

Communications Consumer Panel response to Ofcom's consultation on proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network

Introduction

1. The Communications Consumer Panel (CCP) welcomes Ofcom's consultation on proposals to improve the processes for switching fixed voice and broadband providers on the Openreach copper network.
2. Switching communications services enables consumers to give their business to communications providers (CPs) offering them better value or services than their existing provider and encourages competition and innovation in the market. Research by YouGov¹ found that 93% of broadband switchers said they achieved at least one benefit from switching (better customer service, billing, installation and/or reliability, lower cost, faster speed and greater download allowance). In total, two-thirds said they had achieved some degree of cost saving (averaging approx. £9 per month).
3. However switching between CPs is often complex, and involves steps that must be coordinated between different providers in ways that do not arise in other consumer markets. There are different processes, even for the same services, often with very different features and experiences for consumers. What should be an easy and seamless consumer journey as part of a vibrant market is in many respects an obstacle-ridden process that, evidence suggests, discourages switching and thus deprives consumers of potential benefit.
4. The Panel believes the current regime has not, for some time, been sustainable. The costs of sub-optimal switching processes - which include the risk of the process being open to abuse - are significant. Ofcom estimates there to be 520,000 cases of malicious voice and or/broadband slamming and 130,000 erroneous transfers a year. Slamming has significant financial implications for both consumers and industry - and the latter's costs to rectify slammed customers' services may also be fed back to the consumer. The Ofcom consultation estimates the financial costs of slamming to the consumer and industry to be in the order of £12.8m - £15.9m. Of this, £1.6m - £4.6m is directly borne by the consumer.

¹http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack.pdf

5. As society becomes ever more reliant on internet services, it is unacceptable that one in five consumers switching broadband provider lost their service for about a week². These financial implications, together with the unnecessary hassle and inconvenience suffered by consumers, make a convincing case for change. The Panel is also concerned that current switching processes will not keep pace with market developments and the trend towards increased bundling of services.
6. The Panel has long called for the process of switching CPs to become easier for consumers and small businesses. Low switching levels lead to reduced competition and a worse deal for consumers across the board. If consumers are more aware of the benefits of switching and can switch between providers quickly and easily, consumers will benefit from enhanced competition in communications markets.
7. The Panel's previous work on behavioural economics³ has highlighted that, in contrast to traditional economic models, consumers do not act in a perfectly rational manner and are not constantly assessing the market for better deals. Consumers have limits to their ability to take in information; they are influenced by how things are presented; they tend not to be very good at anticipating the future; they care about other people and fairness; and they care more about losses than gains. A cumbersome switching process does not help in this context.
8. Despite this, there are a number of areas that can be reviewed with the aim of increasing levels of switching: the provision of clear, accessible and easily comparable information; raising awareness of the potential benefits of switching; making switching processes easier; and protection against mis-selling. The Panel believes that the key is to make all of these elements as simple as possible from the consumer's perspective.
9. As the Body of European Regulators for Electronic Communications (BEREC) has highlighted in its report on best practices to facilitate consumer switching⁴, a switching process needs to be simple, transparent, quick and reliable without undue complexity or disruption. BEREC also identifies the trade-offs that are implicit between making switching easier (with a low level of validation) and protecting consumers from mis-selling and slamming (with a higher level of validation in the switching process). Similar trade-offs are involved between making switching easier and ensuring that a consumer is fully aware of the implications of switching. BEREC is of the opinion that Gaining Provider-Led (GPL) processes are the most effective.
10. The BEREC report also called for consideration of whether particular vulnerable groups of consumers face more difficulties in switching, and asks what could be done to facilitate switching for this group of consumers. It noted that the 2008 Eurobarometer

²http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack.pdf

³<http://www.communicationsconsumerpanel.org.uk/smartweb/telecommunications/behavioural-economics-and-vulnerable-consumers>

⁴http://berec.europa.eu/doc/berec/bor_10_34_rev1.pdf

survey on consumer switching looked at switching from the perspective of vulnerable consumers⁵ and found that they switch less frequently and can find it more difficult to compare offers.

11. Based on the evidence to date, we support Ofcom's view that GPL processes should be the model for all switching processes.
12. Ofcom has been working on improving switching processes for many years already. Consumers now require rapid action. It is essential that this issue continues to receive priority and we urge Ofcom to explore how the proposed timetable for completing this work could be compressed.
13. The new proposals should make changing broadband and landline suppliers simpler and more reliable. However the Panel has also advised Ofcom that its strategic aim should be harmonised switching processes for all communications services such as mobile, pay TV and cable services. Consumer opinion about ease of switching among those who have ever switched a bundle was, in 2011, not encouraging⁶: 23% said that the process was fairly or very difficult. Perception among those who had never switched was worse at 35%. The Panel believes that with such a high perception of difficulty switching activity is dampened; consumers may be losing out on better deals; and the market is less dynamic than it could be. The Panel will urge providers to work with Ofcom to design a unified system as quickly as possible. The Panel has also asked Ofcom to consider how a revised process for porting numbers will be tied into a more unified process for switching communications services in general. Action taken now will benefit consumers and the market for many years to come.

Informed choice

14. When consumers are considering switching, they need to be given information relevant to their needs. They should be able to access easily information about their current contract and services as well as the services they are considering switching to. Increased tariff transparency - for both a consumer's existing contract and the potential new contract would greatly aid people's ability to make a fully informed decision. Ideally, this information should be in an easily comparable form.
15. BEREC notes that "The provision of consumer information plays a critical role in competitive markets. This is because markets work best when consumers are fully informed about what they are buying. Without this, consumers may make incorrect decisions and / or be reluctant to switch. However, some consumers do not find it easy to make informed decisions and compare services. This may be because appropriate information does not exist. It might also be because the information they

⁵ Defined as being those with at least four of the following characteristics: older than 65 years consumers, those living in rural areas, those with a low level of education (having left school before the age of 16), out of work and / or without access to the Internet.

⁶ Consumer Experience Research Report pages 104/105.

are presented with is complex, not easy to interpret and in a number of different places. Where this is the case, there may be a role for NRAs in supporting consumers in their decision-making to help them make effective choices.”

16. Consumers need information to be available before they make a decision to switch so that they can assess the implications of switching. Changes of mind part way through the process have financial and hassle implications for both the consumer and the providers.
17. The Panel notes that quantitative research by SRB⁷ found that 1 in 10 switchers said that it was difficult to get information from their existing provider. The Panel considers it vital that letters from a consumer’s losing provider are clear and specific to the individual consumer and do not, for example, use generic language such as ‘you may incur an early termination charge’ (ETC).
18. There is a need to increase the transparency of communications service provision. You Gov research found that 14% of fixed broadband switchers paid an ETC to leave their previous provider at an average of £38. Six per cent of switchers did not find out that they needed to pay an ETC until after having signed up for a new package. Half of those who had to pay had not expected to need to do so. In common with the Government’s midata initiative, consumers should be able to access easily information about their usage and contract. Information about contract length and ETCs should be available to all customers - on bills, by phone and online, and specifically when enquiring about switching.
19. Consumers who are about to enter a switch should be given information on when that switch is likely to happen, any associated costs, the key terms and conditions of the new service, the possibility of any loss of service during the switch and what remedial action can be taken should something go wrong.

Slamming

20. As noted above, slamming has significant implications for consumers and industry - in terms of both hassle and financial cost. While the Unique Service Number (USN) proposal is attractive in many ways, the Panel is concerned that the USN could be utilised by a CP without verification. The Panel notes that the TPV model is estimated to prevent 90% of slamming. However to prevent other elements of mis-selling, the Panel would also encourage consideration of mandating all CPs’ to record sales calls. The Panel welcomes the safeguards incorporated into the proposed GPL process in terms of record keeping including the recording and retention of the consumer’s authorisation for a switch in case of a slamming dispute.

⁷<http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf>

21. In terms of those consumers who find that their service has been slammed, it is vital that there is a simple, swift and well-publicised route via which they can seek redress and potentially compensation. It is unacceptable that anyone who has been slammed has to pay an ETC to a provider that they did not wish to join. It is also important that penalties for malicious slamming act as a commercial disincentive to the companies involved.
22. It is of significant concern that an estimated 28% - 60% of slammed consumers do not return to their original provider. The Panel would welcome further information about the reasons why these consumers stay with the new provider.

Barriers to switching

23. As noted above, it is important that we remain alert to the fact that to increase levels of switching, switching processes should not be addressed in isolation
24. The Consumer Switching and Bundling study⁸ found that "Across all decision makers, those who have neither switched nor considered switching are the most likely to agree that changing providers seems like too much hassle. For these inactive consumers, the strongest association with hassle is searching for information about other providers they could use. The switching process and save activity play a role in considerers deciding not to switch, but inertia, no benefit in moving and contractual terms are also likely barriers." The perceived hassle of process obstacles was given as a reason by around one in ten inactive consumers.
25. Interaction with the existing provider can also potentially influence a consumer's behaviour. The Consumer Switching and Bundling study found that one in five 'considerers' who were in contact with their existing provider felt under pressure to stay. It noted that both switchers and considerers were more likely to prefer an opt-in system over opt-out for save activity. While the Panel supports consumers being able to discuss their service provision with their provider at any time, it considers that the reactive save system allows the existing provider an unfair competitive advantage at the very point when a consumer has expressed his/her intention to leave their service.
26. The YouGov study of Fixed Broadband Switching⁹ found that two-thirds of 'considerers' who decided not to switch did so after accepting an 'offer' from their current provider. Among the remaining people who stayed with their existing provider for reasons other than 'offers', 13% did not want to lose their email address, 13% found the new provider could not provide their service when required, 9% did not

⁸<http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf>

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want to pay the ETC and 9% felt that their current provider was best. It is also worth noting from the SRB study that 6% of those actively considering switching experienced difficulty because of their email address. As people aged 55+ are more likely to use a provider specific email, it is not surprising that more people than average in this age group experienced difficulty due to their email address when considering switching.

The Switching process

27. The new switching process must be consumer led and must be designed around consumers' needs. In terms of the GPL/TPV handover, the Panel would support a 'warm transfer' so that consumers will not have to repeat all the details they have already provided. Should consumers have further queries about their new service, it would be optimum if callers can be passed back to the GPL at this point, rather than them either having to ring the GPL again or decide after speaking to the TPV that the new service is not what they wanted.
28. Research has indicated that consumers would prefer more interaction between their gaining and losing providers and less intervention required by themselves. The Panel recognises that, under the TPV scheme, the time taken to complete a switch will not reduce. In this case, the Panel would encourage switches to be completed without undue delay and for clear information to be provided to consumers from the outset. The Panel notes that the Consumer Switching and Bundling study found that decision makers said they would prefer a guaranteed date for the switch over the switch happening as quickly as possible. The Panel believes that it is preferable to have a robust and reliable switching process with little or no chance of loss of service. Consumers will have confidence in, and will value, a high degree of certainty.
29. As society becomes ever more reliant on internet services, it is unacceptable that consumers switching broadband provider can lose their service for a substantial amount of time. Both the qualitative and quantitative research found that a significant number of fixed broadband consumers experienced a break in service as part of the switching process. According to the YouGov¹⁰ quantitative research, a fifth of fixed broadband switchers (not including home movers) had experienced an unwanted break - for an average of nine days. Fifty-four per cent of these consumers had not expected it. The Panel would suggest that even those who did expect it should have had no reason to do so; and should not have endured a loss of service. The consultation notes that this is, in part, due to some consumers - estimated at 42% of those who went through the 'cease and re-provide' (C&R) process - being put through a C&R process when this was not necessary but rather often as a result of cost saving measures by the provider. It is unacceptable that the convenience of the CP is placed ahead of the convenience of the consumer.

¹⁰http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack.pdf

30. Some consumers are already taking direct measures to avoid the risk of an unexpected break - the YouGov research found that just under a fifth of fixed broadband switchers paid for dual running - on average for around 2 weeks and at an average cost of £20. Consumers should not be expected to have to take mitigating action and incur extra costs - or alternatively suffer significant inconvenience - as a result of wishing to change provider. This situation is even more pronounced in the case of SMEs who risk losing business whilst they cannot be reached by customers and suppliers.
31. The Panel would urge consideration of a "safety net" provision within the overall switching process. In other words, there should be the capability to restore easily a consumer's service when an error has occurred or where there is a proven case of slamming. The Panel understands that there is already an Openreach "emergency restore" process which enables consumers to return quickly to their original provider but that it is limited to home movers and that only a few CPs support this process. We do not believe that this is an acceptable position. Such a "restore process" should be part of the overall switching process so that consumers can have confidence about continuity of service and protection from errors.
32. In relation to the costs of moving from the current switching processes to new processes, we think it is important to compare these costs with the benefits for consumers and small businesses, and the long-term dynamic benefits that will result from more pro-competitive processes. The Panel understands that the design and maintenance of the database and TPV will lead to increased costs to industry - and thus potentially to the consumer. We understand that this is likely to be in the order of an annual cost of approximately 50p per consumer¹¹. However there are also significant savings for industry that could be achieved by the GPL/TPV system resulting in a reduction in the number of cancelled switches as well as reducing the number of cases of slamming, erroneous transfers and complaints and queries from consumers that the CPs need to rectify. The Panel would strongly encourage industry to take these cost savings into account.
33. The Panel believes that the GPL/TPV model, as well as reducing the number of consumer complaints, will make the investigation of Alternative Dispute Resolution cases easier as it will remove disagreements and confusion over responsibility and ownership of a complaint. The TPV itself will help remove much of the current ambiguity that can arise in such cases.
34. The database will only be as robust as the data it contains and it is vital that CPs provide and maintain their data to a high quality standard. There should be a commercial incentive for the companies involved to ensure that this is the case. As noted by the consultation, providers and the TPV operator would need to process data in accordance with the DPA.

¹¹ Ofcom has clarified that on an annuitised basis, this is equivalent to 59p per customer per year.

Summary

- The Communications Consumer Panel (CCP) welcomes Ofcom's consultation on proposals to improve the processes for switching fixed voice and broadband providers on the Openreach copper network.
- Switching between CPs is often complex, and the Panel believes the current regime has not, for some time, been sustainable. Low switching levels lead to reduced competition and a worse deal for consumers across the board.
- There are a number of areas that can be reviewed with the aim of increasing levels of switching: the provision of clear, accessible and easily comparable information; raising awareness of the potential benefits of switching; making switching processes easier; and protection against mis-selling. In line with BEREC, the Panel would also encourage consideration of what could be done to facilitate switching for more vulnerable consumers.
- Based on the evidence to date, we support Ofcom's view that GPL processes should be the model for all switching processes. It is essential that this issue continues to receive priority and we urge Ofcom to explore how the proposed timetable for completing this work could be compressed.
- Ofcom's strategic aim should be harmonised switching processes for all communications services such as mobile, pay TV and cable services.
- Consumers need information to be available before they make a decision to switch so that they can fully assess the implications of switching. Ideally, this information should be in an easily comparable form. Information should be clear and specific to the individual consumer and not generic language.
- There is a need to increase the transparency of communications service provision. Information about contract length and ETCs should be available to all customers - on bills, by phone and online, and specifically when enquiring about switching.
- Consumers who are about to enter a switch should be given information on when that switch is likely to happen, any associated costs, the key terms and conditions of the new service, the possibility of any loss of service during the switch and what remedial action can be taken should something go wrong.
- Slamming has significant implications for consumers and industry - in terms of both hassle and financial cost. The Panel welcomes the safeguards incorporated into the proposed GPL process in terms of record keeping including the recording and retention of the consumer's authorisation for a switch in case of a slamming dispute. The Panel would also encourage consideration of mandating all CPs' to record sales calls.

- For consumers who find that their service has been slammed, it is vital that there is a simple, swift and well-publicised route via which they can seek redress and potentially compensation. It is also important that penalties for malicious slamming act as a commercial disincentive to the companies involved.
- It is of significant concern that an estimated 28% - 60% of slammed consumers do not return to their original provider. The Panel would welcome further information about the reasons why these consumers stay with the new provider.
- It is important that we remain alert to the fact that to increase levels of switching, switching processes should not be addressed in isolation eg the barrier caused by not being able to transfer provider-specific email addresses.
- The new switching process must be consumer led and must be designed around consumers' needs. As society becomes ever more reliant on internet services, it is unacceptable that consumers switching broadband provider can lose their service for a substantial amount of time.
- The Panel would urge consideration of a "safety net" provision within the overall switching process i.e. the capability to restore easily a consumer's service when an error has occurred or where there is a proven case of slamming. Such a "restore process" should be part of the overall switching process so that consumers can have confidence about continuity of service and protection from errors.
- It is important to compare the costs of the proposed new system with the benefits for consumers and small businesses, and the long-term dynamic benefits that will result from more pro-competitive processes. There are also significant savings for industry that could be achieved by the GPL/TPV system and the Panel would strongly encourage industry to take these cost savings into account.
- The Panel believes that the GPL/TPV model, as well as reducing the number of consumer complaints, will make the investigation of Alternative Dispute Resolution cases easier as it will remove disagreements and confusion over responsibility and ownership of a complaint.
- The database will only be as robust as the data it contains and it is vital that CPs provide and maintain their data to a high quality standard. There should be a commercial incentive for the companies involved to ensure that this is the case. As noted by the consultation, providers and the TPV operator would need to process data in accordance with the DPA.