

Quick, easy and reliable switching: Proposed amendments to General Conditions

BT's response to Ofcom's consultation

10 November 2021

Non-confidential

Comments should be addressed to:
BT Group Regulatory Affairs,
BT Centre,
London,
EC1A 7AJ
Regulatory.affairs@bt.com



Contents

Contents	2
1. Executive Summary	3
BT is generally supportive of Ofcom's proposed General Condition changes	3
2. Proposed GCs to implement One Touch Switch	5
Scope of the One Touch Switch rules	5
Obligations on provision of information to the customer	6
3. Proposals to implement changes to Auto-Switch	9
4. Answers to Ofcom's questions	10

1. Executive Summary

BT is generally supportive of Ofcom's proposed General Condition changes

- 1.1. We are very pleased that Ofcom has concluded One Touch Switch is the best process to implement the EECC requirement for gaining provider-led switching across all platforms.
- 1.2. Generally, we are supportive of the changes Ofcom is proposing to make to the General Conditions to give effect to this decision.
- 1.3. We agree with Ofcom's proposal to alter the One Touch Switch process in relation to the way in which a customer requests and is provided with switching information (using the contact details already held by the losing provider).
- 1.4. However, as we set out in our response to Ofcom's previous consultation, the exclusion of pay TV or triple play bundles from the scope of the One Touch Switch process undermines Ofcom's policy objectives for fixed voice and broadband switching. These objectives are further undermined by the proposal that the losing provider should also be required to set out any steps needed to switch bundled services.
- 1.5. In the case of bundled pay TV services (the most prevalent type of bundle), this requirement would result in losing providers telling customers they have to contact them to cancel or switch their service, thus conflicting with the message the gaining provider has given them and creating customer confusion. This emphasises the importance of Ofcom including the extension of the scope of One Touch Switch to include triple play bundles in its Annual Plan for 2022/23.
- 1.6. In the meantime, we suggest that as Ofcom's primary concern appears to be to ensure customers wishing to switch a bundled mobile service understand how to do so, Ofcom should limit the requirement to set out the steps needed to switch bundled services to apply only to bundled *mobile* services – or, alternatively, to any bundled services which follow a switching process defined by Ofcom as "gaining provider-led".
- 1.7. We agree that with implementation of One Touch Switch, the Notification of Transfer (NoT) process (which currently supports both residential and business customer switching), and the rules governing it in the current GCs (applicable to residential customers and small businesses up to 10 employees), must be withdrawn in relation to switches at the same location.
- 1.8. However, this means that CPs serving business customers have no choice but to adopt One Touch Switch, in some form, in order to be compliant with the gaining provider-led (GPL) requirement in the EECC regulations. We urge Ofcom to ask the OTA to bring business CPs together to discuss this, so that the Hub which sits in the middle of the process can be designed and dimensioned to cope with business switching as well as residential switching from the start.
- 1.9. We agree with the NoT process being retained for home moves; and with the withdrawal of the "Cancel Other" rules.

- 1.10. Finally, we support Ofcom's proposed change to the Auto-Switch process to require losing providers to give customers additional information on the consequences of switching, to be consistent with the One Touch Switch process. However, the list of information to be included is more detailed and extensive than proposed in Ofcom's previous consultation, and we have yet to confirm the feasibility of implementation by April 2023.

2. Proposed GCs to implement One Touch Switch

Scope of the One Touch Switch rules

- 2.1. We agree that the One Touch Switch rules should be technology-neutral and should apply to the switching of services at a fixed location, regardless of the access network used to supply the services in question. Gaining providers will have a discussion with the customer about how their new service might be delivered differently to their old service, as necessary.
- 2.2. However, there are some significant implications arising from the proposal to withdraw the Notification of Transfer (NoT) process for all switches other than those coinciding with a home move.

Customers in scope (the business issue)

- 2.3. Ofcom states that the One Touch Switch process should be developed and operated for the use of all residential consumers. Ofcom also proposes that providers must work together to develop and maintain a single fixed switching process. The NoT process (which currently supports both residential and business customer switching), and the rules governing it in the current GCs (applicable to residential customers and small businesses up to 10 employees), are to be withdrawn. We don't disagree with these proposals. However, when taken together, they mean that business customers (for whom CPs must still provide a gaining provider-led (GPL) switching process) will no longer have a process supporting even intra-Openreach switches.
- 2.4. This, in turn, means that CPs serving business customers have no choice but to adopt One Touch Switch, in some form, in order to be compliant with the GPL requirement. From April 2023, Openreach will no longer be operating the NoT process, as it can only operate one switching process for the fixed voice and broadband products within scope (WLR, MPF, FTTC etc), regardless of the nature of the end user. Even if it were to be feasible for it to continue running the NoT process alongside One Touch Switch, Openreach has no means of distinguishing between residential and business customers, so it would not be able to determine which process to use for which order. And in any case, Ofcom has stated that the NoT process is not compliant with the EECC rules on customer consent.
- 2.5. The requirement for all business customer switching to be GPL applies to cross-platform switching as well as intra-Openreach switching. So, again, One Touch Switch is the only option for business CPs.
- 2.6. As we explained in our response to Ofcom's previous consultation, whilst we welcome the fact that Ofcom is not being prescriptive about the GPL process to be followed by business CPs, it is important that business CPs are brought together to discuss how One Touch Switch could and should be used or adapted in a business context; and that the central Hub that will support the One Touch Switch process is designed and dimensioned with business switching requirements in mind, as well as residential ones.

- 2.7. We urge Ofcom to ask the OTA to facilitate industry discussion and co-operation in this respect. At the moment there is no forum where industry can focus on how to achieve GPL switching post-April 2023, and time is already extremely tight given all the development that will be needed.

Circumstances in which the rules apply (need to maintain NoT for home moves)

- 2.8. We agree that the One Touch Switch process should only apply where customers are switching their supplier at the same location. We support continuation of the NoT process in relation to Working Line Takeovers in the context of home moves. For Openreach-based CPs, it is important that we continue to have a way to place orders with Openreach to take over an existing working line at new premises where our end customer is moving house, so that the move can happen smoothly and efficiently, with no break in service and no inefficient and unnecessary engineering work.
- 2.9. Ofcom mentions it will consider whether to extend the home move rules to cross-platform switches. It is unlikely to be feasible to use the existing NoT-based rules, as they are designed for circumstances where there is a common platform provider (Openreach) used by the gaining and losing provider at the new premises (or indeed where the end customer is retaining the provider at their new premises, whether or not they used this provider previously). It is all about retaining a working line between the outgoing customer leaving and the incoming customer arriving at the premises. Clearly this is not possible when a new platform provider is involved.
- 2.10. We agree it is sensible, in relation to "other migrations" of fixed voice and broadband which fall outside the scope of the One Touch Switching rules, to retain the existing requirements to facilitate switching and minimise any loss of service. We understand Ofcom is redefining the word "migration" to include customers who are moving services from one technology to another without changing provider or changing premises. These circumstances have not previously been covered by GC C7, so this is a material change, although clearly CPs will always endeavour to minimise or prevent any loss of service in such cases – not least because Automatic Compensation would otherwise be payable (for those CPs signed up to the voluntary Code of Practice).
- 2.11. We agree that the "Cancel Other" facility is unlikely to be necessary given that the One Touch Switch process ensures that the customer has given their consent for the switch in advance of the order being placed by the gaining provider. In the event that a customer changes their mind during the cooling off period, normal consumer protection legislation will apply – including in circumstances where the gaining provider fails to cancel the order having been requested to do so.

Obligations on provision of information to the customer

- 2.12. We agree with most of Ofcom's proposed requirements in this respect. However, in one case there would be some consequences which would undermine Ofcom's policy objectives in relation to gaining provider-led switching.

Proposed change to the way in which a customer requests and is provided with switching information

- 2.13. We agree there is a risk, as Ofcom has identified, that if new customer contact details can be provided by the gaining provider to the losing provider for the purposes of sending switching information, this information could be sent to someone who is not the customer or who is not authorised to act on the customer's behalf. We therefore agree with Ofcom's proposed change to the rules, i.e. that the switching information should always be sent to the contact details that the losing provider already has on record for the customer.
- 2.14. We also agree that, in light of this change, the best way to mitigate the potential risk of the customer being unable to access their switching information is to introduce a requirement for the losing provider to send the information by the quickest means (unless the customer has requested otherwise) and to notify the gaining provider of the method by which the switching information has been sent so that the gaining provider can tell the customer.

Other obligations on losing and gaining providers in relation to provision of information

- 2.15. We also agree with all other proposals from Ofcom in this area, as set out in new GCs C7.21 to C7.27.
- 2.16. In relation to the minor change Ofcom is proposing to GC C7.15(b), we request that Ofcom revisits the wording which still does not make much sense, although we understand the approximate intention behind it. The draft currently reads: "...the Regulated Provider that is the Gaining Provider must create and keep individually retrievable records of the following...: ... (b) a record of the explanation from the Gaining Provider that they are required to create a record of the Switching Customer's consent;..." The requirement needs to be clarified.

Obligation on losing providers to provide switching information, including on identity of the gaining provider and any steps needed to switch bundled services (the TV issue)

- 2.17. We agree that there should be an obligation on losing providers to tell the customer who the gaining provider is, as part of the switching information provided by the losing provider during the sales process, as this guards against any mis-selling by the gaining provider.
- 2.18. However, we are very concerned with the proposal that the losing provider should also be required to set out any steps needed to switch bundled services. The most common service to be bundled with fixed voice and broadband services is Pay TV, and Ofcom has itself acknowledged the prevalence of triple play voice, broadband and TV bundles. Despite BT urging Ofcom to include Pay TV (triple play) switching in the scope of the regulations governing the One Touch Switch process, Ofcom has chosen not to do so at this stage. This means that in order to switch a triple-play bundle, customers whose TV service is not technically dependent on their broadband (i.e. the majority, who are with Sky or Virgin Media) will need to contact their losing provider to cancel their TV service.

- 2.19. This need to make contact with the losing provider would be emphasised during the switching process by these losing (triple play) providers as a result of Ofcom's proposed new requirement to explain any steps needed to switch bundled services. When customers call to cancel their TV, they will be very likely to encounter (potentially unwanted) save activity by the losing provider, in relation to all three of their services, and not just their TV service.
- 2.20. And yet, at paragraph 7.39 of the consultation when discussing actions that cannot be required of the customer, Ofcom states that CPs should "avoid the need [for customers] to contact the losing provider.....this is because contact with the losing provider during the switching process may result in more hassle and effort for the customer, as well as unwanted save activity."
- 2.21. At paragraph 7.102 of the consultation, Ofcom sets out its expectation that in the guidance pursuant to GC C7.10(b), providers should "inform customers about the fact that they do not need to cancel their contract with the losing provider, that the gaining provider will co-ordinate the ceasing of their existing service(s) and that there should not be any service charges from the losing provider after the switch."
- 2.22. At best, therefore, Ofcom's proposed requirement would cause confusion amongst customers about whether or not they need to contact their losing provider in order to switch. At worst, Ofcom's policy objectives for the One Touch Switch process would risk being undermined still further than they already will be by the exclusion of triple play Pay TV bundles from scope.
- 2.23. Paragraph 7.78 implies that Ofcom's primary concern is to ensure customers wishing to switch their mobile service, when bundled with their fixed voice and broadband, understand the steps needed to do so. We therefore suggest that, to avoid the issues described above, Ofcom limits the requirement to set out the steps needed to switch bundled services to apply only to any bundled *mobile* services – or, alternatively, to any bundled services which follow a switching process defined by Ofcom as "gaining provider-led".

3. Proposals to implement changes to Auto-Switch

- 3.1. In principle, BT is supportive of the proposed changes to Auto-Switch, which require losing providers to provide extra information to the customer when sending the PAC or STAC. We agree it is sensible to align fixed and mobile switching processes as far as possible; and it is also important for customers to understand the full implications of switching before they go ahead with the switch.
- 3.2. However, the list of information proposed to be required is extensive, and includes not just the impact of the switch on the customer's other services (direct or indirect, financial or otherwise), as described in Ofcom's previous consultation, but now goes much further. The additional information required includes:
- communications services unaffected by the switch (whether bundled or not?);
 - where bundled an explanation of any steps needed to switch those bundled services (including the steps in One Touch Switch);
 - the cost and process for returning any terminal equipment;
 - whether handset and airtime are provided under separate contracts and, if so, the amount still due under the contract and/or the date on which the handset will be paid off;
 - any credit balances for pre-paid services and, if applicable, the right to refund of the balance and how to claim it;
 - the location of the provider's guidance on switching;
 - the right to compensation;
 - and a link to the customer's online account.
- 3.3. Contrary to Ofcom's view in paragraph 7.118 that these proposals are "not significantly different" to those previously consulted on, we think they are material and are likely to take considerable systems development to implement, where the information is personal to the individual customer. We have not yet been able to confirm whether the implementation deadline of April 2023 is achievable, in addition to all the systems development needed to implement One Touch Switch for fixed services. However, on balance we agree it is important for customers to be made aware of this information, and therefore that the proposed requirements are reasonable in principle.

4. Answers to Ofcom's questions

Question 1: Do you agree with our proposed new GCs to implement the One Touch Switch process?

Generally, we agree with Ofcom's proposals. Please see section 2 above for detail, including where we have concerns.

Question 2: Do you agree with our proposed amendments to the Auto-Switch GCs?

We agree with Ofcom's proposed amendments, although these are more extensive than previously consulted on and we have yet to confirm the feasibility of implementing by April 2023. Please see section 3 above.

Question 3: Do you have any other comments on our proposals?

Please see above.

Comments should be addressed to:
BT Group Regulatory Affairs,
BT Centre,
London,
EC1A 7AJ
Regulatory.affairs@bt.com

