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By email to:
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Dear Grace

Proposals to reform switching of mobile communications services

SSE supports Gaining Provider Led (GPL) switching processes and is disappointed that Ofcom has changed its stance from earlier consultations on mobile switching. In these, GPL was the favoured principle for the reform of existing Losing Provider Led (LPL) switching arrangements, whereby a 'Porting Authorisation Codes' (PAC) is sought by a would-be switcher from their existing supplier and then provided to a chosen new supplier. The current consultation summarises the two 2016 consultations on this topic as well as points from the responses received and presents Ofcom's further research and work in this area.

As a result of the further work and research, Ofcom has refined the two options discussed in the previous consultations: 'PAC automation' and a GPL approach, re-naming the first as 'Auto-Switch' and provisionally concluded that it would meet the relevant regulatory policy objectives at lower cost than the GPL option.

SSE has three main concerns with Ofcom's rejection of the GPL option for reforming mobile switching:

- it runs against the grain of switching developments generally;
- the weakness of the chain of evidence from consumer research into preference for hypothetical switching options to assessed benefits of each approach; and
- a lack of detailed assessment on how market mechanisms (such as switching sites) and future bundles of communications products including mobile can readily accommodate one element that switches on an LPL basis.

We discuss these in turn below.

General Developments in Switching

Both the Business and Telecoms side of Government have clearly expressed preferences for GPL switching processes. In its 'Response and Action Plan on Switching Principles' published

in May 2016¹, the Department of Business, Innovation and Skills set out 7 principles including one that states:

The switching process should be led by the organisation with most interest in making the switching process work effectively – the gaining provider.

Comments relating to this principle in the document also discuss evidence from consumers and the Government's thinking on these that show their support for avoiding the involvement of the LP in switching arrangements e.g. *"Our view remains however that consumers should not have to contact their existing supplier - it should not be an integral part of the switching process."*

In similar vein, there has been a statement from the Department for Culture, Media and Sport in one of the factsheets about the Digital Economy Bill that *"The government believes that consumers should only have to deal with the party that most wants their switch to go smoothly – their new provider"*².

Switching in energy and in the business retail markets for water in England and Scotland are on a GPL basis. Elsewhere in the economy, consumers expect to approach a new provider of choice in order to switch services rather than go to an existing provider and 'ask' if they can leave.

Against this background, we find it surprising that Ofcom has not given more weight in its assessment to the less easily quantifiable benefits of a GPL option for mobile switching in terms of: competition; consistency with how other services are switched; and ease of developing information for consumers on switching in the communications market, where Ofcom's research has illustrated that there are levels of confusion in how to switch that are deterring some consumers from attempting the process. We are in full agreement with the comment reported at paragraph 4.79 of the consultation that Ofcom's focus should be "on implementing a future proofed switching process capable of seamlessly handling all elements of bundled services on a GPL basis".

Evidence from consumer preferences

Consumers have generally supported GPL switching processes when asked to choose between these and LPL alternatives³. It is the natural and intuitive way to seek to switch any transferable product as it combines the customer's initiative to instigate a switch with the incentives on the GP to deal with any required 'back office' processes on behalf of the customer in order to ensure that the customer enjoys a smooth and hassle-free journey to join the GP.

Ofcom's further research on consumer preferences about the two proposed process reforms and their willingness to pay shows an overall preference for the Auto-Switch option compared to the GPL option. This basic research data is used to construct a financial benefit

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/526672/bis-16-155-government-response-switching.pdf

² Factsheet on Supporting Consumers, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/535013/3_Supporting_Consumers.pdf

³ For example, the research mentioned at footnote 140 of the consultation

analysis that favours the former option but we question whether the consumer preference research is soundly based. It draws on the views of consumers who are already familiar with the existing PAC-based mobile switching process, while the proposed GPL process has a number of unfamiliar steps. Given the range of more general benefits of a GPL process in minimising the influence of LPs over the process, we consider that this should have been given more weight in judging benefit between the two options.

The effect of an LPL switching process on the market

The review of mobile switching processes takes place in the context of Ofcom's strategic approach to switching in communications markets and the Government's interest in consumer switching generally, as mentioned above and both of these have set out strong support for GPL processes.

Ofcom dismisses 'quad play' switching, where mobile is combined with landline phone, fixed broadband and pay TV, as 'relatively limited to date' in paragraph 4.85. However, Ofcom's own research on consumer harm shows that consumer confusion about mobile switching and reluctance to switch are due, at least in part, to the shortcomings of the current mobile switching processes and this factor is likely to have dampened consumer interest in bundle switches including mobile products. Furthermore, with the BT acquisition of EE, BT is already offering fixed line broadband and mobile service bundles through various advertising channels⁴ and further technological developments in this area seem likely.

SSE advocates a vision of communications switching where any combination of products can readily be switched using similar and familiar 'front end' processes for the consumer, even though 'back office' switching systems may be quite different from each other. We believe that allowing one communications product to be switched on an LPL basis will 'chill' the competition for bundles involving that product due to the influence of the LP on the process and on the would-be switcher: this has previously been raised in relation to phone and broadband bundle switching when fixed broadband was switched on an LPL basis before Ofcom's harmonising reforms of 2015. What is currently proposed for mobile in the Auto-Switch option, for example, will give the LP control over links and other content seen by the consumer in the process of switching.

We also have concerns that the various intermediary companies who facilitate online switching may find it difficult to integrate a PAC-based LPL switching process into the portfolio of switchable services they can offer customers. Where 'immediate' response times in fact lie in the control of the LP and thus are subject to a range of interpretations on how quickly this is to be achieved, we believe there could be a risk of consumers continuing to see this element of the online switching process as 'too much hassle' if it cannot be completed within their expected time frame. This control of the latency of communications has a centralised element (via the Central Porting Service) in the proposed GPL process, which is perhaps easier to control at industry level and in any case, the GPL would have both the incentive and the time to follow up on any failed 'immediate' communications which affected particular transactions, minimising the hassle for the would-be switcher.

Conclusion

⁴ For example, at this link, http://www.productsandservices.bt.com/products/4g-sim-only-plans/bb.html?s_cid=con_ppc_maxus_vidZ60_T1&vendorid=Z60&gclid=CM_HI4Dm9MwCFFyV0wodZ6QJ5Q&dc_lid=CMTCrYDm9MwCFSWk7QodmosKjQ

Retaining an LPL approach to mobile switching appears to be a wasted opportunity, on Ofcom's part, to mandate a switching process in tune with intuitive GPL arrangements, which are used throughout the rest of the economy and to capture the wider benefits that this would bring.

The appendix to this letter sets out our response to most of the consultation questions, drawing on the above main points, as relevant.

Response to consultation questions

Q1: Do you agree with our updated conclusions that current mobile switching processes create consumer harm in terms of:

- unnecessary time and difficulties progressing a switch, including contact with the losing provider to request a PAC or cancel a service;
- requirements to pay notice after the switch has taken place; and
- loss of service that can occur when switching?

Yes. We support Ofcom's conclusions in this area and consider that the majority of the difficulties and harm that consumers face in mobile switching have their origin in the fact that the main PAC switching process currently offered is an LPL one. In a GPL process, the GP has the incentive to look after the customer's on-boarding journey 'behind the scenes' and make this as smooth as possible, thus removing hassle and coordination worries from the customer.

Q2: Do you agree that our proposed package of reforms is likely to be effective in addressing the consumer harms we have identified?

In its updated packages of reforms, Ofcom has identified, at paragraph 4.12, three measures to address collectively the consumer harm identified:

1. A requirement on providers not to charge for notice periods beyond the day on which the switch occurs;
2. A change in switching processes to address unnecessary time and difficulty consumers face to progress a switch; and
3. The proposal that 'loss of service' issues are tackled through the introduction of an end-to-end management process or through voluntary commitments agreed by industry.

SSE continues to support item 1, as noted in previous consultation responses.

We have also previously expressed support for coordination in mobile switching that would support a 'make before break' approach to preventing loss of service issues, mentioned in item 3. We are not convinced that voluntary commitments will provide equivalent assurance that there will be a systematic and coordinated approach across all the parties involved in the mobile supply chains towards improving the customer experience of mobile switching and maintaining it through market and technology changes going forward. We note that Ofcom is awaiting further information from the Operators' Steering Group on this topic and clearly the final voluntary proposals cannot be commented upon in responses to this consultation.

In relation to item 2 above, we agree that changes to the switching processes are necessary to address the difficulties that consumers face in using them. We continue to support GPL switching processes and are disappointed that Ofcom is not proposing to require such a process for mobile switching.

Q3: Do you have any comments on the specific process design for the different elements of the proposed reform package?

We consider that the newly defined 'Auto-Switch' process has the following drawbacks:

- It still leaves the LP with a degree of control over the process and experience of consumers who are seeking to leave. Ofcom acknowledges at paragraph 4.30 the incentives that LPs have to continue to steer consumers towards retention activity and we see no reason to expect that the design of websites and links that consumers visit as an integral part of the Auto-Switch process would not seek to exploit that retention opportunity. In this respect, the use of the 'Central Porting Service' in providing neutral information on PAC codes was one of the better aspects of the previous design of this LPL switching option.
- The process would allow the LP to provide switching information (such as any early termination charges payable etc) by providing links in texts to material on the LP's website, according to the comments at paragraph 4.109. The same options would presumably be open to LPs designing the content of the parts of their website that deliver PAC and switching information online. This contrasts markedly with the losing notification information requirements in the fixed line switching process, which are required to be comprehensive and neutral in tone, not being able to make any marketing statements. This control over the LP's involvement in fixed line GPL switching processes has arguably contributed to its success in making potentially switching customers well informed about the implications of switching while providing a smooth switching process. By contrast, the Auto-Switch process could lead to unintended consequences via the LP's greater role in providing information in the process.
- There is still also a valid path under this option for the would-be switcher to talk to the LP: it is still an LPL option. There thus remain all the risks identified both by Ofcom and the Government's review of switching (see footnote 1) at page 16: 'significant lengths of time' before customers could obtain their PAC code and customers finding the practices of LPs 'intimidating'.
- The new routes of 'immediate' text or online response to texted or online PAC requests respectively may not be used by all potential switchers. We noted in our previous response that more vulnerable customers are likely to have a preference to speak on the telephone to request what they need and would therefore still be subject to the unwanted save activity that Ofcom has identified through its research is a major difficulty for some customers. In paragraph 4.53, Ofcom's response to this point is that it is not trying to remove harms for all consumer groups. However, we would have thought that the ease of switching processes for vulnerable and relatively unengaged groups would be a material consideration for Ofcom in assessing the options. Section 2.33 of the consultation already refers to section 3(4) of the Communications Act where various matters to which Ofcom must have regard are set out. We note that this section also contains references to vulnerability, the elderly and those with disabilities at parts (h) and (i).
- At paragraph 4.83, the consultation notes that under the GPL process, customers would normally have to receive and reply to a verification text which authorises the switch. We suggest that replying to a text which provides clear instructions would be easier for more vulnerable customers than generating a text themselves to request a PAC – their point of recourse, if they need assistance would be the Central Porting System or the GP rather than the LP. Thus, the proposed interactions of the GPL process seem easier for these customers than those

mandated under Auto-Switch, where contact with the LP is an integral part of the switching process.

- The proposed process appears to rely on 'immediate' return of information to switchers for PAC codes and the switching information discussed above. This represents significant cost and challenge in IT terms compared with information delivery on a more relaxed timescale, which would be compatible with a GPL process where the GP, holding the relationship with the customer, has the time to process necessary information flows 'offline' from the customer discussion if necessary. It also suggests that there is little resilience in the Auto-Switch option if there are IT issues compromising the delivery of the 'immediate' information.
- Following on from the above point, we note that comparison sites and other intermediaries support GPL switching of mobile services. We are not convinced that Ofcom has fully considered how the proposed Auto-Switch process could be used by these companies to ensure a swift and secure switching process for product bundles including a mobile service.

Q4: Do you agree with our assessment of the likely impacts that we have presented of each of the options for reform:

- *Prohibiting charging for notice after the switching date;*

No comment.

- *Auto-Switch;*
- *GPL;*

As noted in the covering letter, we are not convinced of the sturdiness of Ofcom's methodology to take customer preference data to build relative projected benefits of the two options. We believe that there may have been unconscious preference by consumers for Auto-Switch as it is more familiar (given current mobile switching processes) than the GPL option and, as Ofcom notes in paragraph 5.43, they may have been uncertain how the GPL process would work in practice.

There are a range of unquantified benefits for GPL processes generally, such as the removal of the LP's degree of control over the switching experience; the simplicity of the message about how to switch, aligning with what is used for fixed line and in other sectors; the alignment of GP's incentives and ability to control the consumer's switching journey with the interests of the consumer in having a smooth and hassle-free experience of switching; the encouragement of competitors and competition due to the lower level of LPs' influence on switching processes; and the prospect of a single harmonised and future proof switching framework for all mass market communications products, capable of handling all types of communications bundle transfer with the same 'front end' for consumers. When all these advantages of a GPL approach are taken into account in an overall assessment, we believe there would be a clear preference for GPL and do not agree with Ofcom's more dismissive statements about GPL, for example at paragraph 5.45. Again, the Government's conclusion on this matter at the reference in footnote 1 is that 'the evidence suggests GPL processes provide the best consumer experience'.

In Figure 16, where Ofcom summarises the costs and benefits of the Auto-Switch and GPL options, the same phrasing is used to describe the benefit 'Removes the need to speak to the losing provider to port / terminate'. However, the benefit is not qualitatively the

same between the two options: it has been removed as a normal part of the GPL process but remains a 'normal' channel of contact to request a PAC under the Auto-Switch process. It has not been removed from the PAC process and, as noted above, we consider that a segment of customers who are not comfortable with more modern means of contact will continue to use it, thereby still suffering the detriment that Ofcom's research has identified. Similar equality between the options is claimed in paragraph 6.13.

In other parts of Figure 16, we would comment that the Scope for competition benefits are likely to be greater for the GPL option than the Auto-Switch option.

- *End-to-end management; and*

It is difficult to comment on the proposed voluntary option as some details are still to be presented to Ofcom by the Operators Steering Group. This Group provides a form of governance for the mobile market which is lacking in the fixed line area and we would hope that commitments to improve customer experience by coordinated action in this forum would be supported by appropriate incentives and penalties to hold individual parties to account such that the collective process can be seen to be working effectively.

- *Transparency requirements?*

No comment

Q5: Do you agree with our preferred option for reform i.e. a requirement to offer an Auto-Switch process, a requirement to prohibit charging for notice beyond the switching date, and a requirement to provide transparency of switching processes?

SSE does not agree with the proposal for an 'Auto-Switch' process in preference to any form of GPL process in mobile switching. We continue our agreement with the proposed prohibition on charging for notice periods beyond the switching date. Finally, we support a requirement on relevant providers to provide transparency about the switching processes, noting that the message about how switching works would be simpler for consumers if the GPL option is chosen.

Q6: Do you agree with our proposal for an 18-month long implementation period for our preferred reform option?

No comment.