Vodafone's response to Ofcom's consultation "Mobile number portability – Review of the porting process"

Summary and conclusions

1. Vodafone welcomes the opportunity to respond to the present consultation, following as it does several previous consultations on the subject and the Competition Appeal Tribunal's judgement that Ofcom's decision of November 2007 should be set aside and remitted to Ofcom.

2. There is much in Ofcom's new approach that we welcome, though we do have substantial reservations about some of Ofcom's analysis and provisional conclusions.

3. We welcome the fact that Ofcom is reviewing matters afresh, and that Ofcom has decided to examine the porting process separately from the question of call routing to ported numbers (which is the subject of a parallel consultation currently). Vodafone agrees that these are largely distinct and separable issues that need to be judged on their own merits

4. We also welcome the fact that Ofcom has undertaken further research to inform the consultation, and has responded positively to Vodafone's request for the new research referred to in the consultation document to be published so that stakeholders can make their own assessment of the available evidence.

5. The balance of Ofcom's own evidence is overwhelmingly positive. We welcome Ofcom's acknowledgement that the current process works well for most customers and does not act as a material barrier to switching. However, these critical findings deserve greater prominence and risk becoming obscured by Ofcom's focus on perceived problems.

6. The underlying evidence presents a more encouraging picture than Ofcom's commentary. When seen in a wider context, any problems associated with the current mobile porting process pale besides the far more serious and widespread problems encountered with fixed line migrations. This is not to rule out genuine improvements to address specific problems where these stand to make a positive difference for customers. With one exception, however, the solutions Ofcom proposes are not well targeted at the issues that appear to matter to customers.

7. What is not readily apparent from Ofcom's commentary, but emerges clearly from the qualitative research Ofcom has commissioned, is that changes to the mobile porting process are a low priority issue for customers, who think Ofcom should be focussing its efforts elsewhere[1]. The same research also strongly suggests that while relatively minor refinements to the current process may yield worthwhile benefits in terms of improved customer experience, more far reaching or radical options are unlikely to be valued highly by customers – casting substantial doubt on the assumptions about willingness to pay underpinning Ofcom's benefit calculations.

8. We welcome the fact that Ofcom is considering a range of possible options, enabling comparison between them, and its recognition that the costs and benefits of alternative options must be carefully weighed. We agree that a structured framework is needed to allow a meaningful cost benefit analysis, though we believe Ofcom's

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[1] Jigsaw Research – Review of Number Porting, Expectations and Experiences Among Residential and Business Customers, Report to Ofcom, March 2009

present approach to modelling benefits, in particular, is highly questionable and does not provide a reliable basis for concluding that any of the proposed Options are cost-justified.

9. Ofcom's modelling of benefits in particular relies on a series of heroic assumptions based on the responses to a single survey question, a question which is ambiguous and open to various interpretations other than those Ofcom has adopted. The basic premise that customers might be prepared to pay for faster porting is apparently contradicted by the separate findings of the qualitative research. Even the single survey question Ofcom relies on reveals that most customers are *not* prepared to pay for faster porting. Only a small minority of customers attach any significant value to faster porting – in the case of one day porting just over half of Ofcom's entire estimated benefit comes from just over 3 per cent of those surveyed. This is significant because although Ofcom is not proposing that customers pay a specific charge for faster porting, the costs of faster porting solutions will ultimately be borne by customers as a whole, whether or not they themselves value faster porting. Put simply the majority who don't appear to value faster porting will be cross-subsidising the minority who do.

10. Nor is Ofcom proposing to put its hypothesis to the test by allowing customers to decide for themselves whether or not they are prepared to pay a premium for faster porting in practice. Purely hypothetical questions about willingness to pay are apt to overstate true valuations. There are many reasons, therefore, for regarding Ofcom's approach to modelling benefits with scepticism, even before delving into the more detailed methodological shortcomings Vodafone has identified.

11. Having examined Ofcom's modelling assumptions and then tested various less extreme alternatives, Vodafone concludes that Ofcom's present approach to modelling benefits does not provide a sound basis for its provisional conclusions on the size or even the existence of net benefits. This conclusion stands on its own even before allowing for any upward revision of cost estimates. Taking Ofcom's cost estimates, but revising the benefit calculations, three of Ofcom's four options are clearly negative and the fourth marginal. This can hardly be regarded as providing sufficient cost-justification for pursuing any of the options proposed, especially viewed in the light of the other qualitative and quantitative evidence already available.

12. Vodafone has nothing against faster porting per se, so long as it can be accomplished in a way that does not compromise reliability or otherwise degrade aspects of the customer experience. However, in considering whether faster porting should be a priority, it is important to recognise that this does not rank highly as an issue for customers and is thus unlikely to provide value for money relative to other investments that might deliver more substantial customer benefits. Certainly, there is no case for pursuing options where the high initial and ongoing costs outstrip any reasonable view of benefits, as is clearly the case under both recipient led options.

13. While a proper assessment of costs and benefits is vital to ensure any proposed solution is maximises net benefits to consumers, there is more to consider than just a simple trade-off of speed against cost. In reviewing alternative process options, it is also necessary to consider customer safeguards and how the practical operation of any proposed safeguards is likely to bear on the resulting customer experience. The need for some sort of safeguards is clearly recognised, but the actual operation of possible safeguards does not get the attention it deserves. This may be because the current process performs so well in this respect that Ofcom takes the current high degree of consumer protection for granted. However, it is clear that some options make effective safeguards much more difficult to achieve and maintain so there are some difficult trade-offs.

14. This is particularly significant in case of recipient-led options, where Vodafone is concerned that Ofcom takes an unduly rose-tinted view, assuming away foreseeable problems while simultaneously asserting wholly unsubstantiated extra benefits in terms of customer convenience and incentives on providers to promote porting. Ofcom suggests there should be safeguards under either system and even offers some suggestions. What it does not do, however, is seriously examine relative performance and effectiveness of safeguards under recipient and donor led options. Nor does it ask itself how the possible benefits it associates with a recipient-led model are likely to be modified once retrofit safeguards are grafted on.

15. Vodafone believes strong and effective safeguards are vital if customers are to be protected both against deliberate slamming by less scrupulous operators, and from innocent but nevertheless potentially expensive

mistakes by customers themselves. This can only be done by ensuring customers are in a position to make *informed* decisions, before they commit to a new provider. While this is relatively easy to achieve in a donor-led environment, it becomes much more difficult under a recipient-led regime. A recipient-led system without proper safeguards would put customers at risk, but a recipient-led regime with safeguards quickly starts to become cumbersome calling into question the claimed convenience benefits.

16. Although the cost benefit analysis considers both donor and recipient led options, the benefits relate solely to the speed with which the port is completed downstream of initial authentication by either method. There are no additional benefits specifically attributable to recipient led porting in Ofcom's analysis, yet the cost differentials between the options are substantial. While the exact costs of any of the options remains uncertain, and the cost of recipient led options in particular may turn out to be higher than Ofcom's initial estimates suggest, it is clear that moving to recipient led porting is substantially more expensive than adapting the existing donor led process. Cost must be a key consideration for Ofcom and consumers as well as for operators, since industry costs are ultimately borne by consumers as a whole. A recipient led solution that involves both high set-up costs and high ongoing operating costs is doubly unattractive.

17. Even if the pros and cons of donor and recipient led porting were otherwise evenly matched, therefore, the cost differential alone would tip the balance decisively in favour of the existing donor-led model. As it happens, customer experience and consumer protection concerns coupled with high levels of satisfaction with the current process all point in the same direction.

18. This is not, of course, to suggest that the current process cannot be improved. The clearest candidate for improvement by some measure is faster and more uniform and reliable PAC issue, which on the basis of the evidence presented stands to deliver tangible near term customer benefits at reasonable cost. This should proceed as soon as reasonably practicable, with or without a formal regulatory mandate.

19. The case for compressing port lead times, however, is not yet clearly made. We suggest Ofcom should revisit its analysis of possible benefits before proceeding further, since it proposed next step of appointing consultants to work with industry to specify and cost solutions in detail will only be worthwhile if there is a reasonable prospect of there being sufficient customer benefit. This is not clearly demonstrated at present. Given the low priority apparently attached by customers to either port lead times or the porting process as a whole, incremental improvements to the speed and reliability of PAC issue should take precedence over more speculative options where the *real* costs incurred by mobile operators and borne by consumers as a whole are likely to overwhelm any *notional* consumer benefits that only a tiny minority of customers attach any significant value to.

20. While the focus of this consultation is purely on mobile porting, Ofcom is separately considering consumer migrations processes on a broader front. Meanwhile, EC proposals for 'one day' porting are not yet settled and apply equally to fixed and mobile porting alike. In the circumstances, therefore, it cannot be sensible for the mobile sector to embark on radical change that attempts to pre-empt or second guess the eventual outcome of these related debates. Taken together with the fact that the current process works, and is a low priority issue for consumers, these factors provide a strong pragmatic reason to confine short term action to the 'no regrets' measures outlined above.

Vodafone Limited
October 2009

1. Introduction

21. We welcome the opportunity to comment on Ofcom's consultation.

22. There is much in Ofcom's fresh approach to the issues that we welcome, in particular:

   - The decision to decouple the porting process from the separate question of call routing to ported numbers
   - The bringing to bear of new evidence to inform the consultation
   - The fact that Ofcom has laid out several options for consideration and invited views prior to declaring a clear preference
   - Ofcom's acceptance of the need to weigh costs and benefits within a structured framework

23. We do, however, have substantial reservations about some other aspects of the present consultation, including:

   - Ofcom's analysis and interpretation of the evidence
   - The approach Ofcom has taken to modelling benefits
   - A lack of perspective as to where the mobile porting process sits within a wider context
   - Some of Ofcom's provisional conclusions and proposed next steps

24. Since the provisional conclusions and proposed next steps rest heavily on Ofcom's expectation that the options it is consulting on would yield net benefits, we devote particular attention to the cost benefit analysis Ofcom has conducted. This is discussed briefly in the Section 2 and in further detail at Annex C.

25. While the individual options A to D are considered individually in the quantitative cost benefit analysis, we also consider some of the qualitative aspects of the various options below by considering in turn each of the two main dimensions that distinguish them. In Section 3 we address the question of speed and how much this matters to customers. In Section 4 we turn to arguments about donor and recipient-led processes, examining assumptions and preconceptions about each approach in the light of the available evidence and practical experience to date. Section 5 considers the mobile porting process in a broader policy context and the implications for the most appropriate next steps.

26. Annex A provides brief answers to Ofcom's specific consultation questions. Annex B provides a high-level impact assessment of the internal IT requirements to support each of Ofcom's options including indicative costs. Finally, Annex C provides a detailed review and critique of Ofcom's cost benefit analysis.

2. Cost benefit analysis

27. Vodafone endorses the use of a cost benefit analysis to provide a structured framework for decisions about number portability. However, we do not believe that Ofcom's cost benefit analysis can be used to justify changes to the porting process. Ofcom's method of defining hypothetical willingness to pay from a minority of customers does not provide a robust means of evaluating the benefits of process changes and, notwithstanding this, the quantum of benefits that can be derived from this methodology are substantially less than Ofcom states. Furthermore, we suggest that the solution implementation costs have been understated. In this section we outline our criticisms of Ofcom's approach and in Annex C we provide our detailed analysis.

28. It is apparent merely from a very cursory inspection of Ofcom's own view of costs and benefits that the incremental change to option D, one day donor led produces the best possible "surplus" of benefit over costs, and also the best return on capital investment. So on Ofcom's data a £1.75m initial investment will give an annual surplus of £2.61m. To move away from D to options A, B, or C will require substantial additional capital investment and additional opex, with either no benefit, or for less incremental benefit than incremental cost, so that the annual inflows resulting from A, B, or C are less than D, despite the incremental capex investment required. For example to move to option C would involve a seven fold increase in investment but would reduce the annual surplus to less than £1m. On this analysis options A to C should be dismissed immediately. Table 1 below shows this position succinctly.

Ofcom forecast of annual cash flows	Initial outlay	Annual flows			Ratio initial outflow to annual inflow
		In	Out	Net in	
D – one day DL	£1.75m	£4.16m	£1.55m	£2.61m	0.67
C – one day RL	£12.50m	£4.16m	£3.24m	£0.92m	13.59
B – near instant DL	£11.95m	£5.93m	£3.43m	£2.50m	4.78
A – near instant RL	£14.20m	£5.93m	£3.72m	£2.21m	6.42

Table 1 comparison between initial outlay and net annual flows, options A -D

29. Ofcom's view of benefits is drawn from a survey that asks for consumers' hypothetical willingness to pay (WTP). It is noteworthy that a majority of respondents are unwilling to pay anything for an accelerated process, and that of those who indicate willingness most are only willing to pay 50p. It is not clear why when a majority are unwilling to pay that Ofcom sees it appropriate to intervene on behalf of a minority. In fact the proportion willing to pay £5 or more is only 10% of the surveyed base. There is also ambiguity in the survey question, evidenced in part by the nature of the differential response to one day and immediate porting, as to whether customers are in their response implicitly valuing the existing porting process.

30. Putting these concerns aside, Ofcom has used the results of the survey to develop a calculation of the WTP of the average consumer of £1.57 in the case of one day porting, which when multiplied by Ofcom's volume of 2.6m ports gives an annual benefit of £4.2m and for immediate porting £5.9m. When assessing ten years of these benefits at a cost of capital of 3.5% Ofcom finds that its options A, B and D give a positive NPV. Vodafone has examined the inputs to this calculation and found substantial errors, indicating that the more likely volume of benefits is closer to £2m, as follows:

- Ofcom has used the survey results of those indicating a definite WTP as a lower bound, and the sum of those indicating a definite and probable WTP as the upper bound of the valuation of the benefits. However WTP studies show that their principal difficulty is that a hypothetical WTP does not in reality convert into a real WTP – only the definite WTP response is likely to have any validity, and may still overstate WTP in practice.

- The annual volume of ports is not the 2.6m that Ofcom has calculated from survey data but the real volume of ports of ✂ – this volume however needs to be discounted to exclude those ports that could not "benefit" from a process acceleration either because they are bulk ports outside the scope of the proposal, or because the nature of the customer or the sales channel used would prevent the obtaining of process acceleration. ✂, Vodafone has deducted ✂ from the volume of ports to account for this, and thus uses 2.1m as the annual volume of ports.

- Ofcom has suggested that its volume of ports may be on the low side since a faster process may attract more ports. However Ofcom fails to consider how the volume of ports may have changed as a result of the recent reduction from five days to two days; in Vodafone's opinion the volume has not materially changed, confirming Vodafone's view, supported by Ofcom's qualitative evidence which suggests customers do not value lead time reduction highly and that it is unlikely to alter behaviour.

- The actual survey results generate in the case of one day porting a benefit of only 74p per average customer (the product of those willing to pay 50p, £5, £10 etc). Ofcom has stretched the benefits to £1.57 by interpolation and extrapolation to presume that customers would pay sums above, between and below the survey data (for example suggesting that some of those prepared to pay £20 would actually pay up to £30 and, moreover, that those unwilling to pay 50p would nevertheless pay a lesser sum). In Vodafone's view this stretching is beyond plausibility, and the very most that could be derived is an annual benefit of £1.10.

- Ofcom, despite asking in the survey for a willingness to pay for "immediate" porting, has interpreted this as a valuation of near instant porting – in reality this would be at least two, or possibly four hours. The immediate porting benefit claimed by Ofcom needs to be adjusted downwards for this.

- There is a mismatch between the benefits and costs of process change, since one includes sales tax. The benefits accordingly need to be reduced to remove notional VAT.

- It is noteworthy that in the case of the one day port, 74% of the assessed benefit comes from only 6.5% of the consumers. This very high skew puts into question the whole benefit edifice.

31. The resulting substantial reduction of the benefits of porting process acceleration has a profound impact on the cost benefit analysis, as table 2 below shows.

Cost benefit analysis with revised annual benefit	Present values £m with 10 year payback at 3.5% cost of capital				
	Costs	Benefits		Net present value	
		Ofcom	VF	Ofcom	VF
A – near instant RL	43.5	**46.1**	**21.0**	**2.5**	**-22.5**
B – near instant DL	39.2	**46.1**	**21.0**	**6.9**	**-18.2**
C – one day RL	37.7	**32.3**	**15.6**	**-5.4**	**-22.1**
D – one day DL	13.8	**32.3**	**15.6**	**18.4**	**1.8**

Table 2 – CBA with Ofcom & Vodafone assessment of benefits

32. Fundamentally, on a more reasonable assessment of the likely benefit that can be construed from the survey data, only option D, one day donor led, continues to provide a positive result, but this result is not significantly above zero. Converting the Vodafone adjusted benefits into a payback appraisal approach leads to the observation that on A, B, and C, the incremental opex is more than the annual benefit, so that these options never generate a surplus to attempt to payback the initial investment, as table 3 below shows.

Forecast of annual cash flows with Vodafone benefit and Ofcom outflows	Initial outlay	Annual flows			Ratio initial outflow to annual inflow
		In	Out	Net in	
D – one day DL	£1.75m	£2.0m	£1.6m	£0.4m	4.4
C – one day RL	£12.50m	£2.0m	£3.2m	-£1.2m	Never
B – near instant DL	£11.95m	£2.7m	£3.4m	-£0.7m	Never
A – near instant RL	£14.20m	£2.7m	£3.7m	-£1.0m	Never

Table 3 comparison between initial outlay and net annual flows, options A to D

33. But on top of this, there is good reason as we explore in detail in Annex C to doubt the reliability of Ofcom's estimates of the costs of solutions A to D. UK Porting had not completed its work by the time it was halted as a result of Vodafone's successful appeal on the previous MNP statement, so its estimate of costs, used for deriving option A is likely to be an underestimate. It appears that the costs of options B, C, and D have been developed by Ofcom by the process of subtraction from A. It is not clear therefore that any of the cost estimates are well founded. Any increase in such cost would serve only to increase the negative result of options A to C or erode the positive result of option D.

34. In order to compare costs and benefits and arrive at a net present value for each option it is necessary to take a view on the period over which to assess the net benefit and the appropriate discount rate to convert future flows into today's money. Ofcom opts for a ten year assessment period and a low 3.5% 'social' discount rate.

Neither choice is appropriate in Vodafone's view. Seven years would be a more realistic maximum period. Similarly, there is no case for employing an artificially low social discount rate to a private sector funded project, so Vodafone has reworked the results using an 11.5% discount rate to reflect a more realistic industry cost of capital.

35. Applying these changes to Ofcom's own inputs of cost and benefit substantially reduces the NPV of all options, as table 4 below shows:

Ofcom input values unadjusted	Present values £m					
	Costs		Benefits		Net present value	
	3.5% CoC10 yrs	11.5% CoC 7 yrs	3.5% CoC10 yrs	11.5% CoC 7 yrs	3.5% CoC 10 yrs	11.5% CoC 7 yrs
A – near instant RL	43.5	25.3	46.1	22.1	**2.5**	**-3.2**
B – near instant DL	39.2	22.4	46.1	22.1	**6.9**	**-0.3**
C – one day RL	37.7	22.1	32.3	15.5	**-5.4**	**-6.6**
D – one day DL	13.8	7.2	32.3	15.5	**18.4**	**8.3**

Table 4 – Ofcom's costs and benefits over differing periods and costs of capital

36. These changes alone are sufficient to turn options A and C negative, and halve the benefit of D. Overlaying the Vodafone assessed level of benefits on top of the payback length and discount rate adjustments produces the following impact on a simple cost benefit analysis:

NPV of net benefits under original Ofcom and revised Vodafone outcomes	Ofcom costs and benefits, 10 year, 3.5%	Ofcom costs, Vodafone benefits, 7 year, 11.5%
A – near instant RL	2.5	-15.2
B – near instant DL	6.9	-12.3
C – one day RL	-5.4	-14.6
D – one day DL	18.4	0.3

Table 5 – revised NPVs of options A to D

37. In Vodafone's view therefore options A to C can clearly be discounted, and the breakeven result of D is insufficient to justify intervention. Ofcom attempts to suggest that there might be a case for re-weighting the

recipient led options over donor led given some apparent survey evidence indicating consumer preference for the former. Vodafone however considers that the survey evidence is insufficiently robust to demonstrate preference, let alone any valuation of differential WTP. The very best that might be done with the available data is to discount the benefits achievable under donor led, rather than to inflate the benefits of recipient led – unfortunately in this event option D would also revert to a negative result.

Conclusion

38. Vodafone concludes from this analysis that there is not a clear case for any of the Ofcom options as they stand, although the least worst option is option D. Since more precise cost estimates are unlikely to change this picture appreciably, the appropriate next step is not to work up specifications for each option in much greater detail, but rather to revisit the benefit side of the analysis before proceeding further.

3. How important is speed?

39. One of the key assumptions underlying Ofcom's proposals to speed up the mobile porting process is that speed matters and that, generally speaking, faster is better.

40. In previous rounds of consultation, Ofcom appeared to adopt this stance more or less as an article of faith, regarding the proposition as so self-evident that no further analysis was required. However, as the Competition Appeal Tribunal noted in its judgement on Vodafone's appeal, even if it is the case that faster might be better all other things being equal, there is likely to be a trade-off between speed and cost so it is important to consider explicitly how much speed matters, and whether it matters enough to customers to make the extra costs of a faster process worthwhile[2].

41. It is welcome that Ofcom clearly now recognises the force of this point in the present consultation. The whole purpose of its cost benefit analysis is to attempt to evaluate the assumed consumer benefit from faster porting and see how it compares with the associated costs under each option. We welcome Ofcom's recognition of the need to consider this question explicitly, even though we have substantial doubts about Ofcom's modelling approach and the provisional conclusions based on it. The cost-benefit analysis is discussed in detail annex C. Below we briefly review some of the reasons advanced for suggesting speed matters, and what the available evidence actually shows.

42. Various theories have been put forward by Ofcom and others as to why speed matters, or could matter. It has been suggested that long port lead times could deter switching, leading to possible consumer detriment through less intense competition. It has also been suggested that even if long port lead times do not deter switching *per se*, they might still put people off porting – thus reducing the convenience benefits of number portability to customers who might otherwise keep their number and to those who call them. Finally, it is suggested that even if port lead times do not deter porting or switching, long waits may be inconvenient, so there is a potential customer benefit from faster porting for those who port, whether or not faster porting encourages more people to do so.

43. What does the available evidence suggest in each case?

Current lead times do not deter porting or switching

44. Ofcom itself now seems to have concluded, correctly in Vodafone's view, that there is little evidence to suggest that the porting process acts as a significant barrier to switching[3].

45. Similarly, there is little evidence that speed is a major factor deterring customers who switch from keeping their old number. The focus group research conducted for Ofcom sheds important light on this question, strongly suggesting that those who attach importance to keeping their number are, in fact, aware that the option exists and, moreover, that they will do whatever it takes to make sure they can port their number and not easily deterred or put off by port lead times[4]. Indeed, all the possible changes considered, including reduced lead times, are regarded as no more than "nice to have" and will "not trigger significant shifts in either switching or porting behaviour"[5].

46. There is some evidence that not all customers are aware that they could keep their number so it may be that greater publicity or better communication would prompt more people who switch to port their number when

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[2] CAT Judgement of 18 September 2008, Case Number: 1094/3/3/08
[3] See Ofcom's discussion of overall findings, particularly 4.5-4.6
[4] Jigsaw research, 7.2.4
[5] Jigsaw research, summary at 7.3.4

they do so[6]. This is not a speed related factor, however, since if you do not know you could have ported your number then by definition you have not been deterred by perceived speed. Reasons advanced by customers for not keeping their number are many and varied but lead times for the port to complete once arranged do not feature at all[7].

47. The lack of evidence that port lead times act as a significant barrier to porting or switching is in itself highly significant. This means that the practical debate can move away from idle speculation that speed of porting 'might' pose a barrier to switching, to a proper focus on the actual customer experience.

Speed and convenience are not the same thing

48. What does the evidence show about the customer experience in relation to lead times? The short answer is that it shows a more complex and subtle picture than Ofcom assumes in its cost-benefit analysis, and one that casts major doubts on the empirical basis for its modelling approach.

Bulk ports have longer lead times but work well for business customers

49. Perhaps the first thing to note is Ofcom's own recognition that there is no problem, and no proposal to change the current process and lead times for bulk ports[8]. This is significant for two reasons. Bulk ports are generally confined to business customers, for whom it is often assumed the ability to keep one's number is especially important due to the costs of advertising a new number to a potentially very large number of existing and potential new customers and suppliers. Yet because continuity is so important, migrations need to be project managed carefully with co-ordination between old and new providers and the customer. That is why the default lead times for bulk ports are longer than the two working days for consumer ports.

50. In Vodafone's experience, larger business customers tend to talk to a range of potential suppliers, including the current supplier, when reviewing where to place their business in order to play them off against the other and seek to secure the best deal,. They generally plan migrations well in advance. Default lead times of 10 working days are not a critical factor therefore. Indeed, ports dates are often scheduled further ahead by mutual agreement between the parties. Port dates may also be staggered. Overall, business customers attach greater importance to service continuity and date certainty than speed for its own sake, and would not benefit from a one-size-fits-all approach that compromises operational flexibility.

Port lead times are not a burning issue for consumers either

51. Turning to consumers, as noted, the focus group research does not reveal any strong view that current two day back-end port lead times - i.e. the time downstream of initial authentication between the recipient-network triggering the request to the donor and completion - are excessive. This is supported by the TNS Omnibus survey results Ofcom reports in Section 4, showing that 80 per cent of mobile customers who had switched and ported their number were satisfied with the overall process[9].

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[6] TNS Omnibus Survey, Q7 shows that 62% of respondents were aware they could keep their number, 35% were not aware and 4% apparently didn't know whether they were aware or not. 85% of those who had kept their number last time they had changed network were, unsurprisingly, aware that they could do so, though strangely 15% of those who had actually kept their number claimed not to be aware they could do so. Of those who had changed number when they had changed network, however, 58% were aware they could have kept their number yet decided not to do so for a variety of reasons clearly not related to lack of awareness (see Q10).

[7] TNS Omnibus Survey, Q10

[8] See 3.2-3.3

[9] In fact, the same survey also explicitly considers satisfaction with *time taken* to transfer number to a new network. The result is very similar to that for the process overall, with 52% satisfied and 26% very satisfied.

52. The focus group research concludes that "two days is generally seen to be an acceptable port lead time"[10], though also mentions uncertainty as to what to expect and concern about missing calls. In fact, while there are some margins of uncertainty about the precise timing of all the behind the scenes changes needed to effect the port, the process is specifically designed to allow continuity of inbound calls to be maintained.[11]

PAC response times are more important than 'back-end' lead times

53. The one other area where Ofcom's new evidence does suggest a 'speed' dimension under the current process is at the authentication stage of the process. The issue is not about the speed at which a port completes once the recipient has triggered the request to the donor but rather about how long it takes from a customer perspective to get a PAC from their current provider.

54. Clearly this issue needs to be seen in the context of the high general satisfaction rating reported by those customers with experience of the current process. However, while most customers declare themselves satisfied with the overall process, which includes getting a PAC, a minority express frustration at having to wait for their PAC, especially where sent by post and a PAC issued to the customer within the current two day service level may not actually be received by them until some days later. Ofcom charts the potential variability in time to receive a PAC from the customer's perspective at Figure 4, and proposes that response times should be reduced from two days to two hours under any revised donor led process.

55. Vodafone has some sympathy for this suggestion, and believes it is an area of the process that could and should perhaps have been addressed sooner in preference to the prevailing focus on lead times at the back-end of the process. As Ofcom notes, current practice in this area is not at all uniform, varying between networks and between different customer segments on the same network e.g. between contract and pre-pay customers. The present lack of clarity and room for conflicting interpretation is shown by the fact that sending PACs by post seems to reflect a documented requirement to send the PAC and other associated information to the customer in writing, even if other *additional* means of providing the PAC are not precluded.

56. Ofcom appears to consider letters unnecessary (see 5.37) and certainly it is difficult to see much point in communicating important customer information that customers should be aware of *before* they use their PAC *after* the event if the PAC has already been issued by other means. Focus group evidence also suggests letters may be regarded as old fashioned[12]. On balance, we think Ofcom should clarify that letters are not required where PACs are notified by SMS[13], but accept that important information – about PAC validity, contractual

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[10] Jigsaw research, 5.2.5

[11] The timing of events on the day of the port is deliberately sequenced to allow this, the number being activated on the new network before it ports out from the old one (see Porting Process Manual, Annex C for details). However, maintaining complete continuity of inbound calls on the day of the port itself does depend on using the SIM for the network the customer is leaving until the port completes and then switching to the new network SIM (and handset, if applicable). If this is not clearly explained to the customer or if the customer is encouraged to start using their new SIM to make outbound calls before the port completes, then there may be a brief window on the day of the port itself – between 11.00am and 4.00pm - when inbound calls that could have been received on the old network are missed.

There are potentially several ways such concerns could be addressed through clearer information and advice to the customer as to what to expect, without going into the minutiae of behind the scenes network operations, and this is something recipient networks should consider. It is important to note though that the actual window of uncertainty under the current process does not last for two days, but a much briefer period of a few hours at most on the day of the port itself. The same issue would arise to a greater or lesser extent under a revised one day or even two hour process, so hardly justifies a general compression of port lead times from two days as the proposed 'solution' would not in fact address the perceived problem.

[12] Vodafone notes, however, that Ofcom seems to take an altogether different view on similar matters in the context of fixed migrations, which rely critically on the so-called 'letter facilitation process'.

[13] While SMS may be appropriate for many consumers, some flexibility should be allowed for customers e.g. business customers to receive notification via e-mail.

liabilities (e.g. early termination charges) – and so on need to be communicated to the customer by other means.

Conclusion

57. Taking the available evidence as a whole, the port lead times do not appear to be a major factor affecting decisions whether to port or switch. Back-end lead times of two days are not in themselves seen as excessive and business customers in particular sometimes schedule port dates further ahead, suggesting better communication between the new provider and the customer about timing so that they know what to expect and can plan accordingly may be more important than port lead times per se.

58. The statutory port lead time, however, only relates to the back-end of the port downstream of authentication. The time it takes for a customer to receive a PAC varies considerably but can take longer than the port itself where PACs are only communicated by post. We therefore support the proposal that all networks should move to notifying PACs by SMS since this appears to offer a genuine improvement in customer experience at relatively modest cost. Ofcom should encourage such a move as soon as reasonably practicable, ahead of and in preference to mandating compression of the back-end lead time which does not actually address the aspect of speed that seems to matter most to customers.

4. Donor or recipient-led process?

59. Vodafone welcomes the fact that Ofcom is considering both donor-led and recipient-led options.

General observations

60. The terminology 'donor-led' and 'recipient-led' – or the fixed equivalent 'gaining/losing-provider led' can be misleading and obscure as much as it illuminates.[14] Industry shorthand of this kind can be a source of bafflement to customers, but that is by no means the only problem. There are many preconceptions and assumptions made about pros and cons of different process options, but all too often protagonists compare an idealised version of their favoured option with a caricatured version of the alternative. The debate becomes theological rather than practical in nature, and no meeting of minds is possible.

61. When approached from a practical perspective rather than in abstract, it soon becomes clear that the devil is often in the detail. The differences between two alternative variations of a process bearing the same nominal donor or recipient-led label can be at least as important to their practical performance in terms of convenience, customer protection and so on as the basic difference in approach between the two schools of thought.

62. Either basic approach can probably be made to work after a fashion, but because different perceived strengths of each approach are often matched by corresponding weaknesses in other areas, compensating safeguards may need to be overlaid on the basic model e.g. to curb a donor's ability to delay or block a transfer, or to protect consumers from slamming and mis-selling under a recipient-led model.

63. None of these observations in themselves conclusively favours either starting point. However, it is important to recognise that safeguards and incentives are a critical part of the process design that will bear directly on its costs and its practical performance from a customer perspective.

64. Safeguards may turn out to be effective or ineffective in meeting their declared aim. What is not always so clearly recognised, however, is that bolt-on safeguards can fundamentally alter other perceived properties of the basic process – diluting or negating perceived strengths at the same time as compensating for the weaknesses they were intended to correct. In short, there is a complex balancing act between different priorities, with trade-offs between simplicity and complexity, time and money, and so on.

65. These are exactly the issues Ofcom and the Communications Consumer Panel are considering in relation to migrations processes generally, recognising that neither the gaining provider-led 'letter facilitation' process for fixed line telecoms nor the losing provider-led MAC-based process for broadband are wholly satisfactory in their own right, even before allowing for the confusion created where they collide or overlap where bundled products are concerned, or where they don't apply due to geography or cable exclusions and so on. We return to this issue in Section 5 below.

Mobile migrations in context

66. Several important points are particularly worth bearing in mind in relation to mobile number portability.

67. Firstly, in considering changes to current mobile porting processes the starting point is not a "green field" environment requiring process design on a blank sheet of paper from first principles. The original recipient led process that had long lead times, was highly error prone and generally regarded as unsatisfactory by all

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[14] Although commonly referred to as being 'donor led', the current PAC based system is actually recipient led from the point at which the customer provides their PAC. The same is true of the French system that Ofcom has difficulty categorising at 3.19.

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concerned was replaced by the current PAC based system within two years of the original introduction of MNP in 1999.

68. This transition, widely regarded as a significant improvement, was achieved through cooperation between mobile network operators and Ofcom's predecessor Oftel, working towards a common objective – namely an improvement in the resultant customer experience.

69. While the basic model of a PAC driven process remains intact, the process has not stood still. Back-end lead times were reduced from five days to two in April 2008, and successive waves of new entrant operators, MVNOs and third party service providers have been successfully integrated so that 'any to any' porting is possible using a common industry platform.

70. Secondly, although Ofcom emphasises perceived problems it wishes to tackle, the overwhelmingly positive views reported by most customers who have ported is matched also by very low levels of complaint compared to those found in fixed and broadband[15]. Ofcom reports how it is focusing minds to stamp out occasional lapses through its enforcement activity, ahead of any formal rule changes[16]. Enforcement is an important part of any regulatory regime and it must be sensible to seek to apply existing rules before reaching for new ones – if rules cannot be enforced, the practical value of any change in those rules must be called into question. We do, however, think some sense of perspective and proportion is necessary when considering the scale and nature of any perceived problems with the mobile porting process compared to the bigger and apparently more intractable problems seen in other sectors. As noted in the previous section, Ofcom has not identified a major competition problem and there is no evidence that customers are significantly deterred from porting. It is the customer experience that is the key issue.

71. In many respects, therefore, mobile inhabits a much simpler and more propitious environment than the fixed/broadband one, with solid foundations on which to build. This plays directly into the cost benefit analysis and risk assessment.

72. In cost terms, incremental changes to the current donor led process are likely to be significantly less expensive – and less risky – than a wholesale switch to a recipient led-model requiring completely new infrastructure. It is also likely that less radical and less complex changes could be successfully accomplished in a shorter timescale than more extensive and fundamental changes requiring industry-wide co-operation and agreement across an increasingly complex and diverse mobile sector.

73. In considering the competing merits of donor vs recipient-led porting, therefore, it is not surprising that the cost-benefit analysis clearly shows donor led options outperforming recipient led ones. Comparing pairs of options on a like for like lead time basis, the benefits of a switch would have to be absolutely overwhelming to tip the balance completely in the other direction. Ofcom's speculation that customers might prefer a recipient-led system comes nowhere near providing a sufficient justification to switch, particularly when Ofcom itself is unsure what lies behind the response to the single survey question on which this assumed preference is based[17].

Recipient-led is not synonymous with 'convenient'

74. Having previously advocated a recipient-led process, it is perhaps understandable that Ofcom continues to suggest that a recipient-led process might be considered more convenient for customers because it provides a one stop shop. As explained below, however, this superficially plausible proposition does not stand up to close scrutiny.

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[15] See further discussion in section on wider context below
[16] See 4.54
[17] Footnote 118 at page 65 – see further discussion at Annex C below

75. Ofcom uses its Figure 2 to emphasise the difference in consumer involvement between donor and recipient led processes, suggesting a simple equation between 'involvement' and convenience. The single survey question Ofcom relies on to underpin its assertion that customers would prefer a recipient-led process presents the choice in similar terms[18].

76. Confronted with a choice between an 'automatic' process and one that apparently requires more deliberate effort, it is perhaps not surprising that customers opt for the one that is presented as being easier – though interesting that barely half (53 per cent) of those surveyed express a clear preference in favour, with 20 per cent actually preferring a two stage process, 23 per cent expressing no preference either way and 4 per cent don't know. Comparable results for Ireland show just under half (47 per cent) preferring the 'automatic' process. Fewer respondents prefer the alternative, but 37 per cent declare no preference and 2 per cent don't know. Views in both countries are clearly mixed, but the responses also suggest a high degree of indifference, chiming with the conclusions of the focus group research, which hardly supports a general assertion of consumer preference for a recipient led process – particularly when one considers that these are hypothetical responses to an abstract question.

77. Ofcom also acknowledges that it does not know why customers have responded as they have, and that those favouring the 'automatic' option may have assumed it would be faster. The more general problem is that simply contrasting a one stop shop with a two stop shop in a way that implies greater convenience in the former case glosses over all practical aspects of how each process might actually work from a customer perspective.

Recipient-led authentication in practice

78. Under a donor-led process, authentication is relatively straightforward as the donor will have all the necessary account details against which to check and confirm the customer's identity, authority over the account and advise of any contractual implications e.g. in the event of early termination charges. Such checks present much more of a challenge under a recipient-led process, as the recipient will not have access to this information. Essentially, a request from the customer to port introduces a middle-man into the process under a recipient-led regime.

79. A near-instant recipient-led process would have to be highly automated, requiring very tight specification of the information to be collected from the customer and transmitted electronically to the donor for checking and confirmation (or denial)[19]. While the systems and technical infrastructure required to support such a system will be largely hidden from the customer, the need to collect (and retain) specific information to enable checks to be made, and to wait to discover whether or not the request is confirmed, will have a direct bearing on the customer experience in a number of ways.

80. If, for example, the customer does not have some of the information required to hand – or does not have the correct documentation to enable verification – they will not be able to proceed with their port request[20]. If, again for the sake of example, customers are required to produce a copy of a recent bill from the old provider and do not have this with them, they will need to go home and find one or perhaps obtain a duplicate from their

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[18] TNS Omnibus survey, Q14

[19] Ofcom sets out its current thoughts on how recipient-led authentication might work at Annex 6. While this provides a high-level description of some of the possible checks, Ofcom does not set out what it thinks should happen if any of the checks are failed.

[20] Ofcom is vague on verification criteria, including an all purpose 'other' category alongside obvious candidates such as name, address and phone number – see A6.9g). Ofcom also anticipates rejection if the information exchanged between recipient and donor does not check out – including cases of partial mis-match (see A6.9o). Importantly, Ofcom recognises that verification criteria may need to include details specific to the customer's existing account with the donor in order to establish their authority (or not) to terminate the account. This is not information a customer would otherwise require to open a new account (e.g. for credit vetting purposes) were it not for the fact that they are porting their number. But if customers do not know in advance exactly what information and documentation they need, the chances of them having all necessary paperwork with them might be considered slim.

existing provider – all of which introduces at least as much customer effort and potential delay as under the present PAC-based system, and compares unfavourably with the enhanced PAC-based system with faster response time Ofcom proposes.

'Near instant' might be far from instant in practice

81. Assuming this not insubstantial problem away, even a customer who comes ready armed with all the necessary paperwork will have to wait for it to be checked and copies taken for retention (in case of dispute)[21] while the recipient collates and submits the request to the donor. Despite its description of Option A as 'near instant', and questionable assumption that this is synonymous with 'immediate' when interpreting customer responses on willingness to pay, in its detailed description at Annex A suggests that the end-to-end time taken to submit *and receive confirmation from the donor* may itself be up to two hours.(see A6.9 e)). This is comparable with the proposed PAC response time under donor led Options B and D, but suggests problems for a 'while you wait' check, unless customers are prepared to wait for up to two hours to discover whether or not they can actually port.

82. In practice, customers may not be inclined to wait that long and may simply hope that having provided the information to enable the recipient to make the request, all goes smoothly. The question remains, however, what happens if the request cannot be confirmed? This could be due to something as simple as a data entry error or partial mismatch, or a more substantial problem if the donor checks reveal a problem with the account[22]. The customer may or may not be entitled to port, but if they are not present they will not discover that there is a problem until after they have committed to their new provider. Vodafone understands that being contractually committed to both old and new providers has been a significant problem in relation to fixed migrations, and one that can prove difficult to resolve speedily or satisfactorily.[23]

Risk of expensive mistakes

83. One advantage of the present PAC based system is that the porting eligibility question is dealt with up-front, so that a customer with a PAC knows they will be able to port and is able to make an informed choice about whether or not to do so. A recipient-led regime carries with it greater risk of nasty surprises. A general reminder from the recipient about the possibility of contractual commitments to the donor may be glossed over or fall on deaf ears until too late, but in any case the recipient would not be able to advise the customer of the actual extent of any such liability. This is potentially serious for a customer who tries to port their number 12 months into a 24 month contract with their existing provider, for example who could find themselves crystallising a hefty early termination liability, while also entering into a new contractual agreement with the recipient from which they may also incur early exit penalties.

84. We note Ofcom's suggestion that a donor may, optionally, text the customer about termination liabilities, but that the port may not be contingent on a positive acceptance from the customer[24]. While we welcome Ofcom's recognition that customers need to understand the contractual consequences of early termination so that they can make an informed decision, the main problem with the proposed solution is that the donor is bound to proceed with the port even if the customer would have changed their mind had they realised the implications in time. Learning of an expensive mistake just too late to do anything about it does not offer any meaningful customer protection. Given the potential financial implications for customers who find themselves in such a position, over and above any other aspect of inconvenience suffered, the general assertion that a recipient led process is more convenient or offers a better customer experience must be called into question, especially

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[21] See A6.9h)

[22] For example, that it is a multi-line account and the person requesting the port is not the authorised account holder

[23] Ofcom/ Communications Consumer Panel stakeholder workshop, 5 October 2009

[24] See Ofcom discussion at 5.32 and associated footnote 86

when the perceived inconvenience associated with a donor led alternative is confined to the need to make a single phone call to get a PAC.

Recipient-led porting may not be a 'one-stop-shop'

85. The discussion above effectively assumes that a customer arranges the port with the recipient face to face in a shop.

86. In practice, while some retail outlets may gear themselves up to offer such a facility, it is unlikely that all will do so given the overhead associated with processing port requests – infrastructure to connect in to any hub to enable requests to be submitted to donors, specialist staff training, need to collect and store securely all supporting documentation for audit purposes, and so on.

87. Even for a retail outlet that has such capability, there is an opportunity cost associated with extra administration that would not arise with a non-port sale. This must call into question the idea that recipients will be positively incentivised to promote porting under a recipient led system than under a donor led one. The most that can be said is that they might be less inhibited by concern about customers changing their mind as a result of speaking to the donor – whether as the result of a retention offer, or a realisation that termination liabilities mean premature switching is not financially advantageous.

88. As noted above, even in a shop, so-called 'near instant' recipient porting may in fact take up to *four* hours when the two hours Ofcom is allowing for authentication is added to the two hours for the port itself[25]. But how long will the 'near instant' recipient-led process actually take from a customer perspective in a retail environment that does not offer 'one-stop' porting? If non-specialist retail channels choose not to offer this facility[26], then either their customers will not port or they will have to arrange the port themselves by some other means.

Subsequent recipient-led porting may be neither quick nor convenient

89. What would the customer experience look like where in-store porting is not supported?

90. This could involve, for example, assembling the same documentation needed to authenticate an in-store port but having to send it by post to a back office administration centre operated by the recipient. Recalling that Ofcom is already proposing to eliminate postal delays in any enhanced donor led system, this method of recipient led porting would clearly perform worse than the equivalent donor led alternative from an end-to-end speed perspective. Clearly, porting could not realistically be considered 'near instant' let alone immediate, calling into question the extent to which a 'faster porting' benefit can legitimately be ascribed to ports that follow this pattern.

91. A further question in this scenario is whether the customer can use their phone while they wait for the paperwork to be processed and the port implemented. They clearly will not be able to receive calls on their new network with their old number until after the port has taken place. They will need to maintain their existing subscription in any event, as only numbers live on a donor network can be ported. Either they will not be able to use their new phone at all, or they will be able to use it for outbound calls only – depending on the service offered by the network they are joining,

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[25] This detail is buried away in Annex 6 – A6.9e) while the main text simply uses the term 'near instant' to mean 2 hour without further explicit qualification. The back-end 2 hour lead-time is also subject to qualification in the annex not highlighted in the main text. A6.12c) explains that the two hour porting window must be specified to be fully within normal working hours.
[26] It is difficult to see how they can be compelled to do so, and Ofcom makes no suggestion to this effect. It must be open to question whether supermarkets, for example, would find it worthwhile to offer in-store porting authentication.

92. The only way a customer could receive a call on the *new* network prior to porting is if they have a temporary number, which they would need to have communicated to the caller beforehand. This rather defeats the whole object of number portability, however, as they will have to let potential callers know the temporary number for an interim period, and then potentially contact those same callers again to let them know the port is complete and the old number has been restored. Once again, this is a substantial qualification casting doubt on the claimed convenience advantage under a recipient-led regime.

Detail matters – mistakes can't be assumed away

93. The discussion above illustrates why the detail matters and can make a substantial difference to the customer experience for good or ill, and why it is fundamentally unsafe to assume that perceived problems associated with one regime can be solved at a stroke by switching to a different regime. Even if the original problems are solved, new and different problems are likely to arise in their place and the question then is how those are to be dealt with.

94. The idea that a recipient led process is more convenient for customers depends critically on an implicit assumption that, somehow, mistakes simply will not happen – or at least that if they do, they can be quickly and painlessly reversed. Unfortunately, there is absolutely no basis for either assumption. Experience from the gaining provider led fixed migrations process reveals widespread problems with slamming and mis-selling. Unlike the present proposals for recipient led mobile porting, fixed migrations do at least provide a limited window for mistakes to be identified and corrected before the switch takes place during the ten working days allowed under the letter facilitation process. This may have dampened but has clearly not eliminated the underlying problem, and unravelling mistakes after the event is potentially nightmarish for all concerned – but most of all for the customer. This strongly suggests to Vodafone that low error rates and a high 'right first time' strike rate must be a key design aim in any process primarily concerned with the customer experience.

95. There is a fundamental tension here. A recipient led process without safeguards may be simultaneously 'easier' and – as a direct result of being easier – more prone to error. Some errors may be innocent mistakes; others may be the result of deliberate abuse, exploiting the very lack of safeguards. The problem is that safeguards to cut down errors tend to complicate the process and potentially negate the assumed benefits, as well as adding cost.

Donor-led porting works, avoiding the problems of recipient-led

96. The current donor led system provides a high degree of security and customer control, allowing customers to make informed choices with eyes open. It also achieves this at relatively low cost. By focusing on perceived problems with donor led porting, however, Ofcom risks overlooking its strengths and taking these for granted. Yet it is not necessary to look very far afield to see the more serious and widespread problems that can and do arise where these features of a migrations process are compromised. Slamming and blocking of fixed line transfers have long featured at or near the top of Ofcom's complaints data, dwarfing the number of complaints received about the mobile porting process.[27] This is not to pretend that the current process is perfect and incapable of improvement, merely to set the nature and scale of perceived problems in perspective.

97. The mystery shopping exercise, for example, shows remarkably little evidence of outright blocking.[28] The complaints are more about the speed and efficiency with which requests are dealt, and the variable speed and reliability with which PACs are dispatched. This is echoed in the focus group research, which suggests few customers are actually put off switching or porting.

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[27] See further discussion at Section 5 below

[28] The unpublished summary prepared for Ofcom notes that the vast majority of customers successfully obtained their PAC. Moreover, the majority of customers had a positive view of the experience and found the process to be clear and straightforward. PAC Mystery shopping, summary prepared by Synnovate for Ofcom, 20 May 2009.

Retention activity – too much, too little, or about right?

98. There are some interesting lessons here. Different customers have different attitudes to retention activity.[29][30] Some welcome the attempt to understand what may be behind a decision to switch and explore whether there is anything that can be done to help. Some express surprise and disappointment if the current operator makes no attempt to retain their custom. Others seem to take a contrary view, having already made their mind up and determined not to be talked round. Yet others fall somewhere in the middle, recognising that they might learn something to their advantage at first and prepared to listen but starting to lose patience if they sense undue persistence or foot-dragging.

99. This shows clearly, as Ofcom acknowledges that not all retention activity is 'unwanted'.[31] Indeed, some is expected and even resented if found lacking. However, it also suggests that a deliberate strategy of over-zealous attempts to prevent customers leaving at all costs is both rare and likely to be counter-productive. Customers do not respond favourably to overly persistent or desperate attempts to persuade them out of a settled decision, and are not easily deflected once they have made their minds up. A bad parting impression will, however, damage the customer's perception of the provider they are leaving which has potential to inflict reputation damage adversely affecting brand preference.[32]

100. Given the different attitudes and expectations there can be a fine line between wanted and unwanted retention[33], though good sense and enlightened self-interest should curb the worst excesses. There may well be a link with perceived delays receiving PACs after a request has been made, which Ofcom's proposals for uniformly faster PAC issue under a revised donor led process should all but eliminate. Moving to a recipient led model would be a far more drastic response, not clearly justified on the available evidence to date. A model that precludes donor contact with the customer cannot distinguish between wanted and unwanted retention. It simply eliminates any possibility, even where the customer would have benefited. Moreover, as noted, it is not just the possibility of missing out on a better offer that is denied to the customer, but the opportunity to understand their current contractual position so that they can assess beforehand whether a switch makes sense in the light of any early termination charges they may face if not already out of commitment.

Distributional/ competition effects of a change in process

101. There is an obvious sense in which a customer who gets a better deal from their existing provider than they can get from a competitor benefits more from accepting that offer than they would do from switching without testing the market further. This is possible under the current process. However, the PAC based system does not limit the customer to accepting or rejecting an offer from their current provider. PACs are valid for 30 says so they can take their time to shop around and test the whole market. Their bargaining position with other providers may itself be strengthened by knowledge of the potential deals available from their current provider.

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[29] The Synnovate report for Ofcom makes the point that retention efforts fall into three categories: too much, about right, and too little.

[30] See Jigsaw research at 5.22: *"There are benefits and drawbacks to being persuaded to stay and the final opinion is dependent on each individual customer's mindset."*

[31] See 4.10 discussing the customer benefits of retention activity. See also 5.129, concluding *'We are not assuming that all retention activity is unwanted.'* Quite so.

[32] Net Promoter Score (NPS) is one widely used measure of brand preference

[33] There is a risk of conflating legitimate retention activity, enabling customers to make an informed choice, with pure obstruction. It is important that customers understand their options, and the financial implications of terminating their current contract if they decide to port. If this reveals an early termination liability the customer had not previously considered, for example, such news may be unwelcome and badly received at the time and, in that sense, 'unwanted'. It does not follow that blissful ignorance offers a better customer experience.

It is not surprising, therefore, that requesting a PAC is a well known and favoured bargaining chip among savvy customers that they can and do work to their advantage.

102. Putting bargaining power in the hands of customers might be thought pro-competitive and good for consumers. Ofcom seems to suggest, however that what is clearly good for some 'active' consumers might not be so good for all consumers, particularly if passive consumers were also vulnerable consumers. It is not clear what makes a customer vulnerable in Ofcom's eyes, but in fact the passive customers Ofcom seems to regard as potentially vulnerable apparently include customers from higher as well as lower income groups, while the active customers are concentrated in middle income brackets[34]. As Ofcom notes, there are all sorts of reasons why some customers may be more active than others that have nothing to do with the porting process, and there are numerous ways in which operators can target discounts to specific customers.[35] Above all, there is no evidence that a particularly vulnerable set of consumers is systematically disadvantaged under the current regime.[36]

103. In any event, quite how passive customers might be disadvantaged is unclear from Ofcom's discussion, which appears confused. Ofcom states that donor providers have a chance to target discounts at 45 per cent of the 14 per cent of customers who switch each year and that *"this might allow providers to charge relatively higher prices to non-switching (passive) customers"*. The problem with this is that Ofcom's 45 per cent is the proportion of switching customers *who actually port*. Even if some or all of these customers did receive targeted retention offers, they did not take them up. If they ended up with a better deal than the passive customers, it is simply because they switched, not because they took up a retention offer.

104. If it were impossible to switch without the knowledge and co-operation of one's current provider, and if that provider also enjoyed a dominant market position that enabled them to sit back and only consider improving terms for customers who signal they are about to leave, some concern about the competitive impact of price discrimination might be easier to understand. But neither of these propositions is true of the UK mobile market, which is highly competitive, as Ofcom acknowledges. The UK market has higher switching rates than to other communications sectors and it is not clear that save activity resulting from a donor led porting process lead to material consumer harm.[37]

105. Because the market is competitive, most operators are at least as interested in keeping their existing customers as in acquiring new ones and to that end make a point of contacting customers who are approaching the end of their contracts to advertise current offers and seek re-commitment. Recommitment offers need to be kept keen to match or better acquisition offers from competitors, so it is simply not the case that only 'active' customers benefit from retention activity.

106. The timing of such activity typically depends on the customer's contract cycle, so it is always possible that a customer who is nearing the end of their contract and actively shopping around will find themselves having a retention conversation in the context of a port request slightly before they would otherwise have done in the context of an outbound recommitment call. However, a customer seeking to port without realising they have many months still to run on their contract might not actually qualify for any specific retention offer but will still need to understand their contractual position to avoid crystallising an unexpected early termination liability. A retention conversation can alert the customer to the position, enabling them to make an informed decision whether to proceed or not in these circumstances.

107. This last point may be particularly relevant in relation to Ofcom's stated concern about the possibility of vulnerable customers being disadvantaged if targeted retention activity is allowed. If Ofcom is equating vulnerability with passivity, then we have seen that it is not only active customers who benefit from retention activity. However, experience from other sectors – such as fixed line telecoms and the energy sector, suggests

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[34] See 5.142
[35] See 5.144
[36] See 5.145
[37] See 5.149

that vulnerable customers could be particularly at risk under a recipient-led regime if they fall victim to slamming, mis-selling or simple inability to judge the value of any new offer i.e. a switch may not be a good deal. Even if the offer they accept is a competitive one, fairly sold, and without hidden catches, the termination liability point could be highly material to such customers, who may also be least able to extricate themselves from termination liabilities due to either provider if they realise too late that they have made a mistake. Concern to protect the interests of vulnerable customers does not clearly favour a switch in regime.

108. Whether the concern is for vulnerable customers or for the intensity of competition in general, there is no compelling evidence of any real problem currently let alone any evidence that clearly demonstrates consumers as a whole would be better off if save activity were made impossible. Attempts to 'fine tune' competitive market outcomes should generally be treated with caution, given the risk of unintended consequences, but above all any interventions of this kind must be supported by a solid evidence base which, in this case, is entirely lacking.

109. When Ofcom previously advocated a recipient led process, it stopped short of claiming that a recipient led process would sharpen competition generally, merely saying that it did not have evidence that switching to a recipient led process would weaken competition.[38] But that is hardly a sufficient case for change, bearing in mind the substantially higher costs of recipient led porting – costs that will ultimately be borne by consumers as a whole.

110. To make a case for banning save activity on competition grounds it would be necessary not just to establish that there was some real benefit, but also that the measurable extent of such benefit clearly outweighed the associated cost. No such case has been made, and if such a case were capable of being made Ofcom would surely have assembled the evidence to make it before now. In any event, even if banning save activity were thought to be a desirable objective, a wholesale switch to recipient led porting is not obviously the most proportionate or cost effective way of achieving it.

Conclusion

111. While there are points that can be made for and against either model of process, the balance of evidence suggests that the current PAC based process works well for most customers and can be further improved by streamlining and standardising PAC issue. The current process also offers a high degree of consumer protection that would be more difficult to maintain under a recipient led regime. Once the need for consumer safeguards is taken into account, the convenience case for recipient led porting starts to evaporate.

112. There is no evidence that retention activity results in consumer harm. There is, however, evidence that customers expect and appreciate it providing it is not overly pushy or intrusive. The case for an outright ban on retention activity, therefore, is not made and even if this were considered to be a desirable policy objective it would not decisively favour a recipient led process given other countervailing concerns, including cost.

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[38] See Ofcom Decision of November 2007, 3.109

5. Context and next steps

113. While Ofcom's consultation considers the mobile number portability process in isolation it is useful to step back and consider where mobile number portability sits within a wider context.

114. Ofcom makes passing reference to the fact that fixed porting processes are being considered separately by Ofcom's project looking at migration, switching and mis-selling.[39] Ofcom also refers to possible future requirements for 'one day porting' under the new EC framework[40]. We discuss the potential relevance, or otherwise, of each in turn below.

Fixed migrations and mis-selling

115. Traditionally, Ofcom has examined fixed and mobile porting processes separately. The approaches taken, and the problems encountered, have been different.

116. In discussing fixed line and broadband migrations, the terms 'gaining provider' and 'losing provider' tend to be used in place of 'recipient' and 'donor', but with much the same meaning. There are actually two different processes currently – a gaining provider led process for fixed line migrations, known as the 'Notification of Transfer' (NoT) or letter facilitation process, and a losing provider led process for broadband migrations based on MACs – 'Migration Access Codes' – which are similar in concept to the mobile PAC.

117. It is interesting to note that the default lead times under either process are 10 working days, compared to the current 2 day lead time for mobile ports. The lead times for fixed and broadband migrations do not appear to have attracted the same attention as mobile port lead times. There may be many reasons for this. One reason seems to be that to combat the slamming risk associated with gaining provider led processes, the letter facilitation process relies on a considerable lag in order to allow time for both gaining and losing providers to contact the customer by letter and for the migration to be stopped before it happens if it turns out there is a mistake.

118. There are substantial question marks about how effective these safeguards have proved to be in practice, but one key difference between the letter facilitation process and a near instant recipient led mobile porting process is the ability to identify mistakes of various kinds before they happen and take remedial action before the migration takes place.

119. Despite these safeguards, customer complaints about fixed line migrations have topped Ofcom's list of most frequent complaints for some considerable time[41]. The actual number of recorded complaints has fallen over the past year from over 1000 a month to around 700 a month in August 2009 but remains in the top slot. Ofcom refers in the present consultation to complaints it has received about delays getting PACs[42] without giving any indication of the absolute number of complaints of this kind it has received or how this compares to complaint volumes on other issues. However, it is clear that such complaints do not rank at all in Ofcom's list of most complained about items and Vodafone understands that the actual numbers of complaints received is very small in relative terms.

120. Ofcom records two categories of complaint relating to broadband transfers, one relating to 'tag on line' – which is an issue specific to broadband – the other relating to MACs. Vodafone understands that problems associated with losing providers refusing to issue MACs were more frequent in the early days when MACs were purely voluntary[43], but have since declined substantially and are now at their lowest levels since General Condition 22

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[39] See 1.21

[40] See 1.19

[41] http://www.ofcom.org.uk/telecoms/ioi/bulletins/complaints/

[42] See 4.29 and onwards

[43] MACs only became compulsory in February 2007

was introduced[44]. Vodafone also notes that while MACs are in some ways similar to PACs, the required response times for MACs are five days, compared to two days for PACs which Ofcom proposes to reduce further to two hours.

121. Turning back to fixed line migrations, it seems that the current process suffers both from the slamming problems that might be expected under a gaining provider led process and with a 'blocking' problem more commonly seen as a risk with a losing provider led process. The slamming problem can take many forms, ranging from hardcore cases where the line is switched with no reference to the customer at all to other cases where the customer has been mis-sold or not given their informed consent. Ironically, the blocking problem under the letter facilitation process stems from the safeguard put in to combat slamming. A facility called 'cancel other' exists to enable a losing provider to cancel an order to migrate submitted by a competitor. This is intended to offer a customer safeguard in tightly prescribed cases of mis-selling, but is also open to abuse. Ofcom has recently confirmed its intention to tighten and extend but not substantially change existing rules.[45] In particular, Ofcom has not proposed any changes to lead times.

122. The customer experience in relation to fixed line and broadband migrations is already complicated by the increasing prevalence of bundled offers including both fixed line and broadband, and the difficulty establishing which process applies in any particular case. In some cases, letter facilitation may be used to cover both fixed line and broadband, but not always. Taken together with the existing problems with single products, this has caused the Communications Consumer Panel, among others, to suggest that it is time for a more fundamental review of consumer switching processes – potentially including mobile as well as fixed line and broadband.[46]

123. Vodafone believes there is a good case for reviewing the current processes for fixed line and broadband migrations with a view to developing a clearer, simpler and more convenient process that also protects consumers from slamming and allows them to make properly informed choices. Designing and implementing any new unified process will not be a trivial task, however, and Vodafone does not have a firm view at this stage as to the best approach. There is also the question of whether or not mobile should be included within the scope of any new process. We can see arguments both ways. Mobile is less frequently bundled with fixed line and broadband than they are with each other, and also not technically tied to the same physical infrastructure. On the other hand, this may change over time and there could potentially be some advantages in having a similar, if not necessarily identical or unified process, applying to all transferrable products.

124. Given that Ofcom's own consideration of this question is at a very early stage, it cannot be appropriate for a consultation exclusively devoted to mobile porting to determine or pre-empt the answers to these much wider questions. A new 'go it alone' mobile solution would either pre-empt decisions about scope, or have to be revisited before any investment in a new solution has had time to pay back. There can be no guarantee that any new template devised in a mobile only context will necessarily be appropriate or easily scalable to a multi-product environment, involving many other stakeholders. Similarly, it cannot be appropriate for the future of mobile porting to be determined purely by the outcome of a private debate within the fixed sector.

One day porting?

125. As noted above, Ofcom refers in passing to the possibility of a new EC requirement for one day porting, hinting without saying explicitly that this may require shorter port lead times. Vodafone finds Ofcom's appeal to a possible future requirement for one day porting rather strained, however.

126. Firstly, we note that the text Ofcom refers to is the text of the original Commission proposal. Yet, as Ofcom is surely aware, the original proposal has been substantially modified and amended in the ensuing discussion by the European Parliament and the Council. Ofcom correctly notes that the telecoms framework has not been

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[44] http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ocases/open_all/cw_946/
[45] http://www.ofcom.org.uk/consult/condocs/protecting_consumers_misselling/
[46] http://www.communicationsconsumerpanel.org.uk/090630%20Mis-selling%20letter.pdf

agreed, and that there is no guarantee that if and when agreed every detail will remain in its current form. However, it seems highly unlikely that the original Commission text will prove to be a better approximation of the eventual outcome than the final compromise text that would have been adopted but for the failure of the EU institutions to agree the package as a whole prior to dissolution of the Parliament and the appointment of a new Commission.

127. Throughout the debate on this 'one day' proposal, both the rationale for and the real meaning of any such requirement have remained open to various conflicting interpretations. However, it is clear that the original Commission proposal has been qualified in important respects by subsequent amendments, notably to highlight the need for consumer protection safeguards and to afford NRAs discretion to interpret the original requirement flexibly in the light of consumer protection concerns. The final texts linked 'one day' specifically to the need to minimise service interruption. On this basis, the current process *where the port itself takes place on a single day and is completed within a matter of hours* already meets such a requirement.

128. While it is, of course, quite possible that the final form of any requirement would be worded differently, there has never been any suggestion that any new EC requirement would apply only to mobile and not apply equally to fixed – where current transfer processes take at least a fortnight. Yet it is notable that Ofcom has not suggested fixed line portability processes should be shortened in anticipation of an as yet uncertain possible future EC requirement. Indeed, as noted above, Ofcom has just notified proposals that entrench the current letter facilitation process for fixed line migrations without adjusting the timetable, largely on the grounds that letter facilitation and 'cancel other' safeguards preclude a much shorter transfer window.

129. We also note with interest Ofcom's apparent view that arrangements, including the timetable, for bulk ports, do not need to change coexists with its assertion that its proposals are consistent with possible EC requirements. We agree that no case has been made for removing the flexibility that currently attaches to bulk ports, and urge Ofcom to ensure that such flexibility remains under any new EC legislation.

130. More generally, Vodafone's view remains that precise timetables for any part of the porting process must not jeopardise effective consumer protection, nor involve costs that are likely to exceed the associated benefits. Given that this is the framework Ofcom has adopted for its own cost-benefit analysis (albeit that Vodafone considers that analysis flawed at present), Ofcom can best serve UK consumers by seeking to ensure that the final form of EC legislation does not trample consumer protection or the need for proper cost benefit analysis underfoot.

Conclusion

131. With so many uncertainties, Vodafone suggests that the pragmatic answer in the short term is to confine changes to the mobile porting process to those that can be justified on a 'no regrets' basis – i.e. relatively small incremental changes to the existing process that can be achieved at modest cost with the expectation of a quick return. It cannot be sensible to embark on major transition to a new recipient led process when any such decision could be rapidly overtaken by events. The practical issue goes far deeper than the nominal description of a process as donor or recipient led, extending to all the supporting detail as regards scope, participation, timelines, supporting infrastructure, funding and so on. An industry-wide programme would require an industry-wide cost benefit analysis prior to any decision to mandate, calling into question the value of further mobile-only specification as a basis for more detailed costing within the sort of timescales currently proposed.

Vodafone Limited
October 2009

Annex A - Ofcom's consultation questions

Section 3

Q3.1: Do you agree that the bulk porting process should not be included in this review and should be left to industry agreement?

Yes. As Ofcom notes at 3.2 and 3.3, the process for bulk ports differs from that for consumer ports and Ofcom has not identified significant consumer harm arising from existing arrangements.

Section 4

Q4.1: Do you agree with Ofcom's view that the evidence suggests consumers would prefer a faster porting process?

Not entirely. The balance of evidence does not suggest strong customer demand for a faster porting process. As Ofcom itself concedes, it actually shows that the current process works reasonably well for most people, most of the time – albeit that there are some specific aspects of the current process that could be targeted for further improvement. There is no compelling evidence that current arrangements act as a significant barrier to porting or switching. The mobile porting process does not attract the level of complaints seen in relation to fixed and broadband, and is already far quicker.

We are particularly sceptical about Ofcom's analysis of customer willingness to pay, on which its entire cost/benefit case is constructed. There are fundamental questions about the reliability and interpretation of the underlying questionnaire returns, but even taking Ofcom's presentation of the results at face value, it is clear that most customers respond negatively to the suggestion that they might be prepared to pay anything for a faster process, whereas only a tiny handful would consider paying a significant amount. Given this high degree of skew, and the fact that the majority of customers will ultimately find themselves paying for a faster process they do not themselves value for the benefit of a handful who might, it is hard to see how faster porting for its own sake can be said to further the interests of citizens and consumers as a whole.

Q4.2: Do you agree with Ofcom's view that the current process does not work well for all mobile consumers?

This is an extraordinarily loaded question, given that the balance of evidence shows that the current process *does* work well for most customers.

If Ofcom is simply asking whether we recognise that the current process is not perfect and/or that some customers may suffer bad experiences where the process is not respected, then of course we would agree. This is a far cry, however, from suggesting that the current process does not work well for mobile consumers generally, where the balance of evidence is that it does.

Accordingly, Vodafone supports targeted improvements and fine tuning, both to drive down error rates in identified problem areas and to further improve performance generally but sees no case for re-inventing the wheel or, to adopt a different metaphor, throwing the baby out with the bathwater.

Q4.3: Are there any other areas of consumer harm that have not been identified? Do you have any evidence to demonstrate other areas of consumer harm?

No. We think Ofcom is at risk of overstating rather than understating the extent of 'consumer harm' with the existing process. At the same time, Ofcom risks overlooking the potential for consumer harm under a recipient led regime.

For evidence of what can happen, Ofcom need not look very far afield. The fixed letter facilitation process has allowed a persistently high level of slamming and mis-selling in spite of safeguards. Moreover, the consequences for consumers who find themselves without service or contractually committed to both old and new providers appear far more serious in nature than the alleged inconvenience of making a phone call to obtain a PAC.

Q4.4: Do you agree that Ofcom should intervene to introduce changes to the current MNP process to address the harm indentified?

We certainly believe that Ofcom has a role to play, though whether that role should extend to formal intervention at this time is unclear. The most valuable immediate role Ofcom can play is in collecting, collating and analysing views and evidence with a view to achieving broad consensus.

We welcome the fact that Ofcom has responded positively to Vodafone's request for the evidence base underpinning its provisional conclusions to be published. Having reviewed that evidence in conjunction with Ofcom's commentary, Vodafone's conclusion is that the balance of evidence strongly favours maintaining and building on the current PAC-based ('donor led') approach. So far as lead times are concerned, the key question boils down to a simple trade off of costs and benefits. On the evidence available so far, the case for compressing two day lead times to one remains in the balance, while further compression to two hours looks distinctly doubtful. More positively, improving the speed, reliability and consistency of the way in which PACs are issued has clear potential to yield tangible benefits in relatively short time-frames and at relatively low cost. This should be the priority.

Section 5

Q5.1: Do you agree with Ofcom's view that the 'do nothing' option is unlikely to be appropriate in light of (i) evidence of consumer harm and (ii) noting the proposed one working day porting requirement under the New Telecoms Package? If not, please give reasons for your views.

Not entirely. We do see a role for Ofcom, as discussed above, but do not think a case has yet been made that any of the four options Ofcom has so-far considered would yield sufficient consumer benefits to justify the associated costs and risks. This view is reinforced by developments since Ofcom's consultation document was published, in the form of the joint Ofcom/ Consumer Panel initiative to review switching and migrations processes from first principles. While the eventual outcome of this review, and any consequent impact on mobile, cannot be known at this stage, it cannot be appropriate either for a mobile only view to pre-empt the outcome of a review which must also consider fixed and broadband, or for a mobile only conclusion to be rapidly overtaken and superseded by a perceived need to include mobile within scope of a new common process.

As regards 'evidence of consumer harm', the evidence so far presented points to room for improvement at the PAC issue stage, and for clearer advice and information for consumers. By contrast, however, there is little if any evidence that two day port lead times at the back-end are a significant source of consumer harm, or that compressing them would yield significant benefits relative to the costs and risks involved. Even on Ofcom's own analysis, it is abundantly clear that recipient led options perform substantially worse in terms of net benefit than donor led equivalents. Ofcom's attempt to downplay this clear result by appealing to a possible consumer preference for a recipient-led process is fundamentally unconvincing. Suggestions to this effect in the body of the text are betrayed by the substantial caveats noted elsewhere (albeit that Ofcom's own reservations have been relegated to footnotes).

Vodafone also finds Ofcom's appeal to a proposed one day porting requirement under the new EC telecoms framework somewhat strained, for several reasons, as discussed in more detail in the main text.

Q5.2: Do you agree with the range of potential options Ofcom has set out?

We agree that it is sensible to consider a range of options, and we welcome the fact that Ofcom has included both donor led and recipient led options for comparison.

Q5.3: Do you consider that there are additional options that Ofcom should have considered? If yes, please explain what option(s) should have been considered and why.

The precise options, as formulated, are clearly not the only conceivable options. In particular, it might have been helpful had Ofcom included two day options, alongside one day and two hour ones. These would not simply have been a 'business as usual' baseline, since a recipient-led two day option would clearly have been a change from the present process. For consistency with the other options, a donor-led two day option would have compressed the authentication lead time for PAC issue from two working days to two hours.

Q5.4: Do you agree that a two hour timeframe in which to issue the PACs for Options B and D is appropriate? If not, please give reasons for your views.

We agree that increasing the speed and reliability of PAC issue, and achieving greater uniformity of approach would be beneficial and should be pursued, though the compression of back-end lead times under Options B and D is not clearly cost-justified.

Q5.5: Do you agree there should be a difference between how the recipient-led processes in Option A and C should work for single account versus multi-account porting requests? Do you consider that the proposed authentication process (described in paragraph 5.41) for multi-line accounts is sufficient? Please explain any other differences you would expect to see whilst ensuring that any differences are still consistent with the overall objectives the options are trying to achieve.

One of the key reasons why we do not favour a recipient-led process is that it substantially complicates the authentication process compared to a PAC based system, driving cost for very doubtful overall benefit, while also making effective consumer protection much more difficult to maintain. The particular case of multi-line accounts is only one example of this wider problem, but we welcome Ofcom's recognition that there is a problem in cases where there are potentially many individual end-users who could, in principle, attempt to port their number but who may, in fact, have no authority to do so.

One example might be the case of a company phone. Any change to an account – such as a port, triggering a termination, or otherwise having financial or security consequences for the employer – would normally have to be sanctioned by the appropriately authorised person within the customer company's organisation. It would not normally be sufficient to make changes to an account at the request of an individual end-user without separate confirmation that the company or organisation – the contractual subscriber – understands the contractual and other consequences and is content to authorise them.

Whilst a donor-led system should allow the donor to make any necessary checks with the authorised account holder before issuing a PAC, establishing the authority (or not) of an individual making a port request under a recipient-led system is much more difficult. Allowing the donor to make contact with the authorised account holder to obtain confirmation as Ofcom proposes would potentially be one way of addressing this issue. However, for this to work it would be necessary to allow an adequate 'time out' for such a check to take place. It would also be necessary for the automated systems needed to meet a maximum two hour window for authentication under Ofcom's proposals (see Annex 6) to provide for a break in the automation to allow appropriate checks, and then some form of resumption or denial depending on the outcome. All of this may be possible in principle, but adds complexity in practice, without doing anything to improve the customer experience of either the end-user requestor or the authorised account holder.

Other approaches to this problem may be possible in principle, for example, using PINs or passwords or some other credential or shared secret known only to authorised account holders and the donor. However, this too adds

complexity and is not a complete panacea. When such an approach was suggested to deal with this problem within the constraints of a recipient-led system prior to Ofcom's decision being set aside on appeal, Ofcom itself intervened to prevent it on the grounds that it would frustrate its other aims and/ or offend the principle that no donor contact should be allowed. Were Ofcom to relent on this point, it would still be necessary to preserve the security of any such shared secret so that it remained confidential to the customer and the donor, which could also prove complicated and limiting under a recipient-led regime.

Ofcom has already recognised that there is no case for change from the current donor led process in relation to bulk ports. However, the multi-line account problem is potentially much more widespread and could affect companies and organisations of all sizes where the request is to port fewer than 26 numbers in one go.

Moving to a recipient-led process stands to add unnecessary cost and complexity to the case of multi-line accounts for no clear customer benefit. This alone should be a good reason to think twice before pursuing a recipient-led process any further.

Q5.6: For each of the options set out, do you consider that Ofcom has captured all the appropriate categories of cost likely to be incurred? If not, explain what categories you disagree with / believe are missing.

In general, we agree that it is necessary to capture categories of capex and opex that are internal to each operator and those that are shared. The main question is whether Ofcom's estimation of the quantum within those headings is at all reliable.

We think it highly likely that Ofcom has underestimated the costs of moving to a recipient led process, for reasons discussed more fully in Annexes B and C.

Insofar as Ofcom has derived its estimate of industry costs from an analysis of MNO costs, it will not necessarily or fully include knock-on costs for third party service providers, MVNOs, retailers and dealers.

It is not clear that Ofcom has made any provision within its estimates for the costs involved in supporting recipient led porting through independent retail channels. Retail channels will clearly incur some costs if they offer recipient led porting, in which case those costs should be included in the analysis. Alternatively, to the extent such channels do not participate; the benefits ascribed to faster porting should be reduced.

Nor is it clear from Ofcom's commentary what allowance it has made, if any, for the costs of maintaining parallel systems if current processes maintained e.g. for bulk ports. If no allowance has been made, this can only add to the incremental cost of recipient led over donor led options.

Q5.7: Do you agree with Ofcom's analysis of costs for each cost category? If not, please explain why. Please also state whether you are able to provide Ofcom with a more accurate view of costs and if so, please submit your assessment, together with supporting evidence with your response to this consultation.

We appreciate that Ofcom can only attempt rough approximation based on limited evidence, incomplete specification. However, it is important to recognise that as a corollary a substantial health warning is needed about the reliability of present estimates, particularly for the more far-reaching recipient led options. The risk of difference between initial estimates and actual out-turn is substantial. We agree therefore that further analysis to reduce degree of uncertainty would be prudent before any final mandate, though we do not believe further work to attempt to specify and cost the more expensive recipient-led options is warranted at this juncture in the light of our comments on the cost-benefit analysis.

At a broad brush level, the relative ranking of costs between different options appears plausible – explained by different functionality required in each case, and accords with Vodafone's own view of relative cost rankings.

We have a general concern about optimism bias in Ofcom's figures, however, particularly when it comes to more far reaching options with higher degrees of complexity and uncertainty. As noted above, it is not clear what is included within Ofcom's estimates. Any industry estimates Ofcom may have based its assessment on were incomplete at the point when work ceased. Out-turn costs were likely to have gone up not down.

It is not clear that Ofcom has made any allowance for this but there is no basis for concluding that Ofcom's modification and scaling of industry cost data can confidently be said to represent a cost ceiling that can only be undershot.

We note, for example, that Ofcom describes total capex categories at 5.64 as i) info exchange to allow verification, ii) connection to hub to internal systems to allow exchange of ported data and update of internal databases and iii) 'corresponding processes to allow network provisioning and porting re-routing to be implemented within two hours.

It is not clear to what extent, if at all, i) and ii) capture backward real time integration with donor subscriber management and billing systems, but there would clearly be such costs in practice. Their actual extent would depends on what has to be checked, how such information would be stored, rules on complete partial match etc – none of which were agreed.

Ofcom's proposed assumptions in Annex 6 are too high level to permit detailed estimates to be attempted at this stage. However, Vodafone has reviewed the internal IT costs likely to be associated with each Option, as described further in Annex B.

Annex C also comments on the derivation of shared industry costs.

All estimates clearly assume a solution which is 'mobile only' in nature and make no allowance for adaptation or scrappage in the event that subsequent integration with a new single migrations process is required.

Q5.8: In the case of new entrant MNOs, what additional costs are likely to be incurred internally within each of the networks for each of the options? Please submit your estimates in your response to Ofcom.

We cannot comment directly on the cost implications for individual new entrant MNOs. However, we note that recent entrants have been successfully integrated into the current PAC based process, which will continue to be needed unless/until any alternative solution is implemented.

Existing entrants and new entrants entering before any new solution is fully implemented would potentially face migration costs. A change from the PAC based system is therefore likely to increase costs for new entrants as well as existing operators.

Including new entrants within any process is also likely to have an impact on industry costs as a whole.

It is critical that all providers are integrated successfully so that they are able to port in and out. Unlike the parallel consultation on call routing, there is no suggestion that some critical mass of existing players can go it alone.

Extra players potentially add extra complexity to joint design and commissioning decisions. It should be noted also that it is not just new entrant *network operators* who will be affected, but new entrants of any king, including service providers and MVNOs without their own network.

Q5.9: Do you agree with Ofcom's analysis of benefits for each option? If not, please explain why.

We do not agree with Ofcom's analysis for reasons set out more fully in the body of this response and in Annex C.

Q5.10: Please state whether you consider that Ofcom should take any additional benefits into account and explain how. To the extent possible, please provide any estimates of these benefits and the supporting evidence.

Other things being equal, the costs of PAC based options B and D are less uncertain than those of recipient led options A and C. Taken together with their relatively lower costs to start with, this suggests PAC based options carry less exposure to cost over-runs than their recipient led counterparts.

There are also likely to be synergy benefits in using the same PAC infrastructure to support consumer and bulk ports, which it is not clear that Ofcom has captured in its analysis to date.

Q5.11: Please explain whether you agree with Ofcom's assessment of the pros and cons of each option and if not, why not.

We do not agree with Ofcom's assessment for reasons set out more fully in the body of this response.

Q5.12: Please state which option(s) you favour and why?

We favour reform of the way PAC requests are dealt under the existing process, including faster and more uniform response times. However, we do not think a case for compressing back end lead times has yet been made.

Q5.13: What do you consider a reasonable implementation period for each of the options and why?

We think PAC reform should proceed as soon as possible, with or without a formal regulatory mandate. The case for more far reaching options is not yet made and it is premature to consider implementation timescales, the clearly the more radical the change, the longer implementation would take.

Section 6

Q6.1: Do you agree that it is appropriate for Ofcom to appoint a qualified independent consultant(s) to work with industry to develop cost estimates for different implementation options? If not, please state why.

We agree that further work to specify and better understand likely implementation costs would have to be undertaken before a final decision could be justified on cost-benefit grounds. However, given the fundamental questions about the reliability and appropriateness of Ofcom's approach to assessing benefits, it would be premature to move directly to the stage of attempting to refine specifications and cost estimates without first re-examining the supposed benefits.

Q6.2: Do you agree with the remit set out above for the consultant/expert? If not, please state why.

We agree that, at the appropriate time, independent facilitation and appropriate expertise may be required. but we do not agree that this should be Ofcom's next step in view of the major doubts about the cost benefit analysis.

Q6.3: If you would like to recommend suitable experts / consultancies to Ofcom, please do so on a confidential basis.

Again, we consider this question premature.

Q6.4: Do you agree that three months is an appropriate period of time for this feasibility assessment to be undertaken? If not, please explain why and what you consider to be an appropriate timescale.

How long any feasibility assessment might realistically require depends on many factors that are not presently known, including the scope of the exercise; the number of options; the nature of those options; how much has been accomplished beforehand; and the nature of the output required.

Q6.5: Do you agree that the criteria for making this process effective as outlined under paragraphs 6.14 to 6.16 is appropriate? What else is required to make this process constructive?

Ofcom's proposals flow from its provisional conclusion that at least some of the options offer a reasonable prospect of net benefit. Were this indeed the case, further specification work might be appropriate. In the short term, however, the priority should be to review the benefits side of the cost-benefit analysis, since without a realistic prospect of worthwhile benefits further specification of possible solutions will be an empty exercise.

Q6.6: Do you agree with Ofcom's proposed next steps following responses to this consultation? If not, how do you consider Ofcom should complete its cost-benefit analysis and proceed to an implementation of one of the four options?

We do not agree, principally because we do not believe Ofcom's provisional conclusions are well founded.

In short term, therefore, we think Ofcom should stick to 'no regrets' measures that stands to yield tangible benefit at modest and proportionate cost i.e. faster and more reliable PAC issue. On current evidence, this would make bigger difference to customers than any of the proposals to compress back end lead times, and would be required in any event if Options B or D were ultimately to be pursued.

Q6.7: Do you have any comments on the proposed timings for reaching a conclusion for this review?

As noted above, we do not believe Ofcom's provisional conclusions are well founded. None of the options considered is clearly justified.

In the light of these findings, we think the appropriate next step is a pause for reflection. There is a substantial risk that pressing ahead to mandate one of the four options will yield net costs not net benefits.

One clear lesson from Ofcom's previous decision is that more haste can result in less speed. That argues for proceeding one step at a time, and pursuing those things that stand to yield tangible benefits in reasonable timeframe at modest cost before getting more ambitious.

Ofcom should be wary of external imperatives not based on evidence or a soundly based cost benefit analysis. A stock take is also needed on how this 'mobile only' initiative sits with the parallel review into a possible single migrations process.

Annex B – High-level internal IT impact assessment

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