Quick, easy and reliable switching

Proposals for a new landline and broadband switching process and to improve information for mobile switching

Virgin Media response

April 2021

Non-confidential Response

EXECUTIVE SUMMARY

Virgin Media welcomes the opportunity to respond to Ofcom's 'Quick, easy and reliable switching'[1] consultation ('**the consultation**').

Although we await the text of the General Condition later in the year, in principle we support Ofcom's approach to reforms for GPL mobile Auto-Switch. We also support the implementation of a 'Right to Port Out' for both mobile and fixed telephony. If the solutions required for both reforms are proportionate and pragmatic, December 2022 ought to be achievable for industry implementation of them.

However, Ofcom is fundamentally mistaken in its preferred approach to fixed GPL switching having seemingly (i) failed to take account of all evidence provided to it or provide an adequate explanation as to why such evidence should be discounted; and (ii) failed to follow fair and consistent processes to assess both solutions.

Ofcom's policy preference seems to hinge on seeking to remove even passive interaction between the customer and the losing provider ('**LP**'). In pursuit of this, it sacrifices opportunities for a more robust and reliable switching process which adequately protects customers' data, ensures meaningful 'express consent' and does not introduce new opportunities for fraudulent activity. Despite these sacrifices, Ofcom's preferred approach does not even remove contact with the LP, as it is mandated in some circumstances and inevitable in others, given the confusing customer experience being proposed.

Ofcom's assessment overlooks the absence of necessary design features needed to make number porting practicable in its preferred One Touch Switch ('**OTS**') solution, despite being required by regulation. This oversight invalidates both Ofcom's cost assessment as well as Cartesian's technical assessment of 'reliability', as these assessments are based on incomplete evidence.

Ofcom's cost assessment confirms that OTS is substantially more costly for industry to implement than Code to Switch ('**CTS'**), but this analysis was cut short by Ofcom failing to adopt a consistent

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[1] https://www.ofcom.org.uk/consultations-and-statements/category-2/simpler-broadband-switching

approach to notifying each group of how well each proposed solution met its requirements and policy objectives. Ofcom also made limited use of its powers to critically assess the veracity and robustness of cost inputs, and the techniques it used to fill these data gaps are questionable.

Further, Ofcom's preferred approach adopts an overly complex (and yet less robust and reliable) approach to implementing the industry 'hub'. This will complicate and likely delay initial implementation timeframes, but also make future refinements more difficult.

Ofcom's preferred approach ensures mobile and fixed service switching processes will bifurcate, just as Fixed Mobile Convergence ('**FMC**') products are becoming more widely available and increasingly adopted by consumers. These differing processes risk creating confusion, whereas under CTS, Ofcom has the opportunity to reduce the risk that confusion becomes a barrier to switching.

Ofcom relies on an analysis of consumer outcomes under best case conditions. As a result, it fails to acknowledge the customer experience when processes will, inevitably, go wrong. Ofcom criticises (and dismisses) CTS for failure to eradicate all use cases that may entail customer contact with a losing provider. However, Ofcom fails to impose the same standard on the OTS process which, as has been highlighted to Ofcom, can also result in some customers needing to contact their LP.

In our view Ofcom should:

- Reconsider its preferred approach, based on a more complete assessment framework, as well as in light of revised proposals for CTS which address Ofcom's newly-articulated dominant concern. In our view this should include a thorough assessment of security, fraud and data protection issues;

- Undertake a full and complete cost-benefit analysis, in line with its duties, that compares both revised proposals and makes fuller use of its powers to collect and better understand the basis and veracity of cost information provided by CPs;

- Reassess 'reliability' considerations, in light of the need for the switching model to accommodate number porting, which Ofcom confirms is a requirement[2] and yet is absent[3] from OTS' and Ofcom's assessment; and

- Critically assess the impact of the historical move from the Migration Access Code ('**MAC'**) process to the Notification of Transfer ('**NoT'**) process for Openreach service switches, which should provide a useful natural experiment to evaluate OTS and CTS – and which has seemingly never been undertaken. Equally Ofcom could draw on evidence of consumer outcomes under NoT and mobile Auto-Switch. Although neither of these comparisons would provide a perfect proxy for OTS and CTS, they would yield evidence of the impact of a process that includes initial contact with the LP and use of a code, compared to a process without these features; this distinction features heavily in Ofcom's assessment of the proposals.

In our view, Ofcom's stated preference is flawed and it sacrifices many key considerations that Ofcom ought to have put at the heart of its assessment framework. In light of the flaws in Ofcom's process and our assessment of evidence already presented, Ofcom must reconsider in full its conclusions.

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[2] The consultation, 2.21
[3] Ibid., In footnote 66, Ofcom confirms its absence from OTS.

1 INTRODUCTION

1.   In this response we continue to advocate that Ofcom's preferred approach to establish cross-platform switching of fixed services should be CTS. We argue that this is because:

- CTS better meets the requirements of the 'base capabilities' set out to industry in September 2019 as well as Ofcom's assessment criteria in this consultation;

- CTS provides a simpler and better customer experience that gives more control to customers over when to review the implications of switching and does not require these to be revealed in the midst of a sales interaction with the GP;

- CTS provides numerous methods for an authenticated customer to obtain their code from the LP and inform it directly of the services they want to switch, without 'unwanted save activity' and without facing 'difficulties or deterrents'. As a result, there are no delays or complex processes associated with partial or failed matches that need remediation and it removes the risk that the LP is instructed to cease the wrong services or customer;

- CTS removes the risk of slamming, safeguards customers data and does not introduce new risks to industry for fraud or fundamental questions regarding UK GDPR compliance;

- CTS includes a simple, flexible industry hub that is not dependent on 24x7, 365-day system availability of every CP for the switching process to work;

- CTS is complementary to mobile Auto-Switch and so lays the foundations for future harmonisation of switching as fixed-mobile convergence ('FMC') becomes more common;

- CTS is a complete proposal, which addresses the need for an effective GPL process to also include mechanism to port a number at the same time and with the same speed as switching services; and

- CTS is estimated to be less costly for industry to implement and we expect it will be less likely to lead to delayed implementation.

2.   We set out our rationale for these views throughout our response, including why OTS does not deliver on these capabilities.

3.   The rest of our response is structured as follows:

- In Section 2 we set out the strategic and market context that Ofcom's decision needs to address;

- In Section 3 we provide further details on the revised CTS proposals;

- In Section 4 we comment on Ofcom's assessment framework and the conclusions it draws;

- In Section 5 we comment on Ofcom's cost assessment;

- In Section 6 we comment the impact of OTS design choices on the hub and number porting;

- In Section 7 we comment on Ofcom's proposed implementation deadline;

- In Section 8 we comment on Ofcom's mobile Auto-Switch reforms;

- In Section 9 we comment on 'right to port out' reforms; and

- In Section 10 we provide responses to Ofcom's consultation questions.

4.   In addition:

- In Annex 1 we provide Option X's critique of Option Y's original proposals; and

- In Annex 2 we provide Option X's critique of Option Y's revised proposals.

2 STRATEGIC CONTEXT

5.   We are entering a new era of telecommunications competition. New technologies are being deployed and legacy systems withdrawn. As an industry we are moving away from a focus on intra-network competition on the Openreach network, to one based on inter-network competition through the rollout of gigabit-capable networks, where customers' services and personal data will more often move outside the ambit of Openreach's ecosystem.

6.   This more diverse supply has the potential to add complexity for end users. Switching from one service to another may result in a more noticeably different experience for many customers and additional services may be linked or otherwise dependent on taking service from one provider.

7.   This change is also occurring alongside the blurring of boundaries between fixed and mobile services as well as a growing trend towards bundling these services. As a result, managing this complexity should take account of these trends as well as how cross-platform mobile switching has already been reformed.

8.   In our view this prospective complexity for consumers is best managed by providing clear and distinct decision points (with information) for customers engaging with different providers to evaluate their choices, make an informed decision, and confirm their consent to proceed in that order.

9.   In our view, this prospective complexity for CPs is best managed by establishing a robust, resilient and simple mechanism for information flows between providers. This mechanism should minimise the risk of errors being made as well as minimising any potential fraud, security and data protection risks.

10.   However, this philosophy is at odds with OTS which, at best, requires consumers to process all decision points simultaneously and, at worst, only affords the consumer the wherewithal to make an informed decision after consenting to proceed. Likewise, the OTS solution for messaging and information flow between providers is overly complex, creates risk for fraud, unnecessarily handles and stores customer data and is prone to error, as the design bakes in various triage options for fixing errors from the outset.

11. In our view, CTS addresses the complexities facing industry in this new era and simplifies the choice and process that customers will face.

12. Ofcom must not fall into the trap of viewing contemporary switching reforms through the lens of reforms that have been mandated in the past. Ofcom's starting point should not be to prefer a system which is the closest facsimile to a model built to resell the same set of services, reusing the same asset on the same network and under the oversight of a single network operator, and without reference to other services beyond that network. We are not facing the same questions or challenges that were pertinent when Ofcom mandated the move from MAC to NoT.

13. Many customers have ready access to account information at the end of a click or tap. Ofcom's mobile Auto-Switch reforms have demonstrated that technology can be used to enable an authenticated customer to have non-realtime, non-verbal and passive interaction with the LP, to receive information and give instructions for terminating services. Both models under consideration for fixed service GPL sought to 'design away' the concern that customers may be exposed to 'unwanted save activity'. In our view, only CTS achieves this without creating new problems concerning reliability, data security and informed consent, amongst others.

14. We also cannot, as an industry, rely on Openreach to act as a backstop to fulfil the same role as it has had under NoT. It does not act as a clearing house for asset validation nor does either model rely on all communications flowing through Openreach as the common element of the supply chain for both gaining and losing provider. Openreach's role in these areas will only diminish over time, yet OTS is designed as if it were ever-present across all interactions.

15.   A pan-industry switching model cannot rely on these implicit capabilities that Openreach's CPs have been hitherto able to rely on when using NoT. Issues of data accuracy, system availability and fraud prevention are inevitably going to be a challenge. These risks should be mitigated by design, but they are plainly visible in OTS as foreseeable problems. For example, OTS is predicated on the need for 24x7, 365 day 'always-on' availability for every UK communications provider ('**CP**') to provide real-time messaging for the process to progress, or the need for numerous pieces of customer information to be communicated, stored and cross-validated to enable the process to progress. NoT either did not have these requirements or Openreach acted as a 'single source of truth' to facilitate this process. With a far larger cohort of actors needing to be continuously available and in agreement on data that are independently held in their systems, it is clear OTS risks being a house of cards.[4] Furthermore, it is not clear that OTS would retain the 'cancel other' functionality from NoT, where the LP may cancel the progress of a switch in certain pre-defined circumstances, in particular slamming or fraud. The implications of removing numerous safeguards built into existing industry processes whilst also applying these weaker processes more widely to inter-network switching do not seem to have been adequately thought through.

16.   Ofcom should have selected a model designed for today's challenges related to data security, effective and efficient data management between different sources as well as with a view to being futureproof for the growing trend of fixed-mobile convergence.

17.   Ofcom's apparent preference for eliminating, even passive, interaction with the LP seems to trump all other considerations and is inconsistent with the approved Auto-Switching process for mobile today. Despite this apparent preference, Ofcom's preferred approach does not eradicate interaction with the LP under all scenarios. In our view, the costs and sacrifices of prioritising this feature so highly are extensive and we do not believe that its elimination is to customers' net benefit, for the following reasons:

- Retaining the risk of slamming as well as creating risk for spoofing, smishing and phishing fraud[5];

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[4] As we have consistently noted throughout industry engagement, e.g., Annex 1, pages 6 and 8, Annex 2 pages 17, 19

[5] As we have consistently noted throughout industry engagement, e.g., Annex 1, page 2, Annex 2, page 10

- Risk of misidentified service/customer and resulting loss of service[6];

- Risk of exposing customer information to parties other than the bona fide customer and therefore substantial risks to GDPR compliance[7];

- Lower confidence that customers are aware of or have full appreciation of the switching implications and, those that do may feel pressurised into making their decision in real-time without the ability for full and proper consideration with particular impact on vulnerable customers;

- The LP receiving no direct confirmation of 'express consent' for either ceased or retained services[8];

- Bifurcating mobile and fixed switching at a time when consumers are increasingly purchasing these services together[9]; and

- A more complex hub, which will represent disproportionality higher costs and a longer implementation timeframe.

18. If we are mistaken and this extra complexity and risk is justified on the grounds of the benefits derived from removing, even passive, interaction with the LP; this should be demonstrated. Ofcom should be upfront and transparent that it has done a complete impact assessment, taking these factors into consideration, and ultimately weighed up that the process is proportionate to the objective being achieved, if it has done so. Instead, Ofcom has failed to undertake this complete assessment to date, which is not in keeping with due process or its statutory duties.

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[6] As we have consistently noted throughout industry engagement, e.g., Annex 1, pages 2, 7 and 9, Annex 2, pages 11 and 14

[7] As we have consistently noted throughout industry engagement, e.g., Annex 1, pages 2 and 4, Annex 2, pages 11 and 14

[8] As we have consistently noted throughout industry engagement, e.g., Annex 1, page 4, Annex 2, pages 3 and 14

[9] As we have consistently noted throughout industry engagement, e.g., Annex 1, page 12, Annex 2, pages 10 and 22

19.   Ofcom should also be able to provide analysis and evidence that moving from MAC to NoT processes on the Openreach network led to a measurable difference in consumer outcomes, switching propensity or higher reported consumer satisfaction. Ofcom has offered no evidence that this is the case.

20.   Similarly, Ofcom should be able present the same metrics to compare NoT and mobile Auto-Switch to so show that contacting the LP adds complexity or creates confusion.

21.   Although neither of these comparisons provide a perfect proxy for comparing OTS to CTS, they could illustrate how consequential it is to acquire a code from the LP for consumer outcomes.

3 CTS REVISED PROPOSALS – IVR

3.1 Context for the revised CTS proposal

22. Based on our review of Ofcom's assessment framework as well as its application to the two options, we (along with Sky) noted that while Ofcom acknowledged the Code to Switch option was designed to mimic Auto-Switch, it considered that it diverged in one aspect that Ofcom considered to be key and which ultimately led Ofcom to conclude CTS could not meet Ofcom's policy objectives.

23. Based on our interpretation of Ofcom's assessment, it placed significant weight on the absence of a communication channel that replicated the functionality offered by Auto-Switch's SMS route and focused on the fact that CTS could result in some (particularly fixed phone-only) customers having to phone their LP directly to request a code and receive information on the implications of switching.

24. In particular, Ofcom's key concerns with a lack of an SMS route seem to focus on:

- familiarity concerns;

- undermining benefits to customers with a bundle; and

- impact on customer control, in particular, the choice of communication methods.

25. In response to these concerns, Sky and Virgin Media have submitted a revised proposal to Ofcom on CTS, which incorporates an IVR-based request channel.

26. Below we briefly discuss the applicability of the SMS channel for CTS, before discussing the benefits of the IVR option, the high-level customer process, how this option addresses Ofcom's concerns together with our estimate of the cost of this addition to the CTS proposal.

3.2 Applicability of SMS for CTS

27. In our response to Ofcom on the inclusion of Webchat and SMS, Sky and Virgin Media noted that "*we anticipate there would be opportunities in the future to revisit how these harmonised processes interact and/or consolidate, particularly if customers increasingly adopt retail packages that combine fixed and mobile services.*"[10]

28. As a result, although we did not believe webchat or SMS request methods were appropriate at this time, in the future, if mobile and fixed switching processes were aligned, we envisaged returning to this topic.

29. In particular, we also noted that "*For most retailers, the customer will not have a 'quad-play' package and so if an SMS route were available under Option X, the request would typically be from a mobile device not associated with the account/services to potentially be switched. As a less secure route, this has the potential to become a preferred method for potentially fraudulent activity.*" [11]

30. However, if the trend towards greater uptake of quad-play services continues, this would make it more common for a mobile device to be intrinsically associated with an account including fixed services that may be switched.

31. Furthermore, if in the future fixed and mobile GPL processes were harmonised and this led to the ability for quad-play bundles to be switched together (as we highlight, adoption of CTS has the potential to enable this), it would be plausible that an SMS route could provide the necessary capabilities[12], and an easy experience for a customer to request a code for these services.

3.3 Benefits provided by the revised proposals

32. In our view our revised proposals provide a comprehensive mechanism for addressing all of Ofcom's key concerns:

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[10] https://www.ofcom.org.uk/__data/assets/pdf_file/0014/212621/x-group-response-to-questions.pdf
[11] Ibid.
[12] Such as "strong customer authentication, asset/service validation and the ability to get clear instruction and consent from the customer to proceed", Ibid.

- it provides another mechanism to request a code (and switching information) that does not necessitate speaking to a customer agent;

- it will be familiar to all customers that interact with their provider by phone and especially customers that currently undertake transactions or account management through IVR-based services with their provider;

- it ensures that customers who prefer to contact their provider by phone can continue to do so, and without the potential risk of waiting in a queue, without being constrained by call centre opening times or experiencing 'unwanted save activity'.

33. In addition to addressing these key concerns, an IVR-based approach would:

- continue to ensure customers can be authenticated ahead of receiving the code and details of the switching information associated with the account;

- continue to ensure information is provided at the time of request and in a durable medium after the request has been completed;

- be proportionate as IVRs are commonly used across CPs and the cost associated with the generation of real-time switching information is common across communication channels and is common across OTS and CTS. As a result, incremental costs associated with an IVR channel would primarily relate to readback/text-to-speech functionality that could be introduced at minimal cost, if this capability is not already deployed by the CP; and

- is a channel that could cater for all fixed service switching permutations (in contrast to the SMS route in mobile Auto-Switch, which is only applicable for single-MSISDN-switches).

3.4 High-level IVR customer process

34. Below we set out the high-level steps that we would expect an IVR CTS code request to follow. These steps have been generalised, based on Virgin Media's IVR, but we recognise the precise approach to implementation would depend on each CP's systems, technologies and methods for authentication as well as any explicit GC requirements or Ofcom guidance.

35. For example, currently Virgin Media customers interact with the IVR via 'button presses', whereas other operators may deploy natural language/speech driven navigation instead. As we highlight below, we do not believe this difference would impact on the steps that would be followed.

36. As Ofcom will note, the anticipated customer journey follows the same steps as set out in Virgin Media's mobile app account management demonstration to Ofcom.

37. At a high-level the steps would be:

- Customer calls the LP's IVR from their landline or mobile

- Customer indicates the reason for the call and that they wish to switch/receive their switch code

    o Either via speech or by selecting the appropriate menu options via phone keypad

- Customer is identified, either **[✂]**

    o If **[✂]**

- Customer identity is verified using **[✂]**

    o **[✂]**

    o Note: **[✂]**

- Customer indicates which services they want to switch based on the services they have (options are phone, broadband, or phone & broadband)

    o Either via speech or keypad entry

- If the customer selects an option including phone, they are given the option to port their number

    o Either via speech or keypad entry

- Key switching information is played back to the customer

    o Message which includes both static and dynamic values, e.g., any applicable early termination charge

- Customer is given the option to change their request, to cancel the request or to proceed with the switch

- o Either via speech or keypad entry

- If the customer proceeds, then the system will inform the customer that the details will be sent via Email, SMS or other format used for billing purposes and will give the customer the choice to enter a mobile number to receive by SMS

- Switching code is played back to the customer along with any additional information and call ends

- Once the call ends the switching information is sent to the customer in a durable format.

38. For Virgin Media, and we anticipate many other CPs, if the customer fails to be verified as part of navigating the IVR, **[✕]**, before being passed back to the self-serve IVR function. As we note below, a vast majority of Virgin Media's customers are verified via the IVR, but we already have this capability to route customers back to the IVR after verifying with an agent, if necessary.

3.5 Addressing Ofcom's concerns

39. Below we comment on Ofcom's key concerns expressed in the consultation, and why the IVR channel addresses these concerns.

3.5.1 Familiarity

3.5.1.1 Ofcom's concern

40. Ofcom notes:

"In Auto-Switch, this switching code can be requested by text message which limits interaction with the losing provider. However, customers would not be able to request a code via text in Code to Switch and the authentication steps require more interaction with the losing provider and more effort than Auto-Switch for mobile switching (see paragraphs 5.56-5.58). Therefore, we do not consider that customer familiarity with Auto-Switch in the mobile sector would materially aid understanding of Code to Switch."[13]

41. Further, from the referenced paragraph quoted above:

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[13] The consultation, 5.11

"This enables the text route under Auto-Switch to incorporate customer authentication, service identification and consent in a system that is universally accessible for mobile customer, east to use and which limits the interaction with the losing provider. Therefore, we consider Auto-Switch has an effective mechanism to give customers control over the extent of the contact with the losing provider. The text option enables customers to avoid unwanted save activity and reduce the impact of the hassle associated with contacting more than one provider and the difficulties of contacting the losing provider."[14]

3.5.1.2 How the revised proposals address Ofcom's concern

42. Through the IVR option, the revised proposal ensures customers have a further method to request the switching code which limits interaction with the losing provider. The IVR channel would be self-serve and without contact with an agent, in the same way that providers facilitate other self-serve activities on the IVR today. Use of the IVR is common to all Virgin Media customers. **[✖]** million calls annually to Virgin Media begin with the use of an IVR to direct the caller to a self-serve solution or to an agent. IVRs and self-serve options within them are also common when interacting with practically any larger consumer facing organisation, such as banks, utilities, airlines etc.

43. In Q1 2021, approximately **[✖]** of all calls to Virgin Media's IVR were handled by a self-serve solution. More than **[✖]** calls were made to check account information and a similar number to make bill payments. Across the main self-serve IVR actions, on average the total call length was less than 3.5 minutes.

44. Today, Virgin Media customers can manage many aspects of the service through self-serve IVR actions. Examples include:

- Adjust packages, such as changing TV channels or mobile plans;

- Check recent bill or account information;

- Raising faults and arranging engineer visit dates; and

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[14] Ibid., 5.58

- Making bill payments.

45. In the case of bill payments (and booking engineer slots), this is typically a two-way communication, including: input of relevant information by the customer, real-time response generation and automated readback of results. In the case of credit card payments this also includes the IVR reading back a reference code generated for confirming an identifier for the secure transaction. As a result, this resembles the customer steps and IVR capabilities proposed in the revised CTS solution. Approximately 90% of bill payments (and receipt of the confirmation reference code) are complete via Virgin Media's IVR without speaking to an agent as part of the activity.

46. Identification and verification (broadly 'authentication') steps associated with the IVR channel would require no more steps or effort than any other call to Virgin Media. Typically, **[✂]** and are typically identified and verified ahead of speaking to an agent or undertaking a self-serve task. Approximately 90% of customers are authenticated through Virgin Media's IVR and therefore without waiting in a call queue or speaking to an agent.

47. If a customer (or someone posing as a customer) does not pass authentication through the IVR, the caller will be transferred to an agent who will undertake further authentication steps to prevent potential fraud. Once complete, the customer can revert back to their self-serve IVR process, such as requesting a code and switching implications, without further agent contact.

48. As a result, and akin to the SMS route under Auto-Switch, the IVR incorporates customer authentication, service identification and consent in a system that is universally accessible for all fixed customers. It also provides an effective mechanism to give customers control over the extent of the contact with the losing provider. The IVR option enables customers to avoid 'unwanted save activity' and reduce the impact of the hassle associated with contacting more than one provider and the difficulties of contacting the losing provider.

3.5.2   Simpler for bundles

3.5.2.1   Ofcom's concern

49. Ofcom notes:

"Code to Switch would also have the potential to undermine some of the benefits of the Auto-Switch reforms, which sought to avoid the need for customers to call the losing provider. This is because those that contact the losing provider by phone under Code to Switch for their broadband and voice switching code, would also be more likely to request the switching code for mobile services at the same time. These customers would potentially be exposed to some of the difficulties and deterrents that Auto-Switch was designed to remove."[15]

3.5.2.2 How the revised proposals address Ofcom's concern

50. Through the IVR option, the revised proposal ensures that no customer (including, "… *those that prefer to engage with providers by phone, have a voice only service, or have difficulties using online services*"[16]), would be potentially exposed to "difficulties and deterrents that Auto-Switch was designed to remove".

51. Customers that want or need to use a phone route can use the IVR route without speaking to an agent or waiting in a call queue and can use the service outside the call centre opening hours of their provider.

52. We also see no reason why a customer would be more likely to substitute away from using the SMS route for switching under mobile Auto-Switch as a result of adopting the IVR CTS route.

3.5.3 Gaining provider led and enhances customers' control

3.5.3.1 Ofcom's concern

53. Ofcom notes:

"We consider that, in the absence of an effective mechanism to give customers control over the extent of contact with the losing provider, Code to Switch would not meet our policy objective. In our view, Code to Switch would result in potential difficulties and deterrents for customers that would not arise in One Touch Switch."[17]

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[15] Ibid., 5.17
[16] Ibid., 5.24
[17] Ibid., 5.45

3.5.3.2   How the revised proposals address Ofcom's concern

54.   As noted above, through the IVR option, the revised proposal ensures that all customers have full control over the extent of contact with the losing provider. The 'difficulties and deterrents' that Ofcom describes, such as waiting in call queues or 'unwanted save activity' are addressed by this proposal. In addition, the revised CTS proposals go further than mobile Auto-Switch to ensure enhanced customer control, as the IVR option in CTS is available to all customers, regardless of the services taken.

3.5.4   Replicating the features that SMS delivered to mobile Auto-Switch

55.   Ofcom notes that the inclusion of the SMS request channel within mobile Auto-Switch was a main aspect of those reforms and it provided certain distinct features, which Ofcom highlights:[18]

- The customer can request their code by SMS and receive the response by SMS;

- The code is requested via the platform that is intrinsically linked to the service that is being switched and on a device associated with a particular account holder;

- That platform is able to provide a response in a durable medium;

- The channel incorporates customer authentication, service identification and consent in a universally accessible system;

- It is easy to use;

- It limits interaction with the LP and therefore has an effective mechanism to give customers control over the extent of contact with the LP;

- Avoids unwanted save activity;

- Reduces the hassle associated with contacting more than one CP; and

- Reduces the difficulties of contacting the LP.

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[18] Ibid., 5.57

3.5.4.1 How the revised CTS proposals address Ofcom's feature requirements

56.   The IVR options bears the hallmarks of the features Ofcom identifies in SMS for mobile Auto-Switch:

- The customer can request the code by IVR and receive the response by IVR;

- The code is requested via the platform intrinsically linked to the service that is being switched (the landline)[19], which is associated with a particular account holder. Furthermore, via IVR-based identification and verification, the request is also authenticated to be from the account holder;

- The IVR is able to provide a response in a durable medium[20];

- The IVR incorporates customer authentication, service identification and consent in a universally accessible system;

- It is easy to use;

- It limits interaction with the LP and therefore has an effective mechanism to give customers control over the extent of contact with the LP;

- Avoids unwanted save activity;

- Reduces the hassle associated with contacting more than one CP; and

- Reduces the difficulties of contacting the LP.

57.   As a result, we consider the IVR option contained in the revised CTS proposal replicates the key features inherent in the SMS option under mobile Auto-Switch and which Ofcom identified as absent from CTS in this consultation.

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[19] In addition, in the case of Virgin Media, and we anticipate other operators, a customer is also able to request this via other phone numbers/mobile devices they have associated with their account.
[20] As noted above, this would include the medium the customer prefers for receiving bills as well as the option to receive this to a specified mobile device via SMS.

3.6 Cost and implementation timeframe implications of IVR

58.   The underlying cost and complexity of generating real-time switching implications is common across OTS and CTS. This capability is needed under CTS whether an agent relays this information or a customer receives it by requesting a code online or via app and therefore there is no incremental cost associated with this capability for the IVR.

59.   Virgin Media currently operates a 'button-touch' IVR, where customers navigate the IVR options tree based on selecting from options presented to them. We anticipate minor costs associated with revising the IVR option tree as well as introducing the self-serve application to take the customer input and read back the generated code and switching implications, as well as take input for the preferred mobile number for the SMS. We anticipate the incremental capex cost to be below £**[✂]**; this figure is the upper bound of more extensive and complex IVR changes that Virgin Media has previously undertaken.

60.   The IVR channel provides a further mechanism to reduce the volume of calls handled by agents. As Ofcom notes in its consultation, many of the customers that would make use of the IVR may otherwise have called Virgin Media and spoken to an agent (although some that might otherwise have used the online/app channels may also adopt the IVR channel instead due to familiarity). As a result, **[✂]**.

4 OFCOM'S ASSESSMENT FRAMEWORK

61.   In Section 4 of the consultation, Ofcom sets out its framework for assessing the two proposed approaches for fixed switching. In the section below:

- We compare Ofcom's assessment criteria against the key capability requirements provided to industry over 18 months ago and note a shift in priorities and/or emphasis;

- We provide our view on the conclusions that Ofcom draws from the new assessment framework, in particular, highlighting errors in Ofcom's approach and conclusions; and

- We then comment on the requirements for customer authentication and establishing customer intent that were originally 'base capabilities'. In our view, these should remain core criteria that Ofcom ought to place weight upon when assessing the proposed options.

62.   For the avoidance of doubt, our comments on Ofcom's assessment framework have been made based on Sky and Virgin Media's revised proposals which incorporate an IVR code/switching implications request channel.[21]

4.1 Ofcom's assessment framework

63.   In the consultation, Ofcom sets out the four core components that constitute its assessment framework, namely that the switching model needs to be:

- Easy to use;

- Quick;

- Reliable; and

- Based on informed consent.

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[21] Further details of this addition have been set out in Section 3.

64. When evaluating how the models measure against these components, Ofcom notes it will take into account potential factors that relate to different customer groups and preferences, which (paraphrasing) Ofcom specifies as:

- The services a customer has and what they want to switch;

- The communication channels that are part of the switching process;

- Reported customer experience from the previous 12 months, using Ofcom consumer survey data as well as well as complaints made to Ofcom; and

- Experience of customers currently using NoT as well as mobile Auto-Switch.

65. Finally, Ofcom notes that it will take account of evidence and outcomes associated with previous policy activity related to GPL switching reforms as well as cost and proportionality assessments.

4.2 Comparison to 'base capabilities' originally presented to industry

66. In September 2019, and in all subsequent industry communications and interactions until this consultation, a set of 'base capabilities' as prescribed by Ofcom have underpinned industry's efforts to develop proposals for cross-platform fixed service switching.

67. There is a clear inconsistency between the requirements set out to industry and Ofcom's subsequent evaluation framework.

Base capabilities	Ofcom's assessment framework
Reliable process	Reliable
Consumer intent	Based on informed consent
Customer authentication	
Customer awareness of switching implications	
Service/asset validation	
	Easy
	Quick

68.   While Ofcom has retained the primacy of ensuring informed consent and reliability, the criticality of authenticating customers, ensuring awareness of switching implications and establishing service and assets are validated for switch no longer form the core of Ofcom's assessment and instead they have been replaced with the need for the process to be quick and easy.

69.   We agree the switching process needs to be quick and easy, and as we discuss in Section 4, CTS best meets these requirements. However, we do not think this should be achieved by deprioritising or demoting consideration of other base capabilities that industry was asked to satisfy since September 2019.

70.   Ofcom cannot ask industry to design a proposal based on one set of criteria and then decide on the basis of a different set. It can change its mind, but it needs to explain why and give CPs a chance to redesign their solutions to reflect these new priorities. If Ofcom had felt that CTS did not fulfil its criteria and therefore was not able to meet Ofcom's objective, CTS should have been given an opportunity, like OTS, to address those concerns.

71.   In our view, an assessment of customer authentication, asset/service validation, or fraud risks (either slamming, or more broadly) should be at the heart of Ofcom's assessment of the options presented by industry. This is especially true given the Home Office's continued engagement with industry on developing an overarching Fraud Charter to tackle smishing, phishing and other scams and fraud tactics; and Ofcom's recent proposals to expand the remit of the strategic industry working group (SWG) beyond nuisance calls to cover other scams that are facilitated by communications services.

72.   Yet, acknowledgement of these base capabilities is limited or is absent from the consultation, except where Ofcom references comments by Sky and Virgin Media about the importance of these factors, or how the mobile Auto-Switch or CTS GPL switching approaches safeguard these important factors.

4.2.1   Comments on Ofcom's assessment

73.   Below we provide comments on Ofcom's evaluation of the two proposed models, against the assessment criteria it has laid out in the consultation.

74. We provide extensive comments on Ofcom's criteria of 'easy' and therefore we introduce the section with an outline of its arguments and structure. Following this we address Ofcom's other criteria of 'quick', 'reliable' and 'based on 'express consent'.

4.3 Easy

75. We do not agree that OTS would be easier to use. In particular OTS would not:

- be simpler to understand and follow;

- give greater control to customers over the extent and type of contact they have with the losing provider; and

- likely involve less effort for most customers.

4.3.1 Section outline

76. Before we turn to Ofcom's assessment of whether each option is 'simple to understand and follow', we first highlight our concerns about aspects of the OTS proposal that Ofcom has not given due consideration to in its assessment of ease of use.

77. In particular, we discuss:

- Why we think the requirement that LP switching information is only presented in the midst of the sales process with the GP does not make it easy for customer to consider this important information to give informed express consent;

- Why we do not think Ofcom has adequately acknowledged the complexities consumers will face when the OTS process fails to work well (and that key aspects of this process remain incomplete); and

- An example of why the ability to request and review LP switching implications ahead of engaging with a GP can make the switching process easy and require less effort.

78. Following these comments, we return to the structure Ofcom set out in its consultation and therefore conclude our comments on why OTS is not simpler to understand and follow.

79.   Thereafter we:

- comment on Ofcom's assessment of customer control over engagement with the LP; and

- whether the proposals are likely to require less effort for most customers.

4.3.2 Simple to understand and follow

4.3.2.1   The complexity of conflating LP and GP information at the point of sale

80.   We do not agree with Ofcom's conclusions that OTS would be simpler to understand when two sets of disparate information (switching implications from the LP and new contract information from the GP) are presented to the customer simultaneously as part of a point-of-sale contact with the GP.[22]

81.   Ensuring all customers only become informed about the implications of switching *in medias res* with the GP sales agent is not, in our view, a way to simplify decision making, aid understanding or ensure meaningful informed express consent is given.

82.   Instead, we would expect it would be simpler for customers to be able to receive information on the implications of switching and new service details separately, as can be done under all other current and historical switching processes, as well as proposed under CTS.[23] This allows customers to go at their own pace. It also provides vulnerable customers in particular with an opportunity to seek advice from family or representatives without the pressure of being mid-way through a sales-led process. If the OTS process is reliant on a customer being able to change his/her mind *ex post*, this risks further confusion for consumers, with a need for them to contact providers again to cancel service provision.

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[22] Or in some circumstances, the customer may only be sent the information in their preferred format after the initial contact with the GP. If the GP seeks consent to proceed during the initial conversation, the customer will not have had an opportunity to make an informed decision. If they wait to receive this information it would require a further call to the GP, making the process less simple and less efficient than being able to request this information in advance, as under CTS.

[23] At the same time, CTS still enables confident and/or previously informed customers to proceed with a streamlined process with no additional delay when compared to that proposed under OTS.

83. Under existing NoT processes, the customer receives new service details from the GP at point of sale and the implications of ceasing service are sent to the customer by the LP, with a specified time window for the customer to evaluate the implications.

84. Under mobile Auto-Switch (and therefore also CTS) the consequences of switching are provided by the LP at the time a code is requested and potentially in advance of speaking to another supplier. As a result, customers have an opportunity to evaluate the implications of their options. Equally, the new service details are provided by the GP at point of sale.

85. Even under cease and provide processes today (such as when joining or leaving Virgin Media), the customer is made aware of the new service(s) by the GP and the implications of leaving by the LP, separately, and on timeframes the customer manages.

86. Therefore, in contrast to all other models in operation or under consideration, OTS is alone in that customers receive information on the consequences of switching in the midst of a sales conversation with the GP. Furthermore, it is the only model where the switching information is not sent directly from the LP to the account holder[24] and it is the only model where this information is sent to contact details provided at point of sale, whether or not these are details of a bona fide customer.

Risk of mis-selling and pressure and coercion

87. In our view, this approach to communicating switching information is problematic. It conflates two separate considerations[25] as well as risking information overload; particularly if it is combined with encouragement from a sales agent keen to secure the sale.

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[24] Instead, it is proposed this is sent via the hub - which is contact from a third party in the eyes of a consumer and would need to be explained to them as to why they are not receiving directly from LP (or indeed the GP).
[25] I.e., what will happen to existing and/or remaining services and what are the details of new services to be taken.

88. This novel feature of OTS presents new risks for mis-selling and for bamboozling customers through coercive sales tactics[26] which may then discourage future switching of suppliers. This could especially impact customers with lower numeracy or literacy skills or those with less confidence in dealing with providers. It is most likely to affect customers that prefer or need to engage with providers via phone. It also risks the agent downplaying the importance or prominence of this information and instead prioritising consideration of the details of the new service being offered. By forcing this information exchange to be during engagement with the GP and at the point of sale, Ofcom could create or significantly enflame a problem of coercive sales tactics.[27]

89. In our view this easily predicable *a priori* risk should be given equal prominence in Ofcom's assessment, alongside concerns about unwanted saves activity. In the case of the latter, CTS advocates have been clear that our proposals have been designed to address and mitigate these risks, as is the case through mobile Auto-Switch. In addition, we have further addressed these potential concerns through our revised proposals by ensuring there is no need for direct contact with the LP.

90. Ofcom is alive[28] to the "clear incentives" for LPs to try to retain customers, frustrate switching processes or undertake unwanted save activity if customers do not have effective mechanisms to control the extent and nature of their contact with the LP. In contrast, Ofcom seems to place little weight on the potential consumer harm of a process where a customer may feel pressured to give consent to progress by a GP that has every incentive to acquire a customer, whether he/she is informed or not. Adequate opportunity to review their switching implications only risks jeopardising the sale.

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[26] Particularly as they may contribute to undermining Ofcom's broader EECC implementation such as Contract Summary information obligations.
[27] As we have consistently noted throughout industry engagement, e.g., Annex 1, pages 4 and 11, Annex 2, pages 6, 13, 14 and 21
[28] Ibid., 5.54

91.   In short, it may be that a customer needs to take actions or make enquiries about the consequences of switching, but under OTS the focus of the engagement is likely to be during a sales discussion. This tension of requiring customers to review switching implications whilst discussing a sale with a GP will not make the process simpler to understand or follow compared with allowing these two activities to be managed by the customer separately as under CTS. It is imperative that the consumer be given appropriate time to digest the information to make an informed transactional decision. Ofcom should not put this at risk, it is a cornerstone of consumer law, most notably the Consumer Protection from Unfair Trading Regulations 2008. OTS advocates have referenced that customers will have a cooling off period under the Consumer Contract (Information, Cancellation and Additional Charges) Regulations 2013, but this does not address the hassle of reversing a switch. An effective switching process should not rely on these protections.

92.   As a result, we do not believe OTS is a robust way to ensure that customers are aware of the implications of their decision or that informed consent will be provided. Instead, such an approach risks the customer considering this an afterthought after being pressured into proceeding. Despite these concerns having already been raised to Ofcom in a number of previous submissions,[29] to date they have not been adequately addressed.

4.3.2.2   Complex processes when things go wrong

93.   Ofcom's characterisation of OTS oversimplifies the process that customers will need to follow. OTS contains complexity that Ofcom's assessment overlooks[30] and it is in clear contrast to CTS, where the most complex resolution path is to repeat the simple process the customer has recently undertaken.[31]

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[29] For example, Annex 1, page 5, Annex 2, pages 4 and 16
[30] We have consistently noted these concerns during industry engagement, e.g., Annex 1, page 10, Annex 2, pages 4-5 and 21
[31] For the avoidance of doubt, we mean request a new code in scenarios where it has expired after a month.

94.   The OTS process is not simpler to understand when more complex switches are involved or when the OTS 'matching process' fails or partially fails. Such scenarios are likely to be complex, may vary between each user and across each operator. If a match fails or partially fails, OTS envisages the GP may contact the LP, the customer may need to provide additional information to the GP such as their account number or the serial number on their FTTP ONT, or the customer may need to contact the LP. These various events are not simple to understand and they are also not fully set out in the OTS proposal.

95.   This confusion would be compounded in scenarios where a customer speaks to multiple GPs before making a decision and experiences a different set of steps with each. For example, when speaking to GP(1) a customer is asked to provide their LP account number and then wait for GP(1) to speak to the LP to try to achieve a match, only to then find when speaking to GP(2) they need to give their FTTP ONT serial number and then contact the LP themselves to confirm further information, before recontacting GP(2) to proceed.

96.   OTS advocates acknowledge[32] that their process is subject to a number of various triage options when the gaining provider experiences a full or partial mismatch of customer data. One aspect of this noted above is the need for a "CP-CP back-channel" to remedy the failed match in the background. Ofcom makes no reference to a backchannel in the consultation.

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[32] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/212619/option-y-revised-proposal-summary.pdf, page 5

97.   There is an existing number porting process, which industry introduced in November 2016 to enable a CP-to-CP backchannel process. This followed a trial with Virgin Media and BT due to repeat failures in achieving successfully accepted GPL multi-line port orders. The Pre-Order Validation Process ('POV') process involves the customer providing a letter of authority to enable third parties to discuss their account to satisfy GDPR requirements, allowing the GP and LP to work out between them what information is required so that the order can proceed to successful acceptance with minimum friction or delay (a 5-day SLA applies). Whilst this is available to use for geographic and non-geographic numbers, it is primarily used for complex/large businesses. However, the volume of business ports requiring the use of a 'POV process' is low, and we do not believe a process such as this would be suitable for the volumes or speed required for residential switching and porting market that OTS would require. The OTS proposal makes no reference to a multi-day delay being envisaged before a customer can complete its sales order. This illustrates that industry's previous solution to these similar "backchannel" requirements have been dependent on much longer lead-times than envisaged under either OTS or CTS and they have also been manual.

98.   If advocates of OTS envisage developing a mechanism akin to this for the 'backchannel' it is likely to be resource intensive and costly to meet speed and volume requirements. Details of this proposal were not specified in the OTS design and therefore could not have been captured in any CP's cost estimates. As a result, these costs are also absent from Ofcom's assessment. It is also not clear the LP will have a strong incentive to ensure such a mechanism is either adequately resourced or effective.

99.   As we will discuss further in Section 4.3.3.1, OTS advocates also note there will be some circumstances where the customer will be instructed to contact the LP to collect additional information and participate in the troubleshooting process to resolve a failed match. Again, Ofcom does not discuss this additional complexity under OTS.

100. These additional steps, complications and potential repeated interactions were acknowledged in the proposals by OTS advocates, but Ofcom does not reference them in the consultation. These additional steps are not part of existing or historical residential switching processes and they are not a feature of mobile Auto-Switch or CTS. They are likely to vary between operators and a customer may need to undertake them in one year when they switch but not in next, or when speaking to one operator, but not another. Whether they do or do not, if they experience complexities when speaking to two prospective GPs, both may involve different resolution process. We do not think this potential variability makes the proposed approach simple to understand.

101. Even if Ofcom had commented on the detail of these 'fixes' in the consultation, it would not have been able to do so in detail as these have not been specified in the OTS design documentation.[33] For example:

- It is not clear whether the customer would be on hold or the webpage would continually refresh while the CP-CP back-channel process[34] is underway; whether the order would be paused and returned to; or if it would need to be cancelled until a positive full match is acquired so that the process could be started again.

- It is not clear how to proceed if the LP is not contactable at the time, if the customer is put on hold. This need for 24x7, 365-day, real-time availability of all CPs is unique to OTS and not a feature of CTS or NoT.

- If the process is paused, it is not clear how it is restarted, for how many hours/days the customer should wait or whether it is the customer or the GP that decides to end an effort to match if it is proving unsuccessful.

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[33] As we have noticed consistently through industry engagement, e.g., Annex 1, page 7, Annex 2, pages 2, 4 and 17

[34] For the avoidance of doubt, this 'back-channel' is not defined. We assume it is staff from each of the 100s of operators being on standby ready to field queries from other CPs. If this needs to support online failed matches we assume this would need to be 24x7. Instead it may be a complementary IT system. Apart from Option Y advocates identifying a need for a 'back-channel', we have no detail about what this means.

102. Alternatively, if the order process proceeded without a full match,[35] it is not clear how a case would be resolved if no match was ultimately possible. Proceeding without confirmation, for example, if an agent instead treated the order as a 'new provide' order, is likely to be problematic for network providers as it could result in orders being placed for unnecessary new connections to a property to circumvent failed matches.

103. Alongside these proposals being incomplete, and therefore industry having no basis to provide inputs for these proposals to inform Ofcom's cost assessment, OTS also seems to provide no justification for its conjecture that each core item of data will achieve a 99% match between GP and LP. Based on evidence discussed in Section 4.5, these assumptions appear optimistic.

104. We do not agree that an inconsistent process is simpler to understand or follow, especially when a single customer may have to undertake repetitive but different processes with different GPs as part of a single engagement with the market.

4.3.2.3   Early warning of implications - Access requirements and support services

105. In the context of mobile Auto-Switch reforms, Ofcom provides an instructive example[36] of how OTS could result in more effort in some circumstances, which could disproportionately impact customers that either have more complex switching scenarios or communicate with their LP via paper or accessible formats.

106. Under CTS, customers can be forearmed and forewarned of expected switching implications up to a month in advance of switching, enabling customers to shop around freely in knowledge they can activate the switching process as soon as they feel. Alongside relevant information about other services that may be ceased or changed as part of a bundle if the customer is switching a subset of services, CTS would, where applicable, include a prompt for customers (i) with additional support services to make arrangements with their GP, (ii) to enquire whether these services are available with the new provider and/or (iii) to ensure that they port their number.[37]

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[35] It is not clear how this is plausible, but we are exploring conceivable solutions to 'fill in the gaps' of Ofcom's preferred approach as the design is incomplete.
[36] The consultation, 6.36
[37] And therefore, do not lose access to relay services or SMS emergency services.

107. Under OTS, since this information is provided during a sales interaction with a GP (or in the case of some accessible formats there may be a time lag), some customers may have spent time and effort arranging a switch with a GP that cannot provide the full suite of services they require. This may result in a customer going through the OTS process again with another GP that can provide the full suite of services – resulting in delay and potential confusion to consumers who may become frustrated with the process and abandon the switch. Whether these outcomes occur or not, the OTS process would require the customer to re-engage with the GP to ensure it can provide the full suite of services, rather than being prompted about the full extent of their needs ahead of the sales call pursuant to CTS and to be prepared to ask questions or confirm support service availability at the point-of-sale moment.

4.3.2.4 Familiarity

108. We do not agree with Ofcom's assessment that OTS should be considered similar to NoT and therefore it is simpler because of this inherent familiarity:

- Beyond 'contacting the GP first', OTS is novel and distinct from NoT;

- Based on Ofcom's research, a third of customers do not follow the NoT process when it is available, and based on Ofcom's research this is in part because NoT is not familiar to many switchers within the Openreach network; and

- Based on available volumes, more customers do and have interacted with a 'code-based' switching process via mobile Auto-Switch (and MAC) than do via NoT.

109. Ofcom's preferred approach is novel. While it resembles NoT at an elementary level (i.e., contacting the GP first) it varies in a number of other ways[38], which are not consistent with other switching procedures customers will have grown accustomed to for telecommunication services. Other processes do not require the customer to consider the implications of switching in the midst of a sales conversation with the GP or either pause a sale or participate in troubleshooting, if a matching process is not successful.

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[38] As we have noted consistently throughout industry engagement, e.g., Annex 1, page 12, Annex 2, pages 7 and 13

110. Ofcom notes, that approximately two thirds of customers switching within the Openreach network followed the process of NoT and so cancelled their existing services via the GP, but this means that a third did not follow the process.[39] Ofcom's research also confirms that two thirds of those that did not follow the NoT process said it was because they were either unaware this was an option or they were only made aware of this option by the GP (and so were also unaware before it was too late).[40]

111. In addition, Ofcom's recent consumer research indicates that 19% of Openreach-switchers had major or minor problems 'understanding the relevant steps required to swich provider', 30% had difficulty 'cancelling [their] previous service' and 32% identified 'getting a better deal with [their] previous provider' to be a major or minor difficulty with the switching process.[41]

112. As a result, the NoT process does not appear to be familiar to all customers that had the option to use it, nor is it familiar to customers (such as those switching from or to Virgin Media or other altnets) that have not used it. Furthermore, as Ofcom notes[42], whether the NoT process was used to affect the switch or not, approximately half of customers that switched within the Openreach network contacted their LP as part of that process in any event.

113. Therefore, familiarity with NoT[43] should not be a key consideration for assessing 'easiness' when Ofcom's research confirms a sizeable minority of Openreach-based customers do not follow this approach when it is available (mostly because of a lack of familiarity); it is not a familiar process for many customers (i.e., those not switching within Openreach) and half of switchers within Openreach's network contact the LP as part of the switching process regardless of whether they use NoT.

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[39] Ibid., 5.10

[40] https://www.ofcom.org.uk/__data/assets/pdf_file/0012/211008/2020-switching-experience-tracker-tables.pdf, Q11, table 41

[41] https://www.ofcom.org.uk/__data/assets/pdf_file/0020/212636/switching-experience-tracker-extra-analysis-2020.pdf, Q19A/B/C, table 9

[42] A7.38

[43] In particular, Ofcom suggests the action of contacting the LP would be the source of unfamiliarity, the consultation, 5.10.

114. Based on switching volumes, it is OTS, rather than CTS, that should be judged as unfamiliar. Ofcom quotes data from Openreach[44] that 175,000 switches occur across Openreach's products each month. This includes business customers, which are out of scope of Ofcom's consultation. Based on Openreach's response this also seems to include the third of customers that did not follow the NoT process and cancelled with their LP, although this is not explicit.[45] As a result, some number, potentially materially below 175,000 make use of NoT each month.

115. NoT was implemented in June 2015 and therefore, although it is clearly an overestimate, assuming 175,000 customers were familiar with and used the NoT process each month since its introduction, this would equate to c.11.5m switches between H2 2015 and Q4 2020 as an upper-bound estimate for switches undertaken using NoT. In contrast, based on recent months of industry-wide data, approximately half a million PACs and STACs are requested each month. Furthermore, based on aggregate industry data between 2010-20, c.45m mobile switches have completed using PAC or STAC. This simple comparison includes 5.5 years of NoT switching compared to 11 years of PAC/STAC switching. As a result, extending the comparison before H2 2015 only reinforces the evidence that initiating a switch process via a code and switching information from the LP would be the more familiar approach to customers.

116. We highlight this to clarify that just because a proposed mechanism (OTS) seems to bear superficial familiarity with a relatively recent process, is not a good reason to prefer it and reject other processes. Neither is this preference supported by evidence.

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[44] Ibid., footnote 97
[45] https://www.ofcom.org.uk/__data/assets/pdf_file/0026/195236/openreach.pdf, page 6, confirms these switches were facilitated, but not necessarily by following the NoT process.

117. Ofcom notes similarities between OTS to gas or electricity switching and again we would note that these switching events are not cross-platform; they are reusing the same network with a different retailer and therefore while they may be comparable to NoT this is not the market context Ofcom faces in this circumstance. We also note that Ofcom's consumer research indicates that 34% respondents that considered switching but ultimately decided not to, confirmed that bad switching experiences with industries such as gas or electricity was a major or minor factor in their decision not to switch phone or broadband services.[46]

118. Not only is the use of a code longstanding for mobile switching, it is also commonplace when a customer takes many actions in everyday life to confirm an intent and complete a transaction, such as collecting train or cinema ticket from a machine as well as confirming authorisation for financial transactions using OTP or tracking a parcel from an online order. Inputting a code for 2FA/MFA is also rapidly becoming commonplace for logging in to check emails, or social media or online entertainment services. This trend will only continue and by doing so will only strengthen the association in customers minds with supplying a code in circumstances where ensuring security, authorisation/authentication and privacy are critical.

119. We acknowledge that CTS is not identical to mobile Auto-Switch and agree the channels to request a code vary to some degree even under the revised proposals, but we anticipate it will be understood by consumers that requesting a code via their provider's IVR, website or mobile account app is appropriate, just as is requesting a PAC via SMS for mobile services. We do not think adopting the same process using communication channels applicable to the services being switched would be confusing. It is also worth noting the success of the recently introduced mobile Auto-Switch reforms, where Ofcom points out that more than 50% of customers have quickly adopted a new communication channel by receiving the code by SMS, despite the reforms only being introduced in July 2019. In our view this demonstrates that customers can quickly adopt a new communication method even while the underlying process steps remain the same.

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[46] https://www.ofcom.org.uk/__data/assets/pdf_file/0020/212636/switching-experience-tracker-extra-analysis-2020.pdf, Q44A/B/C

4.3.2.5   Simpler process for bundles

120.   Ofcom's assertion that OTS provides an easier or simpler means to switch bundled services (including mobile services) compared to CTS has no objective rationale and runs completely counter to the evidence provided.

121.   OTS proposes to bifurcate the switching processes for fixed and mobile services. It also ensures this divergence will remain unless further regulatory intervention is undertaken.

122.   We are perplexed why Ofcom thinks consumers would be confused by the opportunity under CTS to follow two processes that, at a high-level, are indistinguishable[47] and in many cases could be undertaken together through the same website visit or phone call. For many customers this could look and feel like a single process which is a step on from the status quo, or under OTS, which both involve two very separate processes.

123.   In contrast, Ofcom appears to argue that it would be simpler and less confusing to follow two different processes[48], with:

- different sets of activities for the customer to undertake;

- potentially contacting the LP or GP first;

- potentially different timeframes, if letter-based communications can be received before speaking to the GP for Auto-Switch, but only after the first conversation for OTS;

- different sets of information to be supplied to (and received by) different actors. For example, passing authentication with the LP and receiving the code and switching implications and then providing the code to the GP for Auto-Switch. In parallel, undertaking the matching process with the GP, potentially including giving information such as FTTP ONT socket serial numbers, to then receive switching implications via the hub; and

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[47] I.e. requesting a code and switching implications from their LP for fixed and mobile, through various non-realtime communication channels, or via phone, and presenting this code to their GP.
[48] I.e., requesting a code and switching implications from their LP for mobile and also speak to the GP to commence fixed switching and then receive switching implications for fixed, but at the same time present the mobile code confirming express consent, but presumably provide express consent for fixed services later in the sales conversation or in a subsequent call after reviewing these implications.

- different triage approaches when issues arise. For example, repeating the code or requesting a new one if it is expired for Auto-Switch, or waiting for the outcome of the "CP-CP backchannel", being required to contact the LP or provide further details to the GP under OTS, which are not required under Auto-Switch.

124. We do not agree this is less confusing than requesting two codes from the LP by the same or similar communications channels and providing these to the GP to give express consent to switch.

125. Through adopting CTS, Ofcom and industry has the opportunity, for the first time in the history of UK telecoms, to adopt a consistent and universally applicable process for mobile and fixed services, regardless of the network, the services or the geographic location of the customer. In our view this clarity of process will encourage customer engagement and reduce complexity and confusion. It reduces the risk that confusion in itself is a barrier to switching. It also meets Ofcom's objective to simplify ease of switching for consumers and provide for the future world where FMC becomes more prevalent.

126. From the outset, CTS advocates have noted the obvious potential for CTS and Auto-Switch processes to be harmonised in the future. Ofcom's preference for OTS closes the door on this potential without explanation as to why; unless it intends to re-reform mobile switching while the ink is still wet on these reforms. This also raises the concern that costs in the future will be disproportionately high as they will seek to replicate what could already be achieved now with CTS in one implementation cycle and cause further disruption to consumers which undermines Ofcom's overarching objective.

4.3.3   GP-led and greater customer controls over extent & type of contact with the LP

4.3.3.1   Necessary contact with the LP

LP contact if something goes wrong

127.   We agree with Ofcom that both proposals ensure the future switching process is Gaining Provider Led. However, Ofcom then notes that "in both options, at present, it is unclear the extent to which customers would have to deal with two providers if something goes wrong".[49]

128.   In addition, earlier in the consultation Ofcom notes that OTS would be simple because it "*would only require a customer to understand that they should contact the gaining provider who will then manage the process on their behalf.*"[50]

129.   This is not the case as neither of these comments reflect the proposals Ofcom has received. In footnote 102, Ofcom also notes "*We also do not consider that there is a material difference between the options in the extent to which they are likely to minimise errors.*". We strongly disagree with this assessment and provide further comments in Section 4.5.

130.   In its 9-page proposal OTS advocates make clear that in cases where a partial- or no- match scenario remains, after exhausting alternatives, which may or may not include a "CP-to-CP backchannel" or the customer gathering further information, "*the GP advises the customer that they must contact the LP to confirm their account details*".[51]

131.   This ad hoc enquiry would inevitably be by phone to an LP agent to explain the scenario. As a result, the customer would not have control over the extent or type of contact with the LP.

132.   In contrast, there is no role for the LP under CTS after the customers has received their code.

133.   If a customer's code expires after 30 days, the customer has full control over the method to request a new code and updated switching implications.[52]

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[49] 5.22
[50] Para 5.7
[51] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/212619/option-y-revised-proposal-summary.pdf, page 5
[52] As we note in Paragraph 174, based on our data, customers rarely need to undertake this action.

134.   In its consultation, and prior to receiving the revised CTS proposals, Ofcom notes:

"[…] there are substantial differences between the two options in relation to customer control over the extent and nature of the contact they have with their losing provider. In particular, the option to avoid speaking in person to their losing provider, if they do not want a conversation with them."[53]

135.   In relation to the original CTS proposals, Ofcom goes on to note:

"[…]at least some customers would likely call and speak to the losing provider, and be exposed to potential difficulties or deterrents. This may apply, for example, to those that prefer to engage with providers by phone, have a voice only service, or have difficulties using online services (see paragraphs 5.51-5.52).[54]

136.   As a result, Ofcom concludes on this basis, CTS would expose customers to difficulties and deterrents in contacting the LP that many would not face using OTS or do not under current NoT processes. It also concludes that CTS would lack effective mechanisms to give customers control over the extent and nature of contact with the LP.[55]

137.   As a result of the revised CTS proposals, that element of Ofcom's provisional assessment of CTS, as presented in the consultation, is no longer valid.

138.   No customer would need to speak to an agent, including if they prefer to engage with their providers by phone, have voice-only services or have difficulties using online services. As a result, CTS no longer lacks effective mechanisms to give customers control over the extent of and nature of their contact with the LP nor does it expose customers to potential difficulties or deterrents.

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[53] The consultation, 5.23
[54] Ibid., 5.24
[55] Ibid., 5.25

4.3.3.2 Difficulties and deterrents

139. Ofcom notes[56] that certain 'difficulties and deterrents' may be unavoidable under CTS as a result of:

- All customers may experience hassle associated with contacting more than one provider;

- All customers would need to contact their LP and may experience difficulty and therefore abandon the switching process as a result. Ofcom highlights this is particularly the case for those switching by phone; and

- All customers would need to contact their LP which could create a greater risk that customers are exposed to 'unwanted save activity'. Again, Ofcom highlights this is particularly the case for those switching by phone.

140. Ofcom goes on to note, as we referenced in Section 3:

"We consider that, in the absence of an effective mechanism to give customers control over the extent of contact with the losing provider, Code to Switch would not meet our policy objective. In our view, Code to Switch would result in potential difficulties and deterrents for customers that would not arise in One Touch Switch."[57]

141. As a result of the revised CTS proposal submitted to Ofcom, we believe we have satisfied Ofcom's requirement for an effective mechanism to provide the required customer control over contact with the LP and in doing so addressed Ofcom's concerns on the potential exposure to 'difficulties and deterrents' that it sets out in its consultation.

4.3.3.3 Control over extent and nature of contact with the LP

142. Ofcom acknowledges that the previous CTS proposals contained features which sought to address making it easy for the customer to contact and interact with the LP.[58]

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[56] Ibid., 5.43
[57] Ibid., 5.45
[58] Ibid., 5.49

143. However, it noted that those previous proposals did not enable all customers to avoid speaking in person to their LP[59] and in particular, those that do not have broadband and/or do not have a mobile and this may particularly impact older, impacting or limiting conditions or the financially vulnerable.[60] Ofcom also noted this could impact customers that prefer not to use online routes.[61]

144. As a result, Ofcom concluded that these customers would feel they have no choice but to phone their LP and potentially face a greater risk of 'difficulties and deterrents'. Again, as a result of the revised CTS proposals, we consider these concerns have been remedied.

4.3.4 Likely to involve less effort for most customers

145. Ofcom notes that while the effort required to affect a switch under either OTS or CTS would depend on the customer's particular circumstances and preferences of communication method, it concludes "*One Touch Switch would require fewer instances in which the customer needs to actively engage in order to switch than would be the case under Code to Switch. This would have the most impact for customers who wish to switch by phone.*"[62]

4.3.4.1   Switching by phone

146. In the context of customers that choose to switch by phone, Ofcom explains it takes the view that CTS would require more effort because code request to the LP by phone could mean customers needing to wait in a call queue and so may abandon their intention to switch, or require extra effort to persevere to acquire their code, or adopt a different approach such as requesting the code online.

147. The revised CTS proposals set out in Section 3 address Ofcom's concerns. No call queue is involved when navigating the IVR and so the risk of abandoning the switch process or extra effort to persevere does not arise.

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[59] Ibid., 5.50
[60] Ibid., 5.51
[61] Ibid., 5.52
[62] Ibid., 5.62

148. Similarly, if a customer had opted not to use the IVR option and instead actively intended to speak to an agent instead, but did encounter an extended call queue, they would have the option to move to the IVR self-serve approach, rather than adopt a separate channel, such as the online route.

4.3.4.2 Switching online

149. Ofcom notes that it considers the difference in effort between OTS and CTS is less significant when a customer adopts the online route. However, by virtue of engaging with only one provider under OTS, Ofcom expects "*there is potential for the whole online customer interaction to be a smoother experience*".[63]

150. As we have noted throughout our response, in our view, a number of aspects of OTS undermine this expectation of a smoother customer experience. These include the following:

- the need for the customer to undertake a matching process with the LP, through the GP website;

- the requirement that new information, in the form of switching implications, is presented in the midst of the sales journey; and

- the critical need for all LPs to be able to provide switching implications 24x7 and 365-days, with the sales process halting if the LP's system is not available.

151. As a result of these factors, we expect OTS could instead lead to a confusing or frustrating experience and one that requires significantly more effort, for customers impacted by one of more of these factors. In particular:

- The need to undertake the 'match' raises the risk that a customer may get stuck in this process if a 'full match' is not achieved; leaving them unable to proceed or deciding to revert to another channel, such as calling the GP instead. If they do persevere, they may be instructed to call their LP to collect certain information to resolve the partial- or no-match, or the "CP-CP backchannel"[64] may be activated and presumably the customer would either need to wait

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[63] Ibid., 5.68

[64] As we have noted, what phrase means in practice and how it will operate have not been set out as part of the OTS design.

or more likely their sales journey would be paused and they would need to make a subsequent visit to the website in the future;

- The requirement to provide switching implications only during the sales interaction may mean customers need or want to pause the process to consider their options further, or contact their LP, to return to their sales journey later. In some circumstances this new information may lead the customer to abort their sale after having wasted time and effort which could otherwise have been avoided if they were aware of this information ahead of starting the sales process; and

- The criticality of LPs' systems being 'always on' to enable a sale to progress, would mean that if an LP's system is down for (un)planned maintenance or as a result of another technical issue, the customer would need to pause their activity and return another time and so expend more effort. In the context of a CTS phone journey, Ofcom notes[65] that under CTS, the LP may have an incentive to seek to retain customers or frustrate the switching process when a customer uses the phone route to speak to the LP. As a result, 'unwanted save activity' would need to rely on compliance with rules supported by enforcement action to work effectively. The same could be said for OTS, given the criticality of being 'always on' for sales to proceed. The LP may have an incentive to frustrate this process and so avoid losing a customer. Excessive downtime, intentionally unstable systems or connections, planned maintenance at certain times of the day, or in periods of high switching activity such as 'Black Friday' could all be adopted by a disreputable CP to disrupt and frustrate the process. As a result, the same reliance on compliance with rules and need to support this with enforcement action would be required under OTS.

152. These aspects of OTS and the concerns they raise do not feature under CTS:

- No 'matching' process is required under CTS as the customer only needs to supply their code to the GP to confirm express consent and proceed with their order. As a result, there is no potential frustration from partial- or no-match scenarios, there would not be scenarios where the GP informs the customer they must call the LP to gather more information, and there is no potential need to pause to activate a "backchannel";

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[65] Ibid., 5.54

- A customer would have acquired their code and switching implications through their LP's online account and potentially in advance of accessing the GP's website, and therefore begin the sales process already aware of their switching implications. Customers have the opportunity to avoid pausing or aborting sales journeys by acquiring their code and switching implications ahead of time; and

- There is no real-time dependency on the LP's systems under CTS to proceed with the sale and therefore no risk (or incentive) that the customer's sales journey would be frustrated.

4.3.4.3   Complex switches

153. Ofcom notes that both OTS and CTS would require a similar effort when considering switches involving bundles that include services other than phone and broadband or when switches involve information being sent via post.[66] However, Ofcom then concludes that OTS would still result in fewer instances where customers would actively need to actively engage.

154. The revised CTS proposals address Ofcom's conclusion; as no subset of customers would need to engage with a LP's call agents and therefore neither OTS or CTS should be expected to be more or less likely to need active engagement for complex switches.

155. As we have noted throughout our response:

- Bundled services switching, where the bundle feature mobile services as a component, would be smoother and require lower customer effort to affect switches under CTS. CTS also provides the option that these processes could be further harmonised in the future – thereby making a scenario that is considered 'complex' in this consultation a 'standard' scenario in the future. In contrast, OTS does not enable this potential harmonisation; and

- CTS enables customers that receive information via post to receive this ahead of engaging with the GP. As a result, these customers can give further instructions to the LP about services other than phone or broadband ahead of contact with the GP. In contrast, under OTS, the customer may only become aware of the need to give these further instructions to the LP after having spoken to the GP and subsequently received their switching implications letter.

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[66] Ibid., 5.70

156. As a result, we do not agree that OTS and CTS would be expected to require similar effort. In addition, the revised CTS proposals address Ofcom's concern about the need for more active engagement under CTS compared to OTS.

4.4 Quick

157. We agree that, in general, both options would be expected to be able to support quicker switching than existing NoT processes.[67] OTS does not include a solution for how number porting processes can be aligned with its process and therefore it is not clear that these processes will be any quicker under OTS than they are today. In contrast, CTS incorporates number porting within the switching process and so enables the same 'next day' capability. [68]

158. In addition, if these processes were left unchanged, or only minor adjustments were made, it may be possible for sales agents to by-pass the switching process by triggering a port order request. Agents may have an incentive to do this if they experience a partial match or failed match and are concerned a sale is in jeopardy due to customer frustration or the likelihood the customer may need to pause the process to speak to the LP and call back speaking to a new agent.

159. However, even setting aside number porting, we do not believe that both options are equivalent.

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[67] We avoid reiterating our concerns noted elsewhere about the reliability, and therefore speed, of the 'matching' process under OTS.
[68] Potentially alongside processes for 999 routing and DQ, if industry has appetite to modernise, consolidate and simplify all cross-platform interactions associated with a customer changing provider.

160. By changing the OTS process to match the speed of CTS and satisfy 'express consent' requirements, the former now makes sacrifices on the security of customer data and authentication of the customer by providing this data to the contact details given to the GP, without any mechanism to authenticate. OTS also removes a key safeguard built into NoT[69] (that is not required in CTS) which provided some protection to customers in the event of fraudulent/erroneous activity or where a customer changed their mind, namely 'cancel other'. As noted above, Ofcom does not appear to have addressed these concerns in its consultation; this is a material shortcoming in Ofcom's review process.

161. We discuss the implications of these customer data and authentication sacrifices in Section 4.7, but we highlight them here to illustrate that key design choices built into OTS would be impractical to refine without conflicting with or undermining key factors in Ofcom's assessment framework.[70] In our view, Ofcom cannot express a preference for OTS without having a full understanding of the cost and implications of number porting. Ofcom has an obligation to conduct an impact assessment on its proposals and this is incomplete if a core aspect of its preferred approach is absent. In our view, key design changes would be required to adequately address number porting under OTS. These changes could materially distort the cost assessments,[71] views on system reliability as well as how well the proposal meets Ofcom's assessment framework, such as whether both proposals are similarly quick.

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[69] i.e. the 'sorry to see you go ('STSYG')' letter and 10 working day standstill period, which provided a window of opportunity for customers to intervene in fraudulent/erroneous switches, provided a facility for the LP to be the source of switching implications information and solely responsible to sending these details to the customers legitimate contact details.

[70] They are also likely to result in longer implementation timeframes as further, substantial, design will need to be undertaken by industry ahead of defining requirements to begin procurement of the industry hub.

[71] As Virgin Media made clear in its cost assessment, no cost estimate was provided for number porting under OTS, whereas it was for CTS.

162. We also question the exception Ofcom presents[72] when concluding OTS and CTS are similarly quick. Ofcom considers the scenario where a customer requests paper-based notification. Ofcom seems to describe the 'YGP' variant of OTS, rather than 'YHub' solution it has selected as its preferred approach, when comparing outcomes to CTS. In a letter-based scenario, the GP would send its information in letter form to the customer and a third-party (the hub) would send the LP letter to the customer. This scenario requires two separate entities to issue a letter.

163. In this scenario, Ofcom also overlooks the key feature of CTS, that the customer could have already requested and received this information up to a month in advance. Based on our data, this flexibility and customer control over timing of receiving information is something our customers often make use of under mobile Auto-Switch, as codes are often requested before they are used. As a result, under the scenario Ofcom describes, it is more likely that the customer would be waiting for two letters under OTS and one letter under CTS.

164. Under this scenario, we expect it would be unlikely for many customers to revert to email to expedite this process, as Ofcom describes in footnote 138. Across many or most operators, paper-based billing is often a chargeable communication method (unless a customer is vulnerable). In either event (the customer has requested this format or has agreed to pay for the service from the LP) it is unlikely a customer would forego this need or preference with their new provider.

165. Under the OTS process, if a 'customer' expressed a preference to receive information via email or SMS at point of sale, but the LP had a record of paper-based or other accessible format communications, this creates a potential avenue for fraudulent, malicious or erroneous switching. The hub would issue switching information to the true customer via letter, based on the LPs contact details and also to the email or mobile device provided to the GP, which would be provided in real-time. This would enable the transaction to proceed and complete days before the customer is made aware.

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[72] Ibid., 5.74

166. Therefore, we agree that, in general, both options (excluding porting) would be quicker than NoT or the original OTS proposal. However, OTS has matched the quicker switching capabilities of CTS at the cost of introducing risks of erroneous or fraudulent switches. It also does not address how longer lead-times associated with number porting will be removed. As a result, Ofcom cannot make a full assessment of whether both options are similarly quick until it has considered how porting will be addressed by OTS.

4.5 Reliable

167. We do not agree with Ofcom's overall assessment that "*there does not appear to be a material difference in the reliability of the two options*".[73] We agree with Ofcom that both options would be similarly reliable in ensuring that the switch happens when the gaining provider says it will. However, we (and Ofcom) cannot say that OTS ensures that number porting will also coincide with the switch.

168. We do not agree both options minimise loss of service risk equally and we certainly do not agree that both options are equally effective at minimising errors.[74]

4.5.1 Malicious, fraudulent or erroneous loss of service remains possible under OTS

169. As we have noted throughout this response and in previous submissions to Ofcom throughout the process, OTS permits a person other than the account holder to arrange and complete a switch. More broadly, the process of identifying the services or assets to be switched is less robust than CTS. As a result, OTS can result in customers' services being switched (whether maliciously, fraudulently or accidentally) without their consent. This creates an increased risk of errors compared to CTS and a chance that customers will experience a loss of service due to accidental or malicious switches proceeding without their consent. To allow a process to be implemented which has such security design flaws does not meet Ofcom's duty to prevent or mitigate against crime. In contrast, these risks are mitigated or entirely removed under CTS because the customer is authenticated by the LP before any switch is made.

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[73] Ibid., 5.76
[74] As we have consistently noted throughout industry engagement, e.g., Annex 1, pages 8-9 and Annex 2 pages 4 and 20

4.5.2 OTS service and customer identification is clearly prone to error

170. CTS has been designed to minimise risk of error and maximise system reliability; these attributes are key to customers having confidence in the switching process, and make the process 'easy' by avoiding 'unhappy paths'. CTS is based on mobile Auto-Switch, a working example of cross-platform GPL switching, which exhibits low error rates.

171. Under CTS, a customer provides the minimum information necessary to the LP to ensure that customer can be authenticated in a robust manner enabling a code to be generated, which when used provides the LP with direct instructions to terminate the services. This ensures there is no miscommunication in the customer's intentions. Under OTS, the customer tells the GP, which tells the hub, which notifies the LP of the switching request. This extended chain of notification is more complex and risks the customer's instruction being inaccurately communicated to the LP.

172. Advocates of OTS suggest that the various pieces of information to be provided by the customer and documented by the GP, will each have at least 99% accuracy and together a combined success rate of 96%. OTS advocates provide no evidence for this assertion and these assumptions seem unreasonably optimistic.

173. Under OTS, the customer's name is mandatory information (alongside other details) and the account number is optional, to enable the switching process. BT and Virgin Media (then NTL) have experience of a portability process where validation rules included name and account number matching requirements. Both of these rules were subsequently removed due to high rejection rates resulting in delays and frustration for customers. Even after having removed these requirements, >10% of port orders are rejected[75] and of those >10% are as a result of failure to match either phone number or postcode.

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[75] Based on the latest available industry performance data (December 2020), rejection rates are approximately 20%.

174. Auto-switch, and therefore CTS, has a low risk of error (a single, simple, code or password is the only input to be communicated and the customer is provided it in a durable medium to refer back to if needed). In effect, it acts as a 'golden ticket' to proceed to switch. Even where errors occur (our experience of mobile Auto-Switch indicates this will be rare), the resolution process is either to input the code again or, if the code has expired, to request a fresh code.[76] For example, based on our latest three-month average, we have experienced **[✖]** cases where a Virgin Media customer has requested a code, it has expired and a new code has been requested. This is out of a total monthly average of **[✖]** codes supplied to customers i.e., <1%. This measure overstates the true incidence of customers undertaking this action at point-of-sale, as we do not know how many of these requests were at point-of-sale with the GP and similarly some customers regularly request a code simply to receive an updated view of their current implications of switching.

175. In contrast, as we noted previously, the various error resolution processes under OTS are complex, require actions by the customer which may include contacting the LP directly and may vary between switching interactions and across operators. There are also various stages in the process where a dead-end might be reached and there is no obvious mechanism to resolve this to progress the switch.

4.5.3 Absence of porting from OTS

176. Unlike CTS, the current design of the OTS hub will not provide number porting functionality. It is not included in the design and the necessary parties i.e., voice network providers such as Openreach, do not connect to the hub to facilitate the porting process. As a result, we do not believe the design considered by Ofcom (and Cartesian in its reliability assessment) reflects what industry might implement. In our view, more entities will need to connect to the hub which may include various parts of the GP or LP supply chains and therefore we believe Cartesian's conclusions would have been different if it had reviewed a version of OTS which met Ofcom's requirements to enable number porting.

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[76] This would only occur if the code was more than a month old and, consistent with mobile, the hub would be able to provide a specific error code to identify the issue is that the code has expired.

177. As we note in Section 5, this also means CPs (and prospective hub vendors that provided input to the OTA) could not have provided accurate and complete cost estimates for OTS and therefore Ofcom's assessment of these costs must be equally deficient and incomplete.

4.6 Based on informed consent

178. We do not agree with Ofcom's view that both options ensure a customer has expressly agreed to switch and therefore both processes ensure informed consent. Ofcom's assessment of OTS acknowledges the GP has to presume this is the case and there are limited safeguards to ensure the individual that has received the switching information and provided consent or that individual has the authority to switch.

4.6.1 Safeguarding express consent

179. We agree with Ofcom's assessment that CTS provides a high degree of confidence to the GP that the customer seeking to switch services is authorised to do so; it is a clear indication of the customer's intent and it provides an effective mechanism to stop slamming.

180. We also agree with Ofcom that under OTS, "*The gaining provider would presume the customer is authorised to request the switch if they provide the correct information and no subsequent objection is received when the losing provider sends out a notification to the customer informing them of the switch.*"[77]. In our view, this need to presume is unavoidable under OTS and it undermines the notion of 'express consent' which is a fundamental requirement set out by Ofcom throughout the process and underpins the changes implemented pursuant to revisions to EECC.

181. Whereas a mandatory ten working-day standstill period is available under NoT to enable fraudulent or erroneous activity to be interrupted, this safeguard is lost under OTS. In some scenarios, a customer's services may have been fraudulently or erroneously switched before the affected customer has even received a letter / communication from the LP notifying them of the move.

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[77] Ibid., 5.94

182. Ofcom notes in its commentary on NoT[78] as well as on its proposed mobile Auto-Switch[79] reforms, that it recognises the dual importance of giving express consent for both the new services they are taking as well as the consequences for their decision to cancel their services with the LP.

183. Based on our understanding of OTS, it also seems odd that the 'express consent' to switch a service (and in some cases continue to receive other services under revised terms) would be provided to the GP but that the LP, which may continue to provide services under these new terms, has no direct record of this express consent. Instead, it again has to presume consent was given as well as presuming the individual that gave consent, and proceeded with the switch, was the bona fide customer in the first place.

184. In our view, it should not be possible for an individual to provide consent to switch using the contact details given during an interaction with the GP. Instead, the route to providing consent should be via the information communicated from the LP to the customer, based on the contact details held. This is ensured under CTS, not under OTS. The very fact that this notification can be sent to a contact address nominated by the instructing 'customer' to the GP, as opposed to the LP verified account holder's contact address further erodes the reliability of such notional consent. It is not clear to us how Ofcom can conclude this process meets EECC requirements for 'express consent' when it is possible for the transaction to proceed without the customer even being aware, never mind consenting. It is also not clear how the ability to send this personal information to an individual without any identification or authentication is compatible with UK GDPR requirements, in particular Recital 64.

4.6.2 Ensuring informed choice

185. As we have noted in earlier comments, we believe it is problematic that under OTS, in all cases, a customer receives important information on the implications of their pending switching decision only during a sales interaction with the prospective GP.

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[78] Ibid., 3.23
[79] Ibid., 6.8

186.   In our view this risks this information being overlooked and/or the GP's sales agent having an incentive to make sure that it is not considered in full by the prospective customer. The customer's transactional decision (both to leave and join) should not be prejudiced by the process. In our view Ofcom's consideration of this risk is inadequate, given this could be a particular risk for less confident and potentially vulnerable customers.[80] In our view this raises concerns about whether customers will have received this information in manner that enables them to make an informed choice.

4.7   Customer authentication, data protection and fraud risk

187.   We believe other important factors should have been included in Ofcom's assessment framework.[81] Failure to consider them or to explain why they may have been dismissed is an important lacuna in Ofcom's impact assessment. Key amongst these factors are the additional security, fraud and data protection risks that result from implementing the new cross-platform pan-industry information sharing mechanism that is necessary to enable OTS. Ofcom's preferred approach seems to introduce unnecessary risk of enabling fraud; and the need to send customer information between parties and to unidentified individuals as well as store it via the hub further increases this risk. It also raises practical questions such as who would act as the data controller under these circumstances.

188.   Introduction of this new source of industry fraud risk also seems to run counter to initiatives by Ofcom to expand the work of the SWG to more systematically tackle scams, nuisance calls and other criminal activity. It also has the potential to add new sources of fraud that the Home Office Fraud Charter initiative is seeking to combat and is seems to work against the joint ICO/Ofcom plan on nuisance calls.

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[80] Ibid., 5.101
[81] As we have consistently noted throughout industry engagement, e.g., Annex 1, page 3 and Annex 2 page 13

189. Below we provide some recent examples[82] of the awareness campaign activity that Ofcom provides through its Twitter account, providing alerts about scam or fraudulent activity resulting from spoofing or other attacks. Any new switching process should avoid creating new opportunities for fraud to use as a reason for contacting a potential victim, new ways to potentially harvest personal information or new vulnerabilities that could be targeted by criminals.

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[82] Accessed 09/03/2021

Ofcom @Ofcom · Mar 4
Good advice here from #TakeFive 👋 on how to spot and report text 'spoofing' scams.

#ScamAware

> **Take Five** @TakeFive · Mar 3
> Can you spot the difference between a genuine request & one that's a scam?
> #TakeFive 👋 & remember to log into your account directly to update your information.
> Report scam texts by forwarding them to 7726, & if they claim to be from your bank then you should also report it to them
>
>

Ofcom @Ofcom · Feb 24
Research today from HMRC shows that scam call reports tripled last month.
#ScamAware

Criminals have been trying to cash in on the pandemic through a range of phone, text and email scams. Read our advice on how to spot them and where to report them: ofcom.in/covid19scams

Ofcom @Ofcom · Feb 5
Criminals have been contacting people, taking advantage of the pandemic in attempts to gain personal or financial information.

Don't get caught out. Follow this guide for regular updates on how to spot and report the latest scams around Covid-19:

Advice for consumers: coronavirus scam calls and texts
We have received reports of scam calls and texts relating to the coronavirus, or Covid-19.
🔗 ofcom.org.uk

Ofcom @Ofcom · Feb 3
We would never call you out of the blue about your internet or your bills.

If you receive a call or voice message like this claiming to be from Ofcom, hang up and report it to @actionfrauduk, or to the Police on 101 if you're in Scotland.

#ScamAware

Advice for consumers: scam calls pretending to be from Ofcom
Ofcom has received reports from people who say they have received phone calls or messages claiming to be from us. These are scam calls ...
🔗 ofcom.org.uk

Ofcom @Ofcom · Mar 3
Criminals have been contacting people, taking advantage of the pandemic in attempts to gain personal or financial information.

Don't get caught out. Follow this guide for regular updates on how to spot and report the latest scams around Covid-19:


Advice for consumers: coronavirus scam calls and texts
We have received reports of scam calls and texts relating to the coronavirus, or Covid-19.
🔗 ofcom.org.uk

⟲ Ofcom Retweeted

Action Fraud @actionfrauduk · Feb 11
Remember, the vaccine is only available on the @NHSuk and is free of charge.

If you receive an email, text message or phone call purporting to be from the NHS and you are asked to provide financial details, or pay for the vaccine, this is a scam #coronavirusfrauds

⟲ Ofcom Retweeted

Action Fraud @actionfrauduk · Feb 5
Alert: We are aware of a new scam circulating where criminals are contacting victims claiming to be from Action Fraud.

If you get a call from someone claiming to be from Action Fraud, hang up immediately. If you receive a suspicious email, report it to: Report@phishing.gov.uk
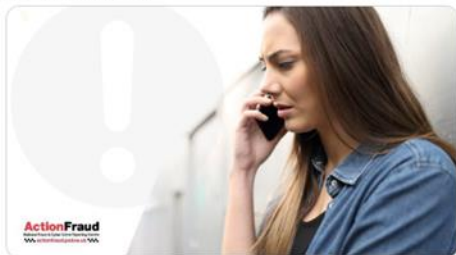
⟲ Ofcom Retweeted

Daily Mail U.K. @DailyMailUK · Jan 29
Scammers target Brits with fake text messages and calls claiming they must pay a fine for breaching rules

Scam texts claim Britons must pay a fine for breaching lockdown rules
The racketeering messages purport to come from the UK Government, the NHS, people's local GP surgeries and even the World Health ...
🔗 dailymail.co.uk

190. OTS introduces a new mechanism for customers to receive unprompted warnings that their service is about to be switched, which may result in them facing additional charges or a need for them to intervene to stop the process. This 'urgent notification' requiring action is commonly used by fraudsters today, as is clear from the quoted tweets from Ofcom above.

191. Based on the design of OTS, these warnings will come from a central hub, and not a familiar address or number associated with the LP, unless it is intended that the hub spoofs each LPs contact number and address. Assuming the hub uses its own address and numbers, this makes it easier for a fraudster to mimic but it also likely to raise questions or concerns for the customer about why a third party is sending communications claiming to be from his/her LP. It also raises the risk that legitimate messages are treated as spam (by the customer or their email service provider) and so they are either not seen or presumed to be fraudulent. In our view either of these approaches would be an unacceptable approach.

192. In our view, OTS presents new risks for fraudulent activity or security concerns that do not exist under NoT or CTS. It means new ways to try to harvest data through phishing or smishing but also new ways to try to commit fraud by spoofing. It would also be a new database that will contain potentially millions of customer records at any one time, including personal contact details and financial information and as a result it is likely to be a new target for attack.

193. Virgin Media's customer information security and customer fraud teams have reviewed OTS and have compared it to our experience of protecting customer data under mobile Auto-Switch. They have identified four key areas of concern inherent in OTS, described below.

4.7.1   Area of Concern (1): Slim/to no chance of halting a fraudulent port

194. **Scenario:** A fraudster with access to customer details (gained from either a data breach database/social engineering/infected device) could initiate a port out of the customer's services.

195. Whilst the CTS method initiates a code, which then must be acted upon within 30 days – a notification will be sent to the customer to highlight this intent to transfer (similar to the mobile Auto-Switch process). As a result, the process only commences after authentication and communications are only sent via methods specified by the authenticated customer. As a result, CTS provides a strong mechanism to halt the attempted fraud before the process can progress.

196. Additionally, to make this port out request, providers may implement 2FA/MFA on login portals to verify and authenticate the identity of the person looking to make this request. This reduces the chance of fraud and allows the LP to verify that the request is legitimate.

197. The OTS method minimises the window between issuing information and providing consent to proceed with the potential for no instantaneous notification to the potentially impacted customer/victim; effectively giving the customer no opportunity to raise the alarm and resulting in:

- Incurring a penalty of transfer from the LP (though it is assumed a LP would be understanding and waive this as ultimately, they would not be losing a customer if as a result of fraudulent activity);

- A possible outage of services until they can be reconnected;

- Further personal information being provided to potential criminals/fraudsters compounding the identity theft already in train;

- Time wasted by the customer (and LP/GP) on determining what has happened and rectifying the situation.

198. As such, because there is no robust identification and authentication taking place – it is hard to confirm that the request is fraudulent or not for the GP. When the LP receives the request via the hub, there is no effective challenge to prevent a fraudulent request; the request may pass entirely unchallenged and without authentication if the bone fide customer remains unaware of the request.

4.7.2 Area of Concern (2): Storing Personally Identifiable Information ('PII') data

199. **Scenario:** A customer initiates a transfer but decides to postpone.

200. Using CTS, a customer will gain access to the code enabling it to switch whenever it chooses within a 30-day period, but a customer is not required to register any details with the GP until they are ready. Customer data is not provided to the GP until initiated by the customer and once the customer has made its informed decision and is ready to give consent to the switch.

201. OTS would see the customer call up, supply personal details and then confirm or reject the GP's offer to supply services – possibly requesting some days to decide. During that time, the customer's information has been unnecessarily duplicated by the potential GP, but if the customer decides not to move to the GP it is not clear how long this data ought to be held for to enable the customer to return to their paused order it is also not clear whether the GP would be subject to a DSAR in under this scenario.

4.7.3 Area of Concern (3): Hub PII breach

202. **Scenario:** If the hub is breached, what is at risk?

203. Despite the best of intentions, the data stored within the hub may be leaked if subject to a data hack or security breach.

204. Under the CTS approach, however, no information pertaining to the customer's personal records are shared with the hub. These remain stored on the LP system and only the codes are generated by the hub and shared between LP, customer and GP. Therefore, in the event of a hub security breach, customers' personal information could not be accessed. Whilst these codes have a shelf-life of 30 days, the codes could be erased in the event of an attack thereby preventing any fraudulent transfer of services in the event of a hub security breach.

205. In contrast, the OTS approach suggests PII data is being transferred by the LP to the hub where it is stored for 12 months to enable audit processes to be effective. Based on the OTA's hub dimensioning metric of up to 300,000 switches per month, this could result in more than 3m customer details being held on the hub at any point in time. Therefore, in the event of a hub security breach, personal details pertaining to potentially large numbers of customers across multiple (or all) retailers/providers would be compromised, providing logistical and legal challenges/complexities given none of the retailers/providers will control the hub – by its very nature given it contains CSI, it will need to be managed and operated by a third party.

4.7.4   Area of Concern (4): Inference attacks

206. **Scenario:** Insider threat sends requests to the hubs to validate data of users

207. CTS operates upon a code, no PII is revealed to hub.

208. OTS acts upon the request of matching name, address and current provider. This is open to the risk of an insider threat, who can retrieve a data dump/database of users exposed from past data breaches that would likely contain this information, then simply perform a check against the hub to seek to validate data held.

209. The behaviour of OTS suggests that if the data is still valid, a confirmation result would be returned to the threat actor. Allowing them to effectively expunge expired information and build a new set of data that is valid, then either sell or act upon this information.

210. For the LP, unless they are notified of requests of customer data from the hub, this would be undetectable.

Concern	OTS	CTS
Identity	Inadequate 'challenge' in order to combat fraud by confirming identity of customer.	Makes use of existing 'challenges' when customer calls/logs into a web portal, using DPA or 2FA/MFA. Confirms true identity of customer.
Fraudulent request	No strong method of detecting fraudulent request.	Higher chance of detecting fraud as fraudster has to be able to login (defeated by DPA and 2FA/MFA) and initiate request; or call in (defeated by DPA checks).
Detection time of fraud	Emphasis on instantaneous transfer leaves a limited and likely ineffectual detection window, particularly when a bona fide customer uses slower communication method than the fraudster or is not available to respond immediately to communication warning.	Request of a code first requires identification and subsequent action, gives an opportunity for detecting an invalid request.
PII	PII data is used, posing a risk if data is leaked from the hub.	No transfer of PII to hub, only a code.
Fraudulent / accidental requests to the hub	A threat actor may send requests to the hub to verify if they have correct data.	Not applicable, only a code is used.

5 COST ASSESSMENT

211. We are disappointed by Ofcom's approach to the cost assessment for such a material and consequential change to industry processes. It appears Ofcom:

- has disregarded the outcome of its cost analysis; namely that CTS is substantially less costly for industry to implement;

- has done this as a result of adopting an inconsistent approach to engaging with both OTS and CTS advocates on its view of each proposal;

- has applied questionable approaches to 'fill in' gaps from industry by applying two methods which seem to conflict with the outputs from the one operator it requested data from under s.135; and

- has accepted, seemingly without enquiring further of all but one operator, that many have provided identical or near identical capex estimates and almost all estimated identical opex costs across both options, despite quite distinct operational processes applicable to both CTS and OTS.

Comparison of overall cost to industry

212. Over a ten-year horizon, Ofcom's analysis estimates that the net present cost of implementing CTS ranges between -£9m to £19m, whereas OTS cost estimates range from £51m to £71m. On an equivalent annual cost basis, CTS is estimated to cost -£0.3m to £1.7m per annum, whereas OTS is estimated to cost £7.6m to £8.8m.

213. Despite the clear difference in the estimated cost to industry, Ofcom notes[83] that in light of the previous CTS proposals not meeting its policy objectives, it has instead simply focused on the proportionality of OTS as a cost per customer.

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[83] Ibid., 5.117

214. Ofcom has failed to follow a fair and consistent process by not representing earlier in the process that it had concerns that CTS did not fulfil its new criteria for assessment (unlike the engagement with OTS advocates with regard to its previous proposals).

215. As a result, CTS advocates have not yet had an opportunity to critique or understand any potential proportionality assessment that Ofcom ought to have undertaken as part of this consultation.

5.1 Virgin Media's and other CP cost estimates

216. Industry was invited to provide high-level cost inputs to the OTA alongside finalising GPL switching proposals in Q1 2020.

217. At that time, many participants to the industry discussions indicated that:

- providing cost inputs would be challenging;

- some said they may not provide inputs;

- others may only provide inputs for one option; or

- some intended to ask a third party to produce these estimates which others would duplicate.

218. Ofcom states the OTA has applied a 'ball-park' figure for costs when large retailers/resellers did not provide input[84], and based these on third party systems partner inputs. This obfuscates direct/internal costs specific to individual CPs as it is not clear how a third-party systems partner would have a view of the resource requirements and other costs that are not directly related to interacting with that third party's systems. As a result, this is not a reliable input to a cost analysis. Furthermore, of the few CPs that submitted any cost information to the OTA, it appears a number have provided opex and capex costs are be identical or near identical. We find it improbable that these estimated impacts are credible as even relatively small changes to how providers interact with prospective or existing customers are likely to have resource and therefore cost impacts.

219. **[✂]**.[85]

220. **[✂]**.

221. **[✂]**.[86]

222. **[✂]**.

223. **[✂]**.

224. **[✂]**.[87]

225. Based on the analysis Ofcom has presented we are not at all clear that Ofcom has strong foundation of CP cost estimates to inform its cost assessment of the proposals. **[✂]**.

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[84] Ibid., A7.12
[85] **[✂]**.
[86] **[✂]**.
[87] **[✂]**.

5.2 Ofcom's opex scenario analysis

226. Above we question Ofcom's approach to the treatment of missing operating cost data. Ofcom assumes that opex costs are zero where a CP did not submit data. This is a questionable approach in a CBA, particularly where (under either option) both proposals will lead to changes to systems and processes for all operators. A figure of zero is therefore clearly an incorrect presumption.

227. **[✗]**.[88]

228. **[✗]**.

5.3 The need to reassess cost impacts

229. In our view, Ofcom needs to undertake a full impact for GPL switching, in light of:

- The limited (and insufficient) cost data Ofcom used, it should make use of its powers (as part of a subsequent full and complete impact assessment) **[✗]**;

- The need to justify on what basis Ofcom should require industry to implement a significantly more costly approach to GPL switching if the addition of IVR to CTS addresses Ofcom's previous reservations;

- OTS estimates provided by CPs do not capture costs (or savings) associated with delivering number porting alongside OTS nor are "CP-CP backchannel" costs included. Ofcom's full impact assessment needs to evaluate total cost of how both models achieve both cross-platform switching and porting;

- Hub costs estimates sourced from third parties by the OTA, likewise, could not have reflected number porting costs associated with OTS as it was absent from the design and requirements given to those vendors; and

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[88] Although Ofcom notes in many cases identical capex and opex estimates were received from many respondents, except the operator which provided Ofcom with the detail of its cost assessment, where these diverged materially.

- It is also not clear to us how CPs that supply business services can be left out of scope of Ofcom's cost and overall assessment. If Ofcom anticipates these reforms will include business CPs or a subset of them, it would be appropriate in our view that their costs assessments are reflected (as well as reflecting these CPs and customers in the overall assessment of the suitability of the proposals). For example, it is not clear how switching and porting would be handled where the customer is switching from a residential service to business or vice versa, without adopting the industry process.

6 HUB DESIGN AND PORTING – IMPACT ON RELIABILITY AND COST

6.1 Hub design, function and complexity

6.1.1 OTS hub design and function

230. In order for industry to deliver a reliable switching solution within reasonable timeframes and in a way that minimises the risk of material delay to those timeframes, we believe the switching hub should perform the minimum functionality possible.

231. The hub should not be required to manage any complex engagements or perform large-scale data management. OTS envisages the hub will store and present switching implications as well as generate outbound customer communications to the customer, but fails to mention activities such as management of switching implications acceptance or auditing the switching process. The hub also needs to facilitate confirmation of matches between GP and LP, and handle partial/no-match and resolution processes across all CPs, 24x7 and 365 days of the year for the process to operate.

232. Based on the OTS hub design, the complexities of providing a real-time API based peer-to-peer communications process between providers places complexity at the hub-level. It would require significant hub-level intelligence, understanding of message content and a strict API modelling paradigm that would make upgrades and adoption of future related processes costly to implement and add significant testing overhead. As well as adding complexity for future changes or improvements, it is also likely to be time consuming for industry to debate and agree its initial design and implementation.

233. In addition to the hub's complexity, OTS proposes to use a 'pop-up window' to display switching information from the hub when a customer uses an online sales route. As a result, compatibility is likely to be a major concern for OTS online customer journey. This approach is widely known to be problematic, with the use of the 3D secure payment processes failing due to different browsers and devices, security settings and anti-virus/online security software solutions and under OTS these customer journeys have the potential to be disrupted due to technical compatibility issues.

234. The inclusion of the web pop-up window for switching also adds another dimension of complexity to the OTS solution. The switching hub cannot act as a back-end piece of industry architecture, instead it will be exposed directly to the internet, resulting in additional complexity and security risks as a result.

6.1.2   CTS hub design and function

235. Under CTS, we designed the hub to be a central integration point for all CP interactions, providing an open message framework[89] (highly recommended in the assessment by Cartesian) that would allow future expansions with little or no impact on the hub as new message interchanges are introduced. In contrast, OTS has been designed as monolithic hub from day 1. For example, the messaging could be expanded to have all 999 changes routed via the hub as well as Directory Enquiry changes.[90] The hub could even automate some of these activities with the future addition of a small-scale workflow engine.

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[89] We note Cartesian' recognition of the merits of this approach, https://www.ofcom.org.uk/__data/assets/pdf_file/0013/212611/fixed-telecoms-switching-cartesian-report.pdf, 5.5

[90] https://www.ofcom.org.uk/__data/assets/pdf_file/0025/216727/option-x-updated-proposal-march-2021.pdf, page 9

236. The CTS proposal has included and considered all of the above from the outset, and so the design removes the need for any customer-facing web capability at the hub-level. Instead, our design adopts a simple message transport function at the hub-level and removes the reliability risk of real-time peer-to-peer communications requirements, as well as using a much simpler message store and forward model with an open message format. Customer-facing web capabilities are provided through CPs' existing channels to deliver the code and associated switching implications to an authenticated customer.

6.2 Porting

237. Number porting has to be addressed as part of the switching process. Existing porting processes are not standardised across the industry and the SLAs are much longer than either of the proposed switching processes. In addition, porting processes are not appropriate for the changes coming over the next 3-4 years as CPs move towards IP voice solutions.

238. CTS has recognised the requirement to incorporate number porting from the outset, and the hub provides all necessary capability to facilitate a porting process tied closely with the switching process. Our proposal not only streamlines porting, but makes it more robust and reliable.

239. In addition, due to our proposed use of open message formats, CTS' design also helps significantly to allow business porting to adopt the hub alongside consumer. In our view, if the industry can agree on the message formats, automation of business porting could be facilitated.

240. As Ofcom notes, OTS has not considered porting. Voice network providers need to be part of the porting process, but OTS' design does not propose that they need to connect to the hub.[91] In addition, as OTS makes no allowances for the changes needed to the number porting processes that will allow switching to be one seamless activity, this functionality has also been missed from the OTS hub design.

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[91] As we have consistently noted throughout industry engagement, e.g., Annex 1, pages 7-8 and Annex 2, pages 2, 9 and 18.

241. As a result of this error, it is also absent from all CPs' cost assessments of OTS, the OTA's cost assessments for the OTS hub as well as Cartesian's assessment of each proposal's 'reliability'.

242. We believe that to enable porting under OTS it would be necessary to change the design of the hub to ensure the necessary actors would be able to connect to the hub to enable porting. This would materially impact the timeframes of OTS and associated costs. It also necessitates that Ofcom, undertakes a fresh review again of both proposals.

7 IMPLEMENTATION

243. Ofcom's implementation deadline of December 2022 is not realistic given Ofcom only intends to provide its statement on GC changes in Q3 2021.

244. Both OTS and CTS estimate an 18-month implementation timeframe. Virgin Media has not previously commented on the reasonableness of an 18-month implementation timeframe specified by OTS. In our view, industry would need more than two years to finalise the design and then implement OTS. As a result, we estimate Q4 2023 is a more realistic implementation deadline.[92]

245. However, it is uncertain if more time would be needed to also incorporate number porting into the design. We also believe there is a significant risk that even these timeframes may slip as a result of the complexity of the hub design that OTS advocates.

7.1 Comparison to Auto-Switch implementation

246. Ofcom's recent mobile GPL reforms, which introduced Auto-Switch, had an 18-month implementation timeframe. Broadly, Auto-Switch required:

- amendments to industry processes;

- changes to CP systems and processes;

- shorter hub performance SLAs; and

- new methods and timeframes for customers to request a PAC, as well as a new ability to request a PAC and standalone switching information.

247. Mobile Auto-Switch reforms were therefore substantial, but iterative. Auto-Switch reforms were able to rely on:

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[92] However, we note potential risks associated with Q4 implementation deadlines if this coincides with December; given many CPs operate a system change freeze during this month.

- a pre-existing hub;

- pre-existing industry processes, and mechanisms to make changes to these processes;

- pre-existing governance mechanisms; and

- these changes were made within a simpler industry structure, and to a significant extent, these changes were managed and coordinated by the four MNOs, in concert with their MVNO customers.

248. Fixed cross-platform switching does not benefit from equivalent existing arrangements or a simple, more concentrated, industry structure. Putting these requirements in place will take time and industry coordination.

249. CTS has been designed to mimic Auto-Switch and while the model and hub will need to adapt to fit the different context of the fixed services market, it builds on an existing model for cross-platform switching and porting that is in operation. In contrast, OTS is a new, untried, design and would require further work to finish the overall high-level design, before work could begin on implementation.

7.2 Significant and complex

250. Although we expect CTS to benefit from industry's collective knowledge from Auto-Switch, no matter which model industry implements, it is clear there will be complex (and no doubt contentious) industry consultation about governance of the switching process and the hub. Questions of legal arrangements, voting rights, funding approaches will need to be addressed before defining requirements to begin procuring a hub. Equally, industry will need to agree on-going arrangements for how processes or hub specifications changes are discussed and ratified and paid for.

251. While discussions on these topics can start early and in the abstract, reaching an agreed approach on these topics is likely to take time and is unlikely to be achieved before final clarity is available from Ofcom on all aspects of these reforms.

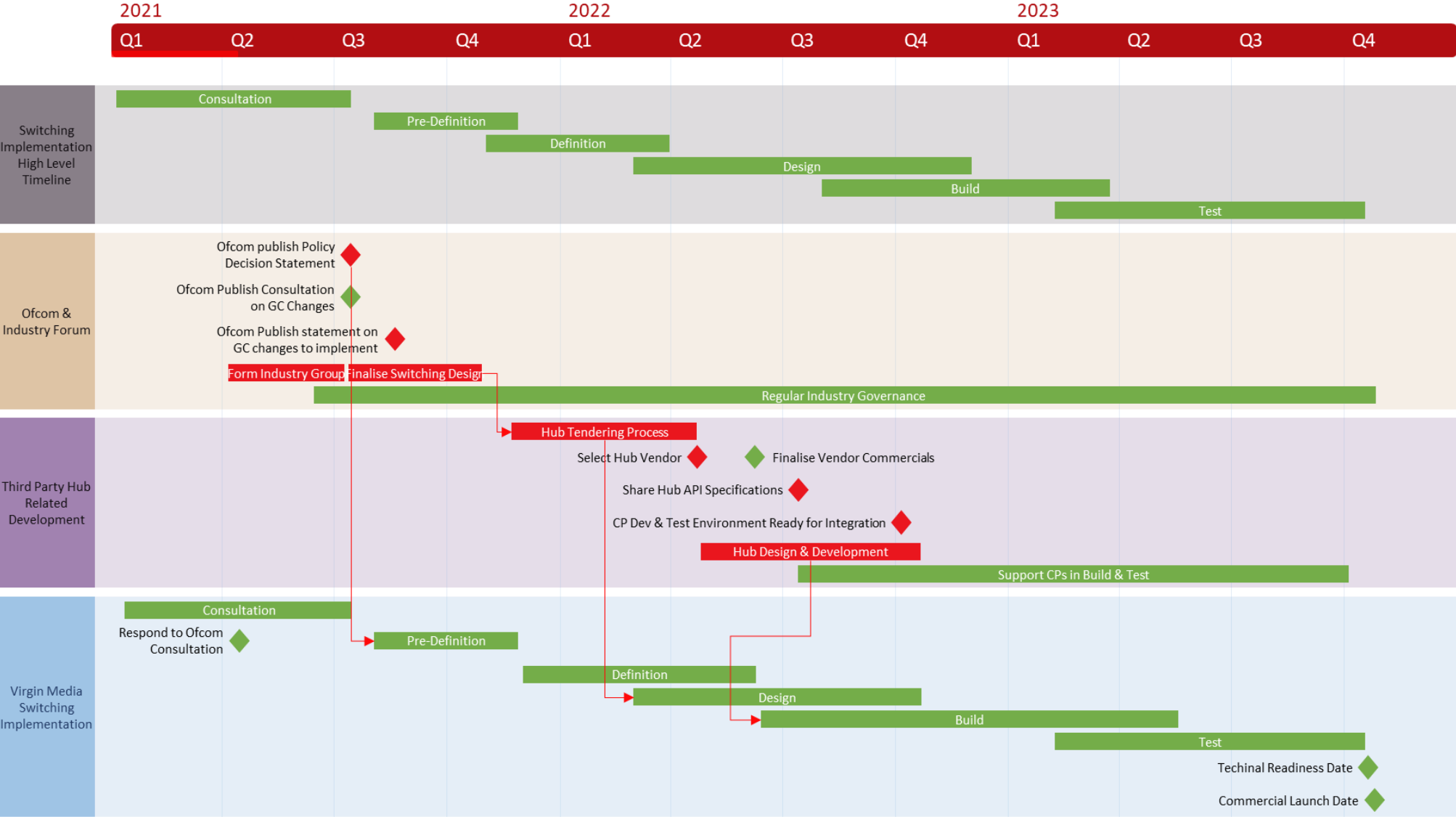## 7.3 Estimated implementation activities and timeframes

252. Below we set out our expectation of the activities and timeframes that underpin our view that a Q4 2023 implementation timeframe is more realistic.

7.3.1 Activities during each Phase:

1. Consultation

    a. Review final statement on Solution option from Ofcom. Ofcom finalises choice and issues GCs

    b. Form the Industry group

2. Pre-Definition

    a. Create High Level Industry Requirements & Architecture

3. Definition

    a. Industry group to initiate the Hub tendering process and selecting a hub vendor

    b. Hub design to be progressed by the Hub vendor

    c. Progress with Architecture & Process designs based on Hub vendor

    d. Initiate Detailed requirements & Solution Design

4. Design

    a. Hub Development to progress

    b. Develop functional requirements and detailed solution design (VM specific activity)

    c. Create detailed delivery plan (VM specific activity, but needs to align with industry plans)

    d. Create Test strategy (VM specific activity)

5. Build

    a. Complete build work on impacted areas (VM specific activity)

    b. Finalise test approach (Big bang or Phased)

6. Test

    a. Complete Test activities as per the finalised approach (SIT, E2E, UAT, ORT)

    b. Cross Industry testing

7.3.2 Critical Path:

1. The Programme will drive a 24-month project delivery timeline for CPs including Definition, Design, Build, Test and deployment. There are a few key dependencies which will have a direct impact on the timelines:

   a. Ofcom's final decision on Solution and General Conditions (Expected in Q3/Q4 2021)

   b. Selection of Hub Vendor

   c. Complexity of solution option chosen, and processes defined by Industry forum and Hub Vendor

   d. Designs from Hub vendor

   e. Test approach taken (big bang vs phased)

   f. Industry Test environment setup

2. Industry forums will need to work in close coordination with the hub vendor when the design is in progress with an overlap work with CPs of 3-4 months.

3. There is a dependency on the hub vendor being selected and hub design being finalised which defines customer journeys/ workflows. Few activities can proceed while the hub vendor is being selected like High Level Architecture and process.

4. After the Hub design is completed and API specifications have been shared, we will need another 12 months to implement the solution and integrate with the Hub. This may vary depending on the complexity of the chosen Solution. One Touch Switch Solution as suggested is more complex to implement than the Code to Switch Solution.

5. Industry needs access to Test environments for integration with the Hub.

2021   Q1   Q2   Q3   Q4   **2022**   Q1   Q2   Q3   Q4   **2023**   Q1   Q2   Q3   Q4

Switching Implementation High Level Timeline
- Consultation
- Pre-Definition
- Definition
- Design
- Build
- Test

Ofcom & Industry Forum
- Ofcom publish Policy Decision Statement
- Ofcom Publish Consultation on GC Changes
- Ofcom Publish statement on GC changes to implement
- Form Industry Group
- Finalise Switching Design
- Regular Industry Governance

Third Party Hub Related Development
- Hub Tendering Process
- Select Hub Vendor
- Finalise Vendor Commercials
- Share Hub API Specifications
- CP Dev & Test Environment Ready for Integration
- Hub Design & Development
- Support CPs in Build & Test

Virgin Media Switching Implementation
- Consultation
- Respond to Ofcom Consultation
- Pre-Definition
- Definition
- Design
- Build
- Test
- Techinal Readiness Date
- Commercial Launch Date

Activities in Red are dependencies, if not met then the plan will move to the right

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8   MOBILE SWITCHING CHANGES

253.   We agree with Ofcom's view that mobile Auto-Switch is consistent with EECC requirements and we support Ofcom's proposed minor amendments to mobile Auto-Switch to ensure alignment between the switching implication information provided to customers switching either fixed or mobile services. However, this support is still subject to sight of, and opportunities to comment on, Ofcom's proposed General Conditions.

254.   As we also note earlier in our response, quad-play or FMC bundling is relatively nascent in the UK, but growing; residential take-up is trending towards levels already experienced in continental Europe and more operators are introducing these offerings.

255.   It therefore seems inevitable that a growing proportion of subscribers or households will switch both fixed and mobile services at the same time, or even switch or change all services together in one transaction with a single GP. As a result, we agree with Ofcom's proposal to align rules regarding switching information.

8.1   Alignment of mobile Auto-Switch with new fixed GPL rules

256.   We support Ofcom's proposals that residential customers should be provided with appropriate details of the switching implications on other existing or remaining services. Ofcom notes[93] that this consistency is important and is intended to avoid a scenario where a customer might make a different switching decision depending on whether they choose to switch a fixed or mobile service first.

257.   We agree, and believe this is an important risk to avoid and Ofcom's proposal is a helpful step forward as customers should make an informed choice and provide 'express consent'. We would go further: there are also merits in aligning the processes and customer actions undertaken across mobile and fixed switching by adopting CTS for fixed services and harmonising the customer experience.

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[93] Ibid., 6.34

258. Adopting CTS would ensure that a customer is able to receive both fixed and mobile implication information ahead of engaging with a GP. Aligning processes and the customer experience would avoid the risk that a customer has mobile switching information from his or her mobile provider but only finds out about the implications of switching their fixed provider during (or after) a sales call.

259. We also think it is important that switching implications of fixed and mobile are given consistent prominence. This is safeguarded when the information is delivered alongside a code, directly from the LP and at a time the customer chooses.

260. This prominence is not equivalent between Auto-Switch/CTS versus OTS. Consequently, using Ofcom's characterisation, we would advocate avoiding the scenario where a customer using mobile Auto-Switch, has more control and is better informed about their switching decision for that service than a fixed service customer using OTS.

261. Making this design choice now would provide for futureproofing which is more proportionate in terms of cost to implement and less disruptive to customers who become familiar with one harmonised approach.

8.2 Application to residential customers

262. We agree with Ofcom's proposal that these switching information reforms should only apply to residential customers, given that business customers are typically better able and resourced to manage the assessment of wider implications on their, often more sophisticated, linked telecommunication services.

263. Other relevant business services that may be impacted are also likely to be more diverse and complex. Therefore, the details of these implications are likely to be addressed through account managers or other more bespoke arrangements. As a result, we believe applying these rules to business customers would be ineffective, highly complex and therefore disproportionate.

8.3 How the information should be presented

264. We do not agree with some industry feedback[94] that the availability of end-of-contract-notifications are adequate substitutes for switching information, or that sending end-of-contract notification information at a given point in time somehow reduces the need for customers to be fully informed of the implications of their switching decision before giving consent. It is clearly in the customers, the GP's and the LP's interest for the customer to be fully informed of the decision they are making at the time it is made. EoCNs do not provide this information and, as Ofcom notes, EoCNs are only one of many factors that might prompt a customer to engage with their current, or potential, suppliers.

265. Ensuring a customer is informed about the specific implications of switching avoids disappointment, unexpected loss of (or change of) services, unexpected cost, as well as effort and hassle for all parties to unpick or reverse an uninformed decision. By preventing these outcomes from arising, it also a reduces the risk the customer regrets their decision to switch in the first place and so is not put off switching again in the future. This is the same principle that should be adhered to across both fixed and mobile switching.

266. For the same reasons we also disagree with any industry feedback that generic potential implications are adequate information to be presenting to customers. Instead, information provided to customers should be bespoke, tailored to the switching request being made and based on the terms of the customer's offering at that time.

267. We agree that, in some circumstances, it may not be practical for all switching implications to be presented within the text message; this constraint is most likely to arise with bundles comprising fixed services.

268. As a result, at least in the short-term, the need to provide a link within an SMS to additional information may only be applicable to a subset of providers (and only for a subset of their customers) i.e., FMC customers of providers that offer FMC propositions. Provided Ofcom approaches this requirement proportionately, especially while FMC is nascent, we do not anticipate it would be unduly costly or complex to implement.

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[94] Ibid., 6.38

269. We agree with Ofcom's concern that not all customers are able to access a weblink via their device, but that it is still important that these customers are able to review and digest their information. Some customers may not have registered an online account or are otherwise unable or not confident in accessing this information online.

270. As a result, it will be necessary or preferable for some customers to receive this information via letter (and/or in another accessible format). While this may impact on the speed that some customers receive their full switching implications, it will ensure customers can review all implications and do so via accessible formats. Furthermore, mobile Auto-Switch provides the customers the ability to request this information alongside their code up to a month ahead of switching. As a result, customers would be able manage the timing of their request to avoid delaying their switch whilst still having the time and ability to review the full detail of their switching implications.

271. Although we have not analysed the technical feasibility in detail at this stage of consultation, we anticipate it may be challenging to determine whether a letter should be issued when delivering the code and switching implications based on the device type.[95] Consequently, we would encourage Ofcom to avoid prescriptive General Conditions on this topic and permit providers flexibility in how this requirement is implemented.

272. At this stage, we intend to explore whether it is feasible to make use of various account information to proactively issue a letter/accessible format for the code and switching information immediately for some customers, but also whether a reactive approach would be suitable for others.

273. In the case of proactive approaches associated with an SMS-based request this may include factors such as:

- Where we do not have an email address associated with the account and therefore the customer is less likely or able to follow a weblink to review their implications if they are not active online;

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[95] Customers may have purchased a SIM-only package from us or may have purchased or be using a new mobile device which was not issued by Virgin Media. We also do not expect to have a mechanism to identify the device type at the point a code is requested.

- Where we have no record of the customer creating an online account/accessing their account via a mobile device app and therefore the customer is less likely or able to follow a weblink to review their implications;

- Where a customer has opted for paper billing and therefore paper-based communications are preferred; or

- Where a customer has already requested communications in an accessible format that cannot be consumed through a weblink.

274. In the case of reactive approaches, we would to consider for SMS-based requests where Switching Information with a link is necessary:

- To include a prompt in the message to contact us if the customer cannot access the link; or

- To automatically prompt via a second message after a set period of time to contact us to arrange another format if the customer cannot access the link.

275. Although we have not forecasted the likely volume of these potential cases, various factors would suggest they would be limited:

- Although adoption of FMC propositions is growing, they are not widespread at this time; therefore, the proportion of switching information messages that would require a weblink are likely to be relatively small in the short-term;

- We expect FMC customers (and therefore those customers more likely to receive switching implications requiring a weblink) would have a smartphone; and

- Approximately 50% of code requests are via online or calling the LP. Agents would be able to relay all switching information verbally, as already happens today, and then could clarify whether the device is online enabled. This could enable the agent to offer alternative media. In the case of online requests, the information would be presented in the online account at the point of the request and therefore we would assume it is reasonable to expect the customer has access to this information regardless of whether their handset is a smartphone or not.

276. As a result, the challenge of sending full switching information to customers that do not have the ability to access a weblink in a switching implications SMS should be relatively limited and low volume.

277. It would be primarily relevant to the 13%[96] of customers that take fixed/mobile bundles, where more complex switching implications may need to be presented, but do not fit in an SMS. We expect a low proportion of this 13% of customers do not have use a smartphone device, if they have taken an FMC package.

278. Of those customers that take FMC but do not have an online-enabled device, on average around 50% would be expected to use channels that either reveal they have online access (the request was made online) or an agent can enquire when providing the information and trigger this information to be sent in another format.

279. Of the remaining set of customers (i.e., that take FMC services but do not have a smartphone or use online or phone route to request their code) their provider may already be aware of the need to provide communications in an accessible format, or can adopt proactive approaches like we described above.

280. In short, we believe this is a reasonable and important requirement. We expect it should be relevant to a relatively small proportion of customers and, currently, a small number of operators providing FMC. As a result, Ofcom should provide flexibility to providers to address this requirement based on the processes they follow and the information they hold.

8.4 Timeframe for implementation

281. In Section 7 of our response, we note that the 19 December 2022 implementation date associated with fixed GPL switching is not practicable. Despite this and based on Ofcom's proposed changes to mobile Auto-Switch, we envisage this timeframe is broadly feasible for changes to mobile.

282. Ofcom's proposed requirements are isolated to within-provider changes and therefore do not involve broader industry coordination.

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[96] Ibid., 5.13

283. However, as we noted in the context of fixed GPL, an implementation deadline falling in December is impractical as many providers (including Virgin Media) operate a change freeze during this month. In addition, defining the deadline just prior to Christmas creates undue risk that these reforms could impact on Christmas purchases and subsequent switching. As a result, particularly as it is clear that the GPL fixed switching implementation date will need to change materially, the implementation date for these reforms should be delayed to early 2023 to avoid the Christmas period and commonly applied system change freeze window.

9 RIGHT TO PORT OUT

284. In the EECC statement, Ofcom confirmed it would align and incorporate 'right to port out' timelines and requirements with cross-platform GPL fixed switching and porting reforms, and amendments to mobile Auto-Switch.

285. Although this topic did not form part of the consultation, we provide comments as it is nested within and dependent on the other topics under consultation.

9.1 Fixed right to port out

286. In Section 7, based on Ofcom's preferred approach, we highlight fundamental concerns with the proposed implementation date of 19 December 2022 for cross-platform fixed GPL switching. If Ofcom proceeds with OTS, we do not expect this reform could be implemented before Q4 2023.

287. If Ofcom maintains its preferred approach to fixed GPL switching, we believe it will need to revise the timeframes associated with implementing Right to Port Out, or decouple the implementation dates and have industry implement this reform into existing processes as well as under the future cross-platform switching process.

288. In Q2 2020 industry has had preliminary and high-level discussions with the OTA on the potential ways to implement Right to Port Out into existing processes. Based on those discussions and our preliminary internal assessment of the systems and process impacts, we anticipate Ofcom's proposed implementation timeframe of December 2022 could be achievable, provided industry adopts pragmatic and proportionate process changes that are commensurate with the volume of cases that are expected to arise.

9.2 Mobile right to port out

289. In Section 8, we confirmed that, in principle,[97] Ofcom's proposed 19/12/2022 implementation date for mobile Auto-Switch amendments was challenging but nevertheless achievable.[98]

290. As mobile Auto-Switch already incorporates GPL switching and porting, and Ofcom's proposed reforms relate to the content of switching information provided to customers (and the methods used to communication this information), industry's existing switching and porting processes are unaffected.

291. In our view, this reform can be introduced by formalising existing informal industry processes that already exist today. Existing quarantine periods associated with reusing or repatriating mobile numbers already exceed the one-month requirement.

292. By ensuring that these approaches are applied consistently and that industry formalises its existing ad hoc request processes (for example, by amendment in the OSG Porting Manual), it would avoid the need for disproportionate systems development or new end user processes being required.

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[97] But subject to further information to be provided as part of Ofcom's consultation on General Conditions associated with these reforms.
[98] Provided Ofcom's intended timeframe in this consultation is maintained.

10 RESPONSES TO OFCOM'S CONSULTATION QUESTIONS

Question 1: Do you agree with our proposal to require providers to develop and implement the One Touch Switch process?

No.

- We think Ofcom has overlooked core factors that should have had weight or more weight in its assessment. We also think the OTS solution is incomplete or internally inconsistent.

- The preferred approach loses important safeguards that NoT had and in doing so leads to a higher risk, less reliable (more costly and complex) process than CTS.

- Ofcom does not provide adequate justification or evidence for making these compromises.

- Ofcom's preference seems to be driven by an overriding preference to avoid any potential contact with the LP. Its consumer research does not indicate that this factor should be the sole criterion for evaluation, and in any event CTS (especially as amended) addresses the concern, whilst also replicating a real-world cross-platform model in operation today (mobile Auto-Switch) with which it might in the future need to be harmonised or unified. Furthermore, Ofcom seems to overlook the fact that OTS will inevitably lead to certain scenarios that will necessitate customer contact with the LP and therefore unfairly penalises CTS on this point. Given the revised CTS solution has now addressed this point through the introduction of an IVR channel, Ofcom should give equal focus to the shortcomings of OTS in this and other aspects.

- In our view Ofcom should reconsider its provisional decision in light of this feedback and the revised proposal for CTS.

Question 2: Do you agree with our proposal to remove the rules relating to the existing Notification of Transfer process?

Yes. It is clearly appropriate given NoT will be replaced by a new switching process and as a result of it not meeting requirements for express consent.

Ofcom notes that the rules of express consent will require "*… providers to "take all reasonable steps to ensure they do not switch customers without their express consent."*".[99] and in particular, "*where the Communications Provider has obtained such consent in a manner which has enabled the Customer to make an informed choice*".[100]

We question whether OTS meets these requirements, given it would be possible for a GP to proceed to switch a service as a result of an erroneous, malicious or fraudulent order, without the bona fide customer consenting or even being aware. Similarly, as we have noted throughout Section 4, we also question whether the requirement to supply switching implications in the midst of a sales conversation (as in OTS) is consistent with enabling all customers to make an informed choice before this consent is granted.

Question 3: Do you agree with our proposed changes to require mobile providers to give residential customers information regarding the impact of a switch on any other services they have with the losing provider?

Yes. We agree with Ofcom's proposed changes and agree that these changes should apply to residential customers only. We think it is important in particular for any impact of a switch on a linked fixed or mobile service to be set out in both switching processes and agree it is important customers are fully informed about switching implications. In our view, Ofcom's proposals emphasise the benefits of ensuring consistency between fixed and mobile GPL switching models and underline the importance of ensuring that the ability to fully harmonise these processes in the future exists.

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[99] Ibid., 3.21
[100] Ibid., 3.21

Option X Group – Critique of Option Y

Response to Ofcom

1.   CONSUMER AUTHENTICATION

OTA base capabilities description

- The process correctly identifies the customer and their authority to switch the service.

Comments on Option Y:

- Option Y expects the Losing Communications Provider ("LCP") to presume any unauthenticated requests received to cease one of its customer's services is legitimate. Option Y does not envisage the LCP has a role in validating that the individual requesting cessation of services is the account holder. Equally, the Gaining Communications Provider ("GCP") has no mechanism to authenticate this, provided basic information about the account holder is presented accurately by some means.
- Option Y inherits a number of weaknesses of the NOT+ process for intra-network switching in that incorrect assets could be identified or even the incorrect customer (whether erroneously or maliciously). These issues are likely to be exacerbated when assets are attempted to be identified across different network providers – something NOT+ was not designed to accommodate.
- Option Y risks undermining existing inbuilt LCP security safeguards for account management, by potentially allowing an unauthorised actor to cease broadband and voice services without authentication. In addition, we expect smaller retailers will employ a TPI in order to respond to 'validation requests' from GCPs. In order to do this a retailer would need to supply detailed personal / account data to a third-party creating more points of data exposure.
- In the event of fraudulent/malicious activity, there is material risk a customer may only become aware after their information has already been disclosed, or after an order has been placed or in the worst case, after services have been ceased. Based on broad measures of 'open rates' i.e. how often customers read unprompted information sent by a CP, we are concerned many customers may be unaware of actions by a third-party only after the impact is observed i.e. their services have been ceased or fraudulent activity has occurred.

- Option Y appears to provide a risk for a new mechanism to harvest customer information for phishing or other fraud activity. Additional safeguards do not appear to have been designed and have not been reflected in cost estimates to mitigate this risk.

- Ofcom undertook enforcement action against a CP mis-selling via an Option Y-type process in December 2019[1] – so the risk of consumer harm continues to exist under the NOT+ process and Ofcom noted in that case, vulnerable customers were particularly impacted.

- Audit-related measures proposed by Option Y already exist under the NOT+ process today and yet slamming and erroneous transfer problems persist. It is not clear that measures included in Option Y will be effective in preventing further consumer harm.

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[1] https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/onestream-fined-for-slamming

2. CONSUMER INTENT

OTA base capabilities description

- The process positively confirms the customer's 'consent' to switch.

Comments on Option Y:

- Option Y expects the LCP to presume any requests received to cease one of its customer's services has occurred following consent from that (unauthenticated) customer. Option Y does not envisage the LCP has a role in validating that the individual providing consent to cease the services is the account holder. Equally, the GCP would have no mechanism to authenticate this, provided information about the account holder is presented accurately. Option Y envisages the individual making the request 'tick a box' on the sales website to imply that the authorised account holder is providing consent to receive relevant personal information. In contrast, Option X proposes to require the individual to pass existing authentication safeguards required to manage their account. Additionally, this is a non-real-time action under Option X – the customer can check their details if necessary.

- Based on Option Y, the customer confirms their identity, without validation, as well as their consent to switch services, without having seen the implications of this consent.

- If the LCP were to send switching implications via email, for example, the customer may be in the situation of being expected to consent to switch and then committing to placing the order, in real-time, during a sales call with the agent. Therefore, Option Y may requires the customer to make an immediate decision without digesting and understanding the implications of that decision. We consider this to be particular risk of some customers in vulnerable circumstances, which might otherwise wish to seek advice.

- It is not clear how a customer would provide 'expressed consent' to the LCP to be re-contracted for remaining services after switch, which may be required as a result of EECC Pre-Contract Summary obligations. If this were to be a requirement mandated by Ofcom's implementation of EECC, this would result in a complex decision-making process for the customer while mid-conversation with the GCP sales agent.

3. CUSTOMER AWARENESS OF THE IMPLICATIONS OF SWITCHING

OTA base capabilities description

- The process ensures that the consumer is well informed of the implications of changing CP.

Comments on Option Y:

- Under Option Y, the consumer is unaware of the implications of switching until some time after agreeing an order with the GCP, unless the consumer proactively seeks out this information by directly contacting the LCP.

- Option Y has no process for handling more complex switching scenarios. i.e. the LCP may implement changes to remaining services without direct instruction from the customer. The customer does not have timely awareness of (or the ability to input into) further knock-on implications of their switching decision (e.g. linked services) until after they have placed their order.

- Option Y provides no mechanism for the LCP to be aware if the customer has received or read the 'STSYG letter'. The LCP is expected to assume the customer is aware of the implications it has provided.

4. SERVICE/ASSET VALIDATION

OTA base capabilities description

- The process identifies the correct services and associated assets to be switched.

Comments on Option Y:

- It is not clear from the Option Y documentation that there is an allowance in the process for customers switching from more than a single provider i.e. bundling previously separate services.

- It is also not clear from the documentation that allowance is made in the process for customers performing an 'unbalanced' switch. For example, an account with broadband and voice electing to switch to a new account that takes broadband only and choosing either to cease the existing line or to leave it active.

- Option Y requires name, address, services and the name of the GCP to initiate the process. In addition, the Option Y model requires a real-time response to be in place for the GCP, hub, LCP and any other relevant entities (e.g. wholesalers) within the supply chain 24x7. If any one entity is not available, the process appears to fail and services/assets are unvalidated. Given this critical reliance, it is not clear how the process would progress if no response rather than 'no match' is received. We assume the process stops/fails if this occurs. To respond to such requests in real-time is an onerous obligation to place on smaller providers (who are not currently required to provide such responses in order to enable customer switching), let alone the negative impact on the customer switching experience

- Option X requires the customer to pass normal security authentication processes and this authentication process is non-real-time. Therefore the customer can check their details to authenticate and the sales process is not jeopardised by requiring the full 'losing' and 'gaining' supply chain to be available in real-time to enable the transaction. In the case of Option X, the customer would have already acquired this information in advance (up to 30 days earlier) and so the same 'criticality' does not exist in both models to provide service/asset validation.

- Option Y also inherits the same weaknesses of the NOT+ process in that the incorrect assets could be identified or even the incorrect customer. Openreach (or any other access provider that facilitates intra-networking switching in the future) plays a purely passive role in the process and so it is not clear Option Y envisages asset validation safeguards consistent with NOT+.

- The process does not identify where voice and broadband cannot be switched independently by a GCP (i.e. where these services both must be switched at the same time). Therefore, an LCP may get a switch request for a service that cannot be switched independently. It is not clear whether the LCP would be required to 'reject' such a switch request or 'accept' and cease the associated services (which have not been specifically requested to be ceased).

- It is currently unclear how 'unhappy path' outcomes would be managed under Option Y, where 'search queries' fail or customers does not agree with information returned (or cannot confirm service/assets from the return information). There is the potential to raise risks of inappropriate new provide orders or the customer defaulting to an unmanaged cease and re-provide switching process, undermining the intent of the EECC.

- Option Y does not propose to integrate number porting into the switching process and so two competing/conflicting mechanism to cease services, with differing lead-times, would be available to the GCP sales agent – one of which is likely to be prone to frequent failure risks.

5. RELIABLE PROCESS

OTA base capabilities description

The process is smooth and reliable:

- Minimal loss of service 'on the due date'.
- Speedy restoration when things go wrong.

Comments on Option Y:

- There is no evidence on the reliability of Option Y in relation to ability of RCPs to respond to "search" requests received. It may be that the level of invalid / blank responses may make the switching process unworkable. A reliance on a real-time chain of many actors cannot be guaranteed to be available 24x7.

- Option Y is critically dependent on the assumption that UPRNs are used universally and so are able to associate a given UPRN to a retail customer account. Except for large CPs, we expect a significant number of CPs do not currently reference customer accounts by UPRN (with many not even having the concept of UPRN within their customer management platform). There are also scenarios, such as student accommodation, where UPRN are often not available.

- In Option Y, customer name is mandatory information and account number optional to enable the switching process. Industry has experience of this within Number Portability historically whereby validation rules included Name and Account Number. Both of these validation rules were subsequently removed due to high rejection rates resulting in delays and frustration for customers.

- Option Y envisages significant audit-records being required to combat bad behaviour and an industry remedial plan from day-1 to improve expected reliability and performance issues. Option Y also has numerous exception processes at each step of the customer journey to combat the most common anticipated failures in the process. Based on an initial review, we have also identified elementary sources of failure risk (e.g. a competing porting process or the scenario where any one of the many actors in the value chain does not respond in real-

time) where no resolution process has been presented. In our view, these workarounds and risk mitigation tactics are not the hallmarks of a reliable process and certainly not the foundation for a robust and futureproof switching model for industry.

- As there is no authenticated 'handshake' between the customer and LCP, 'unhappy paths' such as incorrect service switches, malicious switches or erroneous switches, the incidence of restoration requests and 'cancel other' is likely to rise, resulting in potential consumer harm.

- Loss of services for other non-switched services (i.e. other than voice and broadband) is likely to rise as customers may be unaware (or belatedly aware) of the implications of their decision. In some cases, it may no longer be possible to enable restoration at all.

6.   POSITIVE CUSTOMER EXPERIENCE

OTA base capabilities description

- Customer Friendly – 1-stop shop – GP-led.
- Minimal service loss on agreed 'due' date.
- Protected against mis-selling.
- Cancellation rights protected.
- Complete awareness of the implications of switching.
- Speedy restoration & timely re-dress when things go wrong.
- Well informed throughout the journey.

Comments on Option Y:

- Option Y is not a low friction process. There are multiple failure points identified above e.g. search failures and rejections, which may result in customer effort or delay. The overall propensity for failure rate for Option Y is unknown, but precedents for individual failure risks within the process are known (for example using customer name as an identification term) and historically have been material.

- In the event of a 'partial/no match' scenario, the customer may need to speak to the GCP multiple times to achieve a 'full match'. In the event an 'expedite' process is implemented in the future, this would require a further additional contact with the GCP as well as gathering information from the LCP. As the customer has not had an opportunity to express their preference on remaining services, Option Y is likely to lead to engagement with the LCP later in the switch process. We do not accept Option Y's suggestion this is always a 'one-stop-shop' process – it seems likely to sometimes require more customer interactions with the GCP and LCP on average than Option X (and will require these interactions to occur under time pressure).

- In a 'partial/no match' scenario, a customer would be expected to supply further information such as account number or FTTP ONT serial number, which will not be already known to the customer. If this information is not available (e.g. the customer is not at home), it is not clear how the sales process can proceed. The customer would need to go

through this discovery process with each prospective GCP when engaging in the market, if this engagement progresses to begin the sales process.

- It is not clear whether Option Y's 'expedite' process forms a formal part of its core proposal, or is a future potential consideration. Nevertheless, we note this would require the customer to gather a Switching Order Reference Number (aka a 'code') from the LCP after having passed some form of authentication and been made aware of the implications of switching. Clearly, we welcome that Option Y has effectively integrated some aspects of Option X into its design, but it occurs late in the proposed process and the authentication mechanism remains weaker than in Option X. It is also not clear how the customer would be aware of how to use this process and as this facility is available late in the process, it is not clear how often it would even be possible for the customer to reduce provisioning lead-times below the artificial period required for Option Y. It is likely to result in further customer effort for no practical benefit.

- We are concerned that the Option Y customer journey places undue focus on the customer's call with a GCP sales agent. The customer is asked to provide a number of consents in real-time to progress the process without time to consider or seek support of others. This emphasis risks incentivising bad sales agent behaviour.

7.   POSITIVE COMPETITIVE IMPACT

OTA base capabilities description

- Supports competition in retail markets.
- Cost efficient to implement and maintain.
- Lead-time flexibility.

Comments on Option Y:

- This model would maintain fragmentation across switching models for telecoms services – missing the opportunity to increase engagement and reduce confusion via a harmonised (or potentially even unified) process between fixed/mobile. While Option Y has similarities to NOT+, the consumer would still face new exceptions processes as well as the need to gather new information. More broadly, familiarity for a subsection of the market should attract little weight when the model under consideration has been historically used in a different context to achieve different consumer objectives.
- If Ofcom considers there may be benefits to harmonise switching processes between fixed and mobile in the future (for example, to recognise the growing adoption of 'quad-play' bundling), Option Y would imply either a substantial cost to mobile CPs (to align to Option Y) or substantial costs to fixed operators (to jettison Option Y).
- Option Y would directly impact existing lead-time flexibility that GCPs, such as Virgin Media, are currently able to offer to customers. In a significant proportion of cases, Virgin Media can provide services to customers the next working day. Option Y would introduce a substantial artificial delay and would therefore be directly contrary to EECC obligations. GCPs, such as Virgin Media, would be able to maintain their existing lead-time flexibility under Option X.

ANNEX 2: CRITIQUE OF REVISED OPTION Y PROPOSALS

Option X Group – Critique of Option Y (Revised Proposals)

Response to Ofcom

1.   Update: August 2020 Option Y

Context

Option X has been invited to provide comments on the revised proposals submitted by Option Y. This review and critique has been undertaken in the context of the time and information available.

- Option X received the revised proposals on 4 August and was invited to provide comments at that time. As a result, these comments are heavily constrained by the time and resources available.

- Option Y's revised proposals lack the necessary detail to make a complete assessment of the revised process. Even details included in the original Option Y proposals do not seem to be included or updated.

- Numerous alternative options are presented in the high-level summary document, in many cases on fundamental design decisions. Furthermore, on numerous substantive points, Option Y simply invites Ofcom to decide what Option Y should have proposed, without setting out the detail of how that would (of even if it could) then be practically implemented. Given Option Y was unable to resolve these design choices in the seven weeks it was provided to amend its submission, it is difficult to infer how Option Y envisage such alternative proposals to be implemented to provide comment on.

- No reference to how existing porting processes will be changed, improved or removed to accommodate this process have been shared. In our view, the spectrum of proposals contained in the summary proposal document appears to conflict with existing porting processes and therefore we believe the current proposal is incomplete.

Our approach to this review

We have updated our previous critique to reflect the revised proposals and supplemented this document with the new issues raised by the changes set out in Option Y. This document provides Ofcom with a standalone view of our critique of these latest proposals.

We note that Option Y considers its proposed changes are adequate to address Ofcom's concern that Option Y would not be compliant with the specific 'explicit consent' requirements under EECC. Based on the concerns set out by Ofcom, and Option Y's central/preferred iterations of its own proposals, it is not clear how Option Y reached this conclusion given their revised proposal does not facilitate customers having the required time to consider the switching information and indicate their explicit consent to proceed on that basis. Nevertheless, as this is a matter for Ofcom to consider, we do not provide material comment on this topic in our response. Instead we continue to focus on the base capabilities for a GPL model as originally set out to industry in September 2019.

The remainder of this document is structured as follows:

- In section 2 we provide brief commentary on Option Y's characterisation of the benefits of its revised proposals, compared to Option X; and
- In sections 3-9 we provide a revised assessment of Option Y proposals against the base capabilities.

2.   PURPORTED BENEFITS OF OPTION Y

A material proportion of Option Y's revised proposal document is dedicated to describing the perceived benefits of its revised proposals, presumably when compared to the counterfactual of Option X. Below we quote Option Y's proposed benefits and include brief comments on this characterisation.

A genuine one-stop shop: the customer can request the switch, receive Switch Info, consent to switch and sign up for new contract (including receiving all Regulated Info), all on a single phone call or visit to a GP website or store.

As above, a benefit called out by Option Y is the ability to complete the sale "all on a single phone call". Whilst this could offer a beneficial sales experience for some customers, for many the need to provide instant agreement to the sale is less important than the need to fully consider the implications of switching before giving their explicit agreement to continue. Furthermore, the customer receiving implications of switching, contract information and a contract summary in a single transaction could lead to information overload.

Option Y acknowledges that its process is prone to failed search attempts or partial matching. It has built in mechanisms for partial match failures, confirmed the need for a bilateral CP-CP 'back-channel'[1] to further triage partial matches or full failures. As a further backstop to the 'back-channel' it envisages the need for the customer to contact the LP. In our view it is reasonable to expect a non-trivial proportion of customer sales journeys to be paused and repeated or aborted. Where a customer has services across multiple LP's, there is potential for numerous pauses in the customer journey in the event of match failure.

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[1] It is not clear how this 'back-channel' would operate whether it would be feasible for smaller CPs to deal with the volume of failures or how regulatory mechanisms could effectively ensure LPs have appropriate incentives to act in good faith to resolve these issues in a timely manner.

This process would need to be repeated for each prospective GP the customer engaged with, rather than requesting a code via the preferred method once under Option X, with no failure risk associated with matching.

Fully GPL: The receiving provider truly "leads the switching and porting processes", as required under EECC (106); i.e. the GP facilitates the process on behalf of the customer, end-to-end, including securing Switch Info, through the 'Hub'.

Consistent with Option X, we agree that Option Y could also fairly be characterised as fully GPL.

No LP contact required: At no point does the process force the customer to try to get through to an LP call centre or find an available LP store rep, or find account details and log on to an LP app. The customer only contacts the LP if they want to.

Option Y's proposal documentation appear to state that there will be scenarios where the customer will be required to contact the LP, "*[...] the GP advises the customer that they must contact the LP to confirm their account details*".[2] Option Y doesn't appear to offer any kind of automated process for a customer to follow if the GP is unable to match their details, it's assumed the customer will likely need to have to have a real time conversation with the LP.

In addition, Option X has clearly set out the range of non-real time passive communication channels we would envisage Ofcom mandate be available, in the event industry ultimately implemented Option X.[3] The approach envisaged by Option X continues to be closely modelled on Ofcom's mobile auto-switch reforms, which has recently celebrated its first anniversary of operation as a modern, effective, fully GPL cross-network switching mechanism.[4] It also is not true that the customer would need to provide account details but would simply need to pass existing ID+V checks.

Finally, the Option Y document (we assume erroneously) suggests the Option X proposal would not prevent 'unwanted save activity'. Again, Option X's proposal has been consistently clear, since 2019, that we advocate Ofcom apply the same harmonised regulatory and enforcement regime as under

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[2] '*Option Y – Revised Proposals - 3rd Aug – Overall Summary*', page 4, step 5
[3] Virgin Media has demonstrated an early prototype of such mechanism to Ofcom.
[4] https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/a-year-of-text-to-switch

mobile auto-switch and that switching information and the corresponding code be supplied immediately on request, thereby giving the customer choice as to how they engage with their losing CP.

Customers get their Switch Info 'live': All C7.12 Switch Info can be inserted into the GP website order screen while the customer is online, or it can be sent by email or SMS while the customer is on a call to the GP or in a GP store. This means that those who want to request, consider, consent and progress the switch in a single transaction can do so; those who want more time to consider before making their decision can retrieve their Switch Info at a later date.

Option X also enables a customer to get their switching information 'live'. Additionally, consistent with mobile auto-switch, consumers can receive this information up to 30 days ahead of contracting with a new provider; so customers that choose to can be aware of implications ahead of switching or enable better engagement with the market to assess their options and make an informed decision.

As we note later in this document, all permutations of Option Y have the potential to create, in our view, troubling incentives for disreputable sales agents to hurry or coerce customers to agree to proceed with orders and discourage the customer from reviewing the implications of switching for fear of losing sales commission. Equally, it may incentivise CPs to introduce mechanisms, such as offers only valid during that sales call/website visit to avoid customers reviewing their circumstances or seeking advice.[5]

Simple Switch Info presentation: Where customers elect to receive Switch Info by SMS or email, we will include simple standardised information focusing on the core "total charges and a link to information on the process"3 in the body of the text or email, with a link to a pdf (or online account) setting out the full C7.12 Switch Info.

Subject to Ofcom's intended consultation on refinements to mobile auto-switch, Option X proposes a consistent approach to providing switching information as already exists for mobile and that this would be provided by the communication it was requested as well as (if different) via the

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[5] Were this unintended consequence to occur, it would also undermine the intent of EECC Contract Summary reforms.

mechanism the customer prefers to receive their bills. If the customer has any questions about the implications of switching these are clearly better responded to by the party who understands them (i.e. their current provider) – this is not possible through the Option Y proposal.

Sending an email / text containing a link to an online account with more information about switching implications in our view does not satisfy Ofcom's concerns regarding express consent and informed decision making. We understand this reflects Ofcom's view of the changes required to the Auto-Switch process used for mobile switching.

Allows customers to change their mind at key points during the process, including when the GP describes how the switch will work, when the customer receives their Switch Info, and after the order is placed up until the day before the transfer. In addition, we anticipate most providers will send a 'Sorry to See You Go' message with their final bill after the switch, similar to mobile. As the CCRs allow distance customers to cancel up to 14 days after placing their order - even if they have switched - these customers can still reverse their order during this time.

Option Y's proposals are broadly consistent with Option X with both allowing customers to cancel an order after it has been placed. We expect cancellation volumes through Option X to be minimal due to its strong asset identification and confirmation of informed customer consent. As Option Y is weaker in identifying the correct asset, we expect erroneous switching orders to continue and cancellation volumes be higher. Lack of a Cancel Other process also means no protection for consumers against 'misplaced' migration orders (placed erroneously or otherwise).

Simplifying switching for customers without email or mobile: Under both Option Y and LPL code-based processes, these customers must wait to receive Switch Info by letter (as this must be available in a durable medium). However, under Option Y, it is the GP who arranges for this letter to be sent. The customer does not need to call the LP and deal with unwanted retention activity, or write down a code and then make a further call to the GP and repeat the code correctly. This is particularly important for vulnerable customers, and those with limited understanding of technology, or who require more assistance with the switching journey.

It is not true that a customer without access to an email account or a mobile phone must rely on a letter to receive their switching information since it can be posted to an online account and still satisfy the "durable medium" requirements.

Option Y requires that switching implications letters are sent only after a customer's sales journey is nearing completion, whereas Option X enables the customer to receive this information up to 30 days in advance if they wish.

Furthermore, Virgin Media has provided data to Ofcom to confirm that a material proportion of its landline-only customers have accessed their account information via app or online.

Finally, as noted previously (wanted or unwanted) retention activity does not form part of Option X's switching process and in all cases the customer received their switching implications in a durable medium.

Better in-store journey: Customers with a mobile can walk into a shop, start a switch, and receive their Switch Info while in-store. Customers without a mobile may still complete an in-store order if the GP offers them access to an online terminal through which to access their Switch Info. Under YGP, customers without mobile or email can go to a GP store to get their Switch Info in hard copy, and can consent and sign up with the GP at the same time. They will not be turned away and asked to return once they have received Switch Info. This is likely to benefit vulnerable customers, who want someone to talk them through the process, but lack the technology required to receive their Switch Info.

In our view Option Y provides a strictly inferior and higher friction in-store customer experience than Option X whether or not the customer has a mobile device available. Option Y does not permit consumers a mechanism to prepare and visit a store with, in effect a 'golden ticket' i.e. a switch code, that ensures the switch will proceed during that store visit. In addition, the fact that the customer can provide this switching code removes any complexity of identifying the correct asset to switch and the provider knows up-front what services can be switched by the customer.

Instead, Option Y acknowledges a range of failure mitigations are defined that may include the customer returning to the store having written down their ONT socket serial number and/or having to make a third store visit after being tasked with contacting the LP to enquire about various other information the GP requires.

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Unlike Option X, whereby all customers without a mobile device would be able to complete an in-store order if the GP offers them access to an online terminal through which to access their switching code.

Faster switching: including next-day switching where no engineer visit is required.

In order to permit "next-day switching" the process must always identify the correct asset to switch / cease. Allowing an order to be placed on a "next-day" basis against an asset which has not been correctly validated may result in the wrong customer's service being ceased. Option X provides maximum protection in this regard by requiring the unique switching code associated with that single asset (for the order to be placed). Although Option Y's proposal states it reduces erroneous transfers it is not clear how it delivers such reductions and there are no protections from a gaining CP placing a switching order against the "wrong" asset (in an intra-network switch). We agree with the Option Y position that the diminishing ability of CLI to identify the correct service to switch makes asset identification more problematic (and is a reason why Option X is attractive in this regard).

As Option Y does not permit consumers to have a mechanism to request switching information ahead of engaging with the new GP, strictly fewer customers will be able to achieve 'next day switching' than under Option X where communications are delivered via letter medium. Option X has consistently affirmed that next day switching is at the core of the design from the outset.

As we note later in the response, Option Y is entirely silent on the pre-requisite number porting reforms that are required to achieve this change (whereas it has been explicitly integrated into the Option X process).

Highly flexible: Facilitates switching between networks (e.g. Virgin to Swish), and between providers operating on the same network (e.g. Openreach retailers), and works for both business and retail customers.

While we envisage Option Y may be able to facilitate all these scenarios, no details or use cases have been provided to confirm or suggest this. In contrast, Option X is designed to mimic Ofcom's mobile auto-switch reform, which is a real-world example of a cross-platform fully GPL switching process that works for businesses and retail consumers today.

Fully scalable: Allows customers to disaggregate bundles, switching some services but not others, and can be expanded to allow switching of service types beyond broadband and voice, including overlay services.

Option Y is incongruent to Ofcom's recent mobile auto-switch reforms and is therefore strictly less scalable or flexible to future harmonisation or unification than Option X.

Emergence of quad-play bundling is nascent in the UK, but is growing and has the potential to catch-up to broader European norms in the short-/medium-term.[6] In our view it would be short-sighted to introduce a cross-platform fixed telecommunications service switching regime that does not anticipate an interaction with mobile services.

Reduces erroneous transfers: by requiring the LP to confirm the customer, address and services to be switched, and by use of UPRNs to identify the correct address.

As stated above, in our view it is not credible to assert that reduced erroneous transfers is a feature of Option Y proposals when contrasted with Option X's proposals. Even in its high-level proposals Option Y has introduced numerous and various mechanisms to triage the known issue of 'unhappy paths', failed matches and misidentified assets or fraudulent activity.

Addresses slamming: The requirement to record customer consent is a strong disincentive to slamming. In addition, rogue CPs are unlikely to guess a UPRN, customer name, and the services they take, without talking to the customer. (Repeated attempts to guess would show up in the Hub metrics). Furthermore, the customer sees the GP brand name with their Switch Info; if they don't recognise the GP they can cancel the order.

Option X proposals remove the risk of slamming. Option Y's preferred approach seeks to manage the continuation of slamming risks and provide an audit trail for when this occurs.

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[6] For example, Virgin Media recently confirmed c.24% of its customers are FMC customers, https://www.libertyglobal.com/wp-content/uploads/2020/08/Liberty-Global-Q2-2020-Investor-Call-Presentation.pdf

Improves ability to monitor and audit: and rectify problems by applying a switch order reference throughout the transaction, and storing this for 12 months.

We agree, consistent with Option X it is positive that the hub acts as a repository for messaging between CPs, however slamming, failure to respond to partial/no match and or other exceptions cases are not a feature of Option X and so would not require an audit trail.

Wide industry support: Option Y fosters a more comprehensive ecosystem of infrastructure, wholesale and retail providers, and is supported by network and service providers large and small, including the new generation of full-fibre operators, and industry trade associations.

We note divergent views appear to exist within the Option Y group which has led to different designs/proposals under the umbrella of Option Y (so support for a specific solution does not appear to be unanimous). In terms of coverage of the residential market subscriber base, both Option X and Option Y have similar levels of support.

3.   CONSUMER AUTHENTICATION

OTA base capabilities description

- The process correctly identifies the customer and their authority to switch the service.

Comments on Option Y:

- Option Y expects the Losing Communications Provider ("LCP") to presume any unauthenticated requests received to cease one of its customer's services is legitimate. Option Y does not envisage the LCP has a role in validating that the individual requesting cessation of services is the account holder. Equally, the Gaining Communications Provider ("GCP") has no mechanism to authenticate this, provided basic information about the account holder is presented accurately by some means.

- Option Y inherits a number of weaknesses of the NOT+ process for intra-network switching in that incorrect assets could be identified or even the incorrect customer (whether erroneously or maliciously).

- Option Y risks undermining existing inbuilt LCP security safeguards for account management, by potentially allowing an unauthorised actor to cease broadband and voice services without authentication. In addition, we expect smaller retailers will employ a TPI in order to respond to 'validation requests' from GCPs. In order to do this a retailer would need to supply detailed personal / account data to a third-party creating more points of data exposure. This assumption is potentially invalidated by the need for GCPs and LCPs to maintain a 'back-channel' for triaging failed or partial matches and it is not clear this requirement has been reflected in Option Y's revised cost estimates to industry. A strong switching process should not require manual processes that need additional CP resources / costs and can delay switching timescales for customers.

- In the event of fraudulent/malicious activity, there is material risk a customer may only become aware after their information has already been disclosed. Option Y's updated proposals anticipate the GP or the hub (depending on the Option Y variant) will dispatch personal information via different media with potentially varying delivery speeds. Not only does this create the potential for customer personal information to be shared with an unknown third-party, it may do so days before the legitimate contracting customer is made aware through Option Y's intended safeguards. Based on broad measures of 'open rates' i.e. how often customers read unprompted information sent by a CP, we are concerned many customers may be unaware of actions by a third-party only after the impact is observed i.e. their services have been ceased or fraudulent activity has occurred.

- Option Y appears to provide a risk for a new mechanism to harvest customer information for phishing or other fraud activity. Additional safeguards do not appear to have been designed and have not been reflected in cost estimates to mitigate this risk.

- Furthermore, under 'YGP' variants of the Option Y proposal, the sales agent of the GP will have information the prospective customer does not have about the switching implications, which may be used for pressuring or coercive tactics to accelerate or secure sales.

- Ofcom undertook enforcement action against a CP mis-selling via an Option Y-type process in December 2019[7] and Ofcom noted in that case, vulnerable customers were particularly impacted. As we noted in section 2, despite redesign, Option Y still seeks to only manage and collect an audit trail of slamming incidents, rather than preclude the practice by design.

- Audit-related measures proposed by Option Y already exist under the NOT+ process today and yet slamming and erroneous transfer problems persist. It is not clear that measures included in Option Y will be effective in preventing further consumer harm.

[7] https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/onestream-fined-for-slamming

4.   CONSUMER INTENT

OTA base capabilities description

- The process positively confirms the customer's 'consent' to switch.

Comments on Option Y:

- Option Y expects the LCP to presume any requests received to cease one of its customer's services has occurred following consent from that (unauthenticated) customer. Option Y does not envisage the LCP has a role in validating that the individual providing consent to cease the services is the account holder.[8] Equally, the GP would have no mechanism to authenticate this, provided information about the account holder is presented accurately. In contrast, Option X proposes to require the individual to pass existing authentication safeguards required to manage their account. Additionally, this is a non-real-time action under Option X – the customer can check their details if necessary.

- Based on Option Y, the customer who may or may not be the account holder with LP confirms their identity, without validation, as well as their consent to switch services they may or may not have authority to instruct on, potentially without any evidence of them having seen the implications of this consent.

- If the LP were to send switching implications via email, for example, the customer may be in the situation of being expected to consent to switch and then committing to placing the order, in real-time, during a sales call with the agent. Therefore, Option Y requires the customer to make an immediate decision without digesting and understanding the implications of that decision. We consider this to be particular risk of some customers in vulnerable circumstances, which might otherwise wish to seek advice.

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[8] Unless, under Option Y, after partial matches and/or failed matches and 'back-channel' bilateral CP-CP engagement, it may nevertheless be necessary for the GP to instruct the customer to engage with the LP (and in doing so pass authentication for data protection purposes) receive the necessary information.

- It is not clear how a customer would provide 'expressed consent' to the LP to be re-contracted for remaining services after switch, which may be required as a result of EECC Pre-Contract Summary obligations. If this were to be a requirement mandated by Ofcom's implementation of EECC, this would result in a complex decision-making process for the customer while mid-conversation with the GP sales agent. As we noted in section 1, Ofcom will no doubt form a view of the various permutations of Option Y proposals, but it is not clear to Option X how the 'preferred' iterations of the redesigned proposals achieve this.

5. CUSTOMER AWARENESS OF THE IMPLICATIONS OF SWITCHING

OTA base capabilities description

- The process ensures that the consumer is well informed of the implications of changing CP.

Comments on Option Y:

- Under Option Y, the consumer is unaware of the implications of switching until (at the earliest) midway through a protracted sales order journey with the GP, unless the consumer proactively seeks out this information by directly contacting the LP, whereby there appears to be no mechanisms by which the LP will be prevented from engaging in save activity.

- Option Y has no process for handling more complex switching scenarios. I.e. the LP may implement changes to remaining services without direct instruction from the customer. The customer does not have timely awareness of (or the ability to input into) further knock-on implications of their switching decision (e.g. linked services) until after they have placed their order.

- Under the various Option Y 'preferred' approaches, there is no mechanism for the LP to be aware if the customer has received or read the switching implications. The LP is expected to assume the customer is aware of the implications it has provided.[9]

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[9] And the recipient of that customer personal information is in fact its customer and entitled to see that information.

6.   SERVICE/ASSET VALIDATION

OTA base capabilities description

- The process identifies the correct services and associated assets to be switched.

Comments on Option Y:

- It is not clear from the Option Y documentation that there is an allowance in the process for customers switching from more than a single provider i.e. bundling previously separate services. If this is possible, the sales journey complexity and time delay is compounded by the risk that one or both matches fail, partially fail and/or the failsafe 'back-channel' is operational and effective.

- It is also not clear from the documentation that allowance is made in the process for customers performing an 'unbalanced' switch. For example, an account with broadband and voice electing to switch to a new account that takes broadband only and choosing either to cease the existing line or to leave it active. Option Y does not indicate at what point in the customer sales journey the GP will begin the process of seeking a match via the hub and it is not clear whether this would be done before or after the ISP identifies whether they can deliver service to the customer.

- Option Y requires name, UPRN, services and the name of the GP to initiate the process. In addition, the Option Y model requires a real-time response GP by the LP on a 24x7 basis. If this is not available, the process appears to fail and services/assets are invalidated. Given this critical reliance, it is not clear how the process would progress if no response rather than 'no match' is received. We assume the process stops/fails/enters backchannel process if this occurs, negatively impacting customer experience.

- Option X requires the customer to pass normal security authentication processes and this authentication process is non-real-time. Therefore the customer can check their details to authenticate and the sales process is not jeopardised by requiring the losing provider to respond in real-time to enable the transaction. In the case of Option X, the customer would have already acquired this information in advance (up to 30 days earlier) and so the same

'criticality' does not exist in both models to provide validation during the gaining provider's sales process.

- Option Y also inherits the same weaknesses of the NOT+ process in that the incorrect assets could be identified or even the incorrect customer. Openreach (or any other access provider that facilitates intra-networking switching in the future) plays a purely passive role in the process and so it is not clear Option Y envisages any improved asset validation safeguards from today's switching process.

- The validation process does not identify scenarios where voice and broadband cannot be switched independently by a GP (i.e. where these services both must be switched at the same time). Therefore, an LP may get a validation request for a service that cannot be switched independently for the customer in question. It is not clear whether the LP would be required to 'reject' such a switch request or 'accept' and provide the switching implications based on the other service being ceased. Such ambiguity is not present in the Option X proposal whereby the customer is clear on whether individual services can be switched independently before engaging in a sales process. .

- It is currently unclear how 'unhappy path' outcomes would be managed under Option Y, where 'search queries' fail or customers does not agree with information returned (or cannot confirm service/assets from the return information). There is the potential to raise risks of inappropriate new provide orders or the customer defaulting to an unmanaged cease and re-provide switching process, undermining the intent of the EECC.

- Option Y does not propose to integrate number porting into the switching process and so two competing/conflicting mechanism to cease services, with differing lead-times, would be available to the GP sales agent – one of which is likely to be prone to frequent failure risks. As noted in section 2, based on all current permutations of Option Y, this appears to invalidate the proposed benefit of 'next day switching'.

7. RELIABLE PROCESS

OTA base capabilities description

The process is smooth and reliable:

- Minimal loss of service 'on the due date'.
- Speedy restoration when things go wrong.

Comments on Option Y:

- The proposed permutations of Option Y add complexity to the sales journey, adds further friction to the sales process (information overload) and increases the number of real time communications between retailers, which may impact on reliability and customer experience. This is further compounded when added to the distinctly different auto switch process for mobile switching.

- Hub functionality in Option Y has transformed from a simple messaging system to a communications HUB and Web Portal. It should be pointed out that communications originating from the HUB to the customer could not be clearly identified as authentically provided by the LP and may result in being blocked or marked as spam. Its possible customers become victims of crime as potentially fraudster's mimic switching communications which look genuine to customers.

- There is no evidence on the reliability of Option Y in relation to ability of RCPs to respond to "search" requests received. It may be that the level of invalid / blank responses may make the switching process unworkable. A reliance on a real-time chain of many actors cannot be guaranteed to be available 24x7, as such we expect fault management and escalation processes may need to be developed. Option X was designed as a much simpler 'non real time push/pull' model, under which only a single party and the hub are required to be online in order to perform any necessary function. The benefit of this is large volumes of transactions, outages, planned or otherwise, are manageable. Finally, to implement and maintain industry wide 24x7 real time capability, will likely be problematic, costly and impact negatively on customer experience.

- Option Y is critically dependent on the assumption that UPRNs are used universally and so are able to associate a given UPRN to a retail customer account. Except for large CPs, we expect a significant number of CPs do not currently reference customer accounts by UPRN (with many not even having the concept of UPRN within their customer management platform). There are also scenarios, such as student accommodation, where UPRN are often not available.

- In Option Y, customer name is mandatory information and account number optional to enable the switching process. Industry has experience of this within Number Portability historically whereby validation rules included Name and Account Number. Both of these validation rules were subsequently removed due to high rejection rates resulting in delays and frustration for customers.

- Option Y envisages significant audit-records being required to combat bad behaviour and an industry remedial plan from day-1 to improve expected reliability and performance issues. Option Y also has numerous exception processes at each step of the customer journey to combat the most common anticipated failures in the process. Based on an initial review, we have also identified elementary sources of failure risk (e.g. a competing porting process or the scenario where any one of the many actors in the value chain does not respond in real-time) where no resolution process has been presented. In our view, these workarounds and risk mitigation tactics are not the hallmarks of a reliable process and certainly not the foundation for a robust and futureproof switching model for industry.

8.   POSITIVE CUSTOMER EXPERIENCE

OTA base capabilities description

- Customer Friendly – 1-stop shop – GP-led.
- Minimal service loss on agreed 'due' date.
- Protected against mis-selling.
- Cancellation rights protected.
- Complete awareness of the implications of switching.

- Speedy restoration & timely re-dress when things go wrong.
- Well informed throughout the journey.

Comments on Option Y:

- Option Y is not a low friction process. There are multiple failure points identified above e.g. search failures and rejections, which may result in customer effort or delay and retailer operational effort. The overall propensity for failure rate for Option Y is unknown and has not changed in the revised proposals. Precedents for individual failure risks within the process are known (for example using customer name as an identification term) and historically have been material.

- In the event of a 'partial/no match' scenario, the customer may need to speak to the GP multiple times to achieve a 'full match', or abort the process to allow the GP to engage in a 'back-channel' to the LP for some period of time, or ultimately contact the LP with instructions from the GP to gather relevant information. We do not accept Option Y's suggestion this is always a 'one-stop-shop' process – it seems likely to sometimes require more customer interactions with the GP and LP on average than Option X (and will require these onerous interactions to occur under time pressure during the sales process).

- In a 'partial/no match' scenario, a customer would be expected to supply further information such as account number or FTTP ONT serial number, which will not be already known to the customer. If this information is not available (e.g. the customer is not at home), it is not clear how the sales process can proceed. The customer would need to go through this discovery process with each prospective GP when engaging in the market, if this engagement progresses to begin the sales process.

- We are concerned that the Option Y customer journey places undue focus on the customer's call with a GP sales agent. The customer is asked to provide a number of consents in real-time to progress the process without time to consider or seek support of others. This emphasis risks incentivising bad sales agent behaviour.

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9. POSITIVE COMPETITIVE IMPACT

OTA base capabilities description

- Supports competition in retail markets.
- Cost efficient to implement and maintain.
- Lead-time flexibility.

Comments on Option Y:

- This model would maintain fragmentation across switching models for telecoms services – missing the opportunity to increase engagement and reduce confusion via a harmonised (or potentially even unified) process between fixed/mobile. While Option Y has similarities to NOT+, the consumer would still face new exceptions processes as well as the need to gather new information. More broadly, familiarity for a subsection of the market should attract little weight when the model under consideration has been historically used in a different context to achieve different consumer objectives.

- If Ofcom considers there may be benefits to harmonise switching processes between fixed and mobile in the future (for example, to recognise the growing adoption of 'quad-play' bundling), Option Y would imply either a substantial cost to mobile CPs (to align to Option Y) or substantial costs to fixed operators (to jettison Option Y).

- Option Y would directly impact existing lead-time flexibility that GPs, such as Virgin Media, are currently able to offer to customers. In a significant proportion of cases, Virgin Media can provide services to customers the next working day. Option Y can introduce a substantial artificial delay for some customers and would therefore be directly contrary to EECC obligations. GPs, such as Virgin Media, would be able to maintain their existing lead-time flexibility under Option X.