

Verizon Business Response to Ofcom Consultation - Changes to General Conditions and Universal Service Conditions

Introduction

Verizon Business (“Verizon”) is the global IT solutions partner to business and government. As part of Verizon Communications – a company with nearly \$108 billion in annual revenue – Verizon Business serves 98 percent of the Fortune 500. Verizon Business caters to large and medium business and government agencies and is connecting systems, machines, ideas and people around the world for altogether better outcomes.

Verizon welcomes the opportunity to respond to Ofcom’s consultation on changes to General Conditions and Universal Service Conditions and the measures Ofcom are proposing to implement the revised EU framework.

The driver for Ofcom’s proposals is the obligation placed on National Regulatory Authorities to transpose the revised EU electronic framework into National law by 25 May 2011. Overall, Verizon is supportive of Ofcom’s proposals as we believe the new obligations should be transposed into National Law on a like for like basis, without expanding the scope unnecessarily. Generally Ofcom’s proposals support this principle, which is welcomed.

However, there is one issue that is of concern and which we believe requires further consideration and that is in relation to the date from which the proposed changes become enforceable. Whilst we agree that the changes need to be agreed and revised General Conditions (GCs) issued by 25 May 2011, Verizon would welcome confirmation that enforcement of the changes, particularly for those GCs where the changes are more significant, e.g. GC9 and GC18, will not be pursued by Ofcom from the 25 May 2011. The more substantive changes will require significant changes to processes and contractual documentation and therefore more time should be allowed for operators to comply with the revised obligations. Verizon considers that a moratorium of 6 months should be applied from the date that the revised GCs are introduced before Ofcom would consider enforcement proceedings in relation to GCs 9, 15 and 18.

Response to Ofcom’s consultation questions

The following section of the response addresses specific questions raised by Ofcom in the consultation. For ease of reference, the question numbers quoted correspond to those utilized by Ofcom in the consultation document.

Q 1 Do you agree with our proposed approach to definitions?

Following Ofcom's clarification of the scope of General Condition 4 and particularly the definitions of an 'electronic communications service' and of a 'Communications Provider', Verizon is content with Ofcom's proposals in relation to definitions. This is subject to the final statement reflecting Ofcom's revised stated position, i.e. that the GC4 obligations will apply only to public electronic communications providers and not to private networks.

Q 2. Do you agree with our proposal to add CEPT to the list of standardisation bodies?

As this change directly reflects the requirements set out in the revised Framework Directive then Verizon agrees with Ofcom's proposal.

Q 3. Do you agree with our proposals to extend the requirements of GC3 beyond 'fixed locations' and to require CPs to 'take all necessary measures' to maintain their networks and services and access to emergency services?

In principle, Verizon does not have any major objections to Ofcom's proposals for the revision of GC3. The outlined approach to require CPs to "take all necessary measures" appears at face value to be both reasonable and proportionate. However, it would be welcome if Ofcom would include guidance in the final statement, outlining how they will interpret what constitutes "... all necessary measures".

Q4. Do you agree with our proposals for emergency call numbers - which includes amending the definition of CP and requiring that location information is provided free of charge, as soon as the call reaches the emergency organisations and is accurate and reliable (in line with our proposed high level criteria)?

With the further clarification provided by Ofcom on the intended scope of GC4, Verizon is satisfied the proposals are reasonable and do not go beyond the necessary changes that are required to comply with the revised EU Framework.

In particular, Verizon supports Ofcom's retention of the phrase "technically feasible" in GC4.2 in relation to the provision of location information. This is a pragmatic approach and recognises the practical realities of deploying nomadic VoIP services.

Q5. Do you agree with our proposed approach to contract related requirements relating to the provision of additional information, the length of contracts and the conditions for termination?

Verizon does have some concerns with Ofcom's proposals as currently specified, mainly in terms of the time that may be required to implement the additional contractual obligations. For example, in respect of General Condition 9.2(m), it is likely that it will be necessary to amend the contract documentation to detail the Verizon response to any identified security threat/incident/vulnerability. However, such changes can only be addressed once we have confirmation of the final requirements. Ofcom's current plan appears to be to enforce the new GCs from 25 May 2011, which in Verizon's opinion is totally unreasonable. Verizon would urge

Ofcom to allow more time for any contractual changes necessary for compliance with the revised GCs to be implemented; a minimum of four months would be considered appropriate.

Another area of concern relates to the specific drafting proposed for the revised GC9 (contained in Annex 7 of the consultation document). We consider that there would be great benefit from improved clarity in the revised GC9 to avoid confusion in relation to compliance later on.

The distinction between the treatment of consumers and other end-users, whilst a straight-forward concept, is presented in the draft in a convoluted manner. Verizon would welcome further review by Ofcom of the overlapping definitions of "End-User" (which itself refers to five separate types of person), "Consumer", "Subscriber" and the new term "User" to assess whether the use of each term is necessary.

There is in our view further potential for confusion, arising from Ofcom's proposed drafting to implement the broadening of the scope of GC9 to capture providers of public communications networks as well as services. For example, for the purposes of GC9, the definition of "Communications Provider" in the draft is expanded to include providers of Public Electronic Communications Networks. However, new obligations relating to "Subscribers" (for example notice of modification to the subscriber's terms) appear to be applicable exclusively to subscribers to Public Electronic Communications Services, when read with the existing definition of "Subscriber".

We urge Ofcom to review GC9 to ensure consistency with the relevant revisions to the Universal Service Directive and to provide greater certainty for the communications providers who will be subject to the obligations it contains.

Q6. Do you agree with our proposals to ensure equivalent access to the emergency services for disabled users and to mandate the provision of Emergency SMS?

Yes

Q7. Do you agree that given the existing measures that are in place to help disabled users to access 116XXX services, it is not necessary to make further changes to GC15 in this respect?

Yes

Q8. Do you agree with our proposals on conditions for transferring the rights of use of telephone numbers and also for granting their use for a limited period of time?

We agree with Ofcom's view that the proposed modifications to GC17 have no material effect on the current working practices. As such, Verizon is supportive of Ofcom's proposals for modifying GC17.

Q9. Do you agree with our proposals on the one working day requirement in relation to bulk mobile ports and in relation to fixed porting? If not, please explain why?

Verizon does have some concerns with the current proposals regarding the one working day requirement in relation to fixed porting. Our concern is primarily related to a lack of clarity of how, precisely, the requirement will be incorporated within the industry porting process.

As far as the principle of one day fixed line porting is concerned, as a provider of services to business customers, Verizon's principle aim is to ensure a successful port at the time required by the customer. This means that adequate time must be allowed to conduct the necessary checks and testing. It would be impossible to conduct such preparatory work, elements of which must be undertaken by both the gaining and losing providers, in one working day. This aspect was highlighted in the recent BIS consultation on implementation of the revised EU Framework.

In this regard, Verizon is encouraged by Ofcom's assertion (at paragraph 10.39) that the commencement of the "one working day" requirement in relation to fixed porting must necessarily be after the consumer protection/verification measures have been completed and any necessary line provisioning has taken place.

If this is indeed the case, and the revised industry process reflects this position, then Verizon would support such a proposal. However, Verizon would urge Ofcom to make specific reference to the 'activation point' in relation to fixed single and multi-line ports when issuing its final statement following the conclusion of the consultation.

It would also be beneficial if Ofcom could also provide further guidance/clarification in relation to Multi-line porting (porting from ISDN30 etc). The current lead-time for multi-line porting is 17 working days and factored into that lead-time is a period for taking 'protection/verification' measures. We would welcome Ofcom's recognition of the complexities, and therefore the longer lead-time requirements, associated with multi-line ports which are the norm for business sector porting.

It is helpful that Ofcom states (at paragraph 10.41) that the proposals will have limited impact on the current fixed porting regime and allow for the existing lead-times for all fixed ports to continue. This sentiment is further reinforced at paragraph 10.42, where Ofcom makes its view clear that "it would not be appropriate to implement the one working day requirement in such a way that would conflict with current consumer protection/verification measures".

We do however note the reference to the potential changes for reduced timescales resulting from the ongoing Switching Review and OTA2 work. Verizon would caution against any material reductions in the time set aside for conducting the protection/verification measures in relation to business customer porting requests. Such checks and tests are essential to ensure continuity of business critical services to business customers. Consequently, any material reductions in the time allowed for such checks and testing would place continuity of service and smooth transition between providers at risk.

In summary, if Ofcom provides the necessary clarification and guidance in the final statement following the conclusion of the consultation, then Verizon fully supports Ofcom's proposals in this area and considers the changes proposed represent a fair

and considered approach to implementing the requirements for porting contained within the revised EU Framework.

Q10. Do you agree with our proposed approach to the porting compensation scheme requirement?

Verizon have some concerns in relation to Ofcom's proposals in relation to a mandatory porting compensation scheme. These concerns relate not to the principle of such a scheme itself but to how it will be implemented and applied in practice.

Ofcom's current thinking (at paragraph 10.48) is that it will require CPs to provide reasonable compensation "following the correction of any delay or abuse in the porting process by them or their representatives". However, as things stand it is not clear precisely what is covered by the terms 'delay' and 'abuse'? For example, there is no mention of restricting such claims to instances where the CP is responsible? Furthermore, there is no mention of the evidence threshold that must be met to support a claim in the case of a fault.

We note that Ofcom state that they prefer not to set out further details of the scheme, preferring instead that CPs design the scheme themselves. Whilst there are potential benefits to such an approach, Verizon considers that Ofcom should at least set out basic guide lines on the scope of such a scheme which could avoid the possibility of having to re-design the scheme 12 months after its initial introduction.

It would also be beneficial if Ofcom provided additional guidance in relation to compensation levels for the various situations that may result in a failed port. Ofcom appears to be of the view that a delayed port is analogous with a port which fails as a result of a fault and therefore it follows that Ofcom would consider the same compensation should be offered in both situations. Verizon's view is that delayed ports are not as harmful, as the customer would not lose service, and that accordingly, it would be appropriate for a lower level of compensation to be offered.

Furthermore, in the case of business to business providers, compensation schemes already form part of the contractual arrangement with customers, with the level of compensation being agreed dependent on the nature of the service affected and how critical continuation of service is to a customer. As such, Verizon questions whether additional regulation in this area is justifiable or relevant for business customers? Verizon would caution against unnecessarily extending the scope of such a scheme to B2B providers, especially where such compensation schemes may simply duplicate and/or cause confusion around existing arrangements in service level agreements.

A further practical issue with the current proposals is that Ofcom have specified that in order to ensure a meaningful compensation scheme, GC18 will be revised to require that subscribers are advised of the relevant port date on which their number will be ported. This may be done at the time that the port is requested or, in relation to fixed, at a later date so long as the subscriber is notified prior to the request for activation. In addition, in relation to fixed porting, where a CP has advised of a port date, they are able to alter this date as long as it is communicated to the subscriber in advance of the request for activation.

The issue we have is that under certain situations, the contact with the customer that is required to advise when the port will occur may not take place at the time envisaged above or may not be known by all parties concerned with a specific port request. This may especially be the case in situations where a CP is importing numbers on behalf of a reseller.

In cases where compensation is being claimed, it is essential that all parties involved know precisely the time the customer has been advised the port will take place, which as stated above, may not always be the case, raising the potential for additional disputes.

It would also be helpful if Ofcom could specify what is considered to be an acceptable mode of communication, for example would notification via an e-mail suffice?

Finally, in response to Ofcom's view that compensation schemes must be in operation from 25 May 2011, Verizon considers that this is not tenable, especially as the finalised requirements of any scheme will only be known upon publication of Ofcom's final statement following the consultation. At the very least Ofcom should allow a 3 month period from the date of the publication of the final statement before considering any compliance investigations.

Q11. Do you agree with our proposed approach on requirements relating to ensuring access to all numbers within the Community, the charging of ETNS numbers and calling the hotline for missing children on 116000?

Verizon supports Ofcom's proposed approach as outlined in the consultation document.

Q12. Do you agree with the proposed obligation on universal service providers to notify us when they are disposing of part or all their local access network assets?

Ofcom's proposals appear reasonable and necessary to ensure universal service obligations continue to be met and apply nationwide. The only question is whether the one month notice period is sufficient to allow Ofcom to carryout a sufficient impact assessment of the implications of any disposal of local access network assets.

Verizon Business
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