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**Magrathea's response to Ofcom's consultation on
Consumer Switching - a consultation on proposals to change the processes for switching
fixed voice and broadband providers on the Openreach copper network**

Introduction

Magrathea supplies wholesale Voice over IP switching and managed services to Communications Providers. Our CP clients generally provide their end users with voice services and telephone numbers. We do not provide lines or broadband services. The only customer switching event with which we are involved is, therefore, number porting.

We agree with Ofcom that the current variety of switching processes is confusing and that consumers do not have adequate understanding of their options and the processes involved. However, we believe that Ofcom has over-estimated the level of consumer harm and we do not agree with Ofcom's view that Third Party Validation is a good alternative. We believe that introducing a third party to validate a customer's desire to change provider would amount to very heavy-handed regulation and that consumers are not experiencing a level of harm to justify this. We are aware of no other industry or circumstance where something similar occurs and we can see no reason why the telecoms industry requires such special measures.

In its regular market reviews, Ofcom has found a high degree of competition in voice and broadband services at the retail level, and we do not believe that the imperfections of the switching processes require such a dramatic intervention.

TPV would rely on CPs maintaining a database that would not correspond with their internal systems. We feel Ofcom has probably underestimated the cost of this model and are concerned that it is not sufficiently future proof given the expected increase in transactions and the number of TPVs that would generate.

Section 3

Question 1: Do providers support (i) each of the different order type processes (ii) Linked Orders (iii) Parallel Orders processes? Where providers do not support each of these individual processes, please explain why you think this is the case? Please provide evidence to support your view.

We only support one order type currently (Number Porting Order Requests) as the only switching process we provide is number porting.

Section 4

Question 2: Are gaining providers currently able to correctly advise consumers at the point of sale on the correct switching process to follow (e.g. do agents have access to and the ability to use Dialogue Services and have access to information on which technology will be used to supply the service to the customer)? Please provide any evidence you have to support your views.

We do not have access to Dialogue Services as we don't offer WLR3. It can, therefore, be difficult for our CP clients to offer advice on specific transfers.

Question 3: Do you agree it will become more difficult for Gaining Providers to advise consumers at the point of sale on the correct switching process to follow as new technologies or new combinations of existing technologies are rolled out? Please provide any evidence you have to support your views.

Yes. As new products, services, and processes are introduced, increased confusion and human error occurs. For example, BT has recently introduced the ability to port IPXchange numbers, but confusion as to processes has led to delays in switching.

The added complexity of multiple layers of resellers and network providers in the process also means that information necessary to undertake the transfer can be hard to establish.   For example, it is sometimes difficult to establish on which carrier's network a telephone number is hosted, for example where that carrier is not the same as the service provider and/or the CP to whom the number is allocated by Ofcom.

Question 4: Do you agree there is lack of competitive neutrality from having multiple processes? Please provide any evidence you have to support your views.

Current switching processes have led to competitive disadvantage for VoIP providers. Currently, when a number is ported to a VoIP provider without the telephone line being transferred as well, BT's process operates to cease the end user's line. This means that the customer loses his broadband service and, consequently, the ability to make calls over the broadband. The inability to port numbers to VoIP without service disruption is a major impediment to competition. It is also, of course, extremely frustrating for consumers who find their choice of service provider effectively limited.

Question 5: Do you agree with our assessment of Problem 1: Multiple switching processes? If not, please explain why you disagree.

Yes, we believe consumer switching is currently over complicated and that the problems are likely to get worse until an improved system is introduced.

One of the reasons that we favour a LPL process is that it is similar to one of the processes already in place, i.e. the MAC process, and we believe it could therefore be introduced for all other services at no significant cost to industry.

Question 6: Do you agree that the current switching processes are likely to become less reliable in the future? Please explain your answer and provide any evidence you have to support your views.   And Question 7: Do you agree with our assessment of Problem 2: Back end system deficiencies? If not, please state why you disagree.

Yes, we agree. As explained in our answer to Question 4 above, when new technologies and new services are introduced, existing switching processes struggle to cope adequately. We are experiencing a high degree of manual intervention as automated processes are failing. As volumes increase this will lead to more misunderstandings and delays.

For this reason, we favour a LPL process. The LPL method enables more accurate verification of all the services in place at the point of order. It is therefore far less likely that the wrong services would be switched as it is not dependant on the knowledge of the end user or the Gaining Provider.

Question 8: Do you have evidence to suggest that the incidence of slamming has changed significantly? Please provide any evidence you have to support your views.   Question 9: Is there further action you think could be taken to help tackle slamming (e.g. preventative measures to stop it from occurring or enforcement activities after it has happened to act as a deterrent) under the existing processes? Please explain your answer. Question 10: Do you think it would be more appropriate to introduce stronger upfront consumer protections within the switching process or continue with the current reliance on enforcement to tackle slamming? Please explain your answer. Question 11: Do you agree with our assessment of Problem 3: Insufficient customer consent? If not, please explain why you disagree.

We have not encountered or been made aware of any problems concerning slamming with respect to switching to or from our own wholesale customers. Anecdotally, whilst we are not aware of a significant level of *pure* slamming (i.e. where a customer's service is switched without *any* interaction with or knowledge of the customer) we believe that customers' services are sometimes switched without their real understanding of what they have committed to. This is often caused by mis-selling and/or misrepresentation.

We are not convinced that this problem is as widespread as Ofcom indicates and we think that it could as effectively be addressed by stricter sales and marketing practices (enforcement of or further changes to GC24) as by improved switching processes. Consumer protection measures within switching processes cannot necessarily prevent harm caused by misrepresentations made by sales personnel.

Experiences of slamming have led to some losing providers to use the "Cancel Other" process to stop the service being switched. However, this can lead to an over use of Cancel Other, which in itself then becomes anti-competitive to the detriment of gaining providers.

We agree that slamming is more likely to happen with the NoT process than the MAC process. This is one of the reasons why we would prefer to have a Losing Provider Led process – it makes it easier to detect and address slamming before consumer harm occurs.

Question 12: Do you agree with our assessment of Problem 4: Lack of awareness of the implications of switching? If not, please explain why you disagree.

Incurring an ETC is not the only implication of switching. As described above, switching one service can also lead to cancellation of other services, eg loss of broadband service. This is one of the reasons why we are in favour of a LPL method, as the losing provider can highlight all the implications of switching to the customer. However, it is important that Ofcom ensures that the losing provider does in fact pass on all relevant information (such as an accurate estimate of the ETC). We also think Ofcom should require Openreach to enable customers to switch to VoIP services without losing their broadband service.

Question 13: Do you agree with our assessment of Problem 5 Unnecessary switching costs/hassle? If not, please explain why.

We believe that the LPL method offers the least hassle to the end user as they only need contact the Losing Provider to obtain the code.

Question 14: Are there any other key problems with the existing Notification of Transfer and Migration Authorisation Code processes that we have not identified? Please provide evidence to support your answer.

Other than the problem of line cease on the port of numbers to VoIP services mentioned above, no.

Section 5

Question 15: Do you agree with our assessment that a prohibition on reactive save activity under the LPL process would be difficult to enforce effectively? Can you suggest how enforcement of a prohibition on reactive save may be made effective?

We do not think that the communications sector is necessarily greatly different from other services in the ability of the current provider to engage in save activity. Although, strictly speaking, other products and services do not require the customer to contact the current provider, the widespread use of direct debit mandates mean that customers often do have to contact their current provider in order to stop the service automatically renewing for another year. This is the case for insurance services, utilities, mobile phone services, and so on. It is common, in such industries, for the incumbent provider to engage in save activity.

We do not believe that save activity is harmful for the consumer. It is often a means by which the consumer can be made aware of the best deal available at the time and the consumer may, armed with this information, decide not to move to a new provider after all. We do not think this gives the LP a particular competitive advantage over the GP – they are both able to put their best deal to the customer and the customer has all the information he needs to make the best decision for himself. The fact that save activity is often successful could be as much to do with making customers aware of ETCs, as it is to do with offering a good deal. In either case, the consumer benefits from receiving additional information.

Save activity might have been more of a concern in the early days of competition when new entrants were attempting to win business from a single trusted incumbent, namely BT. But the market has now matured to a point where customers are more accustomed to shopping around for the best deal. Ofcom suggests that LPs can make targeted offers only to those customers who

intend to switch. In practice, we do not believe that CPs offer existing customers deals that vary greatly or at all from packages that are available to any new customers, though they are perhaps not as well advertised. The mobile industry has a LPL process and the mobile LPs are able to engage in save activity. We do not see why this should not be allowed in the case of fixed line services.

One should only be concerned if save activity is done in a way that presents the consumer with false or misleading information. This should be able to be prevented with strict application of GC24. Ofcom talks of CPs incurring higher customer acquisition costs, but we believe that this is all part of the cost of doing business and that as the market matures, most CPs will find themselves in the same situation, with the same acquisition costs, as each other. The higher cost of acquisition throughout the industry could be countered by the fact that customers are likely to be more "sticky" and there would likely be less "churn".

For these reasons we would not favour a prohibition on reactive save activity in the event that a LPL process is introduced.

Section 6

Question 16: Are there other enhancements that you think should be included in the Enhanced NoT specification to help protect consumers both now and in the future? Please explain your answer and provide any supporting evidence.

No comment

Question 17: Do you think strengthening record keeping obligations for consent validation would increase protection against slamming? Would this be adequate to safeguard consumers now and in the future? Please explain your answer and provide any supporting evidence.

We do not have a particular comment on this but we note that in the absence of full call recording, it is hard to establish definitively whether or not a customer has been mis-sold.

Question 18: Do you think that the introduction a requirement to include specific information about early termination charges (ETC) and/or minimum contract periods (MCPs) in bills should form part of the enhancements to the current NoT process? What are the likely costs and benefits of such an approach? Please provide any evidence to support your answer.

No comment

Question 19: Do you agree that Cancel Other call recording obligations should not form part of the Enhanced NoT model? What are the likely costs and benefits of introducing Cancel Other call recordings? Please provide any evidence to support your answer(s).

No comment

Question 20: How can Ofcom best address competition concerns relating to reactive save activity through enhancements to the MAC process? What are the likely costs and benefits of such an approach? Please provide any evidence to support your answer.

We refer to our answer to Question 15 above.

Question 21: Are there any particular issues that you think would need to be considered in establishing the hub and database under any of the GPL options (e.g. general practicability setting up and/or ongoing operation)? Please explain your answer.

Our main concern would be getting the huge number of small CPs to populate the database and interact with the hub correctly. Ofcom suggests that, under the TPV option, there would be a "central database of all provider accounts and services". The work involved for CPs to populate such a database initially with the existing customer base would be huge and we believe there would be a high degree of non-compliance.

We know from our and Ofcom's experiences with porting that many small CPs do not provide contact details and are hard to communicate with. Small companies often do not have the manpower available that would be required to undertake this work, both initially and on an ongoing basis. We believe it would be an unnecessary and unhelpful burden on industry.

Question 22: Do you agree that the GP staying on the TPV call should not be a mandated part of the TPV model? Do you think there are significant benefits from the GP closing the call with the customer after the TPV conversation? Please explain your answer(s) and provide any supporting evidence.

We agree that the GP should not be mandated to stay on the line as the resources required to do so may well be prohibitive.

Question 23: Are there any particular data protection and/or privacy related issues that you think would need to be considered under the GPL TxC and/or the GPL TPV options? Are these issues likely to be significantly different to the issues that need to be considered under the current processes? Please explain your answer.

No comment

Question 24: Are there circumstances in which you can envisage that consumers would be likely to be distressed and/or harmed by the sharing of their personal data as required under the GPL TxC and/or the GPL TPV options? Do you think that consumers will object to the sharing of their data in this way? Please explain your answer.

No comment

Question 25: Are there any particular issues that you think would need to be considered in terms of the practicalities involved in setting up the TPV body and its ongoing operation under the GPL option? Please explain your answer.

We feel Ofcom has underestimated the cost of introducing the TPV model and we are concerned that it is not sufficiently future proof given the expected increase in transactions and the number of TPVs it would generate.

Question 26: Are there any particular issues that you think would need to be considered in terms of the practicalities involved in setting up the Transfer Code Issuing Authority and its ongoing operation under the Losing Provider Led options? Please explain your answer.

We would like to gain a better understanding of the cost involved in setting up the Transfer Code Issuing Authority.

Question 27: Do you agree with the proposed specifications for each of the options? If not, please specify what changes you consider should be made to the specifications and the basis for this.

No comment

Question 28: Are you able to provide an estimate of the time it would take to make the necessary changes to your systems and processes to implement each of the options? Please explain your answer.

We do not have a specific estimate, but any new system will require considerable planning and we would ask that CPs are given plenty of notice for implementation.

Question 29: How could the switching process options be used (or amended) to support the WLTO process to deal with the problem of ETs in the context of a homemove? Please explain your answer.

No comment

Section 7

Question 30: Do you agree with our assessment of the options regarding multiple switching processes? If not, please explain why you disagree.

Yes.

Question 31: Do you agree that the Options 2b (GPL TxC) and 2d (TPV) are likely in practice to deal effectively with homemove ETs? Can you foresee any problems with adopting this process for homemoves? Please explain your answer.

No comment.

Question 32: Do you agree that the Option 2c USN and Options 3a-b LPL TxC and LPL ALT are unable in practice to deal with homemove ETs? If not, please explain how these options could be used to deal with homemove ETs?

No comment.

Question 33: Do you agree with our assessment of the options regarding back end processes? If not, please explain why you disagree.

No comment.

Question 34: Do you agree with our assessment of the options regarding consumer consent? If not, please explain why you disagree.

No comment.

Question 35: Do you agree with our assessment of the options regarding the implications of switching? If not, please explain why you disagree.

No comment.

Question 36: Do you agree with our assessment of the options regarding unnecessary switching costs/hassle? If not, please explain why you disagree.

No comment.

Question 37: Do you agree with our assessment of the options regarding reactive save activity? If not, please explain why you disagree.

No comment.

Question 38: Do you agree that we should discard options 1a (status quo), 1b (enhanced NoT and MAC unharmonised) and 2a (enhanced NoT harmonised) on the basis that they fail to adequately address the current and anticipated future problems? If not, please provide your reasoning.

Not necessarily. The current process does work when used correctly. Strict enforcement and encouragement of all CPs to work in a more efficient and helpful way could make the current processes effective and efficient.

Question 39: Do you think that the payment of a TPV fee for each sale is likely to be a significant barrier to entry for smaller CPs? Please provide any supporting evidence.

No comment.

Question 40: We welcome stakeholder views on whether the additional cost of the TPV option over the GPL TxC option is justified due to the superior protection against slamming?

We do not believe that the problem with slamming is sufficiently serious to warrant the introduction of the TPV over a GPL process.

Question 41: Do you agree with our assessment that the TPV option should be preferred to the USN option. If not, please provide your reasoning.

We do not believe that the problem with slamming is sufficiently serious to warrant the introduction of the TPV over a GPL process.

Question 42: Do you agree with our assessment that the TPV option is pro-competitive relative to the LPL TxC option? If not, please explain why you disagree.

We believe that either of the LPL methods is preferable to the TPV option. The TPV option is far too costly and intrusive for industry, is complicated for consumers and does not enable consumers fully to understand all the implications of switching.

Question 43: Do you agree that the TPV is the most proportionate way to deal with the problems identified? If not, please provide your reasoning.

No, based on our experience it is disproportionate. This method would be very expensive and costly to implement and maintain.

Question 44: Do you have any other comments on our option assessment?

As we have mentioned previously, whilst we agree that there are problems with switching voice and broadband providers, we are not convinced that any competitive problems caused by save activity or the level of slamming incidences warrant the radical intervention that Ofcom is proposing. We do not believe that the current problems act as a "disincentive" to switching providers, merely a hindrance. That said, we do agree that certain improvements can and should be made.