



# Vodafone

June 2017

Response to Ofcom's Consultation: Consumer switching: proposals to reform switching of mobile communications services  
Non Confidential version



## Executive summary

1. When changing provider consumers want a simple and effective process, coupled with information on the consequences of their switching decision. If this process is effective the consumer is rightly agnostic to underlying back-office processes. Ofcom has proposed text-to-switch which at a headline level appears to be an effective consumer process, but upon investigation is sub-optimal in consumer experience terms by not recognising the complexities of today's product offerings and risks undermining safeguards provided by the Consumer Rights Directive. Vodafone instead proposes an alternative to improve consumer experience and recognise the complexity of what consumers actually buy from operators, while being more cost efficient.
2. The existing UK mobile switching processes are highly effective. 98% of mobile ports are completed on time within 24 business hours. The UK's mobile switching processes exceed the capabilities of other sectors in the UK such as energy, and mobile switching in other countries.
3. Ofcom's proposals to restrict extended notice periods will ensure that all mobile switching customers can immediately benefit from the speedy high quality switching processes unleashing the benefits of mobile switching for all customers.
4. In order to support the reality of a very fast paced mobile switching process, customers must be very well informed about the impact of their switch in their existing contractual arrangement especially when speedy switching conflicts with customers' ability to readily exercise their consumer rights to cool off. Providing customers detailed information about early termination charges, inclusive services that might also cease; how and when to cancel direct debits to avoid debt collection issues are important aspects of the switching process, and their absence could lead to higher levels of complaints.
5. Ofcom finds that the majority (circa 84% of those use it) of customers are happy with the PAC by phone process, therefore it is logical to build upon that process to achieve the best outcomes for all users. Ofcom's AutoPAC proposals will exchange one set of concerns about access to the PAC, for another set of concerns regarding the provision of accurate detailed information about the overall service impact, unless of course we introduce a duplicative second step in the process requiring customers to phone their supplier for the missing information. The proposed automated process supported by short SMS information feeds is simply inadequate for the large majority of the 6.2 million<sup>1</sup> customers switching each year.
6. The conflated presentation of the cost benefit analysis which merges costs and benefits for separate proposals conceals the fact that the cost benefit analysis for AutoPAC is not positive. Coupled with the very real additional complexities created by this process, it is clear that overall it is a far worse

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<sup>1</sup> Porting and cease and reprovide.



solution than exists today and with substantial costs. The proposal for dramatic process change are disproportionately costly in light of the lack of evidence of harm; the failure to consider the downsides for customer cooling off capabilities; the necessity for additional customer engagement to properly cease and switch their services; along with the failure of the cost benefit analysis to be properly substantiated.

7. Vodafone considers that Ofcom's objectives can be better met, at far lower cost, by a restructuring of the existing process. Our proposal is to restructure the leaving conversation so that customers are provided with a PAC code at the start of the call with the supporting information provided afterwards. In that way customers who wanted speedy access to the PAC can have it while the larger majority of customers continue to be able to access full service information without further ado. We propose that this is supported by an industry code of practice. Working in tandem with the removal of notice periods, our proposal would increase customers' confidence in switching, at the same time enabling sophisticated switchers to experience simpler and shorter engagements to obtain a PAC.



# Contents

Executive summary.....	2
Contents.....	4
Introduction.....	5
1. The UK has efficient and high quality mobile switching.....	6
1.1 Mobile switching cross country review – speed of switching.....	6
1.2 Mobile switching cross country review – quality of switching.....	6
1.3 Mobile switching compared to other sector services.....	7
2. Mobile services.....	9
2.1 Mobile services are increasingly bundled with additional features.....	9
3. Ofcom’s proposals.....	12
3.1 Loss of service.....	12
3.2 Out of contract notice period reforms.....	12
3.3 Text to Switch PAC and NPAC.....	13
3.4 Very few customers are not satisfied by today’s processes.....	14
A disproportionate response.....	15
Text to switch creates more harm than improvement.....	16
4. Review of Ofcom’s cost benefit analysis.....	18
Establishing the cost benefit analysis test.....	18
Cost benefit analysis in this proposal.....	19
Introduction of Auto-Switch:.....	19
Prohibiting charging for notice after the switching date.....	20
End to end management.....	21
Providing transparency to consumers:.....	22
Industry policy reform.....	23
5. Industry code proposal.....	24
The proposal:.....	24
6. Responses to consultation questions.....	26



# Introduction

Ofcom's proposals to change the initial step of the switching process from a telephone conversation where full facts are provided to the customer to a text where a short form of information can be handed over is unproven, does not pass a cost benefit test and has the potential to increase customer complaints and dissatisfaction. We propose that industry could commit to processes where the PAC is provided at the outset of the telephone conversation, thereby improving experience for customers who do not want experience the full set of information, but providing an easy route for those that do. The rest of this paper sets out our thinking in more detail

Section 1 describes the UK market and evidence of fast and quality switching processes

Section 2 assesses Ofcom's proposals

Section 3 discusses the Cost benefit analysis

Section 4 describes the process changes that could be implemented through an Industry code of practice

Section 5 Answers the consultation questions



# 1. The UK has efficient and high quality mobile switching

A review of UK mobile switching compared with switching in other countries where Vodafone has a presence clearly identifies that UK mobile switching is being both fast, efficient and high quality. There is little doubt that the UK benefits from highly efficient processes for mobile customer switching.

## 1.1 Mobile switching cross country review – speed of switching

The UK process is simple and clear. On receipt of the authorisation code (the PAC), which must be provided to the customer within 2 hours of request by text message or can be given out immediately during a phone conversation, a customer has the technical capability to switch his service provider within one business day.

In a sample of markets where Vodafone operates, we have found the end to end switching processes to be far slower than our own with additional process stages, and will lower quality levels. Although it is often stated in other countries that one-day processes are in place, this often refers to the actual transfer of the customer between networks and not the entire end to end process. We have found that extra time is built into the process to validate and prepare for the porting execution over the single day. In addition, we find that there is much less rigour in actually operating to these standards. The table below illustrates this:

Country	End to end process timescales to port a number (days)	Detail
Germany	6	Focus is on quality rather than speed
Italy	1	Compensation not payable unless the port takes more than 2 days
Turkey	6	2 days for applications, 2 days for authentication, 2 days of actual porting activity
Spain	1	Only 48% of request are carried out in 1 day including requests by the consumer to delay

Source: Vodafone

The countries with theoretical similar switching timescales as the UK (Italy and Spain) are not focused on enabling the switch to happen within the minimum period. In Italy consumers are only considered to be adversely impacted when the process takes over 2 days. In Spain less than half of switching requests are conducted in the shortest period as a result of delay or customer requested delay.

## 1.2 Mobile switching cross country review – quality of switching

The UK process is high quality with 98% of porting requests are carried out successfully. The table below is compiled from the data that was collated on behalf of the OSG by the independent OSG chair<sup>2</sup> in response to a request from Ofcom. The table evidences the high quality levels found in the mobile switching processes.

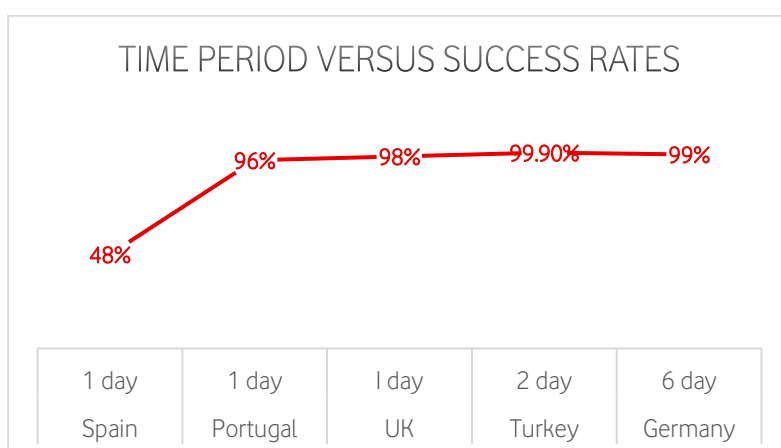
<sup>2</sup> Letter dated 28<sup>th</sup> February 2017



	July 2016	August 2016	Sept 2016	Oct 2016	Nov 2016	Dec 2016
Quality level – achievement of one day port	98.73%	96.99%	98.69%	96.75%	98.28%	98.67%
Period Average	98.01%					

Source: OSG members letter to Ofcom

Our analysis shows that the UK levels of porting success are also market leading when comparing the speed of the porting activity against the success rate of completed ports across a sample of countries. This is shown in the table below looking at the achievement rates of our sample countries.



Source: Vodafone

Ofcom is aware that the MNOs are seeking to further improve execution of the process so that nigh on 100% attainment can be supported by the existing process. MNOs look forward to reporting upon improvement once the new processes have bedded in.

### 1.3 Mobile switching compared to other sector services

We note that other market sectors that have similar switching processes that exclude contact between the customer and losing supplier have both a) far simpler product sets, i.e. whereby the underlying platform and service provided continue to be the same before and after the switch, and b) have built switching processes that accommodate the cooling off period to deal with the potential information vacuum in process that does not permit or encourage conversation between the customer and old supplier and to accommodate switching cancellation after a change of mind. Gas and electricity markets have grappled with a desire for faster switching but as yet failed to implement any such process because of the associated risks. The table below illustrates the switching timescales and their interaction with consumer rights to cool off along with associated service losses a customer might need to consider.



UK Switched service	Switching process	Change of mind during cooling off period	Associated services
Gas	17 days	Remain with original supplier	Possibly a Smart meter
Electricity	17 days	Remain with original supplier	Possibly a Smart meter
Mobile communications	1 day	no longer has contract with any other supplier	Inclusive OTT applications, Rewards programs, rolled over data.

Source: Vodafone








## 2. Mobile services

### 2.1 Mobile services are increasingly bundled with additional features

Mobile services packages traditionally have sold as variations of minutes, data, video with handsets on a contract or pay as you go basis.

In 2017 it is evident that Retailers increasingly offer a range of inclusive and linked services and benefits. For instance, Vodafone has chosen to include a wide definition of European destinations within its 'roam like at home' scope – far beyond the definition of the EEA within the scope of regulation. Other such examples include:

A Sample Vodafone inclusive benefit<sup>5</sup>

<p><b>32GB</b> Red Entertainment</p> <p>► More Info</p>	<p><b>Take your home plan abroad</b> Vodafone Global Roaming</p> <p>► More Info</p>	<p><b>Unlimited</b> minutes <b>Unlimited</b> texts</p>	<p><b>Includes</b> 24 month subscription to</p> <p> or  or </p> <p>and a 3-month free trial of Secure Net</p>
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A Sample EE inclusive benefit<sup>4</sup>

**Max Plan**

- ✓ Unlimited mins and texts
- ✓ EU plus 5 extra destinations roaming
- ✓ Fastest 4G UK data speed
- ✓ 24 months BT Sport app

<sup>3</sup> <http://shop.vodafone.co.uk/shop/pricePlans/plansHome.jsp?planContractType=monthly&cid=ppc-mec-auto/lznty/vomqz/zqy/aents/qrnuo>

<sup>4</sup> <http://shop.ee.co.uk/my-offers/phones>






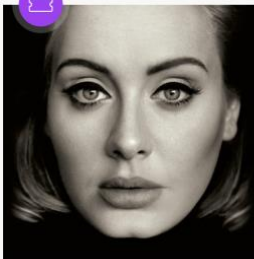




### A sample O2 inclusive benefit<sup>5</sup>

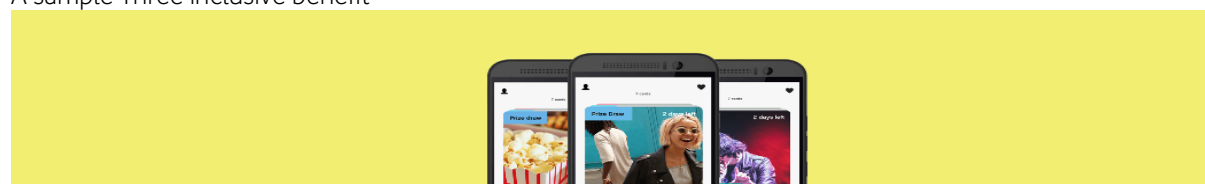
**What is Priority?**

From daily treats to exclusive experiences, Priority has something special for everyone.

Priority is free and exclusive to O2 customers and is available on your phone, tablet, laptop or desktop.

 	 	 	 
<p><b>Exclusive Offers</b></p> <p>There are some great Priority offers with weekly treats and discounts on food, drinks and shopping.</p>	<p><b>Prize Draws</b></p> <p>Your chance to win some fantastic prizes when you enter our free draws on Priority.</p>	<p><b>Priority Tickets</b></p> <p>Get tickets to the biggest acts at the O2 and O2 academy venues 48 hours before general sale.</p>	<p><b>Priority Entertainment</b></p> <p>Early access to your favourite Channel 4 shows as well as free films and magazines every month.</p>

### A sample Three inclusive benefit<sup>6</sup>



Get fresh offers, rewards, prize draws and more every week.

**Not your average rewards app.**

You get rewards just by being a Three customer. Really. Download the app and away you go.



**Trend Travel Tech Beauty Dining In Entertainment Dining Out Wellness**

<sup>5</sup> <https://priority.o2.co.uk/rewards>

<sup>6</sup> <http://www.three.co.uk/wuntu>



A sample Sky benefit<sup>7</sup>

## Your data is yours to keep.

At the end of every month, we'll automatically Roll over whatever's left into your Sky Piggybank, to use whenever you like.

There's no limit to how much you can store and you can keep it for 3 years.

If you run out, you can simply Roll back data from your Sky Piggybank to use instantly whenever you need it.

The above extracts from a variety of Retailers shows the rich array of additional services a customer receives with the core mobile voice and data service. Mobile services are in themselves becoming a service bundle.

Increasingly the switching decision needs to be taken in full awareness of the overall package and not just the cost of connectivity. When a customer considers taking up a Vodafone service we discuss in depth with the customer how they will be using the service in order to decide which package is best suited to them. It is unsurprising when a customer is considering leaving that a similar style of conversation is undertaken.

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<sup>7</sup> <https://www.sky.com/shop/mobile/features#feature-roll>



## 3. Ofcom's proposals

Ofcom sets out a number of objectives in its proposal which are reviewed below:

### 3.1 Loss of service

Our research identifies that in 2017 the UK mobile market offers a fast and high quality switching service. The process of mobile switching is most likely to result in a customer changing the physical network that supplies his service. The customer will have a limited time period of service on a temporary number while his old number is programmed by both the old and new network to work with the handset and SIM of the new provider.

A 2% minority of customers have switching timescales that exceed the one-day process and continue longer than intended with the temporary number. The mobile community recognises the inconvenience that the partial service can present to customers. It is presently seeking to reduce this 2% of extended porting occurrences to an even lower proportion by restructuring the flow of transfer data between Retailers to better utilise the porting time frame window and porting system capacity.

We consider that service loss and in particular long duration service loss which would be likely to cause harm is extremely limited as the recent evidence collected by the OSG illustrates.<sup>8</sup> The service loss is unlikely to leave the user without a communication source but will limit the incoming calls that are made to the number awaiting to be ported. Mobile retailers provide their customers with compensation for this inconvenience.

Improving the quality of processes is not best addressed by speeding up the process or by adding unnecessary additional non porting data volume into the porting process as proposed by the NPAC proposal.

### 3.2 Out of contract notice period reforms

Ofcom identifies that some Retailers apply a notice period which prevents a customer from leaving without giving notice and therefore either prolonging the period it takes for a customer to enact a switch or results in the customer in double paying.

Ofcom proposes to abolish all out of contract notice periods so that all Retailers allow customers to terminate and switch their service with speed. This change will give proper effect to the one porting regime which was designed with the intention of facilitating a speedy switch from one network Retailer to another.

Ofcom has not however given consideration to the role which notice periods have played in assisting customers to exercise their consumer protection cooling off rights. The notice period timeframe in essence increased the switching time frame from the one-day technical capability to 30 days.

The disadvantages of this extended switching period are clearly set out by Ofcom but the advantages in regime are not. Under the notice period regime, the customer continues to have a contract and working service with their old supplier they can revert to / remain with as they invoke their cooling off period. As we see in the gas and electricity switching scenarios the process has been built to allow the customer access to their rights of the cooling off period before the switch is enacted. Ofgem and energy industry stakeholders have been grappling with how to facilitate faster switching while also having a process to deal with customers who subsequently wish to cool off from their new supplier decision. Their research shows that up to 7% of customer opt to cool off. The debate has spanned a number of years and remains to be implemented even though in comparison to mobile this is a simple billing change.

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<sup>8</sup> As show above in section 1.3



The manner in which a switched customer can retain a mobile service and exercise their rights to cool off has not been fully explored within these proposals. We attach a report by Tower House which examines the tensions between Ofcom's proposals and the consumer legislation around cooling off periods. Tower House finds that mobile switching processes do not and cannot support the cooling off period. A change of heart will require a further switch if this is taken after a switch has been actioned. The customer therefore needs to make the switching decision in the most informed manner possible to avoid adverse consequences of switching with inadequate information and in haste.

We consider that mobile customers can "have their cake and eat it" by augmenting the existing processes that already enables fast and high quality switching to ensure that customers are properly and extensively informed. By implementing a process which ensures that all customers are properly informed we limit the number of customers that cool off post termination of their old contract and the problems that this raises for these customers who then have no contract to fall back to, inability to access plans that are closed to new supply and the need to go through the switching process again.

We discuss this further in section 4 of this document.

### **3.3 Text to Switch PAC and NPAC**

Ofcom identifies that a minority of customers are not satisfied with the current PAC by phone process and consequently proposes a new costly process is put in place and promoted above other processes to accommodate this minority.

The PAC process is in place to implement the regulatory obligations for end users to retain their telephone numbers to comply Article 30 of the USD requires member states and their respective NRAs to allow for number portability to occur. Article 30(1) says:

*"Member States shall ensure that all subscribers with numbers from the national telephone numbering plan who so request can retain their number(s) independently of the undertaking providing the service [...]."*

Ofcom also considers that customers that do not wish to port their number would benefit from a coordinated switch such as is provided to a porting customer. Ofcom has incorrectly concluded that the porting process represents both the termination and commencement of a customer's contracts. This is not correct. Where a customer has not already terminated his contract the porting request does act as an alternative termination request however for the customer's new service this is started when they request the service over the phone, online or in store. A joining customer is issued with a Retailers SIM and given a new telephony number. A customer eventually porting a number will have already started his new service with a temporary number. The PAC process is not designed to coordinated switching between suppliers but to enable a switching customer to retain and transfer their number once they have commenced a new service. When the customer is ready or wishes (up to a period of 30 days) his old number is transferred to his new service provider. The customer can arrange this to happen any time after he has received his SIM. Vodafone has created the following video to assist its customers to bring their old number to Vodafone after they have switched to Vodafone <https://www.youtube.com/watch?v=7hsLER0hh1g>.

The proposals that Ofcom made for NPAC are therefore not feasible and are not an extension of the current PAC process as is suggested.

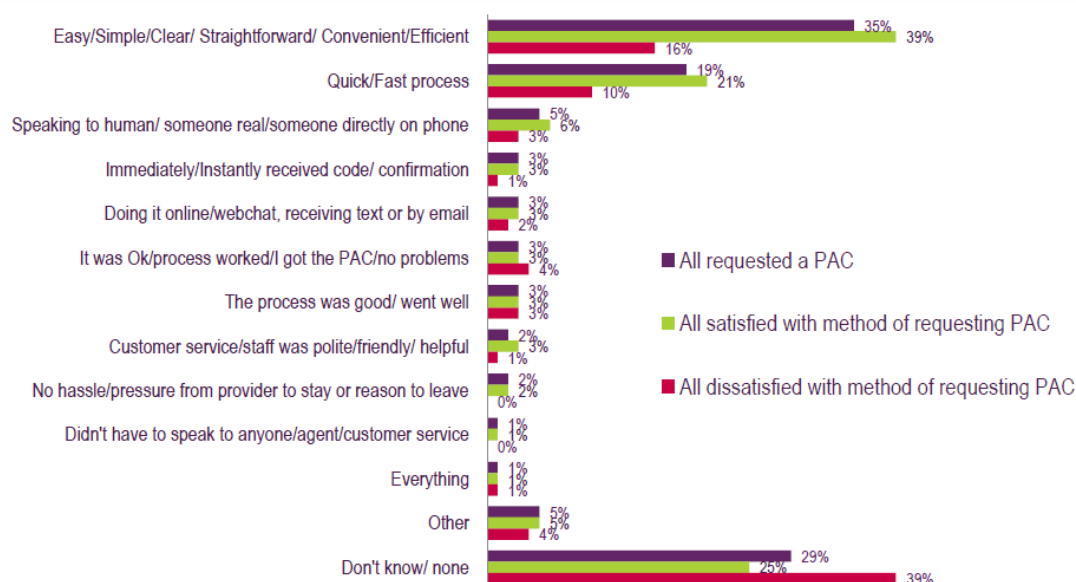


### 3.4 Very few customers are not satisfied by today's processes

Ofcom's 2017 market research identifies that at most 16% of users of the PAC process or 14% of total switching customers are not entirely satisfied by the PAC process<sup>9</sup>. Therefore 86 % of all switching customer are satisfied. Indeed, the following slide from Ofcom's research conclusions shows that customers were very happy with the PAC process as it is easy and straightforward:

#### The method previously used for requesting a PAC was liked largely for being an easy straightforward experience 29

##### Aspects liked about the previous method of requesting a PAC By satisfaction with method of requesting PAC



Q. What, if anything, was there about [this method/these methods] of requesting a PAC that you liked? (unprompted)

Source: Ofcom<sup>10</sup>

The data set out above demonstrates that customers who were dissatisfied with the PAC process also stating they liked the PAC process because it is

1. easy/simple/clear/straightforward/convenient and efficient
2. quick / fast process
3. speak to a human/someone real/directly on the phone
4. process worked/got the PAC/no problems
5. the process was good/went well

<sup>9</sup> Slide 32 [https://www.ofcom.org.uk/data/assets/pdf\\_file/0026/101996/Mobile-Switching-Research-2017-Attitudes-towards-current-and-potential-alternative-processes.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0026/101996/Mobile-Switching-Research-2017-Attitudes-towards-current-and-potential-alternative-processes.pdf)

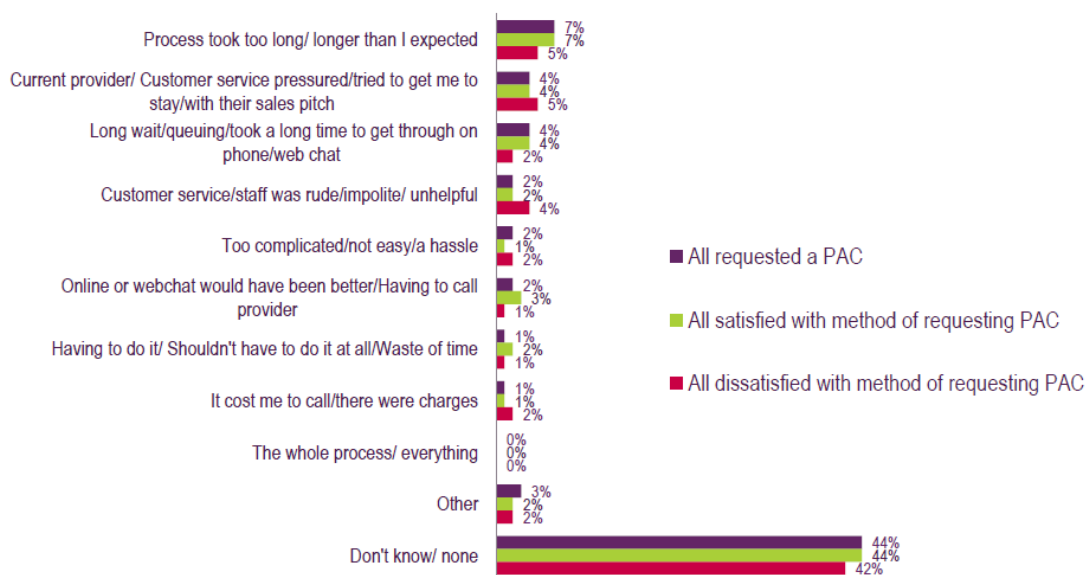
<sup>10</sup> ibid, slide 34



Ofcom's research further identifies that the minority of customers that were not entirely satisfied with the process where not able to raise substantial concerns as is evidenced in the slide below:

For respondents that mentioned reasons for disliking the method of requesting a PAC, these were related largely to it being a long process, feeling in a pressured sales environment, or a long waiting time in telephone queues <sup>31</sup>

**Aspects disliked about the method of requesting a PAC**  
**By satisfaction with method of requesting PAC**



Q. What, if anything, was there about [this method/these methods] of requesting a PAC that you did not like? (unprompted)

Source: Ofcom

It is evident that 42% of the 16% of unsatisfied customers were unable to list a particular fault with the PAC process.

**A disproportionate response**

The regulatory framework requires general conditions that are imposed upon communications providers to be proportionate. This is set out in Art 6(1) of Authorisation Directive requires all general conditions to be "proportionate".

The UK Supreme Court has said that that the decision of a regulator will only be considered to be proportional under EU law if two criteria are met:<sup>11</sup>

- (1) Firstly, the measure must be suitable or appropriate to achieve the objective pursued, and
- (2) Secondly, the measure must be necessary to achieve that objective.

<sup>11</sup> See: *R (on the application of Lumsden & others) v Legal Services Board* [2015] UKSC 41, para [33].

<sup>(1)</sup> See: para [104] of the *Lumsden* judgment.



In light of the evidence which fails to show majority dissatisfaction with the old process or provide a majority view of changes that should be made to the process, it is unsafe and we consider the necessity for the obligation to be proportionate under EU law as defined by the Supreme Court is not met. Ofcom's evidence shows:

1. Only a minority of the total switching customers are able to identify an issue with the existing PAC process.
2. The 38% of customers that Ofcom believes would use the AutoPAC process if implemented is likely to be overstated as the consumer research appeared not to provide respondents with a complete picture of the need to follow up to obtain contractual information – the reality of the proposed process. Importantly, the research was designed such that customers were led to questions about needing to contact their supplier after answering questions on willingness to pay, meaning that responses to the questions on willingness to pay were made on the presumption that contact would not be necessary when using text to switch.
3. The 38% of customers that Ofcom finds would use the AutoPAC process if implemented is overstated as respondents were not prompted as to whether they would prefer to speak to their provider in light of the cooling off issues in a fast switching scenario.
4. Ofcom's proposals to create a new regulatory solution in the non SMP mobile market based on the opinion of less than 1% of all mobile customers<sup>12</sup>, when in the wholesale broadband SMP market Ofcom has chosen not to protect over 2% customers from lack of competition and investment. In our view Ofcom's pursuit of new process is disproportionate and reflective of the desire to do something rather than stand by, what are, robust efficient processes.

Ofcom's gives no consideration to the investment that Retailers have made<sup>13</sup> and continue to make to the existing processes. Vodafone has recently trialed and is about to launch a process that checks in with customer that have requested a PAC but not used it within the 30 day time period to establish if they need further assistance.

### **Text to switch creates more harm than improvement**

Ofcom's proposals to change the switching process removes the direct contact between the customer and the losing provider in either the AutoPAC or GPL process is likely to create more harm for more consumers than the harm it is intended to stop. In particular, with the removal of notice periods.

The direct conversations between the customer and the existing supplier are very important and become even more so when customers can affect their switching decision with almost immediate effect. To avoid harmful effects of contracts being terminated with impulse these conversations are necessary.

The switching decision is far bigger than whether the customer is liable for early contract termination charges or not.

Leaving conversations provide the customer with important information. Besides complying with porting regulation and providing the PAC code we will:

- provide the necessary information about the applicable charges for handsets (if any)

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<sup>12</sup> Assume that there are circa 60 million non corporate mobile subscribers of which 380,000 fairly or very unsatisfied customers relates to as 0.0063%

<sup>13</sup> It was only in April 2011, 6 years ago when Retailers invested to reduce the porting timescales to the current one day process and as such we continue to be in the 10 year investment payback cycle for that change.





- discuss the appropriate point at which to cancel direct debits so that future charges (such as international call charges that can take time to be billed) can be processed. This is very important to avoid premature direct debit cancellation which can lead to late payment and result in customer complaints. Where customers have opted to take inclusive services (such as OTT content supply) or packages (eg group discounts) we will assist the customer in protecting the ongoing provision of that service by setting up their own payment method once the Vodafone contract ceases.

This information is too vast to be conveyed in a simple text to switch messaging process and puts the customer at risk of switching in haste without due consideration. At its best Ofcom's expensive process change proposals will provide customers with a SMS with the PAC number which they already receive today followed by a subsequent text detailing ETCs and proposing that the customer contacts us to discuss the further features of the package that will be lost.

Under Ofcom's proposals we estimate that just over 1million of our existing customers have opted out of marketing calls and will be at further risk as their current supplier will be unable to make proactive contact to ensure the customer is appropriately informed. Even where customers have not opted out of marketing calls the speed of the switching process will make it unlikely that we are able to catch up with all of these customers before they switch and then potentially face unexpected costs or the complexity of having to unpick both new and existing service commitments.

We consider that faster switching can be facilitated, BUT that the trade-off for faster switching is that customers must be adequately well informed in advance of requesting the switch. Contrary to Ofcom's proposals that customers should have less direct engagement with their Mobile Retailer we consider the opposite is true. The receipt of a PAC code equates to an implied request to terminate the customers contract with immediate effect. The significance of the speed of contract termination and the total lack of opportunity for repatriation has been overlooked by Ofcom.

It is likely the ability to effect a switching decision far more quickly once notice periods are removed for all customers that customers will realise the true benefits of the PAC process and satisfaction levels are likely to further increase. An accurate assessment of this can be undertaken following a period of time post out of contract notice period removal.



## 4. Review of Ofcom's cost benefit analysis

In our response we have explained why we consider the auto-switch policy reform not to be in the interests of consumers. We have explained why we consider the notice period policy reform to be in the interests of consumers, and we have explained our proposal for the introduction of an industry code of practice.

In this section we review the evidence, calculations, and data used by Ofcom in their cost benefit analysis to demonstrate that when assessed independently on their merits not all of Ofcom's policy reforms meet and pass the required standard, and we establish the 'required standard' by reference to the Competition Appeals Tribunal's (CAT) 2008 decision when they assessed Ofcom's mobile porting decision.

As Ofcom describes in the summary to its consultation what is being proposed is a package of reforms, Vodafone considers that each of these reforms should be considered in turn, with the incremental costs and benefits of each reform being considered on its own merits. Merging these reforms together and mixing costs and benefits simply confuses an already complicated and challenging piece of analysis. Additionally, this carries the danger of including inappropriate incremental costs or benefits in each reform. We analyse each of these reforms in isolation, and we also consider the costs and benefits of our proposal for an industry wide code of practice.

It is important to note that in our analysis we quote the benefits and costs using Ofcom's latest figures and ranges included in its consultation. We consider that many of the figures are based on highly subjective assumptions that are not wholly supported, in part are based on opinions rather than actual evidence, and as explained below do not meet the standard established by the CAT.

### Establishing the cost benefit analysis test

In 2008 the CAT<sup>14</sup> overturned an Ofcom decision based on an incorrect cost-benefit analysis (CBA). In their ruling the CAT explained at some length the deficiencies and inadequacies in Ofcom's CBA and in doing so established a threshold that CBA's should reach when they are being used by Ofcom to support policy reforms. The following are four of the more important points that the CAT focused attention on; we use these to assess the degree to which each of Ofcom's policy reforms are supported by a CBA that meets the threshold established by the CAT.

- 1) **Industry engagement:** The assumptions and inputs into each analysis needs to include a level of detail so as to enable the industry to fully engage and *provide intelligent and realistic responses* to the regulator, this enables true consultation.
- 2) **Convincing and accurate input:** The analysis should include *a sufficiently cogent and accurate set of inputs to enable the performance of a reliable and soundly based CBA*. For example speculative and potentially misleading inputs do not meet the threshold.

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<sup>14</sup> *Vodafone Ltd v OFCOM*[2008] CAT 22



- 3) **Rigorous and proven assumptions:** The analysis of the costs and benefits of the proposals are required to be rigorous, and include proven assumptions. For example anecdotal 'evidence' does not meet the threshold.
- 4) **Sensitivity testing:** The analysis should include sensitivity analysis to understand the impact and importance of different inputs and assumptions. This is particularly the case where there is considerable uncertainty surrounding the true value of the anticipated costs and benefits.

### Cost benefit analysis in this proposal

#### Introduction of Auto-Switch:

This reform enables consumers to request and automatically receive a PAC or cancellation code by text, or through their online account. This will remove the need for consumers to speak to their old provider. They will also only need to contact their new provider once in order to progress the switch.

#### Benefits:

- Ofcom initially assessed the benefit of this policy reform as between **£5.8million to £8million**; this was based on the cost of people's time spent on the phone whilst receiving their PAC code. This was however based on a calculation of the cost of people's actual time using evidenced benchmarks.
- Ofcom considered this underplayed the 'difficulties consumers would be willing to avoid' and thus carried out 2017 BDCR research asking consumers how much they would be willing to pay to use auto-switch and GPL. By Ofcom's own recognition this evidence is rather subjective and requires careful interpretation:

*"We recognise that this type of evidence must be interpreted carefully as there is uncertainty about whether respondents would actually pay the price they said they would...."*

- In calculating this new benefit Ofcom also acknowledged the difficulties in deriving a precise number, instead they relied on a wide range **£16million to £43million**.

#### Costs:

- After wide detailed consultation with input from a variety of stakeholders Ofcom derived a number for the cost to operators of the auto-switching reform as **£44million**.

#### Summary:

<u>Costs</u>	<u>Benefits</u>	<u>Costs</u>
<b>To consumers</b>	£16 - £43million	
<b>To Operators</b>		£44million



Clearly this policy reform does not pass the cost benefit analysis test and there is no clear evidence even using Ofcom’s calculations that this should be implemented.

We also consider that this CBA would fail the test we established at the beginning of this section: there has been no industry engagement with Ofcom’s latest BDCR consumer research, the research is not convincing or sufficiently accurate (highlighted by the huge range), and the assumptions are not proven.

Implementing this policy would be detrimental for industry operators and therefore also detrimental for consumers as potentially the higher costs industry operators will incur and pass on in price increases will not be offset by the same savings made by consumers. It is not surprising that this policy reform does not pass the CBA because, as used in Ofcom’s base case it is projected that only 38% of consumers will actually use this process.

Prohibiting charging for notice after the switching date

This reform ensures consumers will no longer have to pay for their old and new service at the same time. We agree with Ofcom’s proposal to tackle this additional unnecessary cost of double paying due to extended unnecessary notice periods.

We have already recognised the dis-satisfaction from consumers of this practice and as a consequence do not levy notice period charges, beyond the time we receive the network PAC request from their new provider.

**Benefits:**

- We understand that Ofcom has calculated the benefit of this policy reform to PAC switchers and non-PAC switchers by using statistics that show the number of average days consumers that switch currently double pay for, and by assessing the average price of a contract
- We understand that Ofcom has calculated the additional benefit to consumers of this notice period change as:
  - Non-porting Customers: £18million
  - Porting Customers: £69million
  - **Total benefit: £88million**

**Costs:**

- For Vodafone to implement this change would cost zero as we do not charge for notice periods today, we believe that for other operators to implement this change would also attract very minimal costs, i.e. less than £1million.

**Summary:**

<u>Consumers</u>	<u>Benefits</u>	<u>Costs</u>
<b>Non-porting customers</b>	£18m	<£1m
<b>Porting customers</b>	£69m	
<b>Total</b>	<b>£88m</b>	<b>&lt;£1m</b>



This CBA seems to meet more of the criteria set out in our test than the previous auto-switch reform. Industry has engaged with the inputs and assumptions, the estimates appear to be accurate and the assumptions are detailed. In addition Ofcom has carried out sensitivities on the length of notice period and the average revenue per day.

Clearly this policy reform passes the cost benefit analysis test and there is evidence that this should be implemented. Even if the assumptions and estimates are varied, i.e. sensitivity analysis applied this still passes the CBA. Ofcom could save consumers over £80 million by implementing this policy.

End to end management

This process reform requires the end to end management of the switch, including ensuring the losing provider does not deactivate the SIM until the gaining provider has activated the new SIM.

**Benefits:**

Ofcom has based the benefits of this policy reform on the elimination of the time that consumers currently experience loss of service. The time has been estimated at between 0.45 to 0.58 days. However as recognised by Ofcom:

*“We recognised that we had relatively little information on the value that consumers place on loss of service”*

Therefore Ofcom based the ‘value’ of this lost service as twice the average daily cost of an average mobile contract. There appears to be no evidence to validate or explain this assumption, it simply appears to be subjective opinion. Ofcom then updated this assumption due to additional evidence on the average daily rate paid by consumers based on additional evidence from operators. The **benefit is calculated by Ofcom as £4.6million**, however Ofcom does acknowledge that:

“However, we recognise that this methodology is a simplification and the true value could be higher or lower”

**Costs:**

Ofcom has calculated the cost of implementing this policy change as **£41 million** which is based on information and consultation with industry operators. Although this estimate potentially excludes some back-office savings that may be possible.

**Summary:**

<u>Consumers</u>	<u>Benefits</u>	<u>Costs</u>
<b>To consumers</b>	£4.6million	
<b>To Operators</b>		£41million

Clearly this policy reform does not pass the cost benefit analysis test and there is no clear evidence using Ofcom’s calculations that this should be implemented.



In addition this CBA falls short of the test we established on all the factors, this is supported by Ofcom’s own admission that they have little evidence on the value consumers place on this policy reform. Unsubstantiated, vague, and unproven assumptions do not meet the test.

Providing transparency to consumers:

This policy reform requires mobile operators to provide consumers with clear information, for example on their websites regarding the switching and porting process.

**Benefits:**

Ofcom state:

“On the benefits side, we do not have a reliable quantifiable estimate of the reduction in harm related to improved consumer understanding. However, we continue to believe that one benefit of this reform is likely to be greater take-up of our proposals.”

Vodafone would like to understand why Ofcom continues not to place a value on this benefit when they consider there is a quantifiable benefit; is it because the cost is now minimal (£0.9million) and they feel such a cost does not require justification. In a number of the other policy reforms justifying the benefits is difficult and subjective and Ofcom has still sought to place a value on these.

**Costs:**

The cost of this policy reform was originally estimated by Ofcom to be around £5.3 million over ten years. However Ofcom has now revised this estimate due to their ‘updated view’ which is that fewer providers would need to make these changes, and the changes would only require a ‘one-off’ change and thus one-off costs, therefore Ofcom’s estimate has reduced to £0.9million.

**Summary:**

<u>Consumers</u>	<u>Benefits</u>	<u>Costs</u>
<b>To consumers</b>	£0	
<b>To Operators</b>		£0.9million

This policy reform does not pass the cost benefit analysis test that has been presented in the consultation and therefore there is no clear evidence using Ofcom’s calculations that this should be implemented. This CBA as presented would fail all of our test criteria established at the beginning of this section, simply to ‘believe’ even if it is Ofcom that believes is not sufficient to justify a CBA.



## Industry policy reform

We describe our suggested policy reform in section 5. In summary this policy would provide operators that receive calls from customers requesting PAC codes with a script that requires the operator to give the PAC code to customers straight away, thus limiting the time customers are on the call and only providing additional information and services to customers that value these.

### **Benefits:**

The benefits associated with this policy reform would be very similar to the benefits Ofcom describes as a result of their auto-switch policy reform because we consider that our policy reform would enable customers to obtain their PAC code in the same time as it would take them to send a text message requesting their PAC code, especially considering the time and knowledge they would require to be able to use the text requesting service.

However as discussed above we do not consider that Ofcom's CBA meets the required threshold that enables a sufficiently accurate and robust analysis and therefore we do not consider it to be possible at this stage to quantify the benefits. However we will use Ofcom's original assessment of **£5.8million to £8million** which was based on the cost of people's time currently spent on the phone whilst receiving their PAC code in the absence of more robust data.

### **Costs:**

Although we have not carried out a detailed analysis of the costs associated with this policy reform we consider that there would be costs associated with:

- Call centre customer services training
- Call policy and process reform
- Call flow reform

Our initial estimate of these costs are circa £2m, however if required we could carry out a more detailed analysis and narrow this range.

### **Summary:**

<u>Consumers</u>	<u>Benefits</u>	<u>Costs</u>
<b>To consumers</b>	£5.8m to £8m	
<b>To Operators</b>		£2m

We recognise that at present although numerically this policy reform passes the CBA, it would not meet the requirements for the test we established at the beginning of this section as the evidence is not sufficiently robust.

If required we could carry out further analysis and work in this area and significantly improve the accuracy and robustness of this analysis. We believe it would then meet the threshold required to support this policy reform.



## 5. Industry code proposal

Having agreed that applying notice periods beyond the contract does not help customers switch, processes that can support confident and rapid switching of feature rich service packages are required.

We consider that Ofcom's aims for process reform can be accommodated within the existing overall process with some modification to the manner in which Retailers handle leaving conversations with their customers.

In acknowledgement that customers experience and sophistication differs we propose a change to the way that Retailers provide customers with leaving information and retention offers. Today the regulations require Retailer to provide customers with a PAC code following a request. This is complied with but often the PAC is given later on in the conversation after the retention offer has been rejected. For the proportion of customers who are very sophisticated switchers and uninterested in receiving a retention offer the existing process is longer than necessary. Due to our inability to know which customer does or does not value the longer form discussion or retention offer we propose that all customers are provided with their PAC and ETC information if relevant (these customers are mostly likely aware they are out of contract) at the outset of leaving conversations. This gives customers the ability to terminate their discussion with the Retailer and be in receipt of the switching key.

This proposal delivers the benefits that Ofcom is seeking and avoids the potential harms that Ofcom's proposals do not address. And whilst this process will involve process change and extensive staff training, system changes will not be required meaning that the process could be implemented far more rapidly than Ofcom's Text to Switch / AutoPAC proposal.

With this in mind, Vodafone and BT have worked together to develop a voluntary proposal that addresses the issues identified in the current switching process, and reduces the potential harm related to Ofcom's Auto-Switch proposal. This voluntary proposal could take the form of a Code of Practice, with providers signing up to it, comparable to the Mobile Content Code, or the Fixed Broadband Speed Code of Practice. The high level description of the proposal is included below, and BT and Vodafone will develop the Code during the consultation process, and share the details with Ofcom and industry.

The changes required to implement this proposal are far less complex and costly, and can be implemented significantly faster than Ofcom's proposal whilst meeting the outcome of providing consumers with an efficient and high quality switching process.

### **The proposal:**

The proposal has the following objectives:

- A) Address issues around PAC requests currently experienced by a minority of consumers (time and hassle);
- B) Ensure all switchers are aware of switching implications for the mobile service in question, and other related services which may be impacted, before they switch provider.
- C) Ensure providers can carry out authentication and account holder verification.
- D) Be a cost-effective solution that can be implemented relatively quickly.





Under the voluntary proposal, switchers will contact their current provider by phone or web chat to express their intention to switch. The advisor will authenticate the customer, and then provide the customer with the PAC.

Once provided with the PAC, the provider will make the customer aware of relevant information about the switch.

Only then will the advisor ask the customer whether they are interested in any offers they may have. At that point, the customer can exit the call and progress the switch, or listen to the offers of their current provider.

The details of the exact call flow, and the relevant information to be provided will be agreed in the Code, but the main point is that the PAC will be provided immediately after customer authentication.

In our view, this proposal strikes the right balance between the majority of customers who are interested in hearing what their current provider has to offer and the minority who do not want to lose time and have made up their mind. It also addresses the potential harm of consumers making an uninformed switching decision and it does not exacerbate authentication and fraud related switching issues.

The proposal significantly reduces system developments and costs. The main changes are process related, in particular in terms of the scripts of our retention advisors, and the order in which they carry out switching related activities.

In terms of implementation time, Vodafone and BT consider this could be implemented a year ahead of Ofcom's planned implementation times.

The Code will include details on how compliance with this proposal will be monitored. Our current thinking is sharing of scripts with Ofcom, and call listening to ensure advisors are compliant with the rules.



## 6. Responses to consultation questions

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

- Unnecessary time and difficulties progressing a switch including contact with the losing provider to request a PAC or cancel a service

No we do not agree with Ofcom's findings. The PAC and Cease and Reprovide processes are well established and well understood. A customer has the ability to receive a PAC code over the phone and also by text within 2 hours of request. Ofcom's research show that the large majority are happy with their switching choices with only 10% of the total 6.2 million per annum switching customers expressing an issue with the PAC process.

We consider that leaving conversations are an important bedrock to informing customers of the consequences of cancelling their current contract. The customer benefits immensely from the call time by becoming an informed switcher or by benefiting from a retention offer.

The mechanism to improve the process for these customers is not to change the process for all customers and assume that all customers are equally sophisticated and informed but to enable those customers that wish to obtain the PAC code with optimal speed.

Consequently, we have proposed a code of practice which will rearrange the flow of these leaving conversations so that the first action is the provision of the PAC code, progressing on to information about associated leaving costs and feature loss and retention offers.

We consider that most customers would consider the time spent to discuss the decision a welcome time investment to ensure that they make the correct decision, especially in light of the more rapid enactment of their decision when all notice periods are removed.

- Requirements to pay notice after the switch has taken place

We consider that removal of notice periods will give true effect to the one-day switching capability that mobile industry has implemented.

We note however that this change does come with risks if not properly managed. All customers will be able to affect their switching decision before any cooling off periods has commenced and therefore it is essential that a customer is confident and clear that their old contract will be terminated at the point of switching. In the event that they change their mind that the new supplier is not right for them for any reason they will not have a service to fall back to.

- Loss of service that can occur when switching

Ofcom's concerns over loss of service are predicated on a dated view of porting performance.

To understand the situation, we have reviewed porting performance in the UK across the MNOs. We have also reviewed the porting processes and arrangements in other countries that Vodafone operates within including those that use the centralized porting management system that Ofcom considered as part of its review of the end to end process.

The conclusion of these findings are that the UK has a fast and high quality level process for number porting switching. UK mobile customers, once they provide their PAC code to the new supplier, are able to conclude the entire switching process in one day. At present 98% of requests are concluded successfully. Where a



porting switch is unable to be completed within the scheduled day, consumers are provided with financial compensation.

We have reviewed a sample of Vodafone operating businesses outside the UK to better understand how the UK consumer experience compares to elsewhere. Our findings show that the UK is only one of a few countries that have a genuine end to end process for porting that takes one day. Other countries have designed processes that build in additional days for validation of the porting request, authentication of the porting request and then a single day for the conducting of the transfer of the customer from one network/retailer to another network /retailer. Ofcom will note that the UK is shown to have both an extremely rapid end to end process that is for high quality and includes compensation protection for the customers whose transfer do exceed the standard time limits.

We concur with Ofcom's conclusions that the original proposals for end to end management are not founded. It is clear that the cost to implement could not be proven to deliver an outcome for consumers that is superior to what is provided in the UK today.

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

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

We agree that Ofcom's proposals for notice period reform for the Retailers that continue to apply them will remove unnecessary double payment for services and consequently show a proven benefit for consumers.

We do not agree that the proposals for Text to Switch / AutoPAC or GPL are proposals that are positive for the large majority of customers. Once notice periods are removed customers will have limited to zero time to cool off from their switching decision. This means that customers need to be provided with full information about the full set of service features that will be forgone when leaving their current provider. The feature rich service package available in 2017 means that is simply not viable to be conducted via SMS or even a series of SMS. Ofcom's proposals that consumers are armed with a PAC code and ETC information will leave many customers lacking information necessary to switch with confidence and without incurring unnecessary loss. Ofcom assumes in its cost benefit analysis that 38% of customers will no longer need to contact their supplier after receiving the SMS data of the PAC code and ETCs. In reality customers will be directed to review the other package elements that may be foregone and this will lead to the vast majority wishing to speak directly with their supplier.

We consider the proposal to shoe-horn the UK mobile switching experience into one akin to some other services is erroneous. Other switched services that follow a process with limited customer and existing supplier communication are for far simpler service sets, on the same underlying platform and include switching timescales that first allow for the customer to cool off the switching decision.

As a consequence, we consider that Ofcom's proposals for a more complex service set, where underlying platform is altered and a switch can occur rapidly creates a range of consumer harm scenarios. It is undoubted that the majority of customers will require a discussion about their existing service with their existing supplier.

We further consider that Ofcom is likely to have misinterpreted the conclusions of the consumer survey. The manner in which the survey sought to seek out consumer views was directed with an unconscious bias in the knowledge of Ofcom's policy proposals. Notably the questionnaire commences through a progression of



topics which has a resulting unconscious bias. Firstly, the researcher discusses with the customer their satisfaction with the current processes. This is directly followed by an explanation of how Ofcom proposes to alter the process. The researcher only explains the apparent advantages to the process, the ability to obtain a PAC code and ETCs via SMS rather than direct contact methods. The researcher fails to alert the customer to the need for other information when ceasing a package such as the foregone services that come with it. It is presented to the customer that the PAC and ETCs are the only necessary information. The customer is not informed that once the PAC is given to the new supplier that the non-reversible switch is undertaken and the existing contract is terminated with immediate effect. This knowledge may well have introduced some reservation about the process with respondents.

Having presented the respondent with only the positives of the new process the questioning continues to discuss willingness to pay. It is only once the customer has concluded willingness to pay discussion that the questions move on to discuss whether the customer would need to contact the existing supplier to discuss other matters. Had this question been raised prior to willingness to pay it is likely the respondent would have seen less value in the new process having considered and recalled other matters that require discussion.

These issues call into question the solidity of the concluding findings. We suspect that far fewer customers would be confident to switch suppliers under an incredibly fast, non-reversible process without first having appropriate contact with the current supplier. We suspect that the values for willingness to pay are exaggerated due to the customer responding to the presented scenario which only presented the positives of the proposal and failed to mention the risks or remind the customer that he may require information beyond the PAC and ETC in order to switch confidently.

**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
- Transparency requirements

We respond to this in section 4.

**Q5. Do you agree with our preferred option for reform i.e. a requirement to offer an auto switch process, a requirement to prohibit charge for notice beyond the switching date, and a requirement to provide transparency of switching processes?**

No, we do not. We do agree that those Retailers that continue to provide out of contract notice periods should cease to do so. Ofcom's cost benefit analysis on this point is clear and the conclusions are clearly in favour for this change.

We agree that Retailers should provide customers with information about switching processes. Vodafone currently provides the following online information <https://www.vodafone.co.uk/explore/benefits/keep-my-number/>. We have also created an online video to take customers through this process. <https://www.youtube.com/watch?v=7hsLER0hh1q>

**Q6. Do you agree with our proposals for an 18-month long implementation period for our preferred reform option?**



We disagree with Ofcom's proposals to change the process by which a customer contacts a supplier to leave and enable the number porting process so that it is no longer phone based.

We disagree that the number porting process can be extended to create a co-ordinated switching process for customer currently using the cease and reprovide process today as the current process simply does not co-ordinate the end and start of a new service today.

All new and switched customers start their service with a new SIM and new telephone number. For customers wishing to retain their old telephone number this happens as a second stage activity whereby the old number is redesignated to the new SIM in place of the number initially set up with that SIM. This happens after the new service is established. The old service is therefore ceased after the new service is started. The use of the NPAC by cease and reprovide customers therefore can result in the customer delaying the termination of the old service or the termination occurring later than the customer could have implemented himself under the old regime.

We do not consider that an 18-month period for implementation is viable. Ofcom has not commenced addressing the related issues that the notice period and process change will raise. These matters will need to be resolved to avoid consumer harm and a loss of confidence in the switching process. We do not wish to incur consumer complaints about a process that has been rushed into force without all of the side implications being remedied.

Implementation timescales are therefore reliant upon Ofcom addresses the options for customers that have switched suppliers in haste and wish to remake their choice. We note that in the Energy sector up to 7% of customers opt to cool off during the switching process. These customers are supported by being on the same platform pre and post switch and having switching processes that commence after cooling off periods have ended<sup>15</sup>.

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<sup>15</sup> [https://www.ofgem.gov.uk/system/files/docs/2017/01/bpd\\_i01\\_cooling\\_off\\_summary\\_paper.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/01/bpd_i01_cooling_off_summary_paper.pdf)