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# Consumer Switching: Proposals to reform switching of mobile communications services

BT Group response to the consultation

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3 June 2016

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Annex 1: BT's assessment of implementation costs (confidential)

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# 1. Introduction and summary

BT Group plc ('BT'), which includes amongst other businesses, British Telecommunications Plc and EE Ltd, welcomes the opportunity to respond to Ofcom's Consumer Switching Consultation, published on 23 March 2016 (the "Consultation").

BT agrees with Ofcom that it is important that consumers can switch provider quickly and easily to help them exercise choice and take advantage of competition in the communications sector and that smooth switching processes encourage competition for the provision of good value, high quality and innovative services.

If one were to start with a clean slate then in principle, BT agrees with Ofcom, with the UK government and with the European Commission that gaining provider-led (GPL) switching processes are most likely to meet these aims, by making it as easy as possible for consumers to switch. However, mobile switching has been refined over the years such that it now works very well for consumers and meets these criteria. There is no case for immediate action. Especially as there will very likely need to be changes in the near future, to ensure that as services converge and more products are purchased as a bundle, services can easily, safely and quickly be switched. As such BT would urge Ofcom to pause changes to mobile switching and take the opportunity to ensure that new processes are consistent with the switching of other products and services, including cable and Pay-TV services.

To support an assessment of switching reforms, BT has developed a set of high level principles, which it believes switching processes and switching related interventions should meet. These principles broadly reflect the switching principles set out by the department of Business, Innovation and Skills ('BIS') in its Government Response and Action plan, Ofcom's objectives and Ofcom's regulatory principles<sup>1</sup>:

1. Switching should be simple, i.e. quick, easy and effortless, from a customer perspective.
2. The same services, and services sold as a bundle, should be subject to the same switching process, regardless of underlying technology, to avoid competitive distortion.
3. Regulatory switching interventions should focus on those areas where there is a competitive distortion, and/or the consumer harm is greatest.
4. Regulatory intervention should be proportionate to the harm it aims to address.
5. Regulatory intervention must improve, not reduce, the quality of customer experience.

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/525446/bis-16-155-government-response-switching.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525446/bis-16-155-government-response-switching.pdf)

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6. Regulatory intervention should take into account likely future market developments.

Ofcom's research demonstrates that mobile switching works well for consumers and meets these principles. Whilst there is merit in Ofcom intervening to ensure that mobile switching processes align with other switching processes, where mobile is converged or bundled with those other products, in isolation there seems only limited benefit to consumers in requiring changes to the mobile switching processes now. Consumer satisfaction with mobile switching is 94%, higher than for any other communications service, and has been increasing over time. This high satisfaction is underpinned by Ofcom's impact assessment of its options. The purported benefits of the options are small, and are driven by consumers saving a short time when they switch provider.

The communications market is changing, offers are increasingly converged, and we have observed a strong increase in triple play bundles over the past few years. With that in mind, we believe there is a compelling case for Ofcom to now adopt a holistic approach to switching, and design and implement future-proofed switching processes capable of handling all services likely to be sold as part of a bundle on a consistent GPL basis (i.e. each element of the bundle will be subject to its own GPL process). This will minimise consumer harm, and eradicate the current competitive advantages enjoyed by certain providers, stemming from differences in switching processes for different services in a bundle.

Given the popularity of triple play bundles, and the consumer detriment caused by different switching processes in this market, we believe that this must be Ofcom's immediate area of focus, and that Ofcom should now look holistically at all networks and platforms over which triple and quad-play services are provided.

Although the current take-up of quad-play bundles is relatively small, there is clear potential for quad-play bundles to become significantly more prevalent. We therefore urge Ofcom to ensure that development and implementation of any new GPL processes for quad play services is carried out consistently and in parallel with the services, including mobile, that will form a part of such bundles.

Ofcom's consultation suggests there may be harm related to consumers double paying when they take out a contract with their new provider and are liable for paying their previous provider a notice period charge. Ofcom's options to address this harm are linked to its switching options, despite the notice period issue being independent of a LPL or GPL process. We consider double paying is an issue that could be addressed separately by Ofcom. Neither of Ofcom's options is particularly effective in addressing the harm related to double paying. We therefore suggest Ofcom look in more detail at the evidence and set out a wider range of options to address this, independent of any mobile switching proposals.

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## 2. Switching processes and consumer harm

BT acknowledges the importance of switching in ensuring effective competition and is very keen to ensure that switching processes work well for consumers.

Below we will first provide some market context around Ofcom's proposals, by describing relevant developments, setting out the importance of switching, and discussing a set of principles we believe Ofcom should apply in assessing switching processes and deciding on possible interventions.

We then look at Ofcom's research into mobile switching rates, the consumer experience of switching and assess the areas of potential consumer harm identified by Ofcom. We also give our view on Pay TV and cable switching processes (where they are sold as part of a bundle) which Ofcom have announced they will consult on this summer.

### Market context and switching principles

The processes used by consumers to switch between communications providers are of vital importance to the competitiveness of the communications industry. It is essential that customers are able to switch easily, seamlessly and efficiently so that they can exercise complete freedom of choice and achieve all the benefits that a healthy competitive market brings.

Ofcom has so far addressed switching processes by network / technology. Ofcom began a review of consumer switching processes in 2010, prioritising switches involving fixed voice and broadband services made over Openreach's access network, concluding at the end of 2013 and determining that consumers would be better served by a gaining provider led ('GPL') process. Implementation was completed in 2015.

In 2014, Ofcom published a Call for Inputs ('Cfi') extending the review of consumer switching to consider Pay TV, cable and mobile services. It requested views on whether the considerations which led them to a GPL outcome were also relevant in the wider context of cable, mobile and Pay TV switches. The focus of Ofcom's Cfi was primarily on the consumer experience of switching and not on the competitive effects of differences in switching processes.

Ofcom then decided to continue its technology specific approach, and separate mobile switching and cable / Pay TV switching into two distinct projects. Mobile switching was considered to offer more immediate opportunities for improvement of consumers' experience and Ofcom therefore proceeded with the mobile consultation first. Ofcom has announced that a consultation on Pay TV and cable switching will be published in July 2016.

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The bundling of services is becoming increasingly common. Ofcom's own analysis shows that take up of bundled services, primarily fixed voice, broadband and pay TV, has increased from 29% in 2005 to 63% in 2015<sup>2</sup>. There is potential for quad-play bundles (bundles that include mobile services) to gain further popularity in the UK, albeit that current take up is small. With the acquisition of EE, BT is now a converged fixed / mobile operator, Virgin and TalkTalk already provide fixed and mobile bundles and Sky is expected to enter the mobile market later this year.

BT considers that rather than focusing on "stove-piped" technology based interventions, Ofcom should take a step back, and consider holistically what switching should look like in a converged world, and what issues consumers could be faced with when switching bundles, including bundles that involve mobile services.

With this in mind, BT believes switching processes and potential interventions in these processes should meet the following principles:

1. **Switching should be simple, i.e. quick, easy and effortless, from a customer perspective.** This ensures that consumers can easily exercise choice and are more likely to engage and benefit from a competitive market.
2. **The same services, and services sold as a bundle, should be subject to the same switching process, regardless of underlying technology, to avoid competitive distortion.** Where there is a difference in regulatory approach to switching processes for products that are bundled together, some providers may have a competitive advantage over others, solely based on that regulatory asymmetry. This hampers competition and leads to consumer harm caused by higher switching costs and potentially higher prices.
3. **Regulatory switching interventions should focus on those areas where there is a competitive distortion, and / or the consumer harm is greatest.** Ofcom's current focus on the consumer experience of switching provides insight into part of the harm only. Harm related to competitive distortion stemming from switching processes that are asymmetric based on technology should be included in such an analysis. Such an analysis would result in a focus on cable and Pay-TV, ensuring that all processes work together where products are bundled.
4. **Regulatory intervention should be proportionate to the harm it aims to address.** In line with Ofcom's regulatory principles, Ofcom must have a bias against intervention and choose the least intrusive means of achieving an outcome, if intervention is justified. Given the possibility that the costs of introducing a change to mobile switching may be wasted if, as seems likely, changes would need to be made to ensure switching works in a converged

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<sup>2</sup> <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr10/> and <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr15/uk/>

world with increased bundling, it is clearly questionable whether a change to mobile switching in isolation is proportionate.

5. **Regulatory intervention must improve, not reduce, the quality of customer experience.** This is especially relevant when switching bundles and emphasizes the need for a holistic, cross service approach to switching. As things stand, leaving aside questions around the notice period, the mobile switching process works well for customers.
6. **Regulatory intervention should take into account likely future market developments.** Ofcom's switching work should ensure that any interventions are relevant, and remain relevant, in the short to medium term, and take account of developments in the market. Stand-alone solutions in individual markets risk becoming redundant in the short term, thus creating wasted costs, and may not be effective in a world with increased bundling.

## Research into the consumer experience of switching

### Switching levels

In Ofcom's July 2015 Consultation on Mobile Switching<sup>3</sup>, Ofcom noted a decrease of switching levels in the mobile and fixed line markets. Ofcom's most recent Consumer Experience Report 2015<sup>4</sup> showed that mobile switching had increased in the year to July/ August 2015, and had returned to levels similar to those in 2013/12.

Switched in 12 months to Sept.	Sept 2015		Sept 2014		Sept 2013	
	Total	Excl. home move	Total	Excl. home move	Total	Excl. home move
Fixed line	11% ↑	9% ↑	7% ↓	6% ↓	11%	9%
Mobile	10% ↑		7% ↓		11%	
Broadband	11%	8%	8%	6%	11%	9%
Total TV	6% ↑	4% ↑	3%	2%	4%	3%
Pay TV	7% ↑	5% ↑	3%	2%	5%	4%
Free-to-air TV	5% ↑	3%	2%	1%	2%	1%

Source: Ofcom's Consumer Experience Report 2015

<sup>3</sup> <http://stakeholders.ofcom.org.uk/binaries/consultations/mobile-switching/summary/consumer-switching.pdf>

<sup>4</sup> <http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-15/Annex.pdf>

We note that switching levels are comparable across fixed line, fixed broadband and mobile services, but are significantly lower for TV services. Switching levels in fixed voice and broadband are likely to have been held back as a result of the lack of a GPL process for cable and pay TV switching, and the resulting asymmetry in the switching of triple-play bundles. Thus Ofcom’s previous regulatory intervention in relation to switches within the Openreach footprint has been undermined.

### The consumer experience of switching

Ofcom commissioned a number of pieces of research to assess whether there is harm in the mobile switching process, and if so, in which areas and to what extent. Below we discuss research included in the Consumer Experience Report (carried out on an annual basis), a further quantitative mobile switching analysis (‘the BDRC research’) and qualitative switching research (‘the diary study’).

We note the different pieces of research are carried out by different agencies, using different methodologies and different questions, which make the results hard to compare.

#### *Ofcom’s Consumer Experience Report*

Ofcom’s Consumer Experience Report contains information about the consumer experience of switching across all communications services. Table 1 below shows that satisfaction regarding ease of switching is highest in mobile, and is increasing over time.

Table 1: Percentage of switchers finding switching very or fairly easy

<b>Service</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Fixed line	89%	91%	89%
Mobile	90%	92%	94%
Broadband	85%	85%	88%
Digital TV	92%	86%	90%

*Source: Ofcom Consumer Experience Report 2015*

The same report provides insight into the issues experienced by switchers in the fixed line, mobile and broadband markets. No information is available about consumers who switch their TV service. Table 2 below contains an overview of the main issues experienced by switchers in these markets, and their prevalence.

Table 2: Issues experienced by switchers by market

Issue	Fixed line	Mobile	Broadband
Provider persuasion to stay	16%	9%	24%
Technical issues	14%	2%	20%
Loss of service	13%	3%	24%
Process took longer than expected	11%	5%	16%
Arranging start and stop dates	9%	3%	13%
Contacting provider to cancel service	9%	4%	12%
Cancellation charges	9%	1%	9%
Provider sending bills for cancelled service	8%	3%	11%
Comparing offers	8%	7%	3%
Paying for two services	7%	4%	16%
Waiting for contract to end	5%	5%	7%
Keeping phone number / email	4%	7%	10%
Obtaining information on switching from previous provider	4%	3%	8%
Delay in receiving equipment	4%	0%	7%
Knowing how to switch	0%	2%	5%

Source: Ofcom Consumer Experience Report 2015

From this table it can be seen that switching related issues are only experienced by a small minority of mobile consumers, and that issues are significantly less prevalent in mobile switching than in fixed switching. The top three issues mentioned by mobile consumers are provider persuasion to stay (9%), comparing offers (7%) and keeping phone number (7%). In addition, many of these issues exist irrespective of the switching process being LPL or GPL. Indeed, all of the issues observed in Table 2 are also present in fixed switching, which is largely subject to a GPL process. This suggests that it is not the type of switching process that determines the consumer satisfaction with it, but rather the way in which a process is implemented, and the extent to which the process can be undermined.

The Consumer Experience report also provides information about the reasons cited by mobile consumers who decide not to switch. They stay put because they are content to do so – i.e. due to the duration of the contract they chose to enter into (commonly in return for a subsidised hand-set) or due to a perceived lack of financial benefit from switching provider (indicative of the fact that prices for UK mobile services are some of the lowest in the world<sup>5</sup>) or simply because they are satisfied with their current provider. These reasons, which have

<sup>5</sup> Ofcom's international pricing comparison, including the US and 5 EU countries shows that the UK was cheapest for mobile phone prices in 2015.  
[http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr15/icmr15/icmr\\_2015.pdf](http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr15/icmr15/icmr_2015.pdf).

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nothing to do with the switching process available to those consumers, together account for almost 80% of reasons for not switching.

In fixed-line, lack of perceived cost benefit (33%), hassle (28%) and current satisfaction (24%) were the most-mentioned reasons for not switching provider. In both the fixed broadband (32%) and TV markets (37%), 'hassle', or 'perceived hassle' was the main reason for not switching.

### *The BDRC Research*

The BDRC research prompted all consumers within the sample with a predefined list of potential difficulties they may have experienced when switching or considering switching.

Consumers were then asked whether the items on the list had presented no difficulty at all, a minor, or a major difficulty (without defining what a major or minor issue was). Consumers stating multiple major difficulties were asked what the main difficulty was. Using this methodology, (which as explained above differs significantly from the one used in Ofcom's Consumer Experience Report), 78% of switchers found the process easy and 38% of switchers mentioned major difficulties.

The top three major issues mentioned by consumers were contacting your old provider (11%), cancelling your previous service (10%) and keeping your phone number (10%). The sample included non-switchers as well. Main reasons for this group not to switch were a preference to stay with the current provider, and the current provider still being the best or cheapest.

In the consultation document, Ofcom set out that the BDRC research reports a more considered response on ease of switching than the Consumer Experience report, because consumers are shown a list of potential difficulties before being asked to recall how easy their experience was.

We disagree and consider the approach taken by BDRC lacks the 'open mindedness' we expect research to have. The methodology assumes all consumers have experienced issues when they switched their mobile, by prompting all consumers (even the ones who may not have experienced any issues) with a list of potential difficulties. Put simply, these were leading questions, and the output of such research is likely to be somewhat biased. In its consultation (footnote 20) Ofcom acknowledges that there may be concerns that switching related issues may have been identified solely because they were prompted.

### *Qualitative switching research*

In 2015 Ofcom also carried out a qualitative study in the form of an online interactive diary and discussion groups. Aim of this research was to supplement

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the quantitative research described above. Due to the small sample size, the results are not statistically representative. The main findings are set out below:

- Most switchers in the sample (ca. 90%) who kept their number found the PAC process easy;
- The main reason for not switching was acceptance of an offer from an existing provider;
- Some difficulties and hassle among switchers related to the planning and co-ordination of the switch, including managing notice periods;
- GPL scenarios were tested with the consumers in the sample. Most in the sample preferred a GPL approach. Loss of control, fears about being switched without their consent and loss of negotiating power with their current supplier, were mentioned as disadvantages of GPL, especially by the less experienced and savvy customers (who tend to be older and have lower levels of engagement);
- The BIS Government response and action plan contains insights around consumers' preferences for LPL or GPL processes. Whereas the non-industry respondents to the BIS call for evidence tended to prefer a GPL process, a survey carried out by Money Saving Expert indicated that 64% of their respondents liked a LPL process, as the losing provider would give them offers.

#### **Harm related to double paying**

Ofcom's consultation sets out that there is significant harm related to customers who enter into a new contract, and start paying for their new mobile service, whilst having to pay a notice period charge for their previous mobile service as well. Ofcom estimates this harm to be £46m pa. The Ofcom consultation options partly address this double paying issue. In section 3 we comment on the options put forward by Ofcom to reduce double paying. We note that Ofcom's options to address double paying are included in both switching options. However, we believe that measures for reducing or removing double paying are not dependent on these options, and can be taken separately, without the need to change the switching process. We note that once harm associated with double payments is removed from Ofcom's CBA, the costs of its proposed options more or less offset any estimated benefits, and therefore the justification for reforms to switching at this time weaken still further.

#### **Harm in other switching processes**

We agree with Ofcom that where services are sold as part of a bundle, having different switching processes for each component of the bundle has the potential to make switching difficult. In addition, as set out above, where providers of the same service are subject to asymmetric switching processes this potentially creates an unfair competitive advantage for those providers that are not subject to the GPL process, leading to consumer harm from increased switching costs and potentially higher prices. In the mobile market, all providers are subject to the same LPL process. In the fixed and triple play market, this is

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not the case. This strengthens the case for a move to aligned GPL switching processes for services that are bundled together.

The asymmetric GPL switching process in the supply Pay TV and cable services in the UK is likely to be driving higher prices for consumers and thereby increased consumer harm compared to a symmetric GPL process.

Economic modelling and theory predicts that consumer harm is more likely to materialise in markets that are less competitive, such as those with high switching costs and asymmetric firms (in terms of size and the consumer preferences they benefit from). In certain circumstances (such as those which currently exist in the market for triple play services), higher switching costs make consumers less prone to switch, which in turn encourages firms to “harvest”, or raise prices to existing customers.

To the extent that GPL makes it easier for consumers to switch providers, extending GPL to other platforms is likely to reduce switching costs in the market, which should have the effect of reducing prices. When the relationship between switching costs and prices is positive in this way, the existence of asymmetric GPL switching processes for services that are bundled together negatively impacts on competition, resulting in consumer harm.

Ofcom’s evidence suggests that switching costs for Pay TV services are high, and switching rates for these services are low. It follows that that asymmetric GPL switching processes are more likely to lead to sub-optimal outcomes for consumers, suggesting that extending GPL processes to other platforms (i.e. cable and pay TV) would be to the benefit of consumers.

This distortion of competition and consequent consumer harm, which is specific to Pay TV and cable switching, has so far not been included in Ofcom’s analysis of these processes. This harm is much greater than the consumer issues observed in the mobile switching process where there is no such competitive distortion. Further bundling will exacerbate this distortion and increase the current consumer harm. The benefit from intervention is much greater for Pay TV and cable switching than for mobile switching. With this in mind, Ofcom should prioritise its work on Pay TV and cable switching, and use its scarce resources to address the greater harm, taking the opportunity to consider all platforms and services holistically.

The BIS Government response<sup>6</sup> and action plan on switching provides some further detail on consumers’ views of switching bundles with confusion being raised as a particular concern for bundled telecoms services (broadband, fixed line, pay TV and mobile).

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/525446/bis-16-155-government-response-switching.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525446/bis-16-155-government-response-switching.pdf)

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## Conclusion on current switching processes

- In order for consumers to benefit from competition, easy switching processes are essential.
- The UK telecoms market is becoming increasingly converged, with triple play bundles becoming more and more popular, and clear signs of quad play bundles starting to take off.
- Ofcom needs to ensure that any interventions take market developments into account and should focus on switching in a converged world. There is a risk that Ofcom's current piecemeal approach, and the lack of focus on consistency of switching processes within bundles, will lead to stand-alone solutions which in an increasingly converged world could be suboptimal for consumers and competition.
- Consumer satisfaction with mobile switching is high, higher than switching any other service, and has been increasing over time. Only a small minority of mobile consumers experience switching issues. For non-switchers, the main reasons to stay with their current provider are not related to the switching process, but to a preference to stay with their current provider, or because they are still within their minimum contract term. The research does not indicate there is a strong case for Ofcom to intervene in the mobile switching process in isolation at this time, and in advance of Pay-TV and cable.
- By focusing on the consumer experience only, Ofcom ignores consumer harm related to the asymmetry caused by Pay TV and cable switching processes, which gives some providers a competitive advantage over others. This harm is significant, and much greater than the harm related to the consumer experience, and likely to increase with bundling becoming more popular.

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### 3. Options for reform

In section 2 we discussed switching in a wider market context. We concluded that the mobile switching process currently works well and that Ofcom's research does not demonstrate that there is a clear and proportionate need for changes to that process in isolation. In this section we briefly discuss the purported benefits Ofcom's proposal will deliver, and set out the issues we have identified with Ofcom's switching options, which lead to our conclusion that intervention in mobile in isolation is not justified at this time. In terms of the harm related to double paying, we discuss a number of options which are separate from Ofcom's switching proposals.

#### Ofcom's analysis of benefits

According to Ofcom, both options – Automated PAC, and GPL - deliver benefits to consumers, with the net benefits being approximately the same for both options, at just over £20m over a ten year period, or around £2m per year. Ofcom's analysis shows that 4 million mobile consumers switch every year, which means that the net benefits for each switching consumer are 50p. This is a very small benefit, and, in our opinion, another indicator of mobile switching working well.

The benefits are mainly driven by switching consumers spending less time to request a PAC compared to the current process. Ofcom estimates that the average time it takes to currently obtain a PAC is 16 minutes. Under the new proposals this would reduce to approximately 3 minutes (assuming customers do not contact their losing provider). The main benefit therefore is the time value of the minutes gained for switching customers, which may happen once every two years for engaged customers. Whereas the mathematics of the calculation are no doubt correct, it is questionable whether the proposals will actually reduce harm. These time savings are extremely small on an individual consumer level, and that they do not warrant a regulatory intervention in the mobile process in isolation.

#### Issues with Ofcom's options

The issues identified in this response are common across Ofcom's options. The lack of customer authentication, the lack of relevant information being provided to switching customers may result in consumer harm. In addition, the extent to which some of Ofcom's proposals will improve the customer experience are far from clear.

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## **Authentication**

Customer authentication is a critical part of the switching process and we are concerned that there are insufficient safeguards in both of Ofcom's options against fraud related to lack of authentication. The absence of a verification process could lead to increased fraud. We regularly see activities in the market such as the trading of 'golden' numbers on eBay where fraudsters exploit the PAC process to continuously sell numbers online but where ownership is never placed with the purchaser of the number. This type of fraud causes anxiety to consumers and leads to complaints to providers and to Ofcom and undermines trust in the switching process and ultimately the mobile market. In the absence of a proper authentication mechanism, we believe that this issue will be exacerbated in both options.

Ofcom's process suggests that it is sufficient for the losing provider to only validate that the customer is on their network. However, the losing provider also needs to carry out checks to ensure that the customer is the account holder and therefore authorised to request the switch. A record of such checks should be included on the customer's account as evidence in case there are complaints about unauthorised switches. The way this authentication could be implemented is through a two-way SMS, either directly between the losing provider and the customer (in an automated PAC process,) or via the CPS (in a GPL process).

If the switch was not requested by the account holder, the process would need to offer some form of cancellation process to protect both the customer and the losing provider. This could be implemented in the same way as the Cancel Other process for fixed voice switching, i.e. the facility should only be able to be used in certain prescribed circumstances, to prevent losing providers from wrongly cancelling switches.

## **Customer information**

For both options, Ofcom requires the losing provider to inform the customer about some of the implications of switching, and to provide information regarding early termination charges and notice period to the customer.

We are concerned that consumers may switch without being aware of all relevant implications of switching. Whereas notice period and early termination information are relevant, other information, such as discounts because of linked contracts and other non-financial benefits of taking out multiple services are not included in the information sent from the losing provider to the gaining provider. Only the losing provider will be able to provide the customer with the relevant details. Sharing this type of details between losing provider and gaining provider is neither feasible nor desirable. With an increasing number of customers taking out more services, and having benefits related to this, this information will become more important.

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Within the current LPL process customers have the opportunity to discuss termination fees, notice periods, linked services, discounts and other details relating to a contract with the losing provider. If under a new process, this information is sent to the customer, via an SMS, we believe the SMS should be allowed to include a link to either a generic or personalised web page on the losing provider's website which would show further details.

### **End to end coordination and provision of information about the switch**

Ofcom sets out that 22% of customers experience a loss of service during a mobile port and suggests end-to end coordination of the PAC process will reduce this issue. EE's experience of porting suggests that the main reason for loss of service by customers is due to issues with file transfers in the background between losing and gaining provider during a port. Under a GPL mobile switching process, the losing provider would still need to transfer the files. These transfer issues are operational concerns that industry will need to work together on to improve. We propose that this issue is addressed in the Mobile Number Portability Operator Steering Group with Ofcom's ongoing support.

We agree with Ofcom that clear consumer guidance on porting and switching processes is important to both customers and providers. We also agree that the industry, working with Ofcom and other parties, is best placed to develop the detail of the effective ways that customers can access this information. Last year, EE made a number of improvements to the information provided to customers about switching and contract termination, and these changes had a positive impact on customers' satisfaction with switching.

### **Notice period proposals**

Ofcom's analysis suggests that there appears to be harm related to customers who double pay when they have taken out a new contract, and have to pay their old provider a notice period charge.

Ofcom combined the options for dealing with double paying with the overall switching options. We believe double paying could and should be addressed separately, in the absence of any other major issues related to the mobile switching process.

Ofcom set out two options to reduce the harm related to double paying. We believe there are other options that could address the harm. The BDRC research provides further details around double paying. According to this research, consumers double pay for a variety of reasons. We have set out the main reasons, including their incidence in table 3 below:

Table 3: Reasons for double paying, as mentioned by mobile switchers

Reason for double paying	Incidence
To ensure continuous service.	28%
To get the handset they wanted as soon as possible.	23%
Unaware of the notice period with their old provider when they had signed up with their new provider.	20%
Get a deal with their new provider before it runs out.	20%
To switch to a better service immediately.	19%
The new provider gave a date that was before the end of previous contract.	18%
To switch before the PAC ran out.	13%
To switch on a particular date.	12%

Source: BDRC quantitative switching research

In its assessment of harm and definition of options, Ofcom has not taken into account the reasons why consumers double pay, and the extent to which consumers knowingly and voluntarily decide to do so. We believe it is helpful to look at these reasons, as they will inform possible remedies, and could lead to a downward adjustment of the consumer harm.

Of the reasons in the list, unawareness of the notice period is a clear indication of consumers not wanting to double pay. Switching before the PAC runs out indicates lack of knowledge of the minimum notice period and how it relates to the PAC validity period. This could be improved by improvements in the general information about switching on providers' websites.

The other reasons seem to indicate that consumers knowingly double paid, or didn't mind doing so, because what they got in return, for instance a new handset, was of greater value to them than the cost of double paying.

Ofcom has not considered information remedies to minimise double paying, which is surprising, in particular because of the reasons cited by consumers. An information remedy will also be a far less intrusive option than the ones put forward by Ofcom.

We would like Ofcom to explore the effectiveness of information remedies as well, and are happy to engage with Ofcom on possible solutions.

Below we discuss the two options put forward by Ofcom:

*Option 1 (linked to the automated PAC option): The notice is backdated to start from the point where the customer requests the PAC.*

In the consultation document, Ofcom set out that the backdating procedure is set out in the MNP manual, and that the manual explains that notice should be backdated, in a situation where a customer only requests a PAC, but doesn't give notice to terminate their contract. We do not agree with Ofcom's interpretation. If a customer terminates and requests a PAC, the notice period

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starts on the day the PAC is requested. If the customer does not request to terminate their contract (and only requests a PAC), paragraph 25 in the manual applies, which sets out the following:

**25 A valid port-out request from the RSP (recipient service provider) shall always represent a notice to terminate the current subscription on the DSP (donor service provider) for the porting MSISDN(s) on the port date.**

A change to the MNP manual would have to be discussed and agreed at Operator Steering Group level. Apart from this, we see a number of issues with this approach. Backdating the notice period to when the PAC is issued may create confusion for customers who are billed in advance, and where a bill is generated between issuance of the PAC and its use. Since we would not know whether the customer will port or not, we will send out the bill in advance, as per our normal process. When the customer ports out before the end of the month, credits will have to be applied to their final bill, which could lead to confusion, and could drive calls into our call centres.

*Option 2 (linked to the GPL option): the gaining provider informs consumers of their notice period, and helps them manage this by offering to defer the switch by up to 30 days if they do not wish to double pay.*

The mobile market is very much driven by devices. As can be seen in the BDRC research, a large share of consumers were happy to double pay because they wanted to get the new handset as soon as possible, so this option may be more limited in its effectiveness than assumed by Ofcom, because of the appeal of the new handset.

In addition, gaining providers, even if they have received the information from the losing provider, may not be incentivised to make this information available to the switching consumer in a prominent way, which could have unintended consequences such as mis-selling. It feels like a clunky solution, which is likely to result in a suboptimal consumer experience.

### **Costs and implementation time**

Both options would be complex and resource intensive for BT to implement. We would have to carry out the changes for our BT Mobile, Orange, T-Mobile and EE consumer and small business customers, which use different systems and processes. Changing the online account platform to allow customers to request PACs would be hugely expensive, whereas a similar outcome (requesting PACs without human interaction) could be achieved in a less prescriptive way.

We note that under both options, the existing PAC process would need to remain in place for bulk porting. Therefore operational costs of managing and running two porting processes and platforms would be incurred. The resources to implement changes to this process would need to be diverted away from other projects competing for the same finite resources. These opportunity costs have not been accounted for in Ofcom's cost analysis.

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The confidential Annex 1 to this response contains an assessment of the costs BT would incur to implement these changes.

BT estimates the implementation time for both options would be around 24 months. Both options would be likely to require further consultation and regular industry workgroups to make sure that the reforms worked for consumers.

Apart from the concerns set out above, BT is very worried that Ofcom's priorities and approach may lead to changes in the mobile switching process which are superfluous in the near future, with triple and possibly quad play bundles becoming increasingly popular. As explained above, we urge Ofcom to take a step back and take a more holistic approach.

## Conclusion on Ofcom's options and proposal of a third option

- The benefits Ofcom's options yield are very small and cannot be characterised as reducing consumer harm.
- We are concerned that Ofcom's options do not have sufficient safeguards built in to deal with fraud related to lack of customer authentication.
- With customers increasingly purchasing more than one service from a single provider, there are likely to be implications of switching other than the notice period and early termination charges. To avoid consumer harm and ensure consistency across processes, switching processes should allow for information about the contractual implications of switching, for example, early termination charges, to be provided directly by the losing provider (as with the current GPL Notification of Transfer process for fixed voice and broadband switching on the Openreach network). Under Ofcom's proposals, this information would not be relayed to the customer, and could result in customers cancelling their port when they receive this information. This is a significant downside to dealing with mobile switching in an isolated way.
- Ofcom's 'make-or-break' proposal does not address the real reason causing loss of service when customers port. The proposal would add complexity and costs, with no material benefits.
- Ofcom proposes two options to minimise double paying, which are 'built in' to the switching options. Ofcom should separate the two issues, and focus on the bigger harm. In addition, Ofcom should assess whether information remedies are appropriate to address the harm, in particular in light of the reasons given by consumers who double pay.
- We support improved information about switching on providers' websites. EE recently updated the information on its website, which resulted in fewer questions and complaints about the switching process.
- Implementing either of the options would be expensive and very resource intensive for BT. There is a real risk that short term changes could be implemented in the mobile process, which would become redundant in the near future.

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However we do believe there is a third, more compelling option and opportunity for Ofcom to design and implement a future proofed switching process capable of seamlessly handling all elements of bundled services on a GPL basis. Such a process would minimise consumer confusion and eradicate competitive distortion where different elements of a bundled package of services are subject to different switching processes. Given the popularity of triple play bundles this should be Ofcom's immediate area of focus. As discussed above, clear competitive distortion arises from the fact that certain triple play providers are still able to "save" customers who are switching away their voice and broadband to another communications provider when BT has no such option, because the customer has to contact those providers to cease their TV service. Moreover the current position of technology-specific switching processes is untenable.

In section 2 we discussed the popularity of triple play bundles, and the possible uptake of quad play bundles going forward. Where there is evidence of a significant increase in the uptake of quad play bundles Ofcom would be justified to extend GPL switching processes from all triple play elements of the bundle to mobile services as well.

We urge Ofcom to prepare for this and move to align switching of all elements of quad play bundles to GPL switching, provided all services change to this process consistently and in parallel.

Below we compare Ofcom's and BT's long term, cross platform GPL options against the switching principles.

**Switching should be simple, i.e. quick, easy and effortless, from a customer perspective.**

Ofcom's options aim to make mobile switching easier and quicker. Research shows that the mobile switching process works well, and the impact assessment indicates there is little to be gained. The long term, cross platform, holistic option makes switching bundles much easier, and will be a future proof solution when quad play bundles become more popular.

**The same services, and services sold as a bundle, should be subject to the same switching process, regardless of underlying technology, to avoid competitive distortion.**

Ofcom's two options focus on mobile switching, where there is a symmetric switching process in place for all mobile providers. Pay TV and cable switching are subject to asymmetric switching processes, leading to competitive distortion and consumer harm. The long term, cross platform, holistic GPL option is a symmetric solution, which will remove competitive advantage and consumer harm based on differences in switching processes. We do not envisage a situation where the switching processes of different services are identical, but rather a situation where all services are subject to a GPL process in some shape or form. This would also guarantee for instance that the benefits of quick switching in mobile are not lost.

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**Regulatory switching interventions should focus on those areas where there is a competitive distortion, and/or the consumer harm is greatest.**

As above, there is no distortion in the mobile switching process, and there is little harm related to switching. The harm related to triple play switching because of competitive distortion is likely to be much greater. Ofcom should therefore focus its limited resources to prioritise Pay TV and cable switching processes.

**Regulatory intervention should be proportionate to the harm it aims to address.**

In the absence of consumer harm, we consider it would be disproportionate for Ofcom to intervene in the mobile switching process in isolation. In terms of harm related to notice periods, we consider Ofcom should look at this area separately, and consider alternative options to the ones included in the consultation.

**Regulatory intervention must improve, not reduce, the quality of customer experience.**

Looking at mobile switching first, and then Pay TV and cable switching could result in suboptimal standalone solutions when services are sold in a bundle. Changes to the mobile switching process now and in isolation, a process which works well, is not without risks as the implementation projects could suffer delays or introduce other unintended problems. A holistic approach, using a cross platform approach, and identifying issues specific to switching bundles, would prevent this.

**Regulatory intervention should take into account likely future market developments.**

The long term, cross platform GPL solution will ensure that any changes made will be relevant and appropriate in the future, when we believe bundling will become increasingly important.

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## 4. Ofcom's consultation questions

*Q1 Do you agree that current mobile switching processes create consumer harm in terms of difficulties and time spent contacting the current provider, requesting the PAC, and unwanted save activity, as well as loss of service and double paying when switching?*

Ofcom's Consumer Experience Report 2015 shows that customer satisfaction with mobile switching is high and has been increasing over time. Consequently we believe Ofcom's main focus should be on those processes where the consumer harm is greater. The harm related to asymmetric processes in triple play and cable switching is significant. This harm is likely to increase with bundles becoming increasingly popular.

Where there is harm related to double paying, we believe Ofcom should analyse the details of the research in more detail, in particular where consumers willingly double pay.

*Q2 Do you agree that consumers would benefit from clearer switching processes and information about switching?*

Although Ofcom's Consumer research sets out that information about switching processes is not an issue for most mobile switchers (only 3% of switchers have issues with obtaining information on switching from previous provider, and 2% with knowing how to switch) we believe that providers should try to make switching processes as easy and clear as possible for consumers, and provide them with all relevant information in an easily accessible way.

During the actual switch itself, we are concerned about the proposal to use SMS alone to provide information to customers about the products and contracts they hold with their current provider. The combination of a limitation in the number of characters in an SMS and the implications of having additional products such as content services which are linked to the mobile service mean that the SMS is likely to be unsuitable in explaining all the outcomes of a switch to a new provider.

We believe using an SMS to signpost to a customer where to find the information would be a more secure way of notifying them.

*Q3 Do you have any other comments on the matters raised in Section 4?*

In addition to our comment around the harm related to triple play and cable switching, we consider Ofcom should ensure that any changes take into account market developments around bundling, and do not lead to technology specific solutions which may be suboptimal in the near future.

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***Q4 Do you agree that our Option 1 (PAC automation) and Option 2 (GPL) address the consumer harms we have identified as arising from current switching processes?***

We do not agree that there is any material consumer harm arising from current switching processes. Consequently we do not believe Ofcom is justified in pursuing either option in isolation, and should take a consistent and holistic approach across all networks, platforms and technologies.

***Q5 Do you agree that the three main methods for PAC request and receipt under Option 1 should be SMS, online account and phone?***

In its option 1, Ofcom aims to offer the customer the possibility to request a PAC with and without the need for the customer to interact with the losing provider. We consider that there is no need for Ofcom to be prescriptive. Instead, it should require providers to offer a minimum of three channels to request a PAC, one of which would be a channel without human interaction.

This would also assist small businesses where using SMS becomes increasingly difficult for multiple numbers.

***Q6 To what extent do you think each of our options ensures that consumers are adequately verified, and protected from being switched without their consent?***

Since the processes referred to are used for switching including ceasing customer accounts rather than more minor in-life changes, it is essential both for the customer and the provider to verify that the customer is the account holder. We are concerned that in both options, there is insufficient customer authentication, which could lead to increased fraud and consumer harm.

***Q7 Do you agree that our proposals ensure consumers are sufficiently informed before they switch?***

Whereas information about early termination and notice periods is relevant to advise the customer of the implications of switching, we believe that other information, related to services and discounts and other benefits, should be included as well; especially since an increasing number of customers take out additional services such as a second line, a mobile broadband plan, a fixed line or a television service. As set out before, the losing provider is best placed to provide this information to the customer. We would be concerned if Ofcom were to mandate direct information sharing between losing and gaining provider.

***Q8 Do you agree that both options should require providers to use a 'make before break' approach to switching in order to address the risk of service loss during the switch?***

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We do not believe the ‘make or break’ approach will substantially help in reducing loss of service. In our experience, the main reason for issues is related to file transfers between providers.

***Q9 Do you agree with our proposal for providers to give clear consumer guidance on the porting and switching process?***

We agree, as per our response under Q2, that it is important consumers have clear information about porting and the switching process.

***Q10 Do you agree with the measures we have set out under both options to enable consumers to coordinate better their switch, including to manage the interaction between the switching time frame and any required notice periods?***

Double paying is an issue that we would like Ofcom to look at in more detail. We recommend Ofcom looks at the research, which appears to indicate that groups of consumers willingly double pay, for a number of reasons (such as a desire to immediately have a new handset). With this in mind, we believe Ofcom should develop a wider set of proposals, including information remedies.

***Q11: Do you have any other comments on the matters raised in Section 5?***

Ofcom’s description of the GPL process implies that the gaining provider, not the losing provider, will consult with a customer on the termination guidance. We believe this will be difficult if not impossible for the gaining provider to perform impartially. We believe this guidance is best provided by the losing provider (without necessarily any requirement to speak to the losing provider). This will:

- Ensure that customers are fully informed about the primary and secondary effects of switching their mobile provider;
- Avoid any data privacy issues; and
- Be more consistent with the process for fixed line switching.

***Q12 Do you agree with our assessment of the consumer benefits of our proposals?***

The benefits of both options are very small, around £2m pa and are mainly driven by customers spending a few minutes less once every two years when they switch. We question whether this addresses harm and warrants a significant and costly change to the current switching process.

***Q13 Do you agree with our assessment of the likely costs of our proposals?***

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Annex 1 to our response includes our assessment of the costs, and shows that Ofcom have underestimated the cost to implement these changes.

***Q14 Do you agree with our preference for GPL?***

It is important that consumers readily understand how a switching process works and who is in charge of that switching process. As communications services converge and products are increasingly sold as bundles, it is also important that the same type of process apply to all converged and bundled products, therefore BT pragmatically supports Ofcom's preference for GPL. However, in light of the meagre net benefits from either of Ofcom's options, there is an overwhelming argument to ensure any change to mobile switching processes are not implemented until Ofcom has completed reforms of switching processes for services with which mobile is or may in the future be bundled with.

***Q15 Do you have any other comments on the matters raised in Section 6?***

We have no further comments.

***Q16: Do you have any other comments on our proposals?***

If the outcome of the consultation is that Ofcom takes forward either option, there will need to be significant discussion with industry around process design and implementation plans. This should include customer verification, use of SMS and the impact on small businesses.