

Ofcom  
Attn. Cristina Luna-Esteban  
Director, Telecoms Consumer Protection

Subject: One Touch Switching requirements

10 January 2023

Dear Cristina,

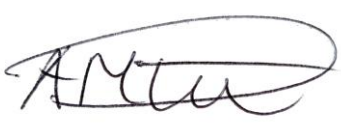
We welcome Ofcom's initiative to set up the OTS Implementation Progress Steering Group ('OIPSG') and found the first meeting useful in terms of setting expectations, exchanging views and seeking clarification on timing and requirements.

At the meeting, Ofcom set out that the deadline for implementation of all the EECC Phase 3 requirements is still April 2023, and that not meeting the deadline would result in non-compliance. However, it acknowledged that the industry delays in relation to the hub mean that the OTS-process will not be implemented by that date. A discussion followed in which industry and Ofcom exchanged views as to which requirements are OTS dependent and which are not.

We appreciate it is for CPs to satisfy themselves that they are compliant with all of these GCs, whether in relation to OTS or the other high-level switching rules. Obviously, in anticipation of the OTS hub going live, CPs would continue to implement the consumer safeguards afforded by the existing NoT+ processes on the Openreach network, where applicable. But we consider there are clear benefits to both industry and Ofcom of having a common understanding of OTS and non-OTS dependent requirements, so we would like to have an open and honest conversation with Ofcom on our initial assessment of these, as attached in Annex 1 to this letter.

We would be happy to discuss further at our meeting on Thursday, should that be helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Anne Hoitink', enclosed in a light grey rectangular box.

Anne Hoitink, on behalf of the companies listed below:

- BT
- INCA
- KCOM
- Shell Energy
- TalkTalk
- Utility Warehouse
- VirginMedia / O2
- Vodafone UK
- Zen

## Annex 1: GC C7 - Assessment of OTS and non-OTS dependent requirements

<b>April 2023 C7 Switching</b>		
<b>Part</b>	<b>Detail</b>	<b>OTS / non-OTS dependent?</b>
C7.3	<p>For the purposes of this Condition C7, the Migration Date shall be:</p> <p>(a) where technically possible, the date requested by the Switching Customer; or</p> <p>(b) except where Condition C7.3(a) applies:</p> <p>(i) as soon as possible; and</p> <p>(ii) no later than:</p> <p>a. in cases involving a Communications Provider Migration of Mobile Communications Services, one Working Day after:</p> <p>i. SIM Activation, where the relevant Switching Customer has already submitted the PAC or STAC to the Gaining Provider at the time when they entered into the contract; or</p> <p>ii. where SIM Activation has already taken place, submission of the PAC or the STAC to the Gaining Provider;</p> <p>b. in all other cases, one Working Day after the date on which all necessary validation processes have been completed, the network connection is ready for use by the Switching Customer, and, where relevant, the porting of the relevant Telephone Number(s) is(are) ready for activation.</p>	<p>OTS-dependent: (a) not always feasible for reasons other than technical, (b)ii)b not always possible in absence of coordination process between LP and GP.</p>
C7.4	<p>All Regulated Providers shall ensure that:</p> <p>(a) they maintain simple and efficient processes:</p> <p>(i) for Communications Provider Migrations involving Relevant Communications Services that they provide;</p> <p>(ii) for the transfer of any services which are included in a Bundle with the Relevant Communications Service(s) being transferred; and</p> <p>(iii) in relation to any Terminal Equipment, included as part of a Bundle with the Relevant Communications Services(s) being transferred, that the Switching Customer wishes to return or retain;</p> <p>(b) they cooperate in good faith and take all necessary steps within their control to complete the Communications Provider Migration process in accordance with this Condition C7 and Condition B3 and any applicable industry agreed processes;</p> <p>(c) they do not delay or abuse the Communications Provider Migration process;</p> <p>(d) there is continuity of service, unless not technically feasible, and any loss of service during the Communications Provider Migration does not exceed one Working Day; and</p> <p>(e) the Communications Provider Migration is completed on the Migration Date.</p>	<p>Currently no simple and efficient process for inter-network switches where Cease and Re-provide (C&amp;R) applies; so (a) depends on OTS. (b) refers to new OTS process. (d) and (e) only feasible without OTS re intra network switching (i.e. within Openreach network where NoT+ still in place). No coordination mechanism for inter network C&amp;R process.</p>
C7.5	<p>The Regulated Provider that is the Gaining Provider must:</p> <p>(a) lead the Communications Provider Migration;</p> <p>(b) allow a Switching Customer who so requests to make use of the processes set out in Condition C7.4(a).</p>	<p>OTS-dependent (although CPs would obviously continue to implement the gaining-provider led principles supporting the</p>

		NoT+ process on the Openreach network)
C7.6	<p>All Regulated Providers shall ensure that:</p> <p>(a) they provide Number Portability on reasonable terms and conditions to any Switching Customer who so requests;</p> <p>(b) they provide Number Portability for a minimum of one month after the date of termination by the Switching Customer of the contract for the provision of the Relevant Communications Service(s), unless the Switching Customer expressly agrees otherwise at the point when they terminate the contract; and</p> <p>(c) no direct charges are applied to the Switching Customer for the provision of Number Portability.</p>	Non-OTS dependent
C7.7	<p>The Regulated Provider that is the Losing Provider must:</p> <p>(a) where technically feasible, continue to provide the Relevant Communications Service(s) or Bundle on the same terms until the Communications Provider Migration is completed;</p> <p>(b) ensure that its contract with the Switching Customer is automatically terminated on the Working Day on which the Communications Provider Migration has been completed;</p> <p>(c) ensure that in the case of failure of the Porting Process, the number and Relevant Communications Services of the Switching Customer are reactivated until the Porting Process is completed successfully;</p> <p>(d) refund, upon request, any remaining credit to the Switching Customer using prepaid services, minus any fees provided for in their contract with the Switching Customer, in so long as such fees are proportionate to the actual costs incurred by the Losing Provider in offering the refund.</p>	(a) and (b) only feasible without OTS for intra network switching as no coordination mechanism for inter network C&R process. (c) and (d) non-OTS dependent.
C7.8	<p>The Regulated Provider that is the Losing Provider shall ensure that:</p> <p>(a) when a Communications Provider Migration takes place involving fewer than 25 Mobile Numbers, any Switching Customer;</p> <p>(b) in all other cases, a Switching Customer that is a Consumer;</p> <p>is only required to pay charges, other than any Early Termination Charge, which are incurred as a result of the provision of the Relevant Communications Services being transferred up to, and including, the date on which the contract is automatically terminated, and do not include any charges in respect of any remaining notice period that the relevant Switching Customer is required to provide in order to exit the contract with the Losing Provider.</p>	Non-OTS dependent, but prior to OTS implementation, for inter-network switches, there will be no automatic termination but customers will not be charged beyond the point at which service is ceased at the customer's request.
C7.9	<p>The Regulated Provider that is the Gaining Provider must take all reasonable steps to ensure that:</p> <p>(a) it does not transfer a Relevant Communications Service without the Switching Customer's Express Consent, and in particular, that it does not engage in Slamming; and</p> <p>(b) any Switching Customer who is requesting a Communications Provider Migration is authorised to do so and intends to enter into the contract.</p>	Non-OTS-dependent. Before OTS is in place, customers will not have received their Switching Information from the Losing Provider before placing an order with the Gaining Provider; but the

		GP will still be capable of complying with requirement not to slam and to ensure the customer intends to/is authorised to enter into the contract.
C7.10	<p>Regulated Providers must take all reasonable steps to ensure that:</p> <p>(a) Switching Customers are adequately informed before and during the Communications Provider Migration process, including in relation to their right to compensation in accordance with Condition C7.60;</p> <p>(b) they provide guidance on the Communications Provider Migration process, including the right to compensation in accordance with Condition C7.60, that:</p> <p>(i) is concise and easy to understand;</p> <p>(ii) only contains relevant information about the process, including any steps that Switching Customers may need to take in order to continue using any services and/or facilities they may have access to pursuant to Condition C5; and</p> <p>(iii) is well publicised and readily available on their website</p>	Non-OTS-dependent, but with OTS launching later, providers will need to update their customer information once OTS has launched.
C7.11	<p>The Regulated Provider that is the Gaining Provider must include the following information as part of the information provided in accordance with Condition C1.3, when such information is provided to a Switching Customer that is a Consumer:</p> <p>(a) the Relevant Communications Services that will be transferred, including, where relevant, the Calling Line Identification of all Relevant Communications Services that will be transferred;</p> <p>(b) an explanation that the Switching Customer is transferring their services; and</p> <p>(c) the location of the Regulated Provider's guidance in accordance with Condition C7.10.</p>	<p>(a) and (b) only feasible without OTS re intra network switching, where NoT+ will still be in place.</p> <p>(c) non-OTS dependent.</p>

C7.12	<p>The Regulated Provider that is the Losing Provider must take all reasonable steps to ensure that Switching Customers who are Consumers are provided with the following information, in the manner and form set out in Condition C7.13:</p> <p>(a) an explanation that the Switching Customer is transferring their Relevant Communications Services;</p> <p>(b) the Migration Date, where known to the Losing Provider;</p> <p>(c) a clear identification of all Relevant Communications Services that will be transferred, including, where relevant, the Calling Line Identification of all Relevant Communications Services that will be transferred;</p> <p>(d) the impact, whether direct or indirect, financial or otherwise, that the Losing Provider reasonably expects the Communications Provider Migration to have on any Relevant Communications Services or other types of services provided by the Losing Provider, including any services and/or facilities that the Switching Customer may have access to pursuant to Condition C5;</p> <p>(e) all Relevant Communications Services provided by the Losing Provider that the Losing Provider reasonably expects to remain unaffected by the transfer;</p> <p>(f) the total charge payable by the Switching Customer on the Migration Date, or where that date is not known to the Losing Provider, on the day on which the information is provided, presented as a single (where applicable, aggregated) charge;</p> <p>(g) an explanation of the following:</p> <p>(i) the cost and any process or conditions for retaining or returning Terminal Equipment;</p> <p>(ii) in relation to Mobile Communications Services, as part of the information provided under (i), whether the handset is provided on a separate contractual basis than the SIM, and if it is, the amount still payable under the contract after transfer to another Communications Provider and/or the date on which the Switching Customer will cease to pay for the handset; and</p> <p>(iii) any credit balance in respect of prepaid services and, if applicable, the right to a refund of this balance in accordance with Condition C7.7(d), including the process for claiming such a refund and any conditions applying to this refund;</p> <p>(h) the location of the Regulated Provider’s guidance in accordance with Condition C7.10;</p> <p>(i) the right to compensation in accordance with Condition C7.60;</p> <p>(j) where the information is provided in a letter, the date of the letter and the relevant contact details of the Losing Provider; and</p> <p>(k) where the information is provided in an electronic format, a web link to the log-in page for the Switching Customer’s account with the Losing Provider.</p>	<p>(a) – (f) only feasible without OTS re intra network switching, i.e. between Openreach CPs, where NoT+.will remain in place. Current C&amp;R process treats inter-network migrations as a separate cease and a separate new install, so a Losing Provider may not be aware of whether the customer is “migrating”. However the Losing Provider would provide customer with info on the date and impact of the Cease, including total charge payable . (g) – (k) non-OTS dependent.</p>
C7.13	<p>The information set out in Condition C7.12 must be:</p> <p>(a) accurate; and</p> <p>(b) provided in clear, comprehensible and neutral terms and on a Durable Medium.</p>	<p>Non-OTS dependent: but for inter-network switches following C&amp;R, info will relate to the cease of service rather than a transfer/migration.”</p>

C7.15	<p>For each contract entered into with a Switching Customer who is a Consumer, in relation to all Relevant Communications Services, the Regulated Provider that is the Gaining Provider must create and keep individually retrievable records of the following, for a period of no less than twelve months:</p> <p>(a) a direct record of consent, as provided by the Switching Customer, to migrate from the Relevant Communications Services supplied by the Losing Provider to the Relevant Communications Services supplied by the Gaining Provider;</p> <p>(b) a record of the explanation from the Gaining Provider that they are required to create a record of the Switching Customer’s consent;</p> <p>(c) the name and address of the Switching Customer;</p> <p>(d) the time, date and means by which the consent in sub-section (a) above was given;</p> <p>(e) where appropriate, the place where the consent in sub-section (a) above was given and the salesperson(s) involved;</p> <p>(f) where relevant, a direct record of consent to begin acquiring the Relevant Communications Services over the Target Line, the Target Address; and where appropriate, the Calling Line Identification of the Target Line; and</p> <p>(g) all available records regarding the sale of its Relevant Communications Services, including the date and approximate time of the contact with the Switching Customer, the means through which the contract was entered into, the place where the contract was entered into, where relevant, and sufficient information to allow subsequent identification of the salesperson(s) involved and to assist in dealing with any complaint or query.</p>	<p>For inter-network switches, (a) is OTS dependent, since under C&amp;R the Gaining Provider will be unaware of which services the customer may have had previously with the Losing Provider. (b)-(g) non-OTS dependent. For inter-network switches, Gaining Providers will record customers’ consent for the provision of a new service. Please note that the consent may not be based on the Losing Provider’s switching information.</p>
C7.16	<p>The Regulated Provider that is the Gaining Provider shall keep the records in accordance with Condition C7.15 irrespective of whether the contract for the provision of the Relevant Communications Service is cancelled or terminated within the minimum twelve-month period specified in that Condition.</p>	<p>Non-OTS, but as per C7.15, the consent may not be based on switching information provided by the Losing Provider.</p>
C7.17	<p>Communications Providers whose Electronic Communications Networks are used by either the Gaining Provider or the Losing Provider, or both, shall ensure that there is no loss of service that would delay the Communications Provider Migration.</p>	<p>OTS-dependent for inter-network switches. Needs coordination mechanism between providers. Non-OTS dependent for intra-network switches within Openreach network.</p>
C7.18	<p>In complying with Conditions C7.3 to C7.16, Regulated Providers must ensure that they maintain a single process for Communications Provider Migrations of Fixed Communications Services for use by Fixed Switching Customers in accordance with:</p> <p>(a) these Conditions C7.18 to C7.27; and</p> <p>(b) any applicable industry processes as agreed by the relevant industry forum.</p>	<p>OTS-dependent, as prior to this there will be no “single process”.</p>
C7.19	<p>Regulated Providers must ensure that the process referred to at Condition C7.18 does not require the Fixed Switching Customer to:</p> <p>(a) initiate the process by contacting the Losing Provider;</p> <p>(b) obtain consent from the Losing Provider; and/or</p> <p>(c) take any other steps required by the Losing Provider;</p> <p>in order for a Communications Provider Migration to be put into effect.</p>	<p>OTS-dependent as C7.18 refers to a “single process”. But for intra-Openreach switches, switching customers will not need to do the things</p>

		in (a) to (c).
C7.20	Regulated Providers must ensure that Fixed Switching Customers can use the process referred to at Condition C7.18 free of charge.	OTS-dependent although NoT+ and C&R will remain free of charge prior to OTS launch.
C7.21	Upon receiving a request for a Communications Provider Migration from a Fixed Switching Customer, the Regulated Provider must request that the Losing Provider makes available the information referred to at Condition C7.25 to the Fixed Switching Customer.	OTS-dependent
C7.22	The Regulated Provider must provide the information listed at Condition C7.11 to the Fixed Switching Customer as part of the information provided in accordance with Condition C1.3.	OTS-dependent
C7.23	The Regulated Provider must also notify the Fixed Switching Customer that: (a) the information referred to at Condition C7.25 has been made available to them; and (b) specify the means by which such information has been made available. The Regulated Provider must expressly draw the attention of the Fixed Switching Customer to the availability and importance of such information.	OTS-dependent
C7.24	The Regulated Provider must co-operate with the Losing Provider to ensure that the information referred to at Condition C7.23 is provided to the Fixed Switching Customer promptly in accordance with any applicable industry agreed processes.	OTS-dependent
C7.25	The Regulated Provider must, upon request from the Gaining Provider, make available to the Fixed Switching Customer that is identified by the Gaining Provider the following information: (a) the information listed at Condition C7.12; (b) confirmation of the identity of the Gaining Provider; and (c) where the Fixed Switching Customer requests to transfer a Bundle, an explanation of any steps the Fixed Switching Customer needs to take in order to transfer any services forming part of the Bundle, including where relevant the steps for transferring Mobile Communications Services in accordance with the process set out in Conditions C7.30 to C7.46.	OTS-dependent
C7.26	The Regulated Provider must make available to the Fixed Switching Customer the information referred to at Condition C7.25 in the manner and form set out at Condition C7.13.	OTS-dependent
C7.27	The Regulated Provider must: (a) ensure that the information referred to at Condition C7.25 is made available to the Fixed Switching Customer promptly in accordance with any applicable industry agreed processes and via the quickest communications method, unless the Fixed Switching Customer requests an alternative communications method; and (b) inform the Gaining Provider of the means by which this information has been made available to the Fixed Switching Customer.	OTS-dependent



C7.47	Regulated Providers shall provide Switching Customers with compensation in an easy and timely manner in the case of failure to comply with the obligations laid down in this Condition C7, as well as any missed service and installation appointments.	Non-OTS dependent
C7.48	<p>Where compensation is payable in accordance with Condition C7.47 to a Switching Customer that is a Consumer, compensation must be paid no later than:</p> <p>(a) where compensation is due for delays in completing the Communications Provider Migration, 30 calendar days after the date on which the delayed Communications Provider Migration is completed or the Switching Customer or Regulated Provider terminates or cancels the Relevant Communications Service(s) intended to be transferred; or</p> <p>(b) where compensation is due for a missed service or installation appointment, 30 calendar days after the date of the missed appointment.</p> <p>Condition C7.48(a) shall not apply to delays in completing the Porting Process.</p>	Non-OTS dependent
C7.49	No compensation shall be payable in accordance with Condition C7.47 where the Regulated Provider has given notice of a change or cancellation of a service or installation appointment at least 24 hours in advance of the original appointment time or if the Switching Customer has otherwise agreed to a change in the appointment time slot for the same day. Any such agreement by the Switching Customer must be recorded by the Regulated Provider.	Non-OTS dependent