



**BT's response to Ofcom's  
Consultation Document  
"Broadband migrations: enabling consumer choice"**

5<sup>th</sup> October 2006

BT welcomes any comments on the contents of this document which is also available electronically at <http://www.btplc.com/responses>

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## Executive Summary

- Broadband is an essential enabler in 21<sup>st</sup> Century life, leisure and work, and it is welcome that Ofcom has initiated this analysis into the critical broadband issues impacting consumers.
- As acknowledged in the Consultation Document, in the majority of cases, MAC-based migrations do work well and offer a good customer experience. In principle, BT supports Ofcom's proposal to introduce a new General Condition to mandate the use of the MAC process by all Service Providers offering DSL and SMPF services.
- The scope of this Consultation covers both the mandating of the MAC process as well as operational issues such as Tag on the Line and Home Movers. BT has been working with its wholesale customers for many months to address the Tag and Home Movers process and systems issues. However, we recognise that progress has been slower than we would have liked and that the solutions identified to date have only had a limited impact.
- BT, in common with its wholesale Service Provider customers, views these operational issues as critically important consumer issues that require the highest levels of focus and commitment if they are to be resolved to the satisfaction of end users. Consequently, BT Wholesale has committed to stepping up the effort in this area.
- BT has agreed with a number of major broadband Service Providers to lead workstreams that will resolve the outstanding issues. BT is setting up an initial workshop within the next two weeks to rejuvenate this process, which will be led at Director level with direct involvement from BT Wholesale's CEO.
- In light of the above, we believe that the definition of migrations and scope of the proposed General Condition should focus, at this stage, only on the mandating of the MAC process - regulatory intervention to solve the other operational issues is currently not appropriate.
- BT has enormous sympathy with customers who are extremely frustrated when they cannot obtain a MAC from their broadband Service Provider when they wish to transfer service. Processes aimed at minimising consumer impact as a result of this are very important but the answer is not to mandate the provision of MAC codes by the wholesale broadband Service Provider. BT is convinced that alternative solutions will be possible and we see this as a key output of the focused workstreams outlined above.

- Given the highly competitive nature of the broadband industry, the withdrawal or closure of broadband Service Providers from the market as a consequence of debt related issues is inevitable. However, this specific issue should not drive the migrations process debate. BT sees the development of new and innovative ways of minimising the cost and impact for all parties to be part of the forthcoming BT Wholesale-led industry discussions.
- BT agrees that all services should be subject to similar rules governing promotion, sales and transfer processes. To ensure consistency in terms of customer experience we suggest that the mandatory guidelines under General Condition 14.3 for narrowband services should be updated to include broadband migrations.
- Ofcom is right to seek further analysis before advocating a Third Party Verification and/or Validation solution – the added complexity and cost to industry (and ultimately cost and potential delays to consumers) would appear to render this option unacceptable for all parties involved.

## Introduction

BT is pleased to contribute to Ofcom's consultation entitled "Broadband migrations: enabling consumer choice". As Ofcom recognises broadband is a highly important service for modern day society and enables a whole range of services to be accessed fast, either at a specific location or, more recently, on the move. There is healthy competition in the marketplace for broadband services and consumers have a wide choice of available services. The rapid growth of broadband with over ten million users seeking to choose from the large range of providers does however give rise to the need for switching and migrations processes which are fit for purpose – most importantly balancing the need for *ease of switching* with having *well informed consumers*. BT and other industry players have recognised this need and have been seeking to find the optimum solution for migrations across products and providers. Further comments on this area are provided in this response.

Whilst this Consultation Document touches upon the wider broadband process issues, its main focus is that of identifying and putting in place mechanisms which seek to address some of the consumer concerns associated with broadband migrations. This is a welcome move, but each element needs to be looked at individually and judged as to what should be the appropriate course of action to rectify the issue. All of the consumer concerns raised are highly important and BT and the rest of industry are aware of the issues and are actively seeking to address these. To this end, BT Wholesale has committed to leading industry discussion and workshops to facilitate the resolution of existing issues and drive new innovative solutions. BT recognises that this is the time to step up the priority and focus on these crucially important issues. We recognise that this is urgent and we are therefore seeking to set up the first workshop within the next two weeks.

However, whilst it would be optimum for the industry to ensure all processes are fit for purpose, there are times when there is a need for regulatory intervention and we consider that this applies to mandating the MAC process for existing broadband migrations and that a General Condition is the appropriate mechanism. Therefore the definition of migrations and scope of the proposed General Condition should focus on the mandating of the MAC process only - regulatory intervention to solve the other operational issues is not appropriate at this stage.

Given the above, we consider that a two stage process is appropriate. Firstly, the General Condition should be implemented which mandates the MAC process for DSL and SMPF services. If this is successful there will be no requirement to facilitate the provision of MACs from an alternative source. In parallel, BT Wholesale will lead work with the rest of industry to seek to address the other broadband process issues relating to:

- Home Movers Process;
- Tag on the Line; and
- The withdrawal of broadband Service Providers from the marketplace.

After six months there should be a review of the effectiveness of both the mandatory MAC provision process and the output of the BT Wholesale-led plans from the workshops.

### **Mandating the MAC process**

We are pleased that Ofcom has recognised that a robust enforcement mechanism should be in place to police the use of existing MAC processes for DSL and SMPF services and that these should be part of a General Condition. This will allow Ofcom to investigate and take swift, rigorous enforcement action where necessary. The MAC process offers robust protection for the consumer in terms of validating the customer's identity and providing authority to process with the transfer. In the vast majority of cases where the MAC process has been properly applied, well informed customers are transferred promptly and with very few post transfer issues. The core, industry wide systems to make it work are already in place.

BT supports the proposal to give greater choice to customers in the way they can request or receive a MAC code from their existing broadband retailer, for example by telephone, post or web. However the General Condition should not limit the number of ways in which a Service Provider can communicate with their end user, for example confirmation by text of a MAC code could be an acceptable form of contact. We propose the General Condition should be amended to accommodate this and other scenarios.

In order to increase the number of ways that a customer can request or receive a MAC code will require the development of retail systems across the industry. We estimate that this will take six months to implement and therefore the proposed General Condition should reflect this.

In addition, the issue of cancellations should be considered by Ofcom in greater detail within the context of the MAC process. Even with the MAC process BT considers that there may be circumstances where a customer who has provided a MAC to their gaining provider will wish to cancel their order (for example on a change of mind or because they are within a statutory cooling off period or because they have been mis-sold). The current proposed General Condition requires a gaining provider to cancel a requested migration on the request of the customer. BT supports this on the basis that it should deal with the above concerns to some extent. However, in the context of mis-selling in particular, Ofcom should also consider if there are circumstances in which the losing provider should be permitted to cancel a transfer order (the draft General Condition appears only to provide for cancellation by the Gaining Provider).

## **Home Movers**

One of the operational issues raised by Ofcom is that of Home Movers, and in particular the effect of Service Providers using the “cease and re-provide” process rather than the Movers process that BT Wholesale has made available and the impact that this has on the volume of Tags on the Line. This is an important consumer issue as it can result in loss of service. The prime reason for BT introducing the Home Movers Process was to reduce the amount of time associated with providing a broadband connection.

BT Wholesale has facilitated industry discussions to initiate various improvements to the Home Mover process that could increase its usage, which in turn would reduce the volume of Tag on the Line complaints. As a result of these discussions, BT Wholesale has implemented changes to its documentation process, simplifying it and increasing transparency. Internal systems developments are also planned to improve the matching process for simultaneous provision and a helpdesk has been created to deal with real-time problems. Further industry updates and discussions are planned for later this month. Progress continues to be made in this area and we do not see how a regulatory obligation could ease this process. We remain committed to the developments already in train and as stated above to working with the rest of industry to explore potential new improvements.

## **Tag on the Line**

BT has been actively working with Ofcom and the rest of industry to seek to resolve Tag on the Line issues. In particular BT set up a helpdesk that provides assistance to Service Providers and consumers where an order for BT's wholesale broadband cannot be placed because there is a Tag on the Line. We are committed to continuing this approach particularly because we recognise the inconvenience and frustration experienced by consumers if they cannot order broadband from their chosen Service Provider.

Although the majority of Tags on the Line cannot be avoided, we are working hard to improve the customer experience, particularly on identifying any other solutions that could reduce the occurrence of Tags as outlined in response to Question 2. Further ways to improve the processes to either avoid or minimise the impact of Tags will be a key focus at our proposed workshops.

## **Facilitation of MACs by the wholesale broadband Service Provider**

If the enforcement mechanism via the General Condition is implemented successfully it should not be necessary for end users to seek to obtain MACs from an alternative source. Given that retail Service Providers will have an enforceable obligation to make MACs available this will provide the incentive to ensure compliance. Additionally retail Service Providers will have a commercial incentive to ensure an appropriate back-to-back process is in place with their wholesale Service Provider to guarantee provision of MACs by the wholesaler to the retailer.

Whilst we are aware that it is currently extremely frustrating for consumers if they want to transfer their broadband service but are unable to obtain a MAC from their retail Service Provider, we believe that an enforceable condition will greatly reduce the likelihood of these incidents. It should not be the role of the wholesale broadband Service Provider, who provides the underlying components for the service, to supply a MAC to an end user with whom they have no relationship. This is because:

- end users are unlikely to know who the underlying wholesale broadband Service Provider is;
- the wholesale broadband Service Provider would not be able to verify the end user;
- the wholesale broadband Service Provider would be unable to verify that a MAC had been requested, subsequently refused and whether there was a legitimate reason for so doing;
- consumer protection measures would be undermined which could lead to an increase in issues such as mis-selling;
- the contractual relationship between (i) the end user and the retail Service Provider and (ii) the retail Service Provider and the wholesale broadband Service Provider is compromised; and
- the implementation costs and processes that would need to be put in place are likely to be prohibitive.

We suggest that the effectiveness of mandating the MAC process be reviewed after six months to see if any further processes need to be put in place.

### **Withdrawal of broadband Service Providers from the marketplace**

In the highly competitive broadband market the withdrawal of broadband Service Providers due to debt related issues is inevitable. Introducing processes aimed at minimising the consumer impact as a result of this are a worthwhile goal as BT has every sympathy with the end users who find that their chosen Service Provider is no longer able to provide them with service, but the proposal to mandate the provision of MAC codes by the wholesale broadband Service Provider is unacceptable. Apart from the considerable cost implications and the difficulties associated with complying with such an obligation, it is not feasible from a contractual and legal perspective and appears disproportionate to the scope of the problem.

In circumstances where the retail Service Provider and their wholesale broadband Service Provider have been unable to find a mutually acceptable solution to, for example, payment problems before a broadband service needs to be terminated, the only party who can make arrangements regarding their end user base is the retail Service Provider. Any action by another party, for example the wholesale broadband Service Provider prior to termination would be a breach of the contract between the wholesaler and the retailer. Furthermore MACs can only be issued and processed where there is still a working broadband service which means that they could not be issued or processed post termination. BT actively seeks to resolve problems with non-payment with its Service Provider customers and termination of service is always a last resort.

Although termination of service does not currently occur in significant numbers, BT recognises the impact that this has on the end users and BT is therefore willing to consider all options that could reduce any loss of service. We do not believe that it is possible to avoid loss of service altogether unless the retail Service Provider has been able to make commercial arrangements such as a bulk migration of all end users to another retail Service Provider before the service is terminated. We will be focussing discussion on this topic as part of the BT Wholesale-led industry discussions.

### **The roll-out of migrations processes to other broadband services**

The availability and roll-out of migrations processes between different Service Providers and different products incorporate differing degrees of automation. This is not an issue for a single Service Provider, but an industry-wide requirement. Where BT rolls out a migration process onto its systems, it is incumbent upon Service Providers to use the process to enable a smoother transfer for end users. The timing and speed of roll-out has needed to be prioritised based on factors such as:

- the volume of migrations;
- industry-wide costs and resources required;
- the move from tactical to strategic systems; and
- the need for trial and pilot phases.

The table shown at Annex B in response to Question 8 summarises the status of migration processes across broadband products as of the end of September 2006. The table shows both the products and systems (tactical and strategic) deployed. This demonstrates that in many scenarios, particularly those where we have high volume (such as IPStream to IPStream migrations) or where we have already built the migration functionality into the strategic system, in the case of SMPF (EMP) to SMPF (EMP), we have automated processes in place. Some of the other scenarios are not yet supported, for example WLR3 where the product is not yet available but due to be launched in January 2007. Similarly migration processes have not been deployed for low volume scenarios which are based on legacy systems as these will be overtaken by the use of new strategic systems.

## **Should migration processes be mandated?**

We believe that migration processes should be mandated for all broadband products as and when they are made available. This should mean that they are more widely used and seek to minimise end user disruption when transferring between Service Providers. Whilst there are different migration processes in place, notably the MAC process and the Advice of Transfer (letters) process, these are currently the subject of industry discussion via the Migrations Industry Working Group.

In this context consideration needs to be given to the industry-wide issues associated with mis-selling. Ofcom's analysis points to several poor selling practices having a detrimental impact on the customer's broadband experience. This happens particularly in cases where there is not a MAC process in place. 42% of the issues arising with LLU were caused by mis-selling and slamming where the customer was not clearly informed that, in the case of MPF transfers, their existing voice channel would be transferred as well as their broadband service. We therefore conclude that the current letter facilitation process has proved inadequate in ensuring an appropriately robust migration process between services. We should learn from this experience. We therefore advocate a form of customer-initiated code process and the MAC code provides a robust way to ensure the customer is well informed about his or her decision, and is protected from mis-selling. This area has been the focus of much discussion at the Migrations Industry Working Group and

We also recommend that Ofcom should extend and revise appropriately the existing narrowband mandatory Code of Practice under General Condition 14.3 to cover broadband services. This would promote good practice and consistent enforcement for all broadband services.

## **Application of General Condition 22**

As stated previously, BT is pleased that Ofcom is proposing to introduce a new General Condition to enable the MAC process to be enforced. However for the reasons set out above and in our answer to Question 4, we do not believe that it is necessary or proportionate to impose either the high level obligations or to generally extend obligations to wholesale Service Providers. We have therefore modified the proposed General Condition and attached at Annex A is a copy of our proposed wording to reflect our comments above. In particular we have:

- removed the references to the high level obligations;
- generally restricted the obligations to retail Service Providers; and
- clarified some aspects of the General Condition.

A more detailed narrative of why we have made the proposed changes is also provided at Annex A.

## **BT's response to the specific questions raised in the Consultation Document**

### ***Question 1: do respondents agree that the evidence from cases logged by OCC suggests that there is a need for regulation***

As Ofcom acknowledges in the consultation, the vast majority of broadband migrations go through seamlessly. However it is always helpful to understand where there are issues and therefore Ofcom's analysis of the specific reasons for customer difficulties and complaints in relation to the provision of broadband is useful.

The various forms of broadband access, and the many services and applications that run over them are very complex. The market structure of over a hundred Service Providers at both the wholesale and retail level means that there needs to be a number of interactions to facilitate a broadband migration. Although the industry should lead on enabling fit for purpose processes and has achieved this in a number of areas, there still appears a need for regulatory intervention in certain circumstances including Ofcom having powers to investigate and rapidly take action where necessary.

In particular, we strongly support the proposal to introduce a robust enforcement mechanism to police the use of existing MAC processes for DSL and SMPF services and that these should be part of a General Condition. This will allow Ofcom to investigate and take swift, rigorous enforcement action where necessary. In the majority of cases where the MAC process has been properly applied, well informed customers are transferred promptly and if this is mandated then customers will benefit further.

However as outlined in the introduction, we believe that the definition of migrations and scope of the proposed General Condition should focus on the mandating of the MAC process only - regulatory intervention to solve the other operational issues is not appropriate at this stage. Further BT Wholesale-led discussions have been initiated with the rest of industry to seek to resolve the operational concerns raised in the consultation.

### ***Question 2: do respondents agree that given the problems caused by tag on line there is a need for further regulation?***

We do not consider that the introduction of further regulation would resolve the issues concerning Tags on the Line. As shown in Ofcom's own analysis, these problems are often caused by consumers not advising Service Providers they are moving, or due to process pipelines.

There are a number of initiatives aimed at reducing tags all ready in train and we are keen to explore more options.

Current developments include:

- 'Provide on pending cease': this will allow BT Wholesale Service Providers to place orders with BT whilst a cease is in progress.
- 'On-line visibility tool': this will improve the overall customer experience by making information to customers more readily available.

Ofcom acknowledge that the BT Wholesale dedicated helpdesk has improved the experience for customers but that there is no quick way to address the Tag issues. The important issues for BT are managing the support functions and ensuring that the parties involved have access to information and advice when they need it as this is effective in reducing the dissatisfaction and the likelihood of multiple complaints. Where it is possible to make changes that can to some degree reduce the incidence of Tags, BT is working on developments to processes, systems and customer knowledge that will improve the situation.

***Question 3: do respondents agree that given the problems experienced by consumers where a broadband Service Provider fails or refuses to issue MACs, it is appropriate to introduce a process that enables customers to obtain MACs from another party? How do respondents see such a process working?***

We recognise that it is highly frustrating for end users if they are unable to obtain a MAC from their Service Provider. This is the reason for Ofcom introducing the new General Condition so that Ofcom has the power to enforce provision of the MAC process. Once implemented we should take stock of how compliance with the new General Condition is operating and monitor if consumers are continuing to have difficulty in obtaining MACs.

Ofcom has cited the particular case of retail Service Provider's termination of service as a result of debt related issues as a core reason for needing an alternative process for obtaining MACs by end users. This specific situation, whilst difficult for all involved, should not drive the need for a new migrations process, as this gives rise to legal and practical implementation issues. For example, the wholesale broadband Service Provider would be overriding the contractual relationship between the retail Service Provider and the end-user, and its own contractual relationship with the retail Service Provider to force the end user to switch.

Similarly there is also an issue of timing. A MAC can only be used where a service is live. For a Service Provider whose service has already been terminated for non-payment, and to prevent further debt mounting, a MAC would not help. Customers would be unaware of the problems between their chosen Service Provider and the wholesaler. It would not be appropriate for the wholesaler to proactively contact end users to explain that their Service Provider is having their service terminated.

As highlighted above, BT recognises that this proves a frustrating customer experience and therefore BT Wholesale will be leading urgent discussions with the rest of industry to explore other options seeking to minimise disruption for end users.

***Question 4: do respondents agree that Ofcom's proposed high-level obligations would effectively address the problems described in this document?***

As outlined in this response, BT considers that the best way to address the operational issues raised in the consultation is to carry out an in depth analysis of the issues across the industry and BT Wholesale has committed to set up industry workshops for this purpose. The optimum solution for these operational issues is for the industry to ensure all processes are fit for purpose and Ofcom should only intervene should they fail to resolve the underlying problems.

Whilst BT welcomes the obligation to make the MAC process mandatory for the migration of DSL and SMPF services, we are concerned that the additional imposition of the high level General Conditions could give rise to issues of interpretation. For example, whilst the idea of a "positive experience" (as per A5.25) for customers is obviously a welcome aspiration, imposing a legal obligation to this effect will raise a number of difficult issues.

We also remain concerned that the definition of broadband migrations in the consultation is too broad and that only a transfer of service by an end user between two Service Providers is a migration as understood by BT and the rest of industry.

Where a Service Provider transfers from one wholesale Service Provider to another or upgrades his service with the same wholesale Service Provider, we believe that the appropriate avenue for dealing with problems encountered in these transactions is through existing contractual mechanisms and that the imposition of additional regulation even if in the form of high level principles is neither necessary nor proportionate.

Similarly, for cases where an end user is transferring service within their own provider portfolio this is a matter of customer service by that provider, and any problems should be dealt with by existing contract or consumer law. In such a competitive marketplace, if a customer is not happy with the time taken for an upgrade of their service with a provider or the level of customer service offered, then they can exercise their contractual or consumer law rights or to take their business elsewhere.

We do not believe that it is appropriate for Ofcom to impose a high level obligation on the Home Movers process at this stage. Rather, Ofcom should await the outcome of the current industry discussions and new process developments and only where these fail to deal satisfactorily with the issues or resolve the underlying problem should Ofcom intervene and consider further regulation.

Therefore we recommend that the proposed General Condition should focus on the mandating of the MAC process only - regulatory intervention to solve the other operational issues is not appropriate at this stage.

***Question 5: do respondents agree that a mandatory version of the MAC process is appropriate?***

We consider that the MAC process works well today offering the opportunity for the customer to understand any outstanding contractual obligations and robust protection in terms of validation and authority to proceed with the transfer. Enshrining the obligation within General Conditions provides even greater consumer protection.

***Question 6: do respondents agree that six months is an appropriate timescale for development of these further proposals? If not, what alternative period do respondents suggest, and why?***

The Migrations Industry Working Group is currently discussing and analysing the options for moving to a harmonised migration process for transferable products. This is a complex task and has involved considerable resource across the industry. The issues in this consultation have formed a key part of the debate and this work should be allowed to come to fruition before further proposals are adopted. We suggest that a six month timescale would be appropriate to consider the implications of the output of the Migrations Industry Working Group. Additionally the BT Wholesale-led discussions around the operational issues should be allowed to develop and subsequently reviewed in six months' time.

***Question 7: do respondents agree that it is appropriate to make arrangements for provision of MACs by a third party mandatory?***

If the reference to a third party relate to 'a wholesaler' then for the reasons set out above we consider that it is not appropriate to make arrangements for provision of MACs by wholesalers mandatory.

Similarly, if the reference is to an alternative third party, then again we do not consider it is appropriate to mandate such an arrangement. The issues of cost and complexity of setting up a process for a third party would seem to be disproportionate to the perceived benefits. It is not clear as to how the third party would validate the end user or their product set. Also a third party would not be able to verify whether there had been a refusal to provide a MAC by the retailer so as to trigger the requirement for a third party to provide a MAC. It could therefore become an alternative MAC source without proper checks and balances. This could lead to customers not being properly informed about the migration and could lead to issues of mis-selling.

***Question 8: do respondents agree that it is appropriate to make arrangements for other migration processes, such as reverse migrations mandatory?***

We believe that migration processes should be mandated for all broadband products as and when they are made available, and this includes reverse migrations. Whilst there are different migration processes in place, notably the MAC process and the Advice of Transfer (letters) process, these are currently the subject of industry discussion via the Migrations Industry Working Group. We do however have concerns about the current letter facilitation process as we believe that has proved inadequate in ensuring an appropriately robust migration process between services. We should learn from this experience. We therefore advocate a form of customer-initiated code process and the MAC code provides an appropriate mechanism to ensure that the customer is well informed about his or her decision, and is protected from mis-selling.

The table shown at Annex B summarises the status of migration processes across broadband products as of the end of September 2006. The table shows both the products and systems (tactical and strategic) employed. This demonstrates that in many scenarios, particularly those where we have high volume or where we have already built the migration functionality into the strategic system, we have automated processes in place. Some of the other scenarios are not yet supported, for example WLR3 where the product is not yet available but due to be launched in January 2007. Similarly migration processes have not been deployed for low volumes which are based on legacy systems as these will be overtaken by use of new strategic systems.

## Specific Comments on Annex 5

The consultation seeks comments on the impact assessment as detailed in Annex 5. The following provides our comments.

Ofcom believes that a new General Condition 22 will create a net benefit, by helping to promote and enforce the processes related to broadband migrations. Consumer related migrations are classified as new connections, upgrades, switches, Home Moves, and changes in the wholesale input used to provide the retail service. The issue for the supporting regulatory impact assessment is whether its resulting incremental costs are greater than its resulting incremental benefits. Two options are put forward, namely no change, versus the introduction of General Condition 22.

Ofcom's preferred option is the introduction of General Condition 22, which Ofcom considers would have incremental benefits as an enforcement mechanism for the consumer issues raised in the consultation. However, whilst BT supports Ofcom in pursuit of the benefit to all of resolving these important issues, we are concerned about the incremental costs that may arise from the application of General Condition 22 in its current form.

Firstly is the cost of including wholesale broadband Service Providers in General Condition 22. The issues of failure or refusal to issue MAC codes are associated with retail Service Providers and therefore it seems unnecessary and therefore disproportionate to extend the scope of General Condition 22 to wholesale broadband providers. Furthermore the operational issues regarding Tag on the Line and Home Movers process are best dealt with through industry initiated solutions. It is difficult to see how a high-level obligation would ease this process.

Secondly is the lack of clarity in General Condition 22 in terms of specifying under exactly what circumstances wholesale broadband Service Providers would have to provide MAC codes creates a lack of legal certainty and may expose broadband Service Providers to subsequent enforcement actions that would increase their costs.

Instead as outlined above operational issues associated with broadband processes are best dealt with via thorough and robust investigation by BT and the rest of industry. We are committed to actively achieving success in this area.

**BT'S COMMENTS ON THE PROPOSED NEW G.22**

**SCHEDULE**

**Notification of a proposed modification under section 48(2) of the Communications Act 2003.**

**Proposal for the insertion of a new General Condition 22 on Service Migrations**

**22- SERVICE MIGRATIONS**

**Broadband Migrations.**

22. 1. Within six months of this Condition entering into force a Communications Provider pursuant to a request by an End-User shall comply with the provisions of the MAC Broadband Migrations Processes set out at Annex 1 to this Condition.

In this Condition:

- (a) **“Account holder”** means a person, other than a Communications Provider, who is party to a contract with the Communications Provider for the provision of Broadband Services.
- (b) **“Broadband Migration”** means the process by which:
  - (i) an End User or Customer transfers from using a Broadband Service supplied by a Communications Provider to a Broadband Service supplied by another Communications Provider.
- (c) **“Broadband Services”** means all high speed DSL services that allow for the transfer of high volumes of data at high speeds.
- (d) **“Cease Request”** means a direction given by a Communications Provider to its wholesale supplier in relation to a Broadband Service with the intention being to terminate provision of that Broadband Service to an Account Holder.
- (e) **“Communications Provider”** means a person who provides Broadband Services to an End User.
- (f) **“Customer”** means in relation to a Communications Provider a person who is an End-User of a Broadband Service provided by a different Communications Provider.
- (g) **“Default Migration Date”** means five Working Days after the MAC is provided by a Communications Provider to its supplier.

- (h) **“DSL (Digital Subscriber Line)”** means a family of technologies generically referred to as DSL or xDSL capable of transforming ordinary phone lines (also known as twisted copper pairs) into high speed digital lines.
- (i) **“End User”** means in relation to a Broadband Service;
  - (i) an Account Holder; or
  - (ii) a person who may be authorised, by a person falling within paragraph (i) above, so as to transfer the Broadband Service.
- (j) **“Fixed-line Telephone Services”** means narrowband calls and lines services provided to an End-User or Customer that allow for the transfer of speech communications, and other forms of communications such as facsimile and data.
- (k) **“MAC”** means Migration Authorisation Code, which is a unique code used to identify a Broadband Service that is intended to be transferred from one Communications Provider to another Communications Provider.
- (l) **“MAC Broadband Migrations Process”** means the obligations and processes set out in Annex 1 to this Condition.
- (m) **“MAC validity period”** means a period extending up to 17.00 on the thirtieth calendar day from issue (either verbally or in writing, whichever is first) by the Communications Provider.
- (n) **“Migration Date”** means the date on which the transfer of the Broadband Service will be affected, at which point the End-User's Broadband Service will commence being provided to the End-User by a different Communications Provider.
- (o) **“Working Day”** means the hour between 09.00 -17.00 on Monday to Friday, with the exception of Bank Holidays.

## **Annex 1**

### **Migrations Authorisation Code (MAC) Broadband Migrations Process**

A1.1 The Communications Provider shall, at the request of an End-User of the Communications Provider issue a MAC for a Broadband Service where the Broadband Service is a service to which the MAC Broadband Migrations Process applies.

A1.2 The MAC Broadband Migrations Process applies to the supply by the Communications Provider of all DSL services, with the exception of those DSL services that are required to be migrated by means of a process that relates to the supply of a Fixed Line Telephone Service supplied in conjunction with the DSL service.

A1.3 The Communications Provider shall take reasonable steps to validate the identity of an End-User who has contacted the Communications Provider to request a MAC for a Broadband Service, before issuing a MAC to the End-User.

A1.4 The Communications Provider shall provide its End-Users with two or more of the following contact methods:

- (a) telephone numbers;
- (b) e-mail addresses; and
- (c) postal address,

for the purposes of an End-User contacting the Communications Provider to obtain a MAC.

### **Issuing MACS to End-Users**

A1.5 Subject to A1.6 the Communications Provider shall communicate the MAC to the End-User in writing (e.g. letter, email or text) within five working days of receipt of the End User's request.

A1.6 Where the Communications Provider has issued the MAC to the End-User over the telephone; the Communications Provider shall also confirm the MAC to the End-User in a form acceptable to the End-User (e.g. letter, email or text) within five working days of the telephone conversation.

A1.7 The written response to the End-User containing the MAC shall clearly indicate:

- (a) the MAC or (MACs);
- (b) the MAC validity period and expiry date; and
- (c) the Broadband Service (s) to which MAC(s) applies.

A1.9 At any time prior to the expiry of the MAC validity period, the Communications Provider shall remind the End-User of the MAC if requested by the End-User.

A1.10 Where a MAC has already been requested and provided, the Communications Provider shall not impose any limits on the number of additional times an End-User may request the provision of a new MAC in relation to the Broadband Service, following the expiry of any other MACs.

A1.11 The Communications Provider shall issue a MAC to their End-User free of charge.

### **Refusal to Issue a MAC**

A1.12 The Communications Provider shall only refuse to issue a MAC to their End-User if;

- (a) the Communications Provider has, by taking reasonable steps, been unable to validate the identity of the person requesting the MAC as the End-User;
- (b) the Broadband Service contract has already been terminated prior to the request for a MAC;
- (c) a MAC which is still within its validity period has already been requested and issued by the Communications Provider in relation to the Broadband Service;
- (d) the Communications Provider has already submitted a Cease Request for the Broadband Service prior to the request for a MAC.

A1.13 Where the Communications Provider is unable to, or refuses to, provide a MAC to the End-User, the Communications Provider shall provide the End-User with a clear explanation of why the MAC has not been provided.

### **Cease Requests and Notice to Terminate a Broadband Service**

A1.14 The Communications Provider shall not in circumstances where the End –User has contacted the Communications Provider to discuss terminating the Broadband Service issue a Cease Request for the Broadband Service unless the Communications Provider has taken reasonable steps to establish that the End-User does not wish to transfer the Broadband Service to another Communications Provider

A1.15 The Communications Provider shall, when issuing a MAC, confirm to the End-User that any previous termination by the End-User that has not resulted in the issue of a Cease Request has been revoked, and shall ensure that any current or pending termination actions are cancelled.

### **MAC validity and Allowed Actions**

A1.16 The Communications Provider shall not terminate the Broadband Service during the MAC validity period expiring unless:

- (i) the Customer specifically requests the termination; or
- (ii) the termination occurs within the Communication Providers' normal contractual processes (for e.g. to manage bad debt).

A1.17 Where a Communications Provider accepts a valid MAC from a Customer, the Communications Provider shall proceed with the migration and inform the Customer of the Default Migration Date

A1.18 The Communications Provider shall, at the request of a Customer up until one Working Day prior to the Default Migration Date:

- (a) accept a request to extend the Default Migration Date to a later Migration Date (Requested Migration Date), provided the MAC validity period has not expired within five days of the Requested Migration Date; or
- (b) cancel the Default Migration Date or Requested Migration Date

### **Erroneous MAC Migrations**

A1.19 The Communications Provider shall provide a recovery process so that in the event of an erroneous migration effected by way of a MAC, the End-User's Broadband Service can be restored to the original Communications Provider with minimum disruption.

### **Information about the MAC Broadband Migrations Process**

A1.20 The Communications Provider shall publicise the availability of the MAC Broadband Migrations Process, including providing the following information;

- (a) an explanation of how the MAC is used to facilitate the transfer of a Broadband Service to another Communications Provider;
- (b) details of how an End-User may request a MAC from the Communications Provider such as telephone, email and postal contact details;
- (c) reasons why the Communications Provider may not be able to issue a MAC;
- (d) details of the complaints handling process for complaints about a failure by the Communications Provider to issue a MAC;
- (e) alternative migration options for an End-User if the Communications Provider cannot issue a MAC for the Broadband Service;
- (f) the default Migration Date that applies when a MAC is provided to the Communications Provider by a Customer for the purposes of transferring the Broadband Service to the Communications Provider; and
- (g) any options available to request a Migration Date later than the Default Migration Date.

A1.21 Publication of the information set out in A1.20 above shall be effected by publishing the information on the Communications Provider's website, and by sending a copy of the information so requested by an End-User.

### **Complaints about the MAC Broadband Migrations Process**

A1.22 The Communications Provider shall handle complaints from End-Users in relation to a decision to refuse, or a failure by, the Communications Provider to issue a MAC as part of its existing complaints handling processes.

## **Explanation of BT changes**

**22.1** BT has restricted the requirement to comply with the MAC process to Communication Providers who provide services to End-Users. BT does not believe that at this stage an extension of the MAC process is a proportionate or necessary application of regulation. Additionally BT does not believe that it is an appropriate use of regulation to impose high level obligations on any Communications Provider either at the retail or the wholesale level.

We have also changed two months to six months. This is because currently BT Retail provides MACs solely by telephone. The introduction of the obligation to allow customers to contact by other methods including post and email will require new systems to be put in place to ensure that queries that are received by post and email are dealt with appropriately. This is because currently customer service advisors do not have direct access to email. Similarly the requirement to confirm a MAC in writing after verbal provision will require new systems because of the lack of access to email by advisors.

## **Definitions**

Broadband Migration. We have restricted this to a broadband migration as understood by BT and the rest of industry.

Communications Provider. We have amended this definition to restrict it to a retail provider.

End-User. We have changed the definition of subsection (ii) to reflect the fact that the definition of broadband migration is now only a transfer of the service. The party should have authorisation from the Account Holder to transfer the service.

## **Annex 1.**

**A1.1** We have restricted the obligation to provide the MAC to a Communications Provider.

**A1.2** Although we have not made changes we believe this section requires some clarification. We assume that Ofcom means that the process applies to all DSL services with the exception of MPF.

**A1.5** We have made this subject to A1.6. We have also included text as a permissible form of writing.

**A1.6** We have made it clear that the requirement is to confirm the MAC previously provided by phone. We have changed the words slightly to state that while the form of contact must be acceptable to the customer and have included text as a possibility and therefore we have deleted 1.7.

**A1.12** We have amended (b) and (d) to make it clear that the termination and the Cease Request should have been prior to the request for a MAC. We have deleted (e) as we think it unnecessary.

**A1.14** We have restricted the application of A1.14 to cases where the customer has contacted the Communications Provider to discuss terminating their broadband service as there may clearly be circumstances where it is appropriate for a Communications Provider to issue a cease request (outside of the MAC process) such as in the case of non payment of bills. We have also clarified that the obligation should be to take reasonable steps.

**A1.5** We have clarified that this can only apply in cases where the termination has not resulted in a Cease Request.

**A1.16** We have amended this provision to cover the actions that a Communications Provider can take within the validity of the MAC period. BT does not believe that the issuing of a MAC should affect a providers right to, for example terminate service for bad debt. BT also does not think it is necessary to deal with what happens on expiry of a MAC. On expiry of a MAC both Communications Provider and End-User have the contractual rights available to them that they had prior to requesting a MAC and this is not something that needs to be dealt with separately.

**A1.17** We have amended the wording slightly as the previous text could have been seen to impose an obligation on Communications Providers to accept any customer who presented them with a MAC and a request to transfer. It seems clear that the obligation once a Communications Provider has decided to take on a customer, is to use the MAC that the customer has provided.

**A1.20** Clarificatory amendment.

**A1.23** We have deleted this provision to restrict the application to a retail provider.

### **Table summarising migration scenarios**

Some scenarios are already available – these are indicated by **Y**.

Other scenarios are not available – these are indicated by **N**.

The table also indicates if there are any plans for these migrations to become available - providing a date if planned and **N** signifies no date available.

Colours have also been used to indicate:

- in columns 2 and 3
  - **Red** that a scenario is not available or not planned
  - **Yellow** that a scenario works with manual intervention
  - **Green** that a scenario is automated or planned to be automated
  
- in column 4, the volume of migrations that are currently going through our systems
- in column 6, that a MAC key is required to support the migration
  - **Red** for low,
  - **Yellow** for medium; and
  - **Green** for high

**Migrations (as a component of overall BB migrations)**

	<b>Migration Scenario Available Today (Y/N)?</b>	<b>Migration Scenario Available Tomorrow (Date)?</b>	<b>Volume of Orders</b>	<b>Order Method</b>	<b>MAC key required (Y/N)?</b>
<b><i>Intra-LLU (both CPs strategic)</i></b>					
MPF (EMP) to MPF (EMP)	Y	Y	LOW	EMP (Provide)	N
SMPF (EMP) to SMPF (EMP)	Y	Y	MEDIUM	EMP (Provide)	Y
MPF (EMP) to SMPF (EMP) + WLR3 (EMP)	N	Jan-07	NONE	EMP (Provide)	N
MPF (EMP) to SMPF (EMP) + WLR2 (SPG)	Y	Dec-06	LOW	EMP (Provide) + SPG	N
MPF (EMP) to SMPF (EMP) + Retail PSTN (?)	Y	Dec-06	LOW	EMP (Provide) + Smart	N
SMPF (EMP) to MPF (EMP)	Y	Y	NONE	EMP (Provide)	N

<b>Intra-LLU (one CP strategic, one CP tactical)</b>					
MPF (EMP) to MPF (eCoLLU)	N	N			N
MPF (eCoLLU) to MPF (EMP)	Y	Y	LOW	EMP (Provide)	N
SMPF (EMP) to SMPF (LISA)	N	Oct-06	NONE	LiSA (SP migration)	Y
SMPF (LISA) to SMPF (EMP)	Y	Y	LOW	EMP (Provide)	Y
MPF (EMP) to SMPF (LISA) + WLR3 (EMP)	N	N			N
MPF (eCoLLU) to SMPF (EMP) + WLR3 (EMP)	N	Jan-07	NONE	EMP (Provide)	N
MPF (EMP) to SMPF (LISA) + WLR2 (SPG)	Y	Y	NONE	LiSA + SPG	N
MPF (eCoLLU) to SMPF (EMP) + WLR2 (SPG)	Y	Dec-06	NONE	EMP (Provide) + SPG	N
MPF (EMP) to SMPF (LISA) + Retail PSTN (?)	Y	Dec-06	LOW	LiSA + Smart	N
MPF (eCoLLU) to SMPF (EMP) + Retail PSTN (?)	Y	Dec-06	LOW	EMP (Provide) + Smart	N
SMPF (LISA) to MPF (EMP)	Y	Y	LOW	EMP (Provide)	N

SMPF (EMP) to MPF (eCoLLU)	N	N			N
<b><i>Intra-LLU (both CPs tactical)</i></b>					
SMPF (LiSA) to SMPF (LiSA)	N	Oct-06	NONE	LiSA (SP migration)	Y
MPF (eCoLLU) to MPF (eCoLLU)	N	N			
<b><i>LLU (strategic) to WLR3 to LLU (strategic)</i></b>					
MPF (EMP) to WLR3 (EMP)	N	Jan-07	NONE	EMP (Provide)	N
WLR3 (EMP) to MPF (EMP)	N	Jan-07	NONE	EMP (Provide)	N
<b><i>LLU (strategic) to WLR2 to LLU (strategic)</i></b>					
MPF (EMP) to WLR2 (SPG)	Y	Y	NONE	SPG	N
WLR2 (SPG) to MPF (EMP)	Y	Y	MEDIUM	EMP (Provide)	N
<b><i>LLU (strategic) to Retail PSTN to LLU (strategic)</i></b>					
MPF (EMP) to Retail PSTN (?)	Y	Y	NONE	Smart	N

Retail PSTN to MPF (EMP)	Y	Y	HIGH	EMP (Provide)	N
<b><i>LLU (tactical) to WLR3 to LLU (tactical)</i></b>					
MPF (eCoLLU) to WLR3 (EMP)	N	Jan-07	NONE	EMP (Provide)	N
WLR3 (EMP) to MPF (eCoLLU)	N	N			N
<b><i>LLU (tactical) to WLR2 to LLU (tactical)</i></b>					
MPF (eCoLLU) to WLR2 (SPG)	Y	Y	LOW	SPG	N
WLR2 (SPG) to MPF (eCoLLU)	Y	Y	MEDIUM	eCoLLU	N
<b><i>LLU (tactical) to Retail PSTN to LLU (tactical)</i></b>					
MPF (eCoLLU) to Retail PSTN	Y	Y	MEDIUM	Smart	N
Retail PSTN to MPF (eCoLLU)	Y	Y	HIGH	eCoLLU	N
<b><i>Wholesale</i></b>					
IPStream (Classic) to IPStream (Classic)	Y	Y	HIGH	eCoBB (Generic Modify or SP Migrate)	Y

IPStream (Classic) to IPStream (SMPF)	N	N			
IPStream (SMPF) to IPStream (Classic)	N	N			
IPStream (SMPF) to IPStream (SMPF)	Y	Y	LOW	eCoBB (Provide with MAC)	Y
DataStream (Classic) to DataStream (Classic)	Y	Y	MEDIUM	eCoBB (Generic Modify)	Y
DataStream (Classic) to DataStream (SMPF)	N	N			
DataStream (SMPF) to DataStream (Classic)	N	N			
DataStream (SMPF) to DataStream (SMPF)	Y	Y	NONE	eCoBB (Provide with MAC)	Y
DataStream (Classic) to IPStream (Classic)	Y	Y	MEDIUM	eCoBB (Generic Modify)	Y
IPStream (Classic) to DataStream (Classic)	Y	Y	MEDIUM	eCoBB (Generic Modify)	Y
DataStream (SMPF) to IPStream (SMPF)	Y	Y	LOW	eCoBB (Provide with MAC)	Y
IPStream (SMPF) to DataStream (SMPF)	Y	Y	LOW	eCoBB (Provide with MAC)	Y

DataStream (SMPF) to IPStream (Classic)	N	N			
IPStream (Classic) to DataStream (SMPF)	N	N			
DataStream (Classic) to IPStream (SMPF)	N	N			
IPStream (SMPF) to DataStream (Classic)	N	N			
DataStream (Classic) to SMPF (LiSA)	Y	Y	HIGH	LiSA (SP migration)	Y
IPStream (Classic) to SMPF (LiSA)	Y	Y	HIGH	LiSA (SP migration)	Y
DataStream (Classic) to SMPF (EMP)	Y	Y	LOW	EMP (Provide)	Y
IPStream (Classic) to SMPF (EMP)	Y	Y	MEDIUM	EMP (Provide)	Y
SMPF (LiSA) to DataStream (Classic)	Y	Y	LOW	CRF	Y
SMPF (LiSA) to IPStream (Classic)	Y	Y	LOW	CRF	Y
SMPF (EMP) to DataStream (Classic)	N	N			
SMPF (EMP) to IPStream (Classic)	N	N			