



CABLE & WIRELESS

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Louise Marriage
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(by email)

Dear Louise,

Broadband Migrations: enabling consumer choice

Cable & Wireless welcomes the opportunity to respond to the above consultation. We agree that competition can only be fully effective if customers are able to express their preferences and change to providers who give them the service that they require. We therefore support a smooth migration process which enables consumers and businesses to switch providers with a minimum amount of disturbance.

Given the problems identified by Ofcom, we agree that the consultation is timely. It appears to us that deficiencies in processes and retention practices have resulted in poor behaviour across the industry. However, whilst supporting the thrust of Ofcom's proposals, this is with the following two caveats. First, that whilst we support mandating the MAC process for broadband as outlined in the document (i.e. only for those broadband products that currently use MAC codes (i.e. not full LLU)), this process is not necessarily our preference as regards any long term solution for migrations across several products. Second, that the consultation's proposals only apply to consumers and small businesses and do not apply to large businesses (over 10 employees). This would seem to be the case, given that the proposed new General Condition 22 refers to End Users.

We would also like to make the following general points about Ofcom's document. First that references within the text to LLU are often unclear as to whether they mean shared MPF, full MPF or both. As Ofcom is aware, the migration processes for the two types of LLU are quite different and it is important that the Final Statement is clear on this difference so that Cable & Wireless can fully understand its compliance obligations.

Second, Cable & Wireless believe that in some cases migrations maybe frustrated **not** because of 'malicious' behaviour on the part of broadband providers, but due to our need to ensure that we

abide by Data Protection legislation. For example, as companies are not allowed to communicate with anyone other than the account holder, this may have worsened the 'tag on line' issues (e.g. new home owners cannot cancel the previous home owner's accounts even though they do not own the house any longer). In other products and other industries, this problem has been overcome through the design of the transfer processes, whereby placing an order for a new provider automatically cancels any existing provider's service. Unfortunately, the inherent design of the broadband transfer processes exacerbates the data protection constraints.

Cable & Wireless responses to Ofcom's questions are below:

Question 1: do respondents agree that the evidence from cases logged by OCC suggests that there is a need for regulation?

Yes – there seems evidence of consumer harm.

Question 2: do respondents agree that given the problems caused by tag on line there is a need for further regulation?

Yes – though we would note that some of these problems are due to (well known) deficiencies in BT's systems which have been obvious for some time and could have been corrected some time ago.

Question 3: do respondents agree that given the problems experienced by consumers where a broadband service provider fails or refuses to issue MACs, it is appropriate to introduce a process that enables customers to obtain MACs from another party? How do respondents see such a process working?

Yes – though we would stress that Ofcom should be flexible as to timescales for development of this facility (see answer to question 6). It may be more difficult to implement a solution which satisfies all parties, is efficient and transparent to customers.

Question 4: do respondents agree that Ofcom's proposed high-level obligations would effectively address the problems described in this document?

Yes.

Question 5: do respondents agree that a mandatory version of the MAC process is appropriate?

Yes – the evidence strongly indicates that self regulation has failed on this occasion.

Question 6: do respondents agree that six months is an appropriate timescale for development of these further proposals? If not, what alternative period do respondents suggest, and why?

Six months is probably reasonable to derive the solution but Ofcom may need to give some extra time for actual implementation. It depends on many companies being able to implement systems development (i.e. not only BT/Openreach). It is important that manual work arounds are not used as a means of expediting implementation, as these invariably lead to a sub-optimal solution.

Question 7: do respondents agree that it is appropriate to make arrangements for provision of MACs by a third party mandatory?

We believe that this is, in reality, the only solution to certain scenarios (for example a retail broadband provider going bankrupt without transferring customer base and supply being left with

wholesalers who do not have direct contracts with the end customers). However, as noted in answer to question 3 and question 6, we are concerned about the timescales for deriving and implementing such proposals and that downstream wholesalers such as ourselves may be dependent on upstream suppliers processes to eventually comply.

Question 8: do respondents agree that it is appropriate to make arrangements for other migration processes, such as reverse migrations mandatory?

Yes. But again we would note that our ability to offer a smooth migration process backwards from full LLU onto DSL will still depend on the processes offered by BT/Openreach

Yours sincerely,

Rachel Brennan
Regulatory Manager
Cable & Wireless