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26 October 2009

Dear Elizabeth

Ofcom consultation on Mobile Number Portability

FCS is pleased to respond to this important consultation.

FCS mission is to seek a competitive market, access to infrastructure and radio spectrum overseen by an effective regulator of the communications services market. Our members deliver fixed, broadband, mobile and radio products and services. This response is based on the interests of our members who are mobile new entrants, mobile service providers and resellers and companies delivering fixed and IP telephony services.

After a review initiated one year ago FCS had anticipated that Ofcom would address both fixed and mobile porting processes. We were disappointed that at a time of increasing fixed and mobile convergence Ofcom should have separated these two projects. Our members report that fixed line number portability can be more uncertain than mobile number porting and that this requires urgent action.

This consultation is linked to the Mobile Call Routing consultation, the Mostly Mobile consultation and the mobile call termination review. At a time when there is mobile network consolidation we encourage Ofcom to create a mobile market review and draw together the interrelated elements of the various consultations.

As the conclusion of the revision of the European Framework Directive draws closer, the focus for the UK will be how to implement the new requirement for one day porting of fixed and mobile numbers and this argument is contained within our answers to the specific consultation questions.

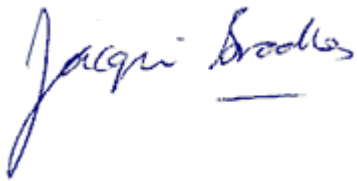As we have developed our response we have considered a number of specific issues:

- What is number portability and does this include the issue and processing of the PAC code? The answer may best be seen from the customer perspective. The customer experience is the whole porting process irrespective of the individual elements and customers seek to understand how far their porting request has gone and when their new supplier will take over. As an example, customers with pre-pay would need to manage the expiry of their existing pre-payment by using up any surplus credit and to be certain at what point they can make calls or texts with their new supplier.
- Customers receiving converged services, such as fixed, mobile and broadband, would not expect to be subject to 3 different processes for moving supplier, nor as a result be bundled into contracts that prevent them from accessing any one of these services directly from a new supplier. There is

a challenge to the industry as a whole, and Ofcom, to put in place one porting and migration process.

- Porting a number is a practical process and customers would not expect to be targeted for commercial save and win back by the donor operator at the same time. On balance recipient led porting is preferable.
- Ofcom research identifies customer concerns with the save activity of losing suppliers; this type of activity has been of concern within the fixed line market for several years resulting in Ofcom direction. A consistent approach to Save and Winback across telecommunications services is required
- Mobile new entrants have faced barriers to market entry when seeking to comply with GC18 within the current porting process and any changes must ensure that processes and costs of compliance are proportionate for new entrants.

We have set out our answers to the consultation questions on the following pages. FCS is keen to see the speedy development of effective number portability and migration processes and would be pleased to participate in any future work group that achieves this outcome.

Yours sincerely

Jacqui Brookes OBE
CEO

Mobile Number Portability : Consultation questions

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

We believe that a single industry framework for fixed, mobile and IP porting is needed and that industry with Ofcom direction should be working towards this quickly to be ready for 1 day porting by 2011/12. Such a framework would provide the same process for consumer, small business and bulk porting. One of the concerns of the 2006 Ofcom number porting consultation was to achieve a process for bulk processing of customers to a supplier of last resort, when their CP fails. This concern remains and must be addressed.

As Ofcom appears to be seeking a short term solution for mnp and if this can be put in place quickly then bulk porting should not be included, but Ofcom will need to direct industry regarding any changes to bulk porting in this interim period.

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

We believe that the move to 1 day porting, if this includes the process of porting and issuing a PAC, will be welcomed by consumers. Although Ofcom and BIS have encouraged a 2 hour porting process there is less evidence that this is a major consumer preference. However the main concern for our members' customers is achieving certainty as to when their number will be ported to the new supplier.

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

Yes

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?

Our members report that tying customers into 24 month contracts, the lack of national roaming, lack of pricing transparency, lack of uniform application and excessive Save activity by donor operators all contribute to consumer harm in one form or another. Ofcom has recognised that excessive Save and Winback in the fixed line market required regulation and the same oversight of these commercial practices is required in mobile.

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

Ofcom has initiated its own investigation into the issuing of PAC codes which appears to be improving current customer experience of the donor led process. As noted in our answer to Q 3.1 we believe that short term action is needed prior to a longer term solution for the whole market. To speed up PAC provision options include:
- CP hot lines for issuing PACs where no Save activity takes place;
- Ofcom can require PAC codes to be issued by SMS.

The speed of this process would be by agreement of the operators concerned so that new entrants are able to comply and not faced with yet another barrier to market entry.

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.

Yes

Q.5.2: Do you agree with the range of potential options Ofcom has set out?

Option D is the basis for comparison, a balance of the current donor led process and the EC requirement for 1 day porting. It is helpful to compare Option D with other options, which are adequate for a short term control on the deficiencies with the current mobile porting process. However we believe that it is imperative that the future IP world is recognised and that a solution for 07xx numbers only would be costly and irrelevant in a few years time.

Q.5.3: 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.

We believe that Ofcom should have considered the communications services sector as a whole and how a single process for fixed, mobile and IP number portability [and migration] is to be developed. This mnp project would be recognised as a short term fix with recommendations for its evolution into the longer term process.

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.

Yes for the established MNOs, but may introduce more costs for new entrants as they struggle to enter this market

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.

Up to 25 lines/accounts are included within the obligations of GC18. The rules therefore apply to any CP servicing the SME business sector and should be as similar to single account processes as possible. However as SMEs also take broadband and fixed line services as well, they would expect to have a single process for changing supplier. We reiterate that this larger porting and migration project should be addressed with urgency.

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.

No comment

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.

As many of the costs have been redacted it is not possible to comment

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.

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New entrant operators are likely to face a disproportionate cost compared to the established MNOs as the faster the process the higher the cost. Ofcom should consider carefully whether new entrants should be required to offer a 24 hour service, seven days a week.

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

Yes, but Ofcom could explain in more depth the benefits of recipient led porting, which is a principle that we support.

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.

We encourage Ofcom to consider the wider context of supplier of last resort.

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

As explained earlier we believe that Ofcom should tie in these proposals with the wider technology and service neutral approach of a single migration process

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

Option D could be implemented as a short term low cost fix prior to achieving option C, which is in line with EC proposals.

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

For Options C and D, 12 months appears reasonable but the more comprehensive single porting process project should be made available by 2011/12.

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.

Yes for this interim project

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

Yes

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

We recommend the chairman of the OSG, who has wide international knowledge of number portability and would be able to extend this mobile project into the more comprehensive single porting process for the converged market.

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.

No comment

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?

The most important element in this project is to gain the collective agreement of the operators concerned and Ofcom will need to Direct the industry or establish a wider General Condition.

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?

Yes

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

Ofcom must make sure that it cannot be challenged in moving this project forward.