



# **Ofcom's consultation on Promoting competition and investment in fibre networks**

**Virgin Media response**

**17 October 2019**

## Introduction

Virgin Media recognise the importance of Openreach's Salisbury Trial in the wider context of the industry migration from TDM to IP Voice technology. We consider that the trial of migrations to IP Voice and also withdrawal of WLR based products (not directly relevant to this consultation) are an important part of the overall migration process and therefore we support the proposed changes to BT's SMP obligations in order to facilitate the trial. Whilst we do not have any comments on the proposed changes outlined in the consultation, we do have a concern in relation to one specific area identified by Ofcom. This is in relation to Ofcom's identified need to protect vulnerable customers. We agree that vulnerable customers need to be supported but do not fully agree with the proposed approach set out in Section 3 of the consultation. We therefore set out our views in response to Question 3 below.

## Response to Question 3

**Question 3: Do you agree with our proposed approach to the protection of vulnerable consumers within the trial? Please provide reasons for your answer.**

**Ofcom is proposing to require Openreach, as part of the Salisbury trial, and communication providers to implement six measures to provide protection to vulnerable customers. These are outlined in paragraph 3.31 of the consultation:**

- Customers using telecare or other safety-of-life services should not be migrated unless suitable replacement services (i.e. that operate effectively and have appropriate resilience in a power cut) are in place.
- Customers dependent on textphones should not be migrated or lose service.
- Customers who are dependent on their landline for access to emergency services (e.g. because they do not have mobile coverage in their home or do not have a mobile) should not lose service.
- Restoration of former services should be available rapidly in the case of failure of telecare or other safety-of-life services.
- Openreach and communications providers should have a robust information campaign and security procedures for home visits to avoid the risk of harm to consumers.
- Openreach and communications providers should engage with local stakeholders at an early stage to ensure they are aware of the change and the potential implications

Virgin Media fully understands the need to ensure that vulnerable customers are given appropriate protection any time their service changes. Ofcom have identified that some customers use their



telephony lines to support third party equipment, some of which is associated with providing care and health support. We have been working with telehealth and associated industries to ensure that awareness of IP based voice services is raised and end users of the equipment can be protected as a result of this greater understanding.

What we do not consider to be appropriate is for Ofcom to impose regulation on communication providers that is based upon the characteristics of a device that is outside of our industry sector. This appears to be the effect of the consultation proposal summarised above: customers of a CP should not be migrated if they are using telecare type devices unless suitable replacement services are in place.

This effectively puts a constraint on CPs who will not be able complete area or geographic migrations if a customer has an unsuitable Care Alarm and is unwilling to replace it (with suitable resilience). The ability to “block” a migration will create a significant barrier to migration, and in the event that this prevents the migration of switches that are not sustainable on TDM technology could bring greater risk to the customer.

Virgin Media considers that it is far more appropriate for CPs to ensure that all consumers are fully informed of any migration, with additional care to be taken in relation to customers who are known to be users of Care Alarm type devices. This may include giving these customers more information, additional engineer support, opportunity to switch provider, and also working with local agencies to the extent that they are involved in the provision of these types of devices. We fully support all of these activities and consider that they will help to ensure that this customer segment is appropriately managed through a migration.

Devices are available from the Telehealth industry that have in-built resilience that can operate over GSM networks in the event of main / fixed line network failure. The imposition of a prohibition on the Communications Industry preventing the migration of their telephony service is not appropriate when the issue can be resolved from technology that is available from within the affected industry.

We also consider that a blanket prohibition on migration of a customer who is known to have a Care Alarm or similar device would not be appropriate given the fact that not all users of these devices can be identified prior to migration. Although we have been undertaking work to try to understand what households may be using connected devices, the use to which a telephony line is put (aside from telephony itself) is not something that, traditionally, has been known by the communications provider, nor is this something that we are required to know. There is a not insignificant risk that despite best efforts to identify users of Care Alarms, customers who use such devices may not be identified at the time of migration, and the migration would proceed in good faith without any knowledge of that user having or relying on a Care Alarm. It cannot be correct that a regulatory prohibition should operate when the industry cannot know with 100% accuracy all of the customers that would be affected by the rule.

Further, although Care Alarm users are a category of vulnerable user that needs appropriate treatment and care during the migration process, they are not the only group that may need support through migration. By way of an example, a customer who may be vulnerable who requires



additional equipment (for example a new Hub / Router) cannot be migrated unless engineer access can be arranged for install. The customer has to receive all necessary support and assistance in order to arrange this, but if at the point of network migration they have not responded to any attempt to contact them, they could lose service. Obviously, this would be a very last resort and would be support with numerous attempts to ensure the customer would retain service, but again it cannot be correct that a customer could prevent a migration from occurring. This group is distinct from the Care Alarm cohort, but it is illustrative that the migration process, provided that it is properly and fairly carried out having regard to the nature of each customer group, should not be prevented by the inaction of a single customer. If this was the case, then a CP would never be able to cease service to such a customer in any circumstance (eg fraud, non-payment, breach of terms etc).

Aside from our views on the appropriateness of any decision to require CPs to not migrate certain customers, we would also request that Ofcom provides additional detail on the basis upon which it can require a communication provider to treat a customer in a particular way based their use of a device that is connected to their phone line that is not in itself subject to regulation under the general authorisation regime.

**Virgin Media**  
**9 September 2019**