sup>30</sup>
- 2.33 In December 2019, the OTA submitted the report of the industry working group to Ofcom. This concluded that fundamental differences in views on the approach prevented industry from agreeing on a single recommendation. Consequently, the report presented two different options for a new switching process. We refer to these as Code to Switch and One Touch Switch.
- 2.34 In January 2020, we wrote to providers to say that we intended to assess which of the two processes proposed by industry we considered most appropriate, and to consult on our assessment. We noted that, in the absence of an agreement on a single process, industry did not appear to have a clear route towards being able to comply with the EECC's requirements. We explained to industry that, while we would consult on requiring providers to follow a specific process if necessary, our preference was to work with industry to agree a single process that could be developed for the benefit of consumers.
- 2.35 Throughout 2020 we had further engagement with the industry working group and the proponents of each of the two processes to further refine them and gather information on their operation.
- 2.36 As part of this engagement we asked the industry proponents of Code to Switch whether the process would allow customers to obtain a switching code by text or webchat. They noted that the Code to Switch process was designed to mimic the mobile Auto-Switch process by providing real time (e.g. phone, in store) and non-real time (e.g. app or online) request methods. They also noted that, while webchat and text methods to request a code were technically possible, they had not proposed them as they considered they would be

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<sup>30</sup> Ofcom, 5 July 2019. [Letter to the OTA: switching and porting](#). We subsequently provided clarification to the OTA regarding the scope of the process we expected them to develop. In particular that: it should address switching provider of the services within scope of the new switching rules at the same location (and hence does not need to incorporate home moves); and, should focus on residential customers' services only rather than businesses customers' services.

less effective than an app or online method, given the need for customers to be authenticated.<sup>31</sup>

- 2.37 We gave industry proponents of One Touch Switch the opportunity to update their proposal as we considered it did not comply with the minimum requirements of the EECC in relation to ensuring that the switching process only goes ahead with the express consent of the customer.<sup>32</sup>
- 2.38 We also explained to industry our view that the existing Notification of Transfer process does not meet the express consent requirement of the new switching rules. We said that, consequently, we intended to consult on removing the Notification of Transfer rules, alongside the introduction of a new single switching process for fixed and broadband services.<sup>33</sup>
- 2.39 Industry, with the support of the OTA, developed detailed specifications of the processes, updated them in response to our comments, and provided further information for our assessment. We encouraged industry to continue discussions to reach a common view on a single switching process. However, by February 2021 industry had been unable to agree on a single process and did not appear to have a clear route towards being able to comply with the new switching rules for residential customers. Based on our assessment of industry's options, we consulted on our preferred process as discussed below.

## Mobile services

- 2.40 We believe the mobile Auto-Switch process is consistent with most of the new switching rules, including the requirement that the new provider takes the lead in managing the switch. However, we think some changes are needed to give full effect to the new information and consent rules. Therefore, in our February 2021 Consultation we set out proposals to improve information for residential customers in the mobile Auto-Switch process.

## February 2021 Consultation

### Fixed voice and broadband services

#### The two options proposed by industry: One Touch Switch and Code to Switch

- 2.41 We summarise the Code to Switch and One Touch Switch processes below. Some of the terminology we use differs from the industry documents as we have set out the two options in a consistent way where possible. We have noted where we have included some additional details to the industry proposals (e.g. to reflect a requirement in the GCs).

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<sup>31</sup> Option X, May 2020. [Broadband and voice switching proposal, response to Ofcom's initial questions](#), pages 3-5.

<sup>32</sup> Ofcom, 10 July 2020. [Letter to fixed switching and porting working group: consent and the new fixed switching process for residential customers](#).

<sup>33</sup> Ofcom, June 2020. [Letter to fixed switching and porting working group](#).

2.42 We set out an overview of the One Touch Switch process and the main steps for customers to follow in Figure 2.1 and Table 2.2:<sup>34</sup>

Figure 2.1: One Touch Switch process overview

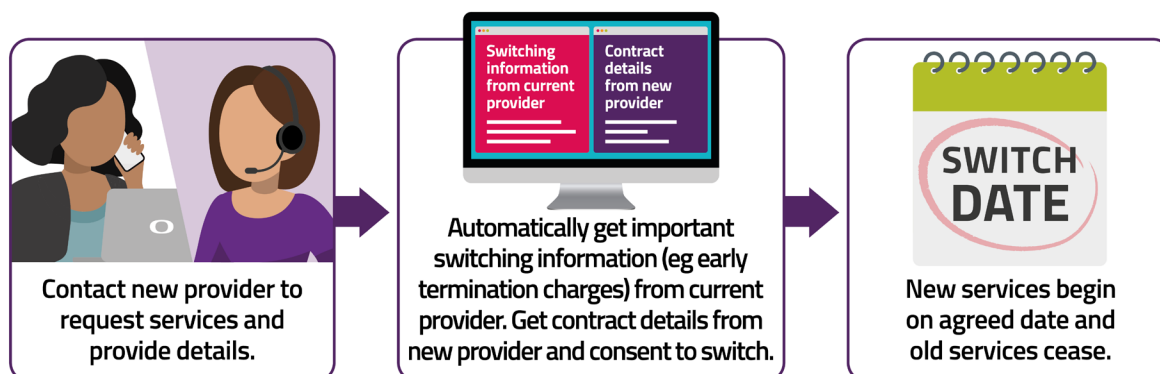


Table 2.2: One Touch Switch process steps

Step	Description
<b>Step 1: Customer contacts the gaining provider and provides details</b>	<ul style="list-style-type: none"> <li>The customer contacts their chosen gaining provider (in store, online or by phone) and requests to switch their services.</li> <li>The customer shares their:                             <ul style="list-style-type: none"> <li>– name;</li> <li>– address and postcode;</li> <li>– contact details;</li> <li>– losing provider’s name; and</li> <li>– the services they want to switch.</li> </ul> </li> <li>The customer chooses the new services, confirms if they want to keep their phone number and agrees a switch date (this can be as soon as the next day, but can take longer).<sup>35</sup> The gaining provider confirms whether any engineer visits are necessary.</li> <li>The gaining provider identifies the correct customer and services to switch.<sup>36</sup> If this is unsuccessful (i.e. there is no match against the losing provider’s records), the gaining provider asks the customer for more details (e.g. account number, phone number or serial number on their equipment).</li> </ul>
<b>Step 2: Losing provider automatically gives customer</b>	<ul style="list-style-type: none"> <li>The losing provider automatically gives the customer switching information (e.g. early termination charges, impact on other</li> </ul>

<sup>34</sup> Option Y, August 2020. [Gaining Provider Led Switching – the Option Y proposal; YHub and YGP switching process flows; YHub switching process description](#). As noted above, One Touch Switch is referred to as YHub in industry’s documents.

<sup>35</sup> The One Touch Switch specifications do not specify that the gaining provider would confirm if customers want to keep their phone number. However, gaining providers would need to comply with the new switching rules (GC C7.5(b), which require the gaining provider to allow customers who so request to make use of the porting process.

<sup>36</sup> The gaining provider identifies the correct customer and services by matching the details the customer provides against the losing provider’s records through the Hub (see below for more detail on the role of the Hub).

<p><b>switching information and customer gives the gaining provider their consent to the switch</b></p>	<p>services) without the need for the customer to request it. The information is provided by the method and to the contact details the customer chooses e.g. as part of the gaining provider’s online order process (downloadable afterwards), email, text or letter.<sup>37</sup></p> <ul style="list-style-type: none"> <li>• The gaining provider gives the customer information about their new contract.</li> <li>• After having the opportunity to consider the information, if the customer is happy to proceed, they give the gaining provider their consent to switch (who retains a record of consent). This can happen in real time during their phone or online conversation.</li> <li>• The gaining provider confirms the start date and the services being provided.<sup>38</sup></li> </ul>
<p><b>Step 3: Customer’s new services begin on agreed date</b></p>	<ul style="list-style-type: none"> <li>• On the agreed date the new services will start and the old services will end. If requested, the customer’s phone number is transferred.</li> <li>• The customer does not have to pay any notice period charges beyond the switch date.</li> </ul>

2.43 We set out an overview of the Code to Switch process and the main steps for customers to follow in Figure 2.3 and Table 2.4.<sup>39</sup> This reflects the revision of the Code to Switch process to include an option for customers to obtain their code via an IVR (interactive voice response) system, which we discuss in more detail below.<sup>40</sup>

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<sup>37</sup> See Option Y, August 2020. YHub switching process description, step 6. This sets out that the Hub will send the information directly to the customer using the contact details provided by the losing provider, but also to the details provided by the gaining provider, if these are different. See Option Y, August 2020. Gaining Provider Led Switching - the Option Y proposal, pages 5 and 6. In Section 5 we set out our decision to require providers to develop and operate the One Touch Switch process. We note that we have decided to amend the process from that proposed by industry and will not require that a losing provider send the switching information to the contact details that the customer has provided to the gaining provider (see paragraph 5.35).

<sup>38</sup> The One Touch Switch specifications do not specify that the provider would confirm the start date and services being provided with the customer after establishing their consent to switch. However, we would expect this to occur in line with our requirement on gaining providers to inform the customer of the arrangements for the provision of their service, including date of provision (see GC C1.3 and Annex to Condition C1).

<sup>39</sup> Option X, March 2020. [Broadband and voice switching proposal: response to Ofcom](#).

<sup>40</sup> Option X, March 2020. [Broadband and voice switching proposal](#), page 5.



Figure 2.3: Code to Switch process overview

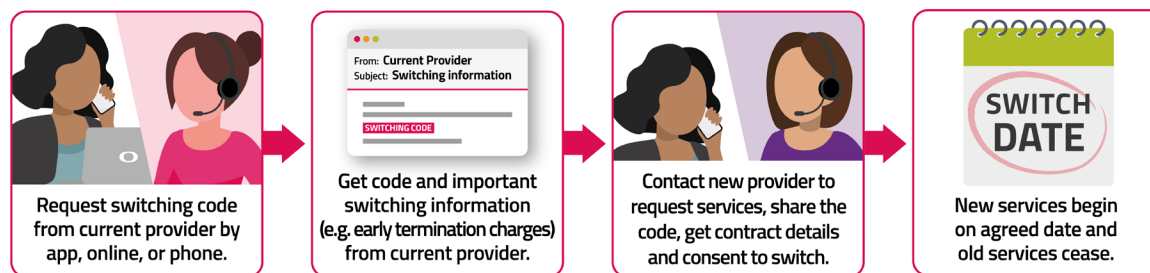


Table 1.4: Code to Switch process steps

Step	Description
<b>Step 1: Customer contacts losing provider for a switching code and switching information</b>	<ul style="list-style-type: none"> <li>The customer contacts the losing provider (by phone, online<sup>41</sup> or app) and tells them the services they want to switch and whether they want to keep their phone number. Customers who contact the losing provider by phone would have the option of receiving their switching code via an IVR system, without speaking to a live agent.</li> <li>The losing provider gives the customer a switching code (valid for 30 days) and switching information (e.g. early termination charges, impact on other services).<sup>42</sup> It provides this via the communication channel the customer is using and additionally by email or text (within 60 seconds, with a design target of 10 seconds). The losing provider can send a letter with the code and switching information to those customers without access to email or text, which would add time to the process.<sup>43</sup></li> </ul>
<b>Step 2: Customer contacts the gaining provider and consents to the switch</b>	<ul style="list-style-type: none"> <li>The customer contacts their chosen gaining provider, at a time of their choosing (within the 30-day switching code validity period).</li> <li>The customer chooses the new services, confirms if they want to keep their phone number, and agrees a switch date (this can</li> </ul>

<sup>41</sup> The proponents of Code to Switch indicated that a 'self-serve' web page to request the switching code would be available to a customer after they log into their online account. Option X, May 2020. [Broadband and voice switching proposal, response to Ofcom's initial questions](#), page 4.

<sup>42</sup> The switching code is generated by the 'Hub' described in more detail below. The Code to Switch proposal states that no save activity would be allowed once the customer requests a switching code and it must be "quick and simple for a customer to initiate a request for code generation" (Option X, March 2020. [Broadband and voice switching proposal: response to Ofcom](#), page 5). We set out our switching information rules in GCs C7.10-13 and explain them in more detail in [Annex 9 of our October Statement](#).

<sup>43</sup> The Code to Switch specifications do not specify that the code and losing provider switching information may be provided by letter/post. However, we would expect providers to make this option available, given our requirement for losing providers to share switching information with customers in a durable medium (see GC C7.13(b)).

	<p>be as soon as the next day, but can take longer). The gaining provider confirms whether any engineer visits are necessary.<sup>44</sup></p> <ul style="list-style-type: none"> <li>• The gaining provider gives the customer information about their new contract.</li> <li>• After having the opportunity to consider the information, if the customer is happy to proceed, they give the gaining provider their switching code and personal details. This identifies the correct customer and services to switch and confirms their consent to switch. The gaining provider retains a record of consent.<sup>45</sup></li> <li>• The gaining provider confirms the start date and the services being provided. The losing provider confirms the cease date and final losing provider switching information (e.g. exact early termination charges).</li> </ul>
<p><b>Step 3: Customer’s new services begins on agreed date</b></p>	<ul style="list-style-type: none"> <li>• On the agreed date, the new services start and the old services end. If requested, the customer’s phone number is transferred.</li> <li>• The customer does not have to pay any notice period charges beyond the switch date.</li> </ul>

- 2.44 Providers need to be able to communicate and share information with each other to support customers switching between different networks or within the same network. Central to both Code to Switch and One Touch Switch, is the need for a messaging ‘Hub’, although the precise functions of the Hub differ between the options:
- a) Under Code to Switch, the Hub would generate, store and send a switching code on request to the losing provider to share with the customer. The Hub would allow both providers to communicate regarding any updates or amendments during the switching process. It would also allow the losing provider to receive the order to cease the customer’s old services.
  - b) Under One Touch Switch, the Hub would allow the gaining provider to share the customer’s details with the losing provider, in order to check their systems to identify the correct customer and services to switch. After a correct match of the customer’s name, address and services, the losing provider would share its switching information with the Hub which would then give it to the customer. The customer would receive the information in a ‘durable medium’ either via a ‘pop up’ as part of the gaining

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<sup>44</sup> The Code to Switch specifications do not specify that the gaining provider would confirm whether any engineer visits are necessary. However, we would expect this to occur in line with our requirement on gaining providers to inform the customer of the arrangements for the provision of their service (see GC C1.3 and Annex to Condition C1).

<sup>45</sup> The Code to Switch specifications do not specify that the gaining provider would retain a record of consent. However, we would expect this to occur in line with our requirement for gaining providers to retain a record for at least 12 months of a customer’s consent to switch (see GCs C7.15 and C7.16).

provider's online order process, or by email, text or letter.<sup>46</sup> The gaining provider would not be able to access the information.

- c) In One Touch Switch, the Hub would allow the losing and gaining providers to coordinate order flows and share information about the pending switch.<sup>47</sup>
- d) Under both processes the Hub would retain an audit trail of the switch which could be referred to if any issues arise.

### **Our proposal to require the industry to develop and implement One Touch Switch**

- 2.45 Given industry's lack of agreement on a single fixed switching process, we published a consultation document in February 2021 which provisionally assessed the two options and set out our proposed actions.
- 2.46 Our consultation set out that our policy objective (set out in full below) is to ensure residential customers can switch their fixed voice and broadband services using an effective and efficient process that complies with our new switching rules and does not create unnecessary difficulties or deterrents. In fulfilling our objective, we aim to ensure that customers can use a process that is easy, quick, reliable and based on informed consent. We explained that we would use an assessment framework based on these four aspects of the customer experience to support our consideration of how effective each option is in meeting our policy objective framework.
- 2.47 Our provisional assessment in our February 2021 Consultation was that One Touch Switch would be effective in meeting our policy objective but that Code to Switch would not. We proposed to require providers to develop and implement the One Touch Switch process. We proposed that customers should be able to start using this process in December 2022, when the new switching rules were due to come into force. We proposed that the Notification of Transfer process would be removed at the same time.

### **Revision to the Code to Switch process during the consultation period**

- 2.48 During the consultation period, Virgin Media and Sky revised the proposed Code to Switch process to include an option for consumers to obtain their code via an IVR system.<sup>48</sup> We published details of the proposed IVR option on 29 March 2021 and extended our consultation deadline by two weeks to allow stakeholders time to offer their views. Our analysis in Section 4 is based on Code to Switch as revised to include the IVR option.

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<sup>46</sup> The One Touch Switch process description explains that the information would be "linked to via inline content, similar to a bank '3D Secure' card validation pop-up, retrievable later by customer." The Hub will send the information directly to the customer using the contact details provided by the losing provider, but also to the details provided by the gaining provider, if these are different. See Option Y, August 2020. [YHub switching process description](#), step 6.

<sup>47</sup> In Code to Switch similar coordination or information sharing may be done via the network provider or another third party depending on how the Hub access arrangements are set up.

<sup>48</sup> Option X, March 2021. [Broadband and voice switching proposal](#), page 5.

## Alternative options not taken forward

- 2.49 In our February 2021 Consultation<sup>49</sup> we explained that we had considered, and rejected, a number of other options for reforming voice and broadband switching, as they would not meet our policy objective:
- **No further intervention by Ofcom:** we took the view that, without further intervention from Ofcom, there was a risk that customers would suffer harm and our policy objective would not be met. There would also be a risk of confusion and additional costs for providers. We explained that we considered it would be more effective for us to specify the process to be implemented.
  - **Retain the Notification of Transfer process:** we explained that the Notification of Transfer process does not meet the requirements of the new switching rules, in particular in relation to the requirements around information and express consent. As proposed in our February 2021 Consultation and discussed in Section 7, we are removing the rules relating to Notification of Transfer when the new switching rules come into effect.

## Improved information in the mobile Auto-Switch process

- 2.50 In our December 2019 Consultation, we set out our view that the Auto-Switch process was consistent with the EECC requirements.<sup>50</sup> Therefore, we did not propose any substantive changes to the process and instead proposed minor amendments to consolidate our Auto-Switch rules with the new switching rules.<sup>51</sup>
- 2.51 In July 2020 we wrote to providers to inform them that we considered there may need to be additional changes to the rules in light of the further analysis we had done in relation to switching processes for fixed services. In particular, we said our position on express consent may mean there need to be changes to the information presented as part of the Auto-Switch process.<sup>52</sup>
- 2.52 In our October 2020 Statement we confirmed that we consider the Auto-Switch process, as currently designed, to be consistent with the EECC requirement that the gaining provider should lead the switching process on behalf of customers.<sup>53</sup> We also said that we were going to proceed to implement the EECC consent requirements as proposed in our December 2019 Consultation. We confirmed that we would consider further how the consent requirements should operate and whether any changes to the GCs would be required.<sup>54</sup>

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<sup>49</sup> February 2021 Consultation, paragraphs 3.14-3.25.

<sup>50</sup> Ofcom, December 2019. [Fair treatment and easier switching for broadband and mobile customers: proposals to implement the new European Electronic Communications Code](#) (December 2019 Consultation), paragraphs 7.52, 7.197 and 7.227.

<sup>51</sup> [December 2019 Consultation](#), paragraphs 7.197, 7.211-7.215.

<sup>52</sup> Ofcom, 10 July 2020. [Letter to fixed switching and porting working group: consent and the new fixed switching process for residential customers](#).

<sup>53</sup> [October 2020 Statement](#), paragraph 9.50.

<sup>54</sup> [October 2020 Statement](#), paragraphs 9.184-9.188.

2.53 In our February 2021 Consultation we set out that our policy objective for mobile switching is to ensure that residential customers using the existing Auto-Switch process are fully informed, in line with the information and consent requirements of the new switching rules. We proposed that from December 2022, mobile providers should be required to provide residential customers with information regarding the impact of a switch on any other services they have with the current provider, for example, bundled services or additional support services. We set out our view that this would ensure residential customers using the Auto-Switch process are fully informed in line with the information and consent requirements of the new switching rules, ensure consistency for fixed and mobile customers, and provide protections for customers using additional support services.

## Responses to the February 2021 Consultation

2.54 We received responses from 56 organisations and individuals:

- 26 telecoms providers.
- 17 individuals.
- Five consumer groups.
- Eight other organisations.

2.55 We have published all non-confidential responses on our website.<sup>55</sup>

## Stakeholder comments on our process

2.56 In their responses to the February 2021 Consultation, Sky and Virgin Media expressed concern about the process we have followed to reach our decision, specifically around our engagement with industry.

2.57 Sky noted that we had told industry proponents of One Touch Switch that their initial proposal fell short on express consent and given them an opportunity to resubmit a redesigned solution.<sup>56</sup> Sky said Ofcom did not offer the Code to Switch group a similar opportunity. As a result, Sky suggested, Ofcom gave One Touch Switch an unfair advantage which influenced its assessment.<sup>57</sup> Virgin Media similarly argued that Ofcom failed to follow a fair and consistent process to assess both proposals, by not representing earlier in the process that we had concerns that Code to Switch did not fulfil our new criteria for assessment.<sup>58</sup>

2.58 Sky said Code to Switch, as revised to include the IVR option, addresses our concerns with the original proposal, and that we should reconsider each option then publish a new consultation on the basis of our updated assessment.<sup>59</sup> They did not think that publication of the updated Code to Switch proposal and extension of the consultation addressed the

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<sup>55</sup> [February 2021 Consultation](#)

<sup>56</sup> [Sky](#), Response to February 2021 Consultation, page 17.

<sup>57</sup> [Sky](#), Response to February 2021 Consultation, pages 17-18.

<sup>58</sup> [Virgin Media](#), Response to February 2021 Consultation, paragraph 214.

<sup>59</sup> [Sky](#), Response to February 2021 Consultation, page 18.

flaws in our process, and said we had not given respondents enough time to properly consider the updated Code to Switch proposal.<sup>60</sup>

- 2.59 We do not consider our engagement with industry gave rise to any unfairness. Throughout this process we have sought to encourage industry, facilitated by the OTA, to develop its own plans for a switching process that would comply with the new switching rules. As it became clear that two separate processes were being proposed, we engaged with both over the course of 2020 to further our understanding.
- 2.60 As Sky notes, in June 2020, we provided the proponents of One Touch Switch with an opportunity to revise their original proposal because we considered it did not comply with the minimum requirements of the EECC. Both processes must meet these minimum requirements in order to be considered a viable option. This was a necessary first step before we could go on to assess each process option against our policy objective (which was the focus of our February 2021 Consultation). Also in June 2020, as discussed above, we updated the industry proponents of Code to Switch on our views on express consent and the implications of these new rules for a switching process.
- 2.61 The majority of respondents to the February 2021 Consultation did not raise concerns that an additional two weeks gave them insufficient time to comment on the updated Code to Switch proposal. We allowed extra time for those stakeholders who were unable to meet the deadline and have taken into account all comments we received. We received 13 responses (not including from Sky and Virgin Media) relating to the updated proposal.<sup>61</sup> Given the nature of the revision submitted by Virgin Media and Sky, which took the form of a brief paragraph added to the original proposal, we consider that two weeks was an appropriate amount of time to invite further comments.<sup>62</sup>
- 2.62 We considered the revised Code to Switch proposal in detail, but do not agree that it was necessary for us to undertake a new consultation in this case. We consider that the two-week extension to our consultation period was sufficient to enable stakeholders to comment on the revised proposal. In addition, our engagement with industry, including via formal information requests regarding use of IVR systems (see below), gave industry an additional opportunity to share evidence and views on the revised proposal.

## This decision statement and consultation

- 2.63 This document contains our decisions in relation to both fixed and mobile switching. In particular, our decision to require providers:
- To develop and operate One Touch Switch (see Section 5).

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<sup>60</sup> Sky, Response to February 2021 Consultation, page 18.

<sup>61</sup> [BT](#), [CityFibre](#), [Common Wholesale Platform](#), [Fern Trading](#) (Response from Fern Trading Limited ('Fern Trading'), on behalf of itself, Swish Fibre Limited and Jurassic Fibre Limited), [Hyperoptic](#), [INCA](#), [Openreach](#), [TalkTalk](#), [Vodafone](#), [Webster Marketing](#), [WightFibre](#), [Zen](#), [ZZoomm](#), Responses to February 2021 Consultation.

<sup>62</sup> Option X, March 2021. [Broadband and voice switching proposal, response to Ofcom](#).

## Quick, easy and reliable switching

- To make limited changes to information requirements in the Auto-Switch rules for mobile switches (see Section 6).

2.64 It also contains a consultation on proposed changes to the GCs to give effect to our decisions (see Section 7). We invite responses to the consultation by 9 November 2021.

## Our policy objectives

2.65 Our policy objectives are formulated in light of our statutory duties, as we explain in the next sub-section.

### Fixed voice and broadband services

2.66 In relation to fixed voice and broadband services, our policy objective is to ensure residential customers can switch their voice and broadband services using an effective and efficient process that complies with our new switching rules and does not create unnecessary difficulties or deterrents. In fulfilling our objective, we aim to ensure that customers can use a process that is easy, quick, reliable and based on informed consent.

2.67 In formulating our policy objective, we have had particular regard to our principal duty, which is to further the interests of citizens in relation to communications matters and the interests of consumers in relevant markets, where appropriate by promoting competition. In addition, in performing our duties we must have regard to, among other things, the desirability of encouraging investment and innovation in relevant markets and targeting our regulatory activities only at cases in which action is needed.

2.68 Effective and efficient switching processes enable consumers to exercise choice and take advantage of competition in communications markets. They give people the confidence to shop around and switch providers in order to access the services that best meet their needs or switch away if they are dissatisfied with a provider. Greater consumer confidence and willingness to switch supports competition and, in turn, investment in faster, more reliable broadband services.

2.69 Conversely, difficulties when switching can constrain choice or create barriers that prevent customers switching. This can be harmful both to individual customers and to competition and investment by competing networks. It is for these reasons that ensuring customers can switch easily and reliably has been a long-standing priority for Ofcom and the focus of a number of reforms.<sup>63</sup>

2.70 This long-standing priority also supports our duty to promote connectivity and access to very high capacity networks. Investment will ensure the availability of very high capacity networks to a greater number of consumers, and more effective switching processes will make it easier to take new services on those networks.

2.71 The goal of having a smooth switching process is also part of our Fairness for Customers work programme and aligns with the Fairness Commitments, in particular, the pledge by

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<sup>63</sup> [October 2020 Statement](#); [Auto-Switch Statement](#); and [Notification of Transfer Statement](#).

## Quick, easy and reliable switching

providers to ensure that customers who are leaving do not face additional barriers or hassle compared to those who are signing up to new services.

- 2.72 Our objective reflects the Government's Statement of Strategic Priorities for telecommunications which include that Ofcom should continue to improve industry processes for broadband switching, including across different physical networks.<sup>64</sup> The Government's priorities state that Ofcom should ensure that switching processes are easy, reliable and transparent, which is important at the retail level for consumers and at the wholesale level for retail providers. We are required to have regard to the Statement of Strategic Priorities for telecommunications when carrying out our functions relating to telecommunications.
- 2.73 Our objective also ensures that the switching process that is put in place complies with the new switching rules which we were required to put in place as part of the UK's implementation of the EECC.

## Mobile services

- 2.74 In relation to mobile services, our policy objective is to ensure that residential customers using the existing Auto-Switch process are fully informed in line with the information and consent requirements of the new switching rules, which we were required to put in place as part of the UK's implementation of the EECC.
- 2.75 In formulating our policy objective, we have had regard to our principal duty, which is to further the interests of citizens in relation to communications matters and the interests of consumers in relevant markets, where appropriate by promoting competition. We have also taken account of the requirement for us to perform our duties having regard to the principle under which regulatory activities should be targeted only at cases in which action is needed.
- 2.76 Our objective reflects the fact that we have already concluded that the Auto-Switch process, as currently designed, is consistent with the requirement that the gaining provider should lead the switching process on behalf of customers. Therefore, it focuses on those limited remaining areas that we have identified as requiring specific action rather than considering the Auto-Switch process in its entirety again.
- 2.77 It also supports our duty to have regard to the needs of persons with disabilities. The new switching rules introduced specific information requirements for customers that use additional support services and it is important that the Auto-Switch process fully meets these obligations.

## Legal framework

- 2.78 We set out below our domestic powers and duties that are relevant to the decision and proposals set out in this statement and consultation.

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<sup>64</sup> DCMS, October 2019. [Statement of Strategic Priorities](#).



## Our general duties

- 2.79 The Act places a number of duties on us that we must fulfil when exercising the regulatory powers and functions we have been given. Section 3(1) of the Act states that it shall be our principal duty, in carrying out our functions:
- a) to further the interests of citizens in relation to communication matters; and
  - b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.<sup>65</sup>
- 2.80 In performing our duties under section 3(1) of the Act, we are required to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, as well as any other principles appearing to us to represent best regulatory practice (section 3(3) of the Act).
- 2.81 Section 3(4) of the Act provides that we must have regard, in performing our duties, to a number of matters, as they appear to us to be relevant in the circumstances, including the desirability of promoting competition in relevant markets; the desirability of encouraging investment and innovation in relevant markets; the needs of persons with disabilities, of the elderly and of those on low incomes; the opinions of consumers in relevant markets and of members of the public generally; and the extent to which, in the circumstances of the case, the furthering or securing of the matters mentioned in section 3(1) is reasonably practicable.
- 2.82 In addition, section 3(5) of the Act requires that, when performing our duty to further the interests of consumers, we must have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.
- 2.83 As required by section 2B(2)(a) of the Act, we have also had regard to the UK Government's Statement of Strategic Priorities for telecommunications, management of radio spectrum and postal services as referred to above.

## Powers and duties in relation to general conditions

- 2.84 Section 45 of the Act says that we may set general conditions which contain provisions authorised or required by one or more of sections 51, 52, 57, 58 or 64. Under section 51(1)(a), we may set general conditions making such provisions as we consider appropriate for the purpose of protecting the interests of end-users of public electronic communications services.
- 2.85 Section 51(2) sets out a non-exhaustive list of the specific types of general conditions that we may set in pursuance of this purpose. This includes:

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<sup>65</sup> 'Consumer' is defined in section 405(5) of the Act and includes people acting in their personal capacity or for the purposes of, or in connection with, a business.

- a) section 51(2)(a), which gives Ofcom the power to set conditions relating to the supply, provision or making available of goods, services or facilities in association with the provision of public electronic communications services;
  - b) section 51(2)(b), which gives Ofcom the power to set conditions to provide protection for end-users that is the same as, or similar to, any protection that was required by Title III of Part III of the EECC immediately before the end of the transition period;
  - c) section 51(2)(c), which gives Ofcom the power to set conditions to specify requirements in relation to the provision of services to disabled end-users;
  - d) section 51(2)(h), which gives Ofcom the power to set conditions to ensure that conditions and procedures for the termination of a contract do not act as a disincentive to an end-user changing communications provider; and
  - e) section 51(2)(i), which gives Ofcom the power to set conditions specifying requirements in relation to arrangements that enable an end-user to change communications provider on request.
- 2.86 Section 47(2) of the Act governs the circumstances in which we can set or modify a general condition. It states that a condition can be set or modified where it is objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates, not such as to discriminate unduly against particular persons or against a particular description of persons, proportionate to what the condition or modification is intended to achieve, and transparent in relation to what it is intended to achieve.<sup>66</sup>
- 2.87 Section 4(2) of the Act requires Ofcom to act in accordance with six requirements described when carrying out certain functions, including those in relation to setting or modifying general conditions as set out above. These requirements include:
- a) to promote competition in the provision of electronic communications services;
  - b) to promote the interests of all members of the public in the United Kingdom; and
  - c) to promote connectivity and access to very high capacity networks by members of the public and businesses in the United Kingdom.

## Impact assessment

- 2.88 Our February 2021 Consultation constitutes an impact assessment for the purposes of section 7 of the Act. Impact assessments provide a valuable way of assessing the options for regulation and showing why the chosen option was preferred. They form part of best practice policymaking. This is reflected in section 7 of the Act, which means that, generally, we have to carry out impact assessments in cases where our conclusions would be likely to have a significant effect on businesses or the general public, or where there is a major

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<sup>66</sup> Section 47(3) states that the setting of a general condition is not subject to the test of being objectively justifiable, although we are likely to consider this in any event when assessing whether the condition is proportionate.

change in Ofcom's activities. As a matter of policy, Ofcom is committed to carrying out impact assessments in relation to the great majority of our policy decisions.

## Equality impact assessment

- 2.89 We have given careful consideration to whether our changes to fixed and mobile switching will have a particular impact on persons sharing protected characteristics (race, age, disability, sex, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership and religion or belief), and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations. This assessment helps us comply with our duties under the Equality Act 2010 and the Northern Ireland Act 1998. We do not envisage that our decision would have a detrimental impact on any particular group of people. Moreover, we consider that our changes to the information requirements under the mobile Auto-Switch process will have positive impacts for disabled customers and help promote equivalent access and choice for those customers.
- 2.90 The National Pensioners' Convention was concerned that we risked excluding certain consumers by consulting online and asked if we had carried out an impact assessment of a "digital only" consultation.<sup>67</sup> We recognise the importance of hearing views from all consumers, and welcome organisations with relevant networks and expertise promoting our consultation and gathering views from such consumers.

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<sup>67</sup> [National Pensioners Convention](#), Response to February 2021 Consultation, page 2.

## 3. Fixed switching: assessment framework

- 3.1 Our policy objective, in light of our statutory duties as discussed in Section 2, is to ensure residential customers can switch their fixed voice and broadband services using an effective and efficient process that complies with our new switching rules and does not create unnecessary difficulties or deterrents. In fulfilling our objective, we aim to ensure that customers can use a process that is easy, quick, reliable, and based on informed consent.
- 3.2 To support our consideration of how effective the options are in meeting our policy objective, we have used the assessment framework as proposed in our February 2021 Consultation.
- 3.3 A number of stakeholders commented on our proposed approach. In this section, we set out the framework again, address the comments received and conclude that it is appropriate basis for our assessment of the options, which is set out in Section 4.

### Assessment framework

- 3.4 The following sets out the assessment framework by reference to which we have considered the two proposed switching processes and our policy objective. For each aspect of customer experience, we set out the relevant rules and any previous statements we have made on these issues.

### Easy to use

- 3.5 The switching process should be easy for customers to use. In particular, it should:
- Be simple to understand and follow. A lack of understanding of the process can deter customers from switching and create difficulties for those going through the process. An effective process is one that customers have confidence in using. We consider that customer confidence will be greater the fewer and clearer the steps they need to take, and the less they need to understand or remember.
  - Be led by the gaining provider and enhance customers' control. It is central to our reforms that gaining providers manage important elements of a switch on a customer's behalf to remove the difficulties a customer might experience when coordinating the switch on their own. In addition, previous switching interventions have highlighted the importance of customer control over the process. Enabling customers to have a degree of control over the process allows them to avoid certain experiences that they find difficult or would deter them from switching.
  - Minimise the effort needed to complete the process. An efficient and easy to use process has as few points at which a customer needs to actively engage as is reasonably possible. Too many steps may add unnecessary difficulties to the customer's switching journey and may lead them to consider it is too much hassle to switch.

Table 3.1 Rules and statements supporting our aim of an easy to use switching process

Criteria	Relevant switching rules <sup>68</sup> and previous positions
<b>Simple to understand and follow</b>	<ul style="list-style-type: none"> <li>GC C7.4(a) requires providers to maintain switching processes that are simple.</li> </ul>
<b>Process led by the gaining provider and enhances customers' control</b>	<ul style="list-style-type: none"> <li>GC C7.5 requires the gaining provider to allow customers to use a switching process and the gaining provider to lead the switching process.</li> <li>GC C7.7(b) requires losing providers to ensure that the customer's contract is automatically terminated on the day of the switch.</li> <li>GC C7.3(a) requires that, where technically possible, the switch date should be that requested by the customer.</li> <li>GC C7.4(c) requires providers to ensure that they do not abuse the switching process.</li> <li>In our October 2020 Statement, we noted that central to the gaining provider managing the switch is that a customer does not have to: <ul style="list-style-type: none"> <li>coordinate the end of one service and the start of another;</li> <li>contact the losing provider to terminate the old contract; or</li> <li>deal with two providers throughout the process or if something goes wrong.<sup>69</sup></li> </ul> </li> <li>In addition, previous Ofcom switching interventions have noted the importance of customers having: <ul style="list-style-type: none"> <li>control over the extent and nature of the contact they have with their losing provider, in particular the option to avoid speaking in person to their losing provider if they do not want to;<sup>70</sup> and</li> <li>a choice of communication methods.<sup>71</sup></li> </ul> </li> </ul>
<b>Minimise the effort needed to complete the process</b>	<ul style="list-style-type: none"> <li>GC C7.4(a) requires providers to maintain switching processes that are efficient for customers.</li> <li>GC C1.8 requires that conditions or procedures for contract termination do not act as disincentives to switch.</li> </ul>

<sup>68</sup> In this document, all references to the GCs use the numbering of the draft amended GCs as set out in Annex 9, except where otherwise stated.

<sup>69</sup> October 2020 Statement, paragraph 9.46.

<sup>70</sup> Auto-Switch Statement, paragraphs 3.63-3.72, 4.35 and 4.38. Auto-Switch sought to remedy the difficulties that customers faced when contacting their losing provider or cancelling their old service, particularly unwanted save activity. The process provides customers with the ability to control the degree of contact they have with their losing provider and to avoid talking directly with their losing provider, should that be their preference. Triple play switching consultation, paragraphs 3.41-3.55. Our proposed reforms to triple play switching also sought to address the same difficulties; a number of switchers reported the need to contact losing providers by phone as a barrier and some experienced difficulty with unwanted save activity.

<sup>71</sup> Auto-Switch Statement, paragraph 4.38. Under Auto-Switch, customers can choose to contact their losing provider to request their switching information and switching code by text, via their online account, or by phone.

	<ul style="list-style-type: none"> <li>• GC C7.4(c) requires providers to ensure that they do not delay or abuse the switching process.</li> <li>• We note that the Fairness Commitments state that customers:             <ul style="list-style-type: none"> <li>– should be able to sign up to, change and leave their services quickly and smoothly; and</li> <li>– who are leaving should not face additional barriers or hassle compared to those signing up to new services.<sup>72</sup></li> </ul> </li> </ul>
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## Quick

3.6 Switching processes should allow customers to switch quickly. Switching processes that are too slow may deter customers from switching.

**Table 3.2: Rules and statements supporting our aim of a quick switching process**

Criteria	Relevant switching rules and previous positions
<b>Process is completed quickly</b>	<ul style="list-style-type: none"> <li>• GC C7.4(c) requires providers to ensure that they do not delay the switching process.</li> </ul>

## Reliable

3.7 Switching processes should be reliable. In particular, the process should:

- a) **Ensure the switch happens when the gaining provider says it will.** Customers should be able to avoid difficulties getting a switch to happen when they want by being able to use an effective process that ensures the switch occurs on an agreed date.
- b) **Minimise any loss of service.** One of the main aims of our reforms is to enable all customers to use a process that ensures no loss of service (where possible), so that the prospect of a loss of service does not deter them from switching and so they can avoid the difficulties of arranging for there to be no gap in their service.
- c) **Minimise the chance of errors and enable a customer’s services to be restored quickly where an error does occur.** An effective process minimises the risk of errors by design, but there should also be processes in place to ensure customers do not experience further difficulties when an error does occur.

**Table 3.3: Rules and statements supporting our aim of a reliable switching process**

Criteria	Relevant switching rules and previous positions
<b>Switch happens on the day the gaining provider says it will</b>	<ul style="list-style-type: none"> <li>• GC C7.4(e) requires that the switch is completed on the migration date. This should be the date agreed with the customer when arranging the switch.</li> </ul>

<sup>72</sup> Ofcom, [Fairness for customers commitments](#), commitment 5.

<p><b>Minimise any loss of service</b></p>	<ul style="list-style-type: none"> <li>• GC C7.4(d) requires providers to ensure there is continuity of service, where technically feasible, and that any loss of service does not exceed one working day.</li> <li>• GC C7.7(a) requires losing providers to ensure that, where technically feasible, they continue to provide their service until the switch is completed and the new service is activated.</li> </ul>
<p><b>Minimise errors and enable quick service restoration</b></p>	<ul style="list-style-type: none"> <li>• GC 7.7(c) requires that, where the porting process fails, the losing provider must reactivate the number and relevant services until the porting process is successfully completed.</li> </ul>

### Based on informed consent

3.8 A switch must only happen with the informed consent of the customer. In particular, in circumstances where both:

- a) **A customer has expressly agreed to it.** Customers should only be switched where they have clearly agreed to the specific arrangements set out by providers. They should not be misled about the provider or services they are switching to. This is particularly the case where a customer is potentially vulnerable.
- b) **Information is provided enabling customers to make an informed choice.** Customers should not be deterred from switching because they are unsure whether or not they have all the relevant information to make their choice. Neither should they experience difficulties because they were not fully aware of the impacts of their switch.

**Table 3.4: Rules and statements supporting our aim of a switching process based on informed consent**

Criteria	Relevant switching rules and previous positions
<p><b>A switch only occurs where a customer has expressly agreed to it</b></p>	<ul style="list-style-type: none"> <li>• GC C7.9(a) requires gaining providers to take all reasonable steps to ensure they do not switch a customer without their express consent (the definition of ‘express consent’ states that this means express agreement of the customer).</li> <li>• GC C7.9(a) requires gaining providers to take all reasonable steps to ensure that they do not engage in slamming.<sup>73</sup></li> <li>• GC C7.9(b) requires gaining providers to take all reasonable steps to ensure the customer requesting the switch is authorised to do so and intends to enter into the contract.</li> <li>• GC C7.15 requires gaining providers to keep records of customers’ consent to switch.</li> </ul>

<sup>73</sup> See discussion on definition of ‘slamming’ in paragraph 7.170 and in draft amended GCs in Annex 9. We sometimes use the term slamming to refer in general to circumstances in which a customer is switched without their consent or knowledge.

<p><b>Information is provided enabling customers to make an informed choice</b></p>	<ul style="list-style-type: none"><li>• GC C7.9(a) requires gaining providers to take all reasonable steps to ensure they do not switch a customer without their express consent (the definition of ‘express consent’ includes that this means that the consent is obtained in such a manner which enables a customer to make an informed choice).</li><li>• Our view (as set out in the October 2020 Statement) is that to make an informed choice, customers must have been given information on both the new services they are taking with the gaining provider and the consequences of their decision to cancel their services with the losing provider.<sup>74</sup></li><li>• GCs C1.3-1.7 require gaining providers to give customers contract information and contract summaries. GC C7.11 requires additional information to be given as part of the contract information when a customer is switching.</li><li>• GC C7.10(a) requires providers to ensure customers are adequately informed before and during the switch.</li><li>• GC C7.10(b) requires providers to provide guidance on the switching process.</li><li>• GC C7.12 lists the information the losing provider must give to customers.</li><li>• GC C7.13(b) requires the losing provider information to be given in a durable medium.</li></ul>
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## Factors we considered when assessing the options

3.9 When assessing the options against the framework, we took into account the needs and experiences of different groups of customers and possible preferences. We considered:

- a) **The services a customer has and what they want to switch.** For example, whether the customer wishes to switch a voice only or broadband only service, or has a bundle of voice and broadband services and plans to switch both or unbundle these services. We also considered if the customer has other services in their bundle such as Pay TV or mobile, and the extent to which they will be affected when a customer switches using the new switching process.
- b) **The communication channels that are part of the switching process.** For example, whether the communication channels available support a range of customer preferences, such as customers that like to (or can only) engage by phone, as well as customers that may prefer online channels.
- c) **The experiences of voice and broadband customers** that have switched (‘switchers’) and those that considered but subsequently decided not to switch (‘considerers’). We also considered the experiences of customers that raised complaints with Ofcom.

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<sup>74</sup> October 2020 Statement, paragraphs 9.182-9.183.



- d) **The experiences of those customers who currently use the Notification of Transfer and Auto-Switch processes.** We recognise that many customers already have knowledge and experience of using switching processes for their communications services.
- e) **The evidence and outcomes of previous switching work.** We consider it important that we learn from, and build upon, the past experiences of reforms to switching.

## Stakeholder comments on our approach

- 3.10 A number of respondents agreed that Ofcom has used the correct assessment framework to evaluate the two options.<sup>75</sup>
- 3.11 Sky and Virgin Media argued that Ofcom had set out an initial set of criteria that were used as a basis to develop Code to Switch, but that these were not the same as the proposed assessment criteria set out in our February 2021 Consultation.<sup>76</sup> Virgin Media compared the “base capabilities” originally presented to industry (reliable process, consumer intent, customer authentication, customer awareness of switching implications, and service/asset validation) against our proposed assessment framework (reliable, based on informed consent, easy, and quick).<sup>77</sup>
- 3.12 Sky said that the fact that Ofcom had changed its requirements and suggested that the provisional conclusion had been “artificially engineered”.<sup>78</sup> Virgin Media asked Ofcom to reassess its approach, underpinned by a “more complete assessment framework”, incorporating consideration fraud.<sup>79</sup>
- 3.13 We have not changed our requirements as Sky and Virgin Media suggest and nor have we sought to artificially engineer a particular outcome. As explained in Section 2, we asked industry to develop a new switching process for residential customers of fixed voice and broadband services in line with the EECC requirements. Our assessment framework supports our consideration of how effective the options developed by industry are in meeting our policy objective, which as discussed in Section 2 reflects the EECC requirements. The base capabilities referred to by Virgin Media were used by the industry working group when developing industry’s proposals.
- 3.14 As set out above, a number of respondents were supportive of our assessment framework. We remain of the view that it is an appropriate framework to assess industry’s proposals against our policy objective and we have used it to carry out the assessment we set out in Section 4.

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<sup>75</sup> CityFibre, paragraph 3.5; Fern Trading, paragraph 13; INCA, paragraph 20; TalkTalk, page 1; [3<], Responses to February 2021 Consultation.

<sup>76</sup> Sky, page 3; Virgin Media, paragraph 67, Responses to February 2021 Consultation.

<sup>77</sup> Virgin Media, Response to February 2021 Consultation, paragraph 67.

<sup>78</sup> Sky, Response to February 2021 Consultation, page 3.

<sup>79</sup> Virgin Media, Response to February 2021 Consultation, paragraph 71. We address Virgin’s comments about security, fraud and data protection in Section 4.

## 4. Fixed switching: assessment of the options

- 4.1 In this section, we assess One Touch Switch and Code to Switch against the framework set out in Section 3.
- 4.2 We first set out and address stakeholder comments about the scope of the new switching rules and how they interact with related areas of Ofcom policy and industry developments.
- 4.3 We then assess the One Touch Switch and Code to Switch approaches to broadband switching. We summarise the provisional assessment in our February 2021 Consultation. We go on to summarise stakeholder comments on our provisional assessment against each of the four criteria we identified, and on other relevant issues that stakeholders have identified. Finally, we set out our final assessment in light of stakeholder comments.
- 4.4 This final assessment is based on the revised Code to Switch proposal discussed in Section 2, which includes the option for customers to obtain their code via an IVR system.

### Stakeholder comments on scope

- 4.5 As discussed in Section 2, we have put in place new switching rules that reflect the requirements of the EECC. These rules, in the main apply to residential and business customers switching landline, broadband and mobile services. A subset of those rules (those covering information, consent, notice period charges, and compensation) applies only to residential customers. These new switching rules were decided in December 2020 following a process of consultation.
- 4.6 A number of respondents commented on the links between switching and other areas of policy and industry developments including porting and proposals for a common numbering database.<sup>80</sup>
- 4.7 Some respondents commented on the implications for different products and types of switches. Openreach said “technology migrations” necessitated by PSTN switch-off should not be in scope of the new process.<sup>81</sup> Three said that its home broadband product, where customers can use a Three mobile data SIM in a mobile router device, should be out of scope of any fixed switching GC requirements, as switching for this type of mobile data SIM for home broadband currently works using Auto-Switch.<sup>82</sup>
- 4.8 BT did not agree that Pay TV should be out of scope, while Fern Trading asked why Ofcom had excluded Pay TV from scope.<sup>83</sup>

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<sup>80</sup> FCS, page 5; Gamma, paragraphs 30-32; Name withheld 1; TalkTalk, pages 5-6; Virgin Media, page 2 and paragraph 237; Vodafone, page 4. Responses to February 2021 Consultation.

<sup>81</sup> Openreach, Response to February 2021 Consultation, paragraphs 3 and 11.

<sup>82</sup> Three, Response to February 2021 Consultation, covering email.

<sup>83</sup> BT, paragraph 1.5 and section 3; Fern Trading, pages 4 and 25. Responses to February 2021 Consultation.

- 4.9 A number of stakeholders commented on fixed voice and broadband switching arrangements for businesses.<sup>84</sup>
- 4.10 A number of providers commented on the requirement in the new switching rules that customers are kept adequately informed before and during the switch and are not switched without their express consent.<sup>85</sup>

## Our response on questions of scope of the new switching rules

- 4.11 We agree with respondents that it is essential industry considers underlying porting arrangements as it develops and implements the new switching process. The purpose of the new switching rules is to support switching at the retail level and enable customers to exercise choice, including where they want to port their number(s). The underlying porting process is not a customer-facing process, and is not within the scope of the new fixed switching process. Nevertheless, it is important that the industry takes into account the interactions between switching and porting, and between these two linked areas of work and other related industry developments including any further consideration of a common numbering database (as mentioned by FCS) and work on scams. We will continue to discuss the dependencies with industry and the OTA, and determine how best to manage them. In particular, the industry should bear in mind the possibility of a numbering database as it progresses work on the Hub for the new switching process.
- 4.12 We confirm that the new switching process will not apply to provider-led migrations (including those referred to by Openreach), including where these would involve a change of underlying wholesale provider. The purpose of the new switching rules is to protect customers and support switching at the retail level.
- 4.13 In response to Three's question, we confirm that the new process must be available for use by all residential customers switching fixed voice and broadband services (those services within scope of the new switching rules provided at the same location) regardless of the technology or network the provider uses.<sup>86</sup> This scope is reflected in the GCs as discussed in paragraphs 7.13-7.25 and as set out in the draft amended GCs in Annex 9.
- 4.14 In response to stakeholder comments about whether Pay TV could be in scope, we note that Pay TV has not been part of the work to develop a new fixed switching process from the outset. As explained in Section 2, we originally asked industry to develop a new switching process for residential customers of fixed voice and broadband services in line with the EECC requirements. We subsequently provided clarification that the process should address switching provider of the services within scope of the new switching rules

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<sup>84</sup> BT, paragraphs 1.6, 4.17; FCS, pages 2-3; Gamma, paragraphs 11-29; Openreach, pages 4-5; TalkTalk, pages 4-5; [Toob Limited](#), page 5; Vodafone, page 6; Zen, paragraph 7. Responses to February 2021 Consultation.

<sup>85</sup> [Communications Consumer Panel \(CCP\)](#), pages 3-4; Fern Trading, pages 18-19; Talk Talk, page 3; [Uswitch](#), paragraph 2.8; [Utility Warehouse](#), pages 1-2. Responses to February 2021 Consultation.

<sup>86</sup> This is consistent with the clarification we provided to the OTA regarding the scope of the process we expected them to develop. In particular that: it should address switching provider of the services within scope of the new switching rules at the same location (and hence does not need to incorporate home moves); and, should focus on residential customers' services only rather than businesses customers' services. See paragraph 2.32.

at the same location (see paragraph 2.32). Our December 2019 Consultation proposed, and our October 2020 Statement confirmed, that the new switching rules would apply to IAS and NBICS and that only a subset of the rules would apply to bundles.<sup>87</sup> Therefore, only the new switching rules that apply in relation to bundles would apply to Pay TV (where Pay TV is bundled with an IAS or NBICS). Our decisions in this statement reflect the services in scope of the new switching rules and, in turn, the services in scope of the work undertaken by industry. Nevertheless, providers remain subject to the requirements of the new switching rules in relation to bundles, which may include Pay TV. This includes the requirement to ensure that all switching processes are simple and efficient.<sup>88</sup> The industry may choose to fulfil this requirement by bringing Pay TV switches within the scope of One Touch Switch.

- 4.15 As set out in our October 2020 Statement, business and residential customers may have different needs when switching.<sup>89</sup> Some of the requirements in the new switching rules (those covering information, consent, notice period charges, and compensation) apply to residential customers only and these have been reflected in the two processes put forward by industry. We remain of the view that it is not appropriate for us to mandate that the industry follow a particular process for fixed business switches. Providers should take their own view as to whether they wish to participate in the process that is put in place for residential customers for business switches.
- 4.16 We note stakeholders' comments about the requirement in the new switching rules that customers are kept adequately informed before and during the switch and are not switched without their express consent. Some respondents focused on what constitutes express consent, while others commented on the information that providers will be required to provide to customers during the switching process.
- 4.17 The new switching rules require providers to create and keep records for 12 months or more, which must include, among other things, the time, date and means by which express consent is given.<sup>90</sup> Providers should bear these requirements in mind as they develop mechanisms for customers to give their consent.

## February 2021 Consultation

- 4.18 In relation to fixed voice and broadband services, our policy objective is to ensure residential customers can switch their voice and broadband services using an effective and efficient process that complies with our new switching rules and does not create unnecessary difficulties or deterrents. In fulfilling our objective, we aim to ensure that customers can use a process that is easy, quick, reliable and based on informed consent. In our February 2021 Consultation, we said that in the absence of an effective mechanism to give customers control over the extent of contact with the losing provider, Code to Switch

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<sup>87</sup> October 2020 Statement, paragraphs 9.6-9.20.

<sup>88</sup> GC C7.4(a).

<sup>89</sup> October 2020 Statement, Paragraph 9.17.

<sup>90</sup> GC C7.15.

would not meet our policy objective, and would result in potential difficulties and deterrents for customers that would not arise in One Touch Switch.<sup>91</sup>

## Easy to use

4.19 We said One Touch Switch would be easier to use than Code to Switch, because it:

- Would be **simpler to understand and follow** than Code to Switch.<sup>92</sup> We described it as a ‘one touch’ process for voice and broadband switching, meaning that customers only have to contact the gaining provider and follow the instructions given by the gaining provider. This is simpler to understand and follow than Code to Switch which requires customers to contact the losing provider as well as the gaining provider. It would also be **familiar to customers** that have used the existing Notification of Transfer process and avoid making switching harder for those customers or introducing additional complexities when customers switch **bundles**.
- Would give **greater control to customers over the extent and type of contact they have with the losing provider** than Code to Switch.<sup>93</sup> One Touch Switch would enable customers to avoid the potential **difficulties and deterrents** we identified in relation to contact with the losing provider (hassle from contacting more than one provider; difficulties contacting the losing provider including long call wait times and unwanted save activity), because no such contact is required.
- Would likely involve **less effort** for most customers.<sup>94</sup> It would require fewer instances in which the customer needs to actively engage with providers than Code to Switch. In particular, when switching fixed voice and broadband by phone, customers would only need to wait for their call to be answered once, rather than twice under Code to Switch.

4.20 We said Code to Switch:

- Would expose customers to **potential difficulties and deterrents** relating to contact with the losing provider that many do not currently face under the existing Notification of Transfer process and would not face using One Touch Switch.<sup>95</sup>
- Would lack an **effective mechanism to give customers control** over the extent and nature of the contact they have with their losing provider, in particular the option to avoid speaking in person to their losing provider.<sup>96</sup>

4.21 As a result, we said, customers may find switching harder under Code to Switch than they currently do. We said these difficulties may constrain customer choice and mean customers miss out on lower prices or services that better meet their needs, or both.<sup>97</sup>

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<sup>91</sup> February 2021 Consultation, paragraph 5.45.

<sup>92</sup> February 2021 Consultation, paragraphs 5.7 to 5.20.

<sup>93</sup> February 2021 Consultation, paragraphs 5.21-5.60.

<sup>94</sup> February 2021 Consultation, paragraphs 5.61-5.70.

<sup>95</sup> February 2021 Consultation, paragraphs 5.42-5.48.

<sup>96</sup> February 2021 Consultation, paragraphs 5.49-5.60.

<sup>97</sup> February 2021 Consultation, paragraph 5.47.

## Quick, easy and reliable switching

- 4.22 We also said that these difficulties and deterrents may dampen, rather than promote, competition between providers and result in consumers overall not receiving the full benefits of competition in terms of lower prices, higher quality of service, choice and innovation.<sup>98</sup>

### Quick

- 4.23 We provisionally concluded that there appeared to be little difference between the options in relation to how quickly a customer could switch their voice and broadband service. Both processes could potentially reduce the switching time down to one day.<sup>99</sup>

### Reliable

- 4.24 We provisionally concluded that there does not appear to be a material difference in the reliability of the two options, and that both would be capable of avoiding or reducing loss of service during the switch, enabling a switch to happen on time and accurately identify the customer and service to be switched.<sup>100</sup> We noted that independent technical advice has not identified material differences in the expected technical reliability between the options, and concluded that both options are well thought out technically and could be implemented successfully.<sup>101</sup>

### Based on informed consent

- 4.25 We said that both options would enable gaining providers to ensure a customer has expressly agreed to a switch,<sup>102</sup> would ensure customers are provided with information enabling them to make an informed choice before consenting to the switch,<sup>103</sup> and would include protections against slamming.<sup>104</sup>
- 4.26 We noted that the options take different approaches to ensuring the customer requesting the switch is authorised to do so and providers can obtain a customer's express agreement to switch. Therefore, they also have different protections against slamming.
- 4.27 We considered that both options should protect against slamming more than the current Notification of Transfer process, but that Code to Switch may have stronger protections against certain types of slamming than One Touch Switch.<sup>105</sup>

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<sup>98</sup> February 2021 Consultation, paragraph 5.47.

<sup>99</sup> February 2021 Consultation, paragraphs 5.71-5.74.

<sup>100</sup> February 2021 Consultation, paragraphs 5.75-5.90.

<sup>101</sup> February 2021 Consultation, paragraph 5.76.

<sup>102</sup> February 2021 Consultation, paragraph 5.92.

<sup>103</sup> February 2021 Consultation, paragraphs 5.96-5.102.

<sup>104</sup> February 2021 Consultation, paragraphs 5.93-5.95.

<sup>105</sup> February 2021 Consultation, paragraph 5.92.

## Our provisional conclusions

- 4.28 On the basis of our provisional assessment, we proposed to require the industry to develop and implement a new One Touch Switch process for all residential customers who switch landline and broadband services, regardless of who their provider is or the technology or network their provider uses.

## Respondents' views on our assessment of the two switching processes

- 4.29 Of the 56 stakeholders that responded, 40 agreed overall with our proposal to require industry to design and implement the One Touch Switch process<sup>106</sup>, and four disagreed.<sup>107</sup> A number of respondents said that One Touch Switch would support competition, including in relation to fibre broadband.<sup>108</sup>
- 4.30 A number of private individuals provided comments about their own experience of switching and what they regarded to be important.<sup>109</sup> Those that expressed a view broadly agreed with our proposal to require the industry to adopt One Touch Switch.
- 4.31 Below, we set out respondents' comments against each of the four assessment criteria. We then summarise additional comments about security, fraud and data protection.

## Easy to use

### Simple to understand and follow

- 4.32 A number of providers agreed that One Touch Switch would be familiar to customers who have used the Notification of Transfer process.<sup>110</sup> BT, CityFibre and Hyperoptic noted that One Touch Switch would be consistent with the switching processes used in the energy and banking sectors.<sup>111</sup>
- 4.33 Virgin Media argued that the Notification of Transfer process is not familiar to all customers. They noted that a third of customers switching within the Openreach network did not follow the Notification of Transfer process, and that around half of those customers who switched within the Openreach network, whether they used NOT+ or not, contacted

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<sup>106</sup> [ApTap](#), BT, [B. Williams](#), [Citizens Advice Scotland](#), CityFibre, Common Wholesale Platform, CCP, FCS, Fern Trading, [Gigaclear](#), [Hubbub Group](#), Hyperoptic, INCA, [J. Campbell-Smith](#), [J. Darby](#), [J. Dowdle](#), [Name Withheld 2](#), [Name Withheld 3](#), [Name Withheld 4](#), [Name Withheld 5](#), National Pensioners Convention, [Net Support UK](#), [Ombudsman Service](#), Openreach, [P. Hill](#), [Shell](#), TalkTalk, Toob limited, Uswitch, Utility Warehouse, Webster Marketing, [Which?](#), WightFibre, Zen, Zzoomm, [redacted], [redacted], [redacted], [redacted], [redacted]. Responses to February 2021 Consultation.

<sup>107</sup> [KCOM](#), Sky, Virgin Media and Vodafone. Responses to February 2021 Consultation.

<sup>108</sup> ApTap, Hyperoptic, page 11; Uswitch, paragraphs 1.12-1.19. Responses to February 2021 Consultation.

<sup>109</sup> B. Williams, J. Bartlett, J. Darby, J. Dowdle, [J. Ozin](#), Name Withheld 1, Name Withheld 2, Name Withheld 4, P. Hill. Responses to February 2021 Consultation.

<sup>110</sup> BT, paragraph 2.10; TalkTalk, page 2; Utility Warehouse, page 1; [redacted]. Responses to February 2021 Consultation.

<sup>111</sup> BT, paragraph 2.10; CityFibre, page 11; Hyperoptic, pages 4-5. Responses to February 2021 Consultation.

## Quick, easy and reliable switching

their losing provider. Virgin Media said that familiarity with the Notification of Transfer process should not be a key consideration for assessing ease of use.<sup>112</sup>

- 4.34 Sky, Virgin Media and Vodafone said that most broadband customers are also mobile customers so are likely to be familiar with a code-based switching process.<sup>113</sup> Virgin Media argued that, based on volumes of customers, Auto-Switch is more heavily used than the Notification of Transfer process, so is likely to be the more familiar comparator process. They argued Code to Switch would allow for convergence on a code-based approach to switching in both fixed and mobile services while One Touch Switch would lead to diverging approaches for mobile and fixed switching, which could create confusion.<sup>114</sup> It said that Code to Switch and Auto-Switch “at a high level, are indistinguishable” and argued that in many cases customers could obtain both codes in a single website visit or phone call, so that in effect it would look and feel like one process.<sup>115</sup> They argued that a converged approach would result in benefits such as reduced confusion and increased customer engagement. This view was shared by Vodafone, who also argued that the process has already been shown to work in the mobile market.<sup>116</sup>
- 4.35 Sky and Virgin Media said their customers already used their IVR systems for various types of transactions, and Virgin Media noted that many people already use IVR systems in different markets (e.g. banks, utilities, airlines) so are familiar with such systems.<sup>117</sup>
- 4.36 Virgin Media noted that energy customers are switching between retailers on the same network, which is not comparable to switching between different physical networks in fixed telecoms.<sup>118</sup>
- 4.37 Virgin Media also argued that One Touch Switch would be different from other switching processes in a number of ways. For example, other processes do not require the customer to consider the implications of switching during a sales call, or to pause a sale or participate in troubleshooting, if a matching process is not successful.<sup>119</sup>

## Simple to understand and follow for customers with bundles

- 4.38 Hyperoptic agreed that One Touch Switch would be simpler for customers with bundles.<sup>120</sup> BT said that One Touch Switch would allow customers with separate voice and broadband contracts to bring them together into a bundle with a gaining provider in a single step, whereas Code to Switch would require them to contact two losing providers.<sup>121</sup>

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<sup>112</sup> Virgin Media, Response to February 2021 Consultation, paragraphs 110-113.

<sup>113</sup> Sky, page 15; Virgin Media, paragraphs 114-116; Vodafone, page 3. Responses to February 2021 Consultation.

<sup>114</sup> Sky, pages 14-15; Virgin Media, paragraph 121 and page 3. Responses to February 2021 Consultation.

<sup>115</sup> Virgin Media, Response to February 2021 Consultation, paragraph 122.

<sup>116</sup> Vodafone, Response to February 2021 Consultation, page 4.

<sup>117</sup> Virgin Media, paragraphs 42-48; Sky Annex 1. Responses to February 2021 Consultation.

<sup>118</sup> Virgin Media, Response to February 2021 Consultation, paragraph 117.

<sup>119</sup> Virgin Media, Response to February 2021 Consultation, paragraph 109.

<sup>120</sup> Hyperoptic, Response to February 2021 Consultation, pages 4-5.

<sup>121</sup> BT, Response to February 2021 Consultation, paragraphs 2.23-4.



## Quick, easy and reliable switching

- 4.39 Fern Trading agreed that One Touch Switch would be simpler for customers with bundles, although they felt that Ofcom had slightly overstated the benefit.<sup>122</sup>
- 4.40 Virgin Media argued that Code to Switch would be simpler to understand and follow for customers with bundles.<sup>123</sup> Sky said that Code to Switch is no harder to understand and follow for customers with mobile bundles than One Touch Switch. Whichever process Ofcom adopts, Sky said, these customers will need to follow two separate processes, leading to potential confusion.<sup>124</sup> Sky quoted Ofcom research, suggesting that “the majority of switching mobile customers (at least 58%) already request their code via a method that would be supported by Code to Switch”.<sup>125</sup> They said around 12 million customers have requested a mobile switching code since 2019, and argued that “none of those customers are likely to be confused by the need to obtain a code to switch their voice or broadband services”.<sup>126</sup>

## Process led by the gaining provider and enhances customers’ control

- 4.41 A number of respondents agreed with our consultation assessment that One Touch Switch would be led by the gaining provider.<sup>127</sup> Virgin Media said that both proposals ensure the future switching process is gaining provider led.<sup>128</sup> Hyperoptic argued that an additional benefit of One Touch Switch is that, as initiating a switch involves only one provider, the customer will be in no doubt as to who they should contact during the switch if they wish to discuss any element of it.<sup>129</sup>
- 4.42 However, a number of other providers questioned whether Code to Switch in fact met this requirement.<sup>130</sup> CityFibre argued that Code to Switch is not consistent with the EECC’s requirement for gaining provider led switching and a “one stop shop” as it requires the customer to first approach the losing provider to obtain a switching code.<sup>131</sup>
- 4.43 Sky and Virgin Media said Code to Switch, now that it includes the IVR option, would give all customers complete control over the extent and type of contact they have with the losing provider.<sup>132</sup>

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<sup>122</sup> Fern Trading, Response to February 2021 Consultation, paragraph 75.

<sup>123</sup> Virgin Media, Response to February 2021 Consultation, paragraphs 120-126.

<sup>124</sup> Sky, Response to February 2021 Consultation, pages 14-15.

<sup>125</sup> Sky, Response to February 2021 Consultation, pages 14-15.

<sup>126</sup> Sky, Response to February 2021 Consultation, page 15.

<sup>127</sup> BT, paragraph 2.4; CCP, page 2; Citizens Advice Scotland, page 2; Fern Trading, page 16; Hyperoptic pages 7-8; INCA, paragraph 34; Openreach, paragraph 5; TalkTalk, page 4; Which? page 2; [3]. Responses to February 2021 Consultation.

<sup>128</sup> Virgin Media, Response to February 2021 Consultation, paragraph 127.

<sup>129</sup> Hyperoptic, Response to February 2021 Consultation, page 8.

<sup>130</sup> CityFibre, paragraph 1.6; FCS, pages 1-2; Fern Trading, paragraph 8; Gigaclear, page 3; Hyperoptic, page 5; Openreach, paragraph 3; TalkTalk, page 4; Uswitch, page 3. Responses to February 2021 Consultation.

<sup>131</sup> CityFibre, Response to February 2021 Consultation, paragraph 1.6.

<sup>132</sup> Sky, page 12; Virgin Media, paragraph 48. Responses to February 2021 Consultation.

- 4.44 A number of respondents commented on the potential difficulties and deterrents we identified in our provisional assessment, including the hassle of contacting more than one provider, difficulties in contacting the losing provider and unwanted save activity.<sup>133</sup>

Hassle of contacting more than one provider

- 4.45 Hyperoptic and Which? agreed that customers are put off switching by the hassle of having to contact more than one provider.<sup>134</sup> Hyperoptic pointed to research carried out by Uswitch which shows that 19.5% of households have not switched broadband providers because they cannot be “bothered with the hassle of switching” or are worried that the switching process will leave them without service, and 22% have never changed provider. Hyperoptic argued that customers trying to switch between platforms are likely to be more inconvenienced by a process requiring contact with multiple providers.<sup>135</sup>
- 4.46 Sky argued that the hassle of contacting two providers did not seem to be a material concern when Ofcom considered the introduction of the Auto-Switch rules. They also said the addition of the IVR option in Code to Switch reduces the hassle of having to contact two providers and the time/effort involved in doing so. Customers may even be able to call the losing provider and follow the IVR process at the same time that they engage with a gaining providers’ sales process (e.g. online).<sup>136</sup> Virgin Media also said the IVR option would reduce the impact of the hassle associated with contacting more than one provider.<sup>137</sup>
- 4.47 TalkTalk said that the addition of the IVR option under Code to Switch would not remove the hassle of having to contact the losing provider, and said that where the IVR system did not successfully verify the customer’s identity, they would need to speak to an agent, adding to the hassle and friction.<sup>138</sup>

Difficulties in contacting the losing provider

- 4.48 Vodafone argued that Code to Switch mimics the Auto-Switch process, with the IVR option replacing the text message. The proposal therefore removes the need for the consumer to contact the losing provider.<sup>139</sup>
- 4.49 Hyperoptic said that the IVR route would not materially reduce the difficulties with contacting the losing provider. They noted that Code to Switch would not have a text option like Auto-Switch, which not only minimises contact with the losing provider but incorporates customer authentication, service identification and consent. They also said customers’ perception of IVR systems is poor and said landline only and vulnerable

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<sup>133</sup> ApTap; BT, paragraphs 2.5-2.9; CityFibre, paragraphs 3.16-3.19; Fern Trading, pages 16-17; Gigaclear, page 2; Hyperoptic, pages 5-8; Shell, page 1; TalkTalk, page 3; Uswitch, paragraph 1.9; Utility Warehouse, page 1; Which? page 2; [3], [3]. Responses to February 2021 Consultation.

<sup>134</sup> Hyperoptic, page 6; Which?, page 2. Responses to February 2021 Consultation.

<sup>135</sup> Hyperoptic, Response to February 2021 Consultation, page 6.

<sup>136</sup> Sky, Response to February 2021 Consultation, page 13.

<sup>137</sup> Virgin Media, Response to February 2021 Consultation, paragraph 48.

<sup>138</sup> TalkTalk, Response to February 2021 Consultation, pages 3-4.

<sup>139</sup> Vodafone, Response to February 2021 Consultation, page 2.

customers would be disproportionately affected by this.<sup>140</sup> WightFibre also argued IVR systems are not popular with customers.<sup>141</sup>

- 4.50 BT said the addition of the IVR option would make little difference to the assessment that One Touch Switch is easier for customers. They also noted that calling an IVR adds an extra step to the process and gives the losing provider the opportunity to slow things down or create extra hassle for the customer.<sup>142</sup>
- 4.51 CityFibre noted that the losing provider may have an incentive to make it more difficult for the customer to request their code(s), adding complexity.<sup>143</sup> Gigaclear noted that Auto-Switch, unlike the proposed IVR option, limits interaction to only what is absolutely necessary to enable the switch.<sup>144</sup>
- 4.52 TalkTalk said it was unclear how an IVR would be able to reliably identify the customer, as it could not be assumed that the customer would always call from the number they wanted to switch or have all the security information they needed to hand. In those circumstances, the IVR option would increase the hassle and friction for the customer and that customers might still have to speak to an agent.<sup>145</sup>
- 4.53 Fern Trading said that the IVR option would probably be even slower for consumers than the web, voice and app code request routes under One Touch Switch. They said that voice recognition is not reliable and that using it to authenticate the customer will lead to failures. They noted this would lead to some customers being put back through to a live agent, adding even more time, and leading to drop-out. Finally, they expressed doubt that an IVR option would reduce providers' costs by reducing the volume of customer service calls, and that many providers would need to invest in new IVR systems, which for some would lead to greater costs.<sup>146</sup>

#### Unwanted save activity

- 4.54 A number of respondents agreed that One Touch Switch would minimise the risk of unwanted save activity.<sup>147</sup>
- 4.55 Hyperoptic noted that in One Touch Switch, contact with the losing provider will always be a choice taken by the customer.<sup>148</sup>
- 4.56 Fern Trading and Common Wholesale Platform noted all Code to Switch request routes allow the losing provider to contact the customer after providing the code, in contrast with One Touch Switch.<sup>149</sup> Hyperoptic said that under Code to Switch (including the IVR option),

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<sup>140</sup> Hyperoptic, Response to February 2021 Consultation, page 6.

<sup>141</sup> WightFibre, Response to February 2021 Consultation, page 2.

<sup>142</sup> BT, Response to February 2021 Consultation, paragraph 2.8.

<sup>143</sup> CityFibre, Response to February 2021 Consultation, paragraph 3.23.

<sup>144</sup> Gigaclear, Response to February 2021 Consultation, page 3.

<sup>145</sup> TalkTalk, Response to February 2021 Consultation, pages 3-4.

<sup>146</sup> Fern Trading, Response to February 2021 Consultation, pages 23-24.

<sup>147</sup> BT, paragraph 2.6; Common Wholesale Platform, page 2; Fern Trading, page 16; Utility Warehouse, page 1, Which?, page 2. Responses to February 2021 Consultation.

<sup>148</sup> Hyperoptic, Response to February 2021 Consultation, pages 7-8.

<sup>149</sup> Fern Trading, paragraph 100; Common Wholesale Platform, page 3. Responses to February 2021 Consultation.

## Quick, easy and reliable switching

the losing provider would have an incentive to try to retain the customer when they contact them to request a code. Therefore, Code to Switch is likely to rely on compliance with rules supported by enforcement action to work effectively.<sup>150</sup> Zzoomm said that voice-only customers would find an IVR difficult to navigate, would be unlikely to use it, and therefore speak to an operator in person, and be subject to unwanted save activity.<sup>151</sup>

- 4.57 Sky and Virgin Media said the IVR option enables customers to avoid unwanted save activity.<sup>152</sup>

### Minimise the effort needed to complete the process

- 4.58 Most respondents agreed that One Touch Switch would involve less effort for customers.
- 4.59 BT argued that One Touch Switch would require less effort for vulnerable customers. It said that under Code to Switch, as well as having to call their losing provider to get a code, some vulnerable customers would have to write down a code and then make a further call to the gaining provider and repeat it correctly, which is a potential point of failure.<sup>153</sup> Uswitch also said customers having to write down codes could lead to mistakes.<sup>154</sup>
- 4.60 Hyperoptic agreed One Touch Switch would require less effort by the customer, particularly when customers are switching a more complex bundle of services.<sup>155</sup>
- 4.61 Sky and Virgin Media said that if the Hub process went wrong or if the customer had queries for their losing provider, they would need to drop out of the switching journey to contact their losing provider.<sup>156</sup>

## Quick

- 4.62 Hyperoptic and Vodafone agreed that there appeared to be little difference between the options in relation to how quickly a customer could switch their voice and broadband service.<sup>157</sup> Shell noted that One Touch Switch could reduce the switching time.<sup>158</sup>
- 4.63 CityFibre said in most cases One Touch Switch would be quicker, and that the need to contact the losing provider under Code to Switch would create “material” delay for some switches. They noted that the losing provider has an incentive to make the process complex, which could add further delay.<sup>159</sup>
- 4.64 BT said that One Touch Switch is quicker than Code to Switch as the customer only has to contact one provider.<sup>160</sup> INCA said that One Touch Switch was quicker as it may take

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<sup>150</sup> Hyperoptic, Response to February 2021 Consultation, page 7.

<sup>151</sup> Zzoomm, response to February 2021 Consultation, page 6.

<sup>152</sup> Sky, page 4; Virgin Media, paragraph 48. Responses to February 2021 Consultation.

<sup>153</sup> BT, Response to February 2021 Consultation, paragraph 2.9.

<sup>154</sup> Uswitch, Response to February 2021 Consultation, paragraph 1.9.

<sup>155</sup> Hyperoptic, Response to February 2021 Consultation, page 8.

<sup>156</sup> Sky, page 7; Virgin Media, paragraph 151. Responses to February 2021 Consultation.

<sup>157</sup> Hyperoptic, page 8; Vodafone page 4. Responses to February 2021 Consultation.

<sup>158</sup> Shell, Response to February 2021 Consultation, page 1.

<sup>159</sup> CityFibre, Response to February 2021 Consultation, paragraphs 3.22-3.24.

<sup>160</sup> BT, Response to February 2021 Consultation, paragraphs 2.21-2.22.

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several attempts for customers to contact their provider to get their code and start the switching process under Code to Switch.<sup>161</sup>

- 4.65 Sky argued that One Touch Switch would not be quick for voice-only customers as they will have to receive switching information by letter and wait for it to arrive before continuing with the switch. They said Code to Switch would enable customers to obtain their code quickly and easily by calling the provider and following the IVR instructions.<sup>162</sup>
- 4.66 Virgin Media noted that, where customers have chosen to receive switching information by post, One Touch Switch will require two letters (one from the Hub, one from the gaining provider) compared to a single letter in Code to Switch.<sup>163</sup>
- 4.67 Fern Trading agreed that One Touch Switch will be faster than Code to Switch for consumers who prefer to receive their switching information by letter.<sup>164</sup>
- 4.68 Virgin Media and Sky disagreed with Ofcom's assessment that the two processes will take roughly the same amount of time, as porting is not incorporated into One Touch Switch, whereas it is in Code to Switch.<sup>165</sup>

## Reliable

- 4.69 A number of respondents agreed with our assessment that there did not appear to be a material difference in the reliability of the options.<sup>166</sup>
- 4.70 BT argued that the two processes are likely to be open to the same errors. They noted that erroneous transfers occur when the incorrect line or service to be switched is identified. Therefore, they argued that the only risk of errors stems from inaccurate records, linking customers with the wrong address.<sup>167</sup> Vodafone said erroneous transfers would be less likely if the customer is required to speak to both their losing and gaining provider, rather than relying on providers to communicate with each other.<sup>168</sup>
- 4.71 Virgin Media raised several concerns about the reliability of One Touch Switch, including that:
- Cartesian's reliability assessment does not consider number porting and if it did, Code to Switch would likely perform better than One Touch Switch.<sup>169</sup>
  - The number of providers involved in the process could increase the risk of errors,<sup>170</sup> and would require more customer effort to resolve if the matching process goes wrong,

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<sup>161</sup> INCA, Response to February 2021 Consultation, page 9.

<sup>162</sup> Sky, Response to February 2021 Consultation, page 13.

<sup>163</sup> Virgin Media, Response to February 2021 Consultation, paragraphs 162-166.

<sup>164</sup> Fern Trading, Response to February 2021 Consultation, page 3.

<sup>165</sup> Sky, pages 20-21; Virgin Media, paragraphs 157-159. Responses to February 2021 Consultation.

<sup>166</sup> CityFibre, paragraph 3.27; Fern Trading, page 3; Hyperoptic, page 8; Zzoomm, page 5. Responses to February 2021 Consultation.

<sup>167</sup> BT, Response to February 2021 Consultation, paragraphs 2.14-2.19.

<sup>168</sup> Vodafone, Response to February 2021 Consultation, page 3.

<sup>169</sup> Virgin Media, Response to February 2021 Consultation, paragraph 176.

<sup>170</sup> Virgin Media, Response to February 2021 Consultation, paragraph 171.

(speaking to the gaining provider, collecting more information from the losing provider).<sup>171</sup>

- Loss of services for other bundled services is likely to rise, as customers may be unaware of the implications of their decision. In some cases, it may no longer be possible to enable restoration.<sup>172</sup>

4.72 Sky said that One Touch Switch:

- Does not detail whether providers would be able to support real-time, automated customer/service identification and authentication at all times.<sup>173</sup>
- Does not explain what happens when customers are not able to fix matching errors, which could lead customers to drop out of the switching process or require them to cancel their current services and re-order from a new provider.<sup>174</sup>
- Could lead to more matching errors as WLR (wholesale line rental) is withdrawn. The telephone number associated with the line will no longer be available as a means of identifying the service to switch, increasing the likelihood of erroneous transfers. Additional details may improve reliability but would make the process less easy or quick.<sup>175</sup>

4.73 Sky and Virgin Media said that, under One Touch Switch, the provider could mistakenly identify the incorrect customer or service to be switched due to lack of validation and that our assessment had overestimated the reliability of One Touch Switch. Both referred to evidence that suggested a 96% success rate for the matching process. Sky said this would equate to nearly a hundred thousand poor switching experiences a year, compared to none in Code to Switch.<sup>176</sup>

4.74 Sky and Virgin Media argued that Code to Switch, on the other hand, would:

- Enable switching in the shortest possible time and on the date agreed by the customer, with no need for extra time as a contingency for any potential errors to be identified and corrected.<sup>177</sup>
- Enable a more consistent approach to asset identification, as services must be identified by the losing provider in order for the switch to proceed and the code to be issued, meaning that there is no requirement for a service restoration process.<sup>178</sup>
- Carry a low risk of errors, in common with other code-based switching processes, such as Auto-Switch.<sup>179</sup>

4.75 Some respondents highlighted drawbacks with Code to Switch, including the IVR route. Openreach said that using an IVR system to produce and procure a code was a complex

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<sup>171</sup> Virgin Media, Response to February 2021 Consultation, paragraph 152.

<sup>172</sup> Virgin Media, Response to February 2021 Consultation, page 97.

<sup>173</sup> Sky, Response to February 2021 Consultation, page 7.

<sup>174</sup> Sky, Response to February 2021 Consultation, page 7. Customers that use 'cease and re-provide' contact the gaining and losing provider separately and potentially lose the benefits of using a regulated switch process.

<sup>175</sup> Sky, Response to February 2021 Consultation, page 6.

<sup>176</sup> Sky, pages 6-7; Virgin Media, paragraphs 170-175. Responses to February 2021 Consultation,.

<sup>177</sup> Sky, Response to February 2021 Consultation, pages 8-9.

<sup>178</sup> Sky, Response to February 2021 Consultation, pages 5-6.

<sup>179</sup> Virgin Media, Response to February 2021 Consultation, paragraphs 174-175.

process which could potentially lead to errors.<sup>180</sup> Fern Trading said voice recognition technology (used by some IVRs) is not reliable.<sup>181</sup>

## Based on informed consent

### A switch only occurs where a customer has expressly agreed to it

- 4.76 CityFibre considered both options meet the criteria for informed consent.<sup>182</sup>
- 4.77 KCOM and Virgin Media noted that, in Code to Switch, there is certainty about a customer's intention to switch as the losing provider's identification process ensures that the customer is who they say they are. They both argued that, under One Touch Switch, the gaining provider has to presume that the customer has expressly agreed to switch as there are limited safeguards to ensure the individual requesting to switch has the authority to do so.<sup>183</sup>
- 4.78 Sky argued that the difference between the two options is more significant than Ofcom suggests, and that One Touch Switch offers weak protection against slamming. They noted that the customer is only required to give their gaining provider details of the losing provider, which only protects against "no contact" slams and could "be obtained, or guessed, by an unscrupulous actor." Sky suggested that One Touch Switch would complete customer matching using "basic details", requesting "additional identifying details" in the event that matching fails. At no point would "secure unique identifiers" be requested. Sky said slamming would be nearly eliminated under Code to Switch, and that this difference had not been given adequate consideration in Ofcom's analysis.<sup>184</sup>
- 4.79 KCOM argued that, while One Touch Switch enables a switch to occur with limited customer details, Code to Switch rules out the ability to slam.<sup>185</sup>
- 4.80 Virgin Media noted that the safeguards currently in place under the Notification of Transfer system (a ten-day pause where a fraudulent or erroneous transfer can be halted) will be lost.<sup>186</sup> This will make it more difficult to halt a switch. Under One Touch Switch, the time period between giving information and consent is small, limiting the time to recognise and stop an unfamiliar request.<sup>187</sup>
- 4.81 Vodafone considered that the risk of slamming was inherent in a gaining provider led process.<sup>188</sup>

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<sup>180</sup> Openreach, Response to February 2021 Consultation, paragraph 3.

<sup>181</sup> Fern Trading, Response to February 2021 Consultation, paragraph 100.

<sup>182</sup> CityFibre, Response to February 2021 Consultation, paragraph 3.31.

<sup>183</sup> KCOM, paragraph 2.4-2.6; Virgin Media, paragraph 180. Responses to February 2021 Consultation.

<sup>184</sup> Sky, Response to February 2021 Consultation, pages 8-9.

<sup>185</sup> KCOM, Response to February 2021 Consultation, paragraph 2.6.

<sup>186</sup> Virgin Media, Response to February 2021 Consultation, paragraph 181.

<sup>187</sup> Virgin Media, Response to February 2021 Consultation, paragraph 197.

<sup>188</sup> Vodafone, Response to February 2021 Consultation, page 3.

## Quick, easy and reliable switching

- 4.82 Fern Trading argued that the two processes offer similar levels of protection.<sup>189</sup> They noted that under One Touch Switch, customers would need to give their financial details to the gaining provider, which would protect against slamming.<sup>190</sup>
- 4.83 BT argued that Code to Switch shares the same small risk of slamming as One Touch Switch. A gaining provider will only know the details a customer gives (such as name, service provider and Unique Property Reference Number). It would be “virtually impossible” to guess these, and several attempts to do so would show up in the Hub. Since the Hub will keep a record of switches and the gaining provider will record that consent has been given, there is a disincentive to proceed without proof of consent because it would be easy to discover.<sup>191</sup>
- 4.84 Hyperoptic said that, in Code to Switch, obtaining a code is an indicator that the customer has communicated with their losing provider and wishes to switch. However, the use of the code has no bearing on the nature of the discussion between the customer and the gaining provider, or on what the customer agreed to purchase, so “there is still ample scope under Code to Switch for various subcategories of slamming to occur”.<sup>192</sup>
- 4.85 Vodafone said that the losing provider is best placed to ensure that the customer requesting the switch is authorised to do so. In contrast, they noted that while One Touch Switch has “similar possibilities for ensuring accurate authentication”, if there were problems identifying a customer then the solution would be more complex and require contact with the losing provider.<sup>193</sup>

## Information is provided in a way that would enable customers to make informed switching choices

- 4.86 Ombudsman Services and Shell and argued that One Touch Switch would help ensure customers are informed before consenting to a switch.<sup>194</sup> Uswitch said the process would give customers the benefit of being able to compare contract information from the gaining and losing provider side by side.<sup>195</sup>
- 4.87 Fern Trading and Hyperoptic noted that under Code to Switch, the information provided could be up to 30 days old before the customer uses the code. This could mean that customers may be less well informed and no better informed than they would be under End of Contract Notifications and contract summaries.<sup>196</sup>
- 4.88 Sky, however, argued that Code to Switch enables the customer to get their switching information promptly, which enables them to engage in the market and to make a decision underpinned by sufficient information.<sup>197</sup>

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<sup>189</sup> Fern Trading, Response to February 2021 Consultation, paragraph 13.

<sup>190</sup> Fern Trading, Response to February 2021 Consultation, paragraph 81.

<sup>191</sup> BT, Response to February 2021 Consultation, paragraphs 2.11-2.13.

<sup>192</sup> Hyperoptic, Response to February 2021 Consultation, pages 8-9.

<sup>193</sup> Vodafone, Response to February 2021 Consultation, pages 2-3.

<sup>194</sup> Ombudsman Services, page 1; Shell, page 1. Responses to February 2021 Consultation.

<sup>195</sup> Uswitch, Response to February 2021 Consultation, paragraph 1.9.

<sup>196</sup> Fern Trading Limited, paragraph 89; Hyperoptic, page 9. Responses to February 2021 Consultation.

<sup>197</sup> Sky, Response to February 2021 Consultation, pages 10-11.



- 4.89 Sky and Virgin Media said that One Touch Switch would require customers to receive and understand all their switching information at the same time (potentially while speaking to the gaining provider), while Code To Switch would allow customers to consider information at their own pace.<sup>198</sup> They noted that contact with the gaining provider would provide an opportunity for mis-selling and pressure selling.<sup>199</sup> However, Fern Trading argued that One Touch Switch users can pause a call if they wish, and noted that if any pressure on the customer exists, it would also apply under Code to Switch, when the customer requests the code and switching information from the losing provider.<sup>200</sup>
- 4.90 Fern Trading said that an IVR system could enable landline only customers to get an authorisation code and switch before they receive their switching information in a durable medium, without giving express consent.<sup>201</sup>

### Additional comments: data protection and security

- 4.91 Sky argued that because the switching information would go to the customer from the Hub, rather than from a provider with whom they were familiar, it might be ignored, classified as spam, or make customers suspicious. They said it was not clear what would happen if the customer requested switching information via a communication channel for which the losing provider did not hold the details, or if the losing provider held out of date contact information.<sup>202</sup> Further, they were concerned that the proposed process also envisages switching information being sent to contact details given to the gaining provider at point of sale, which could be done by someone other than the authorised user. Consequently, Sky argued that there is a risk of the unauthorised disclosure of personal data.<sup>203</sup>
- 4.92 Sky noted that Ofcom has not carried out a Data Protection Impact Assessment (DPIA)<sup>204</sup> in respect of One Touch Switch. Sky suggested that had a DPIA been carried out, the solution would have been designed to include stronger checks on who is requesting the switch, although it said that requesting more information would increase the likelihood of concerns around reliability such as errors and missing information.<sup>205</sup>
- 4.93 Sky said switching information would include personal data, and that sending it via the Hub would constitute data processing and disclosure for the purposes of the GDPR. Sky said it is vital that such data is secure, as a matter of best practice and compliance with the law.<sup>206</sup> One provider (☒) said all providers will need to have complete confidence in the security and confidentiality of customer data held by the Hub.<sup>207</sup>

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<sup>198</sup> Sky, pages 11-12; Virgin Media, paragraphs 81-86. Responses to February 2021 Consultation.

<sup>199</sup> Sky, pages 11-12; Virgin Media, paragraphs 87-90. Responses to February 2021 Consultation.

<sup>200</sup> Fern Trading, Response to February 2021 Consultation, paragraph 95.

<sup>201</sup> Fern Trading, Response to February 2021 Consultation, paragraph 98.

<sup>202</sup> Sky, Response to February 2021 Consultation, pages 13-14.

<sup>203</sup> Sky, Response to February 2021 Consultation, page 9.<sup>204</sup> [Information Commissioner's Office advice.](#)

<sup>204</sup> [Information Commissioner's Office advice.](#)

<sup>205</sup> Sky, Response to February 2021 Consultation, page 9.

<sup>206</sup> Sky, Response to February 2021 Consultation, page 9.

<sup>207</sup> [☒].

- 4.94 Sky argued that Code to Switch does not involve these risks as the switching information is given to the customer by the losing provider, only after the provider has followed its usual customer identification and verification process. It said that a new DPIA would not be required as there is no new processing of personal data.<sup>208</sup>
- 4.95 Virgin Media highlighted a number of additional security and data protection risks associated with One Touch Switch. They said:
- It is not clear how long the gaining provider will hold the personal data that the customer provides when they initiate a switch, or whether the gaining provider would be subject to a Data Subject Access Request.<sup>209</sup>
  - Personal data would be stored by the Hub for 12 months which could result in more than 3m customers' details being held at any one time. A potential leak or hack of personal data could therefore affect large numbers of customers, and would present logistical and legal challenges given the Hub will be controlled by a third party.<sup>210</sup>
  - There is a risk of "inference attacks", where a malicious actor sends requests to the Hub to validate the data of users (which it can then sell or use fraudulently).<sup>211</sup>
  - There are new risks for fraudulent activity such as new ways to try to harvest data through phishing or smishing but also new ways to try to commit fraud by spoofing.<sup>212</sup>

## Our assessment of Code to Switch and One Touch Switch

- 4.96 The remainder of this section sets out our assessment of Code to Switch and One Touch Switch against our policy objective and by reference to the assessment framework set out in Section 3. In this regard, we note that an assessment of this nature involves an exercise of judgment given, for example, the many different facets of the two processes we are looking at, the different ways in which switching customers are likely to engage in the processes, and the varying views of industry participants in our consultation. In making our assessment we have taken into account consultation responses and we explain our reasoning below.
- 4.97 We first set out our assessment on how effective each option would be in meeting our objective under each of the four assessment criteria (easy to use, quick, reliable and based on informed consent). We then consider additional stakeholder comments on data protection and security.

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<sup>208</sup> Sky, Response to February 2021 Consultation, page 10.

<sup>209</sup> Virgin Media, Response to February 2021 Consultation, paragraphs 199-201. The ICO has published guidance on the [right of access to personal data](#).

<sup>210</sup> Virgin Media, Response to February 2021 Consultation, paragraphs 202-205.

<sup>211</sup> Virgin Media, Response to February 2021 Consultation, paragraphs 206-210.

<sup>212</sup> Virgin Media, Response to February 2021 Consultation, paragraph 192. 'Smishing' as described [on Virgin Media's website](#), happens when "fraudsters send disguised SMS messages that appear as if they are from a corporation, bank or government agency. These messages are sent to people, hooking them into disclosing private information such as bank details, passwords, private health information".

## Easy to use

### Summary

- 4.98 In order to be effective and efficient, switching processes should be easy to use. For the reasons set out below, we conclude that One Touch Switch would be easier for customers to use than Code to Switch. One Touch Switch:
- is simpler to understand and follow;
  - gives greater control to customers over the extent and type of contact they have with the losing provider; and
  - involves less effort for most customers.
- 4.99 In addition, Code to Switch would expose customers to difficulties and deterrents that many do not currently face in the existing Notification of Transfer process and would not face using One Touch Switch. As a result, some customers may find switching harder under Code to Switch than they currently do.

### Simple to understand and follow

- 4.100 In our assessment, One Touch Switch is simpler to understand and follow than Code to Switch. One Touch Switch only requires a customer to understand that they should contact the gaining provider who will then manage the process on their behalf. The gaining provider can then guide customers through the process and ask for relevant information where needed.
- 4.101 One Touch Switch is the simplest process for customers who only have voice and broadband services and do not have any other services with their provider.<sup>213</sup> For these customers, all their services will be switched using the new process. In contrast, Code to Switch would require customers to understand the need for two steps (contacting the losing provider and the gaining provider) and the order in which they should be taken. This would add complexity to the process and increase scope for confusion on the part of switching customers. This complexity and potential for confusion would be greater for customers wanting to switch bundles which include mobile, who would need to get two codes, via two different processes.
- 4.102 The introduction of an option to obtain a code using an IVR system under Code to Switch does not change our view that One Touch Switch is simpler to understand and follow, as it does not address the fact that customers would need to understand the need for two steps and the order in which they need to be taken. As noted in the previous paragraph, this feature adds complexity and potential confusion, particularly for customers wanting to switch bundles.

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<sup>213</sup> Nearly half of adults 16+ with a landline or fixed broadband (49%) have either standalone voice, standalone broadband or voice and broadband services from the same provider and have no other services with that provider. Ofcom, 2020. [Technology Tracker](#) Bespoke analysis.

### One Touch Switch would be more familiar to customers switching fixed voice and broadband services

- 4.103 The steps in One Touch Switch will be more familiar to customers than Code to Switch. This is because of the similarity of One Touch Switch and the existing Notification of Transfer process. We disagree with Virgin Media's arguments that One Touch Switch differs materially from the Notification of Transfer process, to the extent that customers would not find it familiar. In both Notification of Transfer and One Touch Switch, the principal step the customer needs to understand is that they should contact the gaining provider. The approach of only having to contact the gaining provider will also be familiar to customers that have switched their gas, electricity or bank account, as noted by a number of respondents. This familiarity will aid customer understanding of the new process. While, as Virgin Media noted, energy customers are switching between different retailers rather than between different platforms, the principle that they only need to contact the gaining provider is the same as it is for One Touch Switch.
- 4.104 In contrast, a move from the current switching process to Code to Switch would require fixed voice and broadband customers to understand and become familiar with a different style of process involving a greater number of steps, as all customers would need to have some contact with the losing provider, including if they chose to obtain their code via an IVR system. This would require behaviour change for many customers (i.e. a need to contact their losing provider as part of the switching process) as currently the majority of voice and broadband switches are within the Openreach network and go through the Notification of Transfer process.<sup>214</sup> Most dual play or triple play switchers that used the Notification of Transfer process (65%) said they cancelled with their gaining provider when they switched.<sup>215</sup> In our view, the change in the steps required to start the Code to Switch process (i.e. the need to contact the losing provider) would be unfamiliar and make Code to Switch harder to understand and follow than One Touch Switch (and harder to understand and follow than the existing Notification of Transfer process).
- 4.105 While some customers using the Openreach network contact their losing provider when switching, as Virgin Media notes, they are not required to do so under the Notification of Transfer process, to collect a code or for any other reason. This would be the same under One Touch Switch where customers can still contact the losing provider, if they want to, so overall the process will be familiar for these customers too (i.e. in both processes, you only need to contact the gaining provider to switch. Any additional contact with the losing provider is down to the customer's choice).
- 4.106 As several respondents pointed out, the principle of Code to Switch (having to get a code from the losing provider to give to the gaining provider) has some similarities with the Auto-Switch process for mobile services. However, we consider the processes are different

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<sup>214</sup> Openreach estimates 175,000 switches per month go through the Notification of Transfer process (Openreach, March 2020. [Response to Ofcom's consultation: "Fair treatment and easier switching for broadband and mobile customers,"](#) page 6). This includes a combination of residential and business customers switching.

<sup>215</sup> Ofcom, 2020. [Switching Experience Tracker](#). Q10, table 40. Base: all who switched dual or triple play services within the Openreach network in the last six months.

enough as to have little impact on whether using Auto-Switch in mobile means customers would be familiar with Code to Switch. Auto-Switch lets customers obtain their code simply by sending a free text message, and receive their code and switching information almost instantaneously. Around half (51%) of customers switching via Auto-Switch now use this option, and for them the process of receiving a code is very simple and very quick.<sup>216</sup> There is no SMS option under Code to Switch. The closest equivalent is the proposed IVR option, but this is a more complex process than the simple and almost instantaneous text message option for Auto-Switch, and would require more interaction with the losing provider and more effort on the part of the customer.

- 4.107 The introduction of an option to obtain a code using an IVR system under Code to Switch does not, therefore, change our view that One Touch Switch would be more familiar to customers switching fixed voice and broadband services. As discussed in the previous paragraph, the IVR option under Code to Switch is not comparable to the SMS option under Auto-Switch. While it may be the case that customers are used to IVR systems to carry out other kinds of transactions, it is the need to contact the losing provider that would make Code to Switch less familiar for customers switching fixed voice and broadband services.

#### **One Touch Switch would be simpler to understand and follow for customers with bundles**

- 4.108 Where a customer has any other services bundled with their voice and broadband service (for example mobile services, email and cloud storage, music and video streaming services, Pay TV and terminal equipment), switching is likely to be more complicated and harder to understand. These customers may need to take additional steps in relation to any other services in the bundle, which can add complexity to the process overall and lead to potential confusion. As explained below, we conclude that One Touch Switch more effectively mitigates these difficulties and, therefore, that it is simpler to understand and follow than Code to Switch for customers with bundles.
- 4.109 Customers that have bundled their voice and broadband service with a mobile service (13%) need to use two different switching processes to switch their whole bundle: one for their voice and broadband service and one for their mobile service (Auto-Switch).<sup>217</sup> This will continue to be the case under One Touch Switch and would also be the case under Code to Switch.
- 4.110 However, under Code to Switch, these customers would not only need to follow two separate processes but would need to request two separate codes – one to switch their voice and broadband services, and one for mobile. There is scope for customers to be confused by the need to get two codes in potentially two different ways, particularly given

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<sup>217</sup> Ofcom, 2020. [Technology Tracker](#). % with fixed broadband and/or landline that also have a mobile service with the same provider. Bespoke analysis.

that there would be no SMS option under Code to Switch as there is under Auto-Switch, and then to understand how and when to use them.

- 4.111 For a smooth switching experience, customers would need to be aware, in advance, of how the process works and specifically of the need to get two separate codes from their current provider.
- 4.112 Code to Switch would also have the potential to undermine some of the benefits of the Auto-Switch reforms, which sought to avoid the need for customers to call the losing provider. This is because those that contact the losing provider by phone under Code to Switch for their broadband and voice switching code, may request the switching code for mobile services at the same time. These customers would potentially be exposed to some of the difficulties and deterrents that Auto-Switch was designed to remove.
- 4.113 We disagree with Sky and Virgin Media that Code to Switch offers an opportunity to converge fixed and mobile switching processes. As discussed above, around half of mobile switchers obtain their code by text, which would not be an option under Code to Switch, or call to speak to an agent, which as discussed below (see paragraphs 4.123-4.128) exposes customers to difficulties.<sup>218</sup>
- 4.114 These additional complexities are not present in One Touch Switch. Customers switching a bundle including mobile services do not have to take any steps before contacting the gaining provider and can complete the sales interaction in one step, without interrupting it to contact the losing provider. Customers would not necessarily need to be aware of the need for a mobile switching code at all as the gaining provider would always be able to prompt them to request one via text message, and they can receive this code via text almost immediately.
- 4.115 Where a customer's bundle includes other services, (for example TV, taken by 50% of customers with a voice or broadband service<sup>219</sup>), some customers may want to make additional contact with the losing provider to give further instructions as to what they want to happen to that service. Other customers may be happy with the impact on these services as indicated in the losing provider's switching information, for example a change in the price of the Pay TV service as a result of switching their voice and broadband, and no further action might be needed on their part.
- 4.116 Overall, we conclude that One Touch Switch is simpler to understand and follow for customers with bundles.

## Process led by the gaining provider and enhances customers' control

- 4.117 We remain of the view, shared by a number of respondents, that both Code to Switch and One Touch Switch should be able to address a number of the components needed to

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<sup>218</sup> Ofcom, 2020. [Switching Experience Tracker](#), table 29, page 125. 51% requested via text compared to 32% by phone, 26% via online account, 7% in store. (N.B. some switchers had requested a PAC by more than one method).

<sup>219</sup> Ofcom, 2020. [Technology Tracker](#). Bespoke analysis Half (50%) of adults aged 16+ who have a landline or fixed broadband service also have a TV service with the same provider.

ensure a process is led by the gaining provider and enhances customer control. In particular, under both options customers would:

- not have to coordinate the end of one service and the start of another;
- have choice of communication methods;
- have control over the timing of the switch; and
- not need to contact the losing provider to terminate the old contract.

4.118 In both options, at present, it is unclear how often customers would have to deal with two providers if something goes wrong. This is something the industry will need to consider further as it develops more detailed designs. However, we are not aware of any reason that it would not be possible for both options to design a process that minimises the need for the customer to deal with both providers when things go wrong.<sup>220</sup>

4.119 However, there are substantial differences between the two options in relation to customer control over the extent and nature of the contact they have with their losing provider. In our February 2021 Consultation, we noted that one of these differences was around the extent to which customers are able to avoid speaking in person to their losing provider, if they do not want a conversation with them.

4.120 Customers switching voice and broadband services using One Touch Switch will not have to contact the losing provider, whereas all customers using Code to Switch would need to do so. While the nature and extent of contact with the losing provider in Code to Switch would depend on the particular circumstances and communication preferences of the customer, at least some customers would call and speak to the losing provider, and be exposed to potential difficulties or deterrents. This may apply, for example, to those that prefer to engage with providers by phone, have a voice only service, or have difficulties using online services.

4.121 We conclude that Code to Switch:

- Would expose customers to potential difficulties and deterrents relating to contact with the losing provider that many would not face using One Touch Switch and do not currently face under the existing Notification of Transfer process.
- Would lack an effective mechanism to give customers control over the extent and nature of the contact they have with their losing provider (in particular the option to avoid speaking in person to their losing provider) so they can avoid, or reduce the impact of, the difficulties and deterrents relating to contact with the losing provider.

4.122 The introduction of an option to obtain a code using an IVR system under Code to Switch does not change this view. While the IVR option would enable some customers to switch by phone without speaking to a live agent, the evidence we have suggests that a significant proportion would still have to speak to a live agent, as discussed in more detail below. Those customers would still be exposed to the potential difficulties and deterrents we are trying to avoid.

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<sup>220</sup> We also do not consider that there is a material difference between the options in the extent to which they are likely to minimise errors. See paragraphs 4.181-4.183.

### Difficulties and deterrents relating to contact with the losing provider

- 4.123 As noted in Section 2, easier switching allows people to shop around with confidence to find the best price and service for their needs, whereas difficulties in the switching process can put people off moving providers. Lower switching costs for customers, from fewer difficulties and deterrents, are likely to facilitate more intense competition between providers. This can benefit consumers overall in the form of lower prices, higher quality of service, choice and innovation.
- 4.124 Individual customers that are deterred from going through with a switch can miss out on important benefits. Customers with greater confidence to shop around and switch providers can benefit from accessing services that better meet their needs, and at lower prices. For example, our most recent data from 2019 showed that broadband customers who are out of contract pay around £13 per month more than new customers and customers who re-contract with their existing provider pay £4.40 per month more than new customers that have switched to their provider.<sup>221</sup>
- 4.125 Our 2020 Switching Experience Tracker (2020 consumer research) showed 36%<sup>222</sup> of customers who switched provider (switchers) have experienced difficulties relating to contact with the losing provider, and that this is also a factor in the decision not to switch for 51%<sup>223</sup> of those who considered but then decided not to go through with a switch (considerers).<sup>224</sup>
- 4.126 In our previous work to reform switching processes (discussed in Section 2) we noted a number of difficulties and deterrents as part of the reasons for changing the process. Together, our research and previous switching work identify three main difficulties and

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<sup>221</sup> Ofcom, July 2020. [Helping consumers get better deals: review of pricing practices in fixed broadband](#). Table 3, page 21 (September 2019 data).

<sup>222</sup> Ofcom, 2020 Switching Experience Tracker, extra analysis Q19A/B/C switchers who had difficulty with one or more of: contacting their previous provider (10% - 5% major, 6% minor), cancelling their previous service (34% - 12% major, 22% minor) or experiencing their previous provider trying to persuade them to stay (among those who contacted their previous provider) (6%, 3% major, 4% minor). Some switchers experienced more than one of these difficulties, hence the total figure experiencing one or more of these (36%) being lower than the sum of the proportions experiencing each difficulty.

<sup>223</sup> Ofcom, 2020 Switching Experience Tracker, extra analysis Q44A/B/C considerers who said one or more of the following was a factor in their decision to stay with their current provider: difficulty contacting their current provider (30% - 12% major, 18% minor), difficulty cancelling their current service (33% - 12% major, 27% minor) or the hassle of needing to contact more than one provider to switch (41%, 14% major, 27% minor) Some considerers cited more than one of these factors hence the total figure experiencing one or more of these (51%) being lower than the sum of the proportions experiencing each difficulty.

<sup>224</sup> For the purpose of this statement, we have based our analysis of “switchers” on those who were interviewed about switching their landline and/or broadband service either in combination with other services or, in the case of broadband, as a standalone product. We have based our analysis of “considerers” on those who considered switching either dual play or triple play services. The proportion of switchers experiencing difficulty with one or more of these three aspects was slightly higher in our 2020 consumer research than in our 2018 research (Ofcom, 2018. Switching Experience Tracker extra analysis) Q19/A/B/net switchers: 32% had difficulty with one or more of contacting their previous provider (10%), cancelling their previous service (27%) or experiencing their previous provider trying to persuade them to stay (among those who contacted their previous provider) (7%). Q44A/B/C net considerers: 44% had difficulty contacting their current provider (23%), difficulty cancelling their current service (25%) or the hassle of needing to contact more than one provider to switch (35%). Despite the possible effect of Covid-19 affecting staffing rates in providers’ customer contact centres in 2020 resulting in longer waiting times and greater difficulty contacting providers, the levels of switchers and considerers experiencing these difficulties was nevertheless also a significant proportion in 2018.



deterrents customers might face when switching related to contact with the losing provider that we consider relevant for our assessment, in particular:

- the hassle associated with contacting more than one provider;
- any difficulties in contacting the losing provider; and
- unwanted save activity.

4.127 Customers that experience these difficulties and deterrents can miss out on lower prices and getting a service that best meets their needs.

#### The hassle associated with contacting more than one provider

4.128 Our 2020 consumer research shows that 41% of considerers said the hassle of needing to contact more than one provider to switch was a factor in their decision not to switch.<sup>225</sup> This indicates that having to contact multiple providers is in itself off-putting to customers.

4.129 Sky argues that our consumer research is not a reliable basis for this assertion as respondents would not have considered an IVR option, as it does not exist under current switching processes.<sup>226</sup> However, the availability of an additional method for obtaining a code does not remove the need to contact more than one provider. Our research shows 43% of considerers said that it being too time-consuming to go through the process of switching was a factor in their decision not to switch.<sup>227</sup> This may include perceptions of the time it takes to contact providers. Even though the IVR option under Code to Switch may be quicker than a phone call for many customers, customers would still need to contact two providers, which is likely to take more time than contacting the gaining provider only. The introduction of an option to obtain a code using an IVR system under Code to Switch does not, in our judgement, reduce the hassle of contacting two providers.

4.130 In making our decision to remove the MAC process we noted that, relative to those who used the Notification of Transfer process, MAC switchers reported greater difficulty in having to contact multiple providers.<sup>228</sup> Similarly, in considering our proposed triple play switching reforms, we noted our proposed process would address the fact that a significant proportion of would-be switchers were deterred from switching because of the hassle of needing to contact more than one provider.<sup>229</sup>

4.131 This was also a factor when we reformed mobile switching – Sky is not correct to say that the hassle of contacting two providers was not a material concern to us when considering mobile switching. The ability for customers to request a code by text and to get an almost immediate answer materially reduces the hassle of contacting two providers, as does the feature that SIM activation automatically initiates the switch (the customer does not need

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<sup>225</sup> Ofcom, 2020 Switching Experience Tracker, extra analysis. Q44A/B/C, (41% - 14% major, 27% minor factor). Ofcom, 2018. Switching Experience Tracker extra analysis. Q44A/B/C, (35% - 11% major, 24% minor factor).

<sup>226</sup> Sky, Response to February 2021 Consultation, page 13.

<sup>227</sup> Ofcom, 2020 Switching Experience Tracker, extra analysis Q44A/B/C, (43% - 17% major, 25% minor factor). Ofcom, 2018. Switching Experience Tracker extra analysis. Q44A/B/C (38% - 14% major, 24% minor factor). N.B. the 2020 major + minor figures do not add exactly to the total shown, due to rounding.

<sup>228</sup> Ofcom, August 2013. Consumer Switching: a statement and consultation on the processes for switching voice and broadband providers on the Openreach copper network, paragraph 4.134.

<sup>229</sup> Triple play switching consultation, paragraph 4.20.

to contact the gaining provider again once they receive the new SIM, as was the case previously).

#### Difficulties in contacting the losing provider

- 4.132 Our 2020 consumer research shows that 39% of switchers that contacted their losing provider experienced difficulties doing so.<sup>230</sup> This is equivalent to around 230,000 households in 2020.<sup>231</sup> Similarly, 30% of considerers said difficulty contacting their current provider was a factor in their decision not to switch.<sup>232</sup>
- 4.133 Customers wishing to contact providers by phone may experience more difficulties than those using online channels. Our Comparing Service Quality reports show the average time customers had to wait in a call queue with voice and broadband providers increased in 2020, while the proportion of calls that were abandoned before the customer spoke to a customer service agent almost doubled from 5.4% in 2019 to 10.7% in 2020.<sup>233</sup> The report highlights that the Covid-19 pandemic and lockdown measures had a particularly significant impact on providers' call centres and call waiting times. However, the data included in the February 2021 Consultation was collected in 2019, and indicated significant waiting times and call abandonment rates, even before the pandemic.
- 4.134 Complaints to Ofcom have also highlighted the additional hassle that may be involved in trying to contact the losing provider by phone to switch voice and broadband. Some customers trying to switch between different physical networks have complained about having to make multiple attempts to try to get through to their losing provider to cancel, while others have said they faced call wait times of 30 minutes and in some cases more than one hour. Customers have also complained about having to speak to the losing provider and the lack of automated options for cancelling.
- 4.135 The difficulties that customers have reported in contacting their provider have been central to our work on switching. For example, our proposed triple play switching reforms sought to address the difficulties that some customers faced when contacting their losing provider or cancelling their old service(s), particularly due to restricted and, at times, lengthy methods of cancellation. Indeed, a number of switchers reported the need to contact losing providers by phone as a barrier.<sup>234</sup>
- 4.136 Similarly, when considering reforms to mobile switching, our research showed that some customers experienced difficulties when contacting their losing provider to transfer their

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<sup>230</sup> Ofcom, 2020 Switching Experience Tracker, extra analysis. Q19A/B/C, (39% - 18% major, 21% minor difficulty). Ofcom, 2018. Switching Experience Tracker extra analysis. Q19A/B/C, (33% - 10% major, 22% minor difficulty).

<sup>231</sup> Bespoke analysis based on data from Ofcom's Technology tracker, Core Switching tracker, Switching experience tracker and ONS Families and Households population stats. The estimate relates to experiences between October 2019 and September 2020. 230,000 is a mid-point estimate and accounting for the error margin around this calculation, we estimate the actual figure lies between 180,000 and 280,000. See Annex 11 Consumer research technical note for further detail.

<sup>232</sup> Ofcom, 2020 Switching Experience Tracker, extra analysis. Q44A/B/C, (30% - 12% major, 18% minor factor). Ofcom, 2018. Switching Experience Tracker extra analysis. Q44A/B/C (23% - 8% major, 15% minor factor). It is not possible to calculate the equivalent population estimate for 'considerers' - see Annex 11 for further detail.

<sup>233</sup> [Ofcom, 2021. Comparing customer service: mobile, home broadband and landline](#), page 16.

<sup>234</sup> Triple play switching consultation, paragraphs 3.41-3.55.

number or cancel their old service.<sup>235</sup> To remedy this, Auto-Switch allows customers to control the contact they have with the losing provider when they are considering switching their service, including avoiding a phone conversation if they do not want one.

4.137 We also note that some customers are unable to use online communication. For example, 10% of UK households have a landline but no fixed broadband, including 3% that also do not have a mobile.<sup>236</sup> People living in these households are more likely than average to be older, have an impacting or limiting condition, and be financially vulnerable.<sup>237</sup> As we said in the February 2021 Consultation, we are concerned that in Code to Switch, all customers would need to contact the losing provider and may experience difficulty in doing so, especially on the phone, which could lead to them abandoning the switch. Indeed, our Comparing Service Quality reports show that telephone is the most popular method of contact for landline and broadband customers, accounting for an average of 83% of customer contacts to their provider in 2020.<sup>238</sup>

4.138 Following the revision of the Code to Switch process (as discussed in Section 2), we sent formal information requests to 13 telecoms providers seeking additional evidence to better inform our understanding of how well the proposed IVR option would likely perform as a contact method for switching landline and broadband services and therefore address the difficulties in contacting the losing provider.<sup>239</sup> The evidence they provided in response showed that:

- between 18% and 37% of customer attempts to pass authentication and verification using an IVR ended in failure;<sup>240</sup>
- between 11% and 59% of customer attempts to carry out a bill payment using an IVR led to failure;<sup>241</sup> and
- overall, between 8% and 34% of customers who began to use the respective IVR method completed a task only after reverting to a live agent.<sup>242</sup>

4.139 This evidence suggests that a significant proportion of customers would have difficulties contacting their losing provider using an IVR system to obtain a code. We note this evidence resonates with the views expressed by some respondents, who suggested that customer perception of IVR systems is poor (see paragraph 4.49), that authentication is not built in to the identification process (as it is in Auto-Switch), and that many would still end

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<sup>235</sup> Auto-Switch Statement, paragraph 1.3.

<sup>236</sup> Ofcom, 2020. [Technology Tracker](#). Bespoke analysis.

<sup>237</sup> Ofcom, 2020. [Technology Tracker](#). Bespoke analysis. Among adults aged 16+ who have a landline but no fixed broadband in their household: 61% are aged 65+ compared to 21% of all adults; 40% are in the DE socio-economic group compared to 25% of all adults; 31% are in the 'most financially vulnerable' category compared to 20% of all adults; and 48% have an impacting or limiting condition compared to 21% of all adults.

<sup>238</sup> Ofcom, 2021. Comparing customer service: mobile, home broadband and landline, page 16.

<sup>239</sup> Section 135 (s.135) Notice to BT, Gigaclear, Hyperoptic, KCOM, OVO, Shell, Sky, Swish, TalkTalk, Utility Warehouse, Virgin Media, Vodafone, Zen on 21 June 2021.

<sup>240</sup> The weighted average across providers is 21%. BT, KCOM, Shell, Sky, Virgin Media, and Vodafone responses to s135 in July 2021, questions Q1a(i) and 2.

<sup>241</sup> The weighted average across providers is 25%. BT, KCOM, Shell, Sky, Virgin Media, and Vodafone responses to s135 in July 2021, questions Q1a(ii) and 2.

<sup>242</sup> The weighted average is 15%. BT, KCOM, Shell, Sky, Virgin Media, and Vodafone responses to s135 in July 2021, questions Q1a(i-v) and 2.

up having to speak to a live agent. Moreover, providers do not have an incentive to design or invest in systems and processes that make it easier for customers to leave. The introduction of an option to obtain a code using an IVR system under Code to Switch does not therefore address our concerns that customers may experience difficulties contacting the losing provider under Code to Switch.

#### Unwanted save activity

- 4.140 Our 2020 consumer research shows 24% of switchers that contacted their losing provider experienced difficulties with the losing provider asking them to stay.<sup>243</sup> This is equivalent to around 140,000 households in 2020.<sup>244</sup>
- 4.141 In making our decision to remove the MAC process we noted the harm some customers experienced related to unwanted pressure from the losing provider to reverse their decision to switch and the reforms sought to address this problem.<sup>245</sup> Similarly, our proposed triple play reforms sought to address the difficulties that some customers experienced with unwanted save activity.<sup>246</sup>
- 4.142 When we reformed the mobile switching process, we also noted the difficulties customers might experience related to unwanted save activity.<sup>247</sup> It was a fundamental objective of Auto-Switch that customers are able to control the degree of contact they have with their current provider when switching, including the degree to which a customer seeks (or not) any retention offer to stay.<sup>248</sup>
- 4.143 The introduction of an option to obtain a code using an IVR system under Code to Switch does not mitigate our concerns around unwanted save activity. As discussed above, the evidence suggests that a significant proportion of customers would have difficulties contacting their losing provider using an IVR system, and that many would be referred to a live agent. This gives providers an incentive to design in opportunities for save activity, meaning that customers may continue to be exposed to unwanted save activity under Code to Switch, even where they choose to contact their losing provider using the IVR option. Therefore, Code to Switch is likely to rely on compliance with rules supported by enforcement action to work effectively.
- 4.144 One Touch Switch, by contrast, removes the need for customers to contact the losing provider altogether. Therefore, losing providers will have no opportunity to engage in retention activity by design. This is a more effective way of ensuring customers can avoid

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<sup>243</sup> Ofcom, 2020 Switching Experience Tracker, extra analysis Q19A/B/C, (24% - 11% major, 13% minor difficulty). Ofcom, 2018. Switching Experience Tracker extra analysis. Q19A/B/C (22% - 6% major, 16% minor difficulty).

<sup>244</sup> Bespoke analysis using data from Ofcom's Technology tracker, Core switching tracker, Switching experience tracker and ONS Families and Households population stats. The estimate relates to experiences between October 2019 and September 2020. 140,000 is a mid-point estimate and accounting for the error margin around this calculation, we estimate the actual figure lies between 100,000 and 180,000. See Annex 11 Consumer research technical note for further detail.

<sup>245</sup> Ofcom, August 2013. Consumer Switching: a statement and consultation on the processes for switching voice and broadband providers on the Openreach copper network, paragraph 1.6.

<sup>246</sup> Triple play switching consultation, paragraph 3.52.

<sup>247</sup> Auto-Switch Statement, paragraph 3.4.

<sup>248</sup> Auto-Switch Statement, paragraph 4.95.

the difficulties and deterrents relating to contact with the losing provider than additional rules or regulation.

Code to Switch exposes customers to potential difficulties and deterrents relating to contact with the losing provider

- 4.145 Under One Touch Switch, customers are not required to have any contact with the losing provider. One Touch Switch therefore enables customers to avoid the difficulties and deterrents related to contact with the losing provider.
- 4.146 Conversely, under Code to Switch, all customers would need to contact their losing provider to get a code. Therefore, some of the difficulties and deterrents related to contact with the losing provider may be unavoidable in Code to Switch. This will particularly be the case for those that call the losing provider.
- 4.147 Code to Switch could also expose customers to difficulties and deterrents that they do not currently face when switching voice and broadband services. Our 2020 consumer research found that 51% of those switching providers within the Openreach network did not have any contact with their losing provider when they switched.<sup>249</sup> All those customers would need to contact the losing provider under Code to Switch, and, as noted above, may not be able to effectively avoid some of these potential difficulties and deterrents. Therefore, customers may find switching harder under Code to Switch than they currently do. We are concerned these difficulties may constrain customer choice and mean customers miss out on important benefits such as lower prices and services that better meet their needs.
- 4.148 We are further concerned that these difficulties and deterrents may dampen, rather than promote, competition between providers and result in consumers overall not receiving the full benefits of competition in terms of lower prices, higher quality of service, choice and innovation.
- 4.149 We conclude that Code to Switch would result in potential difficulties and deterrents for customers that would not arise in One Touch Switch, as no contact with the losing provider is required. For the reasons discussed above, the introduction of an option to obtain a code using an IVR system under Code to Switch does not change this conclusion.

**Code to Switch would not provide a sufficiently effective mechanism to give customers control over the extent of the contact with the losing provider**

- 4.150 Code to Switch contains some features that seek to address how easy it is for a customer to contact and interact with the losing provider. In particular:
- Code to Switch would offer a choice of communication channels for customers to request their code and switching information (by app, online, or phone, either by talking to a live agent or via an IVR system). Customers would be able to receive their

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<sup>249</sup> Ofcom, 2020. [Switching Experience Tracker](#) Q14A/B/C Net of those who switched a dual or triple play package within the Openreach network and did not do any of: contacted their previous provider (23%), experienced the losing provider trying to persuade them to stay (22%) or tried to negotiate a better deal (24%). Table 44, page 201.

code and switching information by email, text or letter, although they would not be able to **request** a code by text as they can under Auto-Switch;<sup>250</sup>

- no save activity would be allowed once the request for a code is made;<sup>251</sup>
- code and switching information would be sent to customers within 60 seconds;<sup>252</sup> and
- it would be “quick and simple for a customer to initiate a request for Code generation.”<sup>253</sup>

- 4.151 However, we do not consider that these features taken together would give customers sufficient control over the extent of contact they have with their losing provider. Neither would they enable all customers to avoid speaking in person to their losing provider.
- 4.152 In Code to Switch, despite the choice of communication channels, at least some customers would call and speak to the losing provider, either because they prefer it or because they do not have, or are not confident using, an online account. For example, 24% of fixed switchers and 21% of fixed considerers rarely or never use, or do not have, an online account.<sup>254</sup> These customers may need to set up an online account, learn how to use it or potentially reset their password if they do not remember it, which some customers may find difficult.
- 4.153 Given these difficulties, some customers will feel they have no choice but to phone their losing provider. Even if they use the IVR option, as we show above in paragraphs 4.138-4.139, a significant proportion of customers would end up talking to a live agent.
- 4.154 While proponents of Code to Switch told us they designed it to be comparable to Auto-Switch<sup>255</sup>, there are significant differences between Code to Switch and Auto-Switch in regard to how effective they are in giving customers control over the extent of contact with the losing provider.
- 4.155 One of the main reforms of Auto-Switch was the introduction of the text option whereby a customer can request their switching code by text message and receive the code and switching information in response also by text message.<sup>256</sup> This solution is specifically suited to mobile switching because the code is being requested on a platform that is intrinsically linked to the service that is being switched and on a device associated with a particular account holder. In addition, that platform is able to provide a response in a durable medium. This means the text route under Auto-Switch can incorporate customer authentication, service identification and consent in a system that is universally accessible for mobile customers, easy to use, and which limits the interaction with the losing

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<sup>250</sup> See figure 3.2 in section 3; Option X, March 2020. [Broadband and voice switching proposal: response to Ofcom, page 5.](#)

<sup>251</sup> Option X, March 2020. [Broadband and voice switching proposal: response to Ofcom, page 5.](#)

<sup>252</sup> Described in figure 3.2, Section 3.

<sup>253</sup> Option X, March 2020. [Broadband and voice switching proposal: response to Ofcom, page 5.](#)

<sup>254</sup> Ofcom, 2020. [Switching Experience Tracker](#), table 142. Among dual play and triple play switchers, 6% have an online account but have not used it in the last 12 months, 6% have an online account and have never used it, 7% know they do not have an online account and 5% do not know whether they have an online account. Among dual play and triple play considerers, 7% have an online account but have not used it in the last 12 months, 5% have an online account and have never used it, 6% know they do not have an online account and 3% do not know whether they have an online account.

<sup>255</sup> Option X, May 2020. [Broadband and voice switching proposal: response to Ofcom's initial questions](#), page 3.

<sup>256</sup> Customers who have more than one number linked to their mobile account – for example those with family mobile packages – need to request their PAC online or by phone.

provider. Therefore, Auto-Switch has an effective mechanism to give customers control over the extent of the contact with the losing provider. The text option also enables customers to avoid unwanted save activity and reduce the impact of the hassle associated with contacting more than one provider and the difficulties of contacting the losing provider.

- 4.156 A system that achieves a similarly easy to use and limited interaction with the losing provider is not currently possible for fixed voice and broadband switching. As noted in our February 2021 Consultation, proponents of Code to Switch said an SMS option was likely to undermine the key benefits of their proposal, in particular, in relation to customer authentication, service identification and consent. They noted that in Auto-Switch, the service the customer wishes to switch is clearly identified when using the text route because the customer uses the device associated with the service to make the request. If using a text route when switching fixed voice and broadband services, however, most customers would be using a mobile device that is not associated with the account and services they wish to switch. This would make text a less secure route.<sup>257</sup>
- 4.157 Code to Switch involves the use of communication channels and authentication steps that require more interaction with the losing provider and more effort than Auto-Switch does for mobile switching. While the IVR option may reduce the effort and interaction with the losing provider for some customers, it will not do so in every case or to the same extent as Auto-Switch. We conclude that, even including the IVR option, Code to Switch lacks a sufficiently effective mechanism to give customers control over the extent of the contact with the losing provider.

### Minimise the effort needed to complete the process

- 4.158 We remain of the view that One Touch Switch is likely to involve less effort for customers to complete the switching process than Code to Switch.
- 4.159 The actual effort any customer would need to make to switch under either option would depend on the particular circumstances and preferences of that customer. However, as we explain below, One Touch Switch generally requires fewer instances in which the customer needs to actively engage in order to switch than would be the case under Code to Switch. This has most impact for customers who switch by phone.
- 4.160 We note above that some considerers said the hassle of needing to contact more than one provider or the difficulty in contacting the current provider was a factor in their decision not to switch (41% and 30% respectively).<sup>258</sup> In this sub-section we focus on the effort involved in engaging with a provider, regardless of whether that is the losing or the gaining provider, and the number of occasions in which a customer must do so in either option.

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<sup>257</sup> February 2021 Consultation, paragraphs 3.30-3.33.

<sup>258</sup> Ofcom, 2020 Switching Experience Tracker, extra analysis Q44A/B/C, (41% - 14% major, 27% minor factor). Ofcom, 2018. Switching Experience Tracker extra analysis. Q44A/B/C (35% - 11% major, 24% minor factor). Ofcom, 2020 Switching Experience Tracker, extra analysis. Q44A/B/C, (30% - 12% major, 18% minor factor). Ofcom, 2018. Switching Experience Tracker extra analysis. Q44A/B/C (23% - 8% major, 15% minor factor).

### Switching by phone would require more effort under Code to Switch

- 4.161 Every call a customer makes as part of the switching process means more time and effort waiting for their call to be answered and an increased risk of abandoning a call and not completing the switching process.
- 4.162 Customers switching voice and broadband by phone would need to call and wait to be connected to a provider on two occasions under Code to Switch as compared to only one occasion under One Touch Switch.<sup>259</sup> While the wait time to be connected to an IVR system may be minimal, our evidence suggests that a significant number of customers would not be able to complete the process via the IVR system and would face a wait to talk to a live agent. This additional effort in Code to Switch compared to One Touch Switch may increase the chance that some customers contacting their losing provider by phone (including using an IVR system) will not go through with the switch and may lose out on the benefits they could gain by switching providers.
- 4.163 Some of the additional effort in Code to Switch compared to One Touch Switch may also be difficult to avoid. Under either option, if a customer is unhappy with the call wait time of the gaining provider, they can simply hang up and choose to go to another gaining provider. However, under Code to Switch, if the customer is unhappy with the call wait time of the losing provider they would have to persevere or try a different route (IVR or online) to get their code. And even then, as BT and Uswitch note, customers who don't have access to SMS or email, including vulnerable customers, may be required to note codes and other information down by hand during a phone call – which could increase the risk of failure.

### Switching online likely to be smoother and require less effort under One Touch Switch but not significantly so

- 4.164 Three quarters (76%) of fixed switchers use their online account at least every few months, and therefore this group of customers might choose to use this method to switch.<sup>260</sup>
- 4.165 The difference in effort that would be required between the options when switching online is less significant than when switching by phone. However, there is potential for the whole online customer interaction to be a smoother experience with less effort for the customer under One Touch Switch, as the customer only has to engage with one online portal, designed and managed by a single provider. In Code to Switch the customer would need to engage with two separate online portals, designed and managed by two different providers.

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<sup>259</sup> We consider that, despite the choice of communication channels, at least some customers would likely call and speak to the losing provider in person in the first step of Code to Switch. See paragraph 4.152.

<sup>260</sup> Ofcom, 2020. [Switching Experience Tracker](#). Table 142 Q56 (52% use an online account monthly, 24% use at least once every few months).



### Complex switching journeys would be more likely to require less effort in One Touch Switch than Code to Switch

- 4.166 Several factors might complicate a customer's switching experience and require them to have a greater number of contacts with providers, and therefore might involve more effort. In particular, customers may:
- need, or wish, to make additional contact with either the gaining or losing provider where switching a bundle that includes other services in addition to voice and broadband services, for example, to give further instructions to the losing provider as to what should happen to this service when the voice and broadband services are switched.
  - choose to have information from providers sent by post rather than email which would lengthen the process and likely require more effort for the customer.
- 4.167 These additional steps would often add a similar amount of effort to the process in both options compared to voice and broadband switches alone, or where customers receive information from providers via email. For those switches, One Touch Switch is likely to require less effort.
- 4.168 The introduction of an option to obtain a code using an IVR system under Code to Switch does not change this because it just introduces another option which does not reduce the effort required of customers in the case of complex switches.

## Quick

- 4.169 The new switching rules require that providers do not delay the switching process.<sup>261</sup> As part of this, we consider that the administrative elements of the process should not make a significant difference to how quickly a customer can switch. How quickly the switch happens should be determined by customer choice and the time it takes a provider to supply a new service.<sup>262</sup>
- 4.170 We remain of the view that there is little difference between One Touch Switch and Code to Switch in relation to how quickly a customer could switch their voice and broadband service. In both options, the practical requirements of providing a service and the choices made by the customer would, as respondents note, likely be the principal determining factors for the overall speed of the switch, rather than the administrative elements of the process.
- 4.171 In both options, where a customer chooses to switch and completes the necessary steps to arrange the switch on a particular day, the gaining provider should be able to place a

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<sup>261</sup> GC C7.4(c), see drafted amended GCs in Annex 9.

<sup>262</sup> GC C7.3 also requires that the migration date is the date requested by the customer where technically feasible or as soon as possible (see draft amended GCs in Annex 9). We consider whether the switch happens on the date the gaining provider says it will as part of our assessment of the reliability of the process.

switch order that same day. Therefore, all other things being equal, the switch could happen on the same day in either option. This could potentially be the next working day.<sup>263</sup>

- 4.172 Sky and Virgin Media suggested that the need to send letters to some customers may lead to delays under One Touch Switch.<sup>264</sup> Switching will be slower in both processes where customers request information from providers by post. However, Code to Switch could take longer than One Touch Switch. This is because a customer would have to wait for a letter from a provider on two separate occasions in Code to Switch, first from the losing provider to start the switching process and then from the gaining provider. In One Touch Switch, the customer would only wait once as the information from both gaining and losing provider would be sent at the same time.<sup>265</sup>

## Reliable

- 4.173 In order for a switching process to be reliable it should:
- ensure the switch happens when the gaining provider says it will;
  - minimise any loss of service; and
  - minimise the chance of errors and enable a customer's services to be restored quickly when an error does occur.
- 4.174 We conclude that there is not a material difference in the reliability of the two options. Process specifications are still relatively high-level and more detailed design work will be required to implement either option in practice. However, at this stage, we have no reason to think this materially impacts our assessment. Independent technical advice has not identified material differences in the expected technical reliability between the options. The advice concluded that both options are well thought out technically and could be implemented successfully.<sup>266</sup>

## Switch happens when the gaining provider says it will

- 4.175 We conclude that there is no material difference between the options in the extent to which they would enable a gaining provider to activate a customer's service on the agreed date.
- 4.176 In both options, the practical requirements of providing a service would likely be the determining factor to whether the switch happens on the agreed date. These would be largely similar for both options. Once a switch order is placed, we would expect the supply chains of both providers to operate in a similar way to carry out the switch in either option.

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<sup>263</sup> Option X, March 2020. [Broadband and voice switching proposal: response to Ofcom](#), page 3. Option Y, August 2020. [Gaining Provider Led Switching - the Option Y proposal](#), step 9, page 6

<sup>264</sup> Sky, page 13; Virgin Media, paragraph 163. Responses to February 2021 Consultation.

<sup>265</sup> We note that some customers that initially wanted information by post may change their mind and choose to have it sent by email once it became apparent that the post route would slow the process down.

<sup>266</sup> We commissioned Cartesian to provide independent technical advice on the process options that industry developed. We asked them to consider what, if any, technical issues might arise and whether there were any material differences in the technical feasibility and reliability of the options. Cartesian, January 2021. [Fixed telecoms switching: technical study](#).

Delays to the switch date could be caused by several factors, for example the need for further unforeseen engineering work, as noted by some respondents. However, these would not be related to the switching processes we have considered as part of our assessment. Administrative elements of the switching processes themselves would not necessarily need to impact on a gaining provider's ability to carry out the switch on the agreed date.

### **Minimise any loss of service**

- 4.177 We conclude that there is no material difference between the options in the extent to which they minimise loss of service. Similar to our reasoning above in relation to the switch occurring on the agreed date, the practical requirements of providing a service will likely be the determining factor in whether there is a loss of service.
- 4.178 Where a customer is switching between two providers using the same physical network (e.g. between providers using the Openreach network), there would be a short loss of service while the losing provider's service is ceased and the gaining provider's service is activated. This is a technical requirement because of the way the service is delivered but should be significantly less than one working day. Where a customer is switching between two providers using different physical networks, loss of service can be avoided as the losing provider would only be instructed to cease the old service after the gaining provider has activated the new service.
- 4.179 The providers' supply chains could operate in this way under both switching process options. Where operating correctly, the administrative elements of the switching processes themselves would not need to impact on loss of service in either option.
- 4.180 Errors in the switching process itself could also lead to a loss of service. Therefore, the likelihood of errors associated with each option could impact the extent to which they minimise loss of service. We discuss this below.

### **Minimise errors and enable quick service restoration**

- 4.181 We conclude that there is not a material difference between the options in the extent to which they are likely to minimise errors.
- 4.182 Both process specifications provided by industry are relatively high-level and would require more detailed design work to implement in practice. Therefore, our assessment focuses on the extent to which the high-level specifications are likely to lead to more errors in one process compared to the other. In reaching our view, we have considered the risk of:
- incorrectly identifying a customer or the services to be switched; and
  - technical errors associated with the systems and processes.
- 4.183 Both options would need to consider at the detailed design stage the processes needed when things go wrong, including the need for quick service restoration.

### Identifying customers and services

- 4.184 Code to Switch and One Touch Switch use different approaches to identify the customer and the services to be switched. In Code to Switch, these would be identified through the switching code. As the code is generated by the losing provider and the customer gives the code to the gaining provider, the identification process is highly likely to be accurate.
- 4.185 In One Touch Switch, the customer and services to be switched are identified through a matching process between the gaining and losing providers, using information the customer provides to the gaining provider.<sup>267</sup> The proponents of One Touch Switch told us they expect the matching process to have a high degree of success, based on the basic information provided.<sup>268</sup> Independent technical advice agreed with the group's view.<sup>269</sup> In addition, both the losing provider and the gaining provider will send switching information to the customer which serves as a backstop to warn customers if they did not intend to switch those services or did not want to switch at all.
- 4.186 It is not clear, as suggested by Sky, that the 96% success rate for matching in One Touch Switch would lead to nearly 100,000 poor switching experiences a year compared to none in Code to Switch. The 96% success rate relates to successful first-time matches using the initial information provided by the customer, rather than the overall success rate. Either process would likely result in some errors, both in identifying the customer or service, and other technical failures (see below), but our independent technical advice suggests that:
- both options should be able to achieve a high degree of accuracy in identifying the customer and services to switch; and
  - there is no substantial difference in the risk of errors arising from incorrectly identifying the customer and their services.<sup>270</sup>
- 4.187 While the validation approach used in the Code to Switch process could provide a high degree of accuracy, we do not agree, as suggested by some respondents, that it is similar to the Auto-Switch process. Code to Switch would rely on a different mechanism for validating customers and assets to the Auto-Switch process. In Auto-Switch, the customer requests a code by SMS from the SIM that they want to switch, so they use the asset itself to confirm the customer and services to be switched. This provides the losing provider with a high degree of certainty that they have identified the correct account and services to be switched. However, Code to Switch would rely on other information that the losing provider might hold (e.g. address, account details), so it would depend on how accurate that information, and the matching process, is.
- 4.188 We do not consider the factors mentioned by Sky and Virgin Media (see paragraphs 4.71-74) will materially reduce the reliability of One Touch Switch compared to Code to Switch.

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<sup>267</sup> The gaining provider would use the Hub to identify the correct customer and services to switch by matching the customer's details against the losing provider's records. See Option Y, August 2020. [YHub switching process description](#), step 5.

<sup>268</sup> Option Y, June 2020. [Responses to Ofcom's questions](#), pages 1-2.

<sup>269</sup> Cartesian, January 2021. Fixed telecoms switching: technical study, page 5.

<sup>270</sup> Cartesian, January 2021. Fixed telecoms switching: technical study, page 5.

The independent technical advice that we have obtained supports this view as discussed above.<sup>271</sup> Also, as we note at paragraph 4.187 above, there are differences between Code to Switch and Auto-Switch in the way services are identified and linked to the customer, which mean the Code to Switch process may not have the same degree of accuracy as Auto-Switch, as Sky and Virgin Media have claimed. As Virgin Media notes, the industry will need to take into account the impact of migration to IP and WLR withdrawal in designing the process.

### Technical reliability and service restoration

- 4.189 The independent technical advice concluded that both options are well thought out technically and could be implemented successfully.<sup>272</sup> As Sky and Virgin Media have pointed out, the industry will need to undertake further work to address some of the potential issues they have raised: a resolution process to deal with errors, support for error resolution out of hours, and a service restoration process. This would be true for either process, and will be for the industry to agree at the implementation stage.
- 4.190 We note both option specifications lack detail on mechanisms for service restoration.<sup>273</sup> Independent technical advice did not identify any material differences in the service restoration risks between the options, or any particular issues with putting in place effective service restoration under either option. However, it noted that it is not possible to quantify the risk of an individual system being unavailable or determine how quickly a system could be recovered as this will depend on the more detailed design phase and more specific implementation choices.
- 4.191 We conclude that there is no material difference between the options in respect of the extent to which they are likely to minimise errors.

### Based on informed consent

- 4.192 For a process to be based on informed consent it should ensure:
- a switch only occurs where a customer has expressly agreed to it; and
  - information is provided enabling customers to make an informed choice.

### A switch only occurs where a customer has expressly agreed to it

- 4.193 We conclude that both options would enable gaining providers to ensure a customer has expressly agreed to a switch. The options take different approaches to ensuring the customer requesting the switch is authorised to do so and providers can obtain a

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<sup>271</sup> Cartesian, January 2021. Fixed telecoms switching: technical study, Table 1. Summary of Risks.

<sup>272</sup> We note that industry would need to consider service restoration further as part of the more detailed design work to implement either option. The independent technical advice suggested that reducing the number of parties that messages need to be sent through as part of the switching process could help to improve reliability. This is also something that could usefully be considered further as part of industry's more detailed design and implementation work.

<sup>273</sup> The proponents of Code to Switch said they did not consider an emergency restoration process would be needed. See Option X, May 2020. Broadband and voice switching proposal, response to Ofcom's initial questions, page 6.

customer's express agreement to switch. They also have different protections against slamming. While both options protect against slamming more than the current Notification of Transfer process, Code to Switch may have stronger protections against certain types of slamming than One Touch Switch.<sup>274</sup>

- 4.194 In Code to Switch, the customer and the services to be switched would be identified by the customer passing the switching code given to them by the losing provider to the gaining provider. The use of a code in Code to Switch would help ensure there are robust mechanisms to enable authorisation and protect against slamming. We expect a losing provider would have processes in place to ensure only the authorised customer would be able to generate a switching code. Therefore, when a switching code is accepted, the gaining provider would have a high degree of confidence that they have identified the authorised customer. The need to actively give a code to the gaining provider also gives a clear indication of the customer's intention and reduces the likelihood of slamming. In addition, given a switch order can only be placed with a switching code, 'no contact' slams should not be possible and it is unlikely that a switch order could be placed in relation to services that differ from those the customer consents to switch.<sup>275</sup> While Hyperoptic argued that neither process would entirely eliminate the risk of slamming, it did not identify the mechanism by which this would be possible under Code to Switch.
- 4.195 In One Touch Switch, the customer and the services to be switched are identified between the gaining provider and losing provider in the matching process. The gaining provider will presume the customer is authorised to request the switch if they provide the correct information and no subsequent objection is received when the losing provider sends out a notification to the customer informing them of the switch. The notification alerts the customer to the switch and names the gaining provider. This could alert customers to attempted slamming. In addition, we expect a gaining provider would have processes in place to ensure the customer is who they say they are.
- 4.196 Slamming is less likely under One Touch Switch than under the current Notification of Transfer process, because a switch order cannot be placed without a successful match, which requires multiple pieces of information about the customer and their services. In addition, the gaining provider will be required to specify who the losing provider is, which it does not have to do in the Notification of Transfer process. The Hub will provide an audit trail of the information submitted by the gaining provider so it will be easier to monitor and identify an unscrupulous provider making multiple attempts to match the correct information (e.g. based on information it has obtained through social engineering rather than legitimately from the customer).
- 4.197 We are satisfied that sufficient safeguards are in place to protect against the risk of slamming under One Touch Switch. The customer and the services to be switched would be identified between the gaining provider and losing provider in the matching process via

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<sup>274</sup> Ofcom has seen a decline in complaints about slamming since additional protections were introduced in 2010 and 2015.

<sup>275</sup> 'No contact slams' are where a customer has been switched to a new provider with having had any contact with that provider and therefore could not have given the provider their consent to switch.

the Hub. The gaining provider can rely on information provided by the customer during the order process. Specifically, the customer would need to provide their name, address, name of their losing provider and services they want to switch. Industry must put in place a process that strikes the right balance between convenience and customer protection, for example in relation to the information a customer needs to provide for authentication purposes.

- 4.198 If the requesting customer provides the correct information, the losing provider sends out a notification to the customer informing them of the switch. It can be sent to the customer immediately and automatically. The notification would alert the customer to the switch and name the gaining provider. This would provide additional protection against slamming where the customer has not given their consent to switch (to that provider, or at all). The customer should then have enough time to take action and stop the switch if they did not request it, although we recognise this could take longer if the customer has chosen to receive all communications by post.
- 4.199 Under the One Touch Switch process as proposed by industry, the Hub will send the losing provider's switching information directly to the customer using the contact details provided by the losing provider, but also to the details provided by the gaining provider, if these are different.<sup>276</sup> We share respondents' concerns that this could lead to customer information being sent to a person other than the authorised customer. In our view, the losing provider switching information should only be sent to the contact details already registered with the losing provider. However, we think losing providers should ensure a customer can subsequently contact them to update their contact details and ask for the information to be re-sent to the new contact details. See also paragraph 5.35 and paragraphs 7.47-7.56.
- 4.200 We also note Fern Trading's point that that the customer must give their financial details to the gaining provider before they can switch, which should also provide an additional guard against unauthorised switches.

### **Information is provided enabling customers to make an informed choice**

- 4.201 We conclude that both options would provide information in a way that would enable customers to make informed switching choices.
- 4.202 In both options a customer would be given the following information in a durable medium before they agree to switch to the gaining provider, in line with the new switching rules:
- information from the gaining provider about the new service; and
  - switching information from the losing provider.
- 4.203 We consider that this information would enable a customer to make an informed choice and be in a position to give their express consent to a switch under either option.

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<sup>276</sup> See Section 2, Table 1: One Touch Switch process steps, Step 2.

## Quick, easy and reliable switching

- 4.204 We also expect that both options would involve further notifications confirming a switch order and updating a customer as to the progress of the switch to ensure that they are adequately informed throughout the switching process.
- 4.205 The way in which information is given to customers differs between the options which may impact the way in which customers make an informed choice. However, these differences do not substantially change the extent to which a customer can make an informed choice. We therefore disagree with Virgin and KCom that under One Touch Switch, the gaining provider has to assume that the customer has given express consent to the switch.
- 4.206 In Code to Switch, the losing provider's switching information would be given to the customer with the switching code. In One Touch Switch, this losing provider switching information is given once the customer is in contact with the gaining provider. For customers switching online under One Touch Switch, this makes little difference to the time the customer has to consider the information as the online journey will proceed at the pace the customer chooses. For customers that switch by phone under One Touch Switch, there is the potential that some would feel pressured (either real or perceived) into considering the information quickly and making a decision.
- 4.207 However, in both options a customer would need to consider information from the gaining provider before agreeing to a switch. Therefore, it is not clear that the provision of losing provider switching information during a call substantially changes the likelihood of a customer feeling pressured into considering information quickly to make a choice. In any case, we would expect providers to ensure that customers have adequate time to consider any information provided and that the information is presented as clearly and succinctly as possible.
- 4.208 We are not persuaded by Sky and Virgin Media's argument that customers may struggle to digest and process the information about switching implications during the sales order process. We recognise that customers will have to understand new information, but this is unlikely to be substantially more than what the customer has to process at the moment. For many customers, the information is likely to be limited to telling the customer whether they are still within their minimum contract term, and if so, how long is left and what they would have to pay if they switched before the end of the term. We do not consider this is likely to result in customers being overloaded with information to the extent they would find it overly complex or difficult. For customers receiving information about the impact on bundles, we expect gaining providers to allow adequate time for customers to consider this information and ask any questions they have.
- 4.209 We note the concerns around pressure selling and mis-selling raised by Sky and Virgin Media. Ofcom takes these concerns seriously and has a track record of introducing and enforcing regulations to protect customers at the point of sale. We do not consider that providing information on switching implications at the point of sale significantly increases the risk of mis-selling compared to the status quo. The safeguards already in place to prevent poor selling practices including rules against mis-selling will continue to apply.



## Additional comments: data protection and security

- 4.210 The One Touch Switch process will, by design, rely on more data flows between organisations than current fixed switching processes, and therefore may give rise to additional data protection considerations. Providers will remain subject to their legal obligations around data protection, in particular data processing. The industry will need to consider a number of the issues raised by stakeholders (including whether a Data Protection Impact Assessment needs to be carried out, and if so when and by whom) as the new process is designed in detail, implemented and documented. Other organisations that may be involved in the process (for example third parties contracted to build and/or run the Hub) may also have obligations under the data protection regime.
- 4.211 We consider that some of the risks highlighted by Virgin Media (hacking, inference attacks, and fraud) would also arise under Code to Switch, as they relate to data security in the Hub. The industry should be mindful of these potential sources of harm as it develops and implements the One Touch Switch process. This type of arrangement – where data flows involve a third party – is not new in telecoms, for example in Auto-Switch, or other sectors. Data protection and security will need to be addressed by providers during the implementation process whatever process is adopted, and we have not identified particular weaknesses in relation to data security in either process.

## Our conclusions

- 4.212 As explained above, in our February 2021 Consultation our provisional assessment was that One Touch Switch would be effective in meeting our policy objective but that Code to Switch would not. Having had the benefit of detailed consultation responses and continued engagement with industry on aspects of the processes (including by way of responses to statutory information requests), we now need to make a judgment on the process that should be adopted by industry considering everything in the round. While both processes have their merits, for all of the reasons set out above, and summarised here, we have concluded that One Touch Switch would more effectively meet our policy objective of ensuring that residential customers can switch their fixed voice and broadband services using an effective and efficient process that complies with our new switching rules and does not create unnecessary difficulties or deterrents. It will allow customers to switch easily and not create unnecessary difficulties or barriers that may stop customers going through with a switch.
- 4.213 One Touch Switch can potentially reduce the switching time down to one day and reduce the risk of loss of service during a switch. It will ensure customers are provided with the right information before consenting to a switch and include protections against them being switched without their consent.
- 4.214 In our judgement, One Touch Switch will be easier to use than Code to Switch, because:
- It is simpler to understand and follow than Code to Switch. Customers will only have to contact the new provider and follow the instructions given by them. Code to Switch, on

the other hand, requires two steps. One Touch Switch will also be more familiar to customers that use the existing Notification of Transfer process and avoid making switching harder for these customers.

- It will give greater control to customers over the extent and type of contact they have with their current provider than Code to Switch, even with the inclusion of the IVR option. This avoids the potential difficulties and deterrents in relation to contact with the current provider including difficulties contacting the current provider (such as long call wait times), unwanted save activity, and the hassle of contacting more than one provider. Unlike Code to Switch, it does not introduce potential difficulties and deterrents for customers that do not arise in the current Notification of Transfer process.
- It is likely to involve less effort for most customers. In most circumstances, it will require fewer instances in which the customer needs to actively engage in order to switch. In particular, when switching landline and broadband by phone, customers only need to contact their gaining provider, so would only have to make one phone call rather than two.

4.215 We have carefully considered whether the IVR option makes a difference to our assessment. While the IVR option may have some improvements to the Code to Switch process for some customers (ease of getting through by phone, not having to talk to a live agent), overall it does not alter our view. Having considered all evidence in the round, we conclude that One Touch Switch more effectively meets our policy objective than Code to Switch. It also has the support of much of the industry, consumer groups and other stakeholders.

4.216 In Section 5, we confirm our decision to require providers to develop and implement One Touch Switch, and set out our assessment of the costs of implementing and operating the One Touch Switch process, the proportionality of requiring providers to implement One Touch Switch, and the relevant legal tests. We also consider the timetable and arrangements for implementation.

## 5. Fixed switching: decision to require use of One Touch Switch

- 5.1 In Section 4, we set out our assessment of One Touch Switch and Code to Switch against the assessment framework set out in Section 3 and concluded that, considering everything in the round, One Touch Switch more effectively meets our policy objective than Code to Switch.
- 5.2 In this section, we:
- consider the cost estimates provided by industry of One Touch Switch and Code to Switch (the detail of which is set out in Annex 6);
  - set out our conclusions as to the proportionality of requiring industry to develop and operate One Touch Switch; and
  - set out our decision to introduce One Touch Switch by 3 April 2023, with one amendment to the process described by industry.
- 5.3 In addition, we:
- confirm our proposal to remove the Notification of Transfer process from the GCs (but retain working line takeovers following a home move request on the Openreach and KCOM networks);
  - consider arrangements for development and implementation of One Touch Switch, including timing; and
  - explain why the necessary legal tests are met.

### Costs of One Touch Switch and Code to Switch

#### February 2021 Consultation

- 5.4 In order to inform our proposals, in our February 2021 Consultation, we presented the estimated costs of One Touch Switch and Code to Switch based on information provided to us by industry. We used this information to inform our assessment of the proportionality of requiring industry to adopt the One Touch Switch Process. We said that, based on the data provided to us by industry, implementing One Touch Switch would be expected to cost between £51m and £71m over 10 years, with an annual equivalent cost between £7.6m and £8.8m per year. While it was not clear whether these costs would ultimately be passed through to customers, we said that even if they were to be passed to customers in full, they would represent no more than three pence per month per fixed residential connection. We noted that this was very small when compared to the typical bill for landline and broadband services of a UK household (around £37 per month).

## Stakeholder comments

- 5.5 Virgin Media and Sky said that One Touch Switch would be more costly for the industry to implement than Code to Switch and that Ofcom had given this fact insufficient weight in its analysis.<sup>277</sup> Vodafone said that it had revisited its cost estimates and that it expected One Touch Switch to cost it more to implement than Code to Switch.<sup>278</sup>
- 5.6 Virgin Media said Ofcom should undertake “a full and complete cost-benefit analysis, in line with its duties, that compares both revised proposals and makes fuller use of its powers to collect and better understand the basis and veracity of cost information provided by [providers]”.<sup>279</sup> Sky and Virgin said that the design of OTS is incomplete as it does not specify how number porting will work and that this is a gap in Ofcom’s cost assessment.<sup>280</sup> Virgin Media also said that there may be a need for a communications channel between providers.<sup>281</sup>
- 5.7 CityFibre said that we should place limited weight on the estimated implementation costs because the industry estimates are high level and uncertain, because the costs of the two options are broadly comparable and because the implementation costs will be very small relative to the consumer benefits of an improved switching process.<sup>282</sup>
- 5.8 BT said that implementation and ongoing costs of One Touch Switch were likely to be lower because there will be less need for complex systems development by Openreach and wholesalers and because it avoids the need for customer service agents to generate and communicate switching codes.<sup>283</sup> Zzoomm said that One Touch Switch was likely to be the lower cost option and that the costs of one supplier whose results were a significant outlier should not be included in Ofcom’s analysis.<sup>284</sup>
- 5.9 Gamma, Shell and Utility Warehouse said that cost estimate per switch was an average and did not fairly reflect the costs for smaller providers. Gamma and FCS said that the cost assessment was flawed because it did not include the costs that would be borne by business providers.<sup>285</sup>
- 5.10 In addition, a number of stakeholders made detailed comments on our estimate of costs. We discuss these comments in Annex 6.

## Our assessment and conclusions

- 5.11 In Annex 6 we present the detail of the cost estimates provided by industry, following comments from stakeholders. This includes replacing some cost estimates where providers

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<sup>277</sup> Sky, pages 3 and 16; Virgin Media, pages 2-3; Responses to February 2021 Consultation.

<sup>278</sup> Vodafone, Response to February 2021 Consultation page 5.

<sup>279</sup> Virgin Media, Response to February 2021 Consultation, page 3.

<sup>280</sup> Sky, pages 20-21; Virgin Media, paragraph 161, Responses to February 2021 Consultation.

<sup>281</sup> Virgin Media, Response to the February 2021 Consultation, paragraph 229.

<sup>282</sup> CityFibre, Response to February 2021 Consultation, paragraphs 3.32-3.50.

<sup>283</sup> BT, Response to February 2021 Consultation, paragraphs 2.36 and 2.37.

<sup>284</sup> ZZoomm, Response to February 2021 Consultation, page 5.

<sup>285</sup> FCS, page 4; Gamma, paragraph 41, Responses to February 2021 Consultation.

submitted new data. The revised estimates include updated costs from Virgin Media, Vodafone and Sky which include the cost of an IVR option for Code to Switch. We did not receive updated cost estimates from other providers.

- 5.12 The estimated costs are based on information provided to us by industry on their anticipated costs of implementing Code to Switch and One Touch Switch. We note that given the nature of the exercise being undertaken – notably, that these are forecast costs of systems that are yet to be built – the cost estimates submitted by providers contain a degree of uncertainty. We have sought to use this information to present a reasonable estimate of likely costs, while recognising that the estimates relate to processes that are yet to be implemented. Further details of our approach and the cost estimates are provided in Annex 6.
- 5.13 Our updated presentation of the estimated costs indicates that the equivalent annual cost of One Touch Switch is around £7.7m to £8.8m compared to less than £1.7m for Code to Switch. In both cases, these costs are relatively low given the size of the fixed telecoms sector. The equivalent annual cost of One Touch Switch represents only £0.03 a month per residential connection and £0.01 a month per residential connection for Code to Switch. This is less than 0.1% of a typical monthly bill (around £41 per month).
- 5.14 One provider (X) reported a relatively large difference in cost between the two options. We note that this provider's costs are the main reason that the industry's cost estimates in aggregate point to Code to Switch being less costly. Many other industry participants' cost estimates indicated little difference between Code to Switch and One Touch Switch or that Code to Switch was a more costly option. However, even for this provider, the cost of One Touch Switch is relatively small. We estimate that for this provider's (X) figure for the cost of One Touch Switch to it represents around £0.05 per month per residential connection. This provider made no representations to us that it would be unable to bear the costs of One Touch Switch or that its ability to compete would be affected.
- 5.15 We do not agree with Virgin Media that it is necessary to undertake an exercise to test the basis and veracity of the cost estimates given by all providers. Providing an estimate of the impact of a new switching process, which does not currently exist, inevitably involves an element of opinion on the part of the industry participants in the process. The cost estimates are necessarily forecasts based on the expertise and predictions made by the providers that will need to implement the new process. As discussed in Section 4 (paragraph 4.138) and Annex 6 we used our statutory information gathering powers to better understand the reasoning behind the views of one provider (X) because that provider's view differed markedly from the rest of the industry and had a significant impact on the overall industry costs estimates. No other operators were in a similar position.
- 5.16 We recognise that the One Touch Switch process will need further development in relation to number porting and that there may be a need for the Hub to include a communications channel. We note that costs associated with number porting are likely to constitute a small

component of overall costs.<sup>286</sup> There are also opportunities to automate porting that may lead to cost savings for providers. Similarly Hub costs are also a relatively small component of overall costs.<sup>287</sup> Therefore, we consider that the lack of some elements of costs associated with number porting and the Hub is unlikely to result in a material increase in the estimated cost of One Touch Switch.

- 5.17 As discussed in Section 4, providers should take their own view as to whether they wish to participate in the process that is put in place for residential customers for business switches. We therefore do not agree with Gamma and FCS that we should include costs on business providers in our assessment.

## Proportionality of requiring providers to implement One Touch Switch

### February 2021 Consultation

- 5.18 We provisionally concluded that it would be proportionate to require providers to develop and implement the One Touch Switch process, having considered the information available at the time in the round. Our provisional assessment was that One Touch Switch would be effective in meeting our policy objective, was necessary to achieve the objective and would not produce adverse effects that would be disproportionate to the objective.
- 5.19 We said we would use the information and evidence submitted to us in response to the consultation to further inform our assessment of the proportionality of our proposal that industry should implement One Touch Switch.

### Stakeholder comments

- 5.20 Sky and Virgin Media said that Ofcom should revisit its initial preference for One Touch Switch and that the cost benefit analysis relied on to reach its conclusion was flawed.<sup>288</sup> Other respondents (most of whom supported our provisional assessment and decision to require the industry to adopt One Touch Switch) did not comment on our proportionality assessment.

### Our assessment and conclusion

- 5.21 Under our regulatory principles, we operate with a bias against intervention. This is based on our duty under s.3(3)(a) of the Act to have regard to the principles under which regulatory activities should be proportionate and targeted only at cases where action is needed. Moreover, as explained in Section 2, the section 47 tests require that the regulatory measures we take are, among other things, proportionate to what the condition

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<sup>286</sup> [3<]

<sup>287</sup> See Annex 6, paragraph A6.20.

<sup>288</sup> Sky, page 16; Virgin Media, page 3, Responses to February 2021 Consultation.

is intended to achieve. In assessing the proportionality of requiring industry to implement One Touch Switch, we have:

- considered whether the implementation of One Touch Switch by industry would be an effective means of achieving our policy objective;
- considered whether using our power to set general conditions specifying switching process rules reflecting One Touch Switch is necessary to achieve our policy objective or could be achieved by a less onerous approach; and
- assessed the proportionality of One Touch Switch in the round, including whether requiring providers to implement One Touch Switch would give rise to adverse effects which are disproportionate to the policy objective, and whether there are any features of One Touch Switch which mean that significant costs might be imposed on providers that are not necessary to achieve our policy objective.

### **Effective means of achieving our policy objective**

5.22 As discussed in Section 2, our policy objective is to ensure residential customers can switch their fixed voice and broadband services using an effective and efficient process that complies with our new switching rules and does not create unnecessary difficulties or deterrents. In fulfilling our objective, we aim to ensure that customers can use a process that is easy, quick, reliable and based on informed consent.

5.23 For the reasons set out in Section 4, we have concluded that One Touch Switch meets our policy objective and avoids introducing additional difficulties and deterrents into the switching process. We consider that Code to Switch, even with the addition of the IVR option, would not be as easy for customers to use as One Touch Switch, and would expose customers to potential difficulties and deterrents that many do not currently face under the existing Notification of Transfer process and would not face using One Touch Switch.

5.24 In our judgement therefore, One Touch Switch is a more effective means of achieving our policy objective.

### **Necessary and least onerous approach is to require One Touch Switch by way of GCs**

5.25 In addition to the conclusion that One Touch Switch would more effectively meet our policy objective, we consider that it is necessary for us to set general conditions requiring providers to develop and operate this process. This is essentially for the same reasons that we did not proceed with the option of making no further intervention (as set out in Section 3 of the February 2021 Consultation). Not specifying the requirements of the process in general conditions would risk a situation in which our policy objective would not be met by: a sub-set of providers developing a separate process; providers developing a separate process for a sub-set of customers; or, providers not introducing a switching process at all. This would result in unnecessary switching difficulties or deterrents. It could also cause confusion and additional costs for providers.

## Quick, easy and reliable switching

- 5.26 We have not identified any elements of One Touch Switch that are not necessary to achieve our policy objective. We therefore consider that each element of One Touch Switch is necessary to deliver against our policy objective.
- 5.27 As explained above for the reasons given in Section 4, we consider that One Touch Switch more effectively meets our policy objective than Code to Switch. We are therefore not deciding between two equally effective measures and are satisfied that there is no other less onerous approach which would meet our policy objective as effectively as One Touch Switch.

## Assessment of proportionality in the round, including costs

- 5.28 To comply with the new switching rules, providers will need to invest in and incur costs to update their existing systems and processes and/or adopt new systems and processes irrespective of the option that is put in place. Compliance with the rules mandated by the EEC and implemented in our GCs will therefore entail a degree of costs and burden for industry, both in set up costs and ongoing costs. In this context, we have also considered the cost information provided to us by industry of implementing and operating the new processes (as set out above and in Annex 6). We have assessed whether this is proportionate, would give rise to effects that are disproportionate to our policy objective, and whether there are any features which mean that significant costs might be imposed that are not necessary to achieve our policy objective.
- 5.29 Respondents to our consultation differed in their views as to the weight we should place on the cost estimates provided by industry and what this means for our proportionality assessment. Sky and Virgin Media said that Ofcom had given insufficient weight to the fact that the cost assessment showed that Code to Switch less costly overall for industry to implement. In contrast, we have noted above CityFibre's arguments that we should place little weight on the cost estimates because they are uncertain, broadly comparable and, in any event, likely to be very small relative to the consumer benefits of an improved switching process.
- 5.30 Our assessment and conclusions on the process that will most effectively address our policy objective, the estimates of cost provided by industry, and the implications for the proportionality of our decision necessarily involves an exercise of judgement. As set out in Section 4 we have carefully assessed the two processes presented to us by industry, including the addition of the IVR functionality to Code to Switch, and considered consultation responses in detail. In Annex 6 we have examined the information reasonably available to us from providers, again with the benefit of consultation, the conclusions of which are set out above.
- 5.31 Our analysis suggests that the costs of One Touch Switch are relatively low. We recognise that the cost estimates submitted to us by industry for Code to Switch are in aggregate lower than for One Touch Switch. That reflects, among other matters, the markedly different views on the costs of Code to Switch provided to us by one provider (X), which were not reflected in the estimates provided by others. Even if the costs of Code to Switch are lower than One Touch Switch to the degree that the provider (X) suggests, the



difference is not material in the context of retail fixed revenues of £14bn , typical household spend on fixed telecoms of £490 per year or £41 per month.<sup>289</sup> Even a very small improvement in market functioning arising from simpler switching would be sufficient to generate benefits for consumers that outweigh the £0.03 per month cost per connection. We do not consider that proceeding with One Touch Switch would have a detrimental effect in terms of cost on providers or consumers. Indeed, proceeding with Code to Switch would result in the adoption of a process which would, in our judgment, be a less effective means of achieving our policy objective (with consequential benefits for market functioning and consumers) for all the reasons we have already discussed.

- 5.32 Given the risks associated with Ofcom not taking action, and our conclusion that One Touch Switch would more effectively meet our policy objective, we consider that it is necessary to incur these costs in order to achieve our policy objective, and that this level of costs is not disproportionate to our policy objective.
- 5.33 Taking these factors in the round and by way of conclusion, we consider that One Touch Switch more effectively meets our policy objective at a relatively low cost to industry and, for all of the reasons set out above, we conclude that it is appropriate and proportionate to require providers to develop and operate the One Touch Switch process. We consider One Touch Switch would be effective in meeting our policy objective, is necessary to achieve the objective and would not produce adverse effects which would be disproportionate to the objective.

## Our decision to introduce One Touch Switch

- 5.34 Given our conclusion, considering everything in the round, that One Touch Switch more effectively meets our policy objective than Code to Switch, and taking account of the costs estimates presented above and in Annex 6, we have decided it is appropriate and proportionate to require providers to develop and operate the One Touch Switch process. The process should be available for use by all residential customers switching fixed voice and broadband services (those services within scope of the new switching provided at the same location) regardless of the technology or network the provider uses.<sup>290</sup>
- 5.35 We have decided to amend the process from that proposed by industry, and set out in Section 2, and will not require that a losing provider send the switching information to the contact details that the customer has provided to the gaining provider (see paragraph 4.199). This means the losing provider switching information will in practice only be sent to the contact details already registered with the losing provider (see also paragraphs 7.47-7.56).

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<sup>289</sup> [Ofcom Communications Market Report 2021](#).

<sup>290</sup> This is consistent with the clarification we provided to the OTA regarding the scope of the process we expected them to develop. In particular that: it should address switching provider of the services within scope of the new switching rules at the same location (and hence does not need to incorporate home moves); and should focus on residential customers' services only rather than businesses customers' services. See paragraph 2.32.

5.36 As discussed below, we are extending the period allowed for implementation of the new switching process to 3 April 2023, as reflected in the proposed amendments to the GCs discussed in Section 7. We are also extending the implementation deadline for the new switching rules and the other changes<sup>291</sup> due to come into effect in December 2022 to 3 April 2023. This will ensure that all changes to our rules will come into effect on the same day and will avoid the need for potentially costly interim solutions to comply with the new switching rules.

## Removal of the Notification of Transfer process

### February 2021 Consultation

5.37 In the February 2021 Consultation, we said that the existing Notification of Transfer process would not meet the requirements of the new switching rules and proposed to remove it.

### Stakeholder comments

5.38 A number of respondents agreed with our proposal to remove the Notification of Transfer process.<sup>292</sup> One provider (☒) disagreed with our proposal but did not say why.<sup>293</sup>

5.39 Openreach noted that some other processes (e.g. Working Line Takeovers) rely on the Notification of Transfer process and it is keen not to disrupt these.<sup>294</sup> It said we should therefore maintain Notification of Transfer regulations for Working Line Takeovers.<sup>295</sup>

### Our assessment and conclusion

5.40 The Notification of Transfer process does not meet the requirements of the new switching rules. In particular, it does not meet the new rules concerning information and express consent (CG C7.9 and C7.10-7.14). These rules will require providers to “take all reasonable steps to ensure they do not switch customers without their express consent.” The new switching rules define ‘express consent’ as “the express agreement of a Customer to contract with a Communications Provider, or to transfer their Public Electronic Communication Service(s) or port their Telephone Number(s), where the Communications Provider has obtained such consent in a manner which has enabled the Customer to make an informed choice”.<sup>296</sup> In addition, the new switching rules require providers to take all

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<sup>291</sup> The changes to GCs B3, C1.20 and the Annex to C1 shown in schedule 4 of the table in Ofcom, December 2020.

[Notification of new general conditions and modifications to the General Conditions under section 48\(1\) of the Act.](#)

<sup>292</sup> BT, [B Williams](#); Citizens Advice Scotland; Common Wholesale Platform; [J Darby](#); [J Campbell-Smith](#); KCOM; [National Pensioners Convention](#); [Name Withheld 2](#); [Name Withheld 3](#); [Name Withheld 4](#); [Name Withheld 5](#); [P Hill, Toob Limited](#); WightFibre; [☒]; [☒]; [☒]; Hubbub page 2; Webster Marketing; page 3; Uswitch, page 3; [Net Support UK](#), page 2; Fern Trading, paragraphs 46-48, page 9, Responses to February 2021 Consultation.

<sup>293</sup> [☒]

<sup>294</sup> Openreach, Response to February 2021 Consultation, page 5.

<sup>295</sup> Openreach, Response to February 2021 Consultation, page 12.

<sup>296</sup> See GC 7.9 (a).

reasonable steps to ensure customers are adequately informed before and during the switch.<sup>297</sup>

- 5.41 The decision on the part of a customer to switch services involves both a decision to accept a contract for new services with a gaining provider, and a decision to cancel a contract for services with the losing provider. It follows that in order for a customer to make an informed choice about whether to switch their services, and therefore to be in a position to give their express consent to a switch, they need information about both the new services they are taking with the gaining provider, and the consequences of their decision to cancel their services with the losing provider.
- 5.42 Under the Notification of Transfer process, customers do not receive the losing provider's switching information as part of the switching process before agreeing to the switch. They are not required to take any further active steps to confirm their consent after they receive the losing provider's switching information. Therefore, the Notification of Transfer process does not enable gaining providers to ensure that they do not switch a customer without their express consent, or to ensure customers are adequately informed before the switch.
- 5.43 For these reasons, we have decided to remove the rules relating to the Notification of Transfer process. We are consulting on changes to the GCs to implement this decision, which are detailed in Section 7. We propose these changes will take effect when One Touch Switch becomes operational.
- 5.44 As set out in Section 7, we are retaining the rules relating to Working Line Takeovers in connection with home moves, as referred to by Openreach.

## Implementing One Touch Switch

### The timetable for implementation

#### February 2021 Consultation

- 5.45 We proposed to require providers to develop and implement the One Touch Switch process by 19 December 2022.<sup>298</sup> This corresponded to an 18-month long implementation period, given our plan to publish a statement in Q1, 2021/22.

#### Stakeholder comments

- 5.46 Some providers supported our proposed implementation timetable.<sup>299</sup> Openreach said that industry could achieve the deadline, but that it would rely on fast decision-making by Ofcom, timely tendering for the Hub, well defined governance, and minimum testing standards for the new process.<sup>300</sup> It said there will need to be significant development and

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<sup>297</sup> See GC 7.10 (a) and definitions.

<sup>298</sup> [February 2021 Consultation](#), paragraph 5.103.

<sup>299</sup> [[link](#)], WightFibre, page 1, Responses to February 2021 Consultation.

<sup>300</sup> Openreach, Response to February 2021 Consultation, pages 8-9.

testing prior to the launch of the new process,<sup>301</sup> and suggested that Ofcom should consider a phased introduction.<sup>302</sup>

5.47 Other respondents raised concerns that December 2022 would not provide enough time to implement a new switching process, arguing that:

- hasty implementation may lead to a poor process and customer outcomes;<sup>303</sup>
- flexibility may be needed in the event that the process is not implemented on time;<sup>304</sup>
- implementation preparations cannot start until Ofcom publishes its statement on changes to the General Conditions;<sup>305</sup>
- the scale and complexity of implementing this switching process is greater than previous implementation exercises (including Auto-Switch; Automatic Compensation and reforms to the Notification of Transfer process in 2015);<sup>306</sup>
- an appropriate amount of time will be needed to establish appropriate governance arrangements for the decisions on procurement and design;<sup>307</sup>
- the proposed switching implementation period would coincide with other projects and possibly an activity freeze in December.<sup>308</sup>

5.48 There were a range of views on how long Ofcom should allow for implementation:

- BT, Sky and one other provider (☒) said we should allow 18 months from the date of our policy statement;<sup>309</sup>
- Zoomm said we should allow a maximum of 18 months after the publication of the new GCs;<sup>310</sup>
- Fern Trading said we should allow 18-24 months after the publication of the new GCs;<sup>311</sup>
- Gigaclear said we should allow 24 months from the point at which the GCs are amended.<sup>312</sup>
- Hyperoptic said we should allow 24 months from the publication of the policy statement and the final notification of the revised GCs.<sup>313</sup>
- Virgin Media said we should allow until Q4 2023.<sup>314</sup>

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<sup>301</sup> Openreach, Response to February 2021 Consultation, paragraph 3.

<sup>302</sup> Openreach, Response to February 2021 Consultation, paragraph 3.

<sup>303</sup> Hyperoptic, page 3; Utility Warehouse, pages 3-4, Responses to February 2021 Consultation.

<sup>304</sup> BT, Response to February 2021 Consultation, paragraph 1.8; paragraphs 5.5-5.9.

<sup>305</sup> BT, paragraph 1.8; Hyperoptic, page 10; Vodafone, page 5; FCS, page 6; Sky, page 25; Fern Trading, paragraph 144;☒,☒, Responses to February 2021 Consultation.

<sup>306</sup> Fern Trading, paragraphs 124-128, 146; Hyperoptic, page 10; Utility Warehouse, page 3; Sky, page 3, 25; Virgin Media, paragraphs 246-249; ☒, Responses to February 2021 Consultation.

<sup>307</sup> BT, paragraphs 5.5-5.9; Fern Trading, paragraphs 129-134, page 29; ☒. Responses to February 2021 Consultation.

<sup>308</sup> KCOM, page 3; ☒, Vodafone, page 6. Responses to February 2021 Consultation.

<sup>309</sup> BT, paragraph 5.9; Sky, pages 3 and 18-19; ☒, Responses to February 2021 Consultation.

<sup>310</sup> Zoomm, Response to February 2021 Consultation, page 9.

<sup>311</sup> Fern Trading, Response to February 2021 Consultation, paragraph 30.

<sup>312</sup> Gigaclear, Response to February 2021 Consultation, pages 2-3.

<sup>313</sup> Hyperoptic, Response to February 2021 Consultation, page 12.

<sup>314</sup> Virgin Media, Response to February 2021 Consultation, paragraph 252.

## Our timetable for implementation of One Touch Switch

- 5.49 Having considered stakeholders' comments, we are extending the period allowed for implementation of the new switching process to 3 April 2023, as reflected in the proposed amendments to the GCs discussed in Section 7.
- 5.50 This reflects the later than planned publication of this statement. Following the relatively late submission of the revised Code to Switch proposal that included the IVR contact method, we needed additional time to engage with stakeholders and work through the implications for our assessment of the two processes. This included extending the deadline for responses to our February 2021 Consultation, talking to stakeholders, and sending out formal information requests. Our April 2023 implementation deadline broadly corresponds to the length of time we proposed to allow for implementation in the February 2021 Consultation, i.e. 18 months from the date of our policy statement confirming which switching process we have decided to require the industry to develop and implement, and is within the range of time periods put forward by stakeholders.
- 5.51 While some stakeholders argued for a longer implementation period, none of them explained why this additional time was necessary. This statement confirms our policy decision that providers must develop the One Touch Switch process. As it is now clear to providers what they need to achieve, we do not consider that we need to specify the deadline from the point that we publish our final statement confirming changes to the General Conditions especially given they are non-technical in nature.

## Implementation process

### Stakeholder comments

- 5.52 A number of stakeholders commented on the different tasks and processes involved and the different phases of implementation, including governance, design and testing.<sup>315</sup> Some expressed the need for independence and suggested that Ofcom, the OTA or another third party should be involved in implementation.<sup>316</sup> Others said resellers needed to be taken into account.<sup>317</sup> A number of providers were concerned about large providers dominating governance discussions.<sup>318</sup>

## Our conclusions on implementation of One Touch Switch

- 5.53 Providers will need to establish a means of jointly procuring the necessary system and managing its ongoing operation. Implementation will require providers to work

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<sup>315</sup> Common Wholesale Platform, page 3; BT, paragraphs 1.7 and 5.1-5.4; [Fern Trading](#), pages 28 and 30; INCA, paragraphs 95- 129; TalkTalk, pages 5-6; Webster Marketing, page 2; [redacted], Responses to February 2021 Consultation.

<sup>316</sup> BT, 5.1-5.4, page 18; FCS, page 4; Fern Trading, page 35; Gamma, page 2; Openreach, paragraphs 3 and 14; TalkTalk, pages 5-6; Utility Warehouse, page 3; Vodafone, page 5; Zzoomm, pages 6-7; [redacted]; [redacted]; [redacted], Responses to February 2021 Consultation.

<sup>317</sup> Utility Warehouse, Response to February 2021 Consultation, page 2; Shell, Response to February 2021 Consultation, page 1.

<sup>318</sup> FCS, page 4; Hyperoptic, pages 10-11; [redacted]; [redacted]; Zzoom, pages 6-7, Responses to February 2021 Consultation.

collaboratively – providers cannot implement a cross-industry switching process working independently of each other.

- 5.54 The work will involve providers of all sizes, including network providers other than Openreach and their customers. The industry will need to consider the views and interests of a wide range of providers.
- 5.55 Industry will rapidly need to establish adequate governance arrangements so that effective and inclusive decisions can be made as early as possible. At our request, the OTA has started to develop proposals for implementation arrangements, which it has shared with the Number Port Executive Steering Group (NPESG).
- 5.56 We consider that the OTA is best placed to kick start appropriate industry discussions, including the establishment of interim governance arrangements. However, if industry consider there are alternative options that can enable industry to agree and execute an inclusive implementation plan that will ensure that the new switching process is delivered on time, they are free to do so.

## Legal tests

- 5.57 In Section 7, we propose specific changes to the GCs that are needed to implement One Touch Switch. In terms of the principle of our decision to mandate One Touch Switch as outlined above, we consider our decision meets the test for setting or modifying conditions set out in condition 47(2) of the Act. For the reasons set out more fully in this document, we consider that our decision is:
- a) **objectively justifiable:** We have explained why we consider that these steps are required in order to provide customers with an efficient and effective process that complies with the new switching rules. They would avoid or reduce switching process difficulties and deterrents for customers and allow them to switch through a process that is easy, quick, reliable and based on informed consent;
  - b) **proportionate:** As explained above, the costs of One Touch Switch would not be disproportionate to meeting our policy objective. One Touch Switch would not give rise to adverse effects which are disproportionate to our policy objective; and we have not identified any features of One Touch Switch which means that significant costs might be imposed on providers that are not necessary to achieve our policy objective;
  - c) **not unduly discriminatory:** The same regulatory measures would apply to providers of relevant voice and broadband services; and
  - d) **transparent:** The reasons for our decision are explained above and in Section 4 and the effects of the changes are clear to providers in the proposed GCs.

## 6. Mobile switching: changes to information requirements

- 6.1 In our February 2021 Consultation we proposed that mobile providers should be required, from December 2022, to give residential customers personalised information regarding the impact of a switch on any other services they have with the losing provider.
- 6.2 Our rationale for this proposal is based on our policy objective, which is to ensure that residential customers using the existing Auto-Switch process are fully informed, in line with the information and consent requirements of the new switching rules and the need to give full effect to our new information and consent rules.<sup>319</sup>
- 6.3 This section confirms our proposal to apply the losing provider information requirements set out in our new switching rules to residential mobile switches, namely that mobile providers be required to provide these customers with information regarding the impact of a switch on any other services they have with the losing provider. These changes are necessary to ensure consistency in the information that fixed and mobile switchers receive, and to ensure that mobile customers with additional support services have the same protections as fixed customers with these services.
- 6.4 In this section we set out:
- The background to our February 2021 Consultation, including our view on express consent, the information provided under the current Auto-Switch process, and the implementation of the EECC information provisions in the GCs.
  - Our February 2021 proposals.
  - Stakeholder comments and our assessment.
  - Our decision.

### Background to our February 2021 Consultation

#### Our rules on express consent

- 6.5 Article 106(6) of the EECC states that providers should not “port numbers or switch end-users without the end users’ explicit consent”. This provision obliged Ofcom to “take appropriate measures ensuring that end-users... are not switched to another provider without their consent”.
- 6.6 To meet these requirements, we introduced the new switching rules, which apply to both mobile and fixed services. The new switching rules require gaining providers to:
- take all reasonable steps to ensure they do not switch customers without their express consent (GC C7.9a); and

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<sup>319</sup> See GCs C7.9 (consent) and C7.10-C7.14 (information).

## Quick, easy and reliable switching

- ensure a customer is authorised to request a switch and intends to enter into a contract for the switched services (GC C7.9b).
- 6.7 We defined ‘express consent’ as “the express agreement of a Customer to contract with a Communications Provider, or to transfer their Public Electronic Communication Service(s) or port their Telephone Number(s), where the Communications Provider has obtained such consent in a manner which has enabled the Customer to make an informed choice”.<sup>320</sup>
- 6.8 As set out in our October 2020 Statement and February 2021 Consultation, as part of our detailed review of industry’s proposed options for the new fixed voice and broadband switching process, we considered further the implications of the EECC requirements regarding consent and information, and our proposed rules.<sup>321</sup>
- 6.9 We noted that the decision on the part of a customer to switch services involves both:
- a decision to accept a contract for new services with a gaining provider; and
  - a decision to cancel a contract for services with the losing provider.
- 6.10 It follows from these two decisions that in order for a customer to make an informed choice about whether to switch their services, and therefore to be in a position to give their express consent to a switch, the customer needs to have been given information about both:
- the new services they are taking with the gaining provider; and
  - the consequences of their decision to cancel their services with the losing provider.

## Information provided under the current Auto-Switch process

- 6.11 Losing providers currently provide both residential and business customers with the following information when they request a switching code and/or their switching information:
- the total charge payable;
  - any credit balance in respect of any prepaid mobile services; and
  - the web link to the log-in page for the mobile switching customer’s account with the provider.
- 6.12 Currently, it is at each provider’s discretion to provide customers with information on the implications of a switch on any additional services they have with the losing provider, such as broadband or Pay TV.

## Implementation of the EECC information provisions in the General Conditions

- 6.13 The EECC rules require that end-users, including those switching bundled services, are adequately informed throughout the switching and porting process.<sup>322</sup> The EECC rules also

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<sup>320</sup> See definition of ‘Express Consent’ in the GCs.

<sup>321</sup> October Statement, paragraphs 9.181-9.183, pages 193-194.

<sup>322</sup> Articles 106(1), 106(6), 106(9) and 107(1), EECC.



require Ofcom to specify requirements on providers to ensure disabled people benefit from the choice of providers and services available to the majority of end-users.<sup>323</sup>

- 6.14 As set out in our October 2020 Statement and February 2021 Consultation, to implement these requirements, we introduced a new rule for providers to take all reasonable steps to ensure all customers (residential and business) are adequately informed before and during the switching process. This rule applies to internet access services (IAS), number-based interpersonal communications services (NBICS) and all elements of a bundle and as such, covers switching of both fixed and mobile services. For IAS and NBICS, this includes informing customers of their right to compensation (GC C7.10).
- 6.15 The new switching rules set out the information that providers need to provide to residential customers of fixed voice and broadband services, including “the impact, whether direct or indirect, financial or otherwise, that the Losing Provider reasonably expects the Communications Provider Migration to have on any Relevant Communications Services or other types of services provided by the Losing Provider, including any services and/or facilities that the Switching Customer may have access to pursuant to Condition C5”. GC C5 requires providers to make a number of additional support services available to disabled customers.
- 6.16 As discussed in Section 2, we proposed minor amendments in our December 2019 Consultation to consolidate our Auto-Switch rules with the new switching rules, as our view at the time was that the process was broadly consistent with the EECC requirements.<sup>324</sup>
- 6.17 These amendments included:
- a) Consolidating the information that losing providers are required to give to customers using Auto-Switch with the similar information requirements in the new switching rules;
  - b) Incorporating a number of GCs which previously applied to Auto-Switch into our new switching rules; and
  - c) Replacing references to N-PAC (Non-Porting Authorisation Code) with STAC (Service Termination Authorisation Code) to reflect widely used industry terminology.

## Our February 2021 proposals

- 6.18 As summarised above, in our February 2021 Consultation, we proposed that mobile providers should be required, from December 2022, to give residential customers personalised information regarding the impact of a switch on any other services they have with the losing provider – such as bundled services (including fixed services, email and

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<sup>323</sup> Article 111(1)(b), EECC.

<sup>324</sup> December 2019 Consultation, paragraphs 7.197, 7.211-7.215.

cloud storage, music and video streaming services, Pay TV and terminal equipment), or additional support services.<sup>325</sup>

- 6.19 We said that absent these changes, there would be an inconsistency in the losing provider switching information requirements that apply to mobile and to fixed services for residential customers.<sup>326</sup> In particular, it would be mandatory (as prescribed in GC C7.12(d)) for fixed losing providers to provide information on the impact of the switch on the other services that the customer may have with the losing provider, including any services that the customer has pursuant to GC C5, such as third party management or bills and contracts in accessible formats. But mobile providers would not otherwise be required to provide this information.
- 6.20 We said that these changes were necessary to give full effect to our new information and consent rules, to provide consistency for fixed and mobile customers, and to provide protections for customers using additional support services.
- 6.21 We said we were also going to consider the other changes to the Auto-Switch rules (see paragraph 6.17 above) which we had proposed in December 2019 and which were necessary to consolidate Auto-Switch with the new switching rules.<sup>327</sup> All proposed changes to the GCs, which include those listed above as well as others we consider are necessary to ensure consistency between the information switchers receive, are set out for consultation in Section 7 and Annexes 8 and 9.

## Stakeholder comments and our assessment

- 6.22 In this section we summarise respondents' comments on the proposals in the February 2021 Consultation, our assessment of those responses and our decision. Specifically, we set out comments from stakeholders, and our response, on the following areas:
- Ofcom's interpretation of the EECC requirements.
  - The scope of the requirements.
  - The need for changes to Auto-Switch.
  - Queries about how providers can meet the new information requirements.
  - The implementation deadline.
  - Proportionality of our changes.

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<sup>325</sup> Under GC C5, the following additional support services apply to mobile customers: free directory enquiries for disabled customers who cannot use a printed directory; third party bill management; bills and contracts in accessible formats on request for blind and visually impaired customers; text relay services; and access to emergency services via text message for customers with hearing or speech impairments.

<sup>326</sup> Specifically, the inconsistency would be between residential customers who use the Auto-Switch process (i.e. those who switch fewer than 25 mobile numbers) and other switches by residential customers (mobile or fixed services).

<sup>327</sup> February 2021 Consultation, paragraphs 6.16-6.17.

## Interpretation of the EECC requirements

### Stakeholder comments

- 6.23 A number of stakeholders provided comments on our interpretation of the EECC requirements with regard to information and consent.
- 6.24 Telefónica argued that Ofcom had been overly strict in its interpretation of express consent required by the EECC and that Ofcom has failed to demonstrate that the new switching information would be useful to customers.<sup>328</sup>
- 6.25 Vodafone said that our proposals “gold-plated” the requirements in the EECC for customers to be adequately informed throughout the switching process and argued that adding a generic message to customers to prompt them to check any other implications of the switch would satisfy Article 106 of the EECC.<sup>329</sup>
- 6.26 Three and Telefónica queried what the implications of our proposals would be on how express consent will work in practice, including on gaining providers. Three requested that Ofcom provide more guidance on how providers should record customers’ express consent, and asked whether it would be sufficient for providers to show evidence that the customer had been provided with the switching information and had had a chance to consider it, or if providers would be required to produce evidence of a consent document. Telefónica queried whether gaining providers would need to implement more stringent processes in order to verify customers’ identities and their consent to switch.<sup>330</sup>

### Our reasoning and assessment

- 6.27 In response to Telefónica and Vodafone’s argument that we have interpreted the EECC requirements overly strictly, as set out in the October 2020 Statement,<sup>331</sup> to make an informed choice, and therefore to be in a position to give express consent, customers must have been given information on both the new services they are taking with the gaining provider and the consequences of their decision to cancel their services with the losing provider. Ofcom does not have discretion in implementing these EECC requirements. The changes to the information are intended to give full effect to the information and consent provisions in the new switching rules which have already been the subject of consultation and decision.
- 6.28 In response to Vodafone’s comment that a generic message informing the customer to check their other services would meet the requirements, we discuss below (in paragraphs 6.52-6.55) why we think it is important for the information provided to be personalised.
- 6.29 In relation to Three and Telefónica’s queries, the new switching rules<sup>332</sup> require, among other things, that gaining providers do not switch customers without their express consent,

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<sup>328</sup> [Telefónica](#), Response to February 2021 Consultation, paragraphs 10-16.

<sup>329</sup> Vodafone, Response to February 2021 Consultation, page 7.

<sup>330</sup> [Three](#), page 3, Telefónica, paragraph 28, Responses to February 2021 Consultation.

<sup>331</sup> October 2020 Statement, paragraphs 9.182-9.183.

<sup>332</sup> See GCs C7.9 and C7.15-C7.16.

and that they create and keep records of consent from residential customers for 12 months or more, regardless of changes to the information requirements which in any event fall on the losing provider rather than the gaining provider. These records of consent must include, among other things, the time, date and means by which express consent is given. Providers should bear these requirements in mind as they develop mechanisms for customers to give their consent.

## Scope of the requirements

### Stakeholder comments

- 6.30 Three and Virgin Media agreed with our proposal that the new mobile requirements should only apply to residential customers and not to business customers.<sup>333</sup>
- 6.31 One respondent ([redacted]) noted that Ofcom should consider the potential consequences for providers if a different system is used for residential and business customers. [redacted]<sup>334</sup>

### Our reasoning and assessment

- 6.32 We note that no respondents disagreed with our proposal to apply the new requirements to residential customers only.
- 6.33 In response to one respondent's [redacted] point that we should consider the impact of requiring different information for business and residential customers, we note that the existing Auto-Switch requirements already differ for residential and business customers in relation to the timeframe required to provide information, and the means by which that information is provided.<sup>335</sup>
- 6.34 In addition, throughout our switching rules, we have been mindful of the differences between business and residential customers and their different needs. Notably, we put additional specific rules in place for residential customers in relation to information, compensation and consent.<sup>336</sup>
- 6.35 We have decided to apply these requirements to residential mobile switching customers only.

## Changes to Auto-Switch information requirements

- 6.36 A number of respondents, including BT Mobile/EE and Virgin Media, agreed with our proposed changes to the losing provider information requirements for mobile switching customers.<sup>337</sup> The Mobile Number Portability Operator Steering Group (MNPOSG) did not

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<sup>333</sup> Three, page 1, Virgin Media, paragraph 262, Responses to February 2021 Consultation.

<sup>334</sup> [redacted].

<sup>335</sup> See GCs C7.26-C7.32 in Ofcom, [Revised General Conditions of Entitlement Unofficial Consolidated Version](#) with effect from 31 December 2020.

<sup>336</sup> October 2020 Statement, paragraphs 9.59-9.61, 9.71-9.75, 9.131-9.133, 9.177-9.179

<sup>337</sup> ApTap, page 2; [BT Mobile/EE](#), paragraph 1.9; CCP, page 2; Citizens Advice Scotland, page 2; FCS, page 7; J Dowdle, page 1; National Pensioners Convention, pages 3-4; Net Support UK, page 2; Ombudsman Services, pages 1-2, Virgin Media, paragraphs 254-255, [redacted]; [redacted], Responses to February 2021 Consultation.

put forward a view on the merits of our proposals but did comment on how they could be implemented.<sup>338</sup>

6.37 Three, Vodafone and Telefónica disagreed with our proposals. Their arguments fell into the following categories:

- The need for intervention.
- The need for information to be personalized.
- Similar information already provided or ascertained via other sources, including about additional support services.
- The additional support service to which the requirements should apply to.
- The need for this information to be provided to customers who switch without porting their number.

6.38 Below, we set out these comments in more detail and our response to them.

### The need for intervention

#### Stakeholder comments

6.39 Vodafone, Telefónica and Three argued that there is no evidence of consumer harm nor consumer complaints caused by insufficient information about the impact of a switch on a customer's other services in the current Auto-Switch process and that the existing process works well, meaning there is no case for Ofcom to regulate further.<sup>339</sup>

6.40 Vodafone said that Ofcom's proposed changes would make the Auto-Switch process unnecessarily complex and customers will be given excessive amounts of information that they will not read.<sup>340</sup> It further argued that Ofcom was seeking to align fixed and mobile information requirements, while maintaining different fixed and mobile switching processes.<sup>341</sup>

6.41 Virgin Media argued that if we proceeded with our February 2021 proposals for both mobile and fixed switches, customers switching their mobile provider with the new information requirements in place would have more control and be better informed than customers switching their fixed provider, who would be using One Touch Switch.<sup>342</sup>

#### Our reasoning and assessment

6.42 We disagree with Vodafone, Telefonica and Three that these changes are unnecessary and that there is no case for us to regulate further. Specifically, we do not agree with Vodafone that the additional information we are now requiring will make the Auto-Switch process unnecessarily complex. We have provided a number of example messages later in this section which demonstrate our view that this information can be provided to customers in a clear and simple manner.

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<sup>338</sup> MNPOSG, Response to February 2021 Consultation, paragraph 5.

<sup>339</sup> Three, page 1, Vodafone, page 7, Telefónica, paragraph 5, Responses to February 2021 Consultation.

<sup>340</sup> Vodafone, Response to February 2021 Consultation, page 8.

<sup>341</sup> Vodafone, Response to February 2021 Consultation, pages 6-7.

<sup>342</sup> Virgin Media, Response to February 2021 Consultation, paragraph 260.

- 6.43 In relation to Vodafone’s point that we are proposing different processes for fixed and mobile switches but aligning the information requirements, and Virgin Media’s that customers using Auto-Switch will be more informed than those using One Touch Switch, we are making these changes to ensure that all customers receive the same information from their losing provider about the impact of switching on their other services, irrespective of the process they use to switch or the services they are switching.
- 6.44 We conclude that changes to the Auto-Switch information requirements are necessary for several reasons.
- 6.45 First, they give full effect to our new information and consent rules. Information from the losing provider regarding the impact of a switch on other services is key to enabling customers to make a fully informed choice and give their express consent to switch. Our new consent and information switching rules (see GCs C7.9 and C7.10-14 respectively), reflect the requirements of the EECC, and these now need to be reflected in the Auto-Switch rules.
- 6.46 Second, they ensure consistency between the information requirements for residential customers of fixed and mobile services:
- The changes to the switching information that losing providers need to provide will ensure that there is greater consistency in the standard of the information that residential switchers receive, regardless of whether they are switching a mobile service using the Auto-Switch process or fixed services.
  - If we did not amend the rules, residential customers switching mobile services – unlike fixed residential switchers – would not necessarily receive any information regarding the impact of their switch on the other services they have with the losing provider, such as a price increase as a result of unbundling their fixed and mobile services or the loss of additional support services. This risks customers with bundled mobile and fixed services making different switching decisions depending on which service they switch first.
  - Amending the Auto-Switch rules will ensure that fixed and mobile residential customers will be provided with the same information, no matter which service they switch first.
- 6.47 Finally, they ensure mobile customers using additional support services are protected:
- Our changes will also ensure that residential customers with additional support services get the same protection using Auto-Switch that they do when switching their fixed services. We note that the existing EU regulatory framework provides for equivalent access to electronic communications services for disabled people and the EECC includes an additional requirement for equivalent access to *information* in

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respect of electronic communications.<sup>343</sup> These requirements are embedded in the General Conditions.<sup>344</sup>

- The provision of this information should address potential disincentives to switch for customers who are reliant on additional support services and may lack the confidence to switch for fear that they will lose access to them.<sup>345</sup>

## The need for information to be personalised

### Stakeholder comments

- 6.48 Three requested that Ofcom clarify the extent to which personalised information is required for some of the requirements, and said that Ofcom could require providers to send general information and customers could be prompted to ask their losing provider what would happen to any additional services if they switched. It also suggested that personalised information should be recommended but not required, which it said would enable providers to deliver the information to customers more quickly.<sup>346</sup>
- 6.49 Three argued that any proposals requiring providers to produce more personalised information need to incorporate the requirement for industry to protect their customers from fraud and maintain their security.<sup>347</sup>
- 6.50 [X]<sup>348</sup>
- 6.51 Virgin Media and BT Mobile/EE agreed that the information provided should be bespoke to the customer. Virgin Media noted that a generic message is unlikely to ensure customers are adequately informed of the full implications of switching, and may lead to disappointment or hassle for all parties involved, if the customer decides to reverse the switch at a later date. BT Mobile/EE said that personalised information was necessary in order for a customer to make an informed decision about switching their services.<sup>349</sup>

### Our reasoning and assessment

- 6.52 In response to Three, we do not believe that a generic prompt to check other services would be sufficient to inform customers of the impact of switching on those services, and we remain of the view that the information provided on the implications of switching should be personalised.

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<sup>343</sup> Article 102, EEC.

<sup>344</sup> See GC C5.15 in [Ofcom, Revised General Conditions of Entitlement Unofficial Consolidated Version with effect from 17 December 2021](#) and GC C5.16 in [Ofcom, Revised General Conditions of Entitlement Unofficial Consolidated Version with effect from 17 June 2022](#).

<sup>345</sup> The [2020 Switching Experience Tracker](#) (table 127, pages 1051-1058) indicates that among those individuals who considered switching but then decided not to, those with any impacting or limiting condition, such as a visual impairment or limited hearing, were more likely to anticipate having difficulties with the switching process. Notably, these customers were more likely to cite a concern that other devices or products they own would not work with a new service, as a reason for deciding not to switch providers (51% of those with a limiting factor cited this as a major or minor factor in their decision in comparison to 38% of those who did not report having an impacting or limiting condition).

<sup>346</sup> Three, Response to February 2021 Consultation, page 2.

<sup>347</sup> Three, Response to February 2021 Consultation, page 2.

<sup>348</sup> [X]

<sup>349</sup> BT Mobile/EE, paragraph 6.6; Virgin Media, paragraphs 265-266, Responses to February 2021 Consultation.

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- 6.53 This is because the provision of generic information risks confusing customers as to whether they will be subject to a charge or increased charges, and could deter customers who would not in fact face higher charges following a switch. It may also result in customers needing to engage further with their provider to understand the implications of their switch, potentially leading to greater hassle for customers and a delay to the switching process.
- 6.54 We also note that under the current Auto-Switch rules, providers are already required to send personalised information to customers (for example, about any early termination charges they must pay) within one minute.<sup>350</sup>
- 6.55 We agree with Three that it is important for mobile providers to protect their customers from fraud and maintain their security. We consider that the requirement to provide personalised information about the impact of a customer's switch on other services they have with their provider does not in itself increase the likelihood of fraud, given mobile providers are already required to give their customers bespoke switching information when they receive a request to switch.

## Similar information already provided or ascertained via other sources, including about additional support services

### Stakeholder comments

- 6.56 Vodafone and Telefónica said that customers are already sufficiently informed about the other services they have with their provider by the information they receive from other sources such as end of contract notifications, contract summaries, welcome literature, and terms and conditions, and can use this information to compare their existing and new services.<sup>351</sup> Vodafone said that customers can use their contract summary from the gaining provider to assess how their new service compares to their old one.
- 6.57 Telefónica and Vodafone also said that the forthcoming accessible format requirements render the additional losing provider switching information unnecessary, as gaining providers will, in any case, be required to determine whether a customer needs information in an accessible format when the customer signs up to a new service.<sup>352</sup>
- 6.58 Similarly, Three argued that Ofcom could also consider asking gaining providers to prompt customers about whether they require additional support services, rather than requiring losing providers to supply information about these to customers seeking to switch their service.<sup>353</sup>

### Our reasoning and assessment

- 6.59 We acknowledge that customers already receive some relevant information about the services they have with their provider from other sources, including end-of-contract

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<sup>350</sup> See GC C7.22 in Ofcom, [Revised General Conditions of Entitlement Unofficial Consolidated Version with effect from 31 December 2020](#).

<sup>351</sup> Telefónica, paragraph 7; Vodafone, page 7, Responses to February 2021 Consultation.

<sup>352</sup> Telefónica, paragraphs 7-9, Vodafone, page 8, Responses to February 2021 Consultation.

<sup>353</sup> Three, Response to February 2021 Consultation, page 2.



notifications and contract summaries. However, customers are not guaranteed to be provided with information from these sources about the impact of switching on any other services they take with the losing provider, as, unlike the switching information, these documents are not provided for this purpose.

- 6.60 For example, the purpose of the contract summary is to help ensure that customers have clear information about their *prospective* service. Without having the corresponding information from the losing provider about the impact of their switch on their existing service to hand (i.e. what we are now requiring), customers would lack the necessary information to make a full comparison between the services offered by the gaining and losing providers.
- 6.61 In addition, information about any additional support services a customer receives (such as bills in accessible formats or third party bill management) that providers will be required to give to customers when they switch is unlikely to be provided by other sources, such as end-of-contract notifications.
- 6.62 Customers may also not be able to recall the information provided in an end-of-contract notification or contract summary when switching their service. For example, customers will receive a contract summary when they sign up to a new service. Given most mobile contracts last for a minimum of 12 months, and many customers wait until their minimum contract period has ended to switch provider,<sup>354</sup> a customer may have forgotten information about additional or bundled services by the time they switch, as it is likely to have been at least 12 months since they received the information.
- 6.63 Similarly, while customers will receive an end-of-contract notification shortly before their contract ends, and an annual best tariff notification annually thereafter (for as long as they are out-of-contract), the timing of these may not always coincide with when a customer wants to switch.
- 6.64 In relation to additional support services, while we agree that gaining providers should inform their customers about the availability of such services and how to sign up for them, we do not consider this removes the need for losing providers to give customers information about the implications of their switch on these services. As set out above, in order for a customer to be able to give their express consent to a switch, they need to be provided with information about both the new services they are taking with the gaining provider *and* the consequences of their decision to cancel their services with the losing provider. Receiving the information from their losing provider will remind the customer of which services they have and mean that they can use this information for any discussions with their gaining provider about their requirements.
- 6.65 In summary, the new requirements will ensure that customers have access to relevant and personalised information about the impact of their switch, including on any additional

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<sup>354</sup> See Ofcom, 2020. [Switching Experience Tracker](#), table 44, page 202. Of those who considered and switched their mobile service, only 18% left their contract early. See also Ofcom, 2020. [Switching Experience Tracker](#), table 123, page 916. Of those who considered switching, but did not switch their mobile service, 48% said one of the reasons they stayed with their current provider was because they were still in a contract.

support services, at the time when it is likely to be most helpful – i.e. when they are about to make a decision regarding switching their services.

### **Additional support services the requirements apply to**

#### Stakeholder comments

- 6.66 Three suggested that we require providers to supply information about *only* the additional support services mandated under the General Conditions, as not doing so might risk giving customers the impression that a particular service which is not mandated under GC C5 but is offered by the losing provider, would definitely be available from the gaining provider.<sup>355</sup>

#### Our reasoning and assessment

- 6.67 Our new switching rules require providers to supply information to residential customers about the impact of a switch on any other services they have with the losing provider, which includes, but is not limited to, additional support services listed in GC C5.<sup>356</sup> Therefore, requiring providers to supply information *only* about the additional support services specified in GC C5 to customers using Auto-Switch would result in these customers receiving less information than those switching other services.
- 6.68 We recognise that in practice, the support services that providers offer are likely to be only those they are required to in GC C5. However, we note that some providers may decide to offer additional support services beyond those that are required by GC C5, and it is important for the customer to receive information on the impact of their switch on those services.

### **Provision of information to customers who switch without porting their number**

#### Stakeholder comments

- 6.69 Vodafone argued that it is not commercially realistic or proportionate to require operators to guide customers on “future decisions they may or may not need to take when the said consumer is simply cutting their ties with the operator”, given customers who switch without porting their number are “ceasing their service with the losing provider” rather than switching.<sup>357</sup>

#### Our reasoning and assessment

- 6.70 We disagree with Vodafone’s point because customers seeking to switch without porting their number (those who request a STAC) are making use of a regulated switching process (Auto-Switch). They cannot use it to simply cancel a service as they must redeem the STAC with a gaining provider, and therefore switch, in order to cancel.

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<sup>355</sup> Three, Response to February 2021 Consultation, page 2.

<sup>356</sup> See GC C7.12(d).

<sup>357</sup> Vodafone, Response to February 2021 Consultation, pages 8-9.

## Queries about how providers can meet the requirements

- 6.71 In addition to comments on the substance of the proposals, a number of stakeholders commented on, or queried, how providers could meet the proposed requirements.
- 6.72 Their responses focused on:
- Information to include in the text message.
  - Providing switching information to customers who cannot access links in text messages.
  - Providing switching information to customers with alternative format requirements.
  - Concerns about ensuring customers have had access to all their switching information before proceeding with a switch.
  - The timescale for providing switching information to customers.
  - Providing information about additional support services that are registered to a customer's number.
- 6.73 Below, we set out these comments in more detail and our response to them. We include several example text messages to illustrate our expectations of how providers should supply the required information to customers.
- 6.74 These examples are not exhaustive and are intended as illustrations only. The precise language and information contained in the text message will depend on the particular circumstances of the customer's contract(s) and the services they take from their provider.

### Information to include in the text message

#### Stakeholder comments

- 6.75 Telefónica requested that Ofcom be more specific about what information should be included in the body of the text message and what would be acceptable to include in information accessed by a web link.<sup>358</sup> Three asked Ofcom to provide a worked example of mobile switching information.<sup>359</sup>
- 6.76 Uswitch said Ofcom should specify the wording of the messages, to ensure that providers are not incentivised to use language that might deter customers from switching.<sup>360</sup>

#### Our reasoning and assessment

- 6.77 As noted in the February 2021 Consultation, when providing switching information by text message, it is acceptable for providers to set out information on the impact of the switch on a customer's other services elsewhere on another durable medium, as the format can make it difficult to effectively supply the information required.
- 6.78 However, we expect providers, as far as possible, to aim to effectively supply the key information in the body of the text message. We consider this to be information about the

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<sup>358</sup> Telefónica, Response to February 2021 Consultation, paragraph 30.

<sup>359</sup> Three, Response to February 2021 Consultation, page 3.

<sup>360</sup> Uswitch, Response to February 2021 Consultation, pages 7-8.

services that will be affected by the customer's switch and any resulting financial implications, such as their bundled broadband service increasing in price. In addition, and as noted in the February 2021 Consultation, for many customers, any impact on an additional support service will be of vital importance and therefore information should be included within the body of the text.<sup>361</sup>

- 6.79 We consider that additional or supporting detail about the impact of the changes on other services, such as changes to terms and conditions, can be provided by another durable medium, for example in a web link, or by email or post where a customer cannot access a web link.
- 6.80 This approach should ensure that customers receive the key message (i.e. that switching *will* affect their other services, and what these services are) quickly and at the same time as the other required information.
- 6.81 We also expect providers to make clear to the customer in the text message if there is additional detail about the impact of their switch on other services that is not included in the body of the text, to ensure that they are aware the text message does not contain the full information.
- 6.82 The example below illustrates how providers can supply this information to customers by SMS.

"Your PAC for XXXXXXXXXXXX is XXXXXXXXXXXX and is valid for 30 days. If you switch today we will charge you £XX.XX for the remainder of your contract. You have broadband with us, which will increase to £XX.XX a month when you switch – more information is available here: [www.\[Y's website\]/\[landing\\_page\]](#). You currently receive large print bills, which you should be able to get from your new provider. More information about your current mobile service and how to switch is available on your online account, visit [www.\[Y's website\]/\[landing\\_page\]](#).

- 6.83 In response to Uswitch, we think it is unnecessary to prescribe specific wording in the GCs to be used in the text messages, as we want to allow providers the flexibility to communicate with their customers in the way they consider would be better for their customers, provided they comply with the requirements.
- 6.84 We also consider that the requirements in the GCs for switching information to be provided in "clear, comprehensible and neutral terms"<sup>362</sup> and for providers to ensure that their contract termination procedures do not act as disincentives to switch<sup>363</sup> are sufficient to address the risk of providers using language in these messages that deters switching.

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<sup>361</sup> We also note the existing Auto-Switch requirements for providers to include information on the total charges that will apply, as well as any credit balance in respect of any prepaid mobile service, and the link to the login page for the mobile switching customer's account, in the body of the text message.

<sup>362</sup> See proposed GC C7.31(b).

<sup>363</sup> See GC C1.8.

## Providing switching information to customers who cannot access links in text messages

### Stakeholder comments

- 6.85 A number of respondents asked for more guidance on how providers could comply with the information requirements for customers who cannot access a link in a text message, for example if they do not have a smartphone.<sup>364</sup>
- 6.86 BT Mobile/EE, Telefónica, Virgin Media and Vodafone noted that they may know in some instances whether a customer has a smartphone (and can therefore click on a web link), for example, by using information they have on a customer's handset as a proxy. However, they cited a number of reasons why this information is not completely reliable: it may be up to thirty days out of date, it is only known when the provider itself (i.e. not a third party) has sold the handset to the customer, and the customer may be using a different handset to the one originally sold.<sup>365</sup> MNPOSG said that providers generally do not know which customers have smartphones.<sup>366</sup>
- 6.87 Vodafone noted its understanding that data protection rules preclude the use of information about a customer's handset unless it has the express consent of the customer.<sup>367</sup>
- 6.88 Virgin Media suggested a number of potential approaches it could explore to identify customers who cannot access a web link. These were: whether a customer has an email address registered to their account; whether a customer has created or used an online account; whether a customer has registered for paper billing; and where a customer has requested communications in an accessible format.<sup>368</sup>
- 6.89 BT Mobile/EE suggested that unless customers without smartphones make their losing provider aware that they cannot access a link, the obligation on the provider to send information via an alternative channel should not arise, while Vodafone said that providers should be able to assume that all customers have smartphones and it should therefore be incumbent on the customer to request the information in an alternative format such as a letter.<sup>369</sup>
- 6.90 Telefónica stated that it would not be able to provide the proposed information to the customer within the required one minute timeframe if the customer cannot click a link in a text message. Therefore, it argued, it could not comply with the proposed requirements.<sup>370</sup>
- 6.91 MNPOSG also said that some customers would not be able to access all of the switching information within one minute, either because they do not have a smartphone, or because

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<sup>364</sup> BT Mobile/EE, page 21; MNPOSG, paragraphs 21-22; Telefónica, paragraph 23; Three, page 3, Responses to February 2021 Consultation.

<sup>365</sup> BT Mobile/EE, paragraph 6.11; Telefónica, paragraph 19.ii); Virgin Media, paragraph 271; Vodafone, page 10, Responses to February 2021 Consultation.

<sup>366</sup> MNPOSG, Response to February 2021 Consultation, paragraph 19.

<sup>367</sup> Vodafone, Response to February 2021 Consultation, page 10.

<sup>368</sup> Virgin Media, Response to February 2021 Consultation, paragraph 273.

<sup>369</sup> BT Mobile/EE, Response, paragraph 6.12; Vodafone, page 10, Responses to February 2021 Consultation.

<sup>370</sup> Telefónica, Response to February 2021 Consultation, paragraphs 17-20.

they do not have an online account (which is the case for some Pay As You Go customers). In these cases, it said, providers would likely have to send any information that did not fit into a text message by an alternative channel, necessitating a delay.<sup>371</sup>

#### Our reasoning and assessment

6.92 We disagree with BT Mobile/EE and Vodafone’s suggestion that the obligation on providers to send information via an alternative channel should only arise if the customer makes the provider aware that they cannot access the link, and with Vodafone’s suggestion that providers should be able to assume that all customers have a smartphone.

6.93 It is important that all customers can access their switching information in a format that suits their circumstances and needs, and therefore be able to provide their express consent to the switch. We note that, while the majority of mobile users have a smartphone, a minority of customers do not. Older mobile users and those in the DE social grades are less likely to use a smartphone.<sup>372</sup> If the onus was on the customer to make the provider aware that they cannot access the link, this could result in greater hassle for customers and potentially slow down the switching process.

6.94 We acknowledge the challenges raised by several providers in accurately identifying customers who do not have a smartphone. If providers have approaches that they consider reliable to proactively identify such customers (for example, those suggested by Virgin Media), they should use those to do so.

6.95 If they do not, our expectation is that providers should ask customers to respond to the text message containing the switching code and information to let them know that they cannot access the link and how they would like any additional information to be provided. We consider that they should ask whether the customer would like the information by email or post, recognising that email is significantly faster than post, but also that some non-smartphone users may not have an email address. The example message below sets out what this could look like:

“Your PAC for XXXXXXXXXXXX is XXXXXXXXXXXX and is valid for 30 days. If you switch today we will charge you £XX.XX for your airtime contract and you will continue to pay £x.x for your handset until [date]. You also have broadband with us, which will not be affected by your switch. More information about your current mobile service and how to switch is available here, visit [www.\[Y\].co.uk/\[landing\\_page\]](http://www.[Y].co.uk/[landing_page]). If you can’t access this link, please reply ‘EMAIL’ to receive the additional information by email and ‘POST’ to receive it by post.”

6.96 Customers can also request their switching code and information by phone (our 2020 consumer research suggests that this is the second most popular route in relation to mobile switching after text message, with 32% of customers who requested a PAC doing

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<sup>371</sup> MNPOSG, Response to February 2021 Consultation, paragraph 16.

<sup>372</sup> Ofcom, 2021. [Technology Tracker](#), table 37, 92% of those sampled that personally use a mobile phone used a smartphone, while 8% did not. The proportions of smartphone users among those aged 55+ and those in the DE social grades were 83% and 82% respectively.

so).<sup>373</sup> Where a customer requests their switching code and information by phone, the customer service agent should ascertain whether the customer can access a web link in a text message and therefore in which format any further information should be provided. In any case, customers requesting their code and information through this route will receive it verbally in addition to via SMS.

- 6.97 Where a provider supplies additional detail via a web link, and believes a customer cannot access the link from their handset, or where the provider is subsequently alerted to this fact, we expect providers to generate the additional information within one minute and send it to the customer immediately if by email, or as soon as possible thereafter, if by post.

### Providing switching information to customers with alternative format requirements

#### Stakeholder comments

- 6.98 Three queried how providers could comply with the information requirements in relation to customers who require information in accessible formats. It expressed concern about providers' ability to supply the switching information to a customer within the required one minute timeframe if the customer needs the information in an accessible format, and argued that producing personalised switching information in an accessible format might take longer and suggested that Ofcom agree a timeframe for this with industry.<sup>374</sup>

#### Our reasoning and assessment

- 6.99 We note that from December 2021, providers will be required to make all communications except marketing available to customers in a reasonably acceptable format on request.<sup>375</sup> The requirement allows for providers and customers to agree a reasonably acceptable format that is supportive of a customer's needs. Switching information provided under the Auto-Switch process is included in this requirement.
- 6.100 Where a provider already knows, or is made aware, that a customer requires the information in an accessible format, they should make the switching code and information available in the customer's preferred format. For the avoidance of doubt, providers must also comply with all Auto-Switch requirements for these customers, including providing the code and information within one minute by SMS in response to all requests, and by phone and online where the customer uses those routes.
- 6.101 Where a reasonably acceptable format takes time to produce, e.g. braille, we expect (as for customers who cannot access links) providers to generate the information within one minute where practicable, and as soon as possible where not, put the information into the agreed format, and send it to the customer as soon as possible.

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<sup>373</sup> Ofcom, 2020. [Switching Experience Tracker](#), table 29, page 125. 51% of those who requested a PAC did so via text compared to 32% by phone, 26% via online account, 7% in store. (N.B. some switchers had requested a PAC by more than one method).

<sup>374</sup> Three, Response to February 2021 Consultation, page 2.

<sup>375</sup> See GC C5.15 in Ofcom, [Revised General Conditions of Entitlement Unofficial Consolidated Version](#) with effect from 17 December 2021.

## Concerns about ensuring customers have had access to all their switching information before proceeding with a switch

### Stakeholder comments

6.102 A number of stakeholders (MNPOSG, Telefónica and BT Mobile/EE) provided comments on how providers can ensure that a customer proceeds with the switch only after receiving all switching information, so that express consent is considered to be given. These comments related in particular to customers who do not have a smartphone, because these customers may need to receive any switching information that does not fit into the body of the text message by letter or email.<sup>376</sup>

### Our reasoning and assessment

6.103 We note that it is the responsibility of the losing provider to *supply* the switching information to customers within one minute. For the majority of customers, this is straightforward as the switching information will all be included in the text message that is provided within one minute of the provider receiving the request, including additional information via web link where needed; it would also be provided via the online account or on the phone if requested that way.

6.104 We have set out (in paragraphs 6.92 to 6.97) above our expectations for how providers should comply with these requirements where they know, or are made aware, that a customer cannot access any additional information provided via a link, and they have made their request by text message. We consider that these expectations will mitigate the risk of a customer proceeding with a switch without receiving their full switching information, as they should have received the key message about which other services will be affected by their switch, and been alerted to the fact that further information on their switch is being sent separately.

6.105 We also noted above (in paragraph 6.29) the requirements on gaining providers with regard to getting customers' express consent to a switch, which apply regardless of the of changes to the losing provider information requirements.

## Timescale for providing switching information to customers

### Stakeholder comments

6.106 Three argued that it would not be feasible to provide "non-financial switching information" to any customer within one minute. It asked Ofcom to set a more realistic timeframe for provision of information that does not pertain to financial matters.<sup>377</sup>

### Our reasoning and assessment

6.107 We consider it is important that customers receive all required switching information at the same time, so that they can consider it in the round and make an informed

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<sup>376</sup> BT Mobile/EE, paragraph 6.13; MNPOSG, paragraphs 20-22; Telefónica, paragraph 23, Responses to February 2021 Consultation.

<sup>377</sup> Three, Response to February 2021 Consultation, page 1.



decision. Allowing more time for one part of the switching information to be delivered would slow down the overall process.

6.108 We also note that Three was the only respondent to raise concerns about the feasibility of providing this information within one minute.

6.109 Therefore, we do not intend to extend the timeframe of one minute within which providers must supply customers with the additional switching information.

### **Providing information about additional support services registered to a number**

#### Stakeholder comments

6.110 Three said that providers may not be aware of customers' additional support services if they are registered to their number rather than to their provider (for example, emergency SMS). As a result, Three argued, providers may not be able to supply all of the proposed information about additional support services to customers.<sup>378</sup> Vodafone also noted that providers may not be aware of all third party services a customer has registered for.<sup>379</sup>

#### Our reasoning and assessment

6.111 We appreciate that providers may not be aware of a customer's additional support services if they are registered to their mobile number rather than to their provider. However, we still consider it important that customers with services registered to their number and who choose not to switch their number should be made aware of the implications of switching on these services, given their importance (for example, in ensuring that deaf or hard of hearing people can access the emergency services using SMS).

6.112 In practical terms, when a customer requests a PAC, they should still be able to use any services registered to their number following their switch, as their number will be ported when they switch. However, when a customer requests a STAC, this may not be the case.

6.113 Therefore, our expectation is that providers inform customers that any services registered to their number will not automatically be available if they switch without porting their number. In practice, this could be a short message to this effect, included in the switching information provided to all customers requesting a STAC, as in the example below:

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<sup>378</sup> Three, Response to February 2021 Consultation, page 2.

<sup>379</sup> Vodafone, Response to February 2021 Consultation, page 9.

“Your STAC is XXXXXXXXX and is valid for 30 days. If you switch today we will charge you £XX.XX for the remainder of your contract. If you have any services registered to your number (such as Emergency SMS), you may need to re-register for these after you switch. More information about your current mobile service and how to switch is available here, visit [www.\[Y’s website\]/\[landing\\_page\]](#). If you can’t access this link, please reply ‘EMAIL’ to receive the additional information by email and ‘POST’ to receive it by post.”

## Implementation deadline

### Stakeholder comments

- 6.114 Three said that providers should be given more time than we proposed to make these changes, noting the other reforms, derived from the EECC, that providers are currently implementing would make the deadline challenging to meet.<sup>380</sup>
- 6.115 [381]
- 6.116 BT Mobile/EE said our proposed deadline was likely to be achievable but requested confirmation of our decision as early as possible to allow it to begin work on the required changes to its systems.<sup>382</sup>

### Our reasoning and assessment

- 6.117 We have taken into account comments from stakeholders on our proposed deadline for providers to make these changes. As we discuss in Section 5, we have decided to allow providers until April 2023 to implement One Touch Switch. This means it is necessary to delay the new switching rules coming into force so that they apply from the same date. As the new switching rules also apply to mobile, we have decided that the changes to the Auto-Switch information requirements should come into force on 3 April 2023.

## Proportionality of our changes

### Stakeholder comments

- 6.118 Vodafone argued that the EECC only requires providers to give customers “adequate” information but Ofcom is proposing to require providers to provide “all” information, without conducting a cost benefit analysis to justify this approach.<sup>383</sup> Telefónica said that we should be mindful of the costs and benefits of our proposals, and “ideally” should conduct an impact assessment.<sup>384</sup>

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<sup>380</sup> Three, Response to February 2021 Consultation, page 3.

<sup>381</sup> [381]

<sup>382</sup> BT Mobile/EE, Response to February 2021 Consultation, page 20.

<sup>383</sup> Vodafone, Response to February 2021 Consultation, page 9.

<sup>384</sup> Telefónica, Response to February 2021 Consultation, paragraph 16.

- 6.119 Three said that the cost and practical barriers of delivering personalised information are disproportionate to the benefit to customers.<sup>385</sup> [✂]<sup>386</sup>

### Our reasoning and assessment

- 6.120 Our amendments are required to give full effect to our new switching information and consent rules, which were implemented to reflect the mandatory EECC requirements for customers to be adequately informed throughout the switching process and not switched without their explicit consent.
- 6.121 For some providers that will entail implementation steps and costs. However, our changes are proportionate, as they do not go beyond the minimum required for customers to be adequately informed, and because they allow providers flexibility when deciding the most appropriate means to supply this additional information to customers.
- 6.122 These changes will ensure an appropriate baseline level of information for residential mobile customers during the switching process and support them in making informed switching decisions. They will also help address some of the information-related factors that can deter customers from considering switching or going through with a switch.
- 6.123 Providers already have systems and processes in place to supply switching information to their customers. They may need to make changes to the information they provide, how they provide it and when, to comply with the new requirements.

## Our decision and consultation on changes to the General Conditions

### Changes to Auto-Switch

- 6.124 We have decided to proceed with the proposals set out in the February 2021 Consultation in relation to Auto-Switch. Mobile providers will be required to supply residential customers with information regarding the impact of a switch on any other services they have with the losing provider, such as bundled services or additional support services, by 3 April 2023.
- 6.125 We consider that these changes are required to give full effect to our new information and consent rules, ensure consistency for fixed and mobile customers and provide protections for customers using additional support services.

### Legal tests

- 6.126 We consider our changes to the Auto-Switch GCs meet the test for setting or modifying conditions set out in section 47(2) of the Act. For the reasons explained more fully in this section, we consider that our changes are:

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<sup>385</sup> Three, Response to February 2021 Consultation, page 2.

<sup>386</sup> [✂]

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- objectively justifiable as they are required to give full effect to our new general information and consent GCs (which reflect EECC requirements), in order to achieve the customer benefits pursued by them;
- not unduly discriminatory since the changes will ensure that the same regulatory measures apply in respect of all providers of relevant communications services;
- proportionate as our view is that to the extent that our changes will introduce any additional regulatory burden on industry, they are limited to what is necessary to give full effect to our new general information and consent GCs (which reflect EECC requirements); and
- transparent as the reasons for the changes that we are making to the conditions are explained above and the specific changes we are proposing to make to the rules are set out in detail in our GC consultation in Section 7.

6.127 To give effect to this decision, we are now consulting on the text of proposed changes to the relevant General Conditions as set out in Section 7 and Annexes 8 and 9.

## 7. Consultation on changes to the General Conditions

- 7.1 This section sets out the changes we propose to make to the GCs to implement the decisions made in Sections 5 and 6. In particular:
- Our decision to require the industry to develop and operate One Touch Switch (see section 5).
  - Our decision to remove the Notification of Transfer rules (see section 5).
  - Our decision to require losing mobile providers to supply residential customers with information on the impact of their switch on other services (see section 6).
- 7.2 We note in sections 5 and 6 that the GCs giving effect to these changes should apply from 3 April 2023.
- 7.3 We also propose a number of consequential changes to definitions, as well as further minor changes and additions to aid navigation and correct an error identified in the GCs.
- 7.4 Below, we set out the proposed changes, and our rationale for them. All references to the GCs, unless otherwise stated, are to the proposed version set out in Annex 9. Throughout this section we refer to the new proposed rules to implement One Touch Switch (and which will replace the Notification of Transfer rules) as the “fixed switching process rules”, while, as noted in Section 2, we refer to the high level switching rules confirmed in December 2020 as the “new switching rules”.
- 7.5 We are also consulting on new guidance on the requirement for a PAC or STAC and mobile switching information to be provided to residential customers within one minute)<sup>387</sup>, which sets out how providers should comply with this requirement when they are using multi-factor authentication. This reflects informal guidance already provided to industry.
- 7.6 The text of our proposed new and amended GCs is set out in the revised General Conditions in Annex 9. The draft guidance on GC C7.28 (17 December 2021 version of the GCs) is contained in Annex 10.
- 7.7 We invite comments on our proposals by 9 November 2021.

### Proposed GCs to implement the One Touch Switch process

- 7.8 We propose to require providers of voice and broadband services to residential customers at a fixed location to maintain a switching process which meets a number of conditions. In particular, the switching process must:
- a) comply with providers’ obligations under the new switching rules;

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<sup>387</sup> GC C7.28 (17 December 2021 version of the GCs).

- b) be maintained in accordance with any applicable industry processes as agreed by the relevant industry forum;
- c) be a single process;
- d) be available for use free of charge;
- e) not require certain actions from the customer, in particular:
  - i) contacting the losing provider to start the process;
  - ii) getting consent from the losing provider; or
  - iii) taking any other steps required by the losing provider; and
- f) include the provision of information to the customer by both the losing and gaining providers.

7.9 The effect of these proposals is that providers will need to develop and use the One Touch Switch process for residential customers switching fixed voice and broadband services.

7.10 We recognise that industry will need to do further work to develop the operational details of the One Touch Switch process. In proposing the fixed switching process rules, we have aimed to ensure that industry has the flexibility to design the process in a customer-friendly and efficient way. Therefore, our proposals focus on the key features of the One Touch Switch process as proposed by industry.<sup>388</sup> We do not propose to specify in detail all the elements of the process, with the exception of requirements relating to the provision of information. We consider that industry has the necessary expertise to design the operational details of the process and is therefore best placed to agree such detail.

7.11 Below we discuss the proposed scope of the One Touch Switch rules and the elements a) to f) as set out above.

7.12 We also propose to include explanatory text above the One Touch Switch rules to aid with navigation of the requirements.

## Scope of the One Touch Switch rules

### Services in scope

7.13 We propose that the One Touch Switch rules should apply to providers of IAS or NBICS or both which are provided at a fixed location.

7.14 This reflects our decision in Section 5 to require providers to develop and operate the One Touch Switch process for all fixed voice and broadband services (i.e. those services within scope of the new switching rules provided at the same location), regardless of the technology or network the provider uses.

7.15 Our proposed GC text on scope is intended to complement the scope of the Auto-Switch rules, which apply in relation to services which are designed or adapted to be used in

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<sup>388</sup> We propose one change to the process as originally proposed by industry, which we discuss in paragraphs 7.47-7.56.

## Quick, easy and reliable switching

motion (see GC C7.1(j) and definition of ‘Mobile Communications Service’). Similar to the scope of the Auto-Switch rules, our proposed scope does not make reference to a specific technology type which will ensure the rules continue to apply as new technologies are developed and introduced.

- 7.16 Our proposal means that services that are delivered to a fixed location, including those delivered via mobile broadband, fixed wireless and satellite technologies, would be in scope of the One Touch Switch rules.
- 7.17 Together with the scope of the Auto-Switch rules, the proposed scope of the One Touch Switch rules will ensure that any residential customer that wishes to switch a IAS or NBICS or both will be able to make use a regulated switching process to do so.
- 7.18 In drafting the proposed scope conditions for One Touch Switch, we have also specified which requirements apply to losing providers who provide bundles to customers using One Touch Switch.
- 7.19 Our proposals are set out in the new proposed GC C7.1(d) to (g) and the definition of ‘Fixed Communications Service’.

### Customers in scope

- 7.20 We propose that the One Touch Switch rules should apply to providers who provide services to residential customers who wish to switch their services (or port their phone numbers) and are party to a contract with either gaining or losing provider.
- 7.21 This reflects our decision in Section 5 that the One Touch Switch process should be developed and operated for the use of all residential customers.
- 7.22 Our proposals are set out the new proposed GC C7.1(d) to (g) and the definition of ‘Fixed Switching Customer’.

### Circumstances in which the rules apply

- 7.23 We propose that the One Touch Switch rules should apply to providers when switching a customer’s fixed voice and broadband service at the same location and at the request of the customer.
- 7.24 This reflects our request to industry to develop a process that addressed switching provider of the services within scope of the new switching rules at the same location (and hence does not need to incorporate home-moves).<sup>389</sup> Circumstances in which a customer switches provider and changes location at the same time are covered by the home-move requirements (see paragraphs 7.154-7.157 below). It also reflects that our work to reform switching has not considered provider-initiated migrations (e.g. providers migrating their customers from copper to full-fibre broadband).<sup>390</sup>

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<sup>389</sup> See paragraph 2.32

<sup>390</sup> See February 2021 Consultation, paragraph 2.43 (footnote 40) and October 2020 Statement, paragraph 9.2 (footnote 350).

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- 7.25 Our proposals are set out in the new proposed GC C7.1(d) to (g) and the definition of ‘Fixed Switching Customer’.

## Maintained in accordance with industry agreed processes and new switching rules

- 7.26 As noted above, we want to ensure industry has the flexibility to design the process in a customer-friendly and efficient way and so have not proposed to specify all elements of the process in detail. Industry will need to do further work to develop the operational details of the One Touch Switch process and we expect such details to be agreed and documented during implementation of the process.
- 7.27 Providers will need to comply with the One Touch Switch rules in addition to their obligations in the new switching rules. Taken together, these rules specify all the consumer protection requirements that will need to be taken into account when industry designs the operational details of the One Touch Switch process. For clarity, we have included a reference to the new switching rules in the obligation to maintain the One Touch Switch process.
- 7.28 We also propose that providers will be required to maintain the One Touch Switch process in accordance with any applicable industry agreed processes. This is in recognition that many details of how the process operates in practice will be contained in industry agreements, and once such agreements have been made it will be important that providers follow them. We expect industry to ensure that these agreements support a process that is consistent with One Touch Switch as described and discussed in this document.

## Single process available

- 7.29 All residential customers who switch landline and broadband services will be able to use the One Touch Switch process regardless of who their provider is or the technology or network their provider uses. This fulfils our policy objective of ensuring that customers can switch their fixed voice and broadband services using an effective and efficient process that complies with our new switching rules and does not create unnecessary difficulties or deterrents.
- 7.30 As explained in Section 5, our policy objective would not be met by a sub-set of providers developing a separate process or by providers developing a separate process for a sub-set of customers, as this could result in unnecessary switching difficulties or deterrents, and could also cause confusion and additional costs for providers (paragraph 5.25). We expect providers to work together to develop and operate one unified process for all customers and services within the scope of the One Touch Switch rules. To ensure this, we propose that providers must maintain a single fixed switching process.
- 7.31 Our proposals are set out the new proposed GC C7.18.



## Free of charge

7.32 In addition, we propose to prevent providers from levying a charge on a customer to make use of the One Touch Switch process. We consider such a charge may discourage customers from switching. We note that providers are under a general obligation to ensure that conditions or procedures for contract termination do not act as a disincentive to changing provider under GC C1.8. For the avoidance of doubt, we consider it is necessary to propose a specific prohibition on charging customers for use of the One Touch Switch process in GC C7, in addition to the general requirement set out in GC C1. This is also consistent with the Auto-Switch rules, which prohibit providers from charging customers for the receipt of their code or switching information.

7.33 Our proposals are set out the new proposed GC C7.20.

## Actions that cannot be required of the customer

7.34 As noted in Section 4 (paragraph 4.120), one key feature of the One Touch Switch proposal is that the customer does not have to contact their losing provider in order to switch their services.

7.35 Therefore, we propose that providers should be prohibited from requiring certain actions from the customer, in particular from:

- contacting the losing provider to start the process;
- getting consent from the losing provider; or
- taking any other steps required by the losing provider.

7.36 We consider that these prohibitions will ensure that the process providers must maintain is that of the general form of the One Touch Switch proposal.

7.37 While this requirement will ensure that customers are not required to engage with the losing provider to switch, it is not intended to stop them from discussing their existing service or the implications of switching on their service with their losing provider. Customers will still be free to contact their losing provider about their switch if they wish to do so.

7.38 The proposed One Touch Switch process envisages that where the matching process between the gaining and losing provider fails, a customer may need to provide further details to their gaining provider (e.g. account number, phone number or serial number on their equipment).<sup>391</sup> We expect that One Touch Switch should be developed to minimise the need for such additional matching information where possible.

7.39 Where additional information is needed, we expect that to the greatest extent possible it should be information that the customer can obtain from any records they have about their service, to avoid the need to contact the losing provider. As explained in further detail in Section 4 (see in particular paragraphs 4.123 to 4.149), this is because contact with the

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<sup>391</sup> See Section 2, Table 2.2, Step 1

losing provider during the switching process may result in more hassle and effort for the customer, as well as unwanted save activity.

7.40 However, we accept that in some cases it may be more expedient for a customer to contact their losing provider if a match fails. Our proposal is not intended to prohibit this so long as such a step is not required to initiate the process or constitutes consent from the losing provider for the customer to switch.

7.41 Our proposals are set out the new proposed GC C7.19.

### **Obligations on losing and gaining providers in relation to the provision of information to the customer**

7.42 Another key feature of One Touch Switch relates to the way in which a customer requests and is provided with information from the losing provider about their switch. Customers must contact the gaining provider, who requests that the losing provider provides the relevant switching information to the customer.

7.43 Accordingly, we propose to set out a sequence of obligations that gaining and losing providers have to follow in order to ensure the information is provided to the customer. In particular, we propose obligations on:

- gaining providers to request the losing provider make the switching information available to the customer;
- losing providers to make the switching information available via the quickest method, unless the customer requests an alternative method;
- losing providers to inform the gaining provider how the information is made available to the customer, and on gaining providers to point out the information has been made available and how, and its importance;
- gaining and losing providers to cooperate to ensure customers receive the switching information quickly.
- gaining providers to provide contract information; and
- losing providers to provide switching information, including on identity of the gaining provider and any steps needed to switch bundled services.

7.44 In addition, we propose that losing providers be required to inform customers, as part of the switching information, of the identity of the gaining provider and any steps needed to switch bundled services.

7.45 We consider these detailed requirements on providers are needed in addition to the general obligations contained in the new switching rules in order to maintain the form of the One Touch Switch process. They ensure providers are under specific obligations to progress this part of the process smoothly and that customers are adequately informed of the implications of any decision to switch in a timely way. We note that in practice, providers will develop and operate the Hub to facilitate their compliance with these obligations (see paragraphs 7.107-7.110).

7.46 This proposed sequence of obligations above does not wholly reflect the One Touch Switch process as envisaged by industry. This reflects our decision (see paragraph 5.35) not to not adopt certain details of the process as originally proposed. We discuss the proposed sequence of events in relation to the switching information below and the options we have considered. We then discuss each of our proposed obligations in turn.

#### **Proposed change to the way in which a customer requests and is provided with switching information**

7.47 The One Touch Switch process as proposed by industry specifies that the Hub will send the losing provider's switching information directly to the customer using the contact details provided by the losing provider, but also to the details provided by the gaining provider, if these are different. This would, in effect, enable a customer to inform the gaining provider of the contact method and the specific contact details to which they wished to receive the switching information, even where the contact details were different to those already held by the losing provider. This would largely apply to instances where customers switch by phone (or in person). Where a customer switches online, industry envisaged designing a means for losing provider information to be provided via the gaining provider online sales portal.<sup>392</sup>

7.48 We understand that the aim of the proposal was to ensure that the switching information was provided to the customer quickly and did not disrupt the sales process, given the customer would know where to access it. In particular, it would avoid the need for customers to contact their losing provider to find out where their switching information has been sent. It would also address the risk that customers might be unable to access their switching information at all if, for example, it has been sent to an old email address which the customer can no longer access.

7.49 As noted in Section 4 (paragraph 4.199), our view is that allowing a customer to provide new contact details for receiving their losing provider switching information could risk customer information being sent to a person other than the authorised customer. As noted in Section 5 (paragraph 5.35), we have amended the process from that proposed by industry and will not require that a losing provider send the switching information to contact details provided to the gaining provider. This means the losing provider switching information will in practice only be sent to the contact details already registered with the losing provider (unless the customer subsequently contacts the losing provider to update their contact details and asks for the information to be re-sent to their new contact details).

7.50 We recognise that removing this element of the process risks slowing down the switching process for some customers. We have considered three options to address this:

- a) Allowing the switching information to be sent to any of the customer's contact details that are already registered with the losing provider;

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<sup>392</sup> See Section 2, Table 1: One Touch Switch process steps, Step 2.

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- b) Allowing the customer to specify to the gaining provider the method only (e.g. post, email) via which they wish to receive the switching information from the losing provider (the gaining provider would then pass this information on to the losing provider in the way envisaged by industry, instead of the actual contact details); or
  - c) Requiring the losing provider to send the information by the quickest means (unless the customer has requested otherwise) and to notify the gaining provider of the method by which the switching information has been sent so they can tell the customer.
- 7.51 We do not consider removing the ability for customers to provide new contact details to their gaining provider and not proposing a replacement for it (option a) above) would further our policy objective that customers should be able to switch provider in an effective and efficient way. It would not address the risks resulting from this option as identified above.
- 7.52 In contrast, we consider that allowing the customer to specify the method by which they wish to receive the switching information (option b) above) could improve the operation of the switching process. It would make the process run more smoothly by reducing the need for customers to contact their losing provider to determine where the information has been sent. However, there is the potential for the customer's instructions in relation to where to send the information to conflict with previously given instructions as to how they wish to be contacted by the losing provider. There is also a potential for a customer to request the information to be sent via a method for which the losing provider does not hold any contact details.
- 7.53 The final option of requiring the losing provider to notify the gaining provider of the means by which this information has been made available, so they can tell the customer (option c) above), is our preferred option. Similar to option b), it would make the process run more smoothly by reducing the need for customers to contact their losing provider to determine where the information has been sent. In addition, there would not be a conflict with any instruction the customer has previously given to the losing provider about how to communicate with them and it would remove the potential for the customer to request the information to be sent via a method for which the losing provider does not hold any details. We would expect the losing provider to use the customer's nominated contact details and where the losing provider has a choice of methods, they should choose the quickest.
- 7.54 Being informed about the means by which the losing provider switching information has been sent to them should help to ensure that the customer knows where to look for the information, and therefore be able to access it quickly and make an informed decision about whether to proceed with their switch.
- 7.55 We recognise that none of the options addresses the risk that customers might be unable to access their switching information at all if it has been sent to an old email address which the customer cannot access. In these circumstances a customer would need to contact the losing provider to update their contact details.

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- 7.56 The proposals below reflect our choice of option c). We particularly welcome views on this proposal, including which option, or any alternative proposal, that would more effectively our policy objective as discussed in Section 2.

### **Obligation on gaining providers to request the losing provider make the switching information available to the customer**

- 7.57 We propose to require that, when a customer requests to switch their services, the gaining provider must request that the losing provider makes available the switching information as set out in proposed GC C7.25 (see below) to a customer.
- 7.58 This is as envisaged by the One Touch Switch proposal,<sup>393</sup> and will ensure that there is a mechanism for the customer to receive the switching information from their losing provider, given they will not have contact with the losing provider during the switching process.
- 7.59 Our proposal is set out in the new proposed GC C7.21.

### **Obligation on losing providers to make the switching information available via the quickest method**

- 7.60 As noted above, we are proposing to change the way in which a customer requests and is provided with switching information from that originally envisaged by industry.
- 7.61 We propose that the losing provider be required to ensure they make available the switching information as set out by proposed GC C7.25 (see below) promptly, in accordance with agreed industry processes and via the quickest communications method available unless the customer requests an alternative method.
- 7.62 Our proposal ensures that losing providers are under a general obligation to respond to requests from gaining providers to provide information to the customers quickly. In addition, our proposal means that where a provider has choice of communication methods, they should choose the quickest. The only circumstance where they should choose a method that is not the quickest is where a customer has previously requested that they are communicated with via another means. This is because we consider it important that the customer is able to retain control over how they receive information about their services.
- 7.63 Our proposal places this particular obligation on the losing provider, but in practice we recognise the industry would need to develop the Hub to facilitate the provision of switching information from the losing provider to the customer. The proposed reference to acting in accordance with agreed industry processes would support the use of such a system once developed and require losing providers to follow the necessary steps in relation to sending the information via the Hub (see also the gaining provider's obligation to cooperate with losing providers below in paragraphs 7.71-7.74).

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<sup>393</sup> See Section 2, Table 2.2, Step 2

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- 7.64 We consider our proposals reflects our policy objective to ensure that customers can switch their fixed services using an effective and efficient process while also enabling customers who have a preference to choose a different communications method.
- 7.65 Our proposal is set out in the new proposed GC C7.27(a).

### **Obligations on losing providers to tell the gaining provider how the information is made available and on gaining providers to point out the information has been made available and how, as well as its importance**

- 7.66 To complement the obligation on the losing provider as discussed above at paragraphs 7.60-7.65, we propose obligations on the gaining and losing provider that seek to ensure that the customer is made aware of the switching information and where to find it.
- 7.67 Specifically, we propose that losing providers be required to inform the gaining provider of the means by which the information listed in proposed GC C7.25 (see below) been made available to the customer. We also propose that the gaining provider tells the customer that this information has been made available and how, and expressly draw the customer's attention to the importance of the information.
- 7.68 These proposals ensure that, whichever method of communication the losing provider uses to send the information, the customer will be told where to find it by the gaining provider. The proposal, alongside those above, would entail a sequence of events that should ensure the customer quickly understands where to find the information and that it is important for them to read.
- 7.69 Given the customer will not have engaged with the losing provider, there is a risk that the customer will not know that the information is available, or not read it, before they proceed with the switch if the gaining provider does not highlight its availability and importance. We consider these proposals help to ensure that customers are adequately informed throughout the switching process and can give their express consent to a switch.
- 7.70 Our proposal is set out in the new proposed GCs C7.23 and C7.27(b).

### **Obligation on gaining providers to cooperate with losing providers to ensure customers get the switching information quickly**

- 7.71 To ensure providers work together to ensure the customer can access their switching information quickly, we propose a supporting cooperation requirement on gaining providers in relation to providing information.
- 7.72 Specifically, we propose that gaining providers must co-operate with losing providers to ensure the information referred to in proposed GC C7.23 (see above) is made available promptly and in accordance with any applicable industry agreed processes.
- 7.73 This will complement the obligations on the losing provider to make the information available promptly and via the quickest available means. Similarly, the proposed reference to acting in accordance with agreed industry processes would support the development and use of the Hub to facilitate the provision of information and require gaining providers to follow the necessary steps in relation to sending the information via the Hub.

7.74 Our proposal is set out in the new proposed GC C7.24.

**Obligation on gaining providers to provide contract information**

7.75 We also propose to set an obligation for gaining providers to provide the information listed in GC C7.11 to the customer as part of the contract information and summary they must also provide under GC C1.3.

7.76 Providers will already be under an obligation to provide this information to all residential customers switching voice and broadband services (both fixed and mobile). We propose to include this obligation as part of the One Touch Switch process for the avoidance of doubt. This proposal ensures that the One Touch Switch rules cover all the specific steps related to the provision of information that apply to switches of fixed services. We consider it particularly important to make clear the steps providers need to take as part of ensuring they have the customer's express consent to switch (see below).

7.77 Our proposal is set out in the new proposed GC C7.22.

**Obligation on losing providers to provide switching information, including on identity of the gaining provider and any steps needed to switch bundled services**

7.78 In complying with the obligations discussed in this section, we propose that losing providers should make available the information specified by the new switching rules (GC C7.12). In addition, we propose losing providers should confirm the identity of the gaining provider and, where the customer has other services bundled with their voice and broadband service, inform the customer of any steps they need to take to transfer those bundled services. In particular, for customers with a bundled mobile service, providers should explain the steps the customer needs to take to switch that service under the Auto-Switch process.

7.79 In order to comply with the new switching rules, we propose that losing providers must ensure that the information is accurate, provided in clear, comprehensible and neutral terms, and on a durable medium. While providers will already be under an obligation to provide the information in this manner, we propose to include this requirement as part of the One Touch Switch process for the avoidance of doubt.

7.80 Providing additional information on the identity of the gaining provider forms part of the One Touch Switch process as originally proposed by industry,<sup>394</sup> and is intended to act as a safeguard against slamming and the risk that a customer could be switched to the wrong gaining provider.

7.81 The requirement to provide information on the steps needed to switch bundled services is in our view important to ensure that customers know how to navigate the different processes needed to switch all services in their bundle, if they wish to do so. Absent this requirement, the losing provider may not make this clear to the customer. This could

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<sup>394</sup> See Option Y, August 2020. Gaining Provider Led Switching – the Option Y proposal, page 8.

potentially lead to hassle for the customer if they do wish to switch all of their bundled communications services, as they may need to contact their losing provider for further information.

- 7.82 We have proposed a similar requirement for mobile services (see below). These proposals will ensure that customers with bundled services receive similar information about how to switch the other element of their bundle irrespective of which service, and which switching process, they choose first.
- 7.83 For simplicity and consistency, we propose that customers receive these additional pieces of information alongside and in the same way as the other switching information. This will ensure customers receive all the information they need to be adequately informed at the same time.
- 7.84 Our proposals are set out in the new proposed GCs C7.25 and C7.26.

## **Implications of complying with new switching rules and the proposed One Touch Switch rules**

- 7.85 We consider that the need to comply with the new switching rules and the proposed One Touch Switch rules (the latter in accordance with any applicable industry agreed processes) would have a number of implications for how providers can meet their obligations. For clarity we have set our views and expectations below on:
- co-operation between providers;
  - enabling customers to use the One Touch Switch process;
  - consent;
  - ensuring the customer is informed about how One Touch Switch works;
  - the matching process; and
  - the Hub.

### **Cooperation between providers**

- 7.86 The new switching rule GC C7.4(b) and (c) confirmed in December 2020 requires providers to:
- a) cooperate in good faith and take all necessary steps within their control to complete the switch in accordance with GCs C7 and B3 and any applicable industry agreed processes; and
  - b) not delay or abuse the switching process.
- 7.87 In addition, new proposed GC C7.18 requires that in complying with the new switching rules, providers must maintain the One Touch Switch process in accordance with any applicable industry agreed processes.
- 7.88 Therefore, once industry has agreed the operational details of the process, providers will be obliged to follow those documented agreements and cooperate to operate the process.



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7.89 In considering whether a provider was meeting these obligations, we would likely take into account any documented process agreements. Where a provider was not following the processes as described, we would be more likely to consider that they were not compliant.

### Enabling customers to use the One Touch Switch process

7.90 We consider that our proposal to require the use of a single process in combination with the new switching rules would ensure that both losing and gaining providers are under an obligation to facilitate the use of One Touch Switch by any residential customer who wishes to switch their fixed voice or broadband service.

7.91 New switching rule GC C7.5(b) requires gaining providers to allow any customer to make use of the process they maintain in accordance with their obligations under GC C7.

7.92 Therefore, we do not consider that a gaining provider would be complying with their proposed obligations if they sought to provide new services to a customer without making use of the One Touch Switch process where it is applicable. Similarly, we do not consider a losing provider would be complying with their proposed obligations if they sought to cancel a customer's services without highlighting to the customer the availability of One Touch Switch if they wished to have new services provided by another provider.

7.93 In both these scenarios, we consider that providers would be circumventing the protections provided for by our decision to require providers to develop and operate One Touch Switch.

### Consent

7.94 The One Touch Switch rules do not contain specific requirements relating to consent, as this is addressed by the new switching rules confirmed in December 2020. Specifically, GC C7.9 requires that the gaining provider take all reasonable steps to ensure that:

- a) it does not switch a customer's services without the customer's express consent; and
- b) the customer who requests the switch is authorised to do so and intends to enter into the contract.

7.95 Express consent means the express agreement of the customer obtained in such a manner which has enabled the customer to make an informed choice (see the definition of 'Express Consent' in the GCs).

7.96 As noted in our October Statement, the decision on the part of a customer to switch services involves both:

- a decision to accept a contract for new services with a gaining provider; and
- a decision to cancel a contract for services with the losing provider.

7.97 It follows that in order for a customer to make an informed choice about whether to switch their services, and therefore to be in a position to give their express consent to a switch, the customer needs to have been given information about both:

- the new services they are taking with the gaining provider; and

- the consequences of their decision to cancel their services with the losing provider.<sup>395</sup>

7.98 Given the obligations in GC C7.9 and the new obligations on the gaining provider in proposed GCs C7.21-7.24 (see paragraphs 7.57-7.59 and 7.66-7.77,)), we consider that in order to ensure they do not switch customers without their express consent, a gaining provider must take the following steps:

- a) request that the losing provider make the switching information available to the customer;
- b) notify the customer that the switching information has been made available and how it has been made available;
- c) expressly draw the customer's attention to the importance of the information; and
- d) provide contract information in accordance with GCs C7.11 and C1.

7.99 Gaining providers should also ensure customers are adequately informed before and during the switch (see below).

#### **Ensuring the customer is informed about how One Touch Switch works**

7.100 New switching rule GC C7.10(a) requires that both gaining and losing providers take all reasonable steps to ensure that customers are adequately informed before and during the switch. New switching rule GC C7.10(b) requires that providers provide guidance on the switching process.

7.101 Considering the proposed new fixed switching process rules together with these new switching rules, we consider there are several elements of the One Touch Switch process that providers should inform customers about and include in the guidance provided pursuant to GC C7.10(b). We do not think it is necessary to require providers to supply this information to customers in the fixed switching process GCs, because the information is general in nature and relates to how the switching process works. We have set out our expectations of what this should include below.

7.102 We consider that providers should include in their guidance and inform customers about the fact they do not need to cancel their contract with their losing provider, that the gaining provider will coordinate the ceasing of their existing service(s) and that there should not be any service charges from the losing provider after the switch. Providers should also make clear that the losing provider switching information will tell customers what will happen to any services they have bundled with their voice and broadband services.

7.103 This information should therefore help to ensure that customers, including those with bundles, understand how the One Touch Switch process works and what steps they need (and do not need) to take in order to switch.

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<sup>395</sup> [October 2020 Statement](#), paragraph 9.182-9.183

### Matching process

- 7.104 An important part of the One Touch Switch process is the matching process. This relies on there being a mechanism in place to match the details the customer supplies to the gaining provider to the customer's details in the losing provider's records.<sup>396</sup>
- 7.105 We have not proposed any specific obligations in relation to the matching process. In order to comply with the proposed One Touch Switch rules, providers will need to develop an effective matching process as part of the design and implementation phase. We expect, when designing the operational details of the process, that providers seek to ensure that the matching process minimises the risk of matching failing on the first attempt. This will be important in reducing the need for customers to provide additional information, in order to make the switching process as quick and easy as possible.
- 7.106 We recognise that it is possible that some matching failures will occur. Where these do happen, we also expect there to be a system in place to resolve these in a timely manner.

### The Hub

- 7.107 Similar to the matching process, we have not proposed any specific obligations in relation to the proposed Hub. We recognise that the development and operation of the Hub will be central to the success of the One Touch Switch process.<sup>397</sup> However, we consider industry is best placed to determine and agree upon its development and operation in order to comply with their obligations.
- 7.108 In particular, we would expect industry to agree on the nature of the information to be passed between the Hub and providers, the relevant response times and the systems and processes providers would need to have in place in order to be able to respond to the Hub to ensure a quick and easy process for customers. We consider these factors would be important in supporting an efficient and effective process.
- 7.109 We consider that providers' obligations to cooperate to complete the switching process and follow any applicable industry agreements would also incorporate their need to cooperate in the operation of the Hub. Where the process was not working as expected because of a provider's failure to interact with the Hub as set out in the applicable industry agreements, we would likely consider that they were not compliant with the relevant obligations, including in proposed GC C7.18.
- 7.110 We also recognise that providers will need to develop the Hub to be compliant with their obligations under data protection legislation. Our proposed new GC C7.19 in relation to actions that cannot be required of the customer in One Touch Switch is not intended to prevent the losing provider taking any steps necessary to comply with its data protection obligations in order to share their data with the Hub. However, we do expect industry to

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<sup>396</sup> See Section 2, Table 2.2, Step 1

<sup>397</sup> See Section 2, paragraph 2.44.

design the operational details of the Hub so that any such steps does not disrupt the switching process.

## Removal of the Notification of Transfer rules and consequential changes

- 7.111 As noted in Section 5, we have decided to remove the rules relating to the Notification of Transfer process.
- 7.112 Therefore, we propose to remove:
- a) GCs C7.18-C7.29 (19 December 2022 version of the GCs). These provisions contained the Notification of Transfer rules.
  - b) GC C7.14(a) (19 December 2022 version of the GCs). This provision is no longer relevant following the removal of the Notification of Transfer rules.
  - c) Annex 1 to Condition C7 (19 December 2022 version of the GCs). This Annex contained further detail on the specific Notification of Transfer rules.

## Proposals to implement changes to Auto-Switch

- 7.113 We propose to amend the rules relating to the Auto-Switch process to:
- give effect to our decision set out in Section 6 to ensure consistency between the Auto-Switch information rules and the new switching rules confirmed in December 2020, in particular to ensure customers receive consistent information when they switch fixed and mobile services;
  - consolidate the Auto-Switch requirements with the new switching rules and update terminology accordingly; and
  - aid navigation and interpretation of the requirements.

## Giving effect to our decision to amend the Auto-Switch information requirements to ensure consistency with the new switching rules

- 7.114 We propose that providers of mobile services who are losing providers must, on request, provide the following information to residential customers:<sup>398</sup>
- a) a clear identification of the services being transferred, including where relevant, the phone number(s);
  - b) the impact, whether direct or indirect, financial or otherwise, of the switch on the customer's other services with the losing provider, including additional support services;
  - c) the communications services that will be unaffected by the switch;

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<sup>398</sup> We note that, in consolidating the Auto-Switch information requirements with those set out in the new switching rules, the existing Auto-Switch information requirements (to supply customers with the total charge payable, any prepaid credit balance, and the web link to the customer's online account) remain and will now be captured by GC C7.30.

- d) where the customer has a service bundled with their mobile service, an explanation of any steps they need to take to transfer those bundled services, including the steps in the One Touch Switch process for customers with a bundled fixed voice or broadband service.
- 7.115 We set out our intention in the February 2021 Consultation to improve the consistency in the information that residential customers switching their mobile and fixed services receive. Our view was that the greatest inconsistency was that fixed switchers would receive information on the impact of their switch on other services, while those using Auto-Switch would not.
- 7.116 Therefore, we proposed to require losing providers to supply information to residential customers about the impact of their switch on any other services the customer has. We confirmed this decision in Section 6.
- 7.117 On reviewing the GCs, we think that the most appropriate way to ensure consistency between the information residential customers receive when they are switching is to apply all of the relevant losing provider information requirements in the new switching rules,<sup>399</sup> and the requirement for this information to be provided on a durable medium (which is also in the new switching rules), to Auto-Switch.
- 7.118 In our view, when considered in the round, the proposed changes are not significantly different from those we proposed in February 2021 and December 2019, either in substance or costs for providers, and have the benefit of ensuring consistency in the information residential customers using Auto-Switch and One Touch Switch receive.
- 7.119 This will mean that as far as possible, and taking into account the different switching processes, all residential customers will receive the same information on a medium that they can easily refer back to, no matter what services they are switching or which process they are using. This information is important to ensuring customers are adequately informed and can give their express consent to the switch.<sup>400</sup>
- 7.120 We discuss our rationale for each of the newly proposed changes in more detail below.

### **The services that will be transferred**

- 7.121 We propose that losing providers should be required to supply a clear identification of all communications services that will be switched, including, where relevant, the Calling Line Identification of the services that will be transferred, to customers using Auto-Switch.
- 7.122 In practice, this means that providers must inform customers of the number(s) they are switching. This will help the customer make an informed choice about their switch and is

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<sup>399</sup> We note that some of these changes (for both residential and business customers) were previously proposed in the December 2019 Consultation – we discuss these further in paragraphs 7.139-7.142 below.

<sup>400</sup> See October 2020 Statement, paragraph 9.68

likely to be of particular use to customers who are switching more than one number, so that they can keep track of the numbers that will be switched.<sup>401</sup>

- 7.123 Our proposal is set out in the new proposed GC C7.30, which refers to the new switching rule GC C7.12(c).

### **The impact of the switch on other services**

- 7.124 We confirmed our decision, and our rationale, to require that losing providers supply this information to residential customers using Auto-Switch in Section 6. Our proposal is set out in the new proposed GC C7.30, which refers to the new switching rule GC C7.12(d).

### **Services that will be unaffected by the switch**

- 7.125 In addition to information about the impact of a customer's switch on their other services (i.e. what we confirmed in Section 6 that losing providers will now be required to provide during the Auto-Switch process), the new switching rules contain a requirement for the losing provider to inform the customer of which communications services will be *unaffected* by the switch.
- 7.126 We consider that this information represents the counterpart to that about the impact of a switch on a customer's other services. If we did not require this additional piece of information, customers who have other communications services with their losing provider may need to contact them for further information about the status of their other services following their switch, which could potentially lead to hassle and delay the switching process.
- 7.127 Given providers will already be required to supply information about the impact on the switch on the customer's other services, we do not consider that this new requirement represents substantial additional cost or effort for providers. We have set out in Section 6 (see paragraph 6.95) what providing this information could look like in practice.
- 7.128 Our proposal is set out in the proposed new GC C7.30, which refers to the new switching rule GC C7.12(e).

### **Information for bundled customers about how to switch their other communications services**

- 7.129 We propose that bundled customers using Auto-Switch should be given information by their losing provider about how to switch any other bundled communications services. This is the equivalent of the proposed requirement on losing providers in the One Touch Switch process. As noted in paragraph 7.81, we consider this information necessary for customers to know how to navigate the different processes needed to switch all services in their bundle, if they wish to do so.

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<sup>401</sup> We note that customers can use the Auto-Switch process to switch up to 24 mobile numbers. Customers switching more than one mobile number via Auto-Switch cannot use the SMS route, as this is only for switches of one mobile number.

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- 7.130 Absent this requirement, the losing provider may have an incentive not to make this clear to the customer. This could potentially lead to hassle for the customer if they do wish to switch all of their other communications services as they may need to contact their losing provider for further information.
- 7.131 Ensuring this information is provided to customers using both Auto-Switch and One Touch Switch will also ensure that customers with bundled services receive similar information about how to switch the other element(s) of their bundle irrespective of which service they choose to initiate the switch for first.
- 7.132 Our proposal is set out in the new proposed new GC C7.30(b)ii(b).

### The means by which the information should be provided

- 7.133 We propose that for residential customers, the mobile switching information must be provided in a durable medium, which reflects the requirement in the new switching rules (GC C7.13(b)) in both substance and scope. In practice, this information must already be provided in a durable medium under the existing Auto-Switch rules. These state that all customers, no matter which method they have used to request it, must receive the code and information by SMS, and that those who request their switching code and information via their online account will receive it there, in addition to by SMS.<sup>402</sup>
- 7.134 This requirement will ensure that any additional information provided by text but which cannot fit into the body of the text (i.e. is accessed via a link in the text), will also be provided on a durable medium to residential customers. This will ensure that customers will be able to easily access and refer back to it if necessary, as they can for information provided during other switching processes (for example, One Touch Switch).
- 7.135 Our proposal is set out in proposed new GC C7.31(c).

### Other information in the new switching rules not included in the Auto-Switch information requirements

- 7.136 We note that there are two provisions in the losing provider switching information in GC C7.12 which we are not proposing to apply to Auto-Switch (GC C7.12(a) and (b)). These are the requirement to explain to the customer that the customer is switching their communications services, and specify the migration date where that is known to the losing provider.
- 7.137 These provisions are not relevant to Auto-Switch due to the nature of the process. Requesting a switching code and information via the Auto-Switch process does not in itself trigger a switch, so the losing provider cannot provide an explanation that the customer is switching their services. The switching code is valid for 30 days and the customer can choose to redeem it at any point during that period, meaning the losing provider will not know the precise date of the switch, if the customer chooses to proceed.

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<sup>402</sup> See GCs C7.23 and C7.26 in 31 December 2020 version of the GCs.

## Changes needed to consolidate the Auto-Switch rules with the new switching rules

- 7.138 We also propose to make a number of other changes to the GCs to consolidate the Auto-Switch requirements with the new switching rules confirmed in December 2020. These are:
- a) Changes needed to consolidate the Auto-Switch information rules and the new switching rules.
  - b) Addition of a new GC which requires the information to be accurate and provided to customers in clear, comprehensible and neutral terms. This represents a minor change to the existing requirement,<sup>403</sup> to align with the wording used in the new switching rules.
  - c) Removal of some Auto-Switch GCs which have been incorporated into the new switching rules.
  - d) Updating terminology used in the Auto-Switch GCs to reflect widely used industry terms and the definitions used in the new switching rules.
  - e) Minor amendments to the Auto-Switch scope provisions to reflect terminology used in the new switching rules and to clarify which customers the requirements apply to, to assist with interpretation of the requirements.

### Changes needed to consolidate the Auto-Switch information rules and new switching rules

- 7.139 We propose that, in addition to the information requirements for residential customers set out in paragraph 7.114 above, providers of mobile services who are losing providers must, on request, provide the following information to residential customers and business customers:<sup>404</sup>
- a) the total aggregated charge payable by the customer on the switch date where known, or on the date the information is provided;
  - b) an explanation of the following:
    - i) the cost and process for returning any terminal equipment,
    - ii) as part of the information provided under (i), whether the handset and airtime are provided for on separate contracts and if so, the amount still due under the contract and/or date on which the handset will be paid off; and
    - iii) any credit balances for prepaid services, and, if applicable, the right to a refund of this balance, any conditions applying to that refund, and how to claim it.
  - c) the location of the provider's guidance on the switching process;
  - d) the customer's right to compensation;

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<sup>403</sup> The existing requirement is for the information to be provided in "clear, intelligible and neutral terms". See GC C7.22 in 31 December 2020 version of the GCs.

<sup>404</sup> As noted in footnote 398, the existing Auto-Switch information requirements will now be captured by GC C7.30.



## Quick, easy and reliable switching

- e) where the information is provided in a letter, the date of the letter and the losing provider's contact details; and
- f) where the information is provided in an electronic format, a link to the customer's online account.

7.140 We consider that these changes to the Auto-Switch losing provider information requirements are necessary to consolidate Auto-Switch with the new switching rule which sets out the information losing providers must give to customers when they switch.

7.141 As noted in Section 6, we proposed these changes in our December 2019 Consultation.<sup>405</sup> We said in our February 2021 Consultation that we would re-consult on these changes alongside those necessary to give effect to the decision set out in the statement, so that stakeholders could view and provide comments on all proposed changes to C7 in the round.

7.142 Our proposal is set out in proposed new GC C7.30, which refers to the new switching rule GC C7.12(f) to (k).

### **The manner in which switching information should be provided**

7.143 We propose to add a requirement that all mobile switching information provided to customers is accurate and provided in clear, comprehensible and neutral terms. This reflects the new switching rule (GC C7.13) which contains the same requirements, as well as the existing Auto-Switch requirements (GCs C7.22(a) and (e) in the 31 December 2020 version of the GCs).

7.144 Our proposal is set out in proposed new GC C7.31(a) and (b).

### **Removal of Auto-Switch GCs which have been incorporated into the new switching rules**

7.145 We propose to remove a number of requirements in the Auto-Switch GCs which have been incorporated into our new switching rules, as originally proposed in the December 2019 Consultation.<sup>406</sup> The requirements we propose to remove are:

- a) the obligation to ensure customers are not charged for services after the switching process has been completed (GC C7.51(b), 19 December 2022 version of the GCs), which has been incorporated into our new switching rule banning notice period charges (GC C7.8).
- b) the obligation to complete the switching process for mobile services within one working day (GCs C7.53 and C7.54, 19 December 2022 version of the GCs), which has been incorporated into our new switching rule regarding the date of the switch (GC C7.3).

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<sup>405</sup> See Ofcom, December 2019 Consultation, paragraph 7.213, and [Annex 16 \(Proposed Amended General Conditions of Entitlement\)](#) to that consultation.

<sup>406</sup> See Ofcom, [December 2019 Consultation](#), paragraph 7.214.

- c) the obligation to provide guidance on the switching process, and that this guidance is publicised and readily available on providers' websites (GCs C7.56 and C7.57, 19 December 2022 version of the GCs). This has been incorporated into our new switching rule to provide easy to understand guidance on the switching process and to inform residential customers of the location of that information (GCs C7.10, C7.11 and C7.12).
- d) the obligation to provide compensation (GCs C7.58 and C7.59, 19 December 2022 version of the GCs), which has been incorporated into our new switching rules regarding the customer's right to compensation (GCs C7.47-C7.49).

### Changes to terminology

- 7.146 We propose a number of overarching amendments to the terminology used in the Auto-Switch GCs. Specifically, we propose to:
- a) Replace all references to N-PAC (Non-Porting Authorisation Code) with STAC (Service Termination Authorisation Code) to better reflect the terminology widely used by industry when describing the Auto-Switch process. This change was also originally proposed in the December 2019 Consultation.<sup>407</sup>
  - b) Use the terms 'losing provider' and 'gaining provider' in the Auto-Switch rules where relevant to specify which provider particular obligations apply to, and to reflect the terminology used in the new switching rules and in the fixed switching process rules.
  - c) Replace references to 'Subscriber' with 'Mobile Switching Customer' in the requirement to advertise the means by which the PAC, STAC and/or mobile switching information can be requested (GC C7.46(a) and (b)).<sup>408</sup> This is to clarify that the web link where this is advertised should not only be available to customers who already have a contract with their provider, but more widely to ensure that it is readily accessible to anyone considering whether to switch.

### Minor clarificatory amendments to Auto-Switch scope provisions

- 7.147 We propose that all references in the scope provisions of GC C7 to 'Mobile Switching' should be replaced with 'Communications Provider Migration'.<sup>409</sup> This will ensure that these provisions reflect the terminology used in the new switching rules and the fixed process switching rules.
- 7.148 We also propose to simplify the structure of the Auto-Switch scope provisions, so that, in addition to setting out which requirements apply to all mobile switches of 25 numbers or less, it is clear which Auto-Switch requirements apply to residential customers only, business customers only, and which to providers of bundles. This should assist with understanding the requirements.

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<sup>407</sup> See Ofcom, [December 2019 Consultation](#), paragraph 7.215.

<sup>408</sup> GC C7.55 in the 19 December 2022 version of the GCs.

<sup>409</sup> We are also proposing to remove the definition Mobile Switching from the GCs. For more detail on our proposal, see below.

7.149 Our proposed amendments to terminology and clarifications are set out in proposed GC C7.1(j).

## Minor changes to aid navigation and interpretation of the Auto-Switch rules

### Addition of footnotes linking to clarification and proposed guidance

7.150 We propose to add footnotes to the applicable GCs providing the location of:

- a) A link to an existing Ofcom clarification regarding the application of GCs C7.32(a) and C7.38(a) to multi-SIM accounts and contracts.<sup>410</sup>
- b) Our proposed guidance (see Annex 10) on how providers should comply with the requirement to provide a switching code and information within one minute when they use multi-factor authentication to verify customers' identities (GC C7.28 in the 17 December 2021 version of the GCs and GC C7.36 in our proposed 3 April 2023 version of the GCs). We propose that this should be added to of the GCs in force at the time when we confirm the guidance.

7.151 These additions should help to make our clarification and guidance easier to find.

### Addition of explanatory text above the Auto-Switch GCs

7.152 We propose to add explanatory text above the Auto-Switch GCs to assist with navigation of the requirements.

## Other changes

7.153 We are proposing a small number of other changes to GC C7. These are:

- a) Minor amendments to the home-moves and 'other migrations' requirements and the corresponding scope provisions to make clear to which providers and situations these rules apply.
- b) Correcting a minor error identified in one of the new switching rules confirmed in December 2020.

## Amendments to the home-moves and 'other migrations' requirements

7.154 We propose to retain the existing requirements relating to home-moves and 'other migrations' (GCs C7.28 and C7.29, as well as Annex 1 to Condition C7).<sup>411</sup> This is because switches that take place at the same time as a home-move are out of scope of One Touch Switch, which only applies to switches that take place at the same location, and because the 'other migrations' rules provide protections for some customers when they are

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<sup>410</sup> See Ofcom, [Statement: Decision on reforming the switching of mobile communications services, Update 4 January 2019, Multi-SIM contracts and multi-SIM accounts.](#)

<sup>411</sup> NB in the 19 December 2022 version of the GCs, this was Annex 2 to Condition C7.

switching or making changes to their services outside of the scope of the One Touch Switch rules.

7.155 To make the scope and application of these provisions clear, we are proposing to:

- a) Specify in proposed revised GC C7.1(h) that C7.28 applies to any provider providing fixed-line telecommunications services and/or DSL broadband services to customers when a home-move is taking place within Openreach's or KCOM's network.
- b) Specify in proposed revised GC C7.2(b) that the relevant communications services for the purpose of C7.28 are any fixed-line telecommunications services and/or DSL broadband services within Openreach's or KCOM's network.
- c) Specify in proposed revised GC C7.1(i) that GC C7.29 applies to any provider providing any type of broadband service to customers when a migration is taking place within Openreach's or KCOM's network, and which is not covered by GC C7.28.
- d) Specify in proposed revised GC C7.2(c) that the relevant communications services for the purpose of C7.29 are any broadband services within Openreach's or KCOM's network.

7.156 Since the technological scope of the existing Notification of Transfer GCs is more limited compared to the proposed One Touch Switch GCs, we have proposed some changes to the definition of 'Migration' (see paragraphs 7.173-7.175 below) which are intended to clarify the residual scope of GC C7.29. Although only one referencing change has been proposed to C7.29, we have proposed an amendment to the scope of the rule via the proposed changes to the definition of 'Migration'. To aid with understanding the requirements, we are also proposing to clarify in explanatory text above the applicable GCs that:

- GC C7.28 applies where residential customers are moving home and changing the provider of their fixed-line telecommunications services or DSL broadband services.
- GC C7.29 now applies where:
  - Residential customers are moving home and changing the provider of their broadband services outside the scope of GC C7.28. This includes, for example, where a customer is switching to or from an FTTP service.
  - Residential customers are not switching their provider of their DSL broadband service when moving home.
  - Residential customers are making changes to their service, without moving home or switching provider. This includes, for example, where a customer is upgrading to a faster broadband speed with their existing provider.

7.157 We recognise that our proposal to retain the home-moves and other migrations rules, alongside the proposed new GCs specifying the One Touch Switch process, is likely to mean that the protections for customers when they are moving home (whether or not they are switching their provider at the same time) differ according to the network and services used by the provider(s) in question. We intend to consider what changes, if any, are needed to these requirements in the future to ensure that all customers are adequately

protected when they move home and switch, no matter which provider they switch from or to.

### **Correcting an error identified in the new switching rules**

- 7.158 GC C7.15(b) states that the gaining provider is required to create and keep a record of the explanation from the losing provider that they are required to keep a record of the customer's consent to the switch.
- 7.159 This is an error. The explanation should be provided by the gaining provider, given the gaining provider is the one who is obtaining consent from the switching customer. We therefore propose to amend GC C7.15(b) to refer to the gaining provider.

### **Proposed new and amended definitions, and removal of definitions**

- 7.160 As a result of the changes we propose above, we are proposing to make some changes to the definitions in the GCs. Specifically, we propose to make changes as a result of:
- The proposed fixed switching process rules.
  - The removal of the Notification of Transfer rules.
  - Aligning terminology used in the definitions with that used in the new switching rules confirmed in December 2020.
  - The proposed changes to the Auto-Switch rules.
  - Our proposal to specify the situations in which the 'other migrations' rule apply.
- 7.161 We also propose to make a small number of other changes to assist with interpretation of the requirements, reflect widely used industry terminology, and remove any definitions no longer used in the GCs.

### **Changes resulting from the proposed fixed switching process rules**

- 7.162 We propose to add two new definitions which are used in the scope conditions in relation to the One Touch Switch rules, and thereafter at applicable points throughout GC C7.

#### **Fixed Communications Service**

- 7.163 We propose a new definition of 'Fixed Communications Service' which means an 'Internet Access Service and/or a Number-based Interpersonal Communications Service which is provided at a fixed location'.
- 7.164 We propose to use this definition in the relevant scope provisions (GC C7.1(d) to (g)). It is intended to capture all services that residential customers can switch using the One Touch Switch process. It is technology-neutral to ensure that the requirement to use the One Touch Switch process applies regardless of the underlying technology used to provide the service (see paragraph 7.14 above).

### Fixed Switching Customer

- 7.165 We propose a new definition of ‘Fixed Switching Customer’ which means ‘a Subscriber (of either the Gaining Provider or the Losing Provider) who is a Consumer who has requested, is requesting or considers requesting a Communications Provider Migration for the purposes of Conditions C7.18 to C7.27’.
- 7.166 We propose to use this definition in the relevant scope provisions (GC C7.1(d) to (g)). This definition makes clear the One Touch Switch rules should apply to providers who provide services to residential customers who wish to switch their services, and are party to a contract with either the gaining or losing provider (see paragraph 7.20 above).
- 7.167 This definition is intended as a counterpart to the definition of ‘Mobile Switching Customer’.

### Changes resulting from the removal of the Notification of Transfer rules

- 7.168 The removal of the Notification of Transfer rules means that several definitions which are not used anywhere in the GCs except in those rules need to be removed. We envisage that, when developing the detailed rules of One Touch Switch, industry will develop equivalents to these processes and functionalities. The definitions which we propose to remove are:
- a) Cancel Other.
  - b) Failure to Cancel.
  - c) Transfer Order.
  - d) Transfer Period.
- 7.169 We also propose to remove the definition of ‘Domestic and Small Business Customer’ and ‘Domestic or Small Business Customers’. We noted in our December 2020 Statement that we had retained this definition as it is used in GC C7.14(a).<sup>412</sup> As we are now proposing to remove GC C7.14(a) (19 December 2022 version of the GCs) following removal of the Notification of Transfer rules (see above), this term is no longer used in the GCs.

### Changes resulting from aligning with terminology used in the new switching rules

- 7.170 We propose to make a number of changes to the definitions in order to ensure that, as far as possible, they reflect the new switching rules confirmed in December 2020. We propose to:
- a) Amend the definition of ‘Slamming’ to:
    - i) Remove all references to services and technologies specific to Openreach and KCOM. This will ensure that the slamming definition reflects the new switching

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<sup>412</sup> See [December 2020 Statement](#), paragraph 3.42, footnote 41.

rules and the fixed process switching rules, neither of which will refer to specific network operators or technologies.

- ii) Broaden the scope of the definition to include any transfer of Internet Access Services and/or Number-based Interpersonal Communications Services. This will ensure that the definition matches the scope of the requirement (GC C7.9(a)) for providers not to engage in slamming.
- b) Remove the definition 'Mobile Switching' as the term 'Communications Provider Migration', which reflects the new switching rules, is used instead.
  - i) The definition of 'Mobile Switching Customer' must therefore also be amended to replace the reference to 'Mobile Switching' with 'Communications Provider Migration' and 'Number Portability'. In addition, to reflect the position set out in our October 2020 Statement,<sup>413</sup> we propose to amend the definition to ensure that it only captures customers in contract with their provider (whether they are within their initial commitment period, or a subsequent rolling contract), and not those who have terminated their contract with their provider and subsequently decide to port their number.

## **Changes resulting from the proposed changes to the Auto-Switch losing provider information requirements**

- 7.171 As a result of our proposed changes to the Auto-Switch rules, we propose a new definition of 'Mobile Switching Information' which means 'the information referred to in Condition C7.30(b)'. We propose that this will replace the definition 'Switching Information' in relation to the Auto-Switch rules.
- 7.172 This reflects the fact that GC C7.30(b) now contains the mobile switching information requirements, and that there is no longer a distinction between mandatory and optional information.

## **Changes resulting from specifying the situations where the 'Other Migrations' rules apply**

- 7.173 The definition 'Migration' is used in the 'other migrations' provision (GC C7.29). Given our proposal to specify the circumstances in which this GC applies, we propose to also update the definition of Migration. We propose to remove from the scope of GC C7.29 Communications Provider Migrations for residential customers at the same location where these are outside of the scope of the previous Notification of Transfer requirements.
- 7.174 This is because they would be covered by the proposed One Touch Switch requirements (which are technologically neutral). We have also made further changes to the definition of

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<sup>413</sup> See [October 2020 Statement](#), paragraph 9.111. We explained that, because Auto-Switch was designed to improve the switching experience of mobile customers who are still in contract with their provider, the Auto-Switch rules do not apply in situations where customers have already terminated their contract but subsequently decide to port their number.

Migration to clarify what is now the residual scope of GC C7.29. Specifically, we propose to amend the definition so that it encompasses situations where a residential customer:

- switches the provider of their broadband service at the same time as moving home, where both providers use Openreach's or KCOM's network;
- is moving home but does not switch the provider of their DSL broadband service, and the provider uses Openreach's or KCOM's network; and
- moves to another broadband service with their existing provider, without moving home, and where the provider uses Openreach's or KCOM's network.

7.175 We also propose to update the definition of 'Target Line' to include 'Communications Provider Migration', in addition to 'Migration' and 'Home-Move Request', as a necessary consequential change to the proposed revised definition of 'Migration'. There is no substantive change to the scope of 'Target Line'.

## Other changes to definitions

7.176 We propose to make the following changes to the definitions, the reasons for which are set out below:

- a) Amend the definition of 'Porting Process'. This is to make clear that requirements relating to this process are contained in Condition B3, in addition to Condition C7.
- b) Remove the definitions 'Residential Mobile Tariff' and 'Business Mobile Tariff'. We consider it is no longer necessary to use these defined terms in GC C7. The removal of these terms was previously proposed in the December 2019 Consultation.<sup>414</sup>
- c) Remove the definition 'N-PAC'. As noted above, we are proposing to replace this throughout GC C7 with the term Service Termination Authorisation Code (STAC), to reflect the term widely used by industry.
- d) Remove the definition 'Non-Porting Switching Process'. This term is no longer used in GC C7 as the provisions do not distinguish between mobile switching where a customer ports their number, and where they do not.

## Implementation date

7.177 We propose that the changes to the GCs discussed in this section and set out in the draft amended GCs in Annex 9 should apply from 3 April 2023. The rules coming into force on this date would include: the new rules introducing One Touch Switch; the removal of the rules relating to the Notification of Transfer process; the proposed change to the information requirements under the Auto-Switch process; and the new switching rules.

7.178 This reflects our decision in Section 5 (see paragraphs 5.34-5.36) and Section 6 (see paragraph 6.124-6.125)

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<sup>414</sup> See Ofcom, [Fair treatment and easier switching for broadband and mobile customers, Annex 13](#), Table 1 - Scope.



7.179 We propose that the guidance on GC C7.28 (17 December 2021 version of the GCs) should apply as soon as practicable after we publish our statement on these changes to the GCs and guidance. We will confirm the implementation date in that statement. In the meantime, we expect industry to continue to abide by the informal guidance we previously provided on this issue.

## Test for setting general conditions

7.180 We consider that the changes we are proposing to make to GC C7 (and the definitions used therein) meet the test for setting or modifying conditions set out in section 47(2) of the Act. We consider our proposals, as set out above, are:

- a) **objectively justifiable** in that they are required to give effect to our decisions, set out in Sections 5 and 6, including in relation to the One Touch Switch and Auto-Switch switching processes and the 'other migrations' rule (in relation to which it is necessary to take account of the removal of the Notification of Transfer rules and clarify the residual scope);
- b) **not unduly discriminatory** in that the same regulatory measures would apply to providers of relevant communications services;
- c) **proportionate** in that they do not go further than is necessary to give effect to our decisions, set out in Sections 5 and 6, regarding the One Touch Switch and Auto-Switch switching processes; and
- d) **transparent** as the reasons for our proposals are explained above and the proposed changes to the GCs are shown in Annexes 9 and 10.

# A1. Responding to this consultation

## How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 9 November 2021.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/simpler-broadband-switching>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [switching@ofcom.org.uk](mailto:switching@ofcom.org.uk), as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A1.4 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than five minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
  - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.5 We will publish a transcript of any audio or video responses we receive (unless your response is confidential).
- A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact the team at [switching@ofcom.org.uk](mailto:switching@ofcom.org.uk).

## Confidentiality

- A1.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [the Ofcom website](#) as soon as we receive them.

## Quick, easy and reliable switching

- A1.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

## Next steps

- A1.14 Following this consultation period, Ofcom plans to publish a statement confirming changes to our General Conditions in early 2022.
- A1.15 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the Corporation Secretary at [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk).

## A2. Ofcom's consultation principles

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

## A3. Consultation coversheet

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## A4. Consultation questions

Question 1: Do you agree with our proposed new GCs to implement the One Touch Switch process?

Question 2: Do you agree with our proposed amendments to the Auto-Switch GCs?

Question 3: Do you have any other comments on our proposals?

## A5. Glossary and abbreviations

**Auto-Switch:** the regulated process for switching mobile provider, including if the customer wants to retain 24 numbers or fewer.

**Communications provider (provider):** a person who provides an electronic communications network or provides an electronic communications service, as defined in the Communications Act 2003. The terms ‘communications provider’ and ‘provider’ are used interchangeably throughout this document.

**Durable medium:** this means paper or email, or any other medium that: (a) allows information to be addressed personally to the recipient; (b) enables the recipient to store the information in a way accessible for future reference for a period that is long enough for the purposes of the information; and (c) allows the unchanged reproduction of the information to be stored. This definition derives from the General Conditions.

**Early termination charge (ETC):** a charge that may be payable by the Subscriber for terminating a contract before the end of the Commitment period. This definition is included in the General Conditions.

**European Electronic Communications Code (EECC):** a new EU Directive, which updates and replaces the four Directives that currently make up the EU regulatory framework for electronic communications. It entered into force on 20 December 2018 and EU member states had until 21 December 2020 to transpose it into national law.

**Full-fibre broadband:** a form of broadband that uses fibre cables all the way from the exchange to people’s homes or property.

**Gaining provider:** the new provider to whom the customer is switching their service(s).

**General Condition (GC):** a general condition set by Ofcom under section 45(2)(a) of the Act.

**Interactive Voice Response (IVR):** a technology that allows customers to interact with a communications provider over the phone using their voice or keypad without speaking to a customer service agent.

**Losing provider:** the provider from whom the customer is switching their service(s). May also be referred to as ‘current provider’ or ‘old provider.’

**Mobile:** a mobile telephony subscription, i.e. a service including the provision of a SIM, which enables a customer to make and receive mobile voice calls and SMS, and/or use data services through a mobile handset.

**Notification of Transfer:** the regulated process for residential and small business customers to switch fixed landline or broadband services within the Openreach and KCOM copper networks.

**Pay TV:** a subscription-based television service, usually charged at a monthly fee, offering multichannel television channels beyond those available free-to-air. It can be delivered through cable, satellite, digital terrestrial and/or the internet (IPTV).

**Porting:** where a consumer keeps their telephone number when they switch providers.

**Porting Authorisation Code (PAC):** a unique code that allows customers to keep 24 mobile numbers or fewer when switching provider using the Auto-Switch process.

**PSTN:** The circuit-switched telephone network operated by BT and other electronic communications providers.

**SIM-only:** a contract between a mobile network provider and a customer whereby the customer is only paying for the monthly network service and not a handset.

**Service Termination Authorisation Code (STAC):** a unique code allowing customers to switch provider without retaining their phone number through the Auto-Switch process.