

## Annex 1

*“Do you have any comments on the wording of the proposed modifications to GC18 contained in Annex 8?”*

In response to the above question posed by Ofcom in its consultation of 1 April 2010 (the “Consultation”), Vodafone has identified a number of practical and technical issues surrounding the proposed wording. These issues can be summarised as follows;

### (A) Provision of PAC by Donor Provider to Subscriber

1. Whereas the provision of PAC immediately by phone should be encouraged where possible, Vodafone considers it to be essential that confirmation also be sent to the Subscriber within 2 hours by SMS in order to provide a consistent audit trail.
2. Vodafone considers that allowing the Subscriber to choose the “reasonable” method of confirmation would lead to some potential difficulties, including:
  - Deciding in any particular case what constitutes a reasonable request requires individual judgment;
  - Any discretionary element potentially increases scope for error. For example, a previously un-validated email address could be mis-heard, mis-transcribed or could fail for some other reason;
  - Provision of confirmation by a variety of non-automated means potentially adds costs.
  - There is no evidence that the costs and risks of such an approach have been taken into account.
3. Vodafone however welcomes the concept of operational flexibility to use additional methods of communication where this is specifically agreed between the Subscriber and the Donor Provider on a case by case basis.

### (B) Implementation of the Porting Request

1. Vodafone considers that any new “one day” requirement can only conceivably constrain the donor operator once the donor operator becomes aware of a confirmed request to port to a particular operator.
2. As currently drafted the proposed wording for GC18 provides for the one day period and therefore the Donor’s obligations to be triggered before it has been made aware of the request.
3. The processes which the Donor Provider needs to undertake in order to complete the port request once it has received a request from the recipient operator are as follows;
  - The day prior to the port a report has to be run in order to identify the numbers porting out the following day.
  - The report is then actioned to run the following day. Any errors can be identified at this stage and manually actioned. This process of actioning the disconnections takes on average 4 – 5 hours and therefore could not possibly be operated within the times of 11:00 an 14:00 as set out in the Porting Event Timeline unless it is actioned the day before
4. Vodafone therefore proposes that, in accordance with Ofcom’s flow chart at Figure A7.1 of Appendix 7 to the Consultation, the “one day” period cannot be triggered prior to the Recipient Provider entering RSP and port date on the Donor Provider’s web page.

Given the above, Vodafone proposes the following drafting amendments to reflect these points and minimise ambiguity.

## 18. NUMBER PORTABILITY

18.1 The Communications Provider shall provide Number Portability as soon as it is reasonably practicable on reasonable terms, including charges, to any of its Subscribers who so requests.

18.2 In the case of Mobile Portability, where the request is for porting a total of less than 25 Telephone Numbers, the Donor 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 and~~ by SMS within a maximum of two hours of the request (~~or and~~ by such other ~~reasonable additional~~ mechanism as may be specifically ~~requested by agreed with~~ the Subscriber).

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. In the case of Mobile 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 day following receipt by the Donor Provider of the port out request from the Recipient Provider from the Subscriber Request for Portability. Any charges for the provision of such Portability shall be made in accordance with the following principles:

(a) subject always to the requirement of reasonableness, charges shall be cost oriented and based on the incremental costs of providing Portability unless:

(i) the Donor Provider and the Recipient Provider have agreed another basis for the charges, or

(ii) the Office of Communications has directed that another basis for charges should be used;

(b) the Donor Provider shall make no charge in relation to System Set-Up Costs or Additional Conveyance Costs;

(c) in respect of Mobile Portability, the Donor Provider shall make no charge or annual fee for ongoing costs relating to registration of a ported Telephone Number or a Subscriber;

(d) charges levied by the Donor Provider shall be based on the reasonable costs incurred by it in providing Portability with respect to each Telephone Number.

18.4 Where the Communications Provider provides Portability in accordance with paragraph 18.3:

- (a) the Recipient Provider; and
- (b) the Transit Provider,

shall, as appropriate, provide Portability (other than Paging Portability) on reasonable terms.

18.5 The Communications Provider shall, on the written request of Ofcom, provide the Office of Communications with a record of each Telephone Number in relation to which it is providing Portability, specifying the relevant Recipient Provider in each case.

18.6 For the purposes of this Condition:

(a) "Additional Conveyance Costs" mean any costs incurred by the Donor Provider associated with resources used in:

- (i) effecting the switch-processing required to set up each ported call; and
- (ii) providing the switch and transmission capacity for any part of the duration of each ported call, additional to the costs of conveyance of non-ported calls from the Donor Provider's network to the Recipient Provider's network;
- (b) "Communications Provider" means a person who provides an Electronic Communications Network or an Electronic Communications Service;
- (c) "Donor Provider" means a Communications Provider whose Subscriber Numbers are in the process of being, or have been passed or ported to a Recipient Provider;
- (d) "Mobile Communications Service" means any Publicly Available Telephone Service consisting in the conveyance of Signals by means of a Public Telephone Network where every Signal that has been conveyed thereby has been, or is to be, conveyed through the agency of Wireless Telegraphy to or from a Public Telephone Network which is designed or adapted to be capable of being used in motion;
- (e) "Mobile Portability" means Portability relating to Telephone Numbers Allocated for use with Mobile Communications Services;
- (f) "Number Portability" means a facility whereby Subscribers who so request can retain their Telephone Number on a Public Telephone Network, independently of the person providing the service at the Network Termination Point of a Subscriber provided that such retention of a Telephone Number is in accordance with the National Telephone Numbering Plan;
- (g) "PAC" means Porting Authorisation Code, which is a unique code used to signify the Donor Provider's agreement that the subscriber is entitled to request and have their Mobile Number ported to another Communications Provider.
- (h) "Paging Portability" means Portability relating to Telephone Numbers Allocated for use with Radiopaging Services;
- (i) "Point of Connection" means a point at which one Public Telephone Network is connected to another;
- (j) "Portability" means any facility which may be provided by a Communications Provider to another enabling any Subscriber who requests Number Portability to continue to be provided with any Publicly Available Telephone Service by reference to the same Telephone Number irrespective of the identity of the person providing such a service;
- (k) "Publicly Available Telephone Service":
  - (a) in relation to a service to be used with a Telephone Number for receiving calls only under the contract between the person and the provider in question, means a Public Electronic Communications Service for only receiving national and international telephone calls through a number or numbers in a national or international telephone numbering plan;
  - (b) in relation to a service to be used with a Telephone Number for originating and receiving calls and access to Emergency Organisations under the contract between the person and the provider in question, has the meaning ascribed to it under paragraph 1 of Part 1 of this Schedule;
- (l) "Radiopaging Service" means Electronic Communications Services consisting in the conveyance of Signals by means of Wireless Telegraphy where every Signal, apart from simple acknowledgement, is ultimately

transmitted from a station for Wireless Telegraphy comprised in the Communications Provider's Electronic Communications Network to a station for Wireless Telegraphy or Wireless Telegraphy Apparatus that is not comprised in that network;

(m) "Recipient Provider" means a Communications Provider to whom Subscriber Number(s) are in the process of being, or have been passed or ported from a Donor Provider;

(n) "SMS" means Short Messaging Service, which is a text message delivered to a Subscriber's handset, or, if SMS is superseded or withdrawn, an equivalent text communication sent directly to the Subscriber's handset.

(o) "Subscriber" means any person who is party to a contract with the provider of Publicly Available Telephone Services for the supply of such services in the United Kingdom;

(p) "Subscriber Number" means the Telephone Number (or Telephone Numbers) which any Communications Provider's Public Telephone Network recognises as relating to a particular Subscriber of that Communications Provider;

~~(q) "Subscriber Request for Portability" means the request for Portability arising when the Subscriber submits their PAC to the Recipient Provider.~~

(rq) "System Set-Up Costs" mean costs of the Donor Provider incurred—

(i) in the course of making network and system modifications, configuration and reconfiguration, including adapting or replacing software;

(ii) in the course of testing functionality within that provider's network and in conjunction with any Recipient Provider's network,

(iii) thereby establishing the technical and administrative capability to provide Portability;

(sr) "Transit Provider" means a Communications Provider providing, by agreement, Interconnection between a Donor Provider and Recipient Provider via Points of Connection with both Communications Providers.