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## **Open letter to OTS Steering Group and fixed voice and broadband providers (IAS and NBICS provided at a fixed location)**

### **Cancel Other – Ofcom principles for developing OTS processes**

As industry works to develop new processes for One Touch Switch (OTS) we thought it would be helpful to set out our views in the context of recent discussions regarding Cancel Other and its appropriateness for OTS.

#### **Cancel Other is no longer appropriate as a mechanism to prevent slamming**

Cancel Other is a mechanism previously developed by industry to address concerns about slamming on the Openreach network when the enhanced Notification of Transfer (NoT+) switching process is used for intra-network switching. Requirements regarding the use of Cancel Other are included in the General Conditions currently in force.<sup>1</sup> With the introduction of OTS on 3 April 2023 these provisions will be removed.<sup>2</sup> One of the key benefits highlighted by industry in their proposal for OTS is that it will address slamming and Cancel Other is therefore not needed for this purpose.<sup>3</sup>

#### **OTS processes must work across all networks**

Unlike NoT+ which was a method for intra-network switching on the Openreach and KCOM networks only, OTS is a switching process that must be designed to work universally for residential customers across and between all networks and technologies for switching of internet access services (IAS) and number-based interpersonal communications services (NBICS) provided at a fixed location. It follows therefore that any OTS processes which are developed must be available for all residential switches, whether intra- or inter-network, across all providers, whatever underlying network they are using. We consider that it would not be appropriate for the industry to adopt a process which is only available for intra-network switching on one particular network.

#### **OTS is designed to ensure the customer gives informed consent before a switching order is placed and is not intended to provide an additional cancellation mechanism**

One of the fundamental principles underlying OTS is that it must be a Gaining Provider-led (GPL) process. This places responsibilities on the Gaining Provider to ensure that the express consent of the switching customer is obtained and recorded, and to manage the switch on their behalf without requiring the customer to contact the Losing Provider.

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<sup>1</sup> [General Condition C7.14\(a\)](#) and Annex 1 to Condition C7, paragraphs 2 to 5.

<sup>2</sup> Ofcom, 2022. [Quick, easy and reliable switching: Statement on change to the General Conditions](#) (GC Statement).

<sup>3</sup> GC Statement, paragraph 5.26.

The OTS process ensures that Switching Customers provide informed consent before a switching order is placed, and this consists of several steps:

- The Gaining Provider must collect several details from the customer and confirm the services to be switched with the Losing Provider to start the process.
- This will then prompt the Losing Provider to send switching information to the customer which includes details of any early termination charges and makes clear any impact on other services.<sup>4</sup> (In addition, customers may already have received an End-of-Contract Notification which must include the date on which the contract ends, and details of the services being provided).<sup>5</sup>
- The Gaining Provider will also give the customer information about their new contract and must confirm that the customer is giving their informed consent to switch (a record of which must be kept by the Gaining Provider).<sup>6</sup>

OTS is designed to provide an easy, quick and reliable process for residential customers switching fixed services. Switches under the OTS process should happen much faster than they did under NoT+ and therefore the Gaining Provider is under the obligation to make clear to the customer the importance of reading the Switching Implications before agreeing to the switch. Once the customer has consented to the switch and entered into a contract with the Gaining Provider, changing their mind at a later date may not be without consequence.

While we note that customers may have cancellation rights under general consumer law, the OTS process is not intended to provide any additional cancellation mechanism when a customer changes their mind. Cancel Other is therefore inappropriate in this context.

### **It is Ofcom's role to enforce compliance with the General Conditions**

It is essential for appropriate safeguards including auditing and escalation processes to be developed for OTS and we are likely to view any provider's failure to comply with its obligations under the General Conditions very seriously.

However, we consider that it is not the role of the Losing Provider within OTS to either enforce Gaining Providers' compliance with the rules or to unilaterally give effect to customers' rights to cancel beyond what is provided for under general consumer law. We are not likely to consider it appropriate or necessary to build OTS mechanisms which allow the Losing Provider to cancel or amend orders independently of the Gaining Provider for the reasons set out above.

Yours sincerely,

Cristina Luna-Esteban

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<sup>4</sup> [GC C7.12](#) [as at 3 April 2023].

<sup>5</sup> GC C1.21 to C1.29.

<sup>6</sup> GC C7.11 and C1 [as at 3 April 2023].