

TELEFÓNICA UK LIMITED RESPONSE TO:

CONSUMER SWITCHING – Proposals to reform switching of mobile communications services

Ofcom Consultation

June 2017

TELEFÓNICA UK LIMITED RESPONSE TO OFCOM'S CONSULTATION: CONSUMER SWITCHING

I. INTRODUCTION

1. Telefónica UK Limited ("Telefónica") welcomes the opportunity to respond to Ofcom's consultation on Consumer Switching 2017 (the Consultation)¹. O2 is the commercial brand of Telefónica UK Limited.

II. EXECUTIVE SUMMARY

We agree with Ofcom, it is important that switching works well for customers

2. Like Ofcom, we believe it is important that the mobile switching process works well for customers.

Overall, the evidence shows the current process performs well for most customers

3. As we and a number of other stakeholders previously highlighted, overall, the evidence shows that the current process continues to serve the majority of customers well:
 - i. Customer satisfaction remains high²
 - ii. Mobile switching remains prevalent³
 - iii. Complaints are comparatively low⁴
 - iv. Mobile compares favourably to those markets where Ofcom has intervened already⁵

¹<https://www.ofcom.org.uk/consultations-and-statements/category-2/consumer-switching-proposals-to-reform-switching-of-mobile-communications-services>

²See Annex 6

³ibid

⁴ibid

⁵ibid

4. Whilst we recognise Ofcom's BDRC research finds that some customers express dissatisfaction with the current process⁶, we are concerned that Ofcom relies so heavily on the BDRC research compared to the broader evidence⁷.

We are unconvinced that the case has been made for Auto-Switch (or GPL)

5. We appreciate Ofcom considers the Auto-Switch solution will make it easier for customers to get a PAC. However, we are concerned that it remains costly and complex to implement and has drawbacks which may not lead to materially better customer outcomes. In our view:
- i. Overall, a voice conversation remains best suited to providing a PAC along with comprehensive information about the implications of switching to assist customers⁸⁹;
 - ii. The costs of moving to Auto-Switch (and GPL) are likely to be greater than Ofcom assesses¹⁰;
 - iii. The benefits of moving to Auto-Switch (and GPL) are likely to be less than Ofcom assesses¹¹;
 - iv. The evidence from Ofcom's Quantitative Research, along with Ofcom's Consumer Experience Report 2015, 2017 and elsewhere suggests that Auto Switch will present its own issues for those that find the current process "difficult"¹².

⁶ "The BDRC 2017 consumer research indicates that around four in five switchers who requested a PAC and/or cancelled their service were either 'very' or 'fairly' satisfied with the method they had used to request the PAC and/or cancel. However, a material proportion of switchers (one in six) were either 'very' or 'fairly' dissatisfied with the method used to request PAC and/or cancel." [§3.69]

⁷See Annex 6

⁸ And, as Ofcom recognizes, there are likely to be a variety of types of accounts for which phone contact is likely to be the most suitable, for example, multi-phone, family accounts, shared discounts and multi product accounts.

⁹ See Annex 3 in respect of Ofcom's previous Quantitative Research. The evidence from the Quantitative Research, Ofcom's Consumer Experience Report and elsewhere suggests that a level of dissatisfaction is likely to persist regardless of process.

¹⁰ Broadly, we believe Ofcom's cost assessment work underestimates the likely costs for providers with multiple billing platforms and in relation to MVNOs/ smaller service providers' CRM capabilities. And as we have said previously, the absence of deeper detail via technical specification for review with MNOs also increases uncertainty and risk of cost escalation.

¹¹See Annex 6

¹²We believe the current process provides checks and balances which are difficult to replicate in an Auto-Switch solution (verification and authentication, informed consumers and protection against

6. In summary, we are not convinced that there is a robust cost/ benefit case for Auto-Switch¹³. As it stands, we understand Ofcom estimates the benefit to customers to be 44p per switcher. We do not believe intervention is likely to be proportionate on this basis¹⁴.

We welcome Ofcom's approach to encourage industry to deliver on its voluntary commitments to address issues of "loss of service" arising from the current back office processes

7. We welcome Ofcom's proposal to support voluntary commitments to delivering an improved porting execution process. This aims to reduce instances of loss of service (beyond the porting window¹⁵) [§6.56 and §6.57].
8. As a general principle, consideration of voluntary/ self-regulatory approaches is to be welcomed. We would be pleased to explore any further opportunities for voluntary approaches.

We note Ofcom's proposal that mobile operators should not be able to charge consumers to pay for a notice period once the consumer has switched mobile provider

9. Ofcom remains of the view that prohibiting charging for notice after the switching date would deliver a significant reduction in double paying for switchers [§4.14].
10. As Ofcom appreciates, O2 does not engage in this practice¹⁶.

unauthorized switching). However, we note Ofcom proposes that Auto Switch can be triggered automatically at point of sale (with the gaining provider).

¹³ "Text to Switch" and Online PAC.

¹⁴ For example, this is less than the loss of average savings on O2 Priority which a customer would experience were they not informed of this when requesting a PAC. [§4.14]. And 63% of O2 Refresh customers save 50% or more if they keep their handset at the end of their contract. These are significant savings compared to the WTP of 44p per switch. The value of other services would also be lost (see previous response).

¹⁵ Although, as we noted in our previous response some loss of service is inherent where a customer changes their SIM card (including under Ofcom's "end to end management" proposals in the previous consultation).

¹⁶ Our approach is not to charge service charges beyond the day the port takes place. Our understanding is Ofcom is concerned with ongoing service charges (i.e. monthly subscription) and does not inhibit a provider's ability to raise final bills which include late landing charges such as roamed usage (or possibly the return of deposits etc.)

Concluding comment

Ofcom engagement

11. We have welcomed Ofcom's engagement with stakeholders in the course of its consultations¹⁷. As Ofcom explains, it has updated its assessment in light of this engagement and its research. However, we are not convinced by the revised cost/benefit assessment made.

We are not convinced that the costs of implementing Ofcom's proposals of Automated PAC (or GPL) are outweighed by the perceived benefits

12. We remain concerned that:

- i. the costs of moving to Auto-Switch (and GPL) are likely to be greater than Ofcom assesses. We believe that Ofcom has underestimated the costs and complexity of its proposals – for industry and consumers;
- ii. any benefits of moving to Auto-Switch (and GPL) are likely to be less than Ofcom assesses, and
- iii. “harms” are likely to persist regardless of process (Ofcom’s Quantitative Research, Ofcom’s Consumer Experience Report and other evidence suggest this¹⁸).

13. Customers are increasingly served via digital channels¹⁹. Were Ofcom to intervene with Auto Switch, we see no incremental benefit of requiring Text to Switch in addition to an online PAC. We consider online likely to provide a better solution than text (but not as well suited as voice for the reasons we discuss).

14. Ofcom must act in accordance with its regulatory duties and principles²⁰. Given that we are not convinced that Auto-Switch (or GPL) will deliver materially better customer outcomes overall and it will be complex and costly (and that dissatisfaction

¹⁷ The March 2016 Consultation, the July 2016 Consultation and the January 2017 cost update Consultation.

¹⁸ See Annex 6

¹⁹ Customers are increasingly served online.

²⁰ See *Vodafone Limited v Office of Communications* [2008] CAT 22 and *Hutchison 3G UK Ltd v Office of Communications* [2008] CAT 11. Also, *Better Policy Making: OFCOM’s approach to Impact Assessment*, issued on 21 July 2005. http://stakeholders.ofcom.org.uk/binaries/consultations/better-policy-making/Better_Policy_Making.pdf

will persist) we believe that Ofcom is likely to fail to meet its duties and principles on the evidence put forward.

This response

15. We respond to Ofcom's updated assessment in more detail in the remainder of this response.

III TELEFONICA RESPONSE

Telefonica Response

16. In this section we explain why we believe:

- i. Overall the current PAC process works well for the overriding majority of customers;
- ii. A voice conversation remains best suited to ensure a customer is informed of the implications of leaving²¹;
- iii. The costs of moving to Automated PAC are likely to be greater than Ofcom assesses²²;
- iv. The benefits of moving to Automated PAC are likely to be less than Ofcom assesses;
- v. The evidence from the Quantitative Research, Ofcom's Consumer Experience Report 2015, 2017 and elsewhere suggests that the "harms" identified by certain groups are likely to persist regardless of process, and
- vi. As such, we are not convinced that the benefits of moving to either of Ofcom's options outweigh the costs²³.

17. Were Ofcom to wish to proceed in relation to its options, it must ensure that its Decision meets the test of profound and rigorous scrutiny required²⁴. On the evidence, we do not believe it does. We welcome the opportunity to discuss our comments in due course and explore if alternative steps could be taken to improve the existing

²¹ As Ofcom has previously recognized.

²² Broadly, we believe Ofcom's cost assessment work underestimates the costs of implementing Auto Switch. And as we have said previously, the absence of deeper detail via technical specification for review with MNOs also increases uncertainty and risk of cost escalation.

²³ In our previous response we explained: *We also believe it is important to be clear whether the issues are driven by the switching process itself or non-process matters such as those discussed in Section 6. On this latter point, we make some observations in Annex 3. As Ofcom will note, many of the issues are not necessarily switching process matters. And, it is also important to note that a number of the issues identified are common to both LPL and GPL switching (see Ofcom's research summarised at Figure 8). Ofcom's proposition is that a move to GPL may reduce these difficulties compared to the LPL and C&R process. As such the question is really not whether the LPL process impairs switching per se but rather whether GPL will result in less "impairment" and better customer outcomes.*

²⁴ See *Vodafone Limited v Office of Communications* [2008] CAT 22 and *Hutchison 3G UK Ltd v Office of Communications* [2008] CAT 11

process for those customers who do not wish to speak with their existing to obtain a PAC²⁵.

Overall the current PAC process works well for the overriding majority of customers

18. Like Ofcom, we believe it is important that the mobile switching process works well for customers.²⁶

19. We recognise Ofcom's concern that updated research indicates that some customers remain dissatisfied with the current process²⁷:

"Our updated evidence continues to suggest that some consumers remain dissatisfied with current switching methods and that consumers place significant value on the likely reduction in time and difficulties offered by our core process reforms." [§3.68]

20. Ofcom believes the issues for switchers remain "material" irrespective of the wider market metrics [§3.61].

21. We do not agree that broader market measures can be readily dismissed. There is clear evidence of customers exercising choice, taking advantage of competition in the market and switching [§1.1] (comparing favourably to the counterfactual – for example, markets where GPL has been implemented). This evidence includes²⁸:

- i. Customer satisfaction remains high
- ii. Mobile switching is prevalent
- iii. Complaints are comparatively low

²⁵ As a general principle, consideration of voluntary/ self-regulatory approaches is to be welcomed. We would be pleased to explore any further opportunities for voluntary approaches. For example, if an alternative route is necessary to allow customers to get a PAC without a conversation (despite the risks of a poorer experience – as discussed in this response), we believe an online solution will deliver a better customer experience than "text".

²⁶ As Ofcom says, so that "*customers can exercise choice and take advantage of competition in communications markets by being able to switch provider easily and without unnecessary difficulties.*" [§1.1]

²⁷ "*We believe that the consumer research we conducted in 2017 continues to support our view, as set out in our March and July consultations, that a significant number of switchers experience difficulties when switching. We are also of the view that others appear to be deterred from switching by concerns about the process. In particular, our BDRC 2017 consumer research results suggest a significant minority (16%) were dissatisfied with their method of requesting a PAC (17% among those who requested this via the phone). A similar proportion, 14% (16% for those doing so via the phone) were dissatisfied with their method of cancellation.*" [§3.60]

²⁸ As pointed out by many stakeholders in previous consultations.

- iv. Mobile compares favourably to those fixed markets where Ofcom has already intervened.
22. Furthermore, Ofcom has not considered the levels of dissatisfaction in those fixed markets where Ofcom has already intervened.
23. Whilst, Ofcom is concerned that the switching process is unnecessarily difficult and proposes a package of remedies intended to make switching quicker and easier, Ofcom relies too heavily on its BRDC research and too readily discounts the broader evidence which has previously shown that mobile switching performs better than fixed and broadband (where Ofcom has intervened).
24. It is important that there is confidence that any changes to the current process are proportionate and will improve matters overall for customers. Ofcom undertakes an Impact Assessment to establish what steps (if any) Ofcom should take (in accordance with its regulatory duties). The counterfactual remains: already consumers find mobile switching less difficult compared to other markets such as fixed and broadband. These markets have been subject to regulatory interventions moving to GPL (which Ofcom seeks to mimic in part with its Auto-Switch approach²⁹).

We think Auto-Switch presents its own risks and overall is less well suited to assist customers than the current process

25. We appreciate Ofcom remains concerned that for a “*significant minority*” the experience could be better (less hassle, loss of service and double paying). As we discuss, we are not convinced that Auto-Switch is the panacea that Ofcom suggests. We think it presents its own risks and is less suited than a voice conversation to assisting customers in the switching process³⁰.
26. We continue to believe that overall, the current mobile switching process generally serves customers well (as Ofcom’s research recognises). We believe that over the course of Ofcom’s Consultations, the evidence has been that there is a high level of engagement from mobile customers, switching levels are high, satisfaction with the process is high and complaints are at a relatively low level. Whilst, we appreciate that some customers are not satisfied with the current switching experience, overall, we are not convinced that Auto-Switch will materially improve matters. We are concerned that it will drive a worse customer experience for some customers – in practice that

²⁹ Since the porting/ cancellation process can be requested at point of sale [§4.23]

³⁰ See Annex 6.

concerns will persist regardless of process. We are not convinced that the “prize”, 44p per switcher justifies this risk³¹.

A voice conversation remains best suited to ensure a customer is informed of the implications of leaving

27. Overall, we believe a voice conversation remains best suited to ensure a customer is informed of the implications of leaving (and affords an appropriate level of account verification). Whilst we note Ofcom’s assessment that some customers would prefer the option to obtain a PAC without speaking to their losing provider³², as we explained in our previous response, our own experience is that customers value the opportunity a voice conversation gives them to seek a better deal.

28. Ofcom comments that: *“Our updated evidence continues to suggest that some consumers remain dissatisfied with current switching methods and that consumers place significant value on the likely reduction in time and difficulties offered by our core process reforms”*. We are not convinced that 44p is “significant” nor that the methodology adequately reflects consideration of the implications of switching³³.

It is essential that there is confidence that any changes will deliver a better customer experience and customer outcomes overall

29. We remain concerned that, Text to Switch (and GPL) present challenges for the customer experience, exposing customers to an increased level of unauthorised/uninformed switching and fraud (compared to the status quo)³⁴.

30. We believe that the delivery of Switching Information via SMS is unlikely to deliver as comprehensive information and understanding as that provided by a voice conversation. Ofcom itself recognises this in its previous Consultation. We note Figure 16 considers the potential costs to switchers are mitigated because of “Similar protection as in the status quo”. We do not agree with that assessment.

³¹ [§6.21]

³² Ofcom explains that the results of its BRDC 2017 Research “*suggest high levels of interest in a process that does not require a conversation with the losing provider.*” [§3.77]

³³ For example, services/ savings lost (such as savings with O2 Priority).

³⁴ Under the Auto-Switch solution the porting/ cancellation process can be triggered at point of sale/ automatically when the new service is activated [§4.23].

We remain concerned that a move to Auto-Switch will not result in a better experience for customers overall

31. Accordingly, we remain concerned that a move to Auto Switch as proposed will not result in a better experience for customers overall. Ofcom recognises the risk (“We are keen to ensure that the reforms that we have proposed do not introduce risks of unintended consequences” [§4.103]) albeit reaching a different conclusion to us.
32. We discuss our concerns in respect of Text to Switch below.

Online PAC

33. We believe the online route affords a better customer experience than “text to switch”:
- i. Online customer engagement is already increasing³⁵;
 - ii. It provides access to fuller information (Switching Information and other). The text process will need to provide a link to this information online or in any event since the capacity of a text message is unlikely to be able to provide such information³⁶;
 - iii. Online is more secure than text message;
 - iv. It may offer a better cost/ benefit than text³⁷.
34. We note that Ofcom considers that text and online “together” represent the optimal solution. However, we consider that online has more advantages than text and hence is the preferable solution. Were Ofcom to intervene, it affords a better overall customer experience than text and we see no benefit under the cost/ benefit analysis of mandating text to switch in addition to online.

³⁵ Hence online is a more natural place than text.

³⁶SMS will be incapable of providing full Switching Information within character limits. A link to online account/ app will be necessary. Accordingly, for those customers that do not want to speak with their provider, we believe that verification and execution of switching is best orchestrated via the online account.

³⁷ Ofcom estimates that online is cheaper than text (£14M vs £24M) [§6.28 and §6.32]. Ofcom also assesses it is more flexible in that it can provide for multiple number accounts and business (to an extent). However, note, as we discuss elsewhere, we consider that the costs of implementing online only are likely to be underestimated because of the number of providers that would need to undertake developments to their CRM systems, that online is unlikely to deliver relevant Switching Information as well as voice and that there are costs associated with the likely move to more proactive retention activity.

We believe Ofcom is right to conclude that GPL is not a proportionate response to the issues which give Ofcom cause for concern

35. We note that Ofcom's BDRC 2017 research found that respondents favoured Auto Switch over GPL³⁸ and that Ofcom considers that Auto-Switch is a more proportionate remedy than GPL.
36. As per our previous submissions, we remain unconvinced at the case for GPL. For brevity, we do not propose to repeat our views in any detail in this response given Ofcom's revised proposals. Suffice to say we continue to be unconvinced that a move to GPL is justified.

We welcome Ofcom's approach to encourage industry to deliver on its voluntary commitments

37. We welcome Ofcom's proposal to encourage industry's voluntary commitments to improve the porting execution process. These aim to reduce instances of loss of service (beyond the porting window) [§6.56 and §6.57].

We note Ofcom's proposal that mobile operators should not be able to charge consumers to pay for a notice period once the consumer has switched mobile provider

38. We note that Ofcom remains of the view that prohibiting charging for notice after the switching date would deliver a significant reduction in double paying for switchers [§4.14].
39. As Ofcom appreciates our approach is not to charge service charges beyond the day the port takes place³⁹.

³⁸ "We found that 80% of PAC switchers (73% of C&R switchers) said they would use Auto-Switch. We asked the same question in respect of GPL and found that 66% of PAC switchers (58% of C&R switchers) said they would use GPL" [§5.31]. Figure A10.6, Annex 10 of the Consultation and elsewhere. Ofcom adjusts the stated take up rates in its assumptions modelling on the basis that in practice, take up is likely to be lower than stated. [§5.34]

³⁹Our understanding is Ofcom is concerned with ongoing service charges (i.e. monthly subscription) and does not inhibit a provider's ability to raise final bills which include late landing charges such as roamed usage (or possibly the return of deposits etc.)

Customers who want to switch but do not want to take their number with them (“Cease and Re-provide” (C&R) or “non-porters”)

40. Ofcom proposes to extend the Auto-Switch process to non-porters (C&R)⁴⁰. We note that Ofcom considers non-porters would value a PAC (‘N-PAC’) process. Further, Ofcom explains that its proposal to address double charging (prohibiting charging for notice after the switching dates) mean that C&R must be included in the Auto-Switch process in order to trigger the prohibition. Ofcom asserts the USD provides for this⁴¹.
41. Ofcom’s Impact Assessments concludes that this would deliver reductions in double paying for non-porters of between £15M and £22M over ten years (NPV). However, Ofcom already includes “Willingness to Pay” in its calculations - which Ofcom explains it considers a “*more comprehensive quantification of the total reduction in consumer harm*”:

“We have also estimated the reduction in harm through an analysis of consumers’ willingness to pay for our reforms, which we consider provides a more comprehensive quantification of the total reduction in consumer harm.”
[SA10.4]⁴²

42. As such, the inclusion of an amount for double paying duplicates the WTP, which Ofcom explains is a comprehensive quantification of the total reduction in consumer harm⁴³.

⁴⁰ Ofcom note that where the consumer wants to switch provider but not port their number, currently no formal process exists to achieve the switch [§2.12]. Rather such customers cancel their old service, including giving any required notice and separately contact their new provider to take a new service (referred to as “Cease and Re-provider” or “C&R”). The regulatory framework currently only specifies a regime for those customers that wish to take their number with them (“number portability”). The current PAC process is implemented under this regulatory regime.

⁴¹ Article 30 of the Universal Service Directive states that:

“[w]ithout prejudice to any minimum contractual period, Member States shall ensure that conditions and procedures for contract termination do not act as a disincentive against changing provider”.
[§2.41.]

⁴² And *“In Section 5, we explained that we have commissioned consumer research (the “BDRC 2017 research”) to better understand the benefits that implementing either Auto-Switch or GPL could deliver. This research explored how much switchers who had recently switched via PAC or C&R would be willing to pay to use Auto-Switch and GPL to switch, rather than the way they switched last time. We consider that this evidence is capable of providing a better estimate of the total reduction in harm to switchers that our options could deliver, because it relates specifically to the options we have proposed, and (in principle at least) captures the full value of the difficulties that switchers would avoid when using a new process.”* [§11.1]

⁴³ Ofcom estimates *“the reduction in harm through an analysis of consumers’ willingness to pay for our reforms, which we consider provides a more comprehensive quantification of the total reduction in consumer harm.”* A10.4.

43. Accordingly, Ofcom overestimates the benefits of Auto-Switch.

The costs of moving to Auto-Switch (and GPL⁴⁴) are likely to be greater than Ofcom assesses

General

44. We identify a number of areas where we believe costs are likely to be higher than Ofcom assesses⁴⁵:
- i. Technical implementation costs (for example, in relation to validation management and assumptions regarding CRM platforms), and
 - ii. Reduction in customer experience (increased harm caused by slamming/unintended and uninformed switching⁴⁶ and fraud).

Technical implementation costs

Validation Management

45. As previously, we are concerned that the level of validation/ verification proposed within "Text to Switch" will not be sufficient to protect customers. We discuss this further in Annex 4.

⁴⁴ Although note, for the purposes of this response we have concentrated our comments on Auto-Switch since Ofcom considers the latter is a more proportionate intervention than the former.

⁴⁵ Based on our current understanding and ongoing discussions with Ofcom. Underpinned costings would require a technical specification. As the CAT found (see below) it is important to allow stakeholders to provide realistic estimates of the likely costs of adopting the modifications to implement and establish a central database.

As the CAT noted: "However, we emphasise that it will not be necessary in every case in which OFCOM intends to carry out a CBA to provide specific cost estimates only following the design of an exact technical specification. What is required is that stakeholders consulted on proposals should be able to provide realistic estimates of the likely costs of adopting a proposed solution founded on a comprehensive range of specification. It will be a matter for the regulator to decide, in each individual case, whether it is best placed to design the initial specification that will be consulted upon and costed by industry or whether it will require industry to cooperate on the formulation of the technical parameters." And further "in the absence of a provisional technical specification on which consultees could provide useful data, OFCOM deprived themselves of the opportunity properly to inform their analysis of the potential costs of their proposals". [65] http://www.catribunal.org.uk/files/Judgment_1094_180908.pdf

⁴⁶ Under the Auto-Switch solution the porting/ cancellation process can be triggered at point of sale/ automatically when the new service is activated [§4.23].

46. We are concerned that this has a number of implications:
- i. The costs associated with Validation Management are likely to be higher than anticipated for Service Providers (MNOS/MVNOs/ Providers), and
 - ii. There will be an increase in customer “harms” – depending on the Validation Management solution finally determined - and that this must be taken into account.

The “typical operator” approach

47. Ofcom’s assessment of implementation costs does not model costs for existing operator networks but rather the costs of a typical operator, based on size (small, medium or large) and whether they are an MNO or MVNO⁴⁷. We note that InterConnect Communications assesses that costs are “representative” without necessitating intimate network and systems knowledge of each individual service provider.⁴⁸

48. Whilst, we recognise the approach Ofcom has taken, as discussed earlier, we believe that the costs of moving to Auto-Switch are likely to be greater than Ofcom estimates⁴⁹. For example:

- i. [REDACTED]
- ii. Ofcom explains “discussions with one operator suggested that the process would require them to undertake fundamental system changes, at very high cost. This suggests that the gross cost could be higher still.” [§5.97]⁵⁰;

⁴⁷ See Executive Summary of “Report for Ofcom on the Analysis of Mobile Service Provider Costs arising from potential System Development/ MNP Process Change”, Final Report 10 Mat 2017, InterConnect Communications. Published with the Consultation. [ICC Report]

⁴⁸ “The considered finding of this report is that the approach taken by Ofcom in defining cost assumptions based on a perception of an average service provider within certain defined size categories was a reasonable approach and that the costings produced are representative. In so doing, Ofcom has communicated anticipated costs to industry resulting from new regulatory requirements, without necessitating intimate network and systems knowledge of each individual service provider” [ICC Report]

⁴⁹ As discussed in our response to Ofcom’s January 2017 Consultation on the Costs workbook https://www.ofcom.org.uk/__data/assets/pdf_file/0017/101276/Telefonica-response-to-31-January-2017-revised-cost-estimates-and-process-updates.pdf

⁵⁰ [REDACTED]

- iii. Ofcom assumes that MNOs will make changes to support smaller MVNOs/ Service Providers⁵¹. Ofcom underestimates the complexity of this (technical and commercial) since it will require sharing and exchange of customer information between smaller MVNOs/ Service Providers and their host network operator. Also, see (v) below;
- iv. More generally, ICC notes that the costs are “initial top-level estimates” following engagement with stakeholders. However, as the ICC Report recognises they are not based on “*Impact Assessments*” (leading to a specification of the resulting business process, technological and system change and ensuring organisational change.” ICC observes that “*Typically, following an Impact Assessment, initial outline plan effort estimates tend to increase*”, and
- v. Further, the ICC Report notes that “*The worksheets assume system development costs are borne by each of the larger organisations*”. [§5.4.6] and that service providers would need to update their CRM. As such, we continue to believe that Ofcom’s assessment of the costs underestimates the number of service providers which will need to undertake CRM developments (as per our response to the January 2017 consultation on Cost Estimates) and / or the development costs of establishing an “account management portal” for smaller MVNOs/ Independent Service Providers.

49. Accordingly, whilst Ofcom notes that it is modelling the costs of “one reasonable approach”, we consider that there are reasonable grounds to suggest that this model underestimates the costs of implementing Auto-Switch^{52 53}.

⁵¹ “...we therefore continue to assume that small MVNOs’ [including independent service providers] costs would be largely confined to uploading relevant elements of data for each CLI to an MVNE account management portal, and keeping this information updated”. [§A8.69]

⁵² “We are not specifying that small MVNOs must rely on their MVNE to provide ETC information. To the extent that small MVNOs choose to generate real-time ETC information themselves, and deliver this information directly to the CPS or the consumer, we have no objection to this. However, in order to estimate likely and reasonable implementation costs, we are interested in estimating the costs of one reasonable approach that would allow mobile providers to meet the proposed requirement, without having any adverse impacts elsewhere.” [§A8.68]

⁵³ “.....we also assume that MNOs as well as Mobile Virtual Network Enablers (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. This includes the generation of real-time switching information on ETCs and outstanding handset liabilities.” [§5.70]

“Cancel Other” and general exception management

50. We believe there are likely to be a range of “exception management” scenarios. For example:

- i. customer change of mind/ finds a better deal from another provider;
- ii. customer wants to consolidate mixed base from two or more providers to one new provider;
- iii. management of sharer tariffs⁵⁴/ multi- use accounts/ family accounts (for example, where porting has implication for discounts and setting of primary and secondary numbers – the customer may not recognise the implications), and
- iv. “cancel other”.

51. Voice remains best suited to these more complex cases and we recommend that Ofcom does not mandate Auto-Switch for such cases. Otherwise “Exception management” will need deeper analysis and design work. We would be concerned that costs will escalate given that the detail has yet to be specified.⁵⁵

Multi-mobile accounts

52. As per Ofcom’s previous consultation, we understand that Ofcom appreciates that multi-mobile accounts are complex and hence communicating relevant information via SMS is not a suitable medium. Hence PAC requests do not need to be accepted by SMS for such accounts⁵⁶. We support this. As we explained in our previous consultation response, there can be a variety of complexities to accounts, including sharer tariffs, family tariffs and multi-product accounts. We provided examples in our previous response. For brevity, we have not provided these examples again (but are happy to discuss with Ofcom if that would be helpful).

53. For multi-mobile accounts we believe a voice conversation provides a better switching experience than online.

⁵⁴ We have propositions where one subscriber (mobile number) pays for allowances used by other mobiles on the same account. If the sharer disconnects then these “secondary numbers” are orphaned and may become liable for overage charges. Normally our agents will advise customers as to what changes should be made to the rest of the account to address this.

⁵⁵ Although, we note Ofcom recognises multi-user accounts will not be within scope of Auto-Switch.

⁵⁶ If implemented, we welcome Ofcom’s recognition that “text to switch” would only be available where the request is in respect of no more than one mobile number [§C[X].5 b) of proposed General Condition] See Annex 14, Schedule 1 of the Consultation.

Implications for cost benefit analysis

54. In view of the above, we are concerned that the costs assessments made to date are not sufficient for a robust cost benefit assessment (as required).

Reduction in customer experience – and associated costs*General*

55. We remain concerned that the provision of Switching Information via Auto-Switch is unlikely to deliver as comprehensive information and understanding of the implications of switching as a voice conversation. Ofcom recognised this in its previous consultations but in Figure 16 Ofcom now concludes the level of protection under Auto Switch is consistent with the status quo. We don't agree. We believe a voice conversation is better suited to providing the necessary information and dialogue.
56. We believe that for those customers who do not wish to speak with their provider to obtain a PAC, the online route is likely to provide a better experience than Text to Switch. Online would enable improved authentication and authorisation. It would also provide fuller information than via SMS – although, we do not believe it is as comprehensive as the current voice provision.

Customer control and comprehension of implications of switching

57. Ofcom explains the customer will be provided with "Switching Information" by SMS (and online and phone depending on the route the request arises) prior to the switching decision. Ofcom assesses that it would take 1 minute for a customer to assess the implications of switching.
58. We shared Ofcom's view in the last Consultation that Switching Information in either of the options is unlikely to deliver as comprehensive information as the status quo. We provided examples of the type of relevant information currently discussed with customers at switching. This remains relevant but for brevity we do not repeat the examples here.
59. However, we can find no assessment of the customer detriment (reduced customer understanding and control⁵⁷) in Ofcom's Cost Benefit analysis. In our view, this is an omission.

⁵⁷ As Ofcom recognises, there may be a cost for those customers who are currently actively controlling their switch.

60. Furthermore, we remain concerned that Ofcom underestimates the time a customer will take in assessing the information provided to them (although, in practice Ofcom adopts WTP in its assessment).

Fraud

61. Ofcom explains that it mitigates fraud risks by the customer replying by SMS to confirm their consent to switch (following receipt of "Switching Information").
62. Using SMS alone is only checking that the recipient currently has possession of a device with the appropriate SIM⁵⁸. Accordingly, Text to Switch will be inappropriate for multi-mobile accounts. We welcome Ofcom's recognition of this. We have also discussed with Ofcom why we are concerned that Text to Switch may also expose customers to unauthorised switching (and fraud – although we note Ofcom considers no more so than the status quo).

Cancel other

63. Ofcom explains that it mitigates these risks by the customer replying by SMS to confirm their consent to switch (following receipt of "Switching Information").
64. We are not convinced Ofcom's proposals will deliver better customer outcomes than the current switching process. There are circumstances under which Text to Switch might be exploited and expose customers to unauthorised/ unintended switching.
65. Accordingly, we believe there are likely to be increased costs associated with remedying unauthorised switches.

Implications for cost benefit assessment

66. We note Ofcom explains that "*we consider that our proposals deliver suitable protections*" [§5.59]. For the reasons discussed, we do not agree.
67. We remain concerned that the options are likely to result in increased harm compared with the current processes. Accordingly, that further verification and authentication measures may be necessary, with associated cost implications.

⁵⁸ For example, this relies on the integrity of the CLI passed to providers. Whilst we use CLI ourselves – it is used as one element, not the sole element.

The benefits of moving to Auto-Switch are likely to be less than Ofcom assesses

General

68. We believe there are a number of areas where benefits are likely to be lower than Ofcom assesses.

Time Saving - customer

69. We understand that Ofcom makes its assessment on the basis of WTP rather than time saving.

Time Saving – Provider

70. Ofcom estimates that providers will save time and resources⁵⁹. We believe this is unlikely because current inbound retention resources would be transferred to outbound retention and acquisition. We would expect that in response to the drop in inbound call volumes, providers would deploy more than the equivalent resource of pro-active base management activity and gross sales activity. Net impact will be an increase in resource requirements. Ofcom's reliance on "provider savings" in the cost benefit analysis is optimistic.

Loss of Service

71. We note that Ofcom attributes some reduction in loss of service to Auto-Switch because it means the switch will be automatically co-ordinated⁶⁰. However, non-porters are already likely to be managing the switch and hence we are not convinced attributing benefit is material. Furthermore, it is our understanding that the voluntary improvements to the process being undertaken are the primary driver of a reduction in loss of service⁶¹.

⁵⁹ "...operators would also enjoy some costs savings under each option. This is because the automation of the switching process means that fewer customers are likely to call them to ask for a PAC or terminate their contract, allowing LPs to reduce the current level of call centre staff. We recognise that MNOs may choose to continue making customer retention calls, which would limit the scope for cost savings. However, to the extent that this is a voluntary decision on the part of MNOs, we have not included such costs". [§6.47]

⁶⁰ i.e. their old service will be deactivated at the point that they redeem their N-PAC [§5.52]

⁶¹ And previously, we noted Ofcom's Consumer Experience Report 2015 finds: "Reasons for considering, but not switching provider, vary by market. In the broadband and TV markets 'perceived hassle' was the main reason why considerers had not switched (32% and 37%). In the fixed-line market it was 'lack of perceived cost benefit' (33%) and in the mobile market it was 'terms and conditions' (33%)"

Double Paying

72. We note that Ofcom attributes significant reductions in double payments amongst non-porters (between £15M and £22M over 10 years). Ofcom explains it considers these benefits are incremental to Auto Switch because they would not accrue to non-porters if Ofcom only prohibited notice period charges after the switching date. We are unclear why Ofcom reaches this conclusion. Furthermore, this approach itself duplicates the “Willingness to Pay” value already attributed to Auto-Switch, which Ofcom concludes is a comprehensive measure.
73. Our understanding is that double paying is largely a function of Contractual Notice periods and hence not the Switching Process per se⁶². We are not persuaded that the benefit can be attributed to Auto Switch. We discuss this in more detail elsewhere.

Unwanted consequences

74. We also note that under the Auto-Switch solution Ofcom explains that: “Consumers would only have to speak with the gaining provider once in order to progress the switch” [Figure 9] and “the porting/ cancellation process can be requested at point of sale, and for this process to be triggered automatically when the new service is activated.” [§4.23].
75. The gaining provider is of course incentivised to switch customers as quickly as possible – and whilst Ofcom’s proposals are designed to deliver “Switching Information” there will be an incentive to “trigger” the switch quickly at point of sale via the text to switch process.
76. This increases the risk that customers who are concerned about talking to their existing provider will find themselves subject to such “triggered” switches. Accordingly, we are concerned that in practice, “harms” identified by certain groups are likely to persist.

⁶² Ofcom’s Consumer Experience Report 2015 finds: “Reasons for considering, but not switching provider, vary by market. In the broadband and TV markets ‘perceived hassle’ was the main reason why considerers had not switched (32% and 37%). In the fixed-line market it was ‘lack of perceived cost benefit’ (33%) and in the mobile market it was ‘terms and conditions’ (33%)”

We are not convinced that the benefits of moving to either of Ofcom's options outweigh the costs

General

77. Taking into account our comments above, we reach a number of conclusions.

Ofcom overstates the benefits of Auto-Switch by attributing reductions in double paying to Auto-Switch)

78. We believe Ofcom overstates the benefits of Auto-Switch here:

- i. Willingness to Pay already provides for a comprehensive benefit value (as discussed elsewhere);
- ii. Ofcom explains that it would design Auto-Switch differently were it not implementing the prohibition on notice periods⁶³. Accordingly, Ofcom cannot attribute reductions in double paying to Auto Switch, since the solution would be different in the absence of the element which directly addresses double paying. Ofcom attributes the full benefits (of reductions in double paying) in respect of non-porters. However, elsewhere Ofcom explains that any benefits accrue "*when applied with notice period reforms*" [§5.52];
- iii. It is not clear Ofcom has excluded PAYG switchers from its calculations, and
- iv. The grounds on which Ofcom mandates a switching process for non-porters are not made clear given the USD explains: "*Competent national authorities may prescribe the global process of the porting of numbers, taking into account national provisions on contracts and technological developments*".

79. The only benefits which are directly attributable to Auto-Switch are reduction in time/hassle. Both "double paying" and "continuity of service" are largely (if not all)

⁶³ Ofcom explains this measure is capable of affecting the design of its core process reforms (Auto-Switch or GPL). "That is if there was not a prohibition on charging notice beyond the switching data, [Ofcom] would design our Auto-Switch and GPL proposals differently, to mitigate the risk that some switchers incur more double-paying (as we did in our March 2016 Consultation, §1.9).

attributable to measures which are independent of Auto Switch (and which could be implemented of themselves)⁶⁴⁶⁵.

Cost savings for providers are unlikely to materialise

80. The “cost savings” which Ofcom anticipates industry would achieve would not materialise under Auto-Switch (and GPL) because industry would need to spend more on outbound retention measures (and gathering customer insight such as “reason for leaving”).
81. We note Ofcom asserts that these costs are not a “direct consequence” of its reforms because incurring such costs would be a decision for the provider. We do not agree. Providers will need to respond to changes. Furthermore, Ofcom is inconsistent in its approach, since in Figure 16 it attributes improved save offers and competition benefits as an unquantified benefit of its reforms. Ofcom seeks to attribute the benefits of its intervention but not the costs.

Ofcom's intervention is unlikely to enhance the customer experience overall – and in particular for the relevant group of customers identified in Ofcom's Quantitative research

82. We continue to consider that a voice conversation is well suited to assisting switching customers. We previously noted Ofcom's own Quantitative Research⁶⁶ finds that respondent sentiment favoured engagement with their existing provider in the context of GPL – we think the customer sentiment likely holds regardless of option.

Customer experience costs

83. We are concerned that Ofcom's Text to Switch (and GPL) is likely to drive:

⁶⁴ As we pointed in our response to Ofcom's previous consultation, Ofcom found that [for LP]: “it is unclear the extent to which these issues arise because of the switching process, and therefore, also unclear the extent to which a move to GPL process would help address them.” Indeed, as Ofcom's Consumer Experience Report 2015 observed: in the mobile market ‘terms and conditions’ was the most-mentioned reason for not switching provider (33%), as had also been the case in 2014 (39%). This is likely to relate to the relatively high proportion of 24-month contracts: since early 2010 at least six in ten new mobile contract connections have had 24-month contracts. This reason was followed by ‘lack of cost benefit’.

⁶⁵ As we discussed in our response to the previous consultation: Cease and Re-provide is often used by PAYG customers and so customers arrange the new service with their new provider and use up their remaining credit without contacting their existing provider. Hence, we are not clear how the issues identified by Ofcom arise to any significant degree. We would welcome discussion here.

⁶⁶ Response to some Gaining Provider-Led (GPL) scenarios
http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/mobile-switching/mobile_switching_qualitative_research_feb16.pdf

- i. Poorer customer experience arising from slamming/ uninformed switching (since switching can be automatically triggered at point of sale);
- ii. Increased costs (e.g. investment in multiple platforms and across more providers than Ofcom models), and
- iii. Increased complexity (e.g. “cancel other”).

84. As such, the benefits that Ofcom suggests are uncertain and costs in a number of areas underplayed.

The impact on Ofcom's analysis

85. We note Ofcom's assessment at Figure 17 and 18.

86. Ofcom's cost/ benefit case of Auto-Switch is highly sensitive to variations in inputs/ assumptions. Ofcom only creates a positive case in respect of Auto-Switch by attributing reductions in double payments to Auto Switch. As below, without attributing reduction in double payments to non-porters there is a net cost of Auto-Switch:

Table 1

Ofcom Package of Reforms Elements	Cost	Benefit	Delta (cost vs benefit)
Auto-Switch	£30M - £57M ⁶⁷	£16.43M ⁶⁸	Net cost
Rule on Notice Period	£9M ⁶⁹	£69M ⁷⁰	Net benefit
Industry Switching window	Several million ⁷¹	£4.5M ⁷²	Indeterminate

⁶⁷ Likely to be underestimated for the reasons discussed elsewhere. However, for the purposes of this comment we keep the costs ranges as per Ofcom's estimate (low, base and high cases).

⁶⁸Based on WTP. As discussed elsewhere we do not consider a reduction in double paying can be directly attributed to Auto-Switch.

⁶⁹[§5.103]

⁷⁰[§5.103]

⁷¹We do not consider it likely that the “cost savings” which Ofcom anticipates for industry would arise under GPL. Providers would need to spend more on outbound retention measures. Indeed, there could be an increase in costs.

⁷² Based on quantified benefits of end-end-management [§5.103]

Any benefits of moving to Auto-Switch (and GPL) are likely to be less than Ofcom assesses,

87. We note that Ofcom's cost benefit assessment in relation to Auto-Switch summarised at Figure 17 relies on its "Willingness to Pay" (WTP) research to reach a net benefit on its "base case" assessment.
88. Ofcom explains that it considers it likely that the benefits will exceed the costs [§6.32]. In its assessment, Ofcom assumes a range for the WTP and "*recognise[s] that there is more uncertainty about whether respondents would in reality be willing to pay the price they said they would.*" [§A11.14]. Ofcom believes its assessment adequately addresses "hypothetical bias". It presents WTP in a range (with low placing no weight on "probably pay" respondents) which then enables Ofcom to derive average adjusted WTPs. Ofcom also assesses WTP is likely to understate benefit and Auto-Switch will also deliver other non -quantified benefits. [§6.23]
89. Under the low case, the incremental quantified benefits of Auto-Switch are less than the costs and, furthermore, this might also be true in Ofcom's base case depending on the outturn range for the WTP benefits [§6.21]. Figure 17 illustrates that there are several scenarios under which the Auto-Reforms will not deliver a positive cost/benefit calculation.
90. Furthermore, whilst we note that Ofcom considers that there are significant non-quantified benefits associated with implementing its reforms,⁷³ we are also concerned that Auto-Switch reforms are likely to give rise to counter adverse effects (discussed elsewhere).
91. Accordingly, we remain concerned that there is an insufficiently robust cost benefit case for Auto-Switch to be introduced. See table below:

⁷³ "*A reduction in loss of service for C&R switchers who can more easily coordinate the stop and start of their old and new services; Benefits to would-be switchers by way of gains from switching, for those who would switch, and improved save offers for those who remain with their existing provider (though there is a risk that some would-be switchers may be made worse off by missing out on a save offer) and Benefits flowing from increased competition between mobile providers, by way of lower prices, higher quality of service, and increased innovation.*" [§5.104]

Table 2

Auto Switch Benefits	Ofcom case	Comment
Willingness to pay (WTP)	Ofcom's base case relies on adjustments/ weightings to account for average WTP values and "hypothetical bias". Ofcom argues WTP understates benefits ⁷⁴	Ofcom fails to consider the counterfactual – WTP for Voice requests. As Ofcom acknowledges there is uncertainty here and hence models low/ base and high scenarios. Ofcom's "low" scenario is a plausible outcome.
Non-quantifiable benefits	See Figure 16. E.g. improved save offers, competition benefits, reduction in loss of service.	Risk of contrary adverse effects (poorer customer experience such as unintended/ uninformed switching)
Reduction in double paying for non-porters	Non-porters benefit from a reduction in double paying	As discussed above, we find this approach unsound.

Ofcom's duties and regulatory principles

92. Ofcom must act in accordance with its regulatory duties and principles⁷⁵. We are not convinced those duties and principles are met on the evidence: a) we are not convinced that the proposals will deliver better customer outcomes overall; b) the proposals are more complex and costly than assessed and c) we are not convinced that the costs of implementing either will be outweighed by the benefits (and, as we say, may create customer harms of their own),

⁷⁴ For example, respondents may; a) be willing to pay more; b) perceive positive benefits not reflected in WTP; c) have not reflected indirect benefits of gaining provider help in navigating the process and d) discounted their valuation because of uncertainty how the process would work. [§5.43]

⁷⁵As highlighted in See *Vodafone Limited v Office of Communications* [2008] CAT 22 and *Hutchison 3G UK Ltd v Office of Communications* [2008] CAT 11. Also, *Better Policy Making: OFCOM's approach to Impact Assessment*, issued on 21 July 2005. http://stakeholders.ofcom.org.uk/binaries/consultations/better-policy-making/Better_Policy_Making.pdf

IV. CONCLUDING COMMENTS

93. We believe that the current switching processes generally work well for the majority of customers – and we are concerned that Ofcom's proposals risk a poorer customer experience (for example, unintended/ uninformed switching).
94. We are not convinced that the costs of implementing Auto-Switch (or GPL) are outweighed by any benefits. Ofcom will note that we believe that Ofcom has underestimated the costs and complexity of its proposals – for industry and consumers.
95. We are not convinced Ofcom's Impact Assessment demonstrates a sufficiently robust case for Auto-Switch⁷⁶.
96. We provide further details in the following Annexes.

Telefonica UK Limited
June 2017

⁷⁶ Customers are increasingly served via digital channels. Were Ofcom to intervene with Auto Switch, we see no incremental benefit of requiring Text to Switch in addition to “Online PAC” as an alternative choice to voice.

ANNEXES

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ANNEX 1

RESPONSE TO OFCOM QUESTIONS

Ofcom 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?

97. Overall, we believe a voice conversation remains best suited to providing a PAC along with comprehensive information about the implications of switching to assist customers. We are not convinced that the current process impairs the switching process for the overwhelming majority of customers⁷⁷. We are not convinced that the perceived benefits of Auto-Switch outweigh the costs. The drawbacks of Auto Switch are likely to drive dissatisfaction in their own right (unintended/ uninformed switching⁷⁸).

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

98. As above, we note that from Ofcom's research the overwhelming majority of customers find the current process works well. Whilst Ofcom's updated research finds that for some customers the current process to request a PAC by phone is not as easy as it could be, we don't believe the case for GPL has been made and, notwithstanding Ofcom's revised assessment, we remain unconvinced at the case for "Text to Switch".

99. We note that Ofcom remains of the view that prohibiting charging for notice after the switching date would deliver a significant reduction in double paying for switchers. [§4.14]. As Ofcom appreciates, O2 does not engage in this practice.

⁷⁷By Ofcom's own research, the current switching process works well for the overwhelming majority of customers, with 91% of those who switched in the last two years stating that switching was very easy or fairly easy [§4.16]. Ofcom's website explains "*The process is simple*".

⁷⁸For example, lesser appreciation of the implications of switching (and the issues that may flow from that, such as in respect of handset liability under FCA regulated products - see elsewhere).

100. We welcome Ofcom's approach to encourage industry to deliver on its voluntary commitments to address issues of "loss of service" arising from the current back office processes.

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

101. See our comments in this response.

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; Auto-Switch; GPL; End-to-end management; and Transparency requirements?

102. We do not believe that Auto Switch (or GPL) has the same level of checks and balances as the status quo. See above.

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?

103. We agree with Ofcom's conclusion that Auto-Switch is a more proportionate response than GPL.

104. We remain concerned that in seeking to address "harm" experienced by the minority of customers, the majority of customers will experience a poorer customer experience and customers will experience an increase in unintended/ uninformed switching. We are concerned that Ofcom's Auto Switch proposals may not make the process better for customers.

105. We note that Ofcom remains of the view that prohibiting charging for notice after the switching date would deliver a significant reduction in double paying for switchers. [§4.14]. As Ofcom appreciates, O2 does not engage in this practice.

106. We welcome Ofcom's approach to encourage industry to deliver on its voluntary commitments to address issues of "loss of service" arising from the current back office processes.

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

107. Broadly yes, although, Ofcom must note that the implementation period is not underpinned by any detailed design work, which will be necessary for a significant project. At this stage it should be considered indicative.

ANNEX 2

OFCOM'S ASSESSMENT OF THE CONSUMER HARM UNDER CURRENT SWITCHING PROCESSES

Introduction

108. Ofcom explains it has taken into account Stakeholder views and Ofcom's new consumer research and additional sources of evidence [§3.58].
109. In this response we largely comment on Ofcom's further research and updated review – although, we do also make reference to our responses to Ofcom's previous consultations.

Ofcom's further research and updated view on consumer harm

110. Ofcom explains that stakeholders highlighted headline satisfaction measures⁷⁹. However, Ofcom continues to believe that the evidence (Ofcom's 2017 research) is that a significant number of switchers experience difficulties when switching.
111. Specifically, Ofcom's BDRC 2017 research identifies consumer dissatisfaction with the current process. Ofcom notes that 17% of customers who requested their PAC via the phone were dissatisfied with that method and 16% of "non-porters" were also dissatisfied with that method (phone cancellation) (a "significant minority") [§3.60].

Our comments

112. Ofcom must consider the wider evidence discussed in this response. We are concerned that Ofcom errs in relying far too heavily on the BDRC research.

Materiality – complaint levels

113. Ofcom identifies that 80 complaints per month, taken into context of the evidence of difficulties with switching, is "material".
114. We are not clear how Ofcom assesses materiality in this context, for example:

⁷⁹ For example, that Ofcom's Switching Tracker 2016 found that 94% of mobile switchers found that 94% of mobile switchers said that switching was either fairly of very easy [§3.59]

- i. In Ofcom's complaints data, "difficulty obtaining PAC" appears only to account for around 10% -15% according to Figure A6.7. Although, Ofcom quotes 40% of the overall complaints relate to difficulties obtaining a PAC⁸⁰. So approximately 8-32 complaints per month relate to difficulties getting a PAC.
- ii. We are not convinced that level of complaints per 430K switchers can be considered material (3.58M switchers per annum⁸¹ or approx. 430K switchers per month?).
- iii. Furthermore, we note that no comparison is made with the levels of complaints in respect of fixed and broadband. We appreciate that Ofcom's intervention in fixed and broadband has removed the PAC process (moving to GPL), however, in asserting the level of complaints in mobile is "material", we note that no comparative assessment is made.

Ofcom's concerns about unnecessary time and difficulties progressing a switch

115. Ofcom's BRDC 2017 consumer research identifies that around four in five switchers who requested a PAC and/ or cancelled their service were either "very" or "fairly" satisfied , whilst one in six were "very" or "fairly" dissatisfied [§3.69].
116. Ofcom considers these findings particularly significant in the context that telephone contact with the losing provider is the main method currently offered by providers and used by consumers to request a PAC⁸². Indeed, the regulatory regime requires providers to provide a PAC over the telephone.
117. Ofcom recognises these responses are likely to overstate the degree Auto-Switch would be used in practice, but Ofcom considers this shows a high level of interest in Auto-Switch and Ofcom notes that responses appear to be linked to customers perceptions that these methods would be easier, quicker and less difficult compared to current methods [§3.77]. Further, Ofcom identifies a "Willingness to Pay" (WTP) for Auto-Switch amongst respondents [§3.78].

⁸⁰ "Over the period April 2014 to February 2017, Ofcom received around 80 complaints per month relating to changing mobile provider. As we noted in March 2016, around 40% of complaints relating to changing mobile provider concerned difficulties in requesting or obtaining the PAC." [§A6.51]

⁸¹ Figure A10.3.

⁸² Ofcom remains concerned that the current switching and cancellation processes (PAC and C&R) can create unnecessary time spent and difficulties for some customers and deter consumers from switching, including where the consumer encounters unwanted persuasion to remain with their existing provider [§3.66].

Harm

118. Ofcom considers the current switching processes cause harm in the following ways:

- i. Unnecessary time and difficulties progressing the switch
- ii. Double paying
- iii. Loss of service while switching provider

Unnecessary time and difficulties

119. Ofcom identifies that the average call duration to request a PAC is around 7.7 minutes. This is substantially longer than the 97 seconds taken to navigate an IVR and for the system to generate a PAC [53.72]. However, for the majority of customers, the experience is not equated with “unnecessary time and difficulty” since respondents consider the process easy or very easy.

120. We do not consider activities such as the following are “unnecessary and time consuming or difficult”:

- i. Validating the caller
- ii. Establishing the callers request
- iii. Understanding why the caller wishes to switch
- iv. Explaining the process and ensuring the caller understands the implications of the switch
- v. Ensuring the caller receives a save offer if that is what they seek
- vi. Making necessary arrangements.

121. We do not believe any of these activities are unnecessary and they have a value. See table below.

Table 3

Value	Proposals	Customer
Validating the caller	We believe CLI alone is not as robust as existing measures.	Can lead to poorer customer experience.
Understanding why callers wish to leave	The proposals provide less customer insight, meaning providers will either have less customer insight or will have to spend more seeking the status quo.	Less informed offers/ market.
Understanding implications of leaving	Less informed customers/ increased "cancel other" etc.	Less informed customers and poorer decision making/ increased time to correct.
Ensuring customer receives save offer	Ofcom assumes that those customers who seek a save offer will still do so.	Not all customers who would have received a save offer will do so. This is sub-optimal.

122. These aspects are not reflected in the WTP assessment.

We are not convinced that there will be a net reduction in harm

123. We discuss elsewhere why we believe there may also be consequential increases in harm such that broadly we remain unconvinced there is a net gain here.

A voice conversation remains best suited to providing a PAC along with the necessary information to assist customers considering/ wishing to switch providers

124. We continue to consider that a voice conversation is well suited to assisting switching customers. We previously noted Ofcom's own Quantitative Research⁸³

⁸³ Response to some Gaining Provider-Led (GPL) scenarios
http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/mobile-switching/mobile_switching_qualitative_research_feb16.pdf

finds that respondent sentiment favoured engagement with their existing provider in the context of GPL – but we think the sentiment likely holds regardless of option⁸⁴:

“Disadvantages of GPL, stated by participants, related mainly to perceived loss of control:

- *Loss of control in managing the switch*
- *Fears, expressed spontaneously, of being switched without their knowledge or consent*
- *Compared to their current provider, the new provider is not as trusted / no established relationship*
- *Happens without their input – reliant on the new provider to inform them / keep them in the loop*
- *Reduced negotiating power with current provider – no longer able to request their PAC as a ‘threat’ to leave*

These disadvantages tended to be expressed more strongly by the ‘uncertain & doubtful’. Many reported a fear of placing control into the hands of an ‘unknown’ entity”

125. Furthermore, the Quantitative Research also found that this group also had Positive feelings toward current provider compared to a new provider:

- *Potential new providers: typically feel cold, unhelpful, uninformative, ‘pushy’*
- *Current provider: feel warm, ‘safe’, ‘value me’, helpful, responsive*

⁸⁴ Response to some Gaining Provider-Led (GPL) scenarios
http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/mobile-switching/mobile_switching_qualitative_research_feb16.pdf

ANNEX 3**OPTIONS FOR REFORM***Ofcom's policy objective*

126. Ofcom makes clear that in designing its options, it is mindful of the risk of unintended consequences, in particular the need to ensure that:

- i. Consumers are sufficiently informed before switching, and
- ii. Consumers are protected against unauthorised switching.

127. We agree with Ofcom that these matters are important. To the extent that Ofcom's options do not deliver equivalent levels of protection to the current processes, then that is a cost that needs to be considered.

Ofcom's options

128. Our comments focus on Ofcom's proposals in relation to process reforms (Auto-Switch and GPL). We do not comment in any detail on Ofcom's proposals to prohibit charging for notice periods beyond the day of the switch and to support industry commitments to address loss of service.

Options for process reforms: Auto-Switch and GPL

129. As per our previous submissions, we remain unconvinced at the case for GPL. We do not repeat our views in respect of GPL in any detail in this response given Ofcom's revised proposals. Suffice to say we continue to be unconvinced that a move to GPL is justified.

130. We note Ofcom considers that Auto-Switch is a more proportionate remedy than GPL. Furthermore, that Ofcom's revised Auto-Switch proposal has several design improvements: allowing for non-number porting in the process via an associated N-PAC process and that customers can request to port/ cancel their old service when they sign up for a new service (only contacting the gaining provider once) [§4.32].

Unintended consequences

131. We are not convinced that Auto-Switch will result in an overall better customer experience for the majority of customers or indeed for those customers whom Ofcom believes will find it attractive (those that don't wish to have an "unwanted

save" conversation with their existing provider. We discuss our concerns in respect of informed consumers and increased levels of unauthorised switching.

Auto-Switch accommodates non-porters

132. Under Ofcom's proposals, non-porters would request an N-PAC in the same way they would request a PAC (but using a different short code to request it) [§4.34].
133. Ofcom also proposes that providers should be under the same regulatory duties to effect a switch for non-porters as porters.
134. Whilst the regulatory regime in respect of porters derives from the Universal Services Directive (USD), the USD does not set obligations in respect of non-porters in the same manner. General Condition 18 (implementing Article 30 of the Universal Services Directive) concerns "Number Portability". General Condition 18 relates to Number Portability. As Ofcom explains, "*More specifically, these rules apply where the customer wishes to keep their mobile phone number when they move to their new provider*",⁸⁵
135. Ofcom variously refers to Article 30 and Recital 47 of the USD [2.39], explaining that the latter is particularly relevant. Ofcom does not quote Recital 47 in full, however, for completeness, we do. We highlight the text omitted by Ofcom:

*"In order to take full advantage of the competitive environment, consumers should be able to make informed choices and to change providers when it is in their interests. It is essential to ensure that they can do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges and so on. This does not preclude the imposition of reasonable minimum contractual periods in consumer contracts. **Number portability is a key facilitator of consumer choice and effective competition in competitive markets for electronic communications and should be implemented with the minimum delay, so that the number is functionally activated within one working day and the user does not experience a loss of service***

⁸⁵"The obligations imposed on mobile providers in GC 18 where the customer wishes to keep their mobile phone number when they move to their new provider, come from the EU regulatory framework which sets out minimum requirements with which the process for porting of both landline and mobile numbers must comply." See Article 30(1) to (4) of the USD. https://www.ofcom.org.uk/__data/assets/pdf_file/0032/95873/Review-of-the-General-Conditions-of-Entitlement-Consultation-on-the-general-conditions-relating-to-consumer-protection.pdf

lasting longer than one working day. Competent national authorities may prescribe the global process of the porting of numbers, taking into account national provisions on contracts and technological developments. Experience in certain Member States has shown that there is a risk of consumers being switched to another provider without having given their consent. While that is a matter that should primarily be addressed by law enforcement authorities, Member States should be able to impose such minimum proportionate measures regarding the switching process, including appropriate sanctions, as are necessary to minimise such risks, and to ensure that consumers are protected throughout the switching process without making the process less attractive for them.⁸⁶

136. As Ofcom will note, Recital 47 explains that “Competent national authorities may prescribe the global process of the porting of numbers, taking into account national provisions on contracts and technological developments”. It makes no such reference to “non-porters”.

137. Ofcom goes on to explain that the USD states that:

“[w]ithout prejudice to any minimum contractual period, Member States shall ensure that conditions and procedures for contract termination do not act as a disincentive against changing provider”. [§2.41]

138. However, this is a reference to Member States, not Ofcom.

139. Ofcom then goes on to explain the powers it has to set and modify General Conditions, remarking that “We set out in this consultation how our proposals accord with our powers and duties, including meeting the relevant tests.” [§2.44]

140. At A13.34, Ofcom explains that it considers that the test for modifying or setting new General Conditions is met in respect of non-porters as follows:

- i. Auto-Switch is objectively justified because it goes towards protecting against loss of service by providing a regulated switching process for non-porting switchers;
- ii. It is proportionate because it is the least onerous remedy and the burden is not disproportionate to the benefits secured;
- iii. It is transparent in that the condition is published in Annex 14 and explained in the Consultation.

⁸⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009L0136&from=EN>

141. However, as we explain above, Recital 47 provides that “*Competent national authorities may prescribe the global process of the porting of numbers*”, not, in respect of “non-porters”.

ANNEX 4

AUTHENTICATION AND VERIFICATION

General

142. In previous consultations Ofcom confirmed that it considered that appropriate verification and authentication checks are necessary to combat a variety of customer harms, including⁸⁷:

- i. slamming/ mis-selling⁸⁸,
- ii. erroneous transfers and
- iii. fraud.

Authentication and Verification

143. Ofcom considers that Text to Switch does not result in an increased material risk to customers in these areas because the process will include sufficient authentication:

- i. Sending the PAC and Switching Information to the MSISDN of the authorised account holder will be sufficient authentication and verification that the

⁸⁷ “We agree with respondents that any new mechanism must build in appropriate safeguards including adequate customer verification and authentication checks. We explain how our proposed options do this in Section 5. We agree that any switching process will require a mechanism for the LP to cancel any fraudulent or illegitimate attempt to switch (‘cancel other’)” Ofcom, [§A9.153]

⁸⁸ As we explained in our previous response, Ofcom will appreciate (and as recognized in its August 2013 Switching Statement) the harm caused by slamming arises in various ways and can arise before any switch of service takes place. Ofcom identifies slamming as giving rise to “significant harm” in three different ways. The “hassle” arising from slamming/ mis-selling is likely to be greater than that arising from the “unwanted save” activity which some customers mention:

“Slamming takes many forms and can involve a switch being instigated without any contact with a consumer, or involve issues such as mis-representation (where a salesperson claims to be from a different provider), consumers being told they are merely signing up for information rather than entering into a new contract, or consumers being sold additional services over and above what they agreed to switch. A slam can also occur where a consumer withdraws consent to a switch and advises the GP but the GP fails to cancel the order.” For example, in its work on tackling nuisance calls and messages, Ofcom notes that live marketing/ recorded sales calls account for 50% of nuisance calls: “The most prevalent types of nuisance calls were live marketing calls (38% of all nuisance calls received), followed by silent calls (37%) and recorded sales calls (12%)”. Mis-selling/ slamming continues to be higher under the fixed GPL regime than the mobile LPL regime. We note in our previous response that Ofcom will need to consider the potential for GPL switching to result in increased marketing calls in the UK mobile market. Whilst GPL is no longer considered a proportionate option, we still consider that Auto- Switch is likely to drive increased proactive sales and retention activity.

request comes from the account holder (and that information is not being disclosed to an unauthorised party);

- ii. It is already possible for fraud to take place under the current process of requesting a PAC via voice [§4.115]⁸⁹. We note Ofcom asserts that the proposal to require the losing provider to text the PAC/N-PAC to the authorised account holder will help reduce this form of fraud (although, we are not clear why⁹⁰⁹¹).
- iii. And in any event *“any switching process will require a mechanism for the LP to cancel any fraudulent or illegitimate attempt to switch (‘cancel other’)”* Ofcom’s previous Consultation [§A9.153].

Limitations

- 144. Text to Switch relies on the integrity of the CLI (MSISDN) received. Relevant CLI may not be available in a range of scenarios, including:
 - i. As explained in our previous response *“around one third of inbound contacts originate ‘off net’ and do not display an identifiable mobile CLI - accordingly, verification against CLI is not available.”* Accordingly, for many customers, Text to Switch would not be a suitable medium. This has implications for Ofcom’s take up assumptions and cost/ benefit analysis;

⁸⁹ Ofcom considers that Auto-Switch does not provide significant additional risk because in order to port the consumer’s number, the fraudster would need to already be in possession of the consumer’s SIM card in order to receive the confirmation text message sent to the consumer. Accordingly, given the fraudster is already in possession of the SIM, Ofcom considers that there would not be any need for a fraudster to port the number to receive communications (e.g. back codes etc. sent from the bank). A fraudster would also need to wait a day for the number to be ported (giving time for the consumer to report the SM lost/ stolen).

⁹⁰We are not clear why Ofcom believes that its proposals will improve matters. Under the existing voice process, the PAC is already texted to the customer and where possible the adviser confirms with the customer that they have received the PAC. Accordingly, we are not clear on what basis Ofcom asserts its proposals will improve matters.

⁹¹ In our previous response we explained: *“[Fraud] can be exacerbated with fraudulent SIM swapping (whether for financial fraud or for fraud against communications providers). Fraud can drive poorer general customer experiences overall (and increases costs). For example, a recent article concludes that our current methodology to verify customers is a positive experience.*

- ii. Multi-Number accounts where the CLI may not be that of the account holder. We agree with Ofcom's proposal to exclude multi-number accounts from the Text to Switch process⁹²; and
 - iii. Unauthorised⁹³ switching. We explained in our previous response that we are concerned that without appropriate validation of switching requests, there will be an increase in fraud/ unauthorised switching/ erroneous transfers. We note that in this case, since the PAC is returned to the CLI of the authorized user, the customer should be alerted⁹⁴. This can protect the customer where they are in possession of the handset. However, there remains potential for erroneous transfer in some sales scenarios where switching is triggered automatically in PoS.
145. Accordingly, under Text to Switch, it is our understanding that Ofcom consider that suitable verification takes place because the SMS will be recognised as coming from the mobile number which is subject to the switching request. The losing provider will check that this number is authorised to make changes to the account (see reference at 4.116]. We note Ofcom's description of "Auto-Switch" at Figure 5 and Annex 7 of the Consultation does not reference appropriate verification. We assume this is because Ofcom's design presumes the SMS will be sent to the mobile number subject to the switching request.

The current process

146. We continue to believe that the current voice process delivers a level of verification and authentication which will be difficult to achieve through the alternative options⁹⁵. This also gives us cause for concern that the costs of implementing verification will need to be revisited.

⁹² As per Ofcom's previous consultation, we understand that Ofcom appreciates that multi-mobile accounts are complex and hence communicating relevant information via SMS is not a suitable medium. Hence PAC requests do not need to be accepted by SMS for such accounts. Ofcom explains that "text to switch" would only be available where the request is in respect of no more than one mobile number [C[X].5 b) of proposed General Condition] See Annex 14, Schedule 1 of the Consultation. We support this.

⁹³ Networks (and third parties) abilities to combat fraud can be frustrated via unauthorised switching. With associated costs to both providers and customers.

⁹⁴ "We are confident that our Auto-Switch proposal to require the losing provider to text the PAC/N-PAC to the authorised account holder when using the telephone route (as standard procedure) will help reduce the risk of this form of fraud. We consider this would help alert the authorised account holder of any fraudulent attempt to port their number. They could then contact their provider about this". [§4.116]

⁹⁵ For example, we do not send account information on request via text.

Table 4

Step	Automated PAC
Request for PAC/ N-PAC by text, online or voice.	<p>Step 1: Verification can take place as currently for Phone/ Online Account requests⁹⁶</p> <p>SMS: For PAC requests by SMS, we assume Ofcom consider that suitable verification takes place because the SMS will be recognised as coming from the mobile number which is subject to the switching request, and the LP will check that this number is authorised to make changes to the account (see reference at 4.116]. This relies on the integrity of the CLI passed to providers. Whilst we use CLI ourselves – it is used as one element, not the sole element⁹⁷. [X].</p> <p>Step 2: For multi-number accounts, we do not record a “lead” MSISDN. Accordingly, as Ofcom notes, we will not be required to accept requests via SMS for multi number accounts⁹⁸.</p>
Delivery of PAC and “Switching Information” ⁹⁹	Step 4. PAC sent by SMS to MSISDN of legitimate customer. This relies on the integrity of the CLI passed to providers. Whilst we use CLI ourselves – it is used as one element, not the sole element.
Customer Confirmation of Switch	As current: PAC presented to GP.
PoS redemption of PAC/N PAC. Activation of new SIM automatically triggers porting/ cancellation process	Not applicable.
Cancellation Notice	Step 6: Deemed to be request for PAC (if used). It will need to be clear that where relevant the customer is cancelling CCA agreement too – along with associated implications.

⁹⁶ “For PAC requests by phone and online account, verification typically takes place by the provider checking customer personal security details or via the consumer’s online account log-in details respectively” [5.60]

⁹⁷ As we explained in our previous response, whilst Telefonica makes use of SMS as a form of two-factor authentication, the use of SMS as the only form of authentication and authorisation is a concern because it only shows possession of a device associated with the number being ported. It does not provide assurance that the request is being made by someone with the appropriate ownership and authorisation to port the number. This is most noticeable in Business segments where the end user may not be the account holder/bill payer and therefore authorised to actually port the number or agree to the implications of doing so. It is also relevant, more generally, in relation to fraud (see below).

⁹⁸ “Where the request relates to more than one but fewer than 25 mobile numbers, providers would not need to accept the request by text. Ports of 25 numbers or more are currently not regulated and are outside the scope of [Ofcom’s] review of mobile switching.”

⁹⁹ Switching information that is provided to consumers would need to include information relating to any Early Termination Charges (‘ETC’), any outstanding handset liability, and any outstanding PAYG credit balances. (These would need to be exact and accurate as at the date of the request and aggregated across all mobile numbers for which the request was made). In addition, information on notice period duration, and start date for the new service (where applicable) would have to be included.

Concluding Comments

147. We note that Ofcom considers Auto-Switch does not increase the risk of fraud. Nonetheless, we remain concerned Text to Switch may be exploited in ways the current processes protect against.
148. Furthermore, we believe that Ofcom overestimates the protections likely to be delivered by the measures it proposes and hence underestimates the likely customer harm that will arise under its proposals (GPL in particular).
149. We noted in our previous response that Ofcom will need to consider the potential for GPL switching to result in increased marketing calls in the UK mobile market. Whilst GPL is no longer considered a proportionate option, we still consider that Auto-Switch is likely to drive increased proactive sales and retention activity.
150. Our view remains:
 - i. The costs of implementing verification will need to be revisited and may well increase;
 - ii. The costs of "cancel other" may rise, and
 - iii. The current voice process is more efficient at dealing with the range of possible contact scenarios (e.g. where CLI is not available).

ANNEX 5**CUSTOMER COMPREHENSION OF IMPLICATIONS OF SWITCHING**

151. We do not believe that Text to Switch will deliver as comprehensive as information as the status quo and moreover, there will be little time saving compared to the status quo. Accordingly we believe that Ofcom overestimates the likely benefits of Auto-Switch. See below.
152. We are concerned that Ofcom's proposals in relation to Auto-Switch (and, for the avoidance of doubt GPL in particular) are likely to drive a poorer customer experience for many (e.g. less informed switching, unauthorised switching and cancel other).
153. And as such, the benefits that Ofcom suggests are uncertain and costs in a number of areas underplayed.
154. For those customers who do not wish to speak with their losing provider, provision of PAC via online account would be a less costly option (without Text to Switch):
- Customer can request PAC via online, voice (or other) direct from LP
 - Customer verification direct with Losing Provider
 - Switching Information confirmed by Losing Provider via, online or voice
 - Improved porting processing (multiple batch rather than single run)
155. Accordingly, we believe that the net benefits of Ofcom's proposals are likely to be lower than anticipated (more time spent assessing Switching Information, or the converse – less informed and more likely to contact their LP).
156. We discuss further in the following table.

Table 5

	Ofcom's Auto-Switch approach ¹⁰⁰	O2 conclusion
<p>Customer Comprehension of implications of switching</p>	<ul style="list-style-type: none"> i. Customers should receive the PAC/N-PAC by text (for Text to Switch route). The text should include key information relevant to the switch before they can proceed (Switching Information)¹⁰¹. ii. "Switching Information" should also be available independent of the switching process by text, online or voice and then provide it immediately using the means by which it was requested. The losing provider may use a different text short code to provide this (to the code for requesting PAC/NPAC)¹⁰² iii. A requirement on providers to give clear information about the switching process to ensure customers a better informed¹⁰³. 	<ul style="list-style-type: none"> i. Ofcom previously recognises that Text to Switch is unlikely to deliver as comprehensive information as the status quo¹⁰⁴. ii. The limited character capacity of SMS means that it will not be able to convey full information (Switching Information and other relevant information – for example, other services lost or save offers). iii. We anticipate that any SMS will need to direct the customer to their online account or call their provider for full Switching Information and broader information about the implications of switching (see Exhibits in the Annexes of our previous response). iv. the risk is that there will be a counter productive increase in the number of customers who are not as informed as under the current regime (notwithstanding the other measures Ofcom proposes – see above).

¹⁰⁰ Note, as elsewhere, we concentrate our comments on Auto-Switch in light of Ofcom’s assessment that it is a more proportionate intervention than GPL.

¹⁰¹ “Switching Information that is provided to consumers would need to include information relating to any ETC, any outstanding handset liability, or any outstanding pay as you go credit balances. These would need to be exact and accurate as at the data of the request and aggregated across all mobile numbers for which the request was made.” [Figure 5]

¹⁰² “Information about these outstanding charges or credit balances would also be available at any time, by texting a shortcode or by accessing your online account”. [Figures 4 and 5]

¹⁰³ Our understanding is that this is not in relation to Switching Information per se but rather general information about the switching and porting process. The detail of this is to be agreed by industry with input from Ofcom and other industry parties [§4.101]

¹⁰⁴ Ofcom recognizes that the level of information provided to a customer about the implications of switching would be difficult to achieve through alternative processes. We agree. It is also important to recognise that there are a variety of customer contractual models in the market. For example, customers taking our O2 Refresh tariff with a Device Plan Credit Agreement agree to a Consumer Credit Agreement with its own terms and conditions. Telefonica is entitled to full repayment of the credit amount upon the customer’s termination of this agreement (other than for Telefonica’s material breach). The implications of this need to be understood by customers. We are happy to discuss this further. In the meantime, we note that Ofcom recognizes the issue associated with the GPL ability to provide relevant information.

Time Saved	iv. Ofcom adopts a WTP value rather than time saved ¹⁰⁵ .	v. We believe voice is likely to provide a better experience ¹⁰⁶ . We anticipate switchers are likely to contact their losing provider by voice or online and that there is little time saved ¹⁰⁷ . Ofcom estimates that there will be a saving for customers generated by Auto-Switch notwithstanding the variety of stakeholder comments to the contrary (including our own). We comment on the WTP value elsewhere.
Proportion who benefit from a time saving	vi. Ofcom uses Willingness to Pay (WTP) rather than time saved in its assessment.	v. Accordingly, we believe that the proportion of switchers who benefit from any time savings are likely to be overestimated by Ofcom. Furthermore, that there is a cost to customers being less informed about the implications of switching.
Save Offers		vi. In our experience (as discussed in our previous response), the majority of switchers seek a “save deal”. Whilst we agree with Ofcom there is likely to be some uncertainty, we suspect that a significant proportions of customers will continue to do so. We note Ofcom assesses that the threat of switching will push providers to be more proactive in offering save deals. We discuss this assumption elsewhere.
Services/ benefits lost		vii. Ofcom may note that, for example, [£]. And 63% of O2 Refresh customers save 50% or more if they keep their handset at the end of their contract. These are significant savings compared to the WTP of 44p per switch. The value of other services would also be lost (see previous response).

¹⁰⁵ We note Ofcom uses the Department for Transport’s 2017 estimate of £5.51 per hour in its valuation of the time spent by consumers going through the switching process [§A10.11 and A10.12]. However, we understand Ofcom considers WTP is a more comprehensive measure.

¹⁰⁶ Ofcom’s revised view of the number of switchers Ofcom’s base case in its previous consultation was that 40% of switchers are likely to stop contacting their LP (Ofcom notes there is some uncertainty here¹⁰⁶ and so also assesses a lower (20%) and upper (60%) case too. Ofcom’s base case broadly accords with its Triple Play research¹⁰⁶ which finds 59% of switchers continue to contact their LP – but notes that there may be reasons why mobile customers may be more likely to contact their LP (seeking save deals¹⁰⁶) and less likely (greater awareness among mobile consumers over whether they are in contract/contract end dates than is the case among triple play consumers) and moreover, there will generally be a decline in the proportion contacting their LP over time as customers become more familiar with new processes.

¹⁰⁷ We remain of the view that Ofcom likely overestimates the likely time savings. We note Ofcom’s assessment that it “recognises the degree of uncertainty inherent in [assessing the number of switchers that derive a time saving]”.

ANNEX 6

OFCOM'S ASSESSMENT and EXTRACTS FROM THE CONSULTATION

Ofcom's assessment

157. We are concerned that Ofcom appears not to consider the evidence which has previously shown that mobile switching performs better than fixed and broadband following Ofcom reforms¹⁰⁸. See below.

¹⁰⁸ Ofcom's Consumer Experience 2015 Report noted: "Switching levels have increased in most markets, following a dip in 2014, and are broadly comparable with those reported for gas and electricity. Switching (in the last 12 months while remaining at the same address) in the fixed-line and mobile markets each increased by three percentage points since 2014 (from 6% to 9% for fixed-line and from 7% to 10% for mobile). Just under one in ten (8%) consumers had switched broadband provider, but switching remains lower for the main TV provider, at 4%." [§§1.2]. Furthermore, "Ofcom's Switching Tracker provides an understanding of how 'ease of switching' reported after the event compares across different types of switching (i.e. between markets and between different combinations of services being switched). It finds that the switch most likely to be stated as 'difficult' is one that involves the fixed line plus one other service (most likely fixed broadband). Nearly a fifth (19%) of these switchers said they found it either very, or fairly, difficult to switch. The mobile market reported the lowest levels of difficulty, at 5%." We note Ofcom has not published a Consumer Experience 2016 Report.

<http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-15/Annex.pdf>

Table 6

Ofcom believes that switching mobile services is unnecessarily difficult

Switching mobile services is unnecessarily difficult	Ofcom Concern	Wider Context
Difficulty obtaining a PAC	Significant minority report a difficulty when trying to obtain a PAC ¹⁰⁹ .	<p>Previous research identifies that difficulty obtaining a PAC was not the main concern:</p> <p>Ofcom’s Consumer Experience Report 2015 observes: “...in the mobile market ‘terms and conditions’ was the most-mentioned reason for not switching provider (33%), as had also been the case in 2014 (39%). This is likely to relate to the relatively high proportion of 24-month contracts: since early 2010 at least six in ten new mobile contract connections have had 24-month contracts. This reason was followed by ‘lack of cost benefit’.</p> <p>Furthermore there is a range of wider evidence^{110 111112113114},</p>

¹⁰⁹ [§3.69].

¹¹⁰ Ofcom’s Consumer Experience report 2015 finds:” *Among inactive consumers, lack of a perceived cost benefit is the key reason for their lack of interest in changing provider. Among those who do not agree that their provider is the best on the market, but who have not switched or considered switching, a perceived lack of cost benefit in switching is the most likely reason offered.*”

¹¹¹ Ofcom’s Consumer Experience Report 2015 observes: “...in the mobile market ‘terms and conditions’ was the most-mentioned reason for not switching provider (33%), as had also been the case in 2014 (39%). This is likely to relate to the relatively high proportion of 24-month contracts: since early 2010 at least six in ten new mobile contract connections have had 24-month contracts. This reason was followed by ‘lack of cost benefit’.

¹¹² Ofcom’s Consumer Experience Report 2015 finds: “Reasons for considering, but not switching provider, vary by market. In the broadband and TV markets ‘perceived hassle’ was the main reason why considerers had not switched (32% and 37%). In the fixed-line market it was ‘lack of perceived cost benefit’ (33%) and in the mobile market it was ‘terms and conditions’ (33%)”

¹¹³ Ofcom’s Consumer Experience Report 2015 found that fewer mobile “considerers” switchers cited “hassle” as the reason for not switching than in fixed, broadband or TV [Figure 34]

¹¹⁴ We note that in Ofcom’s Qualitative (Futuresight) research, many of the “hassle” factors are not related to the switching process itself: “Time and difficulty in understanding tariffs and making like-for-like comparisons/Difficulty in understanding what was actually needed (i.e., in terms of minutes, texts and particularly data) in relation to what was being offered/Perceived ‘risk’ in entering and being tied to an extended contract, prior to being

Market Metrics		<p>Ofcom must not discount the wider evidence, for example:</p> <ul style="list-style-type: none"> i. Mobile switching remains prevalent¹¹⁵ ii. Complaints are comparatively low¹¹⁶ iii. Mobile compares favourably to those markets where Ofcom has intervened already¹¹⁷. And we note there is no comparison with levels of dissatisfaction with the processes in those fixed markets where Ofcom has intervened. In this way, the levels of mobile dissatisfaction in this latest research could be benchmarked.
A significant minority of customers are dissatisfied	Ofcom cites its updated research	<p>Ofcom's research identifies that the majority of customers find the process services them well</p> <p><i>"...respondents noted that Ofcom's consumer research on ease of switching suggests that, at a headline level, the majority of mobile consumers find switching either 'fairly' or 'very' easy. For example, our Switching Tracker 2016 found that 94% of mobile switchers said that switching was either 'fairly' or 'very' easy (not significantly different from 92% in 2015)." [§3.59].</i>¹¹⁸</p>

able to fully determine whether the phone, tariff and network service was suitable/Waiting time to get through to their current provider in order to cancel (and further waiting time when being passed to 'retention' departments)/Finding it 'awkward' and sometimes daunting when cancelling, and, during save attempts, feeling under an obligation to 'have to defend' their decision to leave/Having to manage the transfer themselves, by either obtaining and transferring their PAC or cancelling and setting up with a new provider" http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/mobile-switching/mobile_switching_qualitative_research_feb16.pdf

¹¹⁵ [Ofcom's Consumer Experience Report] is aimed at measuring how well consumers are faring in respect of: choice, price and range; availability and take-up; awareness, comparing and switching; protection and concerns. The policy evaluation examines the research data and uses it to assess the impact of regulation and the priorities we have set ourselves." <https://www.ofcom.org.uk/research-and-data/multi-sector-research/general-communications/consumer-experience>

¹¹⁶ See Ofcom's "Reason to complain research, April 2017" https://www.ofcom.org.uk/_data/assets/pdf_file/0016/100609/reason-complain-research-2016.pdf

¹¹⁷ Also, see previous comparisons with other European markets. We also noted that Ofcom's Consumer Experience Report 2015 finds: "While a majority in each market report switching to be 'easy', around half of switchers in the fixed-line and broadband markets (when prompted) said they had experienced difficulties. The switch least likely to be reported retrospectively as easy was 'fixed line plus one other service' (most commonly fixed broadband), at 81%." And, when prompted, around half the switchers in each of the fixed-line (55%) and fixed broadband (57%) markets (compared with a third of switchers in the mobile market (35%)) said they had experienced some difficulties during their experience. This is despite GPL being adopted in fixed.

¹¹⁸ And generally, for overall satisfaction: https://www.ofcom.org.uk/_data/assets/pdf_file/0008/100610/quality-customer-service-research-2016.pdf

		<p>The BDRC 2017 consumer research indicates that around four in five switchers who requested a PAC and/or cancelled their service were either 'very' or 'fairly' satisfied with the method they had used to request the PAC and/or cancel [§3.69].</p> <p>And generally, for overall satisfaction: https://www.ofcom.org.uk/__data/assets/pdf_file/0008/100610/quality-customer-service-research-2016.pdf</p>
Clarity of Process	That mobile providers will be required to provide consumers with clear information about the process. [§1.6]	<p>We support the industry's voluntary commitments to adopt "key points" information for customers</p> <p>We also note that in the previous Consultation, Ofcom's evidence was that, in fact, "... consumer experience research suggests that the large majority of switchers were clear about the processes for switching mobile telephony." [§4.39]. Indeed, Ofcom's website remarks "The process is simple." http://ask.ofcom.org.uk/help/telephone/refuse_PAC</p>
Many mobile switchers found themselves paying out for notice period charges weeks after their old service ended	Ofcom proposes to prohibit charging beyond the switch	As Ofcom appreciates, O2 does not engage in this practice.
Consumers experienced short term-service loss when switching. [§1.10]	Ofcom supports voluntary commitments	We support Ofcom's approach.
Options: Auto-Switch or GPL	Auto-Switch is likely to be a more proportionate response accompanied by the other measures (Ofcom's Reform Package) ¹¹⁹ .	We agree, although as discussed we are concerned that the case for Auto-Switch is also uncertain.

¹¹⁹§6.16

Summary elements of requirements - Ofcom proposals¹²⁰

Figure 5 - Requirements for Auto-Switch

- Providers would need to be transparent about the porting and switching process.¹²⁵
- Providers would allow consumers to request a PAC / N-PAC by the following routes:
 - by text message, and using text short codes accessible free of charge; one for PAC (to transfer the mobile number to the new service) and one for N-PAC (to switch without transferring a mobile number). All providers would need to use the same two short codes as agreed by the relevant industry forum and approved in writing by Ofcom;
 - via their online account with their provider; and
 - by phone call to their provider.
- Losing providers will need to ensure that the protections currently provided for PAC switchers also apply to N-PAC switchers – specifically to:
 - cancel the service as soon as reasonably practicable upon receiving the request; and
 - if the cancellation takes more than one working day, providers must pay reasonable compensation.
- Losing providers would need to allow the consumer to request switching information independent from the switching process by text, online account and phone call, and then provide it immediately using the means by which it was requested. The losing provider must use a different text short code to provide this facility than it uses for the PAC and N-PAC requests, again as agreed by the relevant industry forum and approved in writing by Ofcom.
- Where the request relates to more than one but fewer than 25 mobile numbers, providers would not need to accept the request by text.¹²⁶
- Providers would need to give equal/due prominence to the availability of the three prescribed code request routes, alongside any others they choose to offer.
- The losing provider would need to provide the PAC/N-PAC immediately using the

¹²⁰ Given Ofcom considers that Auto-Switch is a more proportionate response than GPL, we have concentrated on the former in this response.

means of communication by which it was requested, and include accurate switching information alongside it.

- Gaining providers would need to offer consumers, at point of sale, the opportunity to redeem their PAC/N-PAC, rather than wait until after the new SIM card has been activated. The activation of the new SIM card would automatically trigger the porting/cancellation process.
- Switching information that is provided to consumers would need to include information relating to any ETC, any outstanding handset liability, or any outstanding pay as you go credit balances. These would need to be exact and accurate as at the date of the request and aggregated across all mobile numbers for which the request was made.
- If the losing provider rejected a PAC, N-PAC or switching information request, it would need to ensure that it made its reasons for doing so available to the consumer.

Ofcom summary of the costs and benefits of its proposals vs the status quo

Figure 16 - Summary of the benefits and costs of Auto-Switch and GPL

Group	Impact	Auto-Switch	GPL
Benefits to switchers	<i>Reduction in unnecessary time and difficulties progressing the switch</i>	Removes need to speak to losing provider to port / terminate C&R switchers who want to port number do so Worth between £16 million and £43 million over ten years (NPV, WTP-based estimate)	Removes need to speak to losing provider to port / terminate C&R switchers who want to port number do so Worth between £17 million and £41 million over ten years (NPV, WTP-based estimate)
	<i>Reduction in double-paying by C&R switchers</i>	Reduction of between £15 million and £22 million over ten years (NPV)	Reduction of between £8 million and £15 million over ten years (NPV)
	<i>Reduction in loss of service for C&R switchers</i>	Enables coordination of stop and start of old and new services without risk of contract overlap	
Benefits to would-be switchers	<i>Gains from switching</i> <i>Improved save offer</i>	Gains from switching for considerers who have been put off switching because of process difficulties our reforms are likely to address Improved save offer for considerers who continue to stay with their provider because of a save offer Gains from switching or improved save offer for inactive consumers who are inactive because of process difficulties our reforms are likely to address	
Competition benefits	<i>Benefits flowing from increased competition between mobile providers</i>	Scope for such benefits could potentially be significant Scale of benefits increases with the extent to which our process reforms make switching easier and faster	
Costs to industry	<i>Net Implementation costs</i>	£44 million over ten years (NPC)	£87 million over ten years (NPC)
Potential costs to switchers	<i>Protection against unwanted ETCs</i>	Similar protection as in the status quo	Better protection than status quo in theory, though survey evidence suggests this difference is unlikely material in reality
Potential costs to would-be switchers	<i>Foregone save offers</i>	Potential cost for considerers who switch to a deal with smaller gains than the gains from the (no longer received) save offer	

Summary of how Ofcom's proposed remedies address the issues identified

Figure 9 - Summary of how the proposed remedies address the issues identified

Issue identified	GPL (alongside notice period reform and End-to-end management/ industry commitments)	Auto-Switch (alongside notice period reform and End-to-end management/ industry commitments)
Double paying while switching provider.	<ul style="list-style-type: none"> ▪ The consumer would only have to pay for the old service(s) up until the date of the switch. Any double paying would be reduced to a single day (the switch date). The consumer would not need to defer the start of their new service(s) to avoid double payments. ▪ Notice period reform would benefit existing PAC switchers and those C&R switchers who either, as a result of our package of reforms decide to port their number (i.e. become PAC switchers) or switch provider without porting the number but take advantage of the formal switching process. 	
Unnecessary time and difficulties when progressing a switch	<ul style="list-style-type: none"> ▪ The consumer would only need to contact the gaining provider to switch. ▪ The gaining provider would be responsible for contacting the losing provider to cancel the old service(s) and co-ordinate the date for stopping them. Difficulties contacting the losing provider to cancel would be removed. 	<ul style="list-style-type: none"> ▪ Consumers would have more options for requesting a PAC. There would now also be a N-PAC for consumers not wanting to port their number, so they didn't have to contact their losing provider. Consumers would have the option of using online account and text messaging routes, without having to speak with their losing provider. ▪ Consumers would only need to contact the gaining provider once in order to progress the switch. ▪ Providers would need to ensure that switching and porting processes are transparent to consumers, which at a minimum should include guidance on their websites. PAC/ N-PAC request methods must be given equal prominence in consumer communications (e.g. information on websites and in correspondence).
Protect against loss of service	<ul style="list-style-type: none"> ▪ Prohibiting charging for notice after the date of the switch will help reduce loss of service. We know some consumers struggled with the task of co-ordinating a switch to avoid double payments and incurred service loss as a result.¹⁵² ▪ The design of the End-to-end management solution should address the concerns we have identified and lead to a material reduction in loss of service for porters. ▪ The voluntary commitments outlined above, if successful, could minimise the risk of loss of service experienced by consumers outside of the current porting window. 	