



Consumer switching – A consultation on proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network

Universal Utilities Ltd (and Titan Telecom Ltd¹) response

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¹ Note that, for the purpose of this response, "*Universal Utilities Ltd*" refers to both Universal Utilities Ltd and Titan Telecom Ltd

Introduction

Universal Utilities Ltd provides fixed line telecom and broadband services to almost 100,000 small businesses using the BT Openreach copper network. We switch several thousand lines to our supply each month, and this response has been prepared with reference to our experiences in doing so.

We agree with many of the ideas put forward by Ofcom in its consultation document, and have therefore chosen not to comment on these issues. However, we do have some significant concerns over the accuracy of Ofcom's data regarding the trends in slamming. We also feel that Ofcom may have incorrectly assessed the practicalities of operating a TPV scheme, and have misjudged both the effect this will have on slamming and the impact this could have on sales processes. This is especially important in light of the anticipated cost of this measure.

In fact, based on the contents of the consultation document, it appears that Ofcom has thus far given little thought to the logistics of actually operating the TPV body. Notwithstanding the quite realistic possibility that the TPV body would fail to achieve the results expected by Ofcom, without being offered the opportunity to review *how* the TPV body would operate it is very difficult for Universal Utilities Ltd to comment on this issue in a fully considered manner. That said, we do feel that the smooth operation of any TPV body would be vital from the outset (although we consider that in actuality this would be almost impossible) as, if this option was to be adopted, any shortfall in the service delivered could have potentially catastrophic outcomes for the switching process – perhaps causing the entire industry to grind to a halt.

For these reasons, Universal Utilities Ltd feels that the TPV approach is an inappropriate solution to the identified switching problems, and we favour the GPL TxC option. That said, we also have concerns over the impact of removing cancel other from the switching process, and therefore propose that the use of cancel other is expanded to include a "*change of mind*" option. We consider that this would remove the need for the significant time-investment associated with cancel others placed using reason code 9X80, while also retaining a simple and straightforward mechanism for end users' requests to be carried out by their CP.

Universal Utilities Ltd's full response can be found overleaf.

Question 1

Universal Utilities Ltd has no comments on this question.

Question 2

Universal Utilities Ltd has no comments on this question.

Question 3

While Universal Utilities Ltd agrees that new technologies may complicate the switching process, we feel it is important to point out that these developments also provide solutions to problems, and positive advancements to the benefit of the industry. For example, it is now possible for a moderately sized CP to develop a smartphone application that can provide dialogue services at the point of sale in almost all circumstances, actually enhancing the customer experience of switching; this would not have been practical as recently as 18 months ago.

Question 4

Universal Utilities Ltd has no comments on this question.

Question 5

Universal Utilities Ltd has no comments on this question.

Question 6

Universal Utilities Ltd has no comments on this question.

Question 7

Universal Utilities Ltd has no comments on this question.

Question 8

Please find, at annex 1, a report showing the number of cancel others placed by Universal Utilities Ltd per year using each cancel other code, and the numbers of each cancel other code used as a percentage of the total number of cancel others placed (this information is for Universal Utilities Ltd only, and does not include Titan Telecom Ltd). Note that this table shows a steady year-on-year reduction in the number of cancel others placed due to attempted slams. (Please be advised that this information is already submitted to Ofcom on a monthly basis as part of an ongoing information request).

We would also point out that for this purpose, 9X80 cancel others should be discounted on the basis that this switching consultation could not affect the number of 9X80s placed (subject, of course, to the proposed outright removal of the cancel other process). In

Universal Utilities Ltd's experience, (notwithstanding the actual procedure for placing said orders) the underlying reason why 9X80 cancel orders are placed is due to the customer changing their mind about transfers, and their incidence would therefore not be affected by improving the switching process with a view to reducing the number of unauthorised transfer orders.

It is worth considering that, based on Unicom's cancel other data, the number slams (not including 9X80) which we prevented using cancel other in 2011 represented attempted slams against roughly 2.5% of the lines we supply. In practical terms, this equates to an attempted slam against any one line only once every 40 years, and it should be borne in mind that the number slams is reducing year-on-year. Also, as this represents the volume of *attempted* slams, the incidence of completed slams would be far, far less.

Question 9

Universal Utilities Ltd is somewhat concerned with Ofcom's own admission that enforcement activity against CPs that persistently engage in slamming is not often taken.

Universal Utilities Ltd believes that Ofcom already has suitable powers and mechanisms in place to respond to persistent cases of reported slamming by a CP (as is effectively confirmed at paragraph 4.133), however the major issue appears to be Ofcom's reluctance to use them – particularly against the numerous smaller CPs who have been identified as cumulatively causing a large proportion of slamming complaints. Ofcom has commented on the difficulty of maintaining a credible threat that enforcement action may be taken against these CPs, and Universal Utilities Ltd considers this quite unsurprising on the basis that these threats appear to be hollow.

Ofcom has stated that *"more formal action is generally very effective in reducing the harm generated by [the provider it is taken against], and ... will have some deterrent effect on the industry"*. That said, Ofcom's reluctance to expend resources on dealing with the *"long tail"* of providers causing a significant number of complaints means that those providers need not be concerned with such action and will continue to slam customers without fear of reprisal. In order to have a deterrent effect against these providers, Ofcom at least needs to attempt to deal with the problem directly, and ensure that smaller providers are aware that their size does not delimit them from the boundaries of Ofcom's enforcement activity.

Before instigating any wholesale, industry-affecting changes to the switching process itself, Universal Utilities Ltd feels that Ofcom may wish to investigate the possibility of enforcing GC24 – which it should be noted has in itself vastly reduced the incidence of slamming (see Figure 16 in the consultation document) – more robustly.

Otherwise, Universal Utilities Ltd believes that it may be worth investigating the possibility of new deterrents to slamming. Universal Utilities Ltd tentatively suggests that a compensation scheme could be introduced, with compensation being paid to slamming victims by the offending CP in cases of confirmed slamming. Although the issues of effective enforcement highlighted by Ofcom would remain apparent, this measure could serve as an

equivalent to the existing Number Portability Compensation Scheme that CPs must currently offer.

Also, aside from direct enforcement action by Ofcom, please bear in mind that customers subject to slamming are able to refer such complaints to ADR. Where slamming has taken place, it is not unreasonable for a remedy of compensation to be awarded. In addition to this, Universal Utilities Ltd feels that the case fees paid by CPs for any complaint referred to ADR act as further disincentive to allowing these situations to arise. While we understand that ADR can be a drawn-out, time-intensive process, we feel it is important to remind Ofcom that there are already mechanisms in place under which CPs are effectively financially punished for slamming customers.

Question 10

As indicated at Question 9, Universal Utilities Ltd believes that enforcement action – albeit more robust – is the most appropriate way to deal with slamming. Ofcom already has the tools necessary to effectively investigate slamming allegations, as GC24 currently requires CPs to retain records of contract sales for a period of 6 months. As such, where a complaint over slamming is made against a CP – particularly a CP subject to large proportion of slamming allegations – Ofcom could easily request the relevant information to confirm whether consent to a transfer order was actually given. Failure to provide this would immediately indicate slamming (and non-compliance with GC24.11) has taken place, allowing Ofcom to easily identify CPs against which formal action should be brought. Failure by Ofcom to take the required Ofcom action suggests that CPs seeking to gain from slamming are able to do so, and this mindset *must* be prevented and proved incorrect. While the prevalence of slamming is decreasing year-on-year, more effective enforcement action could ensure this trend continues (without the need for wholesale upheaval to the switching process).

Question 11

Universal Utilities Ltd does not agree with Ofcom's assessment of Problem 3.

Ofcom's own complaints data shows that intentional slamming is steadily declining month-by-month, yet the consultation document discounts the accuracy of this data citing several reasons. Ofcom seeks to rely more heavily on the consumer research which it has carried out, however Universal Utilities Ltd is concerned as to the reliability of this data – particularly considering that Universal Utilities Ltd's own cancel other records support Ofcom's complaints data rather than the consumer research (see Question 8).

This is particularly apparent in relation to Q.1A of the consumer research. Universal Utilities Ltd understands that the figures involved are minimal, however we note that in answer to the question, *"HAVE YOUR LANDLINE PHONE OR BROADBAND SERVICES BEEN SWITCHED TO ANOTHER SUPPLIER IN THE PAST 12 MONTHS WITHOUT THE CONSENT OR KNOWLEDGE OF ANYONE IN THE HOUSEHOLD? THIS IS SOMETIMES REFERRED TO AS "SLAMMING". WHICH SERVICES HAVE BEEN SWITCHED TO ANOTHER SUPPLIER WITHOUT CONSENT IN THE LAST 12 MONTHS?"* the number of consumers who answered YES to their broadband service being

slammed was almost 70% higher than those who answered YES to their telecoms services being slammed.

Clearly, with broadband migrations being a losing provider led process, instances of slamming should be far less frequent than under a gaining provider led process. As this is not the case, this suggests that either the consumer research is inherently flawed in that (contrary to Ofcom's own assurances in the consultation document) those surveyed did not fully understand the nature of slamming, or that the MAC process is equally susceptible to abuse – if not more so, as the losing provider is unable to prevent transfers in progress through use of cancel other – as the NoT process.

It would therefore appear that either the customer complaints data (which clearly demonstrates a year-on-year reduction in the prevalence of slamming), rather than the potentially unreliable consumer research, should be the preferred barometer of slamming incidence, or that Ofcom has grossly misjudged the aptitude of a verification process (such as a LPL or TPV process), in preventing the occurrence of slamming.

Furthermore, we note that of the consumers who claim to have been slammed, this resulted in no financial loss for the vast majority. Financial loss to customers should perhaps be considered the primary mischief caused by slamming, and Ofcom's consumer research suggests that occasions where this occurs are minimal. As such – considering its position is formulated on the consumer research – Ofcom appears to have overestimated both the prevalence of slamming, *and* its impact on a per slam basis.

Question 12

Universal Utilities Ltd agrees that it is important for customers to be made aware of the implications of switching as early as possible, in order to allow them time to assess whether to continue with the transfer; however we feel that the current losing letter procedure effectively achieves that objective. Furthermore, with correspondence being issued by both the GP and the LP, the customer gains a balanced view of the situation and the transfer.

In order to ensure that our customers are fully informed of the implications of switching away from Universal Utilities Ltd, we automatically issue a losing letter upon receiving the notification of transfer and, in addition, issue a further letter usually one week before the date of the switch to advise customers of a provisional termination fee figure (should any be payable). We consider that this provides accurate and easily digestible information to our customers, and see no reason why any alternative procedure would be more effective.

In Universal Utilities Ltd's experience, the current procedure of issuing losing letters is more than satisfactory, and we see no reason to change this. We would estimate that well below 1% of the transfer orders received by Universal Utilities Ltd result in a completed slam away from our network, and feel that this in itself speaks for the effectiveness of current procedures.

We would therefore suggest that situations where customers have been unaware of the implications of a switch are those where the customer has failed to read – or has

disregarded – the letters issued. Universal Utilities Ltd believes that the customer receiving at least two letters provides a more than adequate level of protection.

Question 13

Universal Utilities Ltd wholly agrees that LPL processes result in significantly greater hassle to the customer than GPL processes. We agree with Ofcom's assessment that the number of points of contact should be as few as possible, particularly considering that it is in the LP's interest to create as inefficient a switching process as possible.

Under the MAC process, LPs can easily do so using various mechanisms such as (although by no means limited to) extended call queue times, obtrusive automated switchboards, poorly trained staff, or even "*accidentally*" providing incorrect MACs. These activities are clearly detrimental to switching, and must be avoided, yet from a regulatory perspective present no obvious issues – meaning there are no reprisals to be faced by any CP causing these problems.

Question 14

Universal Utilities Ltd has no comments on this question beyond the matter discussed at Question 13.

Question 15

Universal Utilities Ltd agrees that a prohibition on reactive save activity under a LPL process would be difficult to enforce, however in our experience of acquiring customers we have found that amongst many providers this activity is actually prevalent with regard to GPL processes (such as the existing NoT procedures) despite the current prohibition. We feel that this underlines the difficulty of enforcement, however also gives rise to a further issue.

While Universal Utilities Ltd understands the theoretical reasoning behind Ofcom's position on this matter, we feel that in reality prohibiting reactive save activity may have the inverse effect to that intended. Although reactive save activity in general can skew the market in favour of incumbent providers, attempting to prohibit it may serve to amplify this effect by distorting the market even further in favour of incumbent providers who are also in breach of this prohibition.

This then comes back to a matter of enforcement. While a general prohibition on reactive save activity makes economic sense in isolation, when considered alongside the cost and difficulty of attempting to enforce it, and the further cost if this enforcement is unsuccessful (as currently appears to be the case), the relative effect is seriously dampened.

Also, taking into account that Ofcom is not actually obliged to ensure a perfect balance of competition, the relative cost and effort of attempting to enforce a wholesale prohibition on reactive save activity may struggle to justify the result.

Question 16

Universal Utilities Ltd has no comments on this question.

Question 17

GC 24.11 already requires that records of contracts between CPs and their customers are retained for a period of six months. This should be sufficient in relation to most slamming complaints, which would emerge within the first six months of the transfer. However, where Ofcom has been in receipt of a large proportion of slamming complaints about a particular CP, and an investigation must be undertaken, access to historical contract information may prove useful a useful tool. Considering CPs are already required to retain information for six months, to require this be held for the entire duration of the agreed contract would have little or no impact on CPs – meaning that Ofcom’s ability to investigate would be enhanced with minimal cost to CPs. Universal Utilities Ltd therefore suggests that the records retention obligation on CPs be extended from six months to the entire duration of whatever contract is agreed.

Question 18

Universal Utilities Ltd feels that to require that specific information regarding ETCs and MCPs be included on customers’ bills would be of little or no benefit to the industry, and certainly would not justify the effort required of CPs (or Ofcom, who would be required to monitor compliance with this requirement) to implement this change. While the consultation document discusses at length the requirement that customers be fully informed of the implications of switching, it should be borne in mind that customers do have some responsibility to be aware of their own contractual obligations, and should not simply rely on their CP to constantly update them on these matters.

Question 19

While Universal Utilities Ltd agrees that cancel other recordings should not necessarily be mandated (although we do consider that this would hugely improve Ofcom’s ability to investigate abuse of this process), we do feel that cancel other procedures themselves could be improved by the addition of a simple “*change of mind*” reason code.

This is discussed further at Question 27, where we explain that cancel other should not be lost in changing the switching process; however, in brief, the “*change of mind*” reason code would allow for a more straightforward, and significantly less time-consuming, process than using 9X80. It would also create a cancel other category which is entirely unrelated to any kind of slamming, meaning that monitoring slamming through cancel other data would become a much easier task (as attempted slams would be clearly defined as those cancelled by the LP using a reason code other than “*change of mind*”). In Universal Utilities Ltd’s experience the vast majority of cancel others are placed using 9X80, with the inherent reason being the customer’s change of mind; nonetheless these are classified as slams where the customer advises the LP that – whether true or not – they have requested that the GP cancel their transfer order.

Question 20

Universal Utilities Ltd finds it difficult to put forward any suggestions which could significantly improve the MAC process to the ends required by Ofcom, as this process is – and always will be – inherently biased towards the LP. Even taking into account the suggestions made by Ofcom, the ability of the LP to frustrate the process using at least some of the means highlighted at Question 13 (such as extended call queue times, obtrusive automated switchboards, poorly trained staff, or “*accidentally*” providing incorrect MACs) would remain apparent.

Question 21

Universal Utilities Ltd has no comments on this question.

Question 22

While Universal Utilities Ltd agrees that it should not necessarily be mandated for the GP to remain on the line during the TPV call, and acknowledges Ofcom’s consideration that the GP may still wish to do so, there is an issue which Universal Utilities Ltd feels Ofcom has failed to address in this consideration. (Note that Universal Utilities Ltd did consider that this issue may be better suited to our response to Question 25, however we believe it is also applicable to Question 22).

Obviously, the TPV body is totally impartial and is not in a position to advise customers in relation to commercial decisions, or clarify any points regarding contracts in the same way the GP may do. Ofcom has acknowledged the disadvantages (e.g. costs to the GP) of the GP remaining on the line, however has not considered that the only way to address the TPV body’s inability to offer advice to customers *is* for the GP to stay on the line. Therefore, although it may not be mandated, the practicalities of the situation would require the GP to remain on the TPV call in any case, and subsequently incur the costs which Ofcom has specifically stated are not justifiable.

As such, the TPV approach itself could prove anti-competitive, as the extra costs incurred during the sales process – in addition to the costs faced by the industry in setting up and operating the TPV body itself – would only serve to inhibit entry to the market by new providers. Opting not to remain on the TPV call would likely lead to more lost deals at the pre-live stage (with the GP being unable to address any customer queries), and opting to do so would result in time spent and costs incurred that would otherwise be avoidable.

Question 23

Universal Utilities Ltd has no comments on this question.

Question 24

Universal Utilities Ltd has no comments on this question.

Question 25

Universal Utilities Ltd considers that operating a TPV body will be fraught with problems which Ofcom appears to have overlooked in its preparation of the consultation document.

In consideration of the TPV approach to transfer orders, Ofcom has stated that the benefit of this system will outweigh the cost of slamming to the industry and to customers. However, Ofcom also suggests that the majority of slams are carried out intentionally. As such, Universal Utilities Ltd is concerned that by seeking to implement a TPV body, Ofcom will effectively be replacing one flawed process with another.

Ofcom's own consumer research on slamming indicates a higher number of broadband slams than telecoms slams (discussed at Question 11), which suggests that a validation process (either third-party or LPL) is no more effective at preventing slamming than the current GPL process used for transferring telecoms services.

If CPs are knowingly slamming customers, it is unclear how there may be any guarantees that a TPV body would change this; it would only represent a different challenge during this process. CPs are currently managing to circumvent a switching process which already has mechanisms in place to prevent slamming, and it is highly likely that they will continue to do so under the TPV process. For example, Ofcom has not made it clear how the TPV body would confirm that it is, in fact, speaking to the customer during the verification process. The information that the TPV body could use to validate this could easily be obtained by salespeople either during the sales process or from raw data. There is no reason why CPs who persistently engage in intentional slamming activities should have any issues with undertaking these deceptive acts.

Also, if there is more than one authorised decision-maker at the customer's premises (which Ofcom's guidance on GC24 acknowledges is often the case), how can the TPV body be aware of this, or will it only accept consent from a single named person at any supply address? Using this approach would surely, in many cases, unduly frustrate the transfer process and ultimately prove anti-competitive. Conversely, however, by adopting the approach applied through GC24 – that the GP (or TPV body in this case) take "*reasonable steps*" to ensure the customer is authorised – this reverts to the problems of deception by GPs as detailed above.

Furthermore, due to the perceived reliability of the TPV body, there may perpetually exist an assumption that slamming has *not* taken place; which Universal Utilities Ltd believes would increase the difficulty in identifying slamming without the intended effect of substantially reducing it. While Universal Utilities Ltd notes the intention that the statement of consent be recorded for retrieval upon allegations of slamming, this does not prevent the slam from occurring in the first place. Mere investigation into the slam after it has completed brings the process full-circle back to becoming purely an issue of enforcement – virtually no different from the situation under the TxC process, and rendering the TPV body highly ineffective.

Beyond these issues of validation, Universal Utilities Ltd also foresees problems in situations where customers cannot immediately be transferred by the GP to the TPV body for

verification – possibly due to limitations of the TPV body’s call centre or due to the customer’s own availability. Notwithstanding that the customer may have a general distaste for the sales process being prolonged, in situations where the customer cannot immediately be transferred to the TPV body that customer would be required to maintain availability – possibly at substantial inconvenience to him or herself. This would remain the case if, for example, the GP was required to wait on hold on the customers behalf, with the added problem that the GPs time is occupied; reducing the time that CPs have to make sales to other customers.

Other approaches where the customer cannot be transferred to the TPV body at the point of sale may require the customer to actively contact the TPV body at a later point. This is clearly inadequate as it places responsibility for ensuring the completion of transfer firmly on the customer, something which Ofcom has previously identified may prove anti-competitive due to a general “*default bias*”. Alternatively, the TPV body may make outgoing calls to initiate contact with the customer, although there remains a problem of customer availability; and raises the question of how frequently – and how many times – the TPV body would attempt to contact the customer. In Universal Utilities Ltd’s experience, when making outgoing contractual verification calls, contact with the customer is established on roughly 1 in 5 calls.

Furthermore, on the occasions where it takes some time for the TPV body to establish contact with the customer, there is a distinct possibility that another CP may contact that customer and also conclude a contract. In these circumstances, which CP’s transfer would take priority? The first would make logical sense, however preventing the second transfer from taking place due to a pending verification would prove confusing to the customer and adversely affect their experience.

It is Universal Utilities Ltd’s view that some of the above issues may prove insurmountable and therefore fatal to the TPV approach to transfer orders; however if not Universal Utilities Ltd believes that Ofcom must further consider the practicalities of operating a TPV body.

Question 26

Universal Utilities Ltd is unable to comment on this matter as the Consultation Document does not provide any information on how that Transfer Code Issuing Authority would operate. It is not made clear whether this would be an automated system, or would be controlled manually. While a Transfer Code Issuing Authority would not be subject to the same customer-facing issues as a TPV body (discussed at Question 25), its effective and immediate communication with CPs would be vital to its successful operation. Similarly to the TPV body, any shortfalls in the operation of the Transfer Code Issuing Authority could result in CPs being unable to affect transfers and switching effectively grinding to a halt.

Ofcom currently estimates the cost of implementing the LPL options (using the Transfer Code Issuing Authority) to be over and above those of setting up the GPL TxC process, however upon consideration of actually operating the Transfer Code Issuing Authority we believe these costs will increase further. Notwithstanding the negative effects of LPL processes on consumer switching (which Ofcom has already identified, and could potentially

be inflamed as LPs obtain the ability to – correctly or otherwise – blame the Transfer Code Issuing Authority for frustrating the transfer process), the costs and possible (and in its infancy, probable) operational difficulties which the Transfer Code Issuing Authority will likely encounter mean that the LPL options become increasingly difficult to justify.

Question 27

Universal Utilities Ltd is concerned about the impact of the loss of the cancel other facility in the GPL processes Ofcom has outlined. Universal Utilities Ltd considers that this approach is somewhat flawed, with many – although not all – of its problems mirroring those apparent in operating a TPV body (addressed at Question 25).

Universal Utilities Ltd considers that the cancel other facility is particularly important in the prevention of unauthorised transfers (which, as discussed at Question 25, Universal Utilities Ltd foresees that even the TPV process will fail to significantly reduce), and in preventing transfers at customers' request for whatever reason they may choose to do so.

In relation to advising customers of the implications of switching, Universal Utilities Ltd acknowledges that some additional information would be included in letters issued by the LP during the transfer period; however with the customer having to contact the Customer Cancel System/TPV body to cancel the order, and also (as the CCS/TPV body would not be able to discuss any contractual issues) to contact the LP to discuss the contents of the letter, this presents a less than ideal situation.

The letters issued to customers by the LP would have to read something along the lines of, *“to cancel this transfer, please call [number of CCS/TPV body]; however if you require further details regarding any information in this letter, you should contact [number of LP]”*. Not only could this cause confusion, it also appears to be a very inefficient solution. If the customer was to contact the LP to discuss the matter and chose to cancel the transfer, would the customer be instructed to terminate the call and redial the CCS/TPV body, or would the LP be required to pass the call live to the CSS/TPV body?

Both options are undoubtedly time-consuming and increase hassle to the customer, as the customer would be required to wait on hold and deal with more points of contact than only the LP (there may also exist similar availability issues as discussed at Question 25). In addition to this, if the LP was required to pass the call live, this would extend call durations and therefore take up staff time.

The inverse of this scenario is also foreseeable, as customers may contact the CCS/TPV body to cancel transfers, and also to discuss the contents of letters received from the LP. The result of such a call would likely be that the customer is instructed to contact the LP directly (although any automated CSS body would not be able to provide such instruction, potentially causing serious confusion to the customer), which may or may not be necessary prior to actually cancelling the transfer. This would prove a drain on the CSS/TPV body due to handling numerous calls which do not actually result in the cancellation of an order.

Universal Utilities Ltd is concerned that this added layer of complexity and hassle appears to be at odds with the objectives Ofcom has set out to achieve through changing the switching process.

Universal Utilities Ltd is also concerned about the potential for LPs to intentionally deceive a CCS/TPV body (particularly in the case of an automated CCS), in the same manner as highlighted in Universal Utilities Ltd's response to Question 25. The LP would certainly possess information allowing it to circumvent any verification process, meaning that abusing this process would be almost as simple as placing a cancel other. Furthermore, as also discussed at Question 25, there may generally exist a presumption that such abuse of the CCS/TPV cancellation process has not taken place – meaning that it may prove more difficult to identify such situations. Again, this would then become an issue of enforcement, as effective prevention does not seem feasible.

There also exists the issue of cost. It is noted that Ofcom states within the consultation (at 6.20) that “[Ofcom does] *not think that the harm generated through abuse of Cancel Other is sufficient to justify the likely costs of imposing [new record keeping obligations]*”. Nonetheless, Ofcom does consider that the costs of establishing and operating a third-party system (an automated CCS or live TPV agent) are justified. These costs would certainly be over and above the cost of setting up a TPV body for verifying transfer orders alone, as imposing the dual-role of also verifying cancellations of transfer requests would vastly increase the workload.

Consequently, Universal Utilities Ltd considers it somewhat counter-intuitive to introduce a system of third-party verifications for cancellations of transfer requests. We feel that the current cancel other mechanism benefits the industry by allowing CPs to directly action the requests of their customers. It reduces confusion, as there is a single point of contact for customers looking to discuss transfers with the LP and to cancel these orders if necessary, and in Universal Utilities Ltd's opinion proves a more effective means of identifying potential abuse of process.

That said, we do feel that some tweaks to the cancel other process could result in widespread benefits to the industry.

Use of 9X80 cancel other – most often placed as a result of a simple change of mind by the customer, either due to the losing letter sent by the LP or for some other reason – requires a significant time commitment from the LP, and by the customer (as the LP is required to explain the process to the customer and advise them to contact the GP to cancel the transfer, with the customer then having to contact the GP and, if the transfer has not been cancelled, the LP is then required to contact the customer again to establish that failure to cancel has taken place before actually placing the cancel other order – and even then it is unclear whether the customers' assurance that they have actually requested the GP to cancel their transfer order is accurate). Universal Utilities Ltd believes a cancel other placed using a simple “*change of mind*” reason code – under which the customer would not have to contact the GP – would be preferable when the customer indicates to the LP that they no longer wish to proceed with a transfer.

This would significantly reduce the hassle, time spent, and cost of dealing with placing cancel others when an customer changes its mind about a transfer. It would also create a cancel other category totally separate from any type of slamming, which would make monitoring of industry-wide slamming simpler and more accurate. There is no reason why this would result in an increase in abuse of cancel other, as it would be subject to the same checks as any other reason code.

Universal Utilities Ltd feels that by implementing this new cancel other code, it would streamline the cancel other process – particularly in relation to those placed using cancel other code 9X80 – and reduce the overall costs to the industry and to customers. The cancel other process already appears much more straightforward than the proposed CCS/TPV process for cancellations, as discussed above, and by further reducing the inherent costs of using cancel other, there would be no reason to replace this process.

Question 28

While Universal Utilities Ltd cannot currently provide any accurate estimate of the time (and cost) required to make any necessary charges – particularly in light of the vagueness of Ofcom’s explanations over the setting up and practical operation of the various proposed systems and third-parties – we would like to put forward some general comments with regard to this matter.

We are concerned that, once the required information does become available to allow CPs to evaluate the time and costs required for implementation, this evaluation in itself – let alone the actual implementation – will likely be a very resource intensive process which many smaller CPs may be unable to cope with. The outcome of this will inevitably be market exits by those CPs, leading to an overall reduction in customer choice and ultimate harm to competition across the industry.

Question 29

In Universal Utilities Ltd’s experience, the current WLTO process is entirely adequate for WLR to WLR transfers, and we also have a successful procedure in place from MPF to WLR transfers.

For WLR to WLR, Universal Utilities Ltd has visibility of the last 2 digits of any working CLIs at our customer’s new premises. We also have our customer determine the CLIs at their new address by using their own equipment to dial 147017070 into their sockets. When the CLI advised by the customer matches the last 2 digits of the CLI as available to Universal Utilities Ltd, this confirms that the line is correct in order to allow a successful transfer. Following this, the customer has the option to renumber the line if required. This is an industry standard process and, in our experience, is universally adequate for WLR to WLR WLTOs.

When performing a WLTO for a MPF line, rather than carry out a transfer Universal Utilities Ltd installs a new line in order to avoid any erroneous transfers (as we do not have visibility of the MPF line details). We find this method to be successful, as incoming occupants either want to retain their previous number or – where this is not possible – take on a new number

(as customers do not generally want to receive calls intended for the previous occupants). Incoming occupants are not affected by the existing MPF line at the premises, as they are never aware of its existence and any issues with regard to it are for the previous occupant to discuss with their own supplier.

As Universal Utilities Ltd does not necessarily experience any issues with the existing procedure, it is difficult for us to comment on improvements that could be made. While it may be helpful to have visibility of more than the last 2 digits of a CLI when carrying our WLR to WLR WLTOs, even this issue has not caused any problems. That said, any changes allowing for greater visibility of assets on MPF lines would most likely be of assistance to a number of CPs.

Question 30

Universal Utilities Ltd does, in principle, agree with Ofcom's assessment of the options regarding multiple switching processes, however it should be noted that the primary harms caused by this problem are customer confusion (leading to a poor customer experience) and an uneven playing field for CPs switching customers.

As such, it is worth considering that processes which require numerous points of contact (a TPV body or the LP) to validate switches, or processes where customers are required to independently obtain a USN are equally capable of adversely affecting the customer experience through adding confusing extra steps to the process. In relation to the issues of creating an uneven playing field, note that LPL processes are guiltier of causing this problem than multiple switching processes, by allowing the LP to unduly frustrate the switching process – meaning that larger CPs with more existing customers gain an unfair advantage.

Question 31

Universal Utilities Ltd has no comments on this question.

Question 32

Universal Utilities Ltd wholly agrees with Ofcom's position on this matter, as both the USN and LPL approaches are entirely reliant on the outgoing customer who, as Ofcom has identified, lacks the motivation to become involved in the process. This could totally frustrate any transfers requested by the incoming occupant of an address.

In theory, the incoming customer could contact the LP to discuss the situation; however it is not clear how the LP could validate this information in practice. As such, the only reasonable solution to the problems identified by Ofcom would be to lower the threshold of verifying authority for transfer requests, thus opening up the possibility of transfers being fraudulently requested by unauthorised parties. This is an even worse scenario.

Question 33

Universal Utilities Ltd has no comments on this question.

Question 34

Universal Utilities Ltd does not agree with Ofcom's assessment of the options regarding consumer consent.

At Question 11 Universal Utilities Ltd raised queries over the accuracy of Ofcom's research and the possibility that processes requiring verification (such as LPL or TPV) are not as effective in preventing slamming as is perceived. We also pointed out that our records, as well as Ofcom's complaints data, indicate a trend of year-on-year reductions in the number of slams taking place.

At Question 25 Universal Utilities Ltd raised further concerns about operating a TPV body in a way that could actually result in a significant reduction in slamming. Please therefore refer to Question 25 for details of our apprehensions regarding deception by GPs, and instances where more than one authorised decision-maker is apparent at an address.

Furthermore, at Question 27 Universal Utilities Ltd discussed the simplicity for customers of retaining the cancel other facility in order that unauthorised transfers can be cancelled with ease.

Based on these considerations, Universal Utilities Ltd is of the opinion that the TPV process will fail to address slamming to the degree that Ofcom expects; and when combined with the increased costs involved in operating the TPV body (in addition to a CCS/TPV body for cancelling transfer orders), we do not feel that the benefits of the TPV approach at all justify its incorporation over and above the TxC approach.

Ofcom has also stated in its assessment of the TxC approach that as broadband migrations would operate using the NoT process, this could potentially increase the number of slamming cases. Universal Utilities Ltd would suggest that further research may be necessary to draw such a conclusion, as (according to Universal Utilities Ltd's records and Ofcom's complaints data, although not Ofcom's – potentially flawed – consumer research) slamming is decreasing year-on-year, and the existing industry guidelines and mechanisms appear to be satisfactorily addressing this problem. Should Ofcom seek to rely on the consumer research, please note that this indicates a wider prevalence of slamming when the MAC process is used than the NoT process.

As such, Universal Utilities Ltd remains unconvinced that the conclusions drawn by Ofcom in relation to matters of customer consent can be considered wholly accurate. We believe that the TPV process will fail to bring about the intended reduction in slamming and therefore result in unnecessary extra costs to the industry; whereas the expected increase in slamming through the application of a TxC process is by no means guaranteed, and any increase which does occur may only be temporary in light of the yearly reductions in reported slamming cases.

Question 35

Universal Utilities Ltd does not fully agree with Ofcom's assessment of the options regarding unnecessary switching costs and hassle.

Universal Utilities Ltd is of the opinion that one of the most important features of a competitive market is that switching between providers should take the absolute minimum effort on the customer's behalf. While we agree with Ofcom's assessment of LPL processes, including the LP's ability to frustrate the transfer process and the fact that requiring the customer to contact the LP prior to the GP arranging any transfer causes additional hassle, we do not agree that the hassle of the TPV process is "*small*" as Ofcom have stated.

Universal Utilities Ltd feels that anything whatsoever that extends the sales process can potentially lead to lost sales. Ofcom estimates the average length of a switching conversation between a customer and a GP at 13 minutes, and the length of the TPV call to be 5 minutes; therefore TPV extends the length of this process by almost 40%. How this increase can be considered small is unclear. Universal Utilities Ltd understands that the customer would be passed live from a telesales agent, meaning that (unlike under the LPL processes) the customer should not have to actively contact any third-party, although we have other concerns about the ability to effectively carry out this process subject to TPV availability (discussed at Question 25).

Obviously, the LP processes create even further hassle for the customer, and Universal Utilities Ltd feels that this creates a market which benefits only very large CPs likely to experience a net customer loss in the coming years.

Universal Utilities Ltd believes that placing any additional obstacles whatsoever in the way of consumer switching would be detrimental to the market and ultimately prove anti-competitive. As such, we would urge Ofcom to strongly consider the effects of TPV on unnecessary hassle to the customer.

Question 36

Universal Utilities Ltd has no comments on this question beyond our concerns regarding the justifiability of the TPV process in light of the costs involved when measured against the potential success in achieving its objectives, as discussed at Question 22, Question 25 and Question 33.

Question 37

Universal Utilities Ltd has no comments on this question, and generally agrees with Ofcom's position, although please refer to Question 15 for comment on the feasibility of enforcing prohibitions on reactive save activity.

Question 38

Universal Utilities Ltd does not agree that options 1a, 1b and 2a should be totally disregarded. While from the options presented by Ofcom, Universal Utilities Ltd favours 2b (GPL TxC), we are apprehensive about the costs and practicalities of implementing this or

any other major change to the switching process. Furthermore, we are also concerned about the impact of the loss of the cancel other facility as would be the case under option 2b (and a number of other options), as highlighted at Question 27.

In our experience, the current process set out by Openreach generally works, and problems are encountered mainly when CPs do not follow these processes. We understand that new technologies continue to complicate matters, however feel that there may be scope for smaller adjustments as discussed under 1b and 2a, particularly 2a considering the customer hassle associated with LPL processes.

As such, while options 1a, 1b and 2a are not our first preference, we feel that they should certainly not be disregarded. Although the current process may not be perfect, it generally works and Ofcom would be wise to consider this before instigating wholesale changes – particularly to a process that is likely to result in serious operational difficulties (such as the TPV process) or unduly skew the market in favour of incumbent providers (such as the LPL options).

Question 39

Universal Utilities Ltd is somewhat concerned about the anticipated TPV fee, estimated by Ofcom to be £2.70 per transfer (although in actuality this may well be higher, as a full analysis of the operation of the TPV body would have to be undertaken before a truly accurate figure could be arrived at). Ofcom states that this fee is small in relation to potential revenues generated by customers (the average revenue stated by Ofcom is £251.00 per customer, per year); however considering the requirement under GC9 that CPs offer contracts with minimum 1 year terms, based on Ofcom's own figures the TPV fee could potentially represent over 1% of a CP's annual revenue. Universal Utilities Ltd does not consider this amount to be "*small*", and rather we feel that this is quite significant, especially in light of the industry wide decrease in the use of landline telecoms services – the result of which will see this figure of 1% grow.

In addition to price increases allowing CPs to maintain revenues despite diminishing usage, the proposed TPV fee will likely result in further industry-wide price increases as CPs seek to mitigate the impact of this fee on annual profits. While £2.70 per transfer may seem an insignificant amount on its face, we believe that – especially when combined with other market factors – this will result in increased charges being passed onto customers. Furthermore, the increased operating costs could potentially have a detrimental effect on new CPs entering the market and establishing themselves as competitive.

There may also be some secondary costs arising during the sales process that Universal Utilities Ltd feels need also be considered, as discussed at Question 22. Furthermore, the increased hassle when switching due to extending the sales process and the requirement to deal with a third-party may prove anti-competitive and prevent smaller CPs from effectively growing their customer base.

In reality, the TPV process will likely prove detrimental to the industry and become effectively self-defeating. Its very existence will result in increased hassle to the consumer

when switching (as discussed at Question 25), which in turn will result in less transfers being completed, which will result in the average TPV fee increasing to cover operating costs of the TPV body. This will result in higher charges being passed onto the customer, meaning smaller providers will be unable to remain competitive. A proportion these small providers' profits will then be lost in paying for a TPV body which has made unable to grow their market-share in the first place. This could well lead to a number of market exits and will ultimately prove anti-competitive.

Question 40

Universal Utilities Ltd believes that option 2b, GPL TxC, is the most suitable approach to addressing the current problems with the switching process, while also avoiding unnecessary costs.

Universal Utilities Ltd has already discussed, at Question 25, on the fact that the benefits of operating a TPV body are unlikely – in practice – to justify the costs. Universal Utilities Ltd would recommend that you refer to Question 25 for details of this; however, to clarify, our main concern is that the TPV body will fail to significantly reduce slamming to the extent predicted by Ofcom. Furthermore, we believe that Ofcom has hugely overstated the prevalence of slamming across the industry.

Question 41

Universal Utilities Ltd has no comments on this question.

Question 42

Although the TPV option may prove pro-competitive when contrasted with the LPL options, this is only marginal. Obviously, the ability of the LP under LPL processes to make reactive save offers does need to be considered, however Universal Utilities Ltd's concern is that throughout the Consultation Document Ofcom has overlooked the importance of a quick and easy sales process.

The TPV and LPL options unnecessarily draw out the sales process and require the customer to expend extra time and effort dealing with third-parties. Even if these calls are short, the very fact that customers are required to take any positive action will certainly result in reduced numbers of switches. In reality, a number of customers are effectively ambivalent as regards who their CP is, and customers are unlikely to switch in the face of *any* additional hassle whatsoever. As discussed at Question 25, Ofcom itself has previously identified a "*default bias*" where customers are generally content to remain with their existing provider.

The only processes which will not adversely affect the hassle caused to customers by switching are those where the customer need speak to the GP only. As such, both the TPV and LPL processes will ultimately prove anti-competitive.

Question 43

Universal Utilities Ltd disagrees entirely on this point.

In our answers to previous questions we have highlighted numerous flaws with the TPV process. First, Universal Utilities Ltd's figures on our use of cancel other, and Ofcom's own complaints data, totally contradict Ofcom's consumer research, and we believe that it is apparent Ofcom has vastly overestimated the prevalence of slamming across the industry and failed to acknowledge that this is reducing year-on-year. As such, the problem which the TPV option seeks to address over and above the changes that would be effected by the GPL TxC process is not nearly as significant as Ofcom believes.

Furthermore, Universal Utilities Ltd believes that Ofcom has overestimated a TPV body's ability to actively prevent deliberate slams. Where CPs are actively slamming customers under the current switching processes, those same CPs could easily resort to deceiving the TPV body (using information obtained from raw data or during the sales process) in order to push through unauthorised transfers. This means that the TPV body will fail to provide the kind of up-front protection expected, and preventing slamming will remain a matter of enforcement.

In addition to this, Universal Utilities Ltd feels that the very existence of a TPV body, and the extra point of contact therefore required during the switching process, will result in reduced numbers of transfers as customers seek to avoid the hassle that would become associated with switching.

Taking into account the inflated cost of operating the TPV body, and the adverse effect it will have on the switching process, this option is noticeably disproportionate to the mischief it is seeking to redress – and in fact could cause the industry to suffer.

The above considerations are taken notwithstanding the operational problems likely to be encountered by a TPV body. These are effectively highlighted at Question 25, and Universal Utilities Ltd is seriously concerned by the possible consequences should the TPV body fail, at any point, to function as required. Any issue arising with the TPV body from the outset could cause the industry to grind to a halt.

Universal Utilities Ltd is therefore unable to appreciate how the TPV body could, in any way, justify the costs of its operation. Even were the costs lower, the negative impact a TPV process would have on the number of completed switches would also fail to justify its existence.

Finally, Universal Utilities Ltd is also concerned by the loss of the cancel other facility as proposed by Ofcom. This feature is not exclusive to the TPV option, however remains a very important point of discussion. The reasons why we feel this would be detrimental to the industry are outlined at Question 27.

Question 44

While, as indicated throughout our response, Universal Utilities Ltd prefers the GPL TxC option, we do have some reservations over – considering the implementation costs – whether it is really necessary to change the current switching processes at all.

The Consultation Document states that slamming incidence remains high, however Universal Utilities Ltd considers the accuracy of Ofcom’s consumer research to be dubious at best. As per Universal Utilities Ltd’s internal records, and Ofcom’s complaints data, the incidence of slamming is falling, meaning that one of the major problems these changes seek to address is effectively righting itself. This is something that could be amplified by more robust enforcement action being taken by Ofcom.

Also, even if the proposed changes were to be applied, these refer only to fixed line telecoms and broadband services on the BT copper network. While Ofcom states that it is looking to enact a future-proof process, surely any such wholesale change would be best applied across all communications platforms, including fibre-optic and mobile switching. Universal Utilities Ltd questions the logic behind omitting these technologies from the proposed changes.