



Orange and T-Mobile Joint Venture response to Ofcom consultation document:

Changes to the Mobile Number Porting Process: Including notification of a proposed modification to General Condition 18

13 May 2010



Introduction

As a result of the Joint Venture between Orange and T-Mobile, this response is being provided as a combined response on behalf of both operators ("the JV").

The JV believes that the existing number portability system is working well and is providing customer satisfaction. As we have previously highlighted, we do not dispute philosophically that the process could be "improved" in the sense that any process could always be made faster and more efficient. However, the question has always been whether incremental changes would result in genuine consumer benefits, or significant changes would really justify (or be justified by) a cost benefit assessment. There is no evidence that the existing process is acting as a barrier to switching or that the current process is too lengthy¹. 80% of customers who ported their number were satisfied with the process (2.14). In the absence of serious consumer harm, or any clear, quantifiable consumer benefit or driver for change, it does not seem proportionate to require significant, let alone fundamental, changes to a process which, in any case, is working well. We are therefore pleased that Ofcom is not pursuing its proposals for an overhaul of the porting process at this stage.

That being said, we note the requirement set out in the new EU Regulatory Framework which requires number portability to take no more than 1 business day. We therefore recognise the need to make changes to the current process to implement this requirement in the UK. Without prejudice to the comments made above and below, we believe that Ofcom has chosen the right option for ensuring compliance with the EU Directives. This is the least intrusive option available, and is therefore the most proportionate means of achieving compliance, in the absence of any evidence of consumer detriment caused by the existing process.

However, a one day port lead time will still require some investment and modifications on the part of both networks and other service providers, and this must be borne in mind when considering implementation deadlines. Moreover, an unnecessarily short timetable can impact costs and the quality of the final solution delivered. This will ultimately be detrimental to consumers. In the light of consumer satisfaction levels and the absence of any demonstrable consumer harm Ofcom must consider whether an accelerated timetable is really necessary.

In summary, whilst we broadly accept Ofcom's conclusion to implement Option D, Ofcom needs to be mindful of the need for, and proportionality of, a tight deadline. Resource constraints within operators and other service providers are also relevant, since any requirement to deliver a regulatory

¹ 4.6 and 4.43 of August 2009 Consultation



project diverts resources from other customer oriented and commercially driven projects. We believe a minimum of 9 months is necessary for implementation.

Ofcom Consumer Switching Project

We are pleased that Ofcom took on board our concerns about the duplication of work between the broader "Migrations" work stream and the Mobile Number Portability work stream. In the absence of consumer detriment and market failure in the mobile porting space, it is prudent only to consider the pros and cons of a complete overhaul of the process as part of a wider and more strategic review of switching processes across platforms. We expect Ofcom to take a first principles approach to this review and to concentrate on real consumer requirements for switching and the costs and benefits of meeting these requirements. Ofcom must avoid pre-empting outcomes by focusing on a particular solution which Ofcom assumes will deliver the best outcome, simply because it is adopted in other countries. It must also guard against any predisposition for a one size fits all solution. We look forward to working collaboratively with Ofcom on its Strategic Review of Consumer Switching Processes.

Fixed and Bulk Porting

We note that Ofcom has taken a decision to consider Bulk mobile porting at a later date, as part of the wider piece of work to implement the new EU Framework, being led by BIS. Whilst we agree there is absolutely no evidence that the Bulk process requires review (and that this is being taken into consideration when considering the extent of the legal requirements of the Directives), we are concerned about the possibility that the mobile porting process may need to be amended again in the near future – perhaps when changes to implement 1 day porting for Consumer are already underway. Any requirement to implement changes to the Bulk process while changes to the Consumer process are already underway could introduce delays. Ofcom must bear this in mind when setting the implementation timescales.

Furthermore, it is concerning that Ofcom has not yet taken steps to address the issue of ensuring that the fixed porting process complies with the new EU framework, especially in view of the perceived additional complexities inherent in this process. We would expect Ofcom to begin work on this without delay to ensure a level playing field and to ensure that Ofcom's proposed modifications to GC 18 are "not unduly discriminatory".



Specific Questions

Q1: Do you have any comments on the wording of the proposed modifications to GC18 contained in Annex 8?

We have a couple of comments.

Firstly, we would suggest the deletion of "... (or by such other reasonable mechanism as may be specifically requested by the Subscriber)" at the end of 18.2(b). This clause suggests that the process for issuing PACs can be defined by the consumer rather than following an operationally agreed process. Whilst each of Orange and T-Mobile aim to ensure that we deliver a tailored service to our customers, from an operational perspective, a more efficient service can be provided if set processes are adhered to for standard requests, such as number portability. The current wording suggests that exceptions would become the rule.

Secondly, we would suggest that 18.3 needs to be amended slightly and divided into two separate sections and re-numbered as appropriate. The original purpose of 18.3 was to ensure Portability arrangements would be established between networks (so that the consumer's Number Portability right could be fulfilled); it was not intended as a "customer facing" condition. The inclusion of the timescale for consumer mobile number portability in 18.3 confuses this distinction. Coupled with the use of the term "Mobile Portability", which describes the facility for the porting of mobile numbers rather than process of number portability itself, it is possible that a new entrant may mistakenly believe that the establishment of the Porting facility between their network and ours would only take one working day. To ensure there is clarity between the concept of Number Portability (a consumer right) and Portability (a network facility), it seems to make sense to either include the proposed amendments in 18.2, or to create a new subsection. A definition of Mobile Number Portability may also be needed to differentiate the consumer process from the network interconnection facility (e.g. "Mobile Number Portability means Number Portability relating to Telephone Numbers Allocated for use with Mobile Communications Services").

We would suggest:

18.2 In the case of Mobile Number Portability, where the request is for porting a total of less than 25 Telephone Numbers, the Communications Provider shall:

*(a) at a minimum, allow Subscribers to request a PAC over the phone;
and*



(b) where a Subscriber contacts the Communications Provider by phone, provide the PAC immediately over the phone where possible or by SMS within a maximum of two hours of the request.

18.3 In the case of Mobile Number Portability, where the request is for porting a total of less than 25 Telephone Numbers, the total period for providing Portability in respect of those Telephone Numbers shall not exceed one business days from the Subscriber Request for Portability.

18.3 The Communications Provider shall, pursuant to a request from another Communications Provider, provide Portability (other than Paging Portability) as soon as is reasonably practicable in relation to that request on reasonable terms. Any charges for the provision of such Portability shall be made in accordance with the following principles...

This amendment will also make it easier to insert changes in relation to fixed number portability when that one day solution has been agreed.

Question 2: Which implementation period do respondents consider achievable?

- (a) six months from the publication of the final statement; or***
- (b) nine months from the publication of the final statement.***

Please give reasons, and provide evidence to support your view.

We believe that at least 9 months is necessary to ensure full and effective implementation of the requirement. We are concerned that the proposed 6 month deadline is neither realistic nor necessary. Under the EU Regulatory Framework, Ofcom need only introduce the new requirement by May 2011, not require its implementation. Given this, the lack of any existing consumer detriment, and the further reasons explained below, the JV feels that a deadline of 12 months is more appropriate.

There are various interlinking elements that have to be considered:

- Common changes – Syniverse database

We note that Syniverse has estimated that changes would take between 3 to 6 months to implement. However, these estimates are based purely on the changes that will need to be made to the centralised elements of the process. We do not believe it takes into account the fact that the changes would first need to be designed, discussed and agreed by industry (via the Operators' Steering Group) before development and implementation at a



central level can even begin. Such changes may also require changes to the existing contractual arrangements between the national networks, and Syniverse. The negotiation of these, and potential consequent amendments to the OSG constitution, is likely to be time consuming.

Even once implementation has been completed, it will need to be fully integrated with internal systems and tested successfully by all OSG members. Many OSG members support other service providers, with whom system changes and testing will also have to take place. Such service providers rely on internal processes, their host network, and Syniverse to implement each port, with consequent inflation of the complexity of the process and the elimination of margin for error.

It is difficult to see how this can all be implemented and tested in 3 months. The one day process can only be implemented as quickly as the slowest operator. In this context Ofcom must also be mindful that since the last change, from 5 to 2 days, a number of additional operators have joined the existing MNP system.

- Internal changes to enable 1 working day porting

It is not yet clear what changes will be needed to our internal systems and processes in order to enable 1 working day porting. Our concern is that until a work stream is established to establish the changes that would need to be made, we cannot commit to a specific timescale for the delivery of this change. As Ofcom knows, MNP touches upon a great many systems and processes – from sales, to registrations, to order management, to billing – and we would need to be certain that none of these elements of the MNP chain would be adversely affected or require more detailed technical changes necessitating further development and testing time. Our initial view is that 9 months may be feasible as a bare minimum (assuming no major systems changes are required), but that 12 months is a more appropriate deadline given the circumstances explained above. Anything less than that would be overly optimistic and may lead to a real consumer detriment through an implementation that reveals itself to be either failed or flawed owing to the lack of time provided.

All queries in relation to this response should be to Clare Seabourne, Senior Regulatory Analyst, Orange, The Point, 37 North Wharf Road, London W2 1AG – clare.seabourne@orange-ftgroup.com