

BEREC report of the consultation on the  
best practices to facilitate switching  
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## 1. Introduction

On the 4<sup>th</sup> of June 2010, BEREC published for consultation a draft report<sup>1</sup> on Best Practices to Facilitate Switching. The report aimed to draw on the experiences of BEREC member NRAs to contribute to the ongoing policy debate at EU level on switching between communications service providers.

This was done primarily by analysing national conditions and practices in respect of dealing with obstacles to switching between service providers, and learning from each other's best practices to pinpoint the most effective approaches to removing obstacles to switching. Relevant academic literature and the European Consumer Markets Scoreboard findings on switching were also taken into account.

The outcome was a set of proposed best practice principles for NRAs to take into account when considering how to facilitate switching. The best practice principles relate to supporting a positive consumer experience (best practices 1 to 4) and to encouraging a positive impact on competition and welfare (best practices 5 and 6).

The public consultation ended on 2 July 2010. Eleven contributions<sup>2</sup> were received by BEREC in response to the public consultation from the following organisations:

Consumer organisations:

- BEUC, the European Consumers' Organisation;
- The Communications Consumer Panel<sup>3</sup>;
- The Danish Consumer Council<sup>4</sup>;

Electronic Communications operators:

- ECTA, the European Competitive Telecommunications Association;
- Orange France Telecom Group<sup>5</sup>;

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<sup>1</sup> [http://www.erg.eu.int/doc/consult/bor\\_10\\_34\\_switching.pdf](http://www.erg.eu.int/doc/consult/bor_10_34_switching.pdf).

<sup>2</sup> A twelfth response was received from Mobile Challengers, but given the lateness of the response - six weeks after the consultation closed - it was unfortunately not possible to consider it. The response is nevertheless published alongside all other responses on the BEREC website.

<sup>3</sup> An independent UK policy advisory body which advises Ofcom, the UK Government, the EU and others on consumer and citizen interests in telecommunications, broadcasting and spectrum matters.

<sup>4</sup> An independent body representing the interests of Danish consumers, *vis-a-vis* the Danish Government, Parliament, public authorities and the business community.

- OTE<sup>6</sup>;
- SSE<sup>7</sup>;
- Telenet<sup>8</sup>;
- Wind<sup>9</sup>;
- Vodafone<sup>10</sup>;
- 3 Group<sup>11</sup>.

This document summarises the responses received and presents BEREC's position with regard to suggestions and proposals mentioned in those responses, whenever relevant. The full texts of the responses are published separately.

In general, respondents welcomed the document and strongly supported BEREC's initiative and proposed best practice principles. Several suggestions provided in the responses were incorporated in the BEREC report, mainly in sections 5 and 6 of the report on *Recommended best practices to facilitate switching* and *Proposals for future work*. In addition, some information from the responses was also incorporated in section 3 of the BEREC report on *Obstacles to switching*.

### Consultation questions

Stakeholders were invited to respond to 7 questions, which covered different aspects of the draft BEREC report – the processes used, the obstacles experienced and the proposed Best Practice Principles. Summary analyses of the responses to these questions are set out below. Some stakeholders also gave comments on issues outside of the questions and provided more general comments. A summary analysis of these has also been included below. The BEREC report has been updated to reflect some of these comments.

## 2. Stakeholder responses – General comments and comments on issues outside of the questions

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<sup>5</sup> The historic electronic communications operator in France and Poland and an alternative provider in several other EU countries.

<sup>6</sup> The Greek historic electronic communications operator.

<sup>7</sup> A large UK energy company which has entered the retail communications market.

<sup>8</sup> A Belgian electronic communications service provider.

<sup>9</sup> An Italian "fixed-mobile-Internet communications services operator".

<sup>10</sup> A global mobile operator that has operations in many countries of the EU.

<sup>11</sup> Part of the Hutchison Whampoa Limited's telecommunications division, with operations in 6 EU countries

Some suggestions were presented regarding areas of future potential work for BEREC, such as:

- a) Transparency of customer information in relation to the provision of broadband services (Vodafone) – this has been reflected in the final BEREC report in section 6 on *Proposals for future work*, third bullet;
- b) Transparency regarding “*change control and governance*” for the basic documentation of how switching works (SSE) – this has been reflected in the final BEREC report in section 6 on *Proposals for future work*, third bullet;
- c) Detailing the meaning of ‘proportionality’ in the context of zero switching costs (Vodafone) – this is covered in the first bullet of section 6 on *Proposals for future work* in the final BEREC report;
- d) The extent to which regulators can limit fees for terminating contracts when they act as a disincentive to consumer switching (BEUC) – this is covered in the third bullet of section 6 on *Proposals for future work* in the final BEREC report;
- e) The possibility to set-up a European ‘I do not want to be called/contacted list’ to tackle illegal sales practices being carried out on a cross-border basis (Telenet) – this can be considered as part of possible future work in the fifth bullet of section 6 on *Proposals for future work* in the final BEREC report.
- f) The harmonisation of the switching processes for all communications services and BEREC to suggest an indicative timetable for a harmonised process to be implemented by NRAs (Communications Consumer Panel). BEREC recognises that the harmonisation of switching processes could bring benefits, particularly for consumers switching from, to or between bundles of services. However, BEREC also notes the difficulties of harmonising what can often be a diverse range of different processes. BEREC has therefore added this issue as an area of possible future work in section 6 of the final BEREC Report on Best Practices to Facilitate Switching.

Telenet agreed with BEREC’s assertion that price is not the only characteristic of the service that is important to consumers and that low churn rates may indicate that operators are providing a high quality product.

Telenet recommended that BEREC use more recent consumer research than the 2008 European Commission data mentioned in the report, and should provide a more detailed analysis of all available data.

BEREC points out that the 2008 Eurobarometer for the Commission's 2009 Consumer Markets Scoreboard was the most recent EU-wide consumer research that was available when writing the report. The next edition to include switching data is not expected until late 2010. In any case, BEREC notes that the consumer research was meant to supplement the main focus of the report - the information provided by the NRAs in response to the BEREC questionnaire in November 2009.

Telenet also requested that the questionnaire and the 27 questionnaire NRA responses be published.

BEREC considers that the results were already presented with a deep level of detail that ensured a thorough general overview of the status of the main issues regarding switching in Europe and to highlight and study best practices. With regard to the proposal to publish the NRAs' individual responses to the questionnaires, it is not BEREC policy to do so. It is felt that to do so as a general policy would undermine the decision making process of BEREC through inhibiting NRAs from providing open, detailed and meaningful replies to BEREC questionnaires. The questionnaire itself will be published on the BEREC website.

Regarding the state of switching in Greece, the Greek incumbent operator, OTE, perceived a contradiction between some of the data from the January 2009 Eurobarometer consumer research (performed during July 2008) and the responses given by the Greek NRA, EETT. According to OTE, the Eurobarometer research shows that Greece has the highest rate of subscribers switching fixed telephony or Internet providers. OTE concluded from this finding that the information provided by EETT in response to the BEREC questionnaire amounted to unjustified criticism and asked that the BEREC report (a) moderate such "unjustified" criticism and (b) include in the study a reference on the negative impact of regulatory interventions.

BEREC notes that, according to the same Eurobarometer research cited by OTE, Greece has the second highest rank in subscribers who wanted to switch fixed telephony providers but gave up, and of subscribers who have managed to switch fixed telephony providers but with difficulties, as well as of subscribers who have managed to switch Internet providers but with difficulties. Thus, BEREC understands that the findings of the Eurobarometer fully

confirm EETT's positions, and negates OTE's conclusion and first request. The OTE has not put forth any arguments in support of their second request.

Finally, Wind expressed its satisfaction with the current situation in Italy, where after a few years of regulatory and legislative activity, they believe that obstacles to switching no longer represent a problem to consumers.

### 3. Stakeholder responses - processes

*Consultation Question 1: Are you satisfied with the typical switching time between service providers in the following services: Fixed telephony; Mobile telephony; Internet access; Bundles? If not, please offer suggestions on how to speed up the switching time between service providers, while ensuring an adequate level of consumer safeguards.*

The majority of respondents to this question (3 Group, BEUC, Danish Consumer Council, SSE) were of the view that the current timeframes experienced by consumers to switch between service providers are not adequate and some stated that there should be measures put in place to ensure that the process is shortened, and in any case ensure that it does not exceed certain timelines<sup>12</sup>.

BEREC agrees that specifying a maximum time for the switch to take place may help to improve the consumer experience by shortening the average time to switch. Consequently, BEREC reflected these comments by adding text to the bullet under Best Practice Principle 1 to recommend that there be, as part of the switching process, a “*specified maximum time for the switch to take place*”.

BEUC and the Danish Consumer Council stated that one of the factors contributing to longer porting times in Denmark and other (unspecified) countries is the fact that consumers can only leave some contracts 30 days after the end of the current month. The Danish Consumer Council was of the view that this requirement has no technical basis and could be changed without any harm to operators. While BEUC said that contractual conditions should be reviewed to overcome this issue, the 3 Group believes that contractual conditions do not prevent porting within one day from taking place.

Wind was of the view that actual switching times are often affected by the Losing Provider’s (LP) customer retention or save activity, which may also diversely affect the Gaining Provider’s (GP) reputation. The 3 Group was also of the view that an LP-led process is prone to delays and referenced an example of the process of LP-led mobile porting in the

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<sup>12</sup> In the experiences of BEUC and SSE, the speeds of switching of mobile telephony in particular, and also fixed telephony services, are better than the switching of internet and bundled services.



UK. The 3 Group provided examples of ways that the LP can frustrate the porting process. These include the fact that an LP-led process means the customer has to manage the process by asking for permission from their current provider. The 3 Group stated that this is something that the majority of consumers would prefer not to have to do, according to Ofcom research, and it does not ensure that the process of switching is not “*unduly onerous*” or that the switching process is “*seamless and invisible to the customer*”.

In addition, the 3 Group stated that the LP process is reliant on regulation to force the LP to adhere to the process, which is against the LP’s commercial best interests. The 3 Group stated that the LP-led process may also affect competition as the process provides no incentive to GPs to communicate their porting process and LPs may only target their best deals at a small number of consumers rather than the whole market. The 3 Group was of the view that a GP-led porting process posed less of a risk than LP-led process because mobile slamming and mis-selling relates more to the sales process than the porting process. The 3 Group stated that mobile slamming has been a problem in the UK where porting is LP-led and takes 5 days and that it is not a problem in Ireland where the process is GP-led and takes less than 1 day.

Given the examples it provided, the 3 Group does not believe that there is a trade-off between an effective porting process and consumer protection. It urged BEREC to recommend, in its final report, that GP-led processes are the preferred Mobile Number Portability process.

Orange said that GP-led processes are absolutely critical to ensure satisfactory efficiency and quality of switching. In Orange’s view, the practical aspects of implementing the porting process, including the duration of service interruption, are more important issues than the length of time that porting takes.

The Communications Consumer Panel also recommended that the switching processes for all communications services be GP-led processes.

Although BEREC maintains that there may be a trade-off to make between an effective porting process and consumer protection safeguards, it does agree that GP-led processes often seem to be most effective method of facilitating switching between providers. Consequently, BEREC has revised text in the last bullet of its Best Practice Principle 1 to reflect this, which now reads “*in the context of switching to, from and between, bundled*

*services, 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)”*

The 3 Group, Orange and Wind referred to Article 30 of the Citizens’ Rights Directive and in particular Article 30(4) which provides that the porting of numbers and their subsequent activation should be carried out in the ‘*shortest possible time*’ and that ported numbers shall be ‘*activated within one working day*’.

The 3 Group considered it advisable that the related recommendation in the BEREC report - “*the overall switching process should be as quick and reliable as possible*” – should go further, particularly in light of Article 30(4) and the European Commission’s related communications on this matter. This respondent urged BEREC to provide guidance on the implementation of Article 30(4).

BEREC notes that it is not yet clear which will be the competent national authorities responsible for carrying out the provisions in Article 30(4) in each Member State – in some it will be the NRA and in others the Government or other national body. If a reasonable number of NRAs are given responsibility for carrying out these provisions and it is felt useful to share experiences or best practices, BEREC may consider work in this area at that stage.

Orange France Telecom Group pointed out that the French Government’s proposed text in relation to transposition of Article 30 states that access availability is a precondition of the commencement of the timing of the elapsed time to port. Orange also commented that the new Article 30(4) mandated a timeframe that is longer than the timeframes currently in place in many countries, as detailed by BEREC’s report. This respondent was of the view that, while operators would make best efforts to achieve the porting of numbers within one working day, it could be technically difficult to achieve and may be costly and burdensome to implement. Therefore, a cost benefit analysis should be undertaken to ascertain the optimum time to port.

Where individual NRAs are involved in implementing these provisions, BEREC would expect them to take account of the burden on stakeholders of doing so, while at the same time noting that porting taking longer than one day will not be permissible under EU law after implementation of the revised Framework.

Orange regretted that the BEREC report was not available before the revised EU Framework was adopted as it would have been very useful in broadening the debate.

Wind referred to its experiences in Italy, where it believes that the switching process is complex and it had taken considerable effort on the part of the NRA and operators (fixed, mobile and broadband) to achieve the timeframes now in place there. Wind was also of the view that the current timelines for switching are the minimum that could be achieved.

The 3 Group was of the view that porting can be achieved well within the legal limits and certainly in less than one day. It provided details of the maximum porting times and porting times achieved for mobile in the 8 countries where it operates<sup>13</sup>, stating that the porting times achieved are frequently within the same day, most notably in Ireland, Hong Kong and Australia.

Orange also made the point that speed is not the only factor to be considered with respect to consumer satisfaction when switching, and that other factors - such as compliance by operators with the process and minimisation of service interruption - are the most important factors for consumers.

However, the 3 Group said that, contrary to the views of the NRAs submitted to the report, timely porting is of 'paramount importance' to customers and it gave two pieces of evidence – its experience in Ireland as evidence that consumers are more inclined to port when 'near-instant' porting is implemented, and the results of a consumer survey in the UK regarding reasonable porting times.

The Danish Consumer Council was of the view that reduced time to port would make competition more effective and improve customer satisfaction by allowing consumers to respond more quickly to changing market conditions.

SSE suggested that the process could be shortened by greater co-ordination between the relevant parties through a uniform, centralised switching process supported by regulatory requirements. However, the 3 Group thought that a centralised database would be preferable, but that number porting could also take place in one day with a decentralised database. The 3 Group also stated that there are no significant technical issues preventing

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<sup>13</sup> Australia, Austria, Denmark, Hong Kong, Ireland, Italy, Sweden, UK

portability from occurring between a few hours to one day, and that effective coordination between the parties led to reduced porting times without significant costs to operators.

BEREC expects that, with a robust process in place and regardless of any particular technical solution which is implemented, an adequate level of co-ordination between the interested parties can be attained in order to achieve the shortest possible deadline for switching and / or number portability.

Orange and SSE raised an issue regarding the apparent conflict of short porting times with other consumer legislation with respect to consumers changing their mind (*“cooling-off period”*).

BEREC expects that any such conflicts between the revised Framework and other consumer legislation will be clarified and tackled by the relevant national authority as it decides how to implement the provisions on porting times.

## 4. Stakeholder responses - obstacles

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

All respondents were satisfied the draft report had successfully identified the most relevant obstacles to consumer switching, although BEUC, Orange and Wind provided some additional observations.

BEUC agreed with the relevance of the obstacles identified in the report, while adding that the three main obstacles (contractual, lack of consumer information and irresponsible sales activity) are interlinked and reinforce each other. Some of the national consumer organisations that are members of BEUC also cite unfair commercial practices as a major problem.

Orange gave their support for the Gaining Provider-led (GPL) process, claiming that it has significantly reduced the number of deficiencies and obstacles consumers face when choosing to switch.

This operator also appears to support the fact that GPL offers limited opportunities for customer retention. According to Orange, switching costs are viewed as the “*justifiable counterpart of a dynamic market*”. In terms of contractual obstacles, Orange is keen to point out that the French market has addressed some of the contractual concerns by restricting the use of automatically renewable minimum contract periods and limiting financial penalties through the ‘Chatel Law’. The general message being conveyed by Orange is of the need for close cooperation between operators and the implementation of common rules to be used by all operators.

In terms of the Italian market, Wind feels that current switching procedures are able to overcome almost all of the identified obstacles. Similarly, contractual obligations are not viewed as barriers to switching by Wind as switching procedures should be well known to consumers. Italian national law (the ‘Bersani Law’) offers consumers some additional protection. Wind also stressed that the lack of choice between different service providers in

the Italian market, as a result of Telecom Italia's natural monopoly in the access market, provides another obstacle to switching.

*Consultation Question 3: Do you have experience and evidence of any other major obstacles faced by consumers in switching between communications providers?*

Although the respondents seemed generally confident that all major obstacles to switching are reflected in the BEREC report, some stakeholders shared their experiences of obstacles.

The 3 Group's concerns include wholesale inter-operator charges and retention activities (especially in relation to aggressive LP practices). A further notable concern regarded the indirect routing of calls to ported numbers, which arguably creates a technical dependency on the donor network.

Wind cites the dominant position of Telecom Italia as creating, in their view, an anti-competitive environment in the Italian market. It expresses concern over the "*switching order refusal strategy*" that appears to be practiced by Telecom Italia. A further concern relates to the synchronised switching of bundled services. Wind believes that a more effective switching mechanism is necessary in these instances. Although recognising that business markets were outside the scope of the BEREC report, Wind is keen to highlight that most of the obstacles identified as problems for consumers are also directly applicable to the switching of business services.

BEUC observed that the UK diverges from the majority of Europe in following a donor-led process for mobile number porting. It did not feel that this benefitted consumers as the LP is incentivized to make the porting process as difficult as possible. BEUC has major concerns about the UK's divergence from the vast majority of other European countries in following a donor-led process for switching mobile – since the LP is arguably incentivised to make the porting process as difficult and complicated as possible. BEUC recognised Ofcom's work in implementing measures designed to address companies' failure to supply Porting Authorisation Codes (PACs), but still calls for BEREC to support a GP-led process.

Ofcom noted that these issues about switching processes in the UK are covered in its Strategic Review of Consumer Switching, which was published on 10 September.

*Consultation Question 4: Among the identified obstacles, which would you rate as the most significant in terms of their adverse impact and why?*

Three respondents (Wind, SSE and Orange) cited certain losing provider activity as being the main obstacle to consumer switching. Wind expressed concerns over the LP's ability to delay or refuse a switching request in the fixed telephony market. SSE has similar concerns related to LP save/retention activity and the other opportunities for burdening the switching process. Similarly, Orange considers retention activity as being particularly detrimental to the "fluidity of the market". BEUC mentions "bad sales practices" as a significant obstacle.

Two respondents (BEUC and SSE) view contractual obstacles as another significant issue for the communications sector. BEUC claims this is the main problem for consumer organisations. SSE list fixed term contract periods and early termination charges as having a considerable impact on consumer switching. SSE further argues that contractual obstacles are more prevalent in the retail communications market than in any other sector.

Consumer awareness is listed as a further significant obstacle by BEUC, Orange and Wind. Wind believes that switching processes cannot be viewed as effective unless the consumer understands them or finds them easy to use. Orange has concerns about consumers' potential lack of information about their current contract. In Orange's opinion, a low level of customer knowledge discourages consumers from making the decision to switch – NRAs can play an important educational role here, according to Orange.

A perceived absence of clear wholesale line regulation and the difficulty in porting "provider-specific services" (e.g. email addresses) are listed as further concerns by BEUC.

The issue of "email portability" has now been included among possible areas of future work in the BEREC Report. Regarding wholesale line regulation, BEREC understands that it has been made increasingly clear in the different Member States and that it has evolved in parallel with the needs of alternative service providers. Notwithstanding, BEREC will be satisfied to receive concrete suggestions for how to improve transparency at all levels, including wholesale line regulation.

*Consultation Question 5: 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)?*

In general terms, SSE acknowledged the impact of contractual obstacles in all communications sectors. The company had more specific concerns about LP-led markets (mobile and internet in the UK) and the obstacles traditionally associated with LP-led processes.

Wind believes that, following recent decisions by the Italian NRA, there has been an improved performance and effectiveness of the switching process across all communication sectors in that country. Safeguards from mis-selling and validation processes are cited as notable areas of improvement. In terms of sector-specific obstacles, Wind lists retention activities (mobile) and the absence of synchronisation between services offered in a bundled package (voice, data, IPTV). *“A correct and verifiable refusal of service policy of the incumbent”* is cited as another relevant obstacle.

BEUC considered contractual obstacles, a lack of consumer information and unfair commercial practices to be the most problematic issues in the fixed and mobile telephony sectors. A lack of information and technical problems were most prominent in the internet and bundled markets.



## 5. Stakeholder responses – best practice principles

*Consultation Question 6: Do you agree with the best practice principles identified in the report? If not, please explain why.*

The stakeholders responding to this question (Danish Consumer Council, Communications Consumer Panel, BEUC, Orange, Wind, 3 Group, SSE, ECTA) generally agreed with the principles outlined in the BEREC report, but most proposed some amendments to the wording of the principles.

### Best Practice Principle 1 - minimising unnecessary switching costs / barriers

The Communications Consumer Panel supported the proposed best practices principles, but suggested that the various aspects of Best Practice Principle 1 should be separated out as individual best practice principles. This is because the Panel sees these as particularly significant barriers to switching which should consequently be emphasised.

BEREC agrees that these are all important aspects but feels that separating them out would not contribute to producing clearer and more concise principles. Its preference is to keep them under one heading focused on minimising unnecessary switching costs and barriers.

### Best Practice Principle 2 on minimising slamming, mis-selling and other unfair practices

SSE proposed some amendments to Best Practice Principle 2. It said that the first bullet should refer to keeping “*reasonable*” rather than “*registered*” records of the consumer’s authorisation to switch service provider, and should be kept in the light not only of national legislation but also “*industry processes*”. SSE said these amendments would allow for flexibility in the way that records are kept.

BEREC decided not to accept these changes because the concept of “reasonable records” is much narrower and would unreasonably restrict the meaning this aspect of Principle 2, and because “*industry processes*” are not directly related to providers’ obligation to keep evidence of the consumer’s authorisation to switch.

Also, SSE believes that the second bullet should relate to “*normal use of the switching process*” rather than “*the overall length of the switching process*”, to avoid a tendency to build in consumer protection periods when they will not always be necessary.

BEREC did not agree to this requested change because it would distort the original meaning of this bullet and, moreover, consumer protection considerations should be taken into account in all cases.

BEUC and the Danish Consumer Council said that the consumer should receive written confirmation – by letter, or if agreed, by mail – of the order to make a switch, as this will make it possible for the consumer to object to a wrongful switch and would serve as future documentation.

BEREC understands that this proposal is already covered under Principle 3 which states that consumers should receive accurate information before the switching process - when they receive this information they will become aware of any wrongful intention to switch. Hence, BEREC considers it is unnecessary to specify in these principles the precise method by which consumers should receive this information.

Wind was of the view that taking into account general consumer protection considerations to allow consumers to stop the switch where they have simply changed their mind, is in conflict with the new EU Framework requirements to reduce mobile porting time to 1 day.

#### Best Practice Principle 3 on providing accurate information to consumers

SSE agreed with the main sentiment of this best practice principle but was of the view that, in practice, not all aspects would be necessarily helpful to the consumer. For example, for GP-led processes, customers will generally not be interested in the roles and responsibilities of all parties involved in the switching process (related to the second bullet), and that it may not be practicable for a GP to know of all the potential effects on existing service(s) that would result from a customer moving to the GP (related to the last bullet). To make this best practice principle more applicable to different services, SSE proposes that the information should be provided “*as appropriate to the process used*”.

BEREC agreed that this qualification made the principle more applicable to different services and was satisfied to incorporate this change.

BEUC and the Danish Consumer Council suggested that the consumer should have a running update (by email or a specific webpage) on the progress of the switching process. This will increase the consumer's confidence in the proceedings and allow him to intervene, if a mistake is being made.

BEREC agreed that it would be useful for consumers to receive a regular and relevant update on the progress of the switching process and introduced a new bullet accordingly.

Orange noted 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.

BEREC revised the text of the relevant bullet so that operators should provide consumers with information about how long the process is *expected* to take, rather than how long the process will take.

Wind proposed that, if consumers change their mind and decide to stop the switch, the Gaining Provider who will no longer gain the new customer should be informed in the widest possible time window and in the widest variety of ways.

BEREC agreed that this exchange of information is important to help prevent switching where a consumer had changed their mind. However, given that the need to inform both providers is dependent on the process used in each country to stop a switch, BEREC decided that the principle should not be made more prescriptive.

#### Best Practice Principle 5 on supporting competition in retail markets

SSE noted the importance of ensuring industry cooperation as a necessary condition for achieving the aims in the bullet points under Best Practice Principle 5. They therefore proposed that the fifth bullet of Best Practice Principle 6 should be elaborated and moved to

become the first bullet point under Best Practice Principle 5. The new bullet point would call for the establishment of 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.

BEREC did not agree that establishing such an industry framework is a necessary condition for effective competition, and therefore did not add any text to Principle 5. However, BEREC was satisfied to include this as an example of how to encourage cooperation between providers, and added a new sentence to the relevant bullet of Principle 6 about promoting cooperation between providers.

#### Best Practice Principle 6 on cost efficiency of the switching process

Orange requested that the proposal in the first bullet that the switching process be “*technically simple*” should take into account the maturity of the provider. This is because, in their view, providers with a 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. BEREC believes that this bullet should apply to all providers and decided not to accept this proposed change.

Regarding the sixth bullet on the GP being able to access certain information to help it manage the relationship with the customer, Orange said this would be unnecessary because the customer should be able to provide the GP with this information himself by consulting his contract with the LP.

BEREC was not persuaded that it would be entirely easy or practicable for the consumer to find all such information, and therefore retained the bullet about information on relevant service / line characteristics being exchanged between providers.

*Consultation Question 7: Are there any other best practice principles you would like to be identified in this report?*

BEUC and the Danish Consumer Council proposed a best practice principle according to which objective, internet-based comparison tools should be made available for consumers in every country to enable them to compare offers in terms of both price and quality of service,

such as those already implemented by some NRAs, e.g. the 'Teleguide' established by the Danish regulator. BEUC also proposed that NRAs should ensure that relevant information about operators' services is available, e.g. on cost, network coverage, complaint handling.

BEREC understands the importance of user friendly comparison tools to facilitate the consumer decision process. BEREC noted, however, that both of these issues are already covered at the end of the section on Best Practice Principles, under the heading of "*Transparency measures to facilitate switching*", which looks at other important measures to promote switching. The recommended best practices are predominantly focused on the processes which enable switching and BEREC decided to maintain this distinction in the final report and therefore not to introduce these issues as a separate principle.

BEUC requested a Best Practice Principle stating that the fees for terminating contracts should be limited to the minimum.

BEREC agrees that this is an important issue and a new bullet has been added to Best Practice Principle 1 to recommend that "*conditions and procedures to terminate contracts should not act as a disincentive to switching*". This is consistent with Article 30 in the recently revised Universal Services Directive. In addition, under Principle 4, BEREC added the words "*justified and proportionate*" to the bullet point about Service Providers ensuring that charges are fair.

Orange proposed a best practice principle that, before the switching agreement is concluded, GPs should be obliged to clearly inform the new customer of any potential limitation, due to technical reasons, to provide all the services.

BEREC agrees that consumers should be provided with timely and accurate information regarding potential limitations, due to technical or other reasons, of the services provided. BEREC, however, considers that a new Principle was not needed given that this was already covered in two areas: in the bullet of Principle 2 that "*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*"; and by the bullet under Principle 3 mentioning "*the potential for contractual liabilities (e.g. Early Termination Charges) with the existing service provider(s)*".

Orange also proposed the establishment of an identity statement for mobile providers, known in France as a “*relevé d’identité opérateur*” (*RIO*). The RIO is a guarantee of the contract holder’s identification and his phone number and limits unwanted portability.

BEREC understands that this was a rather specific addition to make to the Best Practice Principles, and, presently, assumes that other technical alternatives may provide a similar level of assurance. As such, BEREC decided not to mention specific examples within the Best Practice Principles.

The 3 Group believes that best practice porting procedures should include the following elements: near-instant porting and, in any event, porting within one working day; a GPL process for switching and porting; and an absence of deterring factors for the customer (e.g. no deterring fees at wholesale, no fees at the retail level and no harmful or aggressive retention activities). On a separate note, BEUC’s members still find, overall, that the switching process is too slow.

BEREC strongly supports a fast switching process. However it does not think, it is appropriate to include the elements outlined by the 3 Group in Best Practice Principles as they have already been defined in the revised Universal Services Directive and will be transposed into national legislation.

ECTA supports measures that make it easier for consumers to switch to other operators and these should include initiatives to enable smooth transition of email, web hosting and related identification. It noted that Belgium has recently adopted a law to do just that, which should be added to the final BEREC Report as a best practice principle.

BEREC agrees that this is an area which merits consideration and added this as a proposal for future work in section 6 of the final report.