



SWITCHING IN TELECOMMUNICATIONS SECTOR

BEUC's answer to the public consultation on best practices

Contact: Levi Nietvelt – digital@beuc.eu

Ref.: X/045/2010 - 06/07/10

BEUC, the European Consumers' Organisation
80 rue d'Arlon, 1040 Bruxelles - +32 2 743 15 90 - www.beuc.eu

 EC register for interest representatives: identification number 9505781573-45 

Summary

BEUC, the European Consumer organisation, welcomes the opportunity to comment on the draft BEREC report on best practices to facilitate switching. Overall, BEUC members still find the switching process too slow. They agree with BEREC on the identified obstacles and find contractual limitation the main problem for switching. For some countries, such as the UK, where the switching process is donor-led, the relevant member calls for a change towards receipt-led porting.

BEUC's members highlight the need for consumer information and suggest two best practices in that regard. At the same time, reducing high termination fees is suggested as an additional best practice. Drawing from a recent court ruling on limiting the fees for number portability, BEUC suggests to BEREC to analyse to what extent regulators can limit termination fees when they act dissuasive for consumer switching.

Question 1 (section 3): Are you satisfied with the typical switching time between service providers?

Overall, BEUC members find the switching periods still too long and as such, support the time limit of 1 day. At the same time, fixed and mobile telephony score clearly better than internet switches or switching bundles. Our Belgium member Test-Achats for example, does not receive many complaints on switching periods for fixed or mobile telephony, while for internet switches complaints are numerous. An internet switch in Belgium can take several weeks. Other members report long switches for internet service up to two months.

The switching time for bundles is the longest, while at the same time a lack of offers limit switching. Taking again the Belgian example, switching between bundles also involves technical difficulties as it involves a switch between technologies. For bundles, BEUC's members thus expect that once consumers will try to switch more often between bundles or between separate services and bundles, the length of the switch will increase again.

In many answers, the contractual terms are mentioned as other reasons of long switching periods. Depending on the country, the contracts only ends at the end of the month, to which in some cases 30 days are added. The switch itself might be fast, but between choosing the new provider and receiving the new services, more than a month can pass. BEUC would suggest recommending adapting the contractual terms as a best practice.

Question 2 (section 4): Do you agree that the obstacles to switching identified in the draft report are the most relevant to consumers? If not, please explain why.

Overall, BEUC members agree with the identified obstacles. It is interesting that irrespective of the telecommunications sectors the major obstacles to switching are contractual terms. Long fixed contractual term periods without the possibility to terminate the contract constitute a clear obstacle to switch. The three main identified obstacles (contractual obstacles, lack of consumer information and irresponsible sales activity) in the report interact together and reinforce each other. Some of BEUC's members also report unfair commercial practices as one of the mayor problems, mostly from new member states. The consumer is "trapped" into the contract and can not switch anymore.

Question 3 (section 4): Do you have experience and evidence of any other major obstacles faced by consumers in switching between service providers?

Our UK member Consumer Focus notes the difficult set up of the switching procedure, as the overview of the scientific literature in the paper also shows. Currently, the UK diverges from the vast majority of European countries by using donor-led porting, instead of recipient-led. This set-up does not benefit consumers, because the 'losing' mobile provider is incentivized to make the porting process complicated and difficult to undergo. Research by Consumer Focus found that, of the 75 per cent of consumers who requested a Porting Authorisation Code (PAC) by

phone, only 35 per cent received it this way¹. Similarly, Ofcom, the UK regulator's own research found that one in ten consumers failed to obtain a PAC despite being entitled to receive one, while of those who did receive it, 22 per cent received the code by post, taking an average of four days.²

Ofcom has proposed new measures to address companies' failure to supply PACs on request, but has not taken the larger step that is needed, to move from a donor-led to a recipient-led MNP process. This question has been deferred while the regulator undertakes a broader investigation into switching, which will examine whether a single switching process can be introduced across multiple communications platforms. BEUC together with Consumer Focus believes stronger interim measures should have been put in place to address the problems with the UK's MNP regime while this investigation is underway and asks BEREC to clearly suggest the recipient-led porting.

Closely related to this, BEUC notes that some consumers who terminate the old contract themselves while being switched are faced with long switching periods or even failed switches. We find this contradictory and would like BEREC to ensure that consumers are either informed better –as noted in best practice 3- or that the receiving operator can still port the number from the contract the consumer has terminated.

Question 4 (section 4): Among the identified obstacles, which would you rate as the most significant in terms of their adverse impact on switching service providers and why?

Contractual terms are the number one problem for consumer organizations, followed by a lack of consumer information and bad sales practices. Nevertheless, technical problems are a growing problem especially when the alternative offers are based on different technology such as cable versus xDSL. Note that under contractual terms the increasing length of the contracts and high costs to end the contracts fall.

Obstacles which our members also note are:

- Absence of clear wholesale line rental regulation, which means that the consumers will receive two invoices and has to pay two separate invoices for what he or she finds one service.
- Impossibility to port the "services" linked to the service provider, such as email addresses

¹ [Consumer Focus response to Ofcom's consultation: Mobile Number Portability](#), p.5.

² http://www.ofcom.org.uk/consult/condocs/gc18_mnp/mnpcondoc.pdf , section 4.

Question 5 (section 4): What are your views as to whether particular obstacles to switching are more relevant in a specific electronic communications services (e.g. fixed telephony, mobile telephony, Internet access or bundles)?

- Fixed and mobile telephony: Contractual obstacles, lack of information and unfair commercial practices
- Internet and bundled offers: Lack of information and technical problems

Question 6 (section 5): Do you agree with the best practice principles identified in the report? If not, please explain why.

Overall, BEUC's members agree with the suggested best practices, but all depends on the implementation which is about finding the right balance between ensuring that switching is easy and fast, while keeping consumers informed so that they can control the switch and are protected against involuntary switching.

In that sense, BEUC would like to add that a consumer should receive a written confirmation of the switching request as a way to minimize mis-selling. (Best practice 2). Our Danish member remarks that information during the switch constitutes an excellent idea and suggest ensuring the consumer can follow the progress of its switch.

Question 7 (section 5): Are there any other best practice principles you would like to be identified in this report?

BEUC's members have identifies several additional best practices:

1. In every country, a price comparison calculator should be present.

A lack of transparency with regard to prices, service characteristics and conditions is an important obstacle for consumers to join the switching process, as well as making correct choices for their own particular usage patterns. Therefore, a best practice principle should be to have a well-functioning tariff comparison.

Our Danish member gives the example of the internet-based comparison tool run by the Danish regulator to compare offers in terms of both price and quality of service. The "Teleguide" established by the Danish regulator is a prime example of how it can be done authoritatively, effectively and at little cost (<http://www.it-borger.dk/verktojer/teleguide>).

2. In every country, the regulator should ensure that relevant information on the service of operators is available (Cost, network coverage, complaint handling procedure, customer services)

Our UK member gives an example of the type of information which a consumer needs to decide on a new service provider:

- Comparative information on the cost of mobile deals is provided by price comparison websites, but Ofcom, which runs an accreditation scheme for comparison sites, has only accredited one mobile comparison site to date (www.billmonitor.com). Because the Ofcom 'kitemark' is not widely

recognised by consumers, comparison companies see little value or commercial incentive in seeking accreditation.

- Information on mobile network coverage is currently provided by mobile operators on an individual basis, but there is no central resource with which consumers can make like-for-like comparisons between providers. This is an issue that Consumer Focus has pressed Ofcom to address, in order to improve the information available to consumers.³
- A key area in which consumers are currently losing out is around the quality of customer service and complaints handling offered by mobile providers. Currently, there is little or no robust data available to mobile users in the UK on the customer service that consumers can expect, leading to a reliance on reputation and word of mouth to inform switching judgements. Consumer Focus has criticised Ofcom's approach, after a scheme providing basic quality of service information called Topcomm was withdrawn in 2009, without a clear strategy or commitment to providing an alternative.⁴

3. Limit the termination fees to the minimum to ensure easy consumer switching

Our Belgian member pleads since long for a limitation of the termination fees. As contracts are automatically rolled-over when tariff plans are changed, the consumer can find herself tied to a provider for a long time, without having realized this at the time of changing the contract. A high termination fee acts dissuasive to break the contract and to switch.

A recent ruling of the European Court of Justice confirmed that national regulatory authorities can set limits to the costs of number portability when the costs born by the operators for the switch discourage the consumers to switch⁵. The costs should be based on objective criteria and a cost-model. Nevertheless, the NRA can limit the fee below the costs incurred by the operator, if the fee calculated only on the basis of the cost from the service provider is likely to dissuade the consumers from making the switch.

While the Court ruling applied for the fees related to porting numbers, BEUC wonders to what extend the ruling could be extended to fees for terminating the contract which are set at dissuasive level for consumers to switch. In our view, based on this ruling, BEREC should investigate to what extend high termination fees discourage consumer switching and seek advice on the possibilities for NRA's to limit those fees.

END

³ [Consumer Focus response to Ofcom's consultation on Annual Plan 2010-11](#) , p 2.

⁴ [Consumer Focus response to Ofcom's consultation on Consumer Complaints Procedures](#), p.8.

⁵ C-99/09 Polska Telefonia Cyfrowa sp. z o.o. / Prezes Urzdu Komunikacji Pers en Voorlichting Elektronischej.