



**Contribution of Orange France Telecom Group to the public
consultation on the Draft BEREC report on best practices to
facilitate switching**

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Orange France Telecom Group welcomes the opportunity to comment on the draft BEREC report on best practices to facilitate switching. Indeed, portability is a fundamental issue to consolidate competition on the market and its best implementation is a good means to give confidence to consumers.

The draft report is mainly based on the NRAs answers to the BEREC questionnaire circulated in 2009. In this regard, it is very interesting insofar as it paints an overall picture of the various processes implemented in the different European States and should help to draw on the experience of realistic approaches.

The overview on the possible obstacles to switching may be a useful tool to favour a constructive dialog between the operators and set up common rules to apply in a fair and realistic manner. It can help to improve processes by sharing valuable experience and workable solutions.

Orange France Telecom Group can draw from its experience both as an incumbent operator in France and Poland as well as an alternative operator in several countries in Europe, which gives it an overall view of what works and what does not work. Its comments reflect real-life operational situations.

Orange France Telecom Group agrees with the BEREC report which highlights that the fluidity and the quality of the switching process is healthy for ensuring effective competition.

It is a legitimate argument to fight against switching processes which are not reliable and cause consumers a negative experience.

Therefore, on the one hand, NRAs should welcome and favour the supply of differentiated and innovative range of offers; on the other hand they should support measures improving reliable processes that foster consumer confidence.

In this respect, we consider that the process of a Gaining Provider-led is absolutely critical to reach satisfactory switching efficiency and quality insofar as it facilitates consumer action and coordination between receiving and donor operator. Moreover, when the process is automated, it is possible to limit unfair practices such as the save and retention activity by the losing operator.

Orange France Telecom Group regrets that this report was not available during the co-decision procedure related to the review of the regulatory package. It would have been very useful to broaden the debate which, in our opinion, was artificially focused on the length of the portability process. Undoubtedly, the issue concerning the management of the portability time limit is of utmost importance; however, from our point of view, the practical implementation of portability, the details of the process as well as the duration of service interruption are more critical issues than the time length for portability.

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

- a) Fixed telephony;
- b) Mobile telephony;
- c) Internet access;
- d) Bundles.

If not, please offer suggestions on how to speed up the switching time between service providers, whilst ensuring an adequate level of consumer safeguards.

In principle, the discussion regarding the porting time limit, which was one of the issues of the regulatory package review, was closed by the adoption of the amended directives in November 2009 and the transposition into national law is currently being processed. However, being asked by the BEREC to comment on it and having the opportunity to explain our point of view as an operator is very helpful.

Although operators are willing to make their best effort to port numbers within the shortest possible time period, the one-day porting rule could be technically difficult to fulfil. Such a modification of all information systems run by operators may imply a burdensome and expensive provision to implement. The time to port a number between networks should be determined by an appropriate cost/benefit analysis.

In the case of a specific complexity such as the business market, we are in favour of some flexibility in order to improve the quality and the reliability of the switching process.

Indeed, if we consider the average length currently implemented in the different Member States, as it is mentioned in the report, it is obviously longer than the time period mandated by the new regulatory package.

Insofar as the time period is the shortest possible, we consider that the quality of the process, the compliance of the process by all the operators involved and the duration of the service interruption are the most important guarantees for customer satisfaction.

In France, the draft transposition text proposed by the French Government clearly mentions that the access availability is a preliminary condition before starting the time limit to port a number. This means that the one-day period starts after the provision of the access.

Moreover, it is important to point out that the length of one-day could be non compliant with consumer law which foresees the possibility for the consumer to back down on his decision.

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.

Orange France Telecom Group globally agrees on the major obstacles identified in the report and would like to highlight this concern with a few examples.

In preliminary remarks, it is worthwhile to remember that generally when the Gaining Provider-led (GPL) process is implemented and automated, it has considerably



reduced deficiencies and obstacles for the customers and it has limited possible action for customer retention.

The length of the overall switching process is not considered as an obstacle insofar as the process is correctly coordinated between the gaining provider and the losing provider and the complexity e.g. in case of an unbundling of the local loop is taken into account in order to ensure the synchronisation between the availability of the access and the portability process.

Moreover, it is important to remember that the evaluation of the switching costs should be carried out with objective considerations and they should be calculated with respect to costs ensured by the operators. These switching costs are the justifiable counterpart of a dynamic market.

Contractual obstacles which have the effect of discouraging switching

On the business market, we can mention an obstacle met on the Austrian mobile market. Some operators charge high costs for contract cancellation to customers who want to change their operator. Such contractual obstacles result in a de facto barrier for mobile number portability.

There are some retail contractual terms that make the process more difficult for consumers to carry out the switch, e.g. to impose on the customer the obligatory return of the terminal (usually the router) without taking into account the duration of the customer's contract with the operator, arguing that the terminal does not belong to the customer.

In France, the obstacle of financial penalties for leaving during the minimum period of contract (MCP) has been solved insofar as automatic renewal of MPC is not used and financial penalties are clearly limited by "Chatel law".

The majority of the French customers choose post paid offers with MCP. They mainly choose 24 months MCP. Indeed, a MCP subscription allows consumers to benefit from the best mobile phones at a lower price than a subscription without MCP; it is a strong driver in customer choice and it explains why offers without MCP remain anecdotic in the post paid market.

Lack of implementation of common rules for the portability process by all the operators

It is important to enforce common and symmetric rules to be followed by all the operators.

Indeed, due to a lack of identical rules implemented by all the operators, problems arising during the migration of services may emerge and involve detrimental failures of the services for the customers. Therefore, it is important to implement a close cooperation among operators and to automate a common process and specific rules so as to deal with the customer request without significant service interruption.

Common symmetric rules shall apply for porting a number:

- from an incumbent operator to an alternative operator
- from an alternative to an incumbent
- from an alternative to another alternative.

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

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?

Save and retention activity by the losing provider

As an alternative operator, we have the experience that the save and retention activity by the losing provider is a major concern particularly when the request for portability is grouped with a request to be unbundled. The losing provider may propose promotional offers in order to retain the customer and prevent a portability request. The losing provider is often suspected of offering long term non replicable promotions including important discounts to customers likely to switch so as to avoid losing them. This retention activity is particularly detrimental to the fluidity of the market.

Lack of consumer information

Situations where customers are not informed enough and are not aware of the migration process should be avoided. When customers have not had enough information on the content of their current contract or when common rules imposed to all operators are insufficiently implemented, it creates difficulties for ensuring a satisfying portability process. Low level of customer knowledge about the switching process and its consequences may discourage consumers from making the decision to switch. As it is mentioned in the report, a portion of consumers did not even try to switch service providers because they thought it might be too difficult. Therefore NRAs can play a helpful role by indicating e.g. on their website some information regarding the portability process such as is the case in France.

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)?

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

Main best practices suggested in the report are driven by common sense and Orange France Telecom Group agrees with these guidelines. However, we would like to make some additional remarks.

Regarding the best practice n°3, third bullet point, it can be useful to note that it is not always possible to give a very precise length of the overall switching process in advance. Indeed, due to technical management and in order to limit switching costs, several operational interventions (e.g. in the case of the unbundling of the local loop)



are grouped together if possible in order to limit inefficient technical costs and make economies of scale.

Regarding the best practice n°6, we think that technical simplicity suggested for operating the switching process should take into account the maturity of the provider, as providers with longer market presence tend to run different billing systems and platforms which complicate the process of porting between different forms of payment i.e. from prepaid to post-paid service.

We would also like to point out on the 6th bullet point of the best practice n°6 which recommends that *“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”*. We consider that the customer should be able to inform his new provider on the services provided by his current provider because his contract should mention all these characteristics.

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

It would be very important to precisely state that the portability of the number does not necessarily mean the saving of all the previous services provided by the losing provider. The gaining provider should be obliged, before the switching agreement, to clearly inform its new customer of any potential limitation to provide all the services, due to technical feasibility. As an example, a provider using an IP network could have some technical problems to provide a fax line and consequently should have the obligation to inform its new customer.

Implementation of an identity statement called “relevé d’identité opérateur” (RIO) for mobile providers:

In France, on the mobile residential market, the implementation of a “RIO” is essential because it limits unwanted portability. Indeed, the RIO is a guarantee of the contract holder’s identification and his phone number.

Currently, a possible enlargement of this provision for fixed lines is being considered.