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Riverside House
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London   SE1 9HA

Our Reference:
Your Reference:

Date: 23 October 2009

Dear Elizabeth

Mobile number portability

Scottish and Southern Energy (SSE) welcomes the opportunity to respond to Ofcom's recent consultation on the above. SSE is active in the retail market for telephony and broadband but does not have a mobile service offering. We are therefore not in a possition to comment on details of the costs or appropriate timescales for implementing mobile portability. However, we are strongly supportive of gaining or recipient-led switching arrangements, including number porting and have included some comments on this in our response. We see links between this consultation and the parallel review of migration, switching and mis-selling, which is mentioned in the consultation document. Ultimately, we believe that:

• all customer switching between mass-market communications products should take place within a single framework;
• the framework should be governed in a transparent, inclusive manner such that the industry develops processes in a transparent manner in response to market developments and innovations; and
• the framework should be co-regulatory such that Ofcom maintains an involvement in the framework at high level to ensure that the development of the market proceeds in accordance with its wider policy objectives, inclduing for the benefit of end customers.

Our responses to the specific consultation questions are attached. We hope these comments are of interest and would be happy to discuss them further.

Yours sincerely

Aileen Boyd
Regulation Manager

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 are of the view that it would be preferable for all types of porting to be undertaken within the same overall industry framework. However, we recognise that the current priority is to establish processes for the large number of "consumer ports" that take place. We therefore agree that the bulk porting process should not be formally included at this stage but would recommend that this requirement is borne in mind as arrangements for consumer porting are developed, with a view to including bulk porting within the overall framework at some point in the future.

It is worth noting that rapid bulk-porting arrangements would be a necessary support for comprehensive supplier of last resort arrangements, which we understand are under development within Ofcom.

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

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?
One qualitative area of consumer detriment that exists where a customer has to contact his current (losing) provider in order to effect a transfer of service is the reduction in the levels of competition in the market. Ofcom discusses this in section 5 of the consultation as well as referring in section 4 to customers' experiences of unwanted or excessive "save" activity taking place when the customer contacts the losing provider. Such save activity allows a mobile phone service supplier to provide targeted discounts and deals to the particular group of customers who have demonstrated that they would like to switch (and take their existing mobile number with them).

We believe that the dynamics of a market where suppliers have to review the competitiveness of all their offerings because any customer can easily switch and does not have to speak to their losing provider first – thus providing a sure "save" opportunity – are more beneficial to the general body of consumers than one where a supplier can be sure of that "save" opportunity. In such a market, we consider it is evident that suppliers work harder to seek to meet all their customers' requirements rather than react to the issues of those who are planning to switch. Furthermore, the market provides a more amenable proposition for new entrants who will depend for their business success in being able to entice customers away from existing suppliers – they are clearly more likely to be successful in this task where the losing provider does not have the guaranteed opportunity to save the customer before the switch is completed. The existence of low barriers to entry for competing firms is one of the tests for a competitive market working for the benefit of consumers.

We appreciate that it is difficult to quantify the overall level of customer harm associated with the different dynamics of a market where switching and associated processes such as number porting are "donor led". However, we

would point out that other utility markets such as energy supply were specifically designed to make customer contact with a losing supplier unnecessary in the process of switching. It is worth noting that in such a market, there is no barrier to a customer positively seeking to speak to their existing supplier in the hope of establishing a better deal, if they wish.

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

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?
Yes.

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.
No.

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.
No comment.

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.
We agree that differences may be required between single and multi-account porting requests but are not in a position to comment on the detail. We agree with Ofcom that any differences should still be consistent with the overall objectives of the options.

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.
No 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.
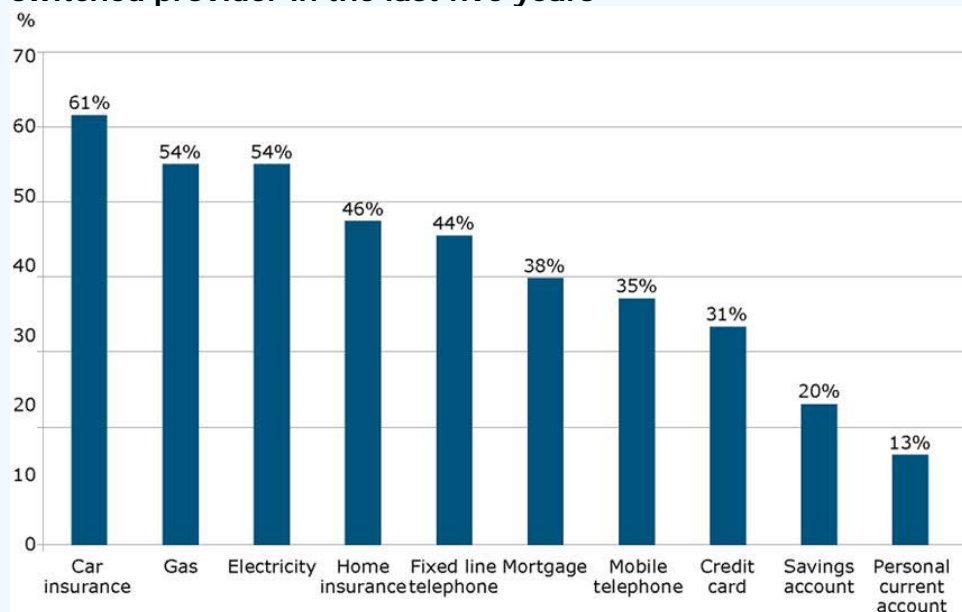**No comment.**

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

We would have expected a little more comment on the benefits of the recipient led processes, although we acknowledge that Ofcom intends to conduct more research in this area. We have discussed in our response to question 4.3 above the qualitative benefits for consumers in markets with recipient-led switching processes and would encourage Ofcom to consider these strategic aspects of the development of mobile market processes.

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.

Ofcom acknowledges in paragraph 5.148 that the current porting framework might discourage some consumers from switching suppliers, thereby reducing competition. We agree with this and believe there is room for the mobile market to demonstrate higher levels of switching than currently pertain. Our evidence for this comes from energy regulator Ofgem's initial findings document resulting from their recent probe into the operation of the gas and electricity retail supply markets[1]. The graph below is taken from this document and demonstrates that active switching is higher in energy (and fixed line telephony) markets, where there are gaining provider led processes, compared with mobile telephone markets.

Figure 4.3: The proportion of people with various products who had switched provider in the last five years

Source: Ipsos MORI Consumer survey carried out for the OFT, July 2008

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 are not in a position to comment on the detail of the cost benefit analysis but agree with Ofcom that qualitative considerations will need to be taken into account when determining the most appropriate policy option.

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[1] Energy Supply Probe - Initial Findings Report, Ref 140/08 dated 6 October 2008 available at http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Pages/Energysupplyprobe.aspx

Q5.12: Please state which option(s) you favour and why?
We are in favour of recipient-led processes for number porting, as for other aspects of switching processes. We have discussed the reasons for this is our responses to question 4.3 and 5.9 above. We have no strong views on whether porting should be achieved within a 2 hour or 1 day period.

Q5.13: What do you consider a reasonable implementation period for each of the options and why?
No comment.

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.
This seems sensible and we can see the synergy with the similar proposal made in the parallel consultation on mobile routing.

Q6.2: Do you agree with the remit set out above for the consultant/expert? If not, please state why.
While this point may be intended within Ofcom's description of the proposed remit, we expect that the consultant/expert could also assist with developing the specific technical specifications required, taking account of industry input, rather than just seeking to obtain an understanding of them. This would be consistent with the role envisaged for the consultant/expert in the mobile routing area of work.

Q6.3: If you would like to recommend suitable experts / consultancies to Ofcom, please do so on a confidential basis
No comment.

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?
We are not in a position to comment on whether the proposed timescales are reasonable but we agree that the mobile industry should engage effectively with the proposed expert/consultancy. As discussed in some detail in our response to the parallel consultation on mobile routing, we believe the best method of achieving appropriate constructive cooperation from industry and input from other affected parties is for a co-regulatory governance structure to be put in place around the project, backed by a General Condition or other form of Direction. This would have the benefit of placing an enforceable regulatory requirement on relevant parties to achieve overall high-level objectives, while allowing flexibility at detailed level on how the objectives were to be met. Transparency in the governance would be required in order to allow interested parties to follow and input views on the development of the project.

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 agree that Ofcom should continue its programme of research and consideration of the benefits of a recipient-led porting arrangement. We also agree that the services of an expert/consultancy group are likely to be helpful in developing cost estimates and assisting in the preparation of a technical specification of the chosen option. We believe this would be most constructively carried out within the context of a co-regulatory arrangement and expect the role of the expert/consultant might well usefully continue into the implementation stage of the project, if not beyond.

Q6.7: Do you have any comments on the proposed timings for reaching a conclusion for this review?
We are not in a position to comment on this.