
**Three's Response to:
*Consumer experience of
switching mobile
communications services
and options for process
reforms.***

Non-confidential

02 October 2015



Three.co.uk

Executive Summary.

1. Enabling consumers to get the best deal by switching suppliers is the cornerstone of any healthy market. It drives competition and incentivises strong consumer offerings.
2. The switching regime in mobile works against the consumer. The current regime consists of multiple processes and touch-points. It creates confusion and hassle for consumers, and incentivises negative behaviour from mobile operators.
3. There is clear body of evidence that demonstrates significant harm caused by the current switching regime, both for individual consumers as well as the wider market. The complicated processes deter consumers from switching, even if they can get a better deal elsewhere. Switching rates for mobile services have fallen from 9% to 6%.¹
4. For those that do enter the switching process, there is a real risk of unnecessary consumer harm, including a temporary loss of service and double billing. When prompted, 44% of customers who entered the switching process had encountered such problems.
5. In terms of the wider market, the current system enables operators to keep their best deals 'under the table' and only offer them to high value customers who threaten to leave. This distorts the market, and prevents these better deals being available to all.
6. Ofcom has a duty to tackle these harms. We therefore welcome this consultation and the proposals to reform the mobile switching regime.
7. In this consultation, Ofcom has included proposals to modify the existing Losing Provider Led (LPL) process alongside their preferred option of introducing a Gaining Provider Led (GPL) system. We strongly believe that if Ofcom is to achieve its aim of a single, simple process that incentivises good behaviour and drives positive customer experiences, then a GPL process is the only solution. Evidence from reform to switching on the Openreach network, alongside other industries such as banking, clearly demonstrates that GPL delivers the best outcome for consumers.
8. We also support Ofcom's view that it is entirely possible to design a GPL process that makes certain that customers are aware of their contractual obligations and ensures their consent before switching – both issues that have previously been raised as concerns. Three put forward a GPL model in our response to Ofcom's Consumer Switching Call for Inputs, which not only

¹ Ofcom, Consumer experience of switching mobile communications services and options for process reforms, 2015.

afforded customers the same level of protection in these areas as the current system, but provides additional safeguards.

9. The initial costs put forward by Ofcom in this consultation for introducing a GPL processes are largely based on the costs submitted by Three in support of this model. We remain convinced that introducing a single GPL system would be a proportionate and achievable solution.
10. We urge Ofcom to move forward with their plans to introduce GPL switching for UK mobile consumers. Not only will it tackle the existing consumer harms but it will also stimulate competition in the UK market, ensuring that consumers can realise the best deals.

Three's Response to Ofcom's Consultation on Consumer Switching.

Introduction.

1. This is Three's (Hutchison 3G UK Limited) response to Ofcom's consultation: *Consumer Switching: Consumer experience of switching mobile communications services and options for process reforms*. It must be read together with the information on switching provided by Three to Ofcom under the concurrent Section 135 information request process, which has asked for detailed technical data and other information on Three's switching processes.
2. Three is the UK's largest carrier of mobile data, currently carrying 42% of the UK's mobile data traffic on less than 12% of the mobile spectrum. Three has been able to meet the extraordinary growth in our customers' data demand through significant investment in high-quality network infrastructure, itself driven through a range of innovative propositions, such as 4G at no extra cost and Feel at Home.
3. Mobile connectivity has become an integral part of people's lives. Over 9 in 10 adults now have a mobile device and mobile subscriptions total over 83.1 million. Mobile phone use is highly valued by consumers, not just for voice and text, but also for mobile data access. Three's customers use on average 4.5GB per month, a figure that has more than doubled in the past year.
4. Mobile connectivity is no longer seen as a supplementary communication service. The percentage of mobile-only households has reached 15%, compared to only 5% fixed-line only households. A recent Ofcom report found that UK consumers consider mobile voice and text to be more essential, both personally and for society, than having a fixed internet connection, making voice calls from a landline or having Pay TV.
5. These statistics reflect the importance that UK consumers attach to their mobile device and the services they use. Therefore, it is vital that the regulator ensures that the market delivers the best outcome for UK consumers, both in terms of its overall competitiveness as well as its consumer-facing regulation.
6. This submission considers how reform of the mobile switching process should be taken forward, to ensure the optimal benefits to UK consumers and also to promote fair and open competition.

Overview of Submission.

8. As the newest entrant in the UK mobile market, we also have unique insight into how the current switching processes are inhibiting competition in the market.
9. This submission will first recap the consumer and competitive harms created by the current switching processes. It will then explore whether the alternative mobile switching processes put forward by Ofcom will tackle these harms and create additional market benefits. Finally, we will give our views on the specific processes and costs put forward in this consultation, which we hope will inform the next stage of Ofcom's work in this area.

Current switching process in the UK.

10. Before considering the questions posed by Ofcom in this consultation, there is value summarising the current processes and the different stages that make up each process:
11. In the UK, consumers wishing to switch mobile operator have two options:
 - **Mobile Number Portability ('MNP'): Donor Led PAC regime** – contract and Pay as You Go ('PAYG') consumers must use this process if they want to port their mobile number. Customers need to ask their existing provider (Losing Provider – 'LP') for authorisation in the form of a PAC code, and then pass it to the new provider (Gaining Provider – 'GP'). The consumer must also agree a new service with the GP. The current regulatory requirement to provide MNP is reflected in General Condition 18 of the General Conditions of Entitlement, which is published and monitored by Ofcom. The process is managed and agreed by the MNP Operators' Steering Group (OSG). The current porting process is illustrated in Annex 1 and covers all porting scenarios from initial porting of a number from one network to another to subsequent ports.
 - **No porting: Cease & Re-provide ('C&R')** – consumers who do not port their number must arrange the stop and start of the services themselves. Contract customers will need to contact the LP to cancel the contract (typically by giving 30-day notice) and arrange the new service with the GP. PAYG customers can arrange the new service with the GP and use up their remaining credit without contacting the LP.

The importance of a good switching process.

12. An effective, consumer friendly switching process is vital for the health of any market. If customers cannot switch easily between providers, or are put off from even attempting to do so, their ability to choose the most appropriate service is effectively reduced - so too is competition.

13. Since 2006, Ofcom has raised concerns regarding the current mobile switching processes at least six times. They have provided evidence that both Losing Provider Led (LPL) and Cease and Re-provide (C&R) cause significant consumer and market harms. They have identified that the current processes lead to the following harms:

- Disincentives switching.
- Inhibits competition.
- Leads to incidents of consumer harm.

Our response will look at each of these issues in turn.

14. Ofcom has also concluded that current switching processes in mobile are detrimental to competition as well as the cause of consumer harm. Three supports Ofcom's conclusions and believes the switching regime for the UK mobile market is in urgent need of reform. We believe the evidence is conclusive; the current process not only deters consumers from switching but has the potential to create negative outcomes for those who do switch.

A history of failed reform and Ofcom's duties.

15. Three recognises that Ofcom has previously identified the systemic issues with the current mobile switching processes and also attempted to introduce fundamental reform. We recognise that attempts at reform were derailed by legal challenge from other operators, specifically the appeal of Vodafone. In particular, we recognise the difficulties created by Ofcom's 'on the merits' appeals regime in disrupting and delaying consumer reform.

16. Ofcom first consulted on reform of mobile switching in November 2006,² which culminated in the publication of a statement on 29 November 2007 entitled *Telephone number portability for consumers switching suppliers*.³ This laid out the steps to introduce a Gaining Provider Led direct routing switching system.

17. This was appealed by Vodafone in February 2008 and as a consequence, on 18 September 2008, Ofcom's 2007 statement was set aside by the Competition Appeals Tribunal (CAT) in its entirety and remitted back to Ofcom for reconsideration. The decision by the CAT was in large part based on a full rehearing of the costs and benefits of Ofcom's policy decision, and the introduction of evidence that had not been put before Ofcom during the consultation process.

18. Following the CAT's judgment, Ofcom initiated another review of Mobile Number Portability (MNP) in August 2009. This culminated in the publication of a statement on 1 April 2010⁴ in which Ofcom decided against implementing a direct routing

² Ofcom, 'Review of general condition 18 – number portability', 2006:
<http://stakeholders.ofcom.org.uk/binaries/consultations/gc18/summary/gc18r.pdf>

³ Ofcom, 'Telephone number portability for consumers switching suppliers', 2007:
<http://stakeholders.ofcom.org.uk/consultations/gc18review/statement/>

⁴ Ofcom, 'Routing calls to ported numbers', 2010

system, and a final statement on 8 July 2010⁵ in which Ofcom declined to impose a GPL system.

19. Three is of the view that the 2008 CAT judgment served to significantly weaken Ofcom's resolve, ambition and ability to pursue regulatory reform. It was a significant defeat of a challenge to the status quo. The persistent subsequent threat of legal action and detailed economic review of Ofcom's decision has inevitably had a chilling effect on regulatory policy making with regards to switching. Indeed, this has been recognised by Ofcom's former CEO Ed Richards, in his appearances before the Parliamentary Culture, Media and Sport Select Committee.⁶
20. Three is disappointed that, five years after that failed attempt, more progress has not been made to introduce GPL. UK consumers remain subject to a switching process other countries have almost universally rejected, and the ambition to review it has languished for six years, persistently unheeded in Ofcom's annual plan.
21. We believe there is a clear legal framework for reform; indeed we believe the framework in which Ofcom operates sets a clear duty to bring forward further reform.
22. Article 30 of the Universal Service Directive includes provisions dealing with the porting of numbers and switching. It states that: 'national authorities shall take into account where necessary, measures ensuring that [...], without prejudice to any minimum contractual period, that conditions and procedures for contract termination do not act as a disincentive against changing service provider.'⁷
23. Also, Article 8 of the Framework Directive requires national authorities to ensure that they promote competition in the provision of electronic communications networks and services by 'ensuring that there is no distortion or restriction of competition in the electronic communications sector'.
24. When the Government implemented changes to the Universal Service Directive as part of the Review of the European Electronic Communications Framework in 2011, it was argued by Government that the reformed Directive did not mandate Gaining Provider Led Switching. The Government also recorded that the Mobile Porting work being undertaken by Ofcom at the time would deliver significant improvements to the switching process and ensure ongoing compliance with the legislative framework.

⁵ Ofcom, 'Changes to the mobile number porting process', 2010:
<http://stakeholders.ofcom.org.uk/binaries/consultations/mnp/statement/mnp.pdf>

⁶ "We start from a position that is essentially neutral. We have to pursue the consumer interest, but if we believe that the consumer interest lies in moving to gaining provider led, we have to demonstrate that at every level. If we had legislation that said Ofcom should start with the presumption that gaining provider led is the right answer, that changes the onus of responsibility quite significantly. In the litigation and the appeals, and the process of stopping us moving in that direction, which people will understandably enter into, that would make, in my judgment, quite a significant difference." Ed Richards, Lords Communication Committee, 18 November 2014

⁷ Ofcom, 'Consumer experience of switching mobile communications services and options for process reforms', 2.11, 2015

25. However, in the event the changes to the switching regime brought forward by Ofcom have failed to deliver the changes anticipated in the implementation proposals brought forward by Government for the European Electronic Communications Framework. Three believes it is clear from the evidence presented by Ofcom – both in this consultation and previous publications – particularly in relation to the decline in switching rates overall, that the current processes are a significant disincentive to customers and deters them from switching. As such they may no longer comply with Article 30 of the Universal Service Directive.
26. Again, we believe the evidence is conclusive; that the current LPL and C&R processes distort competition by incentivising operators to keep their best offering as 'under the counter' deals, reserved for potential switchers.
27. Of course, the provisions stated above only permit 'proportionate solutions'. This is a provision that we welcome. However, as discussed later in this consultation, we believe that the mobile industry can implement a GPL regime quickly and at little cost.

Problems with the current system.

28. Three agrees with Ofcom that there are significant problems inherent in both the LPL and C&R mobile switching processes. These fall into three broad categories i) creating a disincentive to switch ii) causing consumer harm to those that do switch and iii) inhibiting fair and open competition.
29. Below we have detailed our concerns in relation to each, together with evidence that underpins our conclusions:

A disincentive to switch.

30. Smooth and effective switching processes allow consumers to switch to those service providers that best suits their need. The process should be simple, completed in a short timeframe and undertaken without causing consumer harm.
31. Switching processes which are complicated, time-consuming and considered likely to fail may deter consumers from switching. This could mean that they remain with a provider or package that is ill suited to their needs or economic circumstance. Three believes that current mobile switching processes fall into this latter category.
32. It is significant matter of concern for the regulator that current mobile switching rates are very low, despite the penetration of mobile services and the competitive nature of the UK market. Ofcom's latest figures show that only 6% of consumers switched mobile provider in 2014, a significant decline from the already low base of 9% in 2012.⁸ For a service that is as ubiquitous as mobile this seems a low figure. It is notably lower than switching rates in comparable European markets, where in mobile Gaining Provider Led Switching processes are in place.

⁸ Ofcom, 'Consumer experience of switching mobile communications services and options for process reforms', 2.13, 2015

33. Ofcom's research suggests that this low figure can be partly attributed to the current complicated system and associated consumer harms acting as a deterrent. For example, out of those who considered switching but ultimately remained with their current provider, 29% cited concerns that they would end up paying for two services at the same time as a reason not to switch and 22% were worried about temporary loss of service during the switch. 13% said that a lack of clarity in the switching process was a major factor in their decision to not switch.⁹
34. Three agrees with this interpretation of the available data. The research into attitudes towards switching processes brought forward by Ofcom, coupled with historically low switching rates in the mobile sector, demonstrate that the conditions and procedures for contract termination act as a disincentive to switch.

Consumer harm experienced by those entering the process.

35. Ofcom's research suggests that the concerns around potential harms – such as loss of service or double billing – are justified. Ofcom research has shown that on first recollection, a high proportion of switchers – and it is worth noting that these represent just 6% of the market – said that they found the process easy. However, when prompted as to specific consumer harms such as; temporary loss of service, the Losing Provider seeking to persuade them to remain with that network, technical issues, as well as double billing, 44% of customers had experienced problems. That almost half of switchers experience some form of negative outcome from the process is compelling evidence for reform.
36. Three recognises that the examples listed above are not experienced by all switchers. However, the current system also creates unnecessary switching costs for all. This is because the more complex a switching system and the more touch-points for the consumers, the greater the switching costs will be.¹⁰ This is because all consumers will spend more time attempting to affect the switch, experience more hassle - as well as encountering other potential problems which may be costly and time-consuming to resolve.
37. It is also worth noting that as switching rates for mobile in the UK are so low, there will only be limited data sets relating to the consumer harms experienced by those that switch. Indeed, it may also be that only the savviest and competent consumers choose to, or feel able to switch. Yet the evidence above, together with other academic and qualitative research discussed by Ofcom in previous switching consultations, gives a strong indication that there is potential for significant consumer harms under the current system.
38. It is also reasonable to hold that the more important the service for the affected consumers, the greater the consumer harm associated with switching problems. For instance, a double bill will have a greater impact on consumers, the larger their monthly spend on the service or, conversely the more vulnerable the consumer; in

⁹ Ofcom, 'Consumer experience of switching mobile communications services and options for process reforms', 4.27, 2015

¹⁰ Ofcom, 'Consumer experience of switching mobile communications services and options for process reforms', 4.10, 2015.

both cases the consumer groupings that an effective switching process should benefit, not penalise.

39. Similarly, a temporary loss of service will be more damaging if consumers consider the service to be an essential tool in their daily lives. Such impacts are greater for the 15% of households that are now mobile only, compared to 5% fixed-line only households.¹¹ Further, a recent Ofcom report found that UK consumers consider mobile voice and text to be more essential than having a fixed internet connection, making voice calls from a landline or having Pay TV.¹²
40. This suggests that significant consumer impacts, such as loss of service, are being routinely experienced by switchers, and that consumer concerns around these issues are already a key reason not to switch. Furthermore, as the importance and ubiquity of mobile increases, so will the consumer detriment associated with these harms.

Inhibiting fair and open competition.

41. Seamless switching processes are vital to helping to promote competition. If switching is easy, providers are faced with strong incentives to provide good value and high quality services both in order to win new customers, and to keep their existing subscribers.
42. Yet it is the view of Three, substantiated by the available evidence, that the current switching process in mobile inhibits - rather than promotes - competition; it incentivises operators to haggle and 'hide away' their best deals until a consumer threatens to switch. 57% of respondents to Ofcom's research cited that their provider tried to persuade them to stay as a reason for not seeking to complete the switch.¹³
43. Absent an effective switching regime, there is no incentive for providers to keep headline prices competitive for the majority of customers, who are typically inactive. This has the effect of reducing competitive intensity, makes it more difficult for consumers to compare prices and puts the potential GP at a disadvantage.
44. This is particularly problematic for smaller operators (both MNOs and MNVOs) who, in a mature mobile market, need to win customers from incumbents to gain scale. This has been the experience of Three. Smaller players need to match incumbents' 'under the counter' deals, not their headline prices in order to gain customers. Because incumbents will offer better discounts to existing high value customers, smaller players will also tend to gain only less profitable customers.
45. The impacts described above are hard to quantify. High value le customers will generally be happy, at least in the short term, as they have a better deal from their current provider. Those deemed less valuable customers – and the rest of the market - will not know about those deals that they are missing out on.

¹¹ Ofcom, 'Communication Market Report', 2014

¹² Ofcom, 'Results of research into consumer views on the importance of communications services and their affordability', 2014

¹³ Ofcom, 'Consumer experience of switching mobile communications services and options for process reforms', 4.26, 2015.

46. Additionally, there is a growing trend towards bundling communication services, and particularly the growth of quadplay services. The complicated structures of such bundles mean that consumers may not understand the impacts on the pricing of their overall bundle if they seek to switch a component service to a new provider. Similarly, consumers of bundled services may not be aware that they are able to switch providers or may face difficulties in affecting a switch because of the contractual structure of the bundle.
47. In each circumstance there is detrimental deterrent effect to switching. This means that the problems faced when switching between mobile suppliers and the deterrent effect this has on the rest of the market may impact other communication services. It is therefore vital that whichever switching solution is introduced, it takes into account the need of customers with bundled contracts. We support Government's commitment to introduce easy and simple switching across the communication markets.¹⁴

The benefits of a Gaining Provider Led (GPL) process.

48. Ofcom, in this consultation and previous documents, has presented a clear, compelling and evidence-based case as to why GPL switching is the best outcome for UK consumers. This evidence has been drawn from academic literature, qualitative research and consideration of mobile switching processes in other countries. Three also provided significant evidence in our response to Ofcom's 2014 *Consumer Switching: Call for Inputs*.
49. The evidence provided supports Ofcom's conclusion that GPL switching is the process that will deliver the best consumer outcomes.
50. Three agrees with Ofcom's summary of the academic literature, which concludes "on balance switching costs seem more likely to increase prices [...] reduce consumer welfare [...] can segment an otherwise undifferentiated market as firms focus on their established customers and do not compete aggressively for their rivals' existing customers [...]".¹⁵
51. This conclusion is also supported by initial insight from the banking sector where reforms to the Current Account Switch Service (CASS) in September 2013 introduced a GPL system. As of May 2014 the reforms saw a 14% rise in customers switching their current account providers.¹⁶
52. The British Banking Association (BBA) has said that the switching reforms have made the sector 'more competitive and customer-orientated'. The result has not just been better deals to tempt switchers but, crucially, banks have needed to treat their existing customers better, giving them a fairer deal. The BBA concluded the

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443897/Productivity_Plan_print.pdf p.12

¹⁵ Ofcom, 'Consumer experience of switching mobile communications services and options for process reforms', 4.11, 2015.

¹⁶ BBA, 'Promoting Competition in the UK Banking Industry', 2014, https://www.bba.org.uk/wp-content/uploads/2014/06/BBA_Competition_Report_23.06_WEB_2.0.pdf

reforms have 'resulted in a virtuous cycle where a more level playing field for incumbent and challenger banks promotes competition and wider consumer benefits, as the improved offerings from banks benefit existing customers as well as switchers.'¹⁷ Although banking is clearly a very different sector than mobile, it does provide empirical support to the academic conclusions described above.

53. Ofcom has also shared insight related to the consumer experience of GPL switching on the Openreach network. We share Ofcom's view that while not entirely analogous, valuable insight can be drawn for this data – particularly around the consumer benefits of a GPL system in the communications sector.
54. 60% of communications switchers who used a GPL process rated it as very easy', compared to 32% of switchers using a LPL process and 17% using a C&R process. Indeed, among mobile switchers, 17% of those who used the LPL PAC process found it difficult, as did 6% of those who followed a C&R arrangement.¹⁸ This suggests that a GPL system in mobile would lead to better consumer outcomes and help resolve the systemic disincentives to switching inherent in the current LPL and C&R process.
55. The research also strongly suggests that a GPL system helps reduce some of the worse consumer harms experienced in the switching process. The table below shows the percentage of customers who experience specific harms, and the switching mechanisms they used.

Issue	Openreach (GPL) ¹⁹	Mobile (LPL)	Mobile (C&R)
Temporary loss of service	9%	20%	16%
Double billing	11%	21%	22%
Arranging for stop/start of service	13%	22%	14%
Clarity of switching process	8%	16%	10%
Previous provider made it difficult for me	6%	16%	14%

56. It is clear from the evidence that customers who used the GPL system experienced significantly fewer incidents of the specified consumer harm than those using either of the mobile switching processes available to consumers in the UK. In particular, it should be noted that there is a significantly higher level of harm for all issues in the LPL system, when compared with the GPL.

¹⁷ BBA, 'Promoting Competition in the UK Banking Industry', p10, 2014, https://www.bba.org.uk/wp-content/uploads/2014/06/BBA_Competition_Report_23.06_WEB_2.0.pdf

¹⁸ Ofcom, 'Consumer experience of switching mobile communications services and options for process reforms', 4.22, 2015.

¹⁹ It should be noted that the Openreach results does include some Openreach C&R switches, which may account for the concerns around the LP, which are generally not expected in GPL processes

Discussion of the two options.

57. Ofcom has identified two potential options for switching reform. The first is a modification of the existing regime (Option 1), to simplify the process of obtaining the PAC. The second is introducing a full GPL system (Option 2).
58. Three believes that any reform to make switching simpler for consumers is welcome. However, only a move to full GPL can deal finally with the competitive distortions and imbalances enabled by systems in which the gaining provider does not fully own the switching process. Three believes it would be a missed opportunity if Ofcom did not press ahead with introducing a full GPL system.
59. The evidence examined above has already made clear that GPL switching delivers substantively better outcomes for consumers. Unlike Ofcom's Option 1, a move to full GPL would create a single switching process for the entire mobile market. It would be a simpler process, reducing the number of touch-points for consumers. Both these factors should encourage those customers who currently would consider switching but are put off by the current process. It is again to note that after the CASS reform, there was a 14% increase in current account switching in the first six months, despite the newness of the process. It suggests that many more people would be willing to switch, if they had access to a single, simple process.

Three's view on Option 1 and 2

60. Three recognises that the proposals brought forward by Ofcom as Option 1 have the potential to reduce some of the consumer harms currently associated with the mobile switching process. The simpler process proposed by Ofcom should, if implemented correctly, reduce the time taken to obtain a PAC and remove the ability of the LP to slow down or make the process more difficult (although the incentives to do this would remain). It is also likely that using an automated system would also help alleviate the concerns that some consumers have about speaking to their LP.
61. However, we agree with Ofcom that for many of the identified drawbacks, Option 1 would not be as effective as the GPL solution. For example, this Option 1 would still require the customer to give their new provider the PAC code. This is an unnecessary level of bureaucracy compared with the simpler GPL solution.
62. Option 1 would also still necessitate two separate switching systems, depending on whether a customer wishes to keep their number or not. Our concern is that this is a difficult message for consumers; especially in a sector where there is already a perception, as evidenced above, that switching processes in mobile are difficult enough to deter people. It follows therefore, that we agree with Ofcom that mobile switching is likely to work better for consumers where all switches are covered by a single switching process.
63. By contrast, we believe that Option 2 – the introduction of a full GPL system – has the potential to tackle all of the consumer detriments identified by Ofcom. By

simplifying the system and reducing the steps the customer needs to take, the process would reduce unnecessary switching costs. It would also create a process that could be used by all switchers, whether or not they wished to port their number. It would therefore remove the multiple switching processes that currently exist – although the customers could still organise the transfer themselves through a C&R arrangement, if they so wished. This option would therefore also be an improvement relative to the simplified/ automated PAC option.

64. While we recognise that some consumers could still face issues around continuity of service and final billing, as a consequence of the notice period that may be required by the Losing Provider (LP), it is the view of Three that the introduction of a GPL process would significantly reduce the incidence of these issues. This is in part because the Gaining Provider (GP) has a stronger incentive than the LP to ensure that the switch goes smoothly and that the consumer joins quickly and with minimum problems. Placing the GP should control of the switch should therefore ensure that the GPL should perform better than a simplified/automated PAC option.

There need not be drawbacks to GPL

65. Historically, there have been two perceived drawbacks to GPL systems – slamming and ensuring customers know the implications of the switch. It is our view that the likelihood of these problems has been overplayed. As Ofcom notes in this consultation,²⁰ most of Europe already has a GPL system, suggesting not only that GPL is the most effective solution but that it can be implemented and operated efficiently.
66. Three agrees with Ofcom that a GPL system could easily be designed and implemented in a way that protects customers in line with current practices. Furthermore, we believe one of the main benefits of a new switching system is that it could be designed to offer greater protection, information and certainty to consumers than the status quo.

Slamming

67. An identified problem for all switching processes is if a customer is switched without their consent or knowledge – a process known as slamming.
68. Slamming is not a function of a GPL process but rather the lack of adequate safeguards in existing processes. The current LPL system does not have, nor was ever designed to have, safeguards against slamming. It will be an advantage of moving to recipient led porting if the process is designed from the outset to guard against the occurrence of slamming.
69. Evidence from other countries with GPL mobile switching processes suggests that slamming is unlikely in mobile services.²¹ Effective processes have been put in

²⁰ Ofcom, 'Consumer experience of switching mobile communications services and options for process reforms', 3.15, 2015.

²¹ CEPT/ECC, 'Number Portability Implementation in Europe', Q21, based on a survey of CEPT Member Countries, 14 March 2014.

place to mitigate any threats. For example, Three has a sister network in Republic of Ireland, where GPL is in place. In ROI there are a number of requirements for a customer requesting a switch, for example proving rightful ownership of mobile number by originating or terminating a call, providing a copy of customer bill and/or signing a Customer Authorisation Form (CAF). There is also a process for telephonic orders. This, as well as the experiences in other countries, demonstrates that effective safeguards can be put in place.

In our response to the 2014 Call for Inputs we outlined proposed steps to address errors and slamming for the UK market. These consisted of the following safeguards:

- **An initial validation and authorisation stage** – the customer provides some personal details to the GP, who obtains authority to cancel the LP service. The GP passes the customer info along with the MSISDN to the LP (via a central MNPB – Mobile Network Porting Body) for validation purposes and to authorise the port
- *Contract customers* – where a customer has a contract with the LP, it will be easier to obtain personal details to prove consent. Example details could be date of birth or, address numeric.²²
- *PAYG customers* – these accounts are more challenging as the LP may not hold personal details about the customer (although the vast majority of PAYG customers do not port their numbers). This makes it hard to prove that the customer is the same customer. There are three options that could be used: i) the personal validation could be ignored, with the fact that of knowing that it is a PAYG customer being enough; ii) registration of personal details with the LP could be a precondition of a port; iii) the account number could be provided through customer self-service.
- **A subsequent requirement for the customer to confirm the switch** – as set out above, the MNPB notifies the customer of any contractual liabilities via SMS, email, website or IVR. The notification requires the customer to take action for the switch to proceed, for instance by responding to the SMS or accessing a website. This will prove consent by the customer and minimise slamming and errors.

70. We believe that these measures would be effective at preventing slamming and look forward to discussing further with Ofcom and other industry stakeholders. Of course, it is also crucial that the customer information mechanism – and the switching process in general – complies with data protection regulations. It may therefore be useful to have the Information Commissioner's Office involved from an early stage.

²² Address numerics are used to stop any differences in spelling of the address; for example Rd instead of Road.

Informing Customers of Contractual Liabilities

71. For consumers to make fully informed decisions they must be aware of the financial implications of changing provider prior to the port – in particular, any early termination charges (ETCs) and notice period payable.
72. We fully support Ofcom's view that getting this right must be a priority. Ensuring that customers get transparent information before they switch must be at the heart of the new switching process. The energy market has demonstrated that GPL may not be fully effective unless customers are also confident that they have access to up-to-date and transparent information relating to their account.²³ If customers are not confident or cannot understand the information they have been given, they will not feel empowered to make an informed choice – a situation that is likely to inhibit switching.
73. In theory access to this information should be simpler with a LPL system, as the customer has to contact their old provider, which then provides an opportunity to discuss outstanding charges. However, it is important to note that the nature of LPL system means that the LP is incentivised to make this information hard to access or difficult to understand, in order to retain the customer. Therefore, it is not the case that a GPL would put customers at a greater disadvantage.
74. The proposal put forward by Three in response to Ofcom's previous consultations outlines how easy it would be to ensure customers are informed under an informed under a full GPL system. The process would require the Mobile Number Porting Body (MNPB) to notify the customer of any ETC and notice period to be served via SMS, email, website or IVR. This could alert of the existence of a liability or quantify the outstanding liability in real time, depending on the agreed technical requirements.
75. Three recognises there could be other limited charges which may not be able to be offered in real time, such as international roaming charges from some jurisdictions. However, such charges are likely to be small compared with the charges that can be notified in real time. We hope that this is an issue Ofcom takes forward and Three is happy to support any cross-industry discussion in this area. The fact that GPL is present in so many countries suggests that a workable solution can be found.
76. Such a notification process would then require the customer to take action to enable the switch to proceed, for instance by responding to the SMS, accessing a website or calling an automated service.

²³ CMA, 'CMA sets out case for energy market reform', 2015, <https://www.gov.uk/government/news/cma-sets-out-case-for-energy-market-reform> also 3.13 and Ofgem, 'State of the Market Assessment', 2014, https://www.ofgem.gov.uk/sites/default/files/docs/2014/03/assessment_document_published_1.pdf

77. We are confident that these safeguards will ensure customers have all the relevant information that is required to make an informed choice before switching mobile suppliers.
78. The consultation also raises the issues of the loss of unused pre-paid credit. We do not believe that this is likely to be an issue of consumer harm, as customers can easily check the amount of credit remaining and use it up before switching. We understand that this 'use it or lose it model' is in place in most other countries with GPL – in fact, we are not aware of any examples in other countries where a 'refund' process is in place. Three struggles to see how a different process could work in practice, as the top-up could have been paid cash or the customer may have paid for a bundle of minutes, texts or data which has only been partially used. In this case it would be difficult to ascribe a monetary value.

Views on the costs presented in the document.

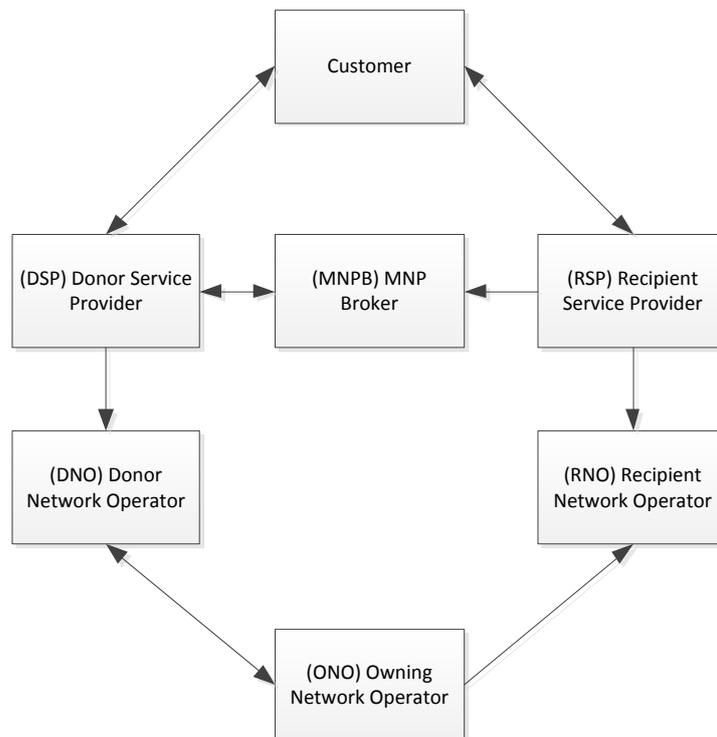
79. As noted by Ofcom, the implementation costs included in this consultation are rough estimates. We appreciate that much of the detail which underpins these calculations has been provided in confidential consultation responses or discussions with stakeholders. As a result, we do not have the data or rationale behind the calculations to comment definitively on their accuracy. However, Three is happy to share our initial thoughts and emerging conclusions on costs, which will be useful to Ofcom and inform subsequent work in this area.
80. With regard to the estimates set out by Ofcom in relation to Option 1, our initial feedback is that the costings appear reasonable and in line with expectations. We agree with the specific set-up costs, such as for software development, integration and enhancements, for both option (a) and (b) are rational – although the list may not be exhaustive.
81. We also note that the upper limit for Option 1a) of £1.5m appears unnecessarily high. However, without seeing the industry figures that underpin it, we cannot conclude with certainty that it would be cheaper. Expectation would be that it would be a similar threshold to option 1 b.
82. The costs for the GPL system are partly based on the proposals put forward by Three in a previous Ofcom consultation. We continue to stand by these figures. The detail of these can be found in Annex 2.
83. We remain confident in these figures as an initial benchmark and welcome the fact that Ofcom has reflected our work.
84. The GPL solution put forward by Three was based on a proposed modification of the existing web system and would not require major changes to the existing MNP process. The largest cost would be to set up and maintain the MNPB although three notes that included in those estimates is the assumption that the components of the existing switching solution are at end of life and that this would provide an opportunity to refresh the technology used as such expenditure would have to be made in any case.

85. Without the MNPB, the majority of costs included in the estimates provided by Three are one-off, set-up costs. This is because network operators and service providers already deploy IT and network systems that are supported 24 hours each day. Therefore the new system should not create any additional burdens.
86. It is important to note that the estimate put forward by Three was based on the assumption that all parties have similar systems to Three and therefore would have similar IT system change impacts. Any problems with this approach should either be identified during this consultation or during future cross-industry meetings on potential solutions.
87. Also, although Three notes that there may be some potential for actual costs to be higher, our original estimates were deliberately conservative in terms of the estimated cost benefits. For example, in a GPL system consumers would no longer need to contact the LP to obtain a PAC or give notice, depending on the design of the solution. This would lead to a significant reduction in call volumes and customer service costs for the industry. These cost reductions were not reflected in our estimates.
88. However, it is important to note that Three does not believe that the simplified porting processes outlined in 1a or b would be significantly cheaper than the full GPL process. This is because the proposal for full GPL is built on the modification of existing systems and practises, much as the simplified processes outlined at 1a and b.
89. We also believe changes to the system can be implemented quickly. Implementing the current Donor Led MNP process took a cross-industry team 18 months to develop. The changes required to move to full GPL are nowhere near as involved. The mobile industry can deliver a Recipient Led regime within 12-18 months – although this does not take into account potential legal challenge by incumbents.
90. We note that Ofcom plans to release a further consultation in early 2016 which will look at potential solutions and costs in more detailed. Three is keen to support Ofcom in this process.

Conclusion.

91. We urge Ofcom to move forward with their plans to introduce GPL switching for UK mobile consumers. Not only will it tackle the existing consumer harms but it will also stimulate competition in the UK market, ensuring that consumers can realise the best deals.
92. While we recognise that the proposal to modify the existing LPL system may mitigate some of the consumer harms, it will not tackle all. Therefore, it is not an optimal solution in terms of competition or consumer experience. Operators will still be incentivised to 'hide away' the best deals and make the switching process difficult for those consumers who wish to leave.
93. Three has already submitted detailed proposals as to what a GPL process could look like and associated costs. We remain keen to help Ofcom develop their plans further, in advance of the next consultation scheduled in 2016.

Annex 1: Current Porting Process (taken from our response to the 2014 call from inputs).



Annex 2: Excerpt from *Moving to a Recipient Led Switching Regime in UK Mobile, 2014.*

This is taken from Three's submission to Ofcom's Consumer Switching Call for Inputs, 2014 and details our proposal of how a GPL switching system could look. This document was a technical submission and as such the language used is different to that used in this submission, echoing Ofcom's language at the time. Therefore in square brackets we have extended abbreviations and where suitable, inserted an equivalent phrase that could be understood in the context of the response.

Three has proposed a switching solution that supports both types of switching: i.e. where customers wish to port their number or alternatively when they do not want to port. In both scenarios the customer would not need to contact the LP [Losing Provider] to terminate the service. However, the model proposed by Three does contain a mechanism to inform the customer of any outstanding commitments and financial liabilities. This would be achieved through a two phase approach to switching outlined below.

Under the Three proposal, the MNPB [Mobile Number Porting Body] acts as a hub between service providers. It falls on the service providers to inform the network providers of the switching activity. This has the benefit that the MNPB does not have to maintain the relationships between the service providers and the network providers. The MNPB also needs to maintain which MSISDN ranges are owned by which network operators so that it can manage ONO [Owning Network Operator] updates that are required as a result of porting activity.

To provide an indication of how this could work an example process flow has been provided in figure 6. The actual process would need to be agreed by the industry.

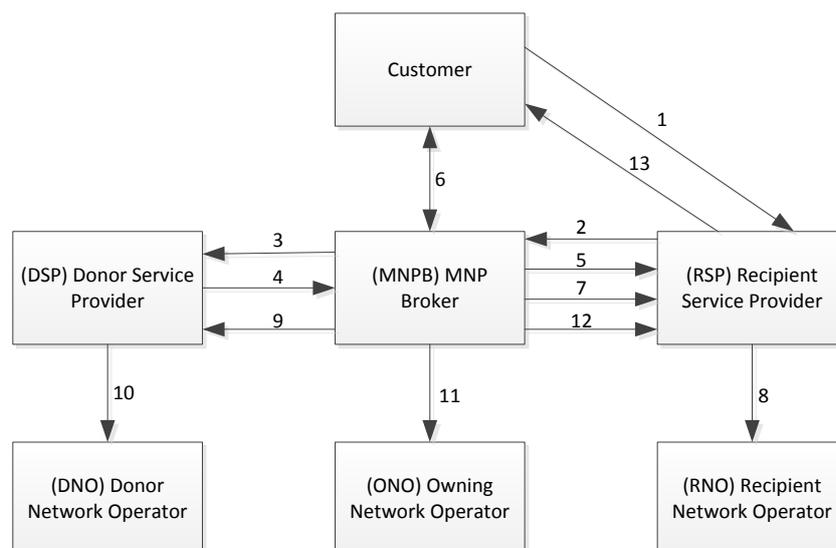


Figure 6: Interactions between parties for Service Provider Hub Switching Process

Phase A: Confirm switch eligibility and contractual liabilities. This phase of the switching process confirms that the customer is eligible to switch and ensures that the customer is made aware of any contractual liabilities with the DSP [Donor Service Provider – equivalent of Losing Provider]. All the steps in phase 1 need to be executed in real time such that a conversation can be supported between the RSP [Recipient Service Provider, equivalent to Gaining Provider] and customer.

Step 1: Customer informs RSP that they would like to switch service providers. Customer provides the MSISDN, DSP and details about the subscription with the DSP, and authorises the RSP to request to switch.

Step 2: The RSP requests the switch from the MNPB passing the required information. The MNPB generates a PAC to manage the switch. The PAC is used simply to identify the transaction and does not represent the DSP's agreement that the customer is entitled to switch service providers.

Step 3: The MNPB passes the RSP, MSISDN, Customer Details and PAC to the DSP. The DSP validates the switch request to ensure they are the service provider for the associated MSISDN. The DSP also validates the customer details to ensure that they are eligible for switching. The exact validation rules need to be agreed between the service providers.

Step 4: DSP sends the response back to the MNPB. This constitutes the DSP's agreement that the customer is entitled to switch or, in the case of a port request, that the DSP rejects the port for the stated reasons. The accepted reasons for rejecting a port request would need to be agreed, but they could include that the MSISDN is not held by a customer of the DSP or the MSISDN has been terminated.

Step 5: MNPB sends the response back to the RSP. The RSP will then be able to support the customer through the next steps depending on the DSP response received via the MNPB. Where the customer wants to port and the DSP has declined it, the port process might stop here until the reason for declining the port has been addressed. The customer can also cancel a port request with the RSP.

Step 6: MNPB notifies customer of the switching request result (by either email, SMS or IVR). The notification would disclose any contractual liabilities (Early Termination Charges or notice period to be served) and require the customer to take action to enable the switch to proceed. The exact details need to be confirmed, but this could be through responding to the SMS, accessing a website or calling an automated service to provide consent for the switch to proceed.

At this point the customer has the ability to stop the process by not providing consent or delaying consent until an appropriate time of their choosing. This is consistent with the current requirement for MNP that porting lead time should be one day, counting from the receipt by the RSP of the Subscriber Request to Port from its new Subscriber.

This step is also an appropriate point for a new service to be set up regardless of the service provider switching regime that the customer wishes to use. This will enable the RSP to associate the switch with a customer if a MSISDN port is required. The RSP will need to manage the service activation and porting activities through its service provisioning and activation processes.

Phase B: Execute Switch. When the customer provides consent for the switch to occur then the following steps are executed. The type of switch that is required will govern what steps need to be executed; as discussed below:

Step 7: The MNPB informs the RSP that the switch is to proceed. If the switch is a MSISDN port then the RSP will need perform the appropriate port in activities. If the switch is a cease and re-provide request then the RSP will not have to do anything.

Step 8: If a port switch has been requested the RSP will need to inform the RNO that the number has been ported into its network. The RNO [Recipient Network Operator equivalent to Gaining Network Operator] network will need to modify its network platforms as required to ensure that the calls a routed correctly. If a cease and re-provide service switch has been requested then this step does not need to be executed.

Step 9: The MNPB informs the DSP to progress with the switch and the DSP systems are modified as appropriate.

Step 10: If a port switch has been requested the DSP will need to inform the DNO that the number has been ported out. The DNO [Donor Network Operator, equivalent to Losing Network Operator] network will need to modify its network platforms as required to ensure that the calls a routed correctly. If a cease and re-provide service switch has been requested then this step does not need to be executed.

Step 11: In the case of a MSISDN port switch and where the ONO is not the RNO or the DNO the MNPB informs the ONO which MSISDN has been ported to which RNO. In the case of a cease and re-provide switch and where the ONO is not the RNO or the DNO the MNPB informs the ONO which MSISDN is no longer in active use. In both switching options the ONO updates the residual subscription as required.

Step 12: The MNPB informs the RSP that all switching executions activities have been completed.

Step 13: The RSP informs the customer that the switch has been completed.

These activities can be executed in either batch or real time depending upon the capabilities of the network equipment deployed by the network operators. All interfaces between the service providers and MNPB are expected to be real time interfaces. This means that the interface between the service provider and network operators need to handle any network interface constraints that may exist. An appropriate SLA needs to be established for port execution across steps 7 to 12 and this will need to be agreed to by the industry.