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Ofcom
Riverside House
2a Southwark Bridge Rd
London
SE1 9HA

Gigaclear consultation response: Proposals for a new landline and broadband switching process and to improve information for mobile switching

Introduction

Gigaclear fully supports Ofcom's conclusions regarding its assessment of both 'One Touch Switch' and 'Code to Switch' switching processes, as well as Ofcom's decision to intervene and provide guidance for industry implementation. Our response then largely provides complimentary evidence to these positions. Our only point of departure from Ofcom's position concerns the implementation timetable. Whilst we support a 24-month lead time, we propose that this should only begin from the point at which the General Conditions are amended to instruct the new switching process. Before this point, it would be inappropriate for industry to commence material implementation activity, as there is unlikely to be consensus on how to proceed. Any investment to progress implementation prior to the General Conditions being amended would then carry considerable risk.

We also note Ofcom's additional consideration of an amended 'Code to Switch' process, as published on 29 March. Our response refers to this as 'Code to Switch IVR'. We do not see how this amendment addresses the most substantive issues that Ofcom raises with 'Code to Switch'. Further, we do not consider this measure to be compliant with the EECC switching requirements.

Question 1: Do you agree with our proposal to require providers to develop and implement the One Touch Switch process?

And...

Question 2: Do you agree with our proposal to remove the rules relating to the existing Notification of Transfer process?

We agree with Ofcom's description of the current fixed switching regime. The absence of a coordinated cross network switching process for fixed line services creates barriers to customers accessing the best deal available to them. Material consumer harm is also endemic to the current process. At present, customers must attempt to coordinate the timing of the switch themselves, often resulting in a period of 'double paying' or a break in service. Both of these issues are well evidenced in Ofcom's own analysis.¹

As for transposition of the EECC, we welcome Ofcom's decision to consult on practical implementation of the new switching requirements. Through engagement with the OTA, we have sought to work collaboratively with other industry operators to establish a single, consensual implementation process for the entire fixed network industry. Unfortunately, these discussions have effectively become 'deadlocked', largely due to alternative legal interpretations of what is required

¹ [Triple play consultation \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/tripleplay/tripleplay_consultation_ofcom.org.uk) – section 3

of the industry switching process. If left unaddressed, this deadlock risks non-implementation, as operators will be unable to commit funding to implementation works when the detail of the requirements is contested. It is then appropriate for Ofcom to intervene at this stage and consider which of the two proposed 'models' is the most suitable solution.

'One Touch Switch' vs 'Code to Switch'

We support Ofcom's preference for 'One Touch Switch' over 'Code to Switch'. We do not consider that Code to Switch is compliant with the switching requirements set out within the EECC. Article 106 of the EECC requires that "the receiving provider shall lead the switching and porting processes..."; whilst Recital 281 explains that: "In order to facilitate a one-stop-shop enabling a seamless switching experience for end- users, the switching process should be led by the receiving provider of electronic communications to the public." It is then clear that the receiving/gaining provider must have control and command over the switching process from start to finish, in order to enable a 'one stop' process for the end-user.

Code to Switch's proposals then fall short of the seamless, simple and efficient 'one-stop-shop' process envisaged by the EECC. Under Code to Switch the end user is required to contact the losing provider directly in order to secure a code that enables the switch. We do not then consider it to be compliant with the EECC and have secured external legal opinion that supports this conclusion.

Ofcom has also published multiple consultations on the switching processes in this market and has found that losing provider led processes have a detrimental impact on competition and consumers' propensity to switch.²

Further, from a consumer perspective, One Touch Switch is simpler to understand and easier to utilise. It would be a 'one touch' process for landline and broadband switching where customers only have to contact the gaining provider and follow the instructions given by them. Code to Switch, on the other hand, requires two steps. One Touch Switch would also be familiar to those switching service providers on the Openreach network, thereby creating a level of consistency across the entire industry. It also offers greater control to customers over the extent and type of contact they have with their current provider. One Touch Switch then avoids the deterrents to switching that are present in the Code to Switch model, such as difficulties contacting the current provider (long call wait times and long/agent led authentication processes), unwanted save activity and the time required to contact more than one provider.

Implementation Timeframe

In regards to the implementation timeframe, we do not support the December 2022 deadline. Whilst we welcome all efforts to accelerate measures that address consumer harm and barriers to switching, as yet there is no consensus as to even the basic model of compliance (as expressed by virtue of this consultation and the introduction of the amended 'Code to Switch IVR' model during the consultation response). The timeframe for implementation should only then begin once there is consensus in the direction of travel, which will be achieved when the General Conditions are formally amended to reflect the requirements of the new switching regime. From this point, we

² Strategic review of consumer switching: A consultation on switching processes in the UK communications sector. September 2010.

would support a 24-month lead time, as this aligns with similar implementation periods in comparable EU member state markets.

Consideration of 'Code to Switch IVR' proposal

We do not see how the 'Code to Switch IVR' model addresses any of the substantive issues that Ofcom identifies in its analysis of the initial 'Code to Switch' model. Ofcom has already considered the use of IVR in a switching process and found it to be unsuitable as a means to automating authentication and providing a switching code.³

We are conscious that some operators may defend the Code to Switch IVR proposal in light of similarity to mobile switching, whereby end-users do not go to the gaining provider to initiate the switching process, but rather request a code from their current provider via SMS, referred to as 'Auto-Switch'. One might then propose that if Ofcom deems 'Auto-Switch' to be compliant with the EECC switching requirements, then a similar 'automation' of the code provision in fixed could also be deemed compliant.

We are not convinced by this argument. Ofcom deem Auto-switch to be compliant due to elements unique to the mobile industry. In mobile, every end user has a handset, which means authentication can be largely automated and all end-users can use an SMS to fully automate the collection of the code. Code to Switch does not have any similar system that is as easy to use, automates authentication and which limits customer interaction with their current provider to purely what is required to enable the switch. Instead, for Code to Switch, all customers would have to secure a code online or by phoning their current provider. Even if this function is an IVR, authentication will be more complex, as will the provision of terms of unswitched services from a pre-existing bundle. It is then likely that customers will regularly need to talk to an agent to progress their switch.

The introduction of the IVR is then no way comparable to the fully automated 'Auto Switch' mobile process, which automates interaction and crucially limits interaction to only what is absolutely necessary to enable the switch; a threshold that an IVR cannot meet, as Ofcom have already considered.

³ https://www.ofcom.org.uk/data/assets/pdf_file/0025/54169/switching.pdf para 6.89