

T-Mobile response to Ofcom's consultation on Mobile Number Portability

Key messages

Ofcom has undertaken significant research and analysis in to the question of whether and how the current UK arrangements for Mobile Number Portability ("MNP") can be improved. While T-Mobile largely supports the findings of this research, T-Mobile does not consider Ofcom has drawn the correct conclusions from its research or fully explored the solutions that are an appropriate and proportionate response.

In T-Mobile's view the key finding of Ofcom's research is that customers who have decided to port want the porting experience to be as convenient as possible. Ofcom has interpreted this as requiring a recipient led process that is as fast as possible. This is simplistic.

Convenience is not only a function of speed. It is also a wider question of the ease of initiating the port (PAC acquisition / recipient led verification), the robustness of the process (whether it is reliable, with few port rejects/false ports/slamming/fraud) and certainty (understanding of the process, knowledge of when it will be completed) etc. This is widely supported in the findings of Jigsaw Research, who were commissioned by Ofcom.

It is also confirmed by Ofcom's own primary conclusions on the improvements users wish to see to the current system, which are primarily around the ease and convenience of initiating the process (obtaining the PAC, avoiding unwanted retention activity, degree of information provided about the process etc).

It follows that the solutions proposed by Ofcom are not clearly linked to the primary improvements that consumers wish to see. Ofcom clearly anticipates a Recipient Led Process ("RLP") that takes either 24hours or, ideally, 2hours. However, while these may *address* aspects of the primary issues Ofcom identifies, they are not targeted at solving them, nor necessarily proportionate.

It follows, that Ofcom has not substantiated the need for a new system, only that alternative systems may be better. Ofcom therefore substantially overlooks the extent to which there are improvements that can be made to the current system. While clearly Ofcom has proposed changes to the current systems among its options, it has not presented changes to the current system that would in fact address each of the primary improvements that consumers wish to see. As such Ofcom's consultation almost precludes the adoption of an option that would not require a new system to be implemented.

T-Mobile considers that there is an unexplored, but very clear, case for making changes to the current process that would directly address Ofcom's primary conclusions on what needs to be improved, while achieving these at significantly lower cost and risk than the options Ofcom proposes. Above all, changes to the current system could be made quickly, resulting in a much more immediate consumer benefit of equal measure.

T-Mobile's proposal is as follows:

- accelerate the current process;
- place strict requirements on operators regarding the provision of a PAC; and



- introduce appropriate regulation of retention activity.
 - (i) Accelerate the current process

As Ofcom states, there is scope to reduce the time the current process takes to complete the port. T-Mobile also acknowledges that a change to a 24hour system is likely to be statutory requirement before long.

A 24hour porting process can therefore be achieved without the requirement to introduce a completely new system, or design a new process. As a consequence, an upgrade to the current process can accelerate the porting process, but would do so far sooner than would be achieved if a new system and a recipient led process were required to be designed and implemented. The risks and costs of an upgrade would also be a fraction of those involved in procuring a new system.

While there may be arguments that “faster is always better”, there is no research to demonstrate that a 2hour process is required or would be proportionate. The decision to switch operators is not an impulse decision that requires immediate fulfilment¹. Furthermore, a system that would achieve this would require system availabilities and processes which are multiples of the cost associated with a 24hour process. It would also create a system more vulnerable to slamming etc.

- (ii) Place strict requirements on operators regarding the provision of a PAC

Ofcom identifies that one of the main “pain points” in the current system is PAC acquisition. One aspect of this is retention activity, which is addressed below. The other is simply the speed with which the PAC is provided. T-Mobile provides PACs immediately over the phone, allowing customer to switch and port at the same time as in a RLP. There is no reason for which other operators could not also provide the PAC over the phone at the time of request, or by SMS shortly thereafter.

Furthermore, it is clear from the research Ofcom has published that those consumers that complain about the delay in acquiring a PAC are largely those whose operators provide the PAC by post. To require the whole industry to pay for an entirely new system and process, and require customers to wait for its introduction, would be wholly disproportionate to the alternative of setting a minimum standard that can easily, quickly and cheaply be achieved under the current system. T-Mobile, which provides best in class service on PACs should not be penalised because one/two networks insist on providing PACs by post.

It follows that a simple requirement within GC18 that operators provide the PAC upon request, either over the phone or by SMS shortly thereafter, would both solve the primary issue identified by Ofcom. Alternatives could include providing a web-based authentication process whereby customers could acquire their own PAC independently. Each of these alternatives would avoid the potential time delays identified as an issue by Ofcom, and do so quickly and proportionately.

¹ Consumers take an average of 3 days to make a purchasing decision, and may take up to one month.

(iii) Introduce appropriate regulation of retention activity

Ofcom has also identified unwanted retention activity as a “pain point” in the current system, which seldom deters but nevertheless sometimes severely inconveniences consumers wishing to port. It also identifies that many consumers appreciate the opportunity to seek a better deal from their current provider.

It follows that consumers should be provided with choice. Where a customer does not wish to receive a retention offer but wants to acquire a PAC then that decision should be respected. However, the logical conclusion is not that an entirely new process and system, with its own faults and weaknesses, should be introduced. Rather, T-Mobile proposes that Ofcom should properly explore a solution that addresses the problem. While Ofcom notes that a separate PAC request telephone number on which no retention activity is permitted is an option, it singularly fails to investigate this possibility. This is an oversight and is particularly surprising when Ofcom was a first hand witness to the difficulties faced in UKPorting in the agreement and design of a RLP.

T-Mobile therefore proposes that Ofcom should investigate a solution whereby customers can request a PAC through a revised system / process under which retention activity is not permitted. A change to the IVR system or the introduction of a dedicated phone number would be a simple, quick and effective solution to the issue Ofcom has identified, while maintaining a high level of authentication and a high cost/benefit.

It follows that there are amendments to the current process that would directly address each of the primary issues that Ofcom has identified. There is a wider point to this however: Ofcom is mistaken to analyse the issue of what improvements can be made through the prism of donor vs. recipient led processes. Each process has its own strengths and weaknesses, but each are equally able to achieve a consumer driven outcome, so long as they are implemented in a fashion that fully addresses their innate weaknesses.

The approach must therefore be to rigorously identify what areas require improvement and address these. Whether this is done via a recipient or donor led process is in effect irrelevant, so long as each is implemented such that its own inherent weaknesses are addressed and their effect minimised. Where this should lead Ofcom is to improve the current system because:

- a donor led process (a “DLP”) it is equally as able as a RLP to deliver a porting experience that works in the consumer interest, subject to variations between the two on which particular strength/weaknesses are more relevant;
- a donor led process is inherently better at providing a transparent process to the consumer and preventing slamming, fraud etc (which are a particular concern in the mobile sector)²; and

² T-Mobile notes that mis-selling and additional charges were the “key areas of consumer dissatisfaction” identified in Ofcom’s consumer complaints bulletin, October 2009. This is important for two reasons: (a) it illustrates that MNP is not identified as a core problem generally; and (b) it demonstrates that any MNP system needs to be geared towards minimising mis-selling and additional charges.



- achieving a process that addresses Ofcom's primary concerns by building on the current DLP will necessarily be significantly faster to introduce (at lower cost and risk) than the design and procurement of an entirely new system.

In summary, T-Mobile considers that Ofcom has identified inadequate evidence of consumer harm or impact on switching to justify a move to an entirely new system (i.e. Options A, B or C), and that the options it has set out are incomplete and do not each correlate to the primary issues that it has identified. T-Mobile proposes that the current system be significantly upgraded to a 24hour process under which customers can request their PAC without facing retention activity, and where the PAC would be delivered immediately or shortly thereafter. Such an upgrade:

- would address each of the primary concerns identified by Ofcom;
- could be introduced quickly, thereby giving rise to a significantly accelerated improvement to the porting process; and
- would come at a fraction of the cost of the manifestly disproportionate alternative of a two hour and/or RLP, each of which would not only cost vastly more, but would take significantly longer to introduce and have their own vulnerabilities.

Consultation Question Responses

Q3.1: Do you agree that the bulk porting process should not be included in this review and should be left to industry agreement?

T-Mobile agrees that the bulk porting process should not be included in Ofcom's review. At a process level, the greater the number of ports included a bulk port, the greater margin for error and the more significant the consequences. At a contractual level, business contracts typically have provisions regarding account management, including provisions relating to the orderly transfer of numbers in the event of switching. Industry is well placed to set limits that reflect the robustness of the system and the process provisions agreed with customers. Accordingly T-Mobile agrees with Ofcom's proposal not to include bulk porting in the current review.

Q4.1: Do you agree with Ofcom's view that the evidence suggests consumers would prefer a faster porting process?

Overriding remarks

T-Mobile does not consider that Ofcom has drawn the right conclusions from the evidence it has presented, or that the evidence supports the conclusions Ofcom has made.

In T-Mobile's opinion the focus on 24hour vs. 2hour porting is misleading, since it overlooks the requirement to initiate the porting process itself. This in turn is simply a question of the speed and ease authentication, which Ofcom does not consider at a fundamental level but rather glosses over by viewing it as recipient led vs. donor led. Ofcom does not appear to properly identify that while the authentication process and the number porting process are separate processes they are part of an overall customer experience.

This is very significant, since Ofcom's proposed options either fail to address this (in the case of Options B and D through inadequate exploration of improvements that can be made to a donor led process), or adopt a RLP as a solution (without clear consideration of the authentication issues that would cause). Put simply, Ofcom must move away from considering RLP vs. DLP, or 24hour vs. 2hour, and look at the underlying issues.

Evidence of a requirement to accelerate the process

Ofcom notes at paragraph 4.5 that "80% of mobile consumers who had switched and kept their mobile number were satisfied with the overall process". It follows that any requirement to change the system can only be based if there is a substantial benefit accruing to a minority, albeit that the majority that are already satisfied may benefit also.

This sets a high bar on substantiating investment in the current system or the creation of an entirely new one. Regarding the specific requirement to accelerate the current process, Ofcom-commissioned research notes that "Residential consumers are typically happy to live with current port lead times unless they are using their mobile for business purposes, in which

case they might consider a minimal fee to have the switchover done within 24hours.” (Jigsaw research, p25). Instead, “the amount of time taken to port contributes to the sense of the process being a hassle...but it tends to be more an irritant than a practical issue” (Jigsaw research, p6).

It follows that, as set out in the introduction to this response, it is the overall convenience of the system that is of importance to consumers. As the Jigsaw Research paper notes, “certainty is at least as important as the port lead time in the overall porting process, if not more so “and that “this uncertainty (around the time of the switchover and the potential loss of service) is at least as significant a pain point as the port lead time itself, if not more so” (p19).

That it is convenience rather than timing that is the issue is further confirmed by Ofcom’s own comparison of the systems in Great Britain and the Republic of Ireland (General Condition 18 Research – Mobile number portability in Great Britain and the Republic of Ireland (“Ofcom RoI Research”). Although much is made of the 2hour RLP in RoI, page 11 of the Ofcom RoI Research research clearly shows that the time taken to port is perceived as a lower barrier to porting in the UK than it is in the RoI under a 2hour RLP.

Consistent with this, rather than the duration of the porting process specifically, it is the overall convenience of the initiation of the port that Ofcom’s research identifies as the problem: “timing becomes more of an issue with regard to receiving the PAC code, which is where most problems tend to occur, particularly for Residential consumers. In this context consumers are looking for a fast, efficient and reliable method for receiving their PAC code. Most therefore wish to avoid postal options. “Residential consumers are open to most other methods” (Jigsaw Research p7). This is further substantiated by the complaints received by Ofcom, which make clear that for those customers for whom acquiring a PAC is the issue, this arises with operators that issue PACs by post (4.29) – which the statistics indicate is the case for only 22% of PACs.

It follows that:

- it is not the porting process that requires acceleration, but the convenience of initiating the port that needs to be addressed;
- that under the current system, the inconvenience identified by consumers can be largely attributed to those one or two operators that persist in delivering PACs by post; and
- that under the current system, those that acquire the PAC over the phone, or by SMS have no problem with the speed of the port initiation process.

Therefore:

- the primary issue for consumers is not 2hour vs. 24hour porting, but how to make the initiation of the porting process more convenient;
- that consumers that are provided with the PAC over the phone or shortly thereafter by SMS are not the consumers that complain or have an issue with timing;
- that this method of port initiation is satisfactory (subject to regulating retention activity); and
- that the speed of port initiation can be addressed by requiring all operators to adopt a system where the PAC is provided over the phone, or shortly thereafter by SMS.

A recipient-led process as an alternative

As set out above, the time take to initiate the porting process under the current system is identified by Ofcom as a primary issue to be addressed. However, Ofcom's consideration of the possible means by which these could be addressed is manifestly incomplete, focusing narrowly on the alternatives of receiving a PAC by SMS on the one hand, and a RLP on the other.

There are four problems with this approach.

First, while T-Mobile welcomes the proposal to require other operators to provide the PAC near immediately, this does not adequately address the other aspect to PAC acquisition – the further primary issue of retention activity. Ofcom's only proposed solution to this is a move to a RLP. The options proposed with respect to DLP alternatives are inadequate.

Second, Ofcom's proposal to adopt a RLP as a solution to unwanted retention activity is disproportionate and incomplete: not only can this issue be addressed under the current system, but a 24hour RLP would not address it either, since there would be ample opportunity for the donor operator to contact the customer and undertake retention activity pending completion of the port.

Third, Ofcom does not reconcile its proposal to adopt a RLP with the evidence that *the majority* of customers appreciate a retention offer, or that a RLP would not in fact alter propensity to port. As clearly set out in Ofcom's own research comparing the UK's DLP with the RLP in RoI, the "hassle factor" under RLP is twice that perceived in GB (p11 Ofcom RoI Research). The Ofcom commissioned Jigsaw Research concludes that "although moving to a recipient led process has the potential to be seen as a significant improvement by Residential consumers, and more in line with their expectation of how the process would work, it would not have a major impact on the decision to port. In other words there is little evidence to suggest that it would encourage porting among those who did not / would not care to keep their number. Furthermore, a move to this type of process would only be deemed an improvement if the network providers were required to meet certain performance standards" (p25). Given the complexity, cost, delay and vulnerabilities of a RLP this is manifestly inadequate evidence of a justification to invest in a new system and process. Indeed, while Ofcom itself states that its consumer research shows a "strong preference for a RL porting process" it cites as its source for this statement a survey showing that "53% of consumer expressed a preference for a RLP". This is not the same.

Fourth, to the extent that a RLP would address *unwanted* retention activity, there are alternatives that would achieve the same. T-Mobile estimates that a PAC only IVR option could be established by an operator for as little as c£10k per operator, within 12 months. For example, operators could be required to implement an option in their IVRs that states:

- Level 1: "Press [4] if you are thinking of leaving [T-Mobile] or want your port authorisation code"
- Level 2: "Press 1 if you or want your port authorisation code. Press 2 if you would like to speak to an agent about alternative offers that T-Mobile could make, and/or receive your port authorisation code."

Under such a system Pressing 4 and then 1 would connect the consumer to a CSA who would provide the PAC over the phone / arrange SMS delivery, under a strict regulatory obligation not to question the customer's decision to leave or whether they would consider alternatives from [T-Mobile]. Compliance could be readily monitored.

This option would not only ensure a customer received their PAC immediately, but would ensure that there was no unwanted retention activity. It would therefore address each of Ofcom's concerns regarding the port initiation process and its timing.

The benefits of this alternative are that:

- it would be quick to implement
 - T-Mobile estimates that such a change could be implemented within 12 months.
 - By way of comparison, under UKPorting the process design working group took 8 months to arrive at an incomplete and unagreed first draft of a high level process design for a RLP.
- it would have low costs
 - T-Mobile estimates that such a change could be implemented in the IVR for less than c£10k.
- it would generate savings
 - a dedicated PAC alternative would reduce customer service agent overheads.
 - Calls for a PAC (only) would be handled outside the Loyalty & Retention team, who are more highly trained and paid than standard customer service agents.
 - Call duration would be lower (as there would be no retention activity), such that fewer agents would be required.
 - T-Mobile estimates savings as follows:
 - PACs being issued via an in-house advisor (instead of save attempt being made by the Loyalty & Retention team): 20.6 FTE (c. £495k) per year; or
 - PACs issued via an advisor from a service partner i.e. outsource: 24.2 FTE (c. £582k) per year.
- it would resolve Ofcom's concerns regarding delays to PAC acquisition by consumers
- it would be robust
 - a DLP is more easily and more reliably able to authenticate the customer
 - this would be consistent with Ofcom's and industry's shared desire to minimise mis—selling, fraud etc
- it would not give rise to any DPA issues (these had not been resolved by UKPorting and a meeting with the Information Commissioner had been planned)
- it would be easy for the customer
 - 92% find IVR systems easy to use (slide 11 Ofcom PAC Mystery Shopping survey)
- it would provide the customer with information to enable them to take a fully informed decision (i.e. information on whether an Early Termination Charge (“ETC”) would be payable to their donor network).

The 2hour vs. 24hour alternatives

Subject to the above, T-Mobile does not consider that, regardless of the port initiation process, a move from 24hour to 2hour porting is either necessary or proportionate. As noted in the introduction, consumers seldom switch between operators on impulse but frequently make details comparisons of the alternative offers available to them (including retention offers). Increasingly, consumers are making their purchasing decisions using telesales channels (i.e. web and phone) where the provision of their new SIM (and, more often than not, their handset) will require at least 24hours to provision and deliver. Thereafter a new handset typically requires overnight charging before it can be used to properly replace an existing *mobile* service.

Not only would a 2hour system deliver little incremental benefit over a 24hour system, and treat an increasing number of ports on a deliberately delayed basis to fit with delivery, charging, etc, but the costs of such a system would be significantly greater. A 2hour system would have to have significantly higher levels of availability, requiring a greater level of support, redundancy etc, all of which add substantially to costs. A 2hour system would also substantially reduce the scope for robust consumer protection measures, such as anti-slamming precautions and the provision of information on early termination charges etc.

Finally, T-Mobile notes Ofcom's assertion that under a RLP it would be appropriate for the donor to provide information on the ETC to the consumer by SMS within 2hours, but without confirmation of receipt being a condition for the porting process itself. T-Mobile does not consider it an absolute requirement that porting be conditional on customer confirmation per se, but is adamant that customers must be provided with information to ensure that they take an informed decision to switch and do not find themselves with unexpected bills or commitments. As such T-Mobile does not consider that a RLP that operates in the interests of the consumer is compatible where ETC information will likely be provided only after the port has been initiated.

Given that the evidence Ofcom has presented substantiates that consumers are happy with the existing time taken to port (subject to the time taken to acquire the PAC) T-Mobile therefore sees no benefit in moving to a 2hour system, or any benefit that outweighs the very significant costs and disadvantages of such a system.

Q4.2: Do you agree with Ofcom's view that the current process does not work well for all mobile consumers?

Ofcom's research finds that the significant majority find the porting process easy or very easy. It is therefore clear that the process *does* work well for most customers. It therefore cannot be the case that it does not work well for all.

T-Mobile is concerned that the question implies no issue of cause or effect, and invites only qualitative responses. While it is clear that there is a minority of customers for whom the current process could be improved (largely by eliminating the provision of PACs by post and regulating unwanted retention activity) and that there should be better communication of the process itself by Ofcom and operators, all research indicates that the current system has no impact on switching. For example:

- "There is little evidence to suggest that the current process has a significant impact on switching behaviour" Jigsaw Research p5;

- consumers in GB see barriers to porting as significantly lower in GB than in RoI (Ofcom RoI Research); and
- switching levels are higher in UK than in RoI (Ofcom RoI Research)

Accordingly, the evidence makes clear that the current process does work well for most people and does not impact switching. This is not to undermine Ofcom's conclusions that it could be improved for a minority, but it is important that Ofcom ensures that any decision it take is proportionate: the majority are happy with the current system and it does not affect switching. While there are improvements that should be made, there are a number of options for this, not all of which have been considered by Ofcom.

Q4.3: Are there any other areas of consumer harm that have not been identified? Do you have any evidence to demonstrate other areas of consumer harm?

T-Mobile does not consider that there are other areas of harm not identified by Ofcom.

As set out further below however, T-Mobile does consider that Ofcom has inadequately accounted for the costs and difficulties of introducing a 2hour or RLP process in the UK. A failure to get such a process right would give rise to significant consumer harm, in the form of increased mis-selling, slamming and fraud. T-Mobile would invite Ofcom to remind itself of the difficulties faced by UKPorting in defining a 2hour RLP and the problems that were found in designing a system that could robustly authenticate customers in the UK.

Q4.4: Do you agree that Ofcom should intervene to introduce changes to the current MNP process to address the harm identified?

T-Mobile supports in principle that changes to the current process may be justified. It does not support intervention to introduce an entirely new MNP process and/or system however.

However, in the absence of any identification of serious consumer harm under the current system, no impact on switching, and clear evidence that the current system serves the substantial majority of customers well, it is clear that requiring an *entirely new* process and system to be implemented is unlikely to be proportionate.

As set out above, T-Mobile is concerned that Ofcom has insufficiently considered equally effective but simpler, cheaper alternatives to the options it sets out, and which could be introduced more quickly. Ofcom has not matched its proposed options to the core problems that it has identified. Ofcom has framed its analysis through the prism of RLP vs. DLP and 2hour vs. 24, and in doing so has crucially overlooked ensuring that it focuses on the core issues and what is required to solve these. Industry can design and implement whatever solution is required to solve an identified issue: the key is to identify the issues and match this to a targeted solution to that issue, not to take issues and potential processes and set out the latter as the options for a solution.

As set out in the introduction, while each of a RLP and a DLP has its advantages and weaknesses, each such process can be implemented in a fashion that achieves a robust and effective system that operates in the consumer interest, so long as it is implemented in a way

that specifically and adequately addresses the weaknesses inherent in it. It follows that there is no reason that a DLP – properly specified – cannot address the core issues identified by Ofcom: on the contrary, in the form proposed by T-Mobile each of these would be resolved, with the advantage that this could be done promptly and at (relatively) little expense.

The danger of adopting a RLP is that, while similarly capable of addressing the identified issues, but with its own particular weaknesses, industry would have to design, procure, test and implement an entirely new system. Not only would this be significantly more expensive and time consuming, but it also creates significant risk. To this end, T-Mobile is concerned that Ofcom appears to have drawn few lessons for the fiasco of UKPorting. Any decision to require a RLP, or a 2hour system will require in-depth industry collaboration of some form, for which the precedent of UKPorting does not inspire confidence. The procurement was stifled from the outset by a lack of clear technical requirements, a specification, or a process design, and was so time constrained that industry was nearly forced to enter in to a procurement process without these having been agreed, and with timelines that even vendors felt could not be met. The system would in all likelihood have been delivered late, significantly over budget, and have required significant further time and investment to get right thereafter. The consumer harm that would have arisen in this scenario should not be lost on Ofcom and should be properly included in its assessment of options A, B and C.

Q5.1: Do you agree with Ofcom’s view that the ‘do nothing’ option is unlikely to be appropriate in light of (i) evidence of consumer harm and (ii) noting the proposed one working day porting requirement under the New Telecoms Package? If not, please give reasons for your views.

T-Mobile agrees that there is evidence that warrant improvements being made to the current system. As such, T-Mobile does agree that the “do nothing” approach is not appropriate.

T-Mobile is concerned however that Ofcom is not using the proper counterfactual in evaluating the options it has proposed. On the basis that the porting process will have to be less than 24hours and that operators meeting the terms of the current GC18 should not ordinarily be obstructing the porting process through excessive retention activity, the refusal to provide a PAC or its provision by post, then *the proper counterfactual should be 24hour porting regardless.*

It follows that Ofcom’s assessment of the costs and benefits of changes to the current system should be adjusted. As set out in further detail below, do nothing is not the correct base case. Options A-D need to be judged against the counterfactual of a 24hour process under which operators meet their existing obligations. This is explored further at sections 5.9 below.

Q.5.2: Do you agree with the range of potential options Ofcom has set out?

T-Mobile considers that each of the Options A-D are valid options to consult on. However, T-Mobile also considers that they are not each in fact geared to solving the core problems that Ofcom has identified, and that there are other options that Ofcom must consider.

In particular, given the focus on problems surrounding the PAC acquisition (i.e. retention activity and postal provision of the PAC), T-Mobile is dismayed that Ofcom has not properly explored solutions that directly address these. In particular, T-Mobile is perplexed that having noted the possibility of a dedicated PAC line at paragraph 4.55, Ofcom subsequently gives this no further thought, providing no reason for discounting the possibility, despite its obvious benefits.

More generally, T-Mobile is surprised that Ofcom's only non RLP-based proposal to these core problems is that the PAC must be provided within 2hours by SMS, which does nothing to address unwanted retention activity. Ofcom is consequently presenting a range of options two of which only partially address the issues it has identified. As a consequence, the consultation is both fundamentally incomplete and biased in favour of the adoption of a RLP.

This underlying bias can only be aggravated if, as Ofcom proposes, it will undertake further qualitative research on the value consumers would place on a RLP, as opposed to a more convenient process generally, or an improved DLP.

As set out above, the issues identified by Ofcom are not fundamentally about time, or whether the process is recipient or donor led. In each case they are about convenience and good customer service. To present Options A and C, each of which would address Ofcom's concerns, and B and D, which may not, fundamentally distorts the consultation process by presenting two options which are inadequate. Ofcom's further research on RLP presupposes that a RLP is better in so far as it is more convenient than the current process. As such, Ofcom's further research will inherently reinforce the bias that already exists in the consultation. To the extent Ofcom does undertake further research on customer preferences (which T-Mobile supports in principle) then this research must not lead consumers (i.e. would you prefer a recipient led process or not), but ask open questions on a range of convenience factors.

Accordingly, in order to fully consult on alternatives to the best alternatives for improving the process for consumers, Ofcom must consult on options that address the core issues that it has identified. In doing so it should present options that do not inherently favour one outcome over another.

Q.5.3: Do you consider that there are additional options that Ofcom should have considered? If yes, please explain what option(s) should have been considered and why.

As noted above, T-Mobile does not consider that Ofcom has considered adequate alternatives to Options A-D as regards the means by which the core issues related to port initiation may be addressed. In particular, Ofcom needs to consider alternative or additional means by which a DLP can be improved.

There are five reasons donor led alternatives need to be considered in more detail:

- First, there is no reason a DLP cannot address each of the concerns identified by Ofcom. It is sufficient to change some of the steps in the process and impose certain requirements/prohibitions that create structural remedies to Ofcom's core issues.
- Second, it is far easier to ensure proper authentication of the requestor in a donor led process. The customer has records with its existing network that can be checked

quickly and securely, enabling rapid and secure verification. This side steps any issues around:

- inaccurate data provision to, or entry by, the recipient network, eliminating failed port requests;
- data protection:
 - any security provisions put in place by the customer can be respected (e.g. passwords, PINs etc)
 - there is no scope for the transmission of personal information to a third party (e.g. information regarding contractual liabilities); and
- slamming and fraud, since the donor network can undertake more robust authentication than can be achieved under a RLP (particularly in the case of unregistered prepay customers).
- Third, it would enable consumers to request information on their outstanding contractual liabilities (if any). These could be provided at the same time as the PAC, or by separate SMS. In this way it could be ensured that the consumer takes a fully informed decision with full transparency of their obligations. This in turn would avert avoidable Early Termination Charges for the donor network, and ensure recipient networks did not see their nascent customer relationship immediately and permanently damaged.
- Fourth, speed of implementation: there is no agreed RLP design. The process design evolved by UKPorting is incomplete. At present there is only a “Version 1” draft of the high level process design, which (a) is incomplete on some issues; and (b) was not agreed by all operators. Not only would this need to be resolved, but a detailed process design would subsequently be required to be agreed. Given that it took the process working group 8 months to arrive at Version 1 of the high level process it can be assumed that first agreeing and finalising this, and then the detailed implementation, would take considerably longer. It would then require procurement and implementation. A revised DLP along the lines proposed by T-Mobile could likely be agreed *and implemented* within 12 months, total.
- Fifth, cost: procuring a new system will be significantly more expensive than improving the existing system. Not only will there be significant savings in terms of man hours dedicated to design etc (T-Mobile estimates that it invested 7 Full Time Equivalent employees during the 8 months of the UKPorting process) but also in procurement (both in terms of new systems (centrally, and per operator), and in additional training for its implementation).

Q5.4: Do you agree that a two hour timeframe in which to issue the PACs for Options B and D is appropriate? If not, please give reasons for your views.

T-Mobile considers that if the PAC is to be provided by SMS, then a two hour timeframe is reasonable, if not generous.

However, while the timing itself is not an issue T-Mobile has two observations regarding the provision of SMS by PAC:

- First, SMS is not 100% reliable. At the subscriber level, it depends on their handset being switched on, in coverage and the SMS inbox on their phone not being full. At an operator system level, delivery to individual subscribers is not recorded (only the overall success rate), so an operator would not know if a particular SMS had failed.

As operators do not have individual level delivery reports, they would need to rely on customer calling in to complain.

- Second, and particularly in the light of the reliability of SMS, T-Mobile sees no reason why the PAC should not (also) be provided immediately at the time of request: this is how T-Mobile fulfils PAC requests. This would ensure that the PAC was provided, provide scope for it to be subsequently confirmed in writing (SMS), and enable consumers that were in fact making a purchase with a recipient network to initiate the port at the point of purchase.
 - Hence, a DLP can provide consumers with the same ability as a RLP to make port and purchase requests in parallel
- Third, if Ofcom were to adopt T-Mobile's suggestion set out above of a dedicated PAC line/IVR option, this would pose no danger of unwanted retention activity or interference in the recipient network's customer acquisition. Indeed, it is likely to be more robust than any RLP that could be designed for the UK and would therefore result in fewer port rejects for the recipient network.

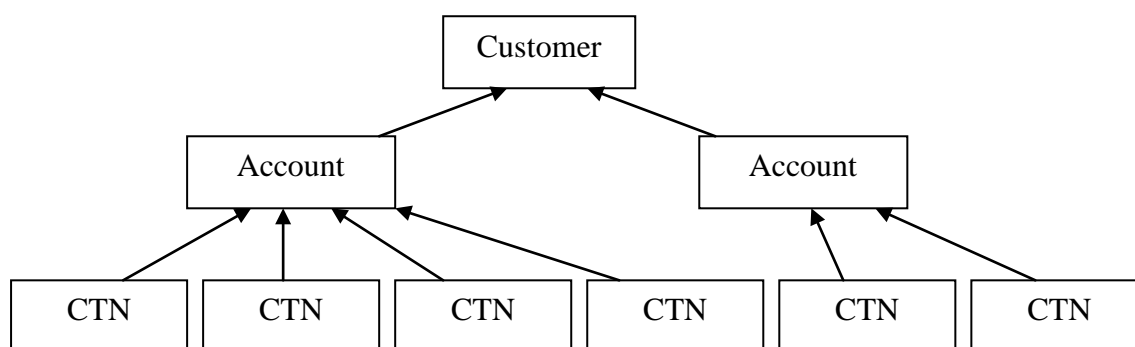
Q5.5: Do you agree there should be a difference between how the recipient-led processes in Option A and C should work for single account versus multi-account porting requests? Do you consider that the proposed authentication process (described in paragraph 5.41) for multi-line accounts is sufficient? Please explain any other differences you would expect to see whilst ensuring that any differences are still consistent with the overall objectives the options are trying to achieve.

As noted above, T-Mobile does not believe that a RLP is required or proportionate given that simple improvements to the DLP would achieve the same timescales at much lower cost, but with significantly greater security (while removing the scope for unwanted retention activity).

Second, T-Mobile sees no reason why the single account / multi-line account issue is unique to a RLP. This would need to be addressed as part of any changes to a donor led process also.

Third, any multiline process must in all cases authenticate the customer ultimately responsible for the CTN in question. Customers can have multiple accounts, each with multiple CTNs. It is not sufficient for the user of the CTN to be authenticated. This is particularly the case for business customers.

This can be illustrated as follows:



It follows that there are significant differences between a customer that has one account and one CTN –such that any port request can only relate to a specific CTN – and a customer with several accounts, each with multiple CTNS. Any multiline process must authenticate the customer responsible.

Q5.6: For each of the options set out, do you consider that Ofcom has captured all the appropriate categories of cost likely to be incurred? If not, explain what categories you disagree with / believe are missing.

T-Mobile believes that the categories of cost used by Ofcom are broadly appropriate.

T-Mobile would note however that Ofcom makes no overall comparison of the strengths and weaknesses of a donor or recipient led process, but focuses only on the weaknesses of the current DLP. While it is of course appropriate that Ofcom fully identify any weaknesses in the current system, in order to evaluate the alternatives, Ofcom must similarly identify and evaluate the weaknesses of the alternatives.

It is well understood that one of the weaknesses of a RLP is the extent to which switchers can be properly authenticated. This has, for example, been a particular problem in the energy sector where very high numbers of customers have been slammed. In particular, a RLP is not best suited to ensuring that there are robust precautions against slamming (since there is not customer involvement once the port has been initiated). Similar, a RLP is open to high levels of mis-selling, since a customer is not typically provided with all the information they require to take a fully informed decision (in the case of mobile, the relevant fact being any applicable Early Termination Charge).

Accordingly, while T-Mobile broadly agrees with the categories of cost used by Ofcom in its financial assessment, T-Mobile is concerned that Ofcom has not fully accounted for the potential detriments of a RLP.

This is not to say that a RLP cannot be designed with precautions against slamming and mis-selling. However, in the UKPorting process, Ofcom made clear that it would not accept industry implementing such precautions in a fashion that would in fact delay or otherwise hinder the porting process, such that any such precautions would in fact be toothless. T-

Mobile would note in particular Ofcom's position on PIN/Password and the provision of information on the ETC.

T-Mobile would also note the near impossibility of implementing a RLP that would adequately verify unregistered prepay customers, and the high levels of slamming and mis-selling in the UK (which have led to many regulatory interventions across several industry sectors).

In this context, T-Mobile considers that Ofcom must take fuller account, or make clearer its account, of the potential costs of a RLP in terms of the severe consumer harm that Ofcom itself has identified where slamming or mis-selling arise.

T-Mobile would note the terms of the proposed Universal Services Directive, which states:

- “Competent national authorities shall also take in to account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not switched against their will” (Article 30(4)) ; and
- “Member States should be able to impose such minimum proportionate measures regarding the switching process as are necessary to minimise such risks and to guarantee that consumers are protected throughout the switching process, including imposing appropriate sanctions, without making the process less attractive for consumers” (Recital 37)

Hence, while the proposed telecoms framework does require a faster process than that currently in place, it does not require a RLP. On the contrary, given the specific precautions it urges it would suggest that a process that balances a secure process with a convenient one must be used. This can be achieved quickly and effectively through improvements to the current system. In the mobile market, it is not clear that this can be achieved using a RLP.

Q5.7: Do you agree with Ofcom's analysis of costs for each cost category? If not, please explain why. Please also state whether you are able to provide Ofcom with a more accurate view of costs and if so, please submit your assessment, together with supporting evidence with your response to this consultation.

T-Mobile has not been able to identify specific instances where the costs used by Ofcom are incorrect. While Ofcom has clearly gone in to this in great detail, much of the relevant information is withheld as confidential. As a consequence T-Mobile has not been able to identify with certainty which costs from the Logica bid Ofcom has included and how these have been treated in order to produce the current set of estimations.

Nevertheless, T-Mobile would urge Ofcom to use considerable caution in its use of the Logica bid figures, for a number of reasons:

- neither vendor in the UKPorting process was provided with a detailed specification, or detailed process design. This was a fundamental weakness in the procurement that would no doubt have led to difficulties later requiring further investment.
- It is not likely that either vendor would have been able to deliver the UKPorting system on time, with further costs being incurred as a consequence.
- There are a number of areas of cost in the Logica bid that T-Mobile considers were likely to be too low

- On the other hand, the UKPorting vendor quotes were likely to have been inflated to some extent to account for the “crash” nature of the project, which required greater resources and less planning and procurement efficiencies than would ordinarily be the case (assuming Ofcom does not require the same detrimental urgency in any subsequent procurement).
- Ofcom is not best placed to evaluate what cost items in the Logica bid can be removed or how they are best amended in order to derive the costs of a theoretical set of unspecified alternative system specifications.

Hence, while T-Mobile broadly agrees with the *relativity* of costs between options (i.e. costs for a 24hour DLP are substantially lower than the alternatives, and that a 2hour RLP is the highest cost alternative), T-Mobile considers that the above further illustrate the reasons for which it is essential that Ofcom ensure that a proper specification is developed and costed. While T-Mobile does not criticise Ofcom for the considerable lengths it has gone, the Logica bid information is wholly insufficient as a basis for a robust cost benefit analysis. While it is therefore sufficient for the purpose of an initial estimation, it is an insufficient basis for a fresh regulatory burden requiring multimillion pound investment by industry. The proper investigation of specification and costs by a consultant as proposed by Ofcom is therefore crucial.

Second, T-Mobile notes that Ofcom have used a discount rate of 3.5% to assess the payback of the options it has proposed. Ofcom justify the use of the Treasury-recommended “society” discount rate on the basis that the beneficiaries of the project are consumers. This is inconsistent with the use of a higher rate of 11.5% in its evaluation of direct routing. Similarly, T-Mobile notes that the 3.5% rate is inconsistent with the rate of 12% that was used by Ofcom in its November 2007 statement on MNP and direct routing.

In each case, the costs of investment in a new system will be borne by industry, with benefits accruing primarily at a technical and risk profile level, rather than financially. Similarly it is industry that will bear the costs of a new MNP system, while few clear benefits will accrue directly to consumers given the high level of customer satisfaction with the existing porting process and the lack of an impact on switching. T-Mobile therefore believes that a higher discount rate should be used such as the industry average of 11.5%³.

Even in the scenario where consumers pay both the costs of the system (directly or indirectly), and do in fact accrue substantial direct benefits, Ofcom must be mindful of its existing and proposed (and likely) expanded new duty to promote efficient investment. This is a specific duty unrelated to general Treasury guidance, and relates specifically to ensuring that investments are made on an efficient basis. Ofcom must not require industry to make investments that are not efficient – requiring investment based on a business case inconsistent with the accepted basis on which investment decisions are taken. To do so overlooks the issue of the opportunity cost of such decisions, whereby more efficient investment could be made using the appropriate discount rate.

³ For example, T-Mobile recently implemented a project to provide customers with over-the-air upgrades to their mobile phone hardware. This project directly benefited consumers in the same way as MNP porting process improvements (including investment requirements), however the evaluation and decision was made using industry standard commercial discount rate.



Finally, T-Mobile would note that the consequences of adopting such an approach are not significant to the results of Ofcom’s overall analysis in any event. Were this rate used the payback of Option 2 is pushed out to 4 years (from 3 years), with no change to payback on the other 3 options.

Discount rate/ Payback period	Option A	Option B	Option C	Option D
3.5%	4 years	3 years	4 years	2 years
11.5%	4 years	4 years	4 years	2 years

Q5.8: In the case of new entrant MNOs, what additional costs are likely to be incurred internally within each of the networks for each of the options? Please submit your estimates in your response to Ofcom.

N/A

Q5.9: Do you agree with Ofcom’s analysis of benefits for each option? If not, please explain why.

There are a number of areas where T-Mobile disagrees with the approach taken by Ofcom.

Counterfactual

T-Mobile does not consider that the counterfactual employed by Ofcom (the “do nothing” option) is valid. By taking the wrong counterfactual Ofcom then inevitably subsequently miscalculates the costs and benefits of its Options A-D.

T-Mobile believes that the correct counterfactual is a 24hour DLP. As set out in Ofcom’s own argumentation with respect to the introduction of a 24hour process, such a change is highly likely to be required regardless of any policy decision by Ofcom. Accordingly, to the extent that there are (additional) changes that may or may not be required by Ofcom as a result of its review of the current arrangements, these must be measured against the case where a 24hour process is introduced outside the process of this consultation. At its simplest, not including compliance with the law within the counterfactual is not appropriate.

Similarly, T-Mobile does not consider that Ofcom should take as the counterfactual the current customer experience where they are subjected to aggressive unwanted retention activity, refused their PAC, or have the PAC provided to them on a delayed basis using the slowest form of communication available (i.e. dispatch in writing by post). Ofcom has opened an investigation into compliance with the current terms of General Condition 18.1 and the counterfactual must therefore be the case where operators comply with the terms of the currently applicable law: i.e. they provide the PAC over the phone / by SMS: it is clearly the case that where these alternatives are available it is not “reasonable” of some operators to persist with their current approach to preventing switching and/or porting using unreasonable methods

It follows that in T-Mobile's opinion Ofcom must reset its counterfactual and re-run its analysis of the options accordingly. To the extent that Ofcom disagrees with T-Mobile's submission above regarding 24hour porting, then this must be included as an alternative counterfactual as a minimum.

Recipient-led porting

T-Mobile is surprised that Ofcom has gone to considerable lengths to identify customer preferences on the time taken for a port to occur, but has not undertaken a similar analysis regarding the process customers would prefer.

Leaving this aside, T-Mobile is nevertheless concerned that the research that Ofcom proposes to undertake regarding the latter will in any event be inappropriate in the form proposed.

As set out above T-Mobile does not believe that it is proper to consider the alternative porting processes available as a binary choice between a DLP and a RLP. While T-Mobile does not suggest that there are not unavoidable differences between the two, each process can be implemented in a means that approaches the inherent benefits of the other. Again T-Mobile would refer to the example of a T-Mobile customer that can request and receive their PAC while standing in a Vodafone store signing a new contract, which benefit from secure authentication and the immediate availability of information on associated costs This is not a hypothetical scenario and is realised by the proper use of the current DLP and good customer service.

In this context, and in the light of T-Mobile's comments on the relevant counterfactual, it follows that further research that asks customers a question tantamount to "would you prefer the current donor led process where you have to climb a mountain to get a PAC sent in the post or a new recipient led process where you can do it all via your new provider" will necessarily lead to a misleading result that does not in fact address the issues and choice for consumers. In summary, any further research on this must not overlook Ofcom's duty to ensure that the current process is properly implemented by operators or the inherent compromise between security and points of contact in each of a donor led and recipient led process.

Willingness to spend

T-Mobile does not consider that Ofcom's approach to the quantification of the benefits of a faster system is sound.

First, T-Mobile considers that the approach of asking consumers what they would pay for an accelerated process is mistaken since Ofcom's own research states that "there is little evidence that consumers would be prepared to pay to speed up the porting process" (Jigsaw Research paper, page 7). Given that consumers are fundamentally not inclined to pay, evidence based on their willingness to pay will necessarily not lead to an accurate quantitative analysis.

Second, as set out above, T-Mobile does not consider that the evidence presented by Ofcom supports the assertion that consumers in fact value the speed of the porting process. Rather, it



is the overall convenience of porting to which they ascribe a benefit, of which speed is just one element. This is in fact confirmed by Ofcom’s existing speed-focussed benefits analysis which demonstrates that customers place only a small additional value on porting process taking 2 hours (immediate) and 1 day.

Third, Ofcom’s analysis proposed a range of prices that are clearly incoherent with any proper assessment of what price consumers would in fact pay for the nature of service proposed. T-Mobile is not surprised that few customers were prepared to pay up to a month’s typical line rental (£30) for a service that they may perceive should be provided already. T-Mobile considers that consumers would not be prepared to pay more than a few pounds for a service that is only an ingredient to the convenient process they should expect.

Indeed, this flaw is confirmed by the research itself, which shows that the average value a consumer would in fact be willing to pay was £3.50. This falls squarely between the price points of £0.50 and £5.00 proposed in Ofcom’s research.

£s	% Willingness to Spend			
	Definitely		Definitely & Probably	
	Immediate	1 day	Immediate	1 day
Free	100.00%	100.00%	100.00%	100.00%
0.50	32.43%	24.19%	44.85%	40.95%
5.00	10.35%	6.52%	21.56%	16.05%
10.00	4.79%	3.23%	11.27%	8.55%
20.00	2.79%	1.64%	5.96%	5.01%
30.00	0.00%	0.00%	0.00%	0.00%
Value	£2.25	£1.57	£3.87	£3.28
Benefit per year	£5,932,204	£4,156,812	£10,236,510	£8,673,376

Ofcom must therefore find an alternative basis of assessment, and set any pricing points at levels that will reveal benefit in sufficient granularity.

Accrual period of benefits

Finally, T-Mobile notes that Ofcom is undertaking a separate consultation process on migrations generally. The mobile number portability process is clearly within the scope of such a consultation.

If as a result of its migrations work Ofcom determines a policy that is different to the amendments made to GC 18 (which is entirely possible given the wholly different timescales of these two (inappropriately) separate workstreams) then the payback period over which the costs and benefits are assessed will need to be amended. For example, if Ofcom determines that Option [x] shall be mandated, in part based on a cost benefits over 10 years, but subsequently proposes that a new system be implemented within that 10 year period, then Ofcom's decision under GC 18 will be flawed. T-Mobile therefore proposes that Ofcom must either align these two consultation processes, or provide the mobile industry with a guarantee that it will not be required to make further (substantial) amendments to any revised MNP system during the payback period as a consequence of Ofcom's subsequent migrations policy work.

Q5.10: Please state whether you consider that Ofcom should take any additional benefits into account and explain how. To the extent possible, please provide any estimates of these benefits and the supporting evidence.

As noted above T-Mobile considers that Ofcom has not properly quantified the costs/benefits of proper customer authentication, a significant benefit to the current system, and likely a significant cost to any RLP (in terms of the costs of system design and/or the costs of increased slamming and mis-selling).

More generally, T-Mobile considers that Ofcom's assessment of the benefits of a faster process is misguided and leads to false conclusions (please see further above).

Q5.11: Please explain whether you agree with Ofcom's assessment of the pros and cons of each option and if not, why not.

Please see T-Mobile's response above.

Q5.12: Please state which option(s) you favour and why?

T-Mobile believes that Option D provides constitutes the best basis on which to ensure substantial benefits to consumers at a low and proportionate cost. Options A-C each require significant investment which is out of proportion to the benefits that would accrue. Furthermore, Options A and C each involve costs and risks that are not properly accounted for in the current analysis.

In particular, Option D will provide consumers with a porting process that is in line both with expectations (overall convenience) and practical realities (i.e. handset delivery, charging etc) and can be improved upon to create a user experience akin to the benefits of recipient led

porting, but without the currently unaccounted for risk and cost of mis-selling, slamming and unexpected costs to the consumer. Moreover, Option D can be implemented without the requirement for an extensive and time consuming procurement process and would therefore enable benefits to begin to accrue far sooner than in the case of Ofcom's alternative options.

Nevertheless, in its current form Option 4 does not fully address the primary issues identified by Ofcom. T-Mobile considers that any revised donor led process should include restrictions and processes that ensure that consumers are protected from unwanted retention activity. This is also both quickly and (relatively) cheaply achievable.

Q5.13: What do you consider a reasonable implementation period for each of the options and why?

As a general point, T-Mobile is dismayed that Ofcom appears not to have learnt from the previous amendment to GC18 and the UKPorting process to implement it, which clearly illustrated both the difficulties and dangers of a regulator guessing timelines and deadlines for the implementation of a technical project by industry. UKPorting was running several months behind schedule at the time it was suspended and neither vendor was prepared to fully guarantee delivery to the Ofcom deadlines. Moreover, industry had not had time to define what it required of the systems to be delivered by the vendor, or the processes that it would run across these systems. It was therefore highly likely that the system would be delivered late and would not function adequately until further (costly and no doubt time consuming) changes had been made. Ofcom's approach of setting delivery deadlines would have had the reverse effect to that anticipated by Ofcom: that of forcing industry to deliver a substandard system late and over budget.

T-Mobile would also note that any deadlines set by Ofcom could have a direct impact on cost. If, as under UKPorting, industry is required to implement a "crash project" (i.e. to accelerated/emergency timescales) this would require significantly greater investment by operators and vendors to deliver a system on time. Even in the scenario where the requirements and specification of a system are agreed in advance, efficient project delivery requires careful planning to optimise development, delivery, testing and putting in to service. To deliver a project to emergency timescales can cost multiples of a properly planned project. It follows that if Ofcom wishes to require industry to implement a new MNP system outside the timescales that best practice procurement would suggest, this must be accounted for in the cost inputs to Ofcom's cost benefit analysis. Similarly, a greater contingency would need to be placed on the benefits input, given that accelerated deliver is likely to lead to substandard delivery beyond the initial deadlines, and consumer harm in the interim.

Nevertheless, this is not to say that T-Mobile does not accept that there should be no regulatory pressure placed on industry by Ofcom to deliver a new system promptly. However, Ofcom must avoid setting semi-arbitrary deadlines, or enforcing them inflexibly. Before delivery deadlines can be set, the requirements (process, functional and non-functional requirements) and technical specification of the new system must be defined: only once it is known what is to be delivered can an accurate estimate be made of how long it will take to deliver it.

It follows that there should be a number of stages in any project to implement a revised MNP system, and that any deadlines set by Ofcom should approach these individually and be set such that they can be reviewed if there are objective reasons to justify this. The key stages in an industry procurement would ordinarily be as follows:

- (i) Requirements gathering: identify what the new system needs to deliver. e.g.
 - provision of revised IVR systems to allow consumer choice on retention;
 - provision of PAC by telephone and confirmation by SMS within 2hours, to ensure coincidental purchase and port, and to ensure PAC availability generally; and
 - compression of port process to 24hours.

In case of a recipient led process then this would require agreement on aspects such as:

- contract indicator inclusion, timing and information to be provided;
- authentication criteria (what information to be used, use of PIN/Passwords, means by which unregistered prepay consumers to be authenticated). This was not agreed by UKPorting and would require revisiting;
- high level and detailed process design.

- (ii) Specification: what are the deliverables of the system to be procured. e.g.
 - SLAs;
 - redundancy levels required (i.e. 1 site/2 sites etc);
 - security requirements
 - interfaces;
 - transfer protocols; and
 - scalability provisions.
- (iii) Industry procurement mechanism agreement; i.e.
 - define what corporate body will hold the contractual relationship with the vendor and manage the system;
 - define funding and governance arrangements;
 - define liability structure; and
 - define participation agreement between operators and the Joint Venture Company.
- (iv) ITPCD drafting, review of responses etc: i.e.
 - draft the tender documents;
 - definition of evaluation criteria; and
 - evaluation of responses - identification of whether the vendors can deliver requirements (may require further negotiation / amendment of the specification).
- (v) Vendor negotiations
 - define negotiation team remit;
 - negotiations with multiple potential vendors; and
 - vendor selection and final negotiations.
- (vi) Vendor delivery

- (vii) Testing
- (viii) Final acceptance

It follows from the above, and is illustrated clearly by the UKPorting precedent, that it is not possible to define at this stage the implementation period for each of the four options presented by Ofcom, since the requirements and specification have not been defined. T-Mobile would also note that it considers the options presented by Ofcom to be incomplete and distortive of the evaluation process (see above).

Nevertheless, there are some very broad estimates that can be made:

- maintaining a DLP would lead to significantly accelerated delivery;
- moving to a 24hour process (under a DLP) would lead to significantly accelerated delivery compared to a move to a 2hour process (since the current system could be readily compressed – avoiding the need to go through a full procurement process for an entirely new system);
- establishing a RLP would take a significant amount of time, since this would require both a new system and new processes. Their requirements and specification has not been defined and there would therefore be an extended period required ahead of any vendor engagement in order to agree these;

T-Mobile would therefore make the following, necessarily approximate, estimates:

- **Option A: 2hour RLP – 2.5 – 3yrs**
 - 12 months to define requirement and specification
 - 6 months procurement process
 - 12 months for vendor delivery, testing and migration
- **Option B: 2+2hour DLP – 2.5 – 3 yrs**
 - 12 months to define requirement and specification
 - 6 months procurement process
 - 12 months for vendor delivery, testing and migration
- **Option C: 24hour RLP – 2.5 – 3 yrs**
 - 12 months to define requirement and specification
 - 6 months procurement process
 - 12 months for vendor delivery, testing and migration
 - would only be cheaper than 2hour system owing to lower SLAs and redundancy requirements
- **Option D: 24hour DLP – 12-18 months**
 - 6 months to agree amendments to current system
 - 6 months for industry to implement
- **T-Mobile proposal: 2+2hour DLP with no retention activity: 12-18 months**
 - 6 months to agree amendments to current system
 - 6 months for industry to implement

Q6.1: Do you agree that it is appropriate for Ofcom to appoint a qualified independent consultant(s) to work with industry to develop cost estimates for different implementation options? If not, please state why.

T-Mobile absolutely agrees with the need for a qualified independent consultancy to be appointed. This would be required to help coordinate industry input and to define costs based on the requirements and technical specification of each of the proposed options (and options proposed by industry where these are valid alternatives).

However, if such a consultant/consultancy is to assist Ofcom in its evaluation of the implementation options, then their involvement should not automatically flow through to their coordination of industry's implementation of a revised system: it is imperative that a UKPorting style structure be avoided for any implementation project.

Any consultant(s) that are to assist industry in delivering their regulatory requirements must be accountable and transparent to industry. The structure adopted for UKPorting was unacceptable, with a team neither responsible to industry nor accountable to Ofcom, the spending of which was opaque and excessive, but which was crucial to industry to meet the regulatory requirements placed upon it by Ofcom. Instead, if industry is to be responsible and accountable for the delivery of an amended GC18, then it must be able to procure expert involvement that is similarly responsible and accountable to industry.

Q6.2: Do you agree with the remit set out above for the consultant/expert? If not, please state why.

It is unclear to T-Mobile what remit Ofcom has set out. To the extent that Ofcom is referring to the "development of cost estimates for different implementation options", then this remit is too simplistic and must be more clearly defined and detailed.

T-Mobile considers that the remit of the consultant should cover:

- requirements gathering (necessary to define technical specification and process);
- technical specification (necessary to define timelines and costs); and
- delivery timescale estimates (necessary to define appropriate outline deadlines and finalise benefits analysis).

Q6.3: If you would like to recommend suitable experts / consultancies to Ofcom, please do so on a confidential basis.

[X]

Q6.4: Do you agree that three months is an appropriate period of time for this feasibility assessment to be undertaken? If not, please explain why and what you consider to be an appropriate timescale.

T-Mobile believes that 3 months may be an appropriate period of time, but suggests that this should not be a drop-dead date. As Ofcom notes at 6.14, the purpose of this study would be

“to generate a strong evidence base to inform Ofcom’s decision”: the feasibility assessment is a cornerstone to any evaluation in Ofcom’s subsequent consultation and must therefore be fully achieved before this continues.

Moreover, in the context of high levels of consumer satisfaction and no demonstrable impact on switching, there is no need to impose unnecessary urgency on this key stage. Again, T-Mobile does not suggest that regulatory pressure is appropriate, but it must not undermine the proper completion of this critical step in Ofcom’s consultation process.

Q6.5: Do you agree that the criteria for making this process effective as outlined under paragraphs 6.14 to 6.16 is appropriate? What else is required to make this process constructive?

T-Mobile agrees that the criteria set out by Ofcom are appropriate.

Q6.6: Do you agree with Ofcom’s proposed next steps following responses to this consultation? If not, how do you consider Ofcom should complete its cost-benefit analysis and proceed to an implementation of one of the four options?

T-Mobile agrees that it is appropriate for Ofcom to undertake a more detailed cost benefit analysis of the options proposed. However, as noted above, T-Mobile does not consider that the options proposed by Ofcom are complete or offer a balanced choice between a RLP and DLP, or that such a binary choice is in fact relevant. Ofcom must therefore be open to considering limited alternative options or embellishments on those proposed if it is to genuinely consult on a valid range of options.

Q6.7: Do you have any comments on the proposed timings for reaching a conclusion for this review?

Subject to its comments above regarding the period required for an independent consultant to complete their assessment, T-Mobile has no comments regarding Ofcom’s proposed timings for reaching a conclusion for this review.

This is not the case however for Ofcom’s proposed timings for implementation and delivery of a revised system. As noted above, T-Mobile considers that these would vary significantly between the different options but are in any event impossible to accurately define (let alone set as deadlines) without prior agreement of the requirements and specification of a new system.

This would be of particular importance in the event that a genuinely new system was required by a move to a 2hour porting and/or RLP, each of which would require a completely new architecture and accompanying processes. Ofcom should not underestimate the amount of work that would be required or diminish this on the basis of what was achieved by UKPorting. While there are clearly aspects of the former project that would be of significant help in kick-starting the implementation of a 2hour and/or RLP, it must not be overlooked that UKPorting never defined the requirements or specification of the system it was seeking



to implement. While this would have had a significant impact on the final delivery of any new system under UKPorting/PortCo, it is also highly relevant to the current process, since it would be necessary to revisit and complete each of these. Further, it should not be overlooked that there were a number of unresolved by highly significant areas of disagreement within UKPorting regarding the RLP that would need to be addressed.