Vodafone's Response to Ofcom's consultation on Consumer switching

Consumer experience of switching mobile communications services and options for process reforms

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About Vodafone

Headquartered in the UK, Vodafone is a global business investing and innovating in all the markets we serve to deliver telecommunication services to our customers. Our home market is no exception and Vodafone UK has now successfully integrated the former fixed line business of Cable&Wireless Worldwide, resulting in the creation of a uniquely fully converged communications provider. With £2.5M being invested each day in our UK network, we remain committed to delivering the very best for our customers.

Executive Summary

Vodafone has always put its customers at the heart of everything it does: in order to serve the needs of its wide customer demographics (comprising of multi-national enterprises as well as private consumers), a fluid and competitive business environment is essential. In particular, a slick switching process allows customers to fully benefit from Vodafone's significant investments in developing innovative services, building a stronger and reliable network, and delivering a positive customer service experience.
If consumers cannot switch between providers easily, they might incur unnecessary switching costs deriving from the co-existence of multiple switching processes, resulting in distress and inconvenience. Furthermore, consumers who have suffered a detriment in transferring their services between telecommunications providers may be deterred from switching providers in the future and, consequently, they may not be able to benefit from the advantages that changing provider in a competitive market offers. This was the case of customers of fixed voice and Broadband services prior to Ofcom's harmonisation of the switching processes for fixed line services delivered over the Openreach and KCOM copper networks. In fact, before the implementation of a Gaining Provider Led (GPL) switching process for fixed line in June 2015, consumers who wanted to transfer their fixed line services to a new provider were exposed to significant risks due to:

- The co-existence of multiple switching processes for the purchase of the same service.
- Delays, increased costs and Reactive Save activity to convince consumers to reverse their decision to switch.
- A very high risk of slamming (over 84,000 cases per year based on 2012/13[1] data).
- A very high risk of Erroneous transfers, where the wrong line has been inadvertently switched for over 45[2]% of churning customers - often as a result of home moves.
- 20%[3] of switching customers suffer some loss of service when switching.

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1 Ofcom, Consumer Switching, Consumer Switching, A statement and consultation on the processes for switching fixed voice and broadband providers on the Openreach copper network http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/summary/Consumer_Switching.pdf

2 Ofcom, Consumer Switching, Consumer Switching, A statement and consultation on the processes for switching fixed voice and broadband providers on the Openreach copper network http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/summary/Consumer_Switching.pdf

The reforms in the switching process for fixed line implemented in June 2015 addressed significant evidence of consumer harm and enabled consumers to arrange a change of provider easily, quickly, and with more confidence.

Barrier to switch provider also exist in relation to content services: since internet usage has become mainstream and smartphone technology has placed this capability in the hands of ever more consumers, customers are more inclined than ever before to use different types of network services interchangeably. However, as consumers use these services interchangeably, they are more inclined to purchase these services from a single provider. This then raises the issue of barriers to entry within one market being leveraged from one service sector, into another. This is particularly concerning within the Pay TV market, where Ofcom have identified the capacity of 'key content' to act as a significant driver of consumer choice. Vodafone remain concerned that if access to this content cannot be secured on FRND terms, the incentive to invest to meet future triple-play and quad-play demands is severely hampered, to the detriment of effective competition and consumer choice across telephony services.

By contrast, switches and portability processes in the mobile market already follow an efficient and slick process with limited evidence of consumer harm. According to Ofcom's Consumer Experience Report 2014, 91% of customers who have switched mobile service provider in the last 2 years found the process to be "very easy" or "fairly easy". In absence of clear evidence of consumer harm in the switching process for mobile, Vodafone sees no justification for the implementation of costly, new switching practices in the mobile market.

Whilst appreciating the importance of effective switching processes in the telecoms market, Vodafone does not support Ofcom in replacing the current mobile switching process, which is proving to be effective. Ofcom should only intervene if the current switching processes lead to a clear market failure and if the benefits of any intervention outweigh the costs: any change in the current practices for transferring mobile services to a new provider should be substantiated by a clear cost benefit analysis to establish whether the proposed change to the switching process would generate positive net benefits.

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[3] Ofcom, Consumer Switching, Consumer Switching, A statement and consultation on the processes for switching fixed voice and broadband providers on the Openreach copper network http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/summary/Consumer_Switching.pdf

Q1: ***Do you agree that current mobile switching processes impair the consumer switching experience through increased switching costs, coordination difficulties, loss of service, uncertainty of porting status or risks of unwanted save activity? What benefits do current processes deliver which would be difficult to achieve through alternative processes?***

Vodafone recognizes the importance of efficient and effective switching processes for consumers to exercise their ability of choosing appropriate services from the most convenient provider, as well as for businesses to promote healthy competition. In its 2010 Strategic Review of Consumer Switching, Ofcom expressed its preference for switching processes led by the provider to whom the customer is moving; the Gaining Provider is supposed to have a greater incentive to make the switching process work well. Following from the implementation of a single Gaining Provider Led switching process for Fixed Voice and Broadband services provided over the Openreach and KCOM copper networks, Ofcom has turned its attention to switching processes on other networks and services.

For this purpose, since 2010 Ofcom has undertaken substantial market research to assess consumers' switching experience in the mobile sector and, more specifically, try to gather evidence of consumers' harm under the current switching process. The below headings have been considered by Ofcom as indications that current mobile switching arrangements are likely to generate unnecessary harm for churning customers and deter considerers from engaging in the process.

Consumer difficulty and unnecessary switching costs

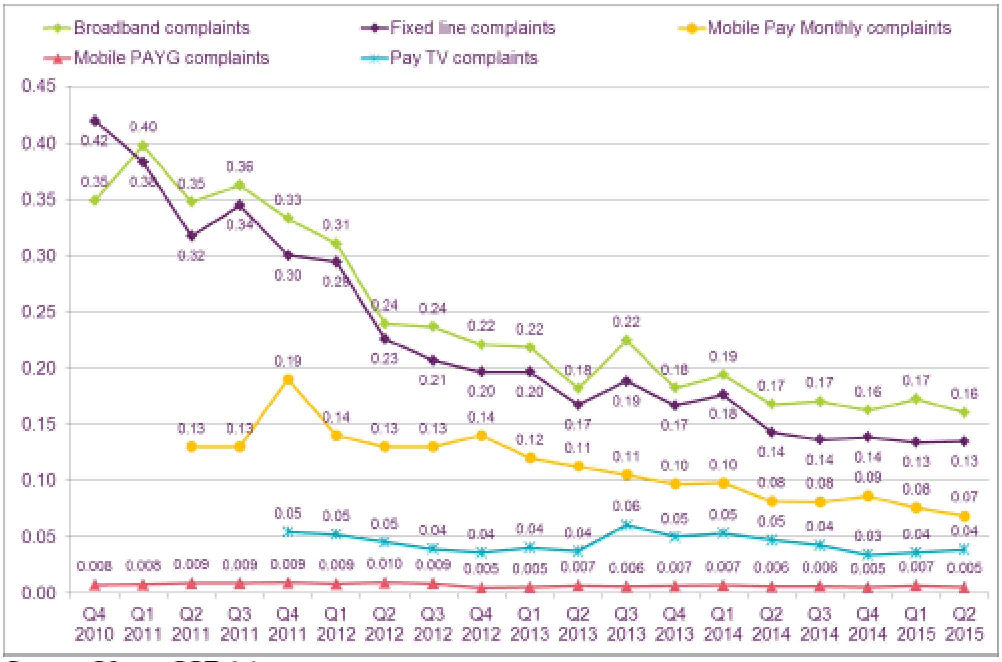
Ofcom states that switching processes requiring the consumer to contact both the existing provider and new provider (specifically, Losing Provider Led and Cease and Re-Provide processes) can take considerable time, be inconvenient and deter consumers from switching provider. Nevertheless, according to Ofcom's Consumer Experience Report 2014, 91% of consumers who have switched mobile communications provider in the last two years rate the process as either "very" or "fairly" easy.

Quoting the 2009 amendment to the Universal Service Directive (which Ofcom uses as justification to make changes to the switching regime): *"Member States should be able to impose* ***minimum*** *proportionate measures regarding the switching process, including appropriate sanctions, as are* *necessary to minimise risks, and to ensure that consumers are protected throughout the switching process without making the process less attractive for them."*

Case Study – Fixed Line Market

The process of harmonization of switching processes for fixed line, implemented by Ofcom in June 2015, has appropriately minimised the risks incurred by customers in the Fixed Line market. According to Ofcom's Telecoms and Pay TV Complaints Report[4], the Fixed Line Market received the highest number of complaints per sector per 1000 customers – the report also highlights that one of the main complaints drivers was customers' difficulty in switching provider.

Figure 1: Relative volume of complaints per sector per 1,000 customers/connections: Q4 2010 – Q2 2015, by quarter



Source: Ofcom, CCT data

Specifically:

- Over 28%[5] of customers with fixed broadband access found it difficult to change internet provider;

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4 Ofcom's Telecoms and Pay TV Complaints Report, Q2 (April to June) 2015

5 Ofcom's Switching Tracker 2014. 14th July to 16th August 2014, Table 141

Over 16%[6] of customers with a fixed line found it difficult to switch to a new fixed voice provider.In fact, before June 2015, consumers transferring their fixed voice and broadband services faced significant risks due to:

- The co-existence of multiple switching processes for the purchase of fixed line services.
- A very high risk of slamming (over 84 thousands cases per year based on 2012/13[7] data).
- A very high risk of Erroneous transfers, where the wrong line has been inadvertently switched for over 45[8]% of churning customers - often as a result of home moves.

Consequently, Ofcom's implementation of a harmonized switching process for Fixed Lines minimised the above risks and ensured consumer protection throughout the switching process. By contrast, mobile had a much lower relative volume [9]of complaints per customer and, according to Ofcom's Switching Tracker 2014, just 9%[10] of customers found it difficult to change mobile provider.

A different approach to Mobile Switching

In light of the above, Vodafone believes that a two stage test is necessary before intervening in the Mobile switching process:

- Ofcom should identify clear and material deficiencies in the status quo of the current switching process and intervene only if the existing process reaches a minimum threshold. For instance, when imposing a Gaining Provider led switching process in the market for Fixed Voice and Broadband provided over the Openreach and KCOM networks, Ofcom has identified and addressed clear deficiencies in the existing process. Such deficiencies caused consumer harm in terms of lack or loss of service, overly long switching lead times and high levels of erroneous transfers over the Openreach

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6 Ofcom's Switching Tracker 2014. 14th July to 16th August 2014, Table 28

7 Ofcom, Consumer Switching, Consumer Switching, A statement and consultation on the processes for switching fixed voice and broadband providers on the Openreach copper network http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/summary/Consumer_Switching.pdf

8 Ofcom, Consumer Switching, Consumer Switching, A statement and consultation on the processes for switching fixed voice and broadband providers on the Openreach copper network http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/summary/Consumer_Switching.pdf

9 0,07 per 1000 customers according to Ofcom's Telecoms and Pay TV Complaints Report, Q2 (April to June) 2015.

10 Ofcom's Switching Tracker 2014. 14th July to 16th August 2014, table 85

network. By contrast, in the Mobile market, a vast majority of customers who have switched providers over the last 2 years consider the process "easy" or "fairly easy".

Furthermore, any fall in the level of switching over the last 2 years cannot be attributed to the difficulty of switching as the process has remained unchanged over this period. When analysing data on the rates of Mobile switching, Ofcom should take into consideration a number of factors including aspects and trends which are specific to the mobile industry. In fact, consumers' switching choice is affected by:

- Price elasticity of demand also with respect to local, long distance, international and fixed-to-mobile, mobile-to-mobile calls; the elasticity of demand for mobile services is also strongly interrelated to customers' demographics (age, sex, nationality, etc…).
- Brand preferences and local network effect, which is the value conferred by an individual to the network that his/her contacts tend to use when selecting a service provider.

Consequently, even if mobile switching costs were zero, customers' lasting preferences for certain brands and local network effects mediated by the price of services purchased individually or in a bundle would affect customers' switching choices.

- Ofcom should carry out a cost - benefit analysis to establish whether the benefits generated under the proposed process would outweigh the costs of its implementation. By contrast, in its assessment Ofcom focuses on the benefits of a Gaining Provider Led switching process without evidencing whether these benefits are material. Material benefits could consist in:
  - Lower costs incurred by customers when switching communications provider, provided that the current switching process does not meet minimum efficiency thresholds.
  - Increased competition (lower prices and, in case of a Gaining Provider led switching process, the elimination of Reactive Safe activity) driving lower prices in the industry,

However, Ofcom does not substantiate that this would be the case. Furthermore, Ofcom does not provide a solution for other aspects of the switching process which are likely to remain unaltered (such as continuity of service) or might get worse (for example slamming, erroneous transfers and provision of information to the customer on the implications of switching). These are explained in the chapters "Continuity of Service", "Lack of awareness of the implications of switching" and "Insufficient customer consent" and "Erroneous transfers" in Question 1 of the consultation.

Multiple switching processes

In the Consultation, Ofcom states that the existence of two processes for switching mobile provider (Losing Provider Led and Cease and Re - Provide) might create confusion and deter consumers from switching. Vodafone believes that this statement might be an overly simplistic conclusion drawn from the analysis of the switching processes in place in the Fixed Voice and Broadband Market.

Before June 2015, in the fixed lines market there were different switching processes in place among service providers, depending on the type of service being ceased. First of all, migrating a customer from one service provider to another requires coordinating a physical changeover of the customer's line from one operator to another. For instance, a combination of Gaining Provider Led and Losing Provider Led switching processes was followed when switching services provided over the Openreach network; by contrast, a Cease and Re - Provide model was and still is used when moving to and away from Virgin Media as a service provider.

Similarly, switching Pay TV provider as part of a bundle is also a non-symmetric process. In fact, when a BT or a Talk Talk consumer for broadband and Pay TV wishes to switch to Sky, a Gaining Provider Led process takes place. By contrast, when a Sky customer wishes to move to BT or Talk Talk, a Losing Provider process takes place giving Sky the chance to retain the customer by operating a "reactive save" activity.

By contrast, all mobile providers are subjected to the same Cease and Re - Provide switching process. Churning customers who want to maintain the same mobile number under a different network operator can contact their current provider, ask for a PAC code - which is provided within 2 hours - and then contact the new provider to be transferred onto their network the following business day. Conversely, customers who have no interest in retaining their phone number can notify their existing provider and contact their future mobile operator to make a new agreement. Furthermore, mobile customers are also supported by a strong physical presence of mobile shops on the high-street where retail assistants can advise and support the customer throughout the whole switching process. Further evidence of the effectiveness of the current mobile switching processes is provided by Ofcom's Consumer experience research, which suggests that a large majority of switchers are clear about the processes for switching mobile telephony, and further substantiated by the data gathered by Vodafone through U - Switch in March 2014, showing that 2 in 3 consumers had switched mobile network at least once (66.8%) and just 1 in 10 consumers (9.8%) felt that switching provider was too complicated.

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In the Consultation, Ofcom also states that the current mobile switching process can add complexity and increase difficulty for consumers who are switching bundles if elements of their bundle follow a different switching process (for instance, the Gaining Provider Led process for fixed voice or broadband). Vodafone believes that this is an overly simple statement which does not take into account fundamental differences (and the rationale behind them) amongst the switching processes of Telecommunications services. For instance, the Gaining Provider Led switching process for fixed voice and broadband provided over the Openreach and KCOM network imposes a 10 days minimum lead time for the switch to occur; during this period, the Losing Provider will send the customer a Notification of Transfer letter to prevent slamming and erroneous transfers. If a Gaining Provider Led switching process was to be adopted for mobile, customers would still be able to receive a PAC Code within a maximum of 2 hours and to port their number to a new provider within 1 business day. Consequently:

- Consumers at the end of their contract who want to change provider for a bundle of services would be able to move their mobile service to a new provider within 1 business day, whilst they will need to wait for a minimum of 10 days for the transfer of their fixed line services to occur. This would result in double - paying for the whole bundle, rather than for the provision of just one service.
- In-life customers who want to change provider for a bundle of services would need to serve their contractual notice period and to respect the timings involved for switching each of the services in the bundle. This would result in paying for the existing services in full for the time prescribed by the contractual notice period, as well as for the services provided by the new provider in order to avoid any loss of service during the switch. Customers would also be liable for paying Early Termination Charges to their old provider.

Further difficulty in switching a bundle of services can be generated by the existing regulation regarding Reactive Save activities for fixed line services (Ofcom General Condition 22.15). Ofcom's General Condition 22.15 forbids fixed line providers to engage with churning customers in any activity which might induce them to terminate their contract with the Gaining Provider and/or remain in a contract with the Losing Provider. These rules do not currently apply to mobile providers (General Condition 22.1) which, under the current regulation, are allowed to run Reactive Save activity. The different timings and retention activities involved in running switching processes in a Gaining Provider Led scenario could equally add complexity and generate confusion amongst customers.

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Finally, Ofcom states that complexity hinders switching; Vodafone believes that this statement does not take into account a large number of non-switchers who are happy with their current provider[11], nor potential switchers (34%)[12] who, receiving a better deal from the old provider did not think that switching mobile provider was worthwhile; finally, just 13% of considerers did not switch because of the inconvenience. Yet, Ofcom focuses on multiple switching processes as driving complexity in switching mobile provider to the exclusion of other considerations, such as sensitivity to prices and brand loyalty which, as many studies demonstrate[13], are the largest factor affecting a supplier's churn rate.

Continuity of Service

Ofcom states that loss of service in mobile switching occurs mainly when consumers switch without porting their number. This requires customers to coordinate the cease of their current subscription to start a new subscription. Consumers who do not appropriately coordinate the transfer of their service may temporarily lose their service; to minimize the risk of any loss of service some customers decide to pay for services to overlap. With regards to the continuity of service, Vodafone does not believe that a Gaining Provider Led switching process for consumers who port their number would reduce any issue associated with loss of service; although the Gaining Provider could coordinate the end and start of the old and new services, churning customers who want to port their number would still need to coordinate their request of a PAC Code with either the end of the notice period of their agreement with their existing mobile provider (in-life customers) or the end of their contract (out of contract customers) in order to avoid prolonged loss of service and double - paying. Moreover, as explained in the Chapter "Multiple Switching Processes" in response to Question 1 of this consultation, further issues in relation to loss of service and double-paying are likely to occur when switching provider for a bundle of services. Finally, Vodafone does not believe that a Gaining Provider Led switching process would bring any benefits to consumers who do not port their number either: customers would still need to coordinate the transfer of their service to the New Provider with the notice period of the Losing Provider or, in case of customers who have terminated their mobile subscription, with the end of their agreement with the existing provider.

Lack of awareness of the implications of switching

In its Consultation, Ofcom states that Losing Provider Led and Cease and Re - Provider switching processes could perform better because churning consumers need to contact the Losing Provider, which

11 Ofcom Consumer Experience Report 2014

12 Ofcom Consumer Experience Report 2014

13 UKRN, Consumer Engagement and switching, 17th December 2014

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is well positioned to inform the customer about ETCs and other contractual implications. Nevertheless, Ofcom believes that a Losing Provider might not be in a position to provide the consumer with complete information about the benefits of switching, including the differences in the availability or quality of specific mobile services or features (such as coverage in a certain area). Vodafone does not believe that this is true: customers can refer to indirect resellers as well as many mobile-tariff comparison websites to collect unbiased information on the benefits of switching to a new provider. Customers can also access independent websites (such as Ofcom's Mobile Coverage Checker) to compare the quality of service provided by mobile providers.

In its Consultation, Ofcom also states that Losing Providers may provide vague or confusing information on the implications of switching because of the high incentives to ensure that customers do not switch providers. Nevertheless, under Ofcom's General Condition 23.5, mobile providers are required to provide customers with comprehensive information on the key charges including minimum contract charges, early termination charges, payment terms, the existence of any termination right and termination procedures and any minimum period of contract. Such information must be provided to the customer in paper or another Durable Medium. Furthermore, in a Losing Provider Led scenario, any information on the implications of switching is reinstated when customers contact their existing provider to receive a PAC code or terminate their contract. The Losing Provider informs churning customers on the implications of their decision to switch, including the switching process' lead times, any payable handset unlocking charge, Early Termination Fees and the loss of any unused pre-paid credit, voicemails, SMS or material loyalty benefits gained from remaining with the existing provider over a period of time. Such information allows consumers to make an informed decision whether to switch at that point in time, wait or terminate their existing contract before moving to a new service provider.

Insufficient customer consent and Erroneous transfers

Ofcom also states that slamming and erroneous transfers currently are not "a significant issue in mobile switching. Provided adequate verification mechanisms are in place, erroneous transfers are unlikely to become so". Vodafone believes that Ofcom should work on defining a verification mechanism, explaining how it would work in practice, ensuring that it would be effective and estimating how much it would cost before assuming that slamming and erroneous transfers will not be a significant risk in a Gaining Provider Led process. For instance, mobile subscribers in the United States can request carriers to "freeze" their long distance services to prevent any changes on their account from taking place without a written request from the service provider in writing. Furthermore, carriers in the United States are required by regulation to submit any verbal request for change of services to a third-party verification services to record the conversation and verify that the person calling wants to select a new long-distance carrier or change their services. The absence or the ineffectiveness of such a verification mechanism underlines the risk of high additional costs incurred by consumers because of an erroneous transfers and loss of service.

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Q2: *What advantages and disadvantages could GPL switching processes offer, compared to current mobile switching processes? In particular, how important is it to make it easier for consumers to switch without being required to speak to their current provider?*

Advantages and Disadvantages of a Gaining Provider Led switching process

The co - existence of multiple switching processes and the growth in bundled service offerings requires some consumers to follow multiple processes to change service provider. Consequently, Ofcom is suggesting the adoption of a single process, led by the Gaining Provider, for triple play services. Vodafone believes that the barriers for switching individual services and bundles should be reduced so that consumers need to make a minimal effort in order to switch. The adoption of a Gaining Provider Led switching process would remove some of the barriers encountered by customers from switching when switching mobile service provider, such as the Losing Provider's failure to provide PAC codes [14] to other suppliers or to act appropriately to support the consumers' choice to transfer their services[15]. Nevertheless, a closer look to implementation of a Gaining Provider Led switching process for triple play services unveils implications which may not necessarily make switching smoother or more reliable than it currently is.

Vodafone is particularly concerned about irresponsible sales and marketing activity which could be run by the Gaining provider, resulting in mis-selling (the Gaining Provider may provide misleading information in order to win new customers) or slamming activity (in so far as the Losing Provider's old SIM card is not working and the customer is paying for the provision of a new service). A Losing Provider Led switching process normally requires more up-front validation of the customer's request to transfer one or more services. Ofcom should define a verification mechanism which prevents slamming and dishonest sales activities from the Gaining Provider. For instance, in 2009 the Italian Regulatory body Agcom introduced a mechanism to validate a customer's switching request and reduce the instances of irresponsible sales and marketing activity from the gaining provider. The Directive 52/09/CIR introduced a migration code produced by the Losing Provider and containing all the information needed to initiate the switching process. A secondary "secret code" contained within the migration code prevents a Gaining Provider from running irresponsible sales activity resulting in mis-selling and slamming.

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14 CONFIDENTIAL, Vodafone has a 92% same day porting success rate for inputs and 97% same day porting success rate for exports. Please refer to Attachment 1 in Annex 1

15 CONFIDENTIAL, Please refer to Attachment 2 in Annex 1

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Vodafone is also concerned about the potential for consumers' unawareness of the implications of switching in a Gaining Provider Led scenario. The Gaining Provider may not be incentivized in informing the customer on the implications of switching, including potential loss of service, contractual notice periods and Early Termination Charges for in-life customers and any Handset Unlocking charge. This is particularly relevant in mobile, where customers have minimum contract terms in order to recover the capital cost of mobile handsets which are bundled as part of the package. Lack of information preventing consumers from making an informed decision on transferring their services to a new provider could become a new barrier to switch in a Gaining Provider Led scenario, impacting on the degree of competition in the market and not necessarily having a material impact on switching rates. For instance, the implementation of Switch in the banking sector led to greater differentiation between banks' service offerings and small print conditions; this made it harder for consumers to compare service offerings – as a consequence, there has been little change in the current account switching levels which fluctuate around 3% [16]. Consequently, Switch may have removed switching barriers but has not created a reason to switch.

Reactive Save activity

Allowing consumers to leave without speaking to the current provider

In the current switching process, customers contact the Losing Provider:

- Opening a discussion regarding win-back offers.
- Negotiate a better deal without actually intending to switch operator[17]

According to Ofcom's Consumer Experience Report 2014, 91% of customers who have switched mobile provider in the last 2 years found the process to be "easy" or "fairly easy"; amongst the remaining 9% of customers who found the process more complicated, just 11% faced difficulties with the existing provider persuading them to stay. Evidence shows that Reactive Save activities provide a large majority of churning customers with competitive offers which can be even more convenient than the one to which they intended to move. [18]

Furthermore, focusing on whether or not Reactive Save activity is a desirable process without considering the wider costs and benefits that it brings may lead to a mis-leading conclusion. In fact, the benefits of

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16 TNS UK, "Current account Switching Index – One year on", http://www.slideshare.net/fullscreen/tnsuk/current-account-switching-index/2

17 CONFIDENTIAL, Please refer to attachment 3 in Annex 1

18 CONFIDENTIAL, 80% of customers who contact Vodafone's customer services to leave Vodafone are connected to an advisor within 20 seconds. Over 42% of these customers are retained via Reactive Save Activity.

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staying with the existing provider may be further increased by the local network effect. As explained in the Chapter "Consumer difficulty and unnecessary switching costs" in response to Question 1 of this Consultation, consumers' choice in the mobile market is heavily influenced by the value conferred by an individual to the network that his/her contacts use. In fact, since intra network calls (on-net calls) are often charged at a lower rate than inter-network calls (off-net calls), a household or a group of "relevant" subscribers (family and friends) tend to choose the same service provider. The larger a network becomes, the higher the benefits of network externalities experienced by its customers. Vice versa, a high level of churn in the mobile market would result in a reduced number of consumers' benefitting from on-net discounts. By contrast, Reactive Save activities allow Mobile Operators to retain the existing customer base and expand it further by offering increasingly convenient discounts to the network group of its existing customers. Nonetheless, network effects do not lead to market dominance by one firm as long as here are compatibility standards which allow multiple firms to interoperate, thus allowing the network externalities to benefit the entire market.

Therefore, Vodafone believes that Ofcom's Consumer Experience Report data on prompted difficulties among those who had switched mobile services show that Reactive Save is an integral part of the competitive process which incentivizes consumers to seek better offers for the existent and new providers. On-net discounts applied for customers belonging to the same network should also be grouped with the competitive offers provided by the existing provider.

Reactive Save Activity in a Gaining Provider Led migration process

Vodafone believes that not taking into account the customer empowerment and benefits deriving from price discrimination and negotiation with the existing provider on current tariffs may lead to an un-balanced analysis of Reactive Save activities. In fact, given the evidence provided of the benefits of Reactive Save activity, Vodafone does not believe the integration of the latter in the Losing Provider Led process deters customers from switching provider.

Finally, in a Gaining Provider Led scenario, customers still would not be prevented from calling the current provider and ask for a more convenient tariff.

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Bundled services

Finally, whilst Ofcom's long term objective is to adopt a Gaining Provider Led switching process across a bundle of services, it is not clear whether this is achievable. Increasing the ease of transferring one component of bundles while there are barriers to switching for other components (such as Pay TV) could distort competition in favour of incumbents in those markets where there remain barriers to switching. This asymmetry could result in improved switching for mobile, potentially leading to a dampening of competition overall in the long run. Even so, as explained in the Chapter "Multiple Switching Processes" in response to Question 1 of this Consultation, the lead times to transfer Telecommunications services differ between fixed line, mobile and Pay TV services. In order to minimize lack or loss of service during the transfer, consumers may decide to double pay for a bundle of services.

Q3: *To what extent do you think the two options we have identified address the drawbacks with current processes we initially identified? Are there other options we should consider?*

Ofcom expressed its view that existing Losing Provider Led and Cease and Re - Provide processes in place for transferring mobile services to a new provider create harm for consumers in terms of the difficulty of the process, switching costs and potential loss of service. In the Consultation, Ofcom also stated that slamming and erroneous transfers does not seem to be significant issues in mobile switching under a Gaining Provider Led process.

To improve the current Mobile Switching process, Ofcom sets out two possible approaches:

- Simplifying or automating the process for obtaining a PAC by opening a new SMS or IVR channel
- Putting in place a Gaining Provider Led switching process.

Option 1, PAC provision through customer request to LP via IVR and Centralised PAC provision through customer request to CPS via SMS

Ofcom proposed to address the issues identified with the current Losing Provider Led and Cease and Re - Provide mobile switching processes through new policy options and process changes aimed at removing friction in the switching experience.

Ofcom believes that consumers requesting and receiving a PAC could access such information via further channels which, in comparison to the channels currently in place, reduce the customers' engagement with the Losing Provider. This could be achieved through the provision of an Interactive Voice Response ('IVR') phone system (option 1a), or an SMS text message facility (option 1b).
The first approach suggested by Ofcom to request a PAC Code via an IVR or the Central Porting Facility articulates in 5 main stages:

1. Customers request PAC from the Losing Provider via IVR or via SMS to the Central Porting Facility.
2. The Losing Provider or the Central Porting Facility runs automated authorization checks; consumers receive information on Early Termination Fees and other implications of switching via the IVR channel or via SMS.
3. A PAC is issued to the customer and it is valid for 30 days.
4. Customers provide the PAC to the Gaining Provider, which provides an estimate of the switch date.

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5. In such date, the Gaining Provider initiates and coordinates the switch through the Central Porting system; traffic is re-routed. If needed, the customer switches the SIM required and connects to the new network.

Vodafone acknowledges that this process would reduce the time spent by customers who desire to leave the network (regardless of any Reactive Save made by the existing provider) in talking to the Losing Provider. The same process would still allow a large proportion of consumer to contact their existing provider via the currently used channels (calling Customer Care or chatting online with a Customer Service agent) to negotiate a better deal.

Nevertheless, Vodafone believes that the benefits of the proposed approach should be analysed against any evidence of consumer harm in consumers' experience, as well as against the costs incurred by Mobile Operators to implement the proposed process. Opening a SMS or IVR channel for the provision of PAC Code would minimize any difficulty incurred by customers in contacting the Losing Provider to cancel their service and obtaining information on the switching process from the previous provider. According to Ofcom's Consumer Experience Report 2014, these issues have been incurred, respectively, by 7% and 4% of the total number of consumers who faced difficulties when switching mobile providers (9%). In practice, Mobile Operators would be required to provide an SMS or IVR channel which would solve the challenges in switching experienced by 1% of churning customers.

In fact, under the proposed process customers are still required to be heavily involved in coordinating the transfer of their service with any notice period or with the end of their subscription. Poor coordination in the transfer of services to the new provider might result in double paying or in a loss of service (in fact, opening an IVR or SMS channel would only modify how consumers obtain the PAC, without changing the underlying switching process). The proposed process may also undermine consumers' awareness of the implications of switching: providing information on the amount of Early Termination Charges is not enough to give customers a complete overview of the complexities of switching, which include the subscriber's contractual notice period, any handset unlocking charge, the coordination of the services' transfer to the new provider and the service transfer lead time. In order to ensure that customers make informed decisions about switching, Ofcom should impose restrictions on the stages of the proposed process: for instance, the process should ensure that customers do not receive a PAC code (stage 3 of the proposed approach) unless they have received complete information on the implications of switching (stage 2).

Finally, Ofcom should propose a cost effective mechanism for verifying the customer's identity and the ownership of the number to be ported in order to minimise the risks of switches occurring without the consumer's knowledge or consent.

Option 2 GPL mobile switching process

In the "Strategic review of consumer switching" Consultation (2010), Ofcom has set its "greenfield" preference for Gaining Provider Led switching process. In this Consultation, Ofcom suggests an approach which would apply to customer who want to port their telephone number as well as to customers who want to transfer their mobile services to a new provider without the need to keep their number. The proposed process articulates in 7 stages:

1. A churning customer contacts the new provider to request a port.

2. The Gaining Provider validates the customer's identity and issues the switching request to the Central Porting System.

3. The Central Porting System confirms the customer's request to the old provider.

4. The Losing provider sends relevant information on the implications of switching to the Central Porting System to forward to the customer (or texts the same directly to the customer).

5. If the customers decides to proceed with the transfer of his mobile services, he sends a confirmation SMS to the Central Porting System.

6. The Central Porting System matches the porting approval request received from the new provider with the CLI and other information provided by the customer via the confirmation SMS and useful for his identity verification.

7. If the above sources of information match, the Central Porting System confirms the porting request as initiated and validated, and sends to Losing Provider for approval and confirmation of the porting date.

The proposed process should minimize the number of "touch points" that consumers are likely to have when transferring their services to a new mobile provider: in Ofcom's view, consumers would just need to have an initial contact with the Gaining Provider and send a confirmation text to the Central Porting System. They would no longer be required to contact the Losing Provider. Vodafone does not believe that this is necessarily true: Bulk Port Business Rules apply to businesses with more than 25 employees; business customers who wish to port their company-phone number would also need to follow the current switching process.

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Furthermore, customers would still be required to coordinate the transfer of their services with their contractual notice period or with the end of their contract. In fact, in a Gaining Provider Led switching process the new operator has a strong incentive to ensure that the consumer joins quickly; this may lead some customers to double-pay for the provision of services from the Losing Provider, during the notice period, as well as from the new provider. Similarly, in a Gaining Provider Led process the new provider is incentivized to gain as many customers as possible – any irresponsible sales and marketing behaviour can lead to erroneous transfers and slamming activities (insofar that the service provider is nominally changed and the customers' old SIM stops working). Before stating that "Experience from other counties does not suggest that slamming is a concern under GPL processes", Ofcom should define an effective mechanism for verifying the customer's identity and the ownership of the number to be ported. Furthermore, the Gaining Provider has little incentive to provide a customer with comprehensive information on the implications of their decision to switch. Such implications, such as any payable Early Termination Charges or handset unlocking charges, may require the customer to have a third "touch point" with the Losing Provider, which would offset the benefit gained with the introduction of a single, Gaining Provider Led process. Furthermore, Ofcom should also take into account the costs incurred by the Losing Provider in terms of goods (the cost of the handset) and service provision.

To conclude, Vodafone does not believe that there is sufficient evidence of consumer harm in the existing process to justify the significant investments required to Mobile Operators in implementing a new switching process. Ceteris paribus, Vodafone believes that the first proposed approach (providing churning customers with a PAC code via IVR or SMS) would be more effective for addressing the , albeit limited, evidence of consumers harm amongst those who found transferring mobile services difficult. At the same time, Option 1 would not impose a new switching process to a large majority of customers (91%) who currently find it easy to change mobile provider.

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Q4: ***What mechanisms could these processes use to ensure that consumers are adequately verified, and protected from being switched without their consent or knowledge? What mechanisms could be employed for ensuring that consumers are adequately informed about the implications of their decision to switch?***

Security mechanism

Vodafone believes that Ofcom should work with the industry to define a verification mechanism, explain how it would work in practice and ensure its effectiveness before proposing the adoption of a new process for mobile switching. Ofcom should also give an estimate of its cost. The absence of such mechanism can make consumers incur high additional costs due to erroneous transfers and loss of service.

In relation to Option 1, which envisages the provision of a PAC to churning customers via IVR or SMS, Vodafone believes that Ofcom should restrict the validation of the customer's telephone number to the Losing Provider's network. Nevertheless, whilst this may reduce the risk of slamming and erroneous transfers, it would not cover those cases in anyone holding a handset (regardless of whether they hare the possessors of the device or not), would be able to initiate a service transfer request.

Option 2, which proposes the adoption of a fully Gaining Provider Led switching process, poses an even greater number of risks. To prevent erroneous transfers, the Gaining Provider could ask churning customers for details which would identify them in the records of the previous provider (for instance, in the case of Pay Monthly customers, the Account Number printed on the bills issued by their previous provider). However, this would require the implementation of a constantly updated register with any Pay Monthly customers' name and account number against which the Gaining Provider could validate the information provided by the customer. It must also be noticed that this could reduce the instances of erroneous transfers, but would not be effective in preventing slamming. Furthermore, Ofcom should also consider those instances in which the identity of the customer who wants to transfer his/her services to a new provider does not match the name of the bill payer or account owner recorded by the Losing Provider.

Implications of Switching

Vodafone believes that Ofcom should define a mechanism to prevent customers from submitting their request for the transfer of a mobile service to a different network unless they have confirmed the reception of a SMS informing them of the information of switching and any Early Termination Fee payable to the Losing Provider. Nevertheless, this will still not suffice to give the customer such comprehensive information on the implications of switching as in a Losing Provider Led scenario. The existing provider could give customers a complete picture of the implications of switching including the customer's contractual notice period and related advice on how to minimize lack or loss of service; the service transfer minimum lead times and any payable Handset Unlocking charge.

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Q5: ***Do you have any comments on the indicative costs of the options we have considered in this document?***

Given the limited evidence of consumer harm in the switching processes for mobile, Vodafone believes that any justification given by Ofcom for replacing recently introduced switching processes that are proving to be effective is far from justifying the investment needed to implement a new process. Secondly, cost estimates may be imprecise and reductive until Ofcom clearly defines:

Option 1

- The type of validation checks required to verify that the handset user who is requesting a port is also the handset owner. In fact, any cost forecasted now is based on the assumption that the number sending an SMS or calling the new SMS/ IVR channel is the number to be ported – if this is not the case, a complex Data Protection Act process will need to be implemented.
- The new SMS/ IVR channel will not be available for bulk ports.
- The new SMS/ IVR channel will need to be available to MVNOs.

Option 2

- Authentication checks to validate that the user requesting a port is the handset's owner.
- Logic to ensure that customers cannot progress with the transfer of his mobile services until they have confirmed reception of the SMS notifying them of the implications of switching.
- The Gaining Provider Led switching process will not be available for bulk ports.

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Q6: *Do you have any other comments in relation to the matters set out in this consultation?*

Lack of Competitive Neutrality in the Fixed Line Market

It does not appear to Vodafone that Ofcom has appropriately considered the lack of competitive neutrality between operators as one of the main causes of consumer harm when transferring Telecoms services. In fact, underlying differences in the switching processes adopted by different providers of the same service may hinder consumers' switching.

This is the case of the fixed line market where fixed voice and broadband services provided over the Openreach and KCOM network follow a Gaining Provider Led switching process, whilst services provided over the Virgin Media network (which has a market share of 20%[19] in 2015) still follow a Cease and Re-provide process. The latter, requiring churning customers to contact their old provider to terminate their contract before starting a new subscription with the Gaining Provider, allow the Losing Provider to make a Reactive Save offer to convince the customer to stay by offering a more convenient deal. As explained in the chapter "Reactive Safe Activity" in response to Question 2, Reactive Save is an industry practice when transferring services between mobile providers; by contrast, allowing to just one provider in the Fixed Line market to make Reactive Save activities undermines the existence of a level-playing field amongst the Fixed Line market actors.

Lack of Competitive Neutrality in the Pay TV Market

The lack of platform neutrality for the provision of a service should also be observed in relation to the increasing trend towards bundling. The lack of strategic oversight and regulatory intervention in a market where the boundaries between services are becoming increasingly unclear poses churning consumers at risk. The co-existence of multiple processes for transferring a bundle of services to a new provider may require consumers to navigate different switching processes, which can result in a poor customer's experience. This is epitomized by the Pay TV market.

Pay TV services are normally bundled with fixed voice and broadband services. This implies that they can be delivered using a number of platforms: whilst BT and Talk Talk's Pay TV is delivered over a broadband connection, Sky relies on Openreach's network to deliver fixed line services, using a satellite connection

[19] Ofcom 2015 Facts and Figures, Market shares of fixed broadband providers in the UK, http://media.ofcom.org.uk/facts/

for the Pay TV component of its triple play offer. Consequently, customers who want to transfer their fixed line and Pay TV services from a fixed broadband provider to Sky need to follow a Gaining Provider Led process; by contrast, Sky customers who want to transfer their Pay TV and fixed line bundle to a fixed broadband based provider need to follow a Losing Provider Led switching process and, therefore, refer to Sky. Increasing the number of steps that consumers must take in order to transfer their services to a new provider may increase the complexities and difficulties faced by consumers accordingly. The process also creates a save opportunity for Sky.

Unique Content

Furthermore, due to the increasing prevalence of converged services, TV content has an increased capacity to drive consumer choice across these services. Most notably, sports content appears to be a key driver of choice in Pay TV services. Whilst Ofcom acknowledge that consumers value a wide range of content genres, Vodafone agrees with the findings of the *2014 WMO Consultation*; that sport stands apart due to the specific features of its content. These being its propensity to lose value after live broadcast, its degree of exclusivity to pay TV and the sums invested to secure the relevant broadcast rights. In particular, Sky and BT's willingness to spend so much on sports broadcast rights (most notably for Premier League and Champions League content[20]), than on other genres indicates the value they believe they can recover from utilising this content. Given the combination of these factors, sport appears to be uniquely placed to drive consumer choice in Pay TV services. However, this raises the concern that given the rise in converged services, content providers will be incentivised to leverage their content rights of such 'key content' and limit distribution in order to protect market share in connected markets most notably consumer broadband. To this extent, Vodafone broadly agrees with Ofcom's assessment[21] of Sky's and BT's incentives to limit distribution of their premium football content. However, Vodafone wholly disagree with the conclusions that are drawn from this analysis within the 2014 WMO consultation. Vodafone remain concerned that if access to this content cannot be secured on FRND terms, the incentive to invest to meet future triple-play and quad-play demands is severely hampered, to the detriment of effective competition and consumer choice across telephony services.

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20 Whilst the 2014 WMO consultation rightly acknowledges that 69% of respondents considered two or more individual sports or competitions as 'essential', football was by far the most common sport to be described as 'essential' without reference to another sport. Moreover, Figure 5.3 of the consultation reveals that for both BT Sport and Sky Sport customers, live Premier League content was the most commonly cited single football event, in response to what was the main reason for them taking BT Sport and Sky Sport

21 2014 WMO consultation

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To conclude, Vodafone believes that without any strategic oversight and regulatory intervention, there is a strong risk of consumers harm when switching provider in a market where the boundaries between services are becoming increasingly unclear. The co-existence of multiple processes for transferring a bundle of services to a new provider may require consumers to navigate different switching processes, which can result in a poor customer's experience.

Whilst Vodafone recognises that detailed processes behind the customer experience will differ across platforms and providers, this should not deter Ofcom from putting in place equitable and transparent processes across industry. Implementing a harmonised process to transfer bundled services between providers through simple and clear procedures could consistently improve customers' switching experience in terms of consistency, clarity and ease of switching.