

Communications Consumer Panel and ACOD response to Ofcom's consultation on Consumer Switching: Further proposals to reform switching of mobile communications services

The Communications Consumer Panel and the Advisory Committee on Older and Disabled People (ACOD) welcome the opportunity to comment on Ofcom's consultation on Consumer Switching: Further proposals to reform switching of mobile communications services.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

Response

The Panel welcomes Ofcom's consultation on further proposals to reform switching of mobile communications services. We support reform of the current anomalous and unfair situation in respect of notice periods. In addition to removing technical barriers to switching, there should be no financial disincentive for the consumer and no unjustified enrichment for providers. We firmly believe that the switching process should be considered holistically; notice periods are an important part of this and should not be handled separately.

We strongly support removing notice period charges from the point at which the losing provider deactivates the old service. We can see no justification for their retention. In effect they result in consumers paying for a deactivated service that provides no use or benefit of any kind to them, while simultaneously paying for the new service which is the one they are using. No consumer should be placed in that position - a position that will have a disproportionate effect on the poorer members of society.

We note that Ofcom's research has indicated that between 32% and 60% of post-pay contract switchers (using either the PAC process or C&R) double paid when switching - and that estimated total double payments could amount to about £46 million per year. This is a significant and tangible amount of consumer harm.

Switching processes and notice periods

We are pleased to see that Ofcom's proposed action builds on our recommendation that notice period charges should cease from the point at which the losing provider deactivates the old service. It is unreasonable for a communications provider to take money from a consumer who is no longer receiving a service from them and is therefore not costing them any money. This is an unfair practice and amounts to unjustified enrichment; we fully support Ofcom's proposal to stop it.

We have previously emphasised the potential detriment caused to consumers by the complex and confusing range of switching processes operated across the communications markets. The consultation document provides further, robust evidence of this. We continue to call for consistency across the communications sector - so that consumers know where they stand, whoever their provider may be.

The consultation document presents three major causes of consumer harm which must be addressed to protect consumers from detriment:

- 1) Consumers who are unaware of the current double charging - or who are aware of it but assume it is unavoidable - are being taken advantage of.
- 2) Consumers who are aware of double charging have to endure unnecessary hassle and inconvenience in arranging switching dates to prevent it. This may also mean that some consumers may miss out on time-limited deals from other mobile providers.
- 3) The consequence of the above appears to be that in some instances consumers who would like to switch are not switching.

The consultation document provides useful illustrative examples which show the processes that consumers are expected to engage in if they want to switch provider. However, consumers cannot and should not be expected to be knowledgeable about providers' notice period policies/practices; nor should they have to manage and co-ordinate the timing of a switch to avoid paying for a deactivated service that is useless to them.

We believe the onus should be on providers to manage an effective and consumer-focused switching process. We also consider that providers should have effective processes in place to resolve any errors that may arise, and provide redress for loss of service or degradation of service quality, as appropriate. We believe Ofcom should keep in mind what would happen if processes failed and plan accordingly.

Proposed additional requirement and General Condition

We believe Ofcom's proposed additional requirement on providers not to charge for a notice period beyond the date a consumer switches and/or ports their mobile number will

help to address the problems that have been identified and clearly set out in the consultation document. Consumers are currently reliant on the discretionary practices of their providers - which is seldom a good approach. Inter alia this is potentially discriminatory as it means that the discretion may not always be open to all customers; and it places no obligation on CPs to commit to their own policies.

As we have previously highlighted in responses to Ofcom's consultations on switching, barriers to switching face all consumers, but pose a particular risk of harm and detriment to those who are older or disabled or on lower incomes.

The Panel's recent research '*Inclusive Communications - We're Not All the Same*'¹ gave insight into disabled and older people's experiences in contacting their communications providers. Some participants had considered switching provider when service levels had been extremely poor, but could not face the effort involved. Whilst age or disability do not necessarily confer vulnerability, this suggests that this group may find themselves less able to navigate the inconsistent and discretionary notice period element of the switching process.

An attractive switching process is part of an effective competitive market place - and we would hope that providers would welcome that.

Summary

- The switching process should not present technical barriers or financial disincentives for the consumer; neither should it present an opportunity for unjustified enrichment for providers.
- A consumer should not have to pay twice for a service; nor should a consumer have to defer a switch just to wait for an apparently meaningless notice period to expire.
- The switching process and all its elements should not impede or prevent easy switching, regardless of whether the customer wants to keep their number or not.
- We agree that notice period requirements can give rise to difficulties and deterrents where consumers seek to switch; we agree that these are likely to include: unwanted double payments; difficulties coordinating the switch; and a deterrent to consumers who might otherwise have chosen to switch.
- We call for consistency across switching processes, so that all switchers can experience an easy and reliable process without double paying, managed by their Gaining Provider.
- We agree that the removal of charges for notice beyond the switching and porting date is an effective and straightforward way of addressing the consumer difficulties and costs with switching that are identified in the consultation document.
- We remain in support of reforms to a Gaining Provider Led process.

¹ <http://www.communicationsconsumerpanel.org.uk/research-and-reports/we-re-not-all-the-same-inclusive-communications>