



Commission for  
**Communications Regulation**

# **Optimisation of Inter-Operator Processes to facilitate consumer switching**

**Preliminary Consultation**

**Reference:** ComReg 12/40

**Date:** 01/05/2012

**An Coimisiún um Rialáil Cumarsáide  
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## Additional Information

All responses to this preliminary consultation should be clearly marked :-

“Submissions to ComReg Doc ref 12/40 , and sent by post, facsimile, e-mail or on-line at [www.comreg.ie](http://www.comreg.ie) (current consultations), to arrive on or before **22<sup>nd</sup> June 2012**

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# 1 Executive Summary

- 1 This preliminary consultation calls for input from telecommunications operators and is intended to gather information on a range of topics related to inter-operator switching processes.
- 2 Number portability has been in place in Ireland for many years and is a well-established enabler of competition amongst providers of fixed and mobile services. It enables consumers and businesses to switch easily between providers of telecommunications services while maintaining their telephone numbers. For fixed services the relevant switching processes are known as Geographic Number Portability (GNP), mobile processes are designated as Mobile Number Portability (MNP).
- 3 New legislation came into effect in Ireland in July 2011 when the Citizens' Rights Directive<sup>1</sup>, adopted by the European Council and Parliament, was transposed into the Irish law through the Universal Service and User's Rights Regulations<sup>2</sup>. This legislation enhanced consumers rights with respect to switching services and included the right to port a number within one working day. While MNP processes have facilitated porting within a working day for many years, the typical switching time for fixed services was up to ten working days.
- 4 To assist suppliers of fixed services, ComReg hosted a series of meetings through the Geographic Number Portability (GNP) forum where operators agreed changes to inter-operator processes intended to facilitate compliance with the new regulations. During these discussions operators raised a number of general and specific issues related to inter-operator processes which industry and ComReg agreed would benefit from further analysis.
- 5 This preliminary consultation is intended to provide industry with an opportunity to submit formal views on issues identified for discussion both at the GNP forum and more generally. ComReg may consult in the future if, after analysis of responses received, it considers that further action is required.
- 6 The drivers for this initiative by ComReg include new technologies, emerging innovations and legislative changes within the Irish market for fixed and mobile electronic communications services.

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<sup>1</sup> Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009.

<sup>2</sup> S.I. No. 337/2011 — European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011. Hereinafter referred to as the "Universal Service Regulations".

- 7 ComReg is seeking views from industry (all communication providers both fixed and mobile) on current and potential future issues associated with the inter-operator processes that facilitate end-user switching between providers of Electronic Communications Services (ECS). Input is sought in the context of both the framework set out in the “BEREC<sup>3</sup> report on best practices to facilitate consumer switching”<sup>4</sup> and the revised Universal Service Regulations.
- 8 BEREC’s report published in October 2010 includes a set of “Best Practice Principles” and views are sought on the extent to which industry believes these are being supported through existing inter-operator processes. Where respondents believe that existing processes fall short of these principles, ComReg is interested in proposals for possible improvements which could be made to these processes in the future. Opinion is also sought by ComReg on the relevance and need for a global inter-operator switching process or policy to facilitate the BEREC recommendations, and any concerns or opportunities which respondents anticipate with such an approach.
- 9 In this paper ComReg is focusing on technical and procedural issues and further consideration of specific consumer issues may follow in due course.
- 10 The Citizens’ Rights Directive<sup>5</sup> was adopted by the European Parliament in December 2009 and transposed into Irish law on 1 July 2011. The new Universal Service Regulations include the following:

Regulation 25 (5) of the Universal Service Regulations states “...*the Regulator may establish the global process of porting numbers taking into account provisions on contracts, technical feasibility and the need to maintain continuity of service to the subscriber. These procedures shall specify that loss of service during the process shall not exceed one working day...*”

Regulation 25 (4) of the Universal Service Regulations provides that undertakings shall ensure that:

*(a) the porting of numbers and their subsequent activation shall be carried out within the shortest possible time,*

*(b) in the case where a subscriber has concluded an agreement to port a number to a new undertaking, that number shall be activated within one working day, and*

*(c) loss of service during the porting process shall not exceed one working day.*

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<sup>3</sup> Body of European Regulators for Electronic Communications.

<sup>4</sup> BEREC report on best practices to facilitate consumer switching BEREC, Published October 2010.

<sup>5</sup> Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009.

- 11 ComReg facilitated a number of industry fora, focused primarily on GNP, at which inter-operator process improvements were made to facilitate compliance with the new requirement to provide number porting within one working day. All operators with an allocation of geographic numbers were invited to attend. During this engagement, industry raised a number of issues upon which ComReg is now requesting structured input from stakeholders. Topics identified by industry as requiring further development included:
- Co-ordination of switching between service bundles;
  - Switching processes in the context of new technologies, particularly the emergence of Next Generation Networks (NGN) and Fixed Mobile Convergence (FMC)<sup>6</sup>;
  - The role of CAFs (Customer Authorisation Forms) in inter-operator processes;
  - Central database arrangements for fixed and mobile services including their future functionality, management structures and access arrangements.
- 12 Standardisation of the inter-operator processes supporting consumer switching as well as the ability for consumers to switch provider with ease are important elements of encouraging competition for electronic communications services in Ireland.
- 13 Stakeholder responses will assist ComReg in taking any necessary steps to enhance the competitive environment with best practices applied to the benefit of both consumers and the electronic communications services industries in Ireland.
- 14 As noted, ComReg may consider it necessary to consult further after its analysis of information received on foot of this publication is complete.
- 15 ComReg welcomes responses from all interested stakeholders.

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<sup>6</sup> Including, for example, fixed services employing an access path based on mobile infrastructure.

## 2 Background

16 The Citizens' Rights Directive<sup>7</sup> was transposed into Irish law on 1 July 2011<sup>8</sup>. One significant change resulting from this Directive is contained at Regulation 25(4) of the new Universal Service Regulations which provides that undertakings shall ensure that:

*(a) the porting of numbers and their subsequent activation shall be carried out within the shortest possible time,*

*(b) in the case where a subscriber has concluded an agreement to port a number to a new undertaking, that number shall be activated within one working day, and*

*(c) loss of service during the porting process shall not exceed one working day.*

17 In anticipation of the transposition of the Citizens' Rights Directive into Irish law, and commencing in August 2010, ComReg facilitated a series of Industry meetings at which fixed undertakings agreed inter-operator process improvements which, undertakings intended, would assist with their compliance with the new legislation.

18 In order to ensure that one day porting would be delivered on time, undertakings decided to defer consideration of more complex issues arising. The principal issues thus deferred were:

- Co-ordination of switching between service bundles;
- Switching processes in the context of new technologies, particularly the emergence of Next Generation Networks (NGN) and Fixed Mobile Convergence (FMC) as well as commercial deployments of Voice Over Internet Protocol (VOIP)/Voice Over Broadband (VoB) services;
- The role of CAFs (Customer Authorisation Forms) in inter-operator processes;
- Central database arrangements for fixed and mobile services including their future functionality, management and access.

More detail on these issues is set out in Section 3 of this document.

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<sup>7</sup> Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009.

<sup>8</sup> S.I. No. 337/2011 — European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011.



19 Inputs on these and other issues concerning inter-operator processes that facilitate switching between providers of Electronic Communications Services (ECS) are sought in the context of the framework set out in the “BEREC report on best practices to facilitate consumer switching”<sup>9</sup>. The BEREC best practices are set out in detail in Section 4 of this document.

20 ComReg is also mindful of the European Commission’s statement on net neutrality and the open internet<sup>10</sup> and is aware of BEREC’s recently published draft guidelines on Net Neutrality<sup>11</sup>.

21 The European Commission’s statement is quite clear about the importance of switching in the context both of competition and of its policy on net neutrality:

*“For competition to work, consumers must be able to choose between a variety of competing offerings on the basis of clear and meaningful information. Consumers must also be effectively able to switch to a new provider where a better quality of service and/or a lower price is offered, or where they are not satisfied with the service they are receiving, e.g. where their current provider imposes restrictions on particular services or applications.”<sup>12</sup>*

22 The European Commission is of the view that as a result of the new framework:

*“.....consumers will be able to **switch operators** and keep their numbers within one working day. Moreover, operators must offer users the possibility to subscribe to a contract with a maximum duration of 12 months. The new rules also make sure that conditions and procedures for contract termination do not act as a disincentive against changing service provider.....”<sup>13</sup>*

The emphasis on switching between operators (bold formatting) is added by the European Commission itself.

In its conclusion, the European Commission notes that if required it

*“...will assess the need for **more stringent measures** to achieve competition and the choice consumers deserve.....”* “Such additional measures may take

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<sup>9</sup> BEREC report on best practices to facilitate consumer switching BEREC, Published in October 2010.

<sup>10</sup> COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS: The open internet and net neutrality in Europe Brussels, 19.04.2011.

<sup>11</sup> DRAFT BEREC Guidelines on Net Neutrality and Transparency: Best practices and recommended approaches BEREC, Published in October 2011.

<sup>12</sup> COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS: The open internet and net neutrality in Europe Brussels, 19.04.2011.

<sup>13</sup> Ibid, P5.

*the form of guidance or general legislative measures to enhance competition and consumer choice, such as by further facilitating consumer switching...”<sup>14</sup>*

23 Regulation 25 (5) of the Universal Service Regulations states:

*“...the Regulator may establish the global process of porting numbers taking into account provisions on contracts, technical feasibility and the need to maintain continuity of service to the subscriber. These procedures shall specify that loss of service during the process shall not exceed one working day...”*

*“The Regulator shall also take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and not switched against their will”.*

Legislation relevant to this preliminary consultation is set out in Annex 1 of this document.

24 ComReg will review the inputs received from this initial process and decide at that point whether consultation on the establishment of a global inter-operator process is warranted. ComReg is interested in the views of respondents with respect to this process. In particular ComReg is interested in the advantages and disadvantages that respondents may see in a global approach.

25 ComReg will also decide if any action is required on any of the other areas on which input has been requested. This document is intended to be forward-looking and ComReg is eager to gather inputs from industry in relation to concerns, technologies and scenarios which may be expected to arise in the medium to long term when moving towards achievement of the above-stated objectives, in particular in relation to consumers.

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<sup>14</sup> Ibid, P9.

## 3 Switching Process - Areas for discussion

26 This section provides a brief summary of each of the issues to be considered. These are:

- Co-ordination of switching between service bundles;
- Switching processes in the context of new technologies, particularly the emergence of Next Generation Networks (NGN) and Fixed Mobile Convergence (FMC)<sup>15</sup>;
- The role of CAFs (Customer Authorisation Forms) in inter-operator processes;
- Central database arrangements for fixed and mobile services including their future functionality, management and access.

### 3.1 Co-ordination of switching between service bundles

27 Ensuring that subscribers can switch between bundled services with ease, is particularly pertinent in today's electronic communications services market with the availability of bundles on the increase across Europe and in Ireland. Whereas, traditionally, subscribers may have contracted with different operators for individual services, bundling of phone, broadband and television services is becoming much more prevalent. BEREC referred to this trend in 2010 saying *"as electronic communications services converge, bundled offers increasingly comprise services which may not have been traditionally identified as occupying the same market, such as fixed telephony, broadband services, mobile services and TV (both access and content)"*<sup>16</sup>

28 The E-Communication Household Survey published in July 2011 noted that *"the use of service packages continues to grow across the EU, with 42% of household now obtaining their communication services through a package"*.<sup>17</sup> The survey also found that, while the double play bundle (including fixed telephone and internet) was the most popular, the triple play bundle (including fixed telephone, internet and television) is growing steadily and is now the second most popular bundle.

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<sup>15</sup> Including Fixed Services employing an access path based on mobile infrastructure.

<sup>16</sup> BEREC report on impact of bundled offers in retail and wholesale market definition, BEREC, Published in December 2010.

<sup>17</sup> E-Communications Household Survey Published in July 2011.

- 29 Double play bundles are well established in Ireland and triple play bundles are emerging. In March 2012 ComReg's Quarterly Report<sup>18</sup> recorded that there were 2.18 million fixed retail subscriptions across business and residential consumers in Q4 2011. Of these, 32.2% of fixed market retail subscriptions were Double Play and 5.6% were Triple Play.
- 30 BEREC also noted in its report on the impact of bundled offers in retail and wholesale markets that *"although take up of quadruple play bundles (which tend to include fixed voice, fixed broadband, TV and mobile services) has so far been slow, convergence of fixed and mobile services could potentially result in increased take-up in the future"*<sup>19</sup>.
- 31 Results of research commissioned by ComReg<sup>20</sup> and carried out between September and October 2011, indicated that 6 in 10 consumers and businesses use a bundle. 58% of businesses had a bundled package and the majority of bundles include fixed line and internet. One third of businesses with a bundle had switched bundled supplier in the last year.
- 32 The increasing incidence and complexity of bundles may raise issues with regard to the subscriber experience in switching provider. This may require improvement in the inter-operator switching processes for transferring bundled services from one provider to another in particular, in light of legislative changes.
- 33 ComReg is interested in stakeholder views on the likely issues which may arise and in suggested approaches to addressing these. ComReg suggests that responses should be framed in the light of (i) the BEREC best practices; (ii) the suitability of existing switching regimes and processes; (iii) operators' own expectations of how the market may develop in the medium to long term; and (v) the relevant legislation.
- 34 ComReg is also interested in responses from operators that will assist it in identifying issues with current and emerging switching scenarios arising in switching between Double Play, Triple Play and Quadruple Play bundles and suggested solutions to overcome these. To ensure consistency of meaning in responses ComReg suggests that the following simple definitions<sup>21</sup> should apply:

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<sup>18</sup> Irish Communications Market Quarterly Data Report Q4 2011, ComReg Document No. 12/20, Published in March 2012 page 21

<sup>19</sup> BEREC report on impact of bundled offers in retail and wholesale market definition, BEREC, Published in December 2010

<sup>20</sup> See ComReg Documents 11/96a "ICT usage among residential consumers" and 11/96b "ICT usage among business consumers".

<sup>21</sup> For example these definitions have been used by the Portuguese Competition Authority and can be found in Section 2 on pages 4 & 5 of the following OECD document - >

- Double Play bundle comprises a fixed voice service coupled with a broadband service;
  - Triple Play bundle comprises a fixed voice service, a broadband service and a television service; and
  - Quadruple Play comprises a fixed voice service, a broadband service, a television service, and one or more mobile services.
- 35 ComReg requests that when respondents are referring to alternative bundling combinations that fall outside of the definitions stated above, that such bundles are clearly defined in the response with each of the individual components of the bundle listed. ComReg is aware that the central regulated service in these packages is increasingly likely to be broadband, but that voice will remain a significant element<sup>22</sup>.
- 36 The high level scenarios on which ComReg seeks stakeholder input are:
- Switching between bundles of the same type e.g. Double to Double or Triple to Triple etc.
  - Switching from more integrated to less integrated services or discrete services e.g. Quadruple Play to Double Play or Double Play to a Naked DSL product.
  - Switching from discrete or less integrated services to highly integrated services e.g. Double Play to Quadruple Play.
  - Switching between bundles which do not contain a voice service (and consequently may not have a telephone number).
  - Switching to and from bundles containing mobile services with or without fixed elements (N-Play bundles with fixed & mobile elements).
- 37 The issues above have been suggested by operators in the context of discussions on the inter-operator processes. However, this is not a conclusive list and ComReg welcomes and encourages discussion of any other relevant issues.

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[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/LACF\(2011\)2&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/LACF(2011)2&docLanguage=En).

<sup>22</sup> E-Communications Household Survey Published July 2011 Section 5.

- 38 As noted above ComReg suggests that in responding to this section the BEREC best practice principles included in Section 4 should be considered. The objective of the BEREC best practices, and associated principles, is to facilitate consumer switching. Therefore, in the context of bundles and switching provider, ComReg is of the view that all of the Best Practice principles are important and relevant for consideration in responding to points raised in this section and throughout the paper.
- 39 Best Practice 1 reiterates the importance of minimising obstacles to switching including services included in a bundle. Efficiency and minimal effort on the consumer's part are key factors included throughout the principles associated with Best Practice 1. The principles factor in speed, reliability, transparency and seamlessness as essential for the consumer while ensuring the process is not overly burdensome. They also wish to minimise disincentives to switching (particular with regard to conditions and procedures to terminate contracts). Of particular importance to the processes for switching between service bundles is that consumers should have the ability to switch more than one service at a time. BEREC recommends that the most effective method of facilitating switching between providers is for the process to be managed by the new service provider (gaining provider-led as is the case in Ireland today.)
- 40 Best Practice 2 aims to minimise instances of slamming and unfair practices and to provide protection for consumers in the switching process. This Best Practice principle is also referred to in section 3.3 on Customer Authorisation Forms (CAFs).
- 41 Best Practice 3 is centred on the provision of accurate information to consumers at all stages of the switching process. This is also discussed further in section 3.3 on Customer Authorisation Forms (CAFs).
- 42 Best Practice 4 includes general principles on the publication by NRAs to ensure that service providers are aware of understand and comply with all applicable obligations and best practice principles to alert consumers of additional changes and ensuring they are "*fair, justified and proportionate*".
- 43 Best Practice 5 aims to support competition in retail markets by highlighting the importance of equivalence and non-discrimination in the switching process to provide for a situation where no one provider is favoured over another and also no one sales channels is favoured over another. The processes therefore should facilitate fair and responsible behaviour on the part of the service providers.

44 Best Practice 6 focuses on the cost of the switching process and sets out a number of principles around cost efficiency. These include operational and technical considerations ensuring cost efficiency and simplicity and recommending high automation with minimisation of manual intervention required for the process. They also emphasise that validation processes should not be arduous, that rejections should be avoided as far as possible, and that consumers should not be charged for any errors on the part of the service provider. Particularly important to this section is that (as stated in the principles) the process should encourage a level of co-operation between all service providers involved in the switching process in order to facilitate consumer switching. The principles suggest *“this could be done by promoting an industry framework for cooperation between all relevant service providers in order to facilitate the transparent and inclusive governance of consumer switching arrangements so that these can be developed by industry, as markets evolve, under appropriate regulatory direction”*.

Q. 1 Please provide your views with regard to current or anticipated technical and procedural issues relating to bundles, switching provider and associated inter-operator processes. Please include proposals to address these issues.

### **3.2 Switching processes in the context of new technologies, particularly the emergence of Next Generation Networks (NGN) and Fixed Mobile Convergence (FMC)**

45 The communications market in Ireland is continually changing and evolving and, as noted in ComReg’s Strategy Statement 2010-2012, *“consumers are demanding the latest technology and service, a choice of service providers and value for money”*. To meet these demands there are *“over 50 communications operators active in the market, competing on the basis of different technology platforms and marketing proposals”*<sup>23</sup>

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<sup>23</sup> ComReg Strategy Statement 2010-2012 , ComReg Document No. 10/47, Published 1st July 2010.

- 46 Furthermore the statement noted, *“ComReg has highlighted convergence as one of the key technical forces with the potential to transform the electronic communications industry. Such convergence in the form of provision of fixed and mobile services over single devices, as well as the move by new “over the top” players such as Google to offer voice applications such as Google Talk, is finally becoming reality rather than technology hype”*.<sup>24</sup>
- 47 ComReg’s Statement<sup>25</sup> identified four key areas in which the trend towards convergence has been increasing.
- *“Fixed Mobile convergence: An increase in bundled service packages incorporating fixed and mobile services, ‘home zone’ services and the acquisition of fixed line services by mobile operators e.g (Vodafone/BT/Perlico)*
  - *Content and telecoms convergence, recognising the growth rate of video services, mobile television services, application stores and smartphones and new partnerships between application developers and operators.*
  - *Broadcast and telecoms convergence, for example BBC iPlayer and the RTE player.*
  - *Software industry and operators convergence: with operating systems such as Symbian, Google’s Android and Google’s SDK ‘Go’ ”*
- 48 ComReg also noted that as NGA is rolled out and networks become fully IP enabled there is likely to be further development in IP based services at the retail and wholesale level (for which switching considerations arise).
- 49 Eircom Group announced, in July 2011<sup>26</sup>, its plan to roll out Next Generation fibre based access technologies which involve upgrading its existing copper access network through the implementation of fibre to the cabinet and fibre to the home technologies.<sup>27</sup>

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<sup>24</sup> Annex 1 ComReg Strategy Statement 2010-2012, Document No. 10/47a , Published July 2010.

<sup>25</sup> Annex 2 ComReg Strategy Statement 2010-2012 Document No. 10/47b, Published July 2010.

<sup>26</sup> [http://pressroom.eircom.net/press\\_releases/article/eircom\\_Announces\\_Over\\_100M\\_Investment\\_in\\_Phase\\_1\\_of\\_Planned\\_Fibre\\_Rollout/](http://pressroom.eircom.net/press_releases/article/eircom_Announces_Over_100M_Investment_in_Phase_1_of_Planned_Fibre_Rollout/).

<sup>27</sup> <http://www.irishtimes.com/newspaper/finance/2011/0729/1224301561129.html>.



- 50 Recent statistics have indicated that cable operator's market share is increasing, ComReg's Quarterly Key Data Report,<sup>28</sup> published in March 2012, indicated a 28.2% increase in broadband provisioned over cable in Q4 2011 from the previous year. This is the strongest growth rate across all broadband platforms. In terms of the different platforms for broadband subscriptions the report noted that cable had 15.6% of the market share at that time.
- 51 UPC is the largest cable operator in Ireland and the Q4 2011<sup>29</sup> statistics stated that UPC had 24% of the total subscription market share for the Fixed Broadband market.
- 52 With the ongoing development and emergence of NGA, IPTV, VOIP/VoB services, and Fixed Mobile Convergence across industry, ComReg is interested in views from interested parties on the current and anticipated issues that the evolving market and technologies present for enabling the consumer to switch provider and, in particular, the inter-operator processes which will facilitate these. ComReg is also interested in stakeholders' views on how such technical and procedural issues can be addressed in an efficient and cost-effective manner.
- 53 ComReg suggests that, in addressing these matters, all of the BEREC best practice principles (included in Section 4 and summarised above in section 3.1) should be considered.
- 54 Please provide your views on current or anticipated issues for switching provider with regard to new, emerging or future technology, market developments and products and services. Please provide proposals to address these issues.

Q. 2 Please provide your views on current or anticipated issues for switching provider with regard to new emerging or future technology, market developments and products and services. Please provide suggestions to address these issues.

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<sup>28</sup> Irish Communications Market Quarterly Data Report Q4 2011, ComReg Document No.12/20, Published in March 2012 page 33.

<sup>29</sup> Ibid page 38.

### 3.3 The role of CAFs (Customer Authorisation Forms) in inter-operator processes

- 55 A Customer Authorisation Form (CAF) is used by industry both as a record of the instruction from the consumer to change provider and in practice is authorisation to cease service with the current provider and to enter into service with another provider.
- 56 It is important that there is clarity and a common position on all aspects of the CAF. ComReg is seeking views from stakeholders on the function and role of the CAF. ComReg proposes that the BEREC best practice principles are considered in responding to questions in this section. It may be helpful to consider Best Practices 1, 2, 3 and 6 in this regard.
- 57 Best Practice 1 (as mentioned above in section 3.1) focuses on minimising costs and barriers to switching and ensuring a seamless, efficient process for transferring services from one provider to another. It notes that multiple services should be able to be switched at the one time and that procedures to terminate contracts should not act as a disincentive to switching.
- 58 Best Practice 2 advocates that registered evidence of the consumer's authorisation to switch should be kept for a reasonable length of time. Other key points include ensuring that clear information is provided about the switching process to facilitate consumers' choices in accordance with their rights.
- 59 Best Practice 3 focuses on information provided to consumers before and during the switching process to provide a clear understanding of all the details of the process, including the potential for contractual liabilities with the existing service provider, (change in conditions for instance) and any loss of service. As referred to above in paragraph 44 Best Practice 6 is centred on the cost efficiency of the switching process.

Q. 3 Please provide opinion and detail on the role and function of the Customer Authorisation Form (eCAF, vCAF) and on any technical or procedural issues that currently arise with it for switching provider and the associated inter-operator processes both for current products and anticipated future developments. Please suggest solutions to overcome any identified issues

### **3.4 Central database arrangements for fixed and mobile services including their future functionality, management and use**

- 60 The Fixed Central Database is a database used to record porting information and also to reference information regarding the routing of calls. During the development of the revised inter-operator porting process at the GNP industry forum a number of operators proposed changing the role and functionality of the current central database.
- 61 Some operators expressed a view that the Fixed Number Porting (FNP) System (The FNP system - includes the interfaces, database and porting application) should be modified to have comparable functionality to the Mobile Number Porting system (MNP system). Unlike the MNP system the FNP system is not integral to the porting process. In other words, fixed number porting is not directly dependent on the FNP system. The FNP system acts as a register for mapping ported numbers to routing codes and is only updated by operators after the port has been completed. In contrast, porting of a Mobile number requires the MNP system to complete the port. A variety of views was expressed by operators regarding the need for change and on the nature and scope of such changes.
- 62 Further to the issues raised above by industry, ComReg considers that given current and expected technological developments including fixed mobile convergence, ENUM, and the increasing complexity of bundles, it is an opportune time for stakeholders to consider the future functionality, management and use of central databases for fixed and mobile services and their role in the co-ordination of switches between complex bundles.
- 63 A fundamental question is whether the current infrastructure and processes (including the databases) are sufficient or can be readily amended to support the medium to long term requirements of industry. ComReg notes in particular that the current FNP database was devised in 2000 as a short-term solution intended to last only some months until a more effective arrangement could be put in place. However, principally for reasons of cost, this interim solution became permanent. A global, forward-looking solution might require changes to infrastructure ownership and management to support more complex processes with more complex data requirements. Identifying areas for convergence could potentially enable efficiencies within the industry. ComReg is interested in the views of stakeholders on all of these points.

64 ComReg advised at the GNP Forum that it proposed to publish a Preliminary Consultation to gather considered and structured input from operators on their opinions regarding the need to change the role and functionality of the current fixed central reference database and GNP processes generally. ComReg is now requesting that respondents consider the issues in a broader sense reflecting on the potential impacts that technological advancements will have for fixed and mobile processes (GNP, NGNP, MNP) including porting and supporting systems. ComReg requests that stakeholders provide their views and proposals on changes required in order to future-proof porting and switching processes, particularly given the potential for fixed-mobile convergence in the future.

Q. 4 Please provide your views and any suggestions you may have regarding changes which may be required to Central database structure, technology, and processing arrangements for fixed and mobile services including their future functionality, management, funding and use.

Q. 5 Please provide details of any other items relevant to this preliminary consultation which should be considered at this time. Please provide reasonable background information for your answer.

## 4 BEREC Best Practice Principles

- 65 The BEREC report on best practices to facilitate consumer switching published in October 2010 set out 6 Best practices incorporating a number of principles to “support a positive consumer experience” and to “encourage positive impacts on competition and welfare”<sup>30</sup>
- 66 ComReg considers it prudent to assess current inter-operator switching processes in Ireland against the principles set out by BEREC in order to identify any gaps in terms of best practice and any areas requiring development for successful implementation of switching in Ireland.
- 67 ComReg is also seeking views on the best approach to adopting, implementing and ensuring compliance with the Best Practice Principles.
- 68 The following tables include the details of the six recommended Best Practices and the principles associated with each, followed by a number of questions.

Best Practice 1
<b>Minimisation of unnecessary switching costs/barriers, both for individual services and for bundles, so that there should be minimal effort on the part of the consumer in order to switch, respecting, inter alia, the following principles:</b>
i. The overall switching process should be as quick and reliable as possible, with a specified maximum time for the switch to take.
ii. Consumers should be responsible for the beginning of the switching process and should be made aware of its conclusion.
iii. Consumer involvement should be no more than necessary in order to ensure that the burden of switching is not unduly onerous.
iv. The switching process should be seamless and invisible to the consumer.
v. Conditions and procedures to terminate contracts should not act as a disincentive to switching.
vi. Consumers should be able to transfer more than one service at a time. This is particularly relevant in the context of switching to, from and between, bundled services.
vii. In this context, the most effective method of facilitating switching between service providers, based on the available evidence, is where the process is managed by the new service provider as the primary contact point (GP-led) <sup>31</sup> .

<sup>30</sup> BEREC report on best practices to facilitate consumer switching BEREC, Published in October 2010

<sup>31</sup> Gaining Provider Led

## Best Practice 2

### Minimisation of instances of mis-selling/slamming and other unfair practices, including respect of the following principles:

- i. Registered evidence of the consumer's authorisation to switch service provider should be kept, for a reasonable period, in the light of national legislation, by the service providers.
- ii. The overall switching process should take into account consumer protection considerations, including an opportunity for consumers to stop the switch happening where they have not given consent to the switch or where they simply wish to change their mind
- iii. There should be clarity on the type and level of information that needs to be made available to new customers, both at the point of sale and after the sale has been concluded.
- iv. There should be a quick and reliable restoration process so that consumers switched in error can have their original service restored quickly, with minimum effort, and at no cost.
- v. There should be clarity about consumers' key rights and choices.
- vi. Consumers' legal rights and best interests must be protected.

## Best Practice 3

### Accurate information on switching to be given to consumers, before and during the switching process, and also immediately after it is concluded, as appropriate to the process used, with information being presented clearly and in an easily accessible format, including:

- i. A brief and precise description of the switching process.
- ii. Information to be made available on the progress of the switching process.
- iii. Information of the respective roles and responsibilities of all parties involved in the switching process (including the former service provider, the new service provider and the consumer).
- iv. Information on when the switch will take place and how long the process is expected to take and the value of any fees associated with the process.
- v. Information about the key terms and conditions of the new service, including

**Best Practice 3**

contractual liabilities and cancellation rights.

vi. The potential for contractual liabilities (e.g. Early Termination Charges) with the existing service provider(s).

vii. The potential for any loss of other services and the maximum length of time of loss of service, and the potential for any change to contractual conditions, namely if the service has been purchased within a bundle.

**Best Practice 4**

**Publication of guidance by NRAs that aims to make sure that service providers are aware of, understand, and comply with all obligations relating to national legislation and best practice principles that apply to them, including:**

i. Service providers to act in a responsible and transparent manner in alerting consumers to the existence of additional charges, including Early Termination Charges and Minimum Contract Periods, so that consumers understand the charges they pay.

ii. Service Providers to ensure that charges are fair, justified and proportionate.

**Best Practice 5**

**Support competition in retail markets, including:**

i Ensure that the switching process is non-discriminatory and does not unduly favour one service provider over another. Wherever the principles of equivalence and symmetry can be reasonably applied, they should be.

ii. Avoid distortions to the competitive process by ensuring that all service providers act fairly and responsibly during the switching process.

iii. Work across different sales channels as far as possible so that switching processes do not discriminate against different service providers' chosen sales channels e.g. telesales, online and face-to-face.

### Best Practice 6

#### Cost efficiency of the switching process, including:

- i. A switching process that is efficient and cost effective to operate, including technically simple.
- ii. Consumers will not be subject to any fees imposed by the service providers as a result of the service providers' own errors during the switching.
- iii. The process should be highly automated, with the need for manual intervention minimised.
- iv. Validation processes should not be unnecessarily burdensome so that high rejection/error rates are minimised.
- v. The process encourages a level of co-operation between all service providers involved in the switching process in order to facilitate consumer switching. Where considered necessary, this could be done by promoting an industry framework for cooperation between all relevant service providers in order to facilitate the transparent and inclusive governance of consumer switching arrangements so that these can be developed by industry, as markets evolve, under appropriate regulatory direction.
- vi. Without prejudice to the protection of confidential or commercially sensitive information, the new service provider should be able to access the relevant service/line characteristics so that it is able to manage the relationship with the customer and, in particular, easily identify whether there are aspects of the service that cannot be supported.
- vii. The process for recovering switching costs or new customer acquisition costs (e.g. through prices charged per ported numbers and unlocking SIM cards) should be objectively justifiable, proportionate, non-discriminatory and transparent, and should be likely to contribute to efficient switching processes and effective competition.

Q. 6 Please provide your opinion on each Best Practice Principle as to whether it is already being met through existing inter-operator switching processes. If you believe a principle is not currently being met please provide proposed changes which could address the gap.



Q. 7 Please provide your view on the principle of implementing a global inter-operator switching process or policy in Ireland governing all products (bundled or otherwise) which incorporates the BEREC Best Practice Principles as set out in Section 4.

Q. 8 Please provide details of any issues/challenges you identify in implementing a global inter-operator process or policy and elements that you propose would be key to successful implementation of an efficient, fast, and effective system.

## 5 Next Steps

- 69 All comments are welcome to the preliminary consultation however it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.
- 70 The preliminary consultation period will run from 1<sup>st</sup> May 2012 to 22<sup>nd</sup> June 2012 during which time the Commission welcomes written comments on any of the areas raised in this paper.
- 71 While ComReg appreciates that some elements of responses may be confidential, it is ComReg's policy to make all responses available on its website and for inspection generally; therefore respondents to this preliminary consultation are requested to submit non-confidential responses with any confidential material in a separate annex to the response (clearly identified as confidential). Such information will be treated subject to the provisions of ComReg's guidelines on the treatment of confidential information as set out in ComReg document No. 05/24
- 72 After analysis of the responses ComReg will decide on the next steps and actions required with the possibility of further/full consultation being required.

# Annex: 1 Legal Basis

## Regulation 25 of the Universal Service Regulations

Regulation 25 the Universal Service and Users' Rights Regulations transposed Article 30 of Directive 2002/22/EC (as amended by Directive 2009/136/EC). In particular, Regulations 25 provides the following:

### *Facilitating change of service provider*

25. (1) *Undertakings shall ensure that a subscriber with a number from the national numbering scheme can, upon request, retain his or her number independently of the undertaking providing the service*

*(a) in the case of geographic numbers, at a specific location, and*

*(b) in the case of non-geographic numbers, at any location.*

*This paragraph does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.*

*(2) Undertakings to which paragraph (1) relates shall ensure that pricing between operators or service providers related to the provision of number portability as provided for in paragraph (1) is cost oriented and that direct charges to subscribers, if any, do not act as a disincentive for subscribers changing service provider.*

*(3) The Regulator shall ensure that undertakings comply with their obligations under paragraph (2) and the Regulator may issue directions to an undertaking to which paragraph (2) relates to require that there shall be no direct charges to subscribers for number portability. Where retail tariffs for porting of numbers are permitted, the Regulator shall ensure that such tariffs may not be imposed in a manner that would distort competition and for this purpose may specify obligations to be complied with by an undertaking.*

*(4) Undertakings referred to in paragraph (1) shall ensure that—*

*(a) the porting of numbers and their subsequent activation shall be carried out within the shortest possible time,*

*(b) in the case where a subscriber has concluded an agreement to port a number to a new undertaking, that number shall be activated within one working day, and*

*(c) loss of service during the porting process shall not exceed one working day.*

*(5) Without prejudice to paragraph (4), the Regulator may establish the global process of porting of numbers, taking into account provisions on contracts, technical feasibility and the need to maintain continuity of service to the subscriber. These procedures shall specify that loss of service during the process shall not exceed one working day in accordance with paragraph (4). The Regulator shall also take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and not switched against their will.*

*(6) (a) An undertaking providing electronic communications services shall not conclude contracts with consumers which mandate an initial commitment period that exceeds 24 months and shall offer users the possibility to subscribe to a contract with a maximum duration of 12 months.*

*(b) Without prejudice to any minimum contractual period the undertaking shall ensure that conditions and procedures for contract termination do not act as a disincentive to a consumer to changing service provider.*

*(7) The obligations referred to in this Regulation apply to all undertakings with a role in facilitating change of provider, including the operator to which the subscriber is porting and the operator from which the subscriber is porting and any wholesale operator with involvement in the process.*

*(8) An undertaking that fails to comply with—*

*(a) the requirements of paragraph (1),*

*(b) a direction of the Regulator under paragraph (3), or*

*(c) the requirements of paragraph (2), (4) or (6)*

*commits an offence.*

*(9) In proceedings for an offence under paragraph (8) it is a defence to establish that—*

*(a) reasonable steps were taken to comply with the relevant requirement or direction, or*

*(b) it was not possible to comply with the relevant requirement or direction.*

10) *Undertakings shall compensate subscribers in case of delay in porting or abuse of porting by them or on their behalf. The Regulator may specify requirements to be complied with by undertakings in relation to this obligation including, but not limited to, arrangements for the payment of compensation to subscribers. Any dispute in relation to compensation payable under this paragraph shall be subject to Regulation 27.*

## Pricing

It should also be noted that while this consultation addresses the process issues regarding switching, it is important to remind operators of their current cost orientation obligation with regard to number porting.

In ComReg Decision No D05/07 (ComReg Document No 07/98<sup>32</sup>), ComReg specified the meaning of cost orientation in the context of porting numbers. The specification was as follows:

*“ComReg hereby specifies that allowable costs for the pricing of interconnection related to the provision of number portability are limited to the incremental (i.e. short term volume dependent) administrative cost to the donor operator of per-line enabling/transaction costs, based on a fully efficient number porting process. This specification is for the purpose of ensuring that pricing for interconnection related to the provision of number portability as provided for in Regulation 26(1)<sup>33</sup> of the Universal Service Regulations is cost oriented”.*

Subsequently, in ComReg Decision No D01/09 (ComReg Document No 09/04<sup>34</sup>) ComReg set out the allowable (and disallowable) costs to determine the fixed and mobile number porting charges, in line with the specification. That decision also included the maximum prices that operators could charge for number porting.

Therefore, all operators porting numbers must ensure compliance with the cost orientation obligation set out in ComReg Decision No D05/07.

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<sup>32</sup> Response to Consultation and Specification on Number Portability in the Fixed and Mobile Sectors; ComReg Document No 07/98: Published 30 November 2007.

<sup>33</sup> Reference to SI 308 of 2003. Regulation 26(1) states: *An undertaking providing a publicly available telephone service, including a mobile service, shall ensure that a subscriber to such service can, upon request, retain his or her number independently of the undertaking providing the service-*

- (a) *in the case of geographic numbers, at a specific location, and*
- (b) *in the case of non-geographic numbers, at any location.*

*This paragraph shall not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.*

<sup>34</sup> Response to Consultation and Final Specification – Setting a Maximum Fixed and Mobile Number Porting Charge; ComReg Document No 09/04: Published 29 January 2009.

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