Consumer switching
Proposals to reform switching of mobile communications services

TalkTalk's response to Ofcom's consultation document

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NON-CONFIDENTIAL VERSION

This is TalkTalk's response to Ofcom's consultation on mobile switching reform ("the consultation") published on 19 May 2017.

1   Summary

1.1   TalkTalk strongly supports the reform to radically improve mobile switching processes for UK consumers. Consumers must be able to move easily and smoothly between providers to take advantage of the best deals which meet their needs. Better switching, involving less hassle and clearer processes, will support greater competition in the market, which will in turn promote greater innovation and investment in mobile products and services and sharpening the incentives for CPs to find cost efficiencies.

1.2   We have consistently supported Ofcom's previous proposal to introduce gaining-provider led (GPL) switching to the UK mobile market and continue to favour this option. GPL continues to have advantages over Ofcom's updated "auto-switch" proposal, which would maintain a losing-provider led (LPL) process for mobile switching. GPL is necessary to bring about full switching reform to ensure that consumer benefits are maximised: responsibility for the switch will be passed to the provider with all the incentives to ensure it is completed successfully. Maintaining a LPL system using "auto-switch" stops short of full reform as the losing provider remains integral to the switching process.

1.3   We recognise that both GPL and "auto-switch" would represent an improvement on the current mobile switching processes. While we consider that GPL would deliver greater benefits, we have also included in this submission comments on the "auto-switch" proposal for Ofcom to take account of if it is minded to pursue this option.

1.4   We agree with Ofcom's proposals in relation to notice periods, loss of service and transparency requirements. We also support the extension of Ofcom's proposals to include small business customers for non-bulk ports of up to 24 mobile numbers but ask Ofcom to consider the proportionality of introducing the full range of reforms for these customers.

1.5   In line with Ofcom's proposal on implementation, at least 18 months from the date of Ofcom's decision is required for industry to implement any reform to the mobile switching process.

2   Comparison of "auto-switch" and GPL processes

2.1   We note that Ofcom's change in policy to favour the "auto-switch" option over GPL rests on the following three aspects of its analysis:

- Ofcom's assessment that both options address the consumer harm resulting from the time and hassle of switching;
- The results of the 2017 BDRC research on willingness to pay (WTP); and

- Ofcom's revised assessment of the implementation costs.

We provide comments on each of these aspects in turn.

<u>Addressing consumer harm caused by the time and hassle of switching</u>

2.2   Ofcom clearly sets out the additional benefits of GPL over "auto-switch" at §4.80, particularly the fact that "it removes the need for a PAC altogether, which might be simpler for switchers" and has the potential to be less confusing than a PAC based process. In our view, the GPL process is more streamlined and involves fewer steps for the switching consumer than the "auto-switch" process. Most significantly the GPL process removes any need for the consumer to contact the losing provider in order to switch. We agree with Ofcom that "GPL, by making switching easier and faster, would deliver greater benefits to considerers and by way of competition than auto-switch" (§5.67).

<u>2017 BDRC research</u>

2.3   We note that Ofcom draws on the 2017 BDRC research to estimate the benefits that may be delivered by the different proposals. In particular, it relies on stated preferences for one process over another and expected willingness to pay (WTP). We have these specific comments on this approach:
- Ofcom notes that 47% of PAC switchers stated a preference for "auto-switch" over GPL, while 39% of PAC switchers preferred GPL over "auto-switch". Relying on these comparative preferences (and those of cease and re-provide switchers), Ofcom states that "it is not certain that these potential benefits [of GPL] over auto-switch would necessarily be realised" (§4.81). We consider that this approach to assessing the benefits of GPL is flawed for the following reasons:
  o Current PAC switchers are likely to have a bias for the "auto-switch" process as it still uses a PAC and they are already familiar with that process;
  o The description "auto-switch" is misleading and implies an automatic switching process from one provider to another, which is likely to appeal to consumers but is not provided under Ofcom's proposal;
  o Comparatively the term GPL does not describe the process proposed: it is opaque and therefore less likely to add to the appeal of this option for consumers asked to state a preference.
- Ofcom has revised its estimates of the time-saving benefits of each proposal based on take-up information gathered through the 2017 BDRC research. Based on this, Ofcom estimates that "auto-switch" would deliver £6.9m of time savings benefits, compared with £4.7m under GPL. As Ofcom notes, the higher reported take-up of auto-switch "might be because respondents found the description […] more familiar than GPL" but this would "disappear over time" (§4.84). Ofcom concludes that "the research does not support the view that GPL is significantly more appealing to switchers than auto-switch" (§4.84).

While we recognise this, we also note that on this basis, and given the flaws in the research method, the research also does not prove the benefits of auto-switch over GPL. We do not consider take-up information from the research to be sufficient to revise the estimates of the benefits.

- Ofcom uses WTP responses from the 2017 BDRC research to further explore the relative benefits of the two proposals. It notes that "this type of evidence must be interpreted carefully as there is uncertainty about whether respondents would actually pay the price they said they would" (§5.37). Ofcom concludes that the WTP evidence shows that both proposals "would deliver significant benefits to switchers" but there is no basis for concluding that "GPL would in practice deliver greater benefits to switchers compared with auto-switch" (§5.45). We agree that the evidence is inconclusive and therefore cannot be used to compare the two approaches effectively.

Implementation costs

2.4 Ofcom has made a number of adjustments to the estimated implementation costs in response to inputs from stakeholders, including BT/EE, Vodafone and O2 and Virgin Media. In general, we note the propensity to overestimate the implementation costs of major reforms and the vested interests of these MNOs and large MVNO in maintaining the status quo to protect their market shares. On the changes to the cost estimates set out at (§5.70), we note that:

- Ofcom has updated its cost estimates for both proposals to reflect the assumption that "a much larger number of small MVNOs will be covered by [the] proposals". We agree that this is appropriate but question whether the assumptions take account of the range of impacts on small MVNOs and resellers affected by the proposals. By way of example, we outline our TalkTalk Business reseller arrangements below demonstrating that the proposals will have an impact because the porting function is delivered in-house, not under contract by the MNO. We would ask Ofcom to review its assumption that MNOs and MVNEs would "undertake a significant amount of the development of new functionality, on behalf of their MVNOs, such that smaller providers do not need to significantly alter their own back-office IT systems to comply".
- The amendment of the "auto-switch" proposal so that it no longer requires changes to the Central Porting System (CPS) and the development of a central ported number database saves an estimated £23m compared with GPL.
- Additional costs have been added to the GPL estimates for allowing time for CLI validation while processing the order, a backstop route for customers that cannot make or receive texts from the CLI that they want to port and decommissioning the existing PAC processes. We consider that adding costs for the backstop route is unnecessary: Ofcom has not presented evidence to show that there are customers that cannot make and receive texts and this scenario seems unlikely to be material.

<u>Conclusions on comparison of "auto-switch" and GPL proposal</u>

2.5 In summary, Ofcom concludes that based on the evidence "auto-switch is a more proportionate remedy to address the problems […] identified" and "will meet [the] policy objectives at a lower cost than GPL" (§1.17). Essentially, Ofcom's proposed decision to implement auto-switch is based on the lack of conclusive evidence on the advantages of GPL over auto-switch and the higher costs, mostly driven by the required CPS changes.

2.6 We acknowledge that while the cost estimates are uncertain and likely to be overstated, it is reasonable to conclude that GPL will cost more to implement than "auto-switch" due to the CPS changes. However, we consider that it is likely that the research underestimates the comparative benefits of GPL over "auto-switch" due to the research limitations set out above. We are concerned that in reaching its conclusion to implement "auto-switch" based on this analysis, Ofcom is continuing to tie the UK mobile market to a losing-provider led system based on the PAC code. The PAC code was originally introduced by the MNOs in order to facilitate save activity and make it more difficult for customers to switch. Stopping short of full GPL reform and implementing "auto-switch" effectively rewards mobile operators for having introduced the PAC – a system designed to stifle competition. If you implemented the switching system today, you would never implement the current system and would be likely to favour a GPL system to deliver the greatest competition and consumer benefits (as we saw for LLU/WLR switching on the Openreach network).

2.7 Given the vital need for effective mobile switching reform to support consumer choice and competition in the UK market, we would urge Ofcom to reconsider its proposal to back-track from the introduction of full GPL.

3 Specific comments on the "auto-switch" proposal

3.0 Despite our continued reservations about mobile switching reform that falls short of delivering a full GPL process, we acknowledge that the revised "auto-switch" proposal has advantages over the current switching arrangements and the previous automated-PAC proposal from which it has been developed. We agree that the process will be "significantly faster and easier compared with the status quo" (§4.82). If Ofcom does proceed with the "auto-switch" option rather than introducing full GPL, we note that the following matters will need to be addressed:

- The updated "auto-switch" process involves consumers contacting the losing provider, rather than the CPS as envisaged under the previous auto-PAC proposal put forward by Ofcom in its March 2016 consultation (see §§4.43-4.45). While we acknowledge that this revision will be lower cost due to the removal of the requirement for additional coordination through the CPS, we consider that Ofcom must fully address the risk of the losing provider frustrating the process of switching at this stage. We note

that Ofcom plans to do this through applying General Condition obligations relating to the timeliness of the delivery of the PAC or N-PAC, but note that this must be accompanied by robust enforcement to be effective. We also urge Ofcom to consider whether there are other means by which the losing provider could frustrate the process of switching and put in place appropriate safeguards to prevent them.

- Ofcom would need to put in place measures to ensure that the different routes for requesting the PAC/N-PAC are given equal prominence by CPs in consumer communications in addition to stipulating the requirement. In particular, these measures must ensure that the SMS route is clearly explained so that it is accessible to as many consumers as possible, including those more inclined to be nervous about using an automated SMS function to request their PAC or N-PAC. We consider that the communication by CPs should be accompanied by specific promotion by Ofcom to set out the advantages of the SMS route. These steps are necessary to ensure as many consumers as possible benefit from using "auto-switch" via SMS and therefore minimising the overall contact with losing providers by switchers under this process.

4 Other aspects of Ofcom's proposals

Non-porting customers

4.1 We agree with Ofcom that the benefits of any reform of the mobile switching process will be maximised by extending the policy to apply to customers that are not porting their numbers. We consider that this will make it easier for customers that are not porting their numbers to manage the switch without experiencing loss of service. In addition, we believe that making a single process available for all consumers regardless of whether they wish to retain their current mobile number will have the potential to improve awareness and understanding of the common process among a wider group of consumers.

Notice periods

4.2 As outlined in our response to the July 2016 consultation, we support Ofcom's proposals to prohibit charging for notice periods after the switching date. Removing the risk of 'double payments' in this way will remove further friction from the process and help to ensure that there are no unnecessary difficulties or deterrents for consumers who wish to switch mobile providers, in line with Ofcom's policy objectives.

Loss of service

4.3 We have previously supported Ofcom's proposals to bring about full reform of the end-to-end switching process in order to address the consumer harm caused by loss of service during a switch, especially where this extends beyond one working day. We note that Ofcom is now minded to accept industry commitments to address this issue through reforms to existing processes delivered by the Mobile Number Portability Operators' Steering

Group (MNP OSG), rather than imposing top-down systems reform. We support this approach but note that Ofcom will need to play a continuing role in monitoring the progress made by the MNP OSG.

Transparency requirements

4.4 Any switching reform must be accompanied by clear, accessible consumer information in order to maximise the benefits delivered by the change. We support Ofcom's proposals to require providers to communicate clear information to their customers on the processes for switching and porting.

Business customers

4.5 We support the extension of Ofcom's proposals to include small business customers for non-bulk ports of up to 24 mobile numbers. We note that Ofcom has made certain assumptions about the implications of implementing these proposals for providers that serve business customers, including a range of smaller providers operating under reseller and MVNO arrangements.

4.6 TalkTalk Business (TTB) serves business mobile customers under reseller arrangements with O2 and Vodafone. The arrangements for serving and billing these customers are entirely separate from our TalkTalk Consumer mobile service delivered through an MVNO contract with Vodafone. We describe the current arrangements for porting for TTB mobile customers below.

4.7 We operate the current mobile number portability (MNP) arrangements for TTB mobile customers in-house, rather than through our MNO partners. The process is as follows:
- Customers wishing to port-out their number can contact TTB by telephone, email or online chat to request a PAC code. This is delivered immediately over the telephone or online chat and within two hours if the request is made by email. Delivery of the PAC is managed through a manual process that involves the Customer Service Agent logging on to the Syniverse system to retrieve the PAC.
- Customers wishing to port-in their number first provide their existing number and PAC code to a CSA. The CSA then agrees the porting date with the customer over the telephone in line with the industry-wide arrangements for MNP.

4.8 Based on these current arrangements for serving TTB mobile customers, we anticipate that to implement the "auto-switch" proposal the major changes would include:
- Setting up an SMS system (to support requests for single number switches) and online portal in addition to the current communication channels; and
- Systems integration with the CPS to deliver the immediate PAC and N-PAC functionality (as our current processes are manual rather than automated).

4.9 Comparatively, the GPL process would be less onerous in terms of the changes that TTB would be required to make due to the greater involvement of the CPS in delivering this reform.

4.10 We cannot comment on the MNP arrangements of other providers serving business mobile customers but would ask that Ofcom considers the range of arrangements in the round when reaching its final decisions on switching reform. While we welcome the extension of the reform to benefit small business customers, we note that all elements of the proposals must be proportionate both across the industry value chain and for individual providers. For example, TTB operates under a reseller model but has in-house porting processes (as described above) and would be required by Ofcom's auto-switch proposals to carry out significant systems changes, particularly to deliver the SMS route [✂].

Implementation

4.11 We support Ofcom's proposal to allow an 18 month period for industry to implement the switching reform from the date of its final decision. We agree that the process will require a high degree of industry collaboration and Ofcom attention. The proposed timeframe appears appropriate based on the previous implementation period for reforming switching processes for broadband customers served using the Openreach network.

4.12 Detailed process design must include mobile operators of all sizes including CPs that serve small business customers, not just the MNOs. We look forward to contributing to this process to deliver a cost-efficient solution that makes mobile switching simpler for consumers.