



Further Notification of Contravention of General Condition 18 issued under section 94(9)(b) of the Communications Act

Notice served on Spacotel UK Ltd by the Office of Communications (“Ofcom”)

**This is the non-confidential version. Confidential information and data
have been redacted. Redactions are indicated by “[<”]**

Issued: 19 April 2007

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Further Notification to Spacotel UK Ltd under section 94(9)(b) of the Communications Act 2003 of contravention of General Condition 18

Ofcom's determination

1. Ofcom hereby determines that there are reasonable grounds for believing that Spacotel UK Ltd ("Spacotel") has contravened and is continuing to contravene General Condition 18.1 ("GC18.1") and General Condition 18.2 ("GC18.2") of the General Conditions set under section 45 of the Communications Act 2003 (the "Act"):
 - (a) Spacotel is a Communications Provider as that term is defined under the General Conditions.
 - (b) Spacotel is required by GC18.1 to provide Number Portability (a facility that enables Subscribers to port) as soon as it is reasonably practicable on reasonable terms to any of its Subscribers who so requests.
 - (c) Spacotel is required by GC18.2 to provide Portability (a facility between Communications Providers to enable porting) at the request of another Communications Provider as soon as is reasonably practicable in relation to that request on reasonable terms.
 - (d) BT, a Communications Provider, has asked Spacotel to provide Portability in respect of the Non-geographic Numbers 0870 207 7329 and 0870 207 7377.
 - (e) By a notification issued on 13 January 2006 (as amended) Spacotel was required to provide BT with Portability as soon as is reasonably practicable after 28 February 2006 and has failed to do so in contravention of GC18.2.
 - (f) By a notification issued 13 January 2006 (as amended) Spacotel was required to provide Number Portability as soon as is reasonably practicable after 28 February 2006 and has failed to do so in contravention of GC18.1.
2. The reasons for Ofcom's determination are set out in the explanatory statement accompanying this Further Notification.

General Condition 18

3. Section 45 of the Act gives Ofcom the power to set conditions binding Communications Providers.
4. Section 94 of the Act enables Ofcom to issue a notification to a person where Ofcom has reasonable grounds for believing that a person is contravening, or has contravened, a condition set under section 45 of the Act.

5. On 22 July 2003 the Director General of Telecommunications issued a notification under section 48(1) of the Act setting, pursuant to section 45 of the Act, a number of general conditions, as set out in the schedule to that notification (the “General Conditions”).
6. The General Conditions took effect from 25 July 2003.
7. The General Conditions apply to all Communications Providers.
8. GC18 sets out the requirement to provide Number Portability and Portability.
9. GC18 was modified on 30 March 2007.
10. GC18.1 states that:
“The Communications Provider shall provide Number Portability as soon as it is reasonably practicable on reasonable terms, including charges, to any of its Subscribers who so requests.”
11. GC18.2 states that:
“The Communications Provider shall, pursuant to a request from another Communications Provider, provide Portability (other than Paging Portability) as soon as is reasonably practicable in relation to that request on reasonable terms.”

Hereby:

12. Paragraph 14 of the Notification, as amended is deleted.

Action required by Spacetel

13. Spacetel is required to comply with GC18.2 by providing Portability to BT in respect of Non-geographic Numbers 0870 207 7329 and 0870 207 7377 by 19 December 2007.
14. Spacetel is required to comply with GC18.1 by providing Number Portability in respect of Non-geographic Numbers 0870 207 7329 and 0870 207 7377 by 19 December 2007.
15. Spacetel is required to remedy the consequences of the notified contraventions of GC18.1 and GC 18.2 by 19 December 2007.
16. Spacetel has until 22 May 2007 to make representations to Ofcom about this notification.
17. If Spacetel does not comply with GC18.1 and GC18.2 by providing Number Portability and Portability and remedy the notified contraventions of GC18.1 and GC18.2 as set out in this notification, Ofcom may issue an enforcement notification under section 95 of the Act and may impose a penalty on Spacetel under section 96 of the Act.

Interpretation

18. Words and expressions used in this notification have the same meaning as in GC18 and in the Act except as otherwise stated in this Further Notification.

David Stewart

Director of Investigations

19 April 2007

Explanatory statement

Section 1

Summary

- 1.1 All Communications Providers are required to provide Number Portability¹ to their Subscribers, and to provide Portability² to each other, on request. These obligations are set out in General Condition 18 (“GC18”) of the General Conditions of Entitlement (the “General Conditions”).³
- 1.2 On 29 September 2004, BT received a request from a Subscriber to import its Non-geographic Number from Spacetel to BT.
- 1.3 On 30 August 2005, BT submitted a complaint to Ofcom which stated that Spacetel had failed to make the necessary arrangements with BT to enable porting from Spacetel to BT, contravening Spacetel’s obligations under GC18.
- 1.4 On 15 September 2005, Ofcom opened an investigation to consider BT’s complaint.⁴
- 1.5 On 13 January 2006, Ofcom, having concluded that there were reasonable grounds for believing Spacetel had contravened, and was contravening General Condition 18.1 (“GC18.1”) and General Condition 18.2 (“GC18.2”), issued Spacetel with a notification (the “First Notification”) under section 94 of the Communications Act 2003 (the “Act”).
- 1.6 The First Notification required Spacetel to comply with GC18.1 and GC18.2 by providing Number Portability and providing Portability to BT in respect of Non-geographic Numbers 0870 207 7329 and 0870 207 7377 (the “Numbers”) as soon as reasonably practicable after 14 February 2006.
- 1.7 In accordance with the statutory period set out in section 94(4) of the Act, Spacetel was given until 14 February 2006 to make representations about the First Notification.
- 1.8 On 14 February 2006, Spacetel asked Ofcom to extend the period for making representations and for carrying out the actions detailed in paragraphs 11-14 of the First Notification by 14 days. Spacetel indicated that it was intending to meet the requirements of the First Notification by arranging for the hosting of the Numbers by another Communications Provider. Spacetel stated that it had already identified a potential partner and had a meeting scheduled to discuss the possible solution on 16 February 2006.
- 1.9 In the light of Spacetel’s representations and in order to allow it to progress its proposed solution, Ofcom decided, in accordance with section 94(5)(b), to grant Spacetel a further 14 days to make written representations and for carrying out the actions specified in the First Notification. Ofcom issued, in

¹ Number Portability is the ability of consumers to change Communications Providers while retaining their telephone number.

² Portability is the arrangements between Communications Providers to enable Porting between their networks.

³ http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/gce/

⁴ http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ccases/closed_all/cw_861/

accordance with section 94(5)(b) of the Act, an amendment to the First Notification on 23 February 2006 (the "Amendment").⁵

- 1.10 The Amendment required Spacetel to comply with GC18.1 and GC18.2 by providing Number Portability and providing Portability to BT in respect of the Numbers as soon as reasonably practicable after 28 February 2006.
- 1.11 On 28 February 2006, Ofcom received written representations from Spacetel stating that the commercial negotiations relating to the third party hosting of the Numbers detailed in the First Notification, as amended, had failed. Spacetel stated that the purchase of an additional switch was its "only remaining option".
- 1.12 On 3 March 2006, Spacetel provided Ofcom with anticipated implementation timescales for provisioning a new switch and for the Non-geographic Number Portability ("NGNP") Service Establishment Process. Those timescales include Spacetel's projected provisioning times for new circuits and the NGNP Service Establishment Process detailed in the Process Manual.⁶ These timescales are reproduced in Annex 1 to this Further Notification ("Annex 1").
- 1.13 On 8 May 2006, in response to a notice of 21 April 2006 issued by Ofcom under section 135 of the Act, Spacetel:
 - (i) provided Ofcom with confirmation of the implementation timescales that it was working to; and
 - (ii) confirmed that on 7 April 2006 it had submitted a purchase order to [redacted] for an [redacted] (the "Switch").
- 1.14 On 1 September 2006, Spacetel provided Ofcom with a progress update that confirmed the dates at which it had completed a number of the actions specified in Annex 1.
- 1.15 Spacetel has reported, with reference to Annex 1, that:
 - on 7 April 2006 it submitted a purchase order for the Switch;
 - on 12 May 2006 it took delivery of the Switch;
 - on 15 and 16 May 2006 the Switch was installed at its premises;
 - on 30 May 2006 Ofcom issued it with a national signalling point code (the "Point Code");
 - on 18 August 2006 it ordered interconnection circuits from BT;
 - on 25 September 2006 BT provisioned the interconnection circuits Spacetel had ordered;
 - on 16 October 2006 BT raised "objections" to Spacetel's implementation method noting that the Switch did not have the capacity to terminate all of Spacetel's Non-geographic Numbers that could be subject to a Porting request. As a result of those objections withdrew from the 1 November 2006 test date that had been scheduled for final Commission and Acceptance Testing ("CAT") of the Switch;

⁵ The non-confidential version of the Amendment, issued on 27 February 2006 is available at http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ccases/closed_all/cw_861/861_amendment_ncversion.pdf.

⁶ *Non-Geographic Number Portability End-to-End Process Manual*, Version 10, issued 1 October 2004, published at: http://www.ofcom.org.uk/telecoms/ioi/numbers/num_port_info/non_geogr_num_portab/NGNP_E2EVersion10.pdf.

- on 17 October 2006 the Switch failed the CAT process;
 - on 18 October 2006 Spacetel agreed with BT that it would explore the possibility of using the Switch to carry all of its Non-geographic Numbers. In examining a number of alternative options, Spacetel also submitted a request to BT to move only certain of its number ranges onto the Switch; and
 - on 3 November the Switch completed the CAT process.
- 1.16 On 30 November 2006, in exploring alternative options to meet BT's objections, Spacetel sought Ofcom's advice on whether it would be possible to sub-divide its existing 08X number block allocation to allow for the hosting of certain sub-ranges onto the Switch.
- 1.17 On 5 December 2006, Ofcom informed Spacetel it did not intend to sub-divide any or all of the existing 10k number blocks allocated to Spacetel on the special services designations. Ofcom noted that the current allocations of 08X number blocks followed from consultation with industry stakeholders and that any sub-division of that allocation would have both technical and commercial implications for all industry stakeholders. Ofcom stated that it does not currently consider it necessary to review those allocations and would need to fully consult on any proposed changes to the special services designations.
- 1.18 On 20 December 2006, in addition to confirming certain details set out in paragraph 1.15 above, Spacetel reported that:
- (i) it may be possible to use its Switch to carry all of its Non-geographic Number traffic. Specifically, that the Switch was scalable and, at its limit, was capable of exchanging the same amount of average monthly minutes as the average number of minutes Spacetel was currently terminating. (Spacetel based this calculation on the assumption that each circuit would be capable of terminating 300k call minutes per month and excluded those calls that failed to complete and seized a circuit from the calculation of average);⁷ and
 - (ii) it was continuing to examine ways of meeting BT's objections.
- 1.19 On 11 January 2007, BT declined a request from Spacetel to split certain of its allocated number ranges into sub-ranges.
- 1.20 On 6 February 2007, Spacetel confirmed that:
- (i) a more conservative average termination rate of 250k minutes per month per circuit would be likely to be applied by BT and that on average 5% of total calls failed to complete and seized⁸; and
 - (ii) it had asked [redacted] for a quotation to exchange the Switch for a new higher capacity [redacted] switch.

⁷ Given the Switch has capacity for 24 E1 circuits (12 inbound and 12 outbound) and assuming a termination rate of 300k call minutes per circuit per month this provides for a maximum of 3.6 million call minutes per month to be terminated. As at 20 December 2006, Spacetel terminated an average of 3.1 million call minutes per month.

⁸ Given the Switch has capacity for 24 E1 circuits (12 inbound and 12 outbound) and assuming a termination rate of 250k call minutes per circuit per month this provides for the possible termination of 3 million call minutes per month. As at 20 December 2006, Spacetel terminated an average of 3.1 million call minutes per month excluding those calls that failed to complete or seized and 3.255 million including those that failed to complete and seized.

- 1.21 On 26 February 2007, Spacotel notified Ofcom that it was examining a “quicker solution” that would modify the Switch by using new higher capacity line cards (the “Line Card Option”).
- 1.22 On 27 February 2007, Spacotel confirmed that the higher capacity line cards were not backward compatible with the Switch and the Line Card Option was therefore not viable.
- 1.23 On 28 February 2007, Spacotel provided Ofcom with two potential provisioning timescales for exchanging the Switch for an upgraded switch. Those potential provisioning timescales that Spacotel submitted are the:
 - (i) standard contractual timescales BT detail in Annex A of the NCC Standard Interconnect Agreement⁹; or
 - (ii) shortened timescales BT details where the in-service switch is subject to a ‘Hot Changeover’¹⁰ and applies to in-service switches.
- 1.24 On 1 March 2007, Spacotel stated that there was a delay in the formalisation of an offer from [3<] to exchange the Switch for an upgraded switch.
- 1.25 On 5 March 2007, Spacotel noted that it was still awaiting [3<] quotation for the exchange of the Switch for an upgraded switch.
- 1.26 On 21 March 2007, Spacotel confirmed that it had placed an order with [3<] for a different higher capacity switch, an [3<] (the “Upgraded Switch”).
- 1.27 On 13 April 2007, BT confirmed that it did not consider the exchange of Spacotel’s Switch for the Upgraded Switch to be a ‘Hot Changeover’ and therefore would not be subject to the shortened timescales detailed in Annex A of the NCC Standard Interconnect Agreement.

Number Portability

- 1.28 On 30 March 2006, Ofcom published a statement titled, *Number portability and technology neutrality* (the “Statement”) setting out Ofcom’s decision in relation to the proposed modification of certain provisions associated with the current regulation on number portability, and follows Ofcom’s consultation document *Number portability and technology neutrality* (the “Consultation”) published on 3 November 2005.¹¹
- 1.29 The Statement details, amongst other things, Ofcom’s decision to remove the requirement to provide portability in accordance with the *Number Portability Functional Specification* published by Ofcom¹² (the “Functional Specification”). Ofcom stated, in the Consultation, that it considered that the status afforded

⁹ As defined in section 5.3.4 of BT’s Network Interconnection Provisioning Manual that is published at:

[http://www.btwholesale.com/content/binaries/service_and_support/contractual_information/docs/linksreview2002/Annex%20A%20\(NTS%20OF\)%20text%20-%20draft%2015%20May%202003.rtf](http://www.btwholesale.com/content/binaries/service_and_support/contractual_information/docs/linksreview2002/Annex%20A%20(NTS%20OF)%20text%20-%20draft%2015%20May%202003.rtf).

¹⁰

http://www.btwholesale.com/content/binaries/service_and_support/Network_Resources/technical_provisioning/manuals/pstn_provisioning_manual/section/section_05.doc

¹¹ The Statement is published at

http://www.ofcom.org.uk/consult/condocs/numport/mod/mod_statement.pdf

¹² Version 5 of the Number Portability Functional Specification published 22 July 2003 sets out the technical and operational scope of number portability and the rules and processes for its provision.

http://www.ofcom.org.uk/static/archive/oftel/publications/numbering/2003/fun_final0703.htm#b

to the Functional Specification could provide a barrier to efficiencies in the provision of Number Portability. Ofcom went on to conclude in its Statement that the rules embedded in the Functional Specification are unlikely to provide a practicable or efficient portability solution for evolving or converging networks or services, and could constrain the way Number Portability may be provided in the future.

- 1.30 Ofcom published, alongside the Statement, two notifications of modification. The first modification related to Part 2 of the General Conditions (the “General Condition Modification”). The second modification was made, under section 56(2) of the Act, to the National Telephone Numbering Plan¹³ (the “Plan”) relating to the definition of Number Portable Code set out under Part A1 of the Plan (the “Modification to the Plan”).
- 1.31 The General Condition Modification and Modification to the Plan took effect on 30 March 2006.
- 1.32 Ofcom does not consider that either the General Condition Modification or the Modification to the Plan has any material effect on the requirements detailed in the First Notification, as amended or in this Further Notification.

¹³ National Telephone Numbering Plan is defined in GC18 as a document published by the Director from time to time pursuant to section 56 of the Act.

Section 2

Background

General Condition 18

- 2.1 Section 45 of the Act gives Ofcom the power to set conditions binding Communications Providers (which the Act defines to mean persons who provide an electronic communications network or electronic communications service).
- 2.2 On 22 July 2003, the Director General of Telecommunications issued a notification under section 48(1) of the Act setting, pursuant to section 45 of the Act, the General Conditions.
- 2.3 The General Conditions took effect from 25 July 2003 and apply to all Communications Providers (see below). General Condition 18 (“GC18”) requires Communications Providers to provide Number Portability (under General Condition 18.1 (“GC18.1”)) and Portability (under General Condition 18.2 (“GC18.2”)).
- 2.4 The First Notification, as amended requires Spacotel to comply with GC18.1 and GC18.2 by providing Number Portability and providing Portability to BT in respect of the Numbers as soon as reasonably practicable after 28 February 2006.
- 2.5 At the time of issuing the First Notification, as amended, GC18.1 required that:
- “The Communications Provider shall provide Number Portability as soon as it is reasonably practicable on reasonable terms, including charges, to any of its Subscribers who so requests”; and*
- GC18.2 required that:
- “The Communications Provider shall, pursuant to a request from another Communications Provider, provide Portability (other than Paging Portability) as soon as is reasonably practicable in relation to that request on reasonable terms and in accordance with the Functional Specification.”*
- 2.6 “Communications Provider” was defined in General Condition 18.5(b) as:
- “a person who provides an Electronic Communications Network or an Electronic Communications Service”¹⁴*
- 2.7 “Number Portability was defined in General Condition 18.5(h) as:
- “a facility whereby Subscribers who so request can retain their Telephone Number on a Public Telephone Network, independently of the person providing the service at the Network Termination Point of a Subscriber-*
- (i) in the case of Geographic Numbers, at a specific location; or*
- (ii) in the case of Non-geographic Numbers at any location*
- provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan.”*
- 2.8 “Portability” was defined in General Condition 18.5(k) as:

¹⁴ This definition is also set out in section 405 of the Act.

“any facility which may be provided by a Communications Provider to another enabling any Subscriber who requests Number Portability to continue to be provided with any Publicly Available Telephone Service by reference to the same Telephone Number irrespective of the identity of the person providing such a service.”

- 2.9 On 30 March 2006, Ofcom published the Statement setting out Ofcom’s decision in relation to the proposed modification to certain provisions associated with the current regulation on Number Portability.¹⁵ The Statement follows Ofcom’s Consultation.
- 2.10 The Statement details modifications to GC18 that are designed to encourage switching between providers and to promote inter-platform voice competition. Without the ability for consumers to switch easily, there can be no effective competition, and a competitive voice market is encouraged through inter-platform competition.
- 2.11 In particular the Statement sets out Ofcom’s decision to remove the formal requirement to provide portability in accordance with the Functional Specification published by Ofcom.¹⁶ The Functional Specification sets out certain technical characteristics of portability arrangements that were appropriate when portability only applied to public switched telephone network fixed networks and global system for mobile-based mobile networks. Specifically, the Statement notes that Ofcom considers that the rules and processes contained in the Functional Specification may no longer be appropriate given the emergence of VoIP, hybrid fixed-wireless services and what are termed “next-generation” networks, and may therefore represent a further potential barrier to inter-platform competition.
- 2.12 Ofcom therefore published, alongside the Statement, two notifications of modification:
- (i) the General Condition Modification regarding Number Portability which is set out in the Schedule to the notification under section 48(1) of the Act published by the Director General of Telecommunications on 22 July 2003; and
 - (ii) Modification to the Plan.
- 2.13 Both the General Condition Modification and Modification to the Plan took effect from 30 March 2006.
- 2.14 The General Condition Modification made no change to the wording of GC18 but revised the requirements detailed in GC18.2.
- 2.15 As at 30 March 2006, GC18.2 requires that:
- “The Communications Provider shall, pursuant to a request from another Communications Provider, provide Portability (other than Paging Portability) as soon as is reasonably practicable in relation to that request on reasonable terms.”*
- 2.16 The General Condition Modification also results in amendments to certain of the definitions that apply for the purposes of GC 18. This included an

¹⁵ http://www.ofcom.org.uk/consult/condocs/numport/mod/mod_statement.pdf

¹⁶ Version 5 of the Number Portability Functional Specification published 22 July 2003 sets out technical and operational scope of number portability and the rules and processes for its provision.
http://www.ofcom.org.uk/static/archive/oftel/publications/numbering/2003/fun_final0703.htm#b

amendment to the definition for Number Portability and removed the following wording:

“...in the case of Geographic Numbers, at a specific location” and “in the case of Non-geographic Numbers, at any location.”

- 2.17 Where the General Condition Modification resulted in a definition being deleted renumbering was necessary. As a result of that numbering the definition for Number Portability is now found at 18.5(f) and for Portability at 18.5(i).
- 2.18 The Modification to the Plan resulted, amongst other things, in amendments to the definition of Number Portability in the Plan.
- 2.19 The requirement to provide Number Portability flows from Article 30 of the Universal Service Directive (“USD”)¹⁷, which states that:
- “Member States shall ensure that all subscribers of publicly available telephone services, including mobile services, who so request can retain their number(s) independently of the undertaking providing the service:*
- (a) in the case of geographic numbers, at a specific location; and*
- (b) in the case of non-geographic numbers, at any location.”*
- 2.20 Recital 40 of the USD states that:
- “Number portability is a key facilitator of consumer choice and effective competition in a competitive telecommunications environment such that end-users who so request should be able to retain their number(s) on the public telephone network independently of the organisation providing the service...”*

The industry Number Portability processes

- 2.21 The Number Portability Commercial Group (the “Group”) is a group of Communications Providers which develops and maintains Non-geographic Number portability processes. Membership of the Group is open to all Communications Providers.¹⁸ The Group publishes documents that set out the processes for implementing Portability and Number Portability in respect of Non-geographic Numbers.
- 2.22 There are two documents that are relevant in this case: the Process Manual¹⁹ and the Test Schedule.²⁰
- 2.23 The Process Manual sets out the method for establishing and maintaining NGNP between two Communications Providers. NGNP is the term used in these documents to describe both Portability and Number Portability in respect of Non-geographic Numbers.

¹⁷ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services.

¹⁸ With the exception of mobile Communications Providers, who have their own equivalent number portability group.

¹⁹ *Non-Geographic Number Portability End-to-End Process Manual*, Version 10, issued 1 October 2004, published at:

http://www.ofcom.org.uk/telecoms/ioi/numbers/num_port_info/non_geogr_num_portab/NGNP_E2EVersion10.pdf.

²⁰ Published at:

http://www.ofcom.org.uk/telecoms/ioi/numbers/num_port_info/non_geogr_num_portab/service_estab_test.doc.

- 2.24 Section 7 of the Process Manual sets out the Service Establishment Process for NGNP, i.e. the steps that two Communications Providers are expected to follow in order to establish NGNP.
- 2.25 The Service Establishment Process is divided into the following stages, which are set out in detail in section 7 of the Process Manual (the time suggested in the Process Manual for completing each stage is included in brackets):

- **Prerequisites:** *this stage is to check that a number of criteria have been met before two Communications Providers attempt to establish NGNP. The Communications Providers must:*
 - (a) *provide an electronic communications network,²¹*
 - (b) *operate a Non-geographic Numbering Service (i.e. provide a service using Non-geographic Numbers);*
 - (c) *have obtained from Ofcom a Number Portability Prefix Code, which is a unique six-digit code that identifies a particular communications provider for the purposes of establishing portability so that calls can be correctly routed after numbers are ported; and*
 - (d) *follow the process documented in the Process Manual.*
- **Initial Contact (five working days):** *in order to start the NGNP Service Establishment process, the gaining provider (in this case BT) needs to make contact with the donor²² provider (in this case Spacetel), using the NGNP Establishment Request (“PE”) form, which has been developed to exchange contact information. Within five days of receiving a PE form, the donor provider sends its own PE to the gaining provider, which includes its contact details and states whether the donor provider wants to establish porting in both directions (Communications Providers may only need to establish porting in one direction if they do not anticipate requests to port in the other direction).*
- **Planning Stage (20 working days):** *using the Portability Planning (“PP”) form, the Communications Providers exchange information to enable them to move on to the next stage. The gaining provider provides the donor provider with the following information:*
 - (a) *forecasts of ported traffic per number type;*
 - (b) *forecasts of numbers to be ported;*
 - (c) *a draft routing plan for ported traffic;*
 - (d) *contact information; and*
 - (e) *its Number Portability Prefix Code.*

²¹ As defined in section 32(1) of the Act.

²² In the context of service establishment the “donor provider” is the provider on whose electronic communications network the telephone number(s) to be ported have been built.

The donor provider provides the gaining provider with the following information:

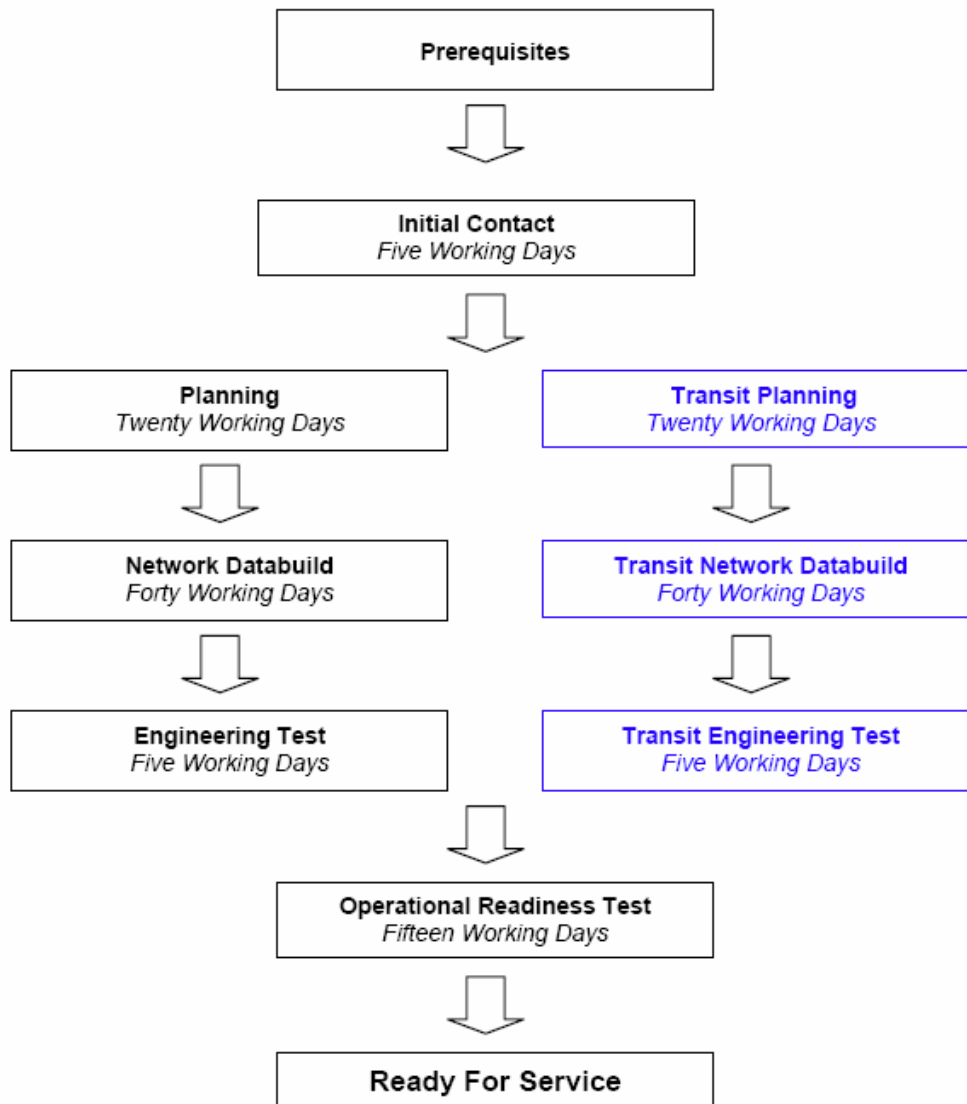
- (a) a Databuild test Number for each Number Portability Prefix Code (which the gaining provider will retain for use in any future tests);
- (b) test numbers for engineering tests;
- (c) test numbers for the Operational Readiness Testing stage;
- (d) a draft routing plan for ported traffic; and
- (e) contact information.

The gaining provider then organises a planning meeting to finalise details and agree a date for the Engineering Test stage.

- **Network Databuild (40 working days):** the donor provider builds the gaining provider's Number Portability Prefix Code into its network, which means that its network will route calls to ported numbers on to the gaining provider's network.
- **Engineering Test (five working days):** once the databuild is completed, a set of tests (as described in the Service Establishment Test Schedule discussed at paragraph 2.28 below) are carried out to ensure that calls are being correctly routed between the two networks in order to support number portability. This stage is completed once the tests are successfully passed (if they are not, the parties may agree that it is necessary to conduct a repeat test and agree a suitable timetable beyond the five-day target).
- **Operational Readiness Testing (15 working days):** the purpose of this stage is to ensure that order handling and repair can successfully be supported between the two Communications Providers. The standard test is set out in section 8 of the Process Manual, although the details are agreed by the parties in each case. If the tests are not passed, the parties may agree that it is necessary to conduct a repeat test and agree a suitable timetable beyond the 15-day target.
- **Ready for Service:** once the Databuild, Engineering Testing and Operational Readiness Testing stages have been completed and signed off by both parties, NGNP is ready for service.

2.26 These different stages are shown in the following diagram:

Figure 1: NGNP Service Establishment Process flow



- 2.27 As the above diagram shows, the Process Manual sets out an establishment process that takes 85 working days, from initial contact (the point at which the Communications Provider requesting NGNP Service Establishment contacts the other Communications Provider with which it wants to establish Portability) to the point at which the port is implemented.
- 2.28 The Test Schedule includes a number of tests which have been developed by the industry and are considered a necessary requirement for NGNP Service Establishment.

Section 3

Ofcom's decision

- 3.1 The First Notification, as amended, requires that Spacotel comply with GC18.1 and GC18.2 by providing Number Portability and providing Portability to BT in respect of the Numbers as soon as reasonably practicable after 28 February 2006.
- 3.2 Spacotel, having had the opportunity to review alternative methods of meeting its obligations under GC18.1 and GC18.2, chose to purchase a Switch.
- 3.3 Given Spacotel's decision, Ofcom considered it would be necessary for Spacotel to do two separate things to meet its GC18.1 and GC18.2 obligations. Firstly, Spacotel would need to provision the Switch, and secondly it would need to enable that Switch with the capability to provide Portability and Number Portability.
- 3.4 Ofcom has therefore considered it necessary to provide Spacotel with a reasonable period of time to provision its chosen Switch and a reasonable period of time to establish the capability to enable Portability and Number Portability.
- 3.5 Spacotel outlined in Annex 1 the steps and associated timescale for it to meet the First Notification, as amended. Ofcom calculates on the basis of the timescales Spacotel detailed in Annex 1 that it will have complied with:
 - (i) GC18.2 by providing Portability to BT in respect of the Non-geographic Numbers by 22 February 2007; and
 - (ii) GC18.1 by providing Number Portability in respect of the Non-geographic Numbers by 22 February 2007.²³
- 3.6 Ofcom considers that the timescales detailed in Annex 1 to be sufficient for the purpose of provisioning a new switch and are consistent with the time period for completing the NGNP Service Establishment Process.
- 3.7 Spacotel has failed to meet its own projected end date of 22 February 2007 for complying with the requirements detailed in the First Notification, as amended by revising its "only remaining method" of compliance and exchanging the Switch for an Upgraded Switch.
- 3.8 Ofcom notes that after Spacotel has implemented a new switch it will need to re-initiate the NGNP Service Establishment Process. For this reason Ofcom considers that the work already completed by Spacotel, as detailed in paragraph 14 of the First Notification, as amended, is redundant and therefore this Further Notification deletes paragraph 14 from the First Notification, as amended.
- 3.9 Spacotel must comply with the First Notification, as amended either by the revised method it has selected or by another method if that chosen method turns out for any reason whatsoever to be unsuccessful. Specifically, Spacotel must have complied with:

²³ The timescales detailed in Annex 1 are expressed in weeks and months in all but the final period. Ofcom notes that Spacotel cites the 17 week period for the NGNP Service Establishment Process as comprising 85 working days. Given that projected period included 25, 26 December 2006 and 1 January 2007 Ofcom has added three working days to arrive at the terminal date of 22 February 2007.

- (i) GC18.2 by providing Portability to BT in respect of the Non-geographic Numbers by 19 December 2007; and
 - (ii) GC18.1 by providing Number Portability in respect of the Non-geographic Numbers by 19 December 2007.
- 3.10 Ofcom considers that the timescales detailed in paragraph 3.9 provides Spacetel with a reasonable period of time to install the Upgraded Switch, provision the circuits, undertake the testing and switch setup as well as conduct the necessary pre-requisites prior to service establishment.
- 3.11 Ofcom would expect Spacetel, having complied with the Further Notification to be well placed to meet, on a timely basis, any future request for Portability and Number Portability.
- 3.12 Spacetel is required to remedy the consequences of the notified contraventions of GC18.1 and GC 18.2 by 19 December 2007.
- 3.13 Spacetel has a period of one month and one day from the date of this notification to make representations to Ofcom about the notification and accompanying Explanatory Statement.
- 3.14 If Spacetel does not comply with GC18.1 and GC18.2 by providing Number Portability and Portability and remedy the consequences of the notified contraventions of GC18.1 and GC18.2 then Ofcom may issue an enforcement notification under section 95 of the Act and may impose a penalty on Spacetel under section 96 of the Act.

Spacetel's implementation and Service Establishment timescale forecasts

