



BT's response to Ofcom's consultation document

*“Strategic review of consumer switching
A consultation on switching processes in the UK
communications sector”*

26 November 2010

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1. Executive Summary

1.1 Key objectives and principles for the review of consumer switching

- We fully support Ofcom's aim of reviewing consumer switching processes. The goal of the review should be agreement on a new process that delivers a better consumer experience, enables industry to improve its efficiency, and ensures a level competitive playing field between all providers of communications products in the UK.
- For consumers, the outcome of the review should be a process that is easy to understand and hassle-free, works for all products and bundles, provides them with the information needed to take informed decisions, and eliminates the risk of mistakes and opportunities for mis-selling.
- The new process must be designed to accommodate foreseeable market evolution over the coming years. This means in particular that it has to work effectively for the fibre-based services that will become widespread during its lifespan, likely to be a decade or longer.

1.2 The scope of the review

- The stated aim of the review is to address switching processes across the whole electronic communications sector, regardless of the specific technologies and infrastructures used for delivery. However, in practice, Ofcom intends that the first phase of the review will only consider switching of communications products on the BT network.
- We think this is wrong. Voice, broadband and pay TV services delivered over different platforms are interchangeable in consumers' eyes, and bundles containing all three are increasingly popular. Restricting the scope of a new process to a single network, even for an interim period, would cause frustration for consumers and distort competition. There is also a danger that a process designed for one platform could not be extended to others and would have to be re-engineered later.
- In view of this, we believe Ofcom should rethink its proposals and extend the scope of the review to include the cable network and pay TV services from the outset.

1.3 The framework for the review

- Ofcom's proposals are viewed from the perspective of whether a process is led by the 'gaining' or 'losing' provider. We do not believe this is the right way to approach the issue of switching processes. Our analysis indicates that there is no significant difference between these two types of process in terms of the strength of competition and actual levels of consumer switching associated with them.
- We do not agree that the issue of counter offers should feature so prominently in the review. We believe this is part of a different debate which should be considered separately from the design of a switching process. This is because a consumer can

contact their provider to discuss alternative offers at any time, within or outside the context of a switch, and a switching process can be effective regardless of whether counter offers are permitted or prohibited.

- The consultation document also focuses strongly on competition outcomes. We do not think this emphasis is relevant in markets which have been found to be fully competitive at the retail level and increasingly competitive at the wholesale level, and which are among the top performers in the world on a range of measures.
- Instead, we believe the review should focus more on the essential features that a process needs in order to deliver the key objectives. Based on our experience operating the current processes, at all levels in the supply chain, we believe these are:
 - validation of the consumer's identity and intention to switch;
 - provision of advance information to consumers on the contractual and service consequences of a switch;
 - validation at all levels in the supply chain of the services to be switched and the underlying assets, such as the lines or ports over which calls and broadband are provided.

1.4 Assessing process options

The need to reduce hassle for consumers through upfront validation and information:

- Unintended switches, whether deliberate or arising from error, are a big source of frustration and distress for consumers. To prevent such switches, validation should be carried out and relevant information provided to consumers before an order is placed. This will also increase industry efficiency by removing the need to cancel orders and restore customers to their old providers. At recent industry workshops, other providers have also highlighted validation as one of the essential features of an effective process.

The need to reflect the industry's complexity:

- Switching does not only involve consumers and their retail providers: all providers in the supply chain need to act in a co-ordinated manner. The supply chain can be very complex – a consumer may purchase a bundle from a retailer who purchases the underlying components from different wholesalers, who may themselves buy inputs from other providers. A process needs to manage such complex linkages effectively.

The need for a design attuned to fibre services:

- With FTTP, likely to become widespread during the life of a new process, consumers will be able to enjoy services from different providers sharing the fibre connection into their home. Accurate identification of assets and services to be switched will be vital to prevent mistakes and all the costs and frustration they bring.

How Ofcom's preferred options perform:

- The consultation document sets out three options that Ofcom wants the industry to investigate in more detail. We have reviewed these options carefully and we do not

believe any of them meets all the criteria and objectives we consider essential in delivering good consumer and industry outcomes. Our detailed assessment of these options is set out in section 4 of this response.

1.5 Our suggested way forward

- We would urge Ofcom to: extend the scope of the review now to cover the cable network and pay TV services from the outset; better specify the principles and objectives for a new process, moving away from the focus on gaining and losing provider-led processes; and consider the wider range of options that this new approach would open up.
- We would like to discuss with Ofcom and industry our own ideas for new switching processes that would deliver a good consumer experience in today's environment and the coming fibre world in an efficient and cost effective manner.
- One possible process design that we have developed – a 'Transfer Code' - is set out in Annex 6 of this response. We believe this deserves serious consideration, particularly as it could also resolve issues in related areas such as working line take-overs. Key features of this design are that:
 - it establishes the customer's identify upfront, ensures they have the relevant information on the consequences of a switch, confirms their intention to switch, and verifies the assets and services involved;
 - once this validation is successful, it uses a simple code as a common reference to the switch in the systems of the providers at all levels in the losing and gaining supply chain;
 - by using the code in this way, it avoids the need for a large central database holding information on all customers and their services – as well as being inefficient, such a database could be fraudulently accessed and the information stored on it mis-used;
 - it can work as a gaining or losing provider-led process.
- We would welcome the opportunity to discuss this design and, equally, to explore other options with industry colleagues in the course of this review.

2. Introduction – reframing the debate

2.1 A new single consumer switching process is needed

The importance of effective switching processes for the continuing development of a competitive UK communications market cannot be overestimated. We fully support Ofcom's aim to make switching work better, so as to deliver good consumer and competitive outcomes, and we are keen to work with Ofcom and industry to find the optimum solution.

We also agree that the goal should be to identify a single switching process which will be suitable for all communications services and infrastructures, both now and in the future, in order to serve consumers' needs for clarity and simplicity, as well as to support a level playing field between competitors.

In order to deliver good consumer and competitive outcomes, there should be a unified switching process which works across all products and which allows:

- validation of the customer's identity and intent to switch, to prevent slamming or mis-selling;
- the customer to be fully informed of the commercial, functional and operational consequences of switching before an order is placed; and
- validation of the assets and services to be switched at each level in the supply chain, to prevent errors or failures – this will be particularly important in a fibre environment where there will be multiple ports and potentially more than one CP using the same fibre connection, and telephone number will not be a sufficient means of identification.

We believe a code-based process, such as the 'Transfer Code' process we have described in Annex 6, would be one solution that meets these key objectives. However there may be other equally suitable solutions, and we would be happy to explore these with Ofcom and industry.

2.2 The review of switching processes should be based on a comprehensive set of key principles

We believe any strategic review of switching processes should take as its starting point the principles and key objectives that underpin an effective, customer-centric process. In our view Ofcom's principles are helpful but incomplete, and they do not provide a full or adequate framework for measuring the effectiveness of different process options. We discuss this further in section 4 of this response.

A number of important aspects of switching are not covered: for example there is no reference to the importance of service and asset validation at all levels in the supply chain, no consideration of the need for a process to be future-proofed for mass fibre take-up, and

no acknowledgment of the need for consumers to be able to switch between services on different platforms. We suggest instead the more comprehensive framework of principles set out below:

<p style="text-align: center;">Principles to ensure good consumer experience</p> <ul style="list-style-type: none"> • Simple and easy, so that customers know what to do and hassle is minimised • Effective for all products and bundles • Validates the customer and their intention to switch (to prevent mis-selling) • Validates assets and services to be switched at all levels in supply chain (to prevent errors) • Ensures customers are informed in advance of early termination charges, other contractual terms and any other consequences of switching (e.g. resulting changes to other services) 	<p style="text-align: center;">Principles to improve industry efficiency</p> <ul style="list-style-type: none"> • Eliminates need to rewind orders – through validation of customer identity and intent, and of assets/services to be switched, and customers fully informed • Maximum scope for automation • Development and implementation costs affordable • Operating costs affordable/no higher than under existing processes • Compliance costs affordable/no higher than under existing processes
<p style="text-align: center;">Principles to ensure the process works well for fibre</p> <ul style="list-style-type: none"> • Identifies and validates assets and services to be switched at each level in supply chain (essential with multiple ports and with access to a fibre connection potentially shared between CPs) • Supports the multiple service model to deliver customer choice and competition 	<p style="text-align: center;">Principles to deliver a level playing field between products, platforms and providers</p> <ul style="list-style-type: none"> • Switching equality between substitutable products and bundles on the same platform • Switching equality between substitutable products and bundles across platforms • All platforms to bear the costs of implementing a new process equally • Full recovery of costs

Additional, separate consideration: Gives customer choice of whether to hear counter offers

We explain in section 3 of our response why these principles are important. BT does not believe that any of the four options that Ofcom intends to take forward (the three described in the original consultation and the additional option in the material distributed subsequently

for the Ofcom Switching Working Group) fulfils enough of these principles and objectives to be effective in delivering good consumer and competitor outcomes. In our view, there are far more effective options that are feasible and Ofcom should include discussion of such options in the review, including at the ongoing meetings of the Switching Working Group.

2.3 The debate needs to move on from the ‘GPL v LPL’ distinction and the focus on save activity

Ofcom has looked at potential switching processes purely from the perspective of whether they are ‘gaining provider-led’ (GPL) or ‘losing provider-led’ (LPL). This is treated as the most important consideration in finding the optimum solution. We agree that customer interaction with providers is an important aspect of the design of a switching process. However, in our view the evidence shows that which provider the consumer contacts to initiate a switch has little impact on consumers’ overall experience or on competition in the market. These issues are discussed in more detail in Annexes 1 and 2. We believe there are more fundamental factors, such as validation of the consumer’s intention and of the assets and services to be switched, which are more influential and which therefore need to be considered first. By focusing disproportionately on the number of contacts the customer has to make to initiate a switch, we believe Ofcom has left some vital gaps in its assessment and has foreclosed exploration of more effective solutions. It is time to move away from the focus on the distinction between GPL and LPL processes.

Similarly, the consultation document considers in detail the issue of counter offers made by losing providers. Like the focus on the GPL v LPL distinction, we think this is misguided: counter-offers (also known as retention offers or save activity) are not an intrinsic part of a switching process, but rather an optional feature which can be included in or excluded from a process. It should not be assumed that because such offers are part of the existing LPL process (MAC), they are an essential feature of all LPL processes. In fact, counter offers can potentially be made in GPL, LPL or ‘cease and re-provide’ (C&R) processes. Further, any customer can contact their current provider to find out about potential offers at any time, outside the context of a possible switch. Regulation can be used to control save activity irrespective of which type of process is used. We suggest this is a secondary, separate consideration which should not be a key factor in selecting a new process. Instead, it should be the subject of a separate, later debate once the key features of a new process design have been agreed.

2.4 A process must reflect the complex market structure and supply chain

The UK has one of the most competitive communications industries in the world, comparing very favourably with other countries on pricing and availability of services. Providers have opportunities to compete at many different levels in the value chain, with the ability to select the investment profile that suits their own strategies. The fixed sector is characterised by

multiple levels of wholesaling, particularly since BT's creation of Openreach as a functionally separate provider of wholesale access services. Within this environment, a single piece of infrastructure can be used simultaneously for the provision of different services by a number of providers. For example, a customer on the BT copper network may purchase the line rental, calls packages and broadband services from three different providers – or even more, given that multiple calls packages are possible on a single line. These characteristics set the UK fixed communications sector apart both from other industries which have far simpler product sets and from its counterparts in other countries which have far simpler market structures. To reflect this complex environment, a process must enable efficient switching of services and assets, singly or in bundles, through multi-level supply chains; and it must enable equality between those providers who offer services end-to-end over a vertically integrated network and those who offer individual services over shared infrastructure.

An essential feature of such a process is the ability to identify and verify the assets, services and providers involved in a switch at each level in the supply chain. This applies irrespective of whether the gaining or losing provider is the first point of contact for the customer. If this validation is not carried out and the correct assets and services to be switched are not identified at each level in the supply chain, the consumer experience will be marred by confusion, errors and service failures. The wholesaler and access provider will have no knowledge of a consumer end-user's identity, and the address and telephone number will not always be sufficient as a means of selecting the correct asset to switch. Therefore communication is needed from the losing provider to their wholesaler, and on to the access provider. It is too simplistic to suggest that a gaining provider only needs to verify the customer's identity and intent – for example through a Third Party Validator or Code on Bill process – and that everything else will somehow fall into place.

Asset identification will be even more important in the fibre world. By mid-2012, fibre services delivered over 'Fibre to the Premises' (FTTP) will be available to around two and a half million homes. This number is certain to increase significantly during the life-span of a new switching process. A key feature and advantage of FTTP is that on a single fibre connection, a customer will be able to have up to two voice and four broadband services, potentially from more than one provider. In this shared service environment it is essential that the switching process pinpoints exactly which of the services is to be switched: without a means of identifying the port involved, switching will be a matter of guesswork and incorrect or failed switches will be frequent. This is discussed further in section 3 below.

2.5 The scope of the review should include cable and pay TV from the outset

Ofcom states at the start of the consultation document that the scope of the review includes "switching processes in the communication sector namely fixed line, broadband, mobile and pay TV services (and bundles including combinations of these services)"; and that it is

focused on “switching across all products/services regardless of the specific technology and infrastructure used, for example copper, cable wireless and satellite”. However, Ofcom intends that the first phase of the review will only consider switching for services that currently use the Notice of Transfer (NoT) and Migration Authorisation Code (MAC) processes – in effect, line, voice and broadband services delivered over the BT network. Extension of the review to other platforms including cable, pay TV and mobile would only be considered at a later stage.

We believe that the review should cover all services that consumers consider to be substitutable from the outset, irrespective of which platform is used to deliver them. At present consumers actively choose to switch voice services, broadband and pay TV over copper, cable and fibre networks. These services and networks must be included in a single switching process. To limit a process to certain infrastructures only is likely to lead to market distortions.

Further, if a common, unified switching process across all communications services regardless of the underlying technology is to be achieved, the requirements of all those technologies must be taken into account from the start. Otherwise there is a high risk of developing a process which will not be capable of being adapted to work for switching to and from a cable network, or between pay TV providers, in the future.

Perhaps even more importantly, given that today’s multiple infrastructure environment is set to grow significantly with Next Generation Access (NGA) network rollout, any new switching process that is developed without the ability to cope with seamless transfers between different infrastructures will quickly become inadequate and outdated.

Another key factor is the increasing popularity of bundles of services – in particular ‘triple play’ bundles of voice service, broadband and pay TV. Currently around half of BT’s consumer acquisitions are customers migrating to/from bundles, and almost 75% of our losses are accounted for by consumers migrating to bundles. This demonstrates that consumers will increasingly want to be able to switch bundles seamlessly, regardless of the underlying technology or infrastructure.

Whilst the majority of bundles today are dual-play voice and broadband, pay TV is also significant: 27% of those who left BT in recent months moved to other providers’ bundles including pay TV. This underlines the importance of including the ability to transfer pay TV as part of a seamless consumer switching experience. A material proportion of BT’s acquisitions and losses, around 10%, represent switches from and to cable. This shows there is also a strong case for including cable from the outset.

Mobile is currently less significant as a bundle constituent, so there is less reason to argue that mobile should be included in a new cross-product migrations process in the short term. Nevertheless, in principle we believe migrations between different mobile providers should use a consistent industry process to make the experience simpler for consumers and to reflect growing fixed/mobile substitution. We believe, therefore, that mobile should be included in a new process in the medium term.

For the reasons discussed above, we strongly urge Ofcom to widen the focus of this stage of its review to include at least cable and pay TV, and to develop criteria as to how and when mobile services should be added.

2.6 Porting should be part of a new process

Number portability is very important in reducing switching costs to consumers. It applies both when customers change their underlying network provider and when the network remains unchanged but they move to a different service provider on that network. The latter scenario will become increasingly common with the deployment of fibre: end users will have multiple numbering capability over their fibre connection and will be able to select different providers for different products and services. The consultation does not clearly articulate the relationship of porting to consumer switching, and nor does it discuss porting in any depth. Further, Ofcom's description of the PAC process as a LPL process is misleading – it is actually a separate process used after a 'cease and re-provide' has taken place. We believe a new switching process should incorporate functionality allowing consumers to keep their number as part of a switch and not to have to deal with it as a separate process.

2.7 Outline of the rest of this response

The rest of the main body of this response is structured as follows:

- Section 3 sets out our suggested framework of principles for an effective consumer switching process;
- Section 4 gives our assessment of Ofcom's preferred options against these principles and outlines our suggested way forward;
- Section 5 contains our answers to Ofcom's question in the consultation document.

The response also includes a number of annexes:

- Annex 1 outlines the results of our consumer research and our comments on Ofcom's research;
- Annex 2 describes real life consumer switching problems and sets out our conclusions on the switching process features that we think would have prevented them;
- Annex 3 gives our analysis of switching processes in other countries;

- Annex 4 sets out our comments on the economic analysis in the consultation document;
- Annex 5 discusses technical issues in switching processes and critiques Ofcom's preferred solutions from this perspective;
- Annex 6 describes 'Transfer Code' - a possible new switching process design that BT has developed.

3. Principles for an effective consumer switching process

We believe a strategic review of switching processes should take as its starting point the principles and key objectives that should underpin an effective process. We agree with Ofcom's principles, although as discussed in this section of our response, we believe they do not form a complete framework for assessing options. We are also surprised that the principles are not discussed until over halfway through the consultation document, in section 6. Our comments on them are as follows:

Ofcom's principles	BT's comments
i. Minimises unnecessary switching costs both for individual services and bundles	We agree switching costs for consumers must be minimised but we do not agree that these are necessarily lower with GPL processes (see Annex 4). We agree that the process must be effective both for individual products and bundles, but do not believe Ofcom has properly addressed the latter.
ii. Protects against slamming	We agree – slamming creates very high switching costs. Slamming, other forms of mis-selling and erroneous transfers must be prevented through validation of customer's identity and intent, and of assets/services to be switched, before the order is placed.
iii. Promotes awareness of the implications of switching	We agree – the customer must be fully informed of consequences in advance of the order being placed, to prevent inefficient 're-winds'.
iv. Ensures a reliable process with speedy restoration if things go wrong	We agree – but it is more efficient to prevent switches from going wrong in the first place through proper validation of customer intent and of assets/services to be switched.
v. Enables continuity of the main service(s) being switched	This goes without saying and is the main purpose of a managed switching process.
vi. Supports competition in retail markets	We agree – but this should mean a level playing field across all products and infrastructures within markets. Cable and pay TV should therefore be included, and there should be equality between CPs offering service over shared infrastructure and those who are vertically integrated.
vii. Is cost efficient to implement and maintain	We agree.

In our view, Ofcom’s set of principles does not provide a full framework for measuring the effectiveness of different process options. A number of important aspects of switching are not covered: for example there is no reference to the importance of asset validation, no consideration of the need for a process to be future-proofed for mass fibre take-up, and no acknowledgment of the need for consumers to be able to switch between services on different platforms. We suggest the alternative framework of principles set out below:

<p style="text-align: center;">Principles to ensure good consumer experience</p> <ul style="list-style-type: none"> • Simple and easy, so that customers know what to do and hassle is minimised • Effective for all products and bundles • Prevents mis-selling by validating the customer and their intention to switch • Prevents errors by validating assets and services to be switched at all levels in the supply chain • Ensures customers are informed in advance of early termination charges, other contractual terms and any other consequences of switching (e.g. resulting changes to other services) 	<p style="text-align: center;">Principles to improve industry efficiency</p> <ul style="list-style-type: none"> • Eliminates need to rewind orders – through validation of customer identity and intent, and of assets/services to be switched, and customers fully informed • Maximum scope for automation • Development and implementation costs affordable • Operating costs affordable/no higher than under existing processes • Compliance costs affordable/no higher than under existing processes
<p style="text-align: center;">Principles to ensure the process works well for fibre</p> <ul style="list-style-type: none"> • Identifies and validates assets and services to be switched at each level in supply chain (essential with multiple ports and with access to a fibre connection potentially shared between CPs) • Supports the multiple service model to deliver customer choice and competition 	<p style="text-align: center;">Principles to deliver a level playing field between products, platforms and providers</p> <ul style="list-style-type: none"> • Switching equality between substitutable products and bundles on the same platform • Switching equality between substitutable products and bundles across platforms • All platforms to bear the costs of implementing a new process equally • Full recovery of costs

Our rationale for each of these principles is set out below.

Principles to ensure good consumer experience

i. Simple and easy to use

A switching process must be easy for consumers to use. It should involve the minimum number of interactions by the consumer necessary to ensure a trouble-free switch. Clearly, the measurement of the number of consumer interactions should include those instigated by the consumer: phone calls made to providers and on-line transactions on providers' websites. However, it should also include communications from providers which require the consumer's attention: some types of process such as NoT rely on consumers receiving and checking 'welcome' and 'farewell' letters, e-mails or phone calls from providers to enable them to check that any switch in progress is a switch that they have requested. This does not make such processes simple or easy for consumers. Where a process uses codes, for example Code on Bill or a Transfer Code process, the codes must be as short as possible to make them easy for consumers to handle and minimise the risk of transcription errors.

We note that in research we carried out recently¹ amongst consumers who had left BT, a significant proportion (65%) said they would be happy to contact their losing provider as well as their gaining provider to ensure that they had all the information they required about the consequences of switching. When asked whether, if they were going to switch again, they would prefer to leave the switch completely in the hands of the new supplier or organise the move themselves so they would be fully informed of the consequences of leaving up front, 68% chose the latter option. It appears that a number of customers actively choose to make contact with their losing provider even when switching under the NoT process: 30% of those switching just their line and calls said they had contacted BT as well as their gaining provider to let us know they were switching. This contradicts Ofcom's assertion that consumers find it too much hassle to have to contact both providers. See Annex 1 for further details.

ii. Effective for all products and bundles

Currently, two different switching processes are used for fixed voice and broadband, and this is confusing for consumers. As explained in section 2 of this response, we believe a new process should work for all products and all infrastructures.

A new process must also be designed to handle bundles: as the consultation document points out, Ofcom estimates that 48% of UK households buy some form of bundle, with 20% taking a dual-play line and broadband bundle and 17% a triple-play bundle of line, broadband and pay TV. These figures are broadly in line with BT Retail's experience: currently around half of BT's consumer acquisitions are customers migrating to/from bundles, and almost 75% of our losses are migrating to bundles supplied by another provider. Some providers have far higher levels of bundling penetration: in their results for

¹ BT Churn Tracker – Wave 5, October 2010 (prepared for BT by ICM Research)

Quarter 2 of 2010, Virgin Media reported “triple-play penetration increased to 62.4% and quad-play penetration [including mobile] increased to 11.3%, reflecting continued success with our bundling strategy”.

iii. Prevents mis-selling by validating the customer and their intention to switch

Mis-selling is a serious problem in the communications industry. In the 2009 consultation on this issue, Ofcom estimated that over 500,000 households were experiencing mis-selling of fixed line services each year, with an estimated mean annual loss to consumers of £37m. This is not counting the cost to providers of dealing with these issues. Currently BT Retail receives around 4000 complaints each month from consumers who say they are being switched to another provider without their consent. Mis-selling is not necessarily fraudulent: it may result from a misunderstanding where a new provider misinterprets a consumer enquiry about a new service as a request to switch.

To stop mis-selling, a process needs to validate the consumer’s identity and verify their intention to switch before an order is confirmed. To be effective, customer validation needs to involve confirmation of information which is not in the public domain – for example the customer’s account number - with their current provider.

The process also needs to prevent the type of unintended switch where a consumer wants to move one service to another provider, but additional services are also moved. This form of mis-selling can also be deliberate or result from a misunderstanding. This means that the method of verifying intention to switch must be capable of identifying individual services and must not simply apply to all of the services that a consumer takes.

In addition, the process should include, as a safeguard, a way of time-limiting the validity of the confirmation of intention to switch. We have examples of providers placing repeat orders when the customer has changed their mind and cancelled the first order: this had led to customers being switched since customers against their will despite the cancellation, causing confusion and frustration.

iv. Prevents errors by validating the assets and services to be switched at all levels in the supply chain

Today, unintended switches often arise under the NoT process due to lack of clarity over exactly which service is to be switched: the information used to identify services is contextual (for example, name, telephone number, address) rather than definitive. A customer who has a line mistakenly migrated is usually left in a difficult and confusing situation which needs to be resolved through a cease of the unwanted new service by the new provider and re-provision of the old service by the old provider.

These problems would be prevented if the switching process verified assets and services in the records of the retail and wholesale providers in the losing supply chain and then, on successful validation, tagged them as 'ready to switch' before an order was confirmed.

A switching process that successfully validated assets could also potentially be extended to cover working line take-overs. This would eliminate the 'erroneous line transfer' problem that arises when a consumer moving into a new house or flat gives their provider incorrect data regarding the line they are taking over, or the provider uses incorrect data for some other reason, and another consumer's line is taken over by mistake.

v. Ensures customers are informed in advance of contractual terms and other consequences of switching

A significant proportion of the problems with switching today are caused when a consumer goes ahead with a switch without understanding all the implications: for example, they may have been unaware of a need to pay an early termination charge to their current provider, or that switching one service may involve the loss of another. BT Retail data shows that at least 10% of the orders that we place under the NoT process are cancelled due to customers changing their mind about switching to BT. Equally, our data shows that when BT customers change their mind about transferring to another provider, they often have difficulty in ensuring that their requests are carried out. Failure to cancel an order at the customer's request accounts, on average, for 25% of the "Cancel Other" transactions we undertake. However, up to 50% of some providers' orders have to be cancelled. Consumers often complain to us that gaining providers fail to cancel orders despite repeated requests.

The only way to avoid this frustrating situation is to ensure that consumers have accurate information on the contractual implications of a switch before an order is confirmed. We note the conclusion from Ofcom's experimental research that being fully informed is actually bad for consumers as it causes confusion. We believe that this finding is counter-intuitive and unreliable, and results from the nature of the experiment, where subjects were given a short time to make decisions on switching. This artificial constraint does not apply in real life. In our recent consumer research² (see Annex 1), 94% of those planning to switch, and 88% of those who had actually switched, thought it was a good idea to be fully informed of cancellation charges before the switch took place.

Our view on counter offers

Whilst we consider customers should have the option to hear counter offers from their losing provider, we have not included this in our list of principles for an effective process. Counter offers and switching processes are independent of each other: consumers can contact their provider at any time to find out whether they can get a better deal, without a switching

² BT Provisioning Survey – November 2009 (prepared for BT by Sweeney Pinedo)

process being initiated: and a switching process can operate (LPL or GPL) regardless of whether or not losing providers are allowed to make counter offers to existing customers. Ofcom should not base any assessment of a switching process on whether or not it gives an opportunity for a 'save' attempt. Once a process has been designed, Ofcom and industry should debate the pros and cons of these offers for customers. We recommend that this debate should be held as part of Ofcom's second consultation next year.

We agree that consumers who have decided to switch may not want to hear 'save' pitches from their current providers. However, many consumers relish the opportunity to seek a better deal without having to change providers. Research carried out for BT³ indicates that just over half of consumers are likely to positively welcome a counter offer from their existing provider. In further research carried out amongst customers who had just left us⁴, 34% of respondents said they would prefer to be told about counter offers to help their decision making, whilst 29% said they would like to have a choice whether to hear them or not.

Given the preference shown by this research, we consider that a switching process should ideally allow consumers a choice as to whether they hear counter offers or not. In Annex 4 we discuss the economic impact of such 'save' activity. However the potential ability for the losing provider to make a counter offer should not be a determining factor in deciding the optimum switching process, and should not be addressed until later.

Principles to improve industry efficiency

vi. Eliminates the need to rewind orders through validation

To deliver the maximum efficiency, a process must eliminate the need to reverse orders. Currently, for some products, only around 80% of orders go through to completion: the rest are rejected or cancelled, often because the customer believes they have been mis-sold or because the wrong asset or service was about to be switched. Order cancellation and rejection is inefficient and represents a cost of failure that is borne by the industry and its customers. To eliminate this problem, a process must ensure validation is carried out before an order is placed. This is the same as the validation necessary to ensure a good customer experience: validation of the consumer's identity, intention to switch and the assets/services involved. Delivery to the consumer of information on the contractual implications of switching in time to inform their decision is also key to preventing the need to rewind orders.

vii. Maximum scope for automation

A new process needs to be capable of a high level of automation that delivers speed and accuracy. Where there is a risk of error, for example incorrect recording of numbers and codes, human intervention should be minimised. As far as possible, and subject to technical

³ BT Provisioning Survey – November 2009 (prepared for BT by Sweeney Pinedo)

⁴ BT Churn Tracker – Wave 5, October 2010 (prepared for BT by ICM Research)

and operational feasibility, communication with consumers and between providers should be carried out via electronic rather than by physical means. The reliance of the existing NoT process on the postal service is increasingly inappropriate in today's world when mobile texting and e-mail are so prevalent, costs of postage are rising rapidly and reliability is falling. Further, many customers ignore letter sent under NoT because they believe they are 'junk mail'. In our recent consumer research, 34% of switchers said they did not receive their NoT letter before they transferred.

viii. Development and implementation costs affordable

A new process must be affordable for industry to set up. Factors to be taken into account here include the nature of new software, hardware and communications gateways between key players required for the process to go live; the introduction of any new industry data standards; the training of agents; and publicity to ensure consumers are aware of the new process.

ix. Operating costs affordable/no higher than under existing processes

A new process should also be efficient to operate. For example, the data required to effect a migration should ideally be collated on a 'just in time' basis rather than being created in advance and held long-term in a data store; and communications between the parties involved in a switch should be streamlined, electronic and 'real time' as far as possible.

x. Compliance costs affordable/no higher than under existing processes

There is potential for compliance costs to be high in a switching process. Providers may have opportunities and incentives to subvert a process at various points: for example an agent working for a potential new provider may choose to interpret an enquiry from a consumer as a request to switch, and one way to police this is to require all sales calls to be recorded. A new process should be designed in a way that allows compliance obligations and the associated costs to be minimised. A new process based on up-front validation would help to achieve this.

Principles to ensure the process works well for fibre

xi. Identifies and validates assets and services at each level in the supply chain

By mid-2012, over two and a half million homes will have the opportunity to purchase services operating on FTTP infrastructure. This number is certain to increase significantly during the life-span of a new switching process. A key feature and advantage of FTTP is that on a single fibre connection, a customer will be able to have up to two voice and four broadband services which may be supplied by a number of different providers.

In this environment it is essential that the switching process pinpoints exactly which of the services or combination of services is to be switched: without a means of identifying the port bearing the service, switching will be a matter of guesswork and incorrect switching will be frequent.

Notable changes that fibre roll-out will introduce include the following:

- In the copper world, telephone number is often used as an identifier. This is not relevant with fibre: Openreach, and presumably other providers, will use the 'access id' of the fibre connection and 'port number' as the key identifiers for a service, and they will not need to have visibility of the telephone numbers associated with voice services.
- Customers know their telephone numbers but are unlikely to know network identifiers such as access id and port number.
- Except in a greenfield FTTP environment, a customer's home or business may have both copper and fibre connections: some customers may wish to retain services on their copper line and take fibre services in parallel.
- Some providers may want to switch a customer's services between the copper and fibre connections, and the ability to manage such switching will be needed for much of the lifespan of a new process.

Clearly in a fibre environment, accurate identification and validation of the correct asset and service to be switched will be a critical part of any switching process. Ofcom's current proposals do not address this issue at all.

xii. Supports the multiple service model to deliver customer choice and competition

Correct identification of services will give customers the confidence to exercise the wide choice of service and provider available to them under FTTP. Any perception that the multi-service model involves 'hassle' will undermine this pro-competitive model.

Principles to deliver a level playing field between products, platforms and providers

xiii. Switching equality between substitutable products and bundles on the same platform

Under the current switching processes, some types of switch are harder to make or provide a worse consumer experience than others, sometimes because CPs are choosing not to follow processes that are available to them. For example, it is difficult for a consumer to switch from an MPF-based voice and broadband package to an alternative based on WLR and SMPF without losing continuity of their broadband service (indeed some MPF providers do not even allow customers to switch their broadband and the customer has to find a new line supplier too). This gives a competitive advantage to MPF providers. A new process must

deliver competitive neutrality so that switching is easy and irrespective of the new components underlying the services or bundles that a consumer is switching from and to.

xiv. Switching equality between substitutable products and bundles across platforms

Key communications products – voice, broadband and pay TV – are delivered over a range of platforms, BT’s copper and fibre-based networks, the Virgin Media cable network, the mobile networks and, looking ahead, non-BT fibre networks. From the consumer perspective these services, and bundles of services, are interchangeable. The evidence supporting this fact includes significant levels of switching between BT Retail and Virgin Media, as described in paragraph ii above. A new process should reflect this and allow consumers to switch easily between substitutable services delivered over different platforms. It must also enable equality between those CPs who offer services over a vertically-integrated end-to-end network and those who offer individual services over shared infrastructure.

xv. All platforms to bear the costs of implementing a new process equally

It is essential that all platforms pay a fair share of the costs of developing and implementing a new process. Competition should not be skewed by allowing providers using certain platforms to avoid contributing to delivery of a better process.

xvi. Full cost recovery allowed

All providers, including access network providers, will need the ability to recover the costs of developing, implementing and operating a new process. The charging frameworks for regulated wholesale products will need to be structured to provide the pricing freedom necessary to allow this cost recovery to take place.

In summary, it is vital that Ofcom reconsiders the key principles against which it evaluates any proposed switching processes; and that these principles include, in particular, the need for validation of the correct assets and services to be switched, and the need for consumers to be given information in advance on the consequences of switching so that they can make a fully-informed decision.

4. Assessment of Ofcom's preferred options and our suggested way forward

We do not believe that any of the four options that Ofcom intends to take forward (three described in the original consultation, one added in the material distributed subsequently for the Ofcom Switching Working Group) gives a satisfactory match against the customer-centric principles and objectives set out in the previous section of this response. In our view, far better options are feasible and the focus should be on developing those other types of process. Our assessments of Ofcom's preferred options are set out below and then summarised in a table towards the end of this section. Annex 5 contains a technical analysis of switching and the problems with Ofcom's proposals.

4.1 Ofcom's Option 1(a): Enhanced NoT process

This option is essentially the existing NoT process with additional compliance obligations added, i.e.

- new record keeping obligations, potentially with a requirement to record all sales calls;
- increased obligations on providers to ensure that customers receive the NoT letter;
- inclusion in NoT letters of warnings that switching may have contractual implications, such as the need to pay ETCs to the current provider;
- mandating the 'Cancel Other' process so that consumers have stronger protection against slamming where this is identified.

In our view, this is the weakest of the options outlined in the document. We think it would perform particularly badly against a wide range of objectives.

Principles to ensure good consumer experience

Prevents mis-selling by validating the customer and their intention to switch

- In this type of process there is no way that the customer's identity can be validated, and therefore no way of verifying that they really want to switch. Instead of cutting off mis-selling at source, this process would rely on ex-post corrective action and sanctions.

Prevents errors by validating assets and services to be switched

- There would be no way to validate the existing services and assets to be switched as there would not be any link to the asset records in the current supply chain.
- The process does not give the gaining wholesaler or the access provider information to identify the asset or service involved in the switch. Erroneous line transfers and consequent consumer harm would result.

Ensures customers are informed of contractual terms and features relevant to switching

- Consumers would receive a general warning through the post that there may be implications of switching. However, to get the accurate information that would be needed to make an informed decision before placing an order, consumers would have to contact their current provider. There would also be a danger that the consumer would not read – or even receive – the letter. (In BT’s recent consumer research, 34% of switchers did not receive their NoT letter before they transferred. See Annex 1.) Worst of all, the consumer would have the frustration of finding out about the implications of switching after the order had been placed, and potentially the inconvenience of having to get it cancelled, or even reversed. BT Retail data shows that at least 10% of the orders we place under the NoT process are cancelled due to the customers changing their mind about transferring to BT. And in our experience, other CPs’ failure to cancel orders when customers have changed their mind is the cause of some 30% of the unfair trading reports we receive.

Principles to improve industry efficiency

Eliminates the need to rewind orders through validation

- Due to the lack of validation in the process, we believe the high levels of orders not completed or cancelled would be similar to those in the existing NoT process, where cancellation rates for new orders run from 8% to as high as 20% depending on the product. Failure to cancel orders at the customer’s request is also a big problem, as explained in the previous paragraph, and this would continue.

Maximum scope for automation

- The scope for automation is limited because the process relies on physical letters.

Development and implementation costs affordable;

Operating costs affordable/no higher than under existing processes;

Compliance costs affordable/no higher than under existing processes

- The process could require CPs to install and operate new mass call recording and retrieval facilities so that compliance could be monitored. These could cost many £millions across the industry.

Principles to ensure the process works well for fibre

Identifies and validates assets and services to be switched

- As existing assets and services are not validated under this process, it would not work well in the multiple service FTTP environment.

- Specifically, there will be no widely available item of data known to consumers or gaining retail providers that can identify FTTP connections and ports in the way that telephone number was once able to identify copper access lines.

4.2 Ofcom's Option 1(b): Consumer Code on Bill process

The Consumer Code on Bill option would involve each consumer having an assigned code for each of their services which would appear on their bill. When the customer wanted to switch, they would provide the new provider with the code, and this would be checked with the current provider before the switch went ahead.

We believe this option would perform better than Enhanced NoT, but it would still have a number of drawbacks. An assessment based on the same principles as those used to measure Enhanced NoT is set out below.

Principles to ensure good consumer experience

Prevents mis-selling by validating the customer identity and their intention to switch

- The customer's possession of the bill could act as validation of identity and disclosure of the code associated with a service could act as confirmation that the customer intends to switch. However, as the consultation document points out, there is a risk of slamming whenever a customer divulges a code to a potential new provider.
- Visibility of a bill could also lead to 'up slamming' – a provider could mis-use the code to take over an existing service which the consumer wanted to retain as well as the service that they wanted to switch.

Prevents errors by validating assets and services to be switched

- This could be achieved if the code included the identifier for the underlying asset. However, given the large number of unique assets and services in the industry, it is likely that such codes would need to be long. This would make them difficult for consumers to use and prone to errors, for example through incorrect transcription.
- Codes would also need to be recorded at all levels in a supply chain so that all the providers, including those at wholesale levels in the chain, could identify them.
- It is implied that consumers would need to use two or more long codes in order to switch a bundle of services. This would be clumsy, error prone and difficult to handle in consumer contacts, for example over the phone.

Ensures customers are informed of contractual terms and features relevant to switching

- The process as described in the document does not include any provision for customers to be informed of the contractual consequences of a switch before an order is placed.

Presumably, it is envisaged that this part of the process would operate like Enhanced NoT: if so it would have the same disadvantages.

Principles to improve industry efficiency

Eliminates the need to rewind orders through validation

- The process could achieve high levels of validation, but with the risks described under the discussion above on validation of customers, intention to switch and assets.

Maximum scope for automation

- If the process included a step to ensure customers had accurate contractual information on their existing services, then scope for automation would be high.

Development and implementation costs affordable

- As described in the consultation, providers would need to upgrade their billing systems to include the codes.

Operating costs affordable/no higher than those in existing processes

- Providers would need the capability of validating codes given to them by customers. This could be achieved by ensuring all providers were able to interrogate each others' systems. However, this solution could be expensive and may be unacceptable to providers for reasons of commercial confidentiality. If so, codes would have to be validated against a large central data hub, to which all providers would need access, containing a unique code for each combination of customer and services. Maintaining this data hub for all services in case any of them might be switched sometime in the future would be inefficient, and the information stored could be at risk of fraudulent misuse.
- If the codes identified assets, there would need to be a way of communicating and recording them across all the providers in a supply chain, with a facility to amend records if the underlying assets changed or the players in a supply chain changed – for example if a retail provider switched over to a different wholesaler.

Compliance costs affordable/no higher than under existing processes

- Compliance costs should be relatively low due to the validation built in to the process, but there would need to be a way to monitor any potential up slamming or other abuse.

Principles to ensure the process works well for fibre

Identifies and validates assets and services to be switched

- If the codes identified individual services and assets, the process could work well for fibre. If not, the process would not be effective in the fibre environment.

4.3 Ofcom's Option 1(c): Third Party Validation (TPV) process

Under this group of processes, an independent third party would play a key role in switching. In the most basic variant, a consumer calling a new provider to ask for a switch would be put through to a third party agent who would verify their intention to switch. In more complex variants, the third party could also provide the consumer with information from their current provider such as information on the contractual implications of switching. In a Switching Working Group (SWG) discussion paper issued by Ofcom some weeks after the publication of the consultation document, four variants of TPV processes were outlined. In the assessment below, we focus on the basic form of the process, with general comments relating to the other variants.

NB As the consultation points out, a previous study commissioned by Ofcom found that a 'full blown' TPV process that was aware of assets and services across industry would be prohibitively expensive. In our view too, this is likely to rule out such a TPV solution.

Principles to ensure good consumer experience

Prevents mis-selling by validating the customer and their intention to switch

- In the basic version the process could not validate the customer. However, if the customer is who they say they are, the process would validate their intention to switch.
- In the 'authenticating' variants of TPV proposed by Ofcom and the csmg consultancy in the SWG discussion document, the TPV attempts to check the customer's identity. In the case of the TPV contacting the losing provider this is inefficient, costly and generates potential data protection issues. In the case of the TPV using some other database of valid personal identities, the issues of inefficiency and cost persist, as do other problems about the collection and transmission of whatever identity information (e.g. National Insurance number, passport number) lies at the core of that database. It is not clear how identity could be checked in the business context.

Prevents errors by validating assets and services to be switched

- There is no attempt in any of the variants put forward to validate the existing assets or services involved in a switch as there would not be any link to the assets and service records in the current supply chain.
- The gaining chain of suppliers cannot be guaranteed to have sufficient data to progress their orders.

Ensures customers are informed of contractual terms and features relevant to switching

- The basic process would not include any provision for customers to be informed of the contractual consequences of a switch before an order is placed. Presumably, this part of the process would operate like Enhanced NoT: if so it would have the same disadvantages.

- In the ‘informative’ variants of TPV proposed by Ofcom and csmg, the TPV contacts the losing provider in order to establish this information, in real-time or off-line. This is inefficient, costly and generates potential data protection issues.

Principles to improve industry efficiency

Eliminates the need to rewind orders through validation

- Customer intent to switch would be validated, but there would still be cancellations due to mistakes arising from lack of asset validation and, in the basic version of TPV, customer change of mind due to lack of advance information on the consequences of switching.

Maximum scope for automation

- There would be some scope for automation, but the process would still rely largely on phone calls and letters.

Development and implementation costs affordable;

Operating costs affordable/no higher than under existing processes;

- A new TPV body would be expensive to set up: it would need its own staff, premises, systems and communications infrastructure. Agents would need to be well trained, and there would have to be enough of them to ensure that customer calls forwarded from new providers were answered promptly.
- A mechanism would be needed to allow full recover of costs.

Compliance costs affordable/no higher than under existing processes

- Compliance costs could be material – although possibly no higher than those for existing processes – as there would need to be checks on the way the TPV handled customer calls and kept records.

Principles to ensure the process works well for fibre

Identifies and validates assets and services to be switched

- As assets are not validated under this process, it would not work well in the multi-service FTTP environment.

4.4 Ofcom’s new option produced for the Switching Workgroup: Digit Activation

Under this process the gaining provider would give the consumer a unique code and also transmit the code to the ‘access provider’. The customer would then be required to contact the access provider responsible for executing the switch from a previously designated phone and input the code via an automated system. This would demonstrate that the consumer wanted to go ahead with the switch. The process would not assist either the access provider

or any intermediate wholesaler to locate the appropriate service record within their systems and would therefore leave open the possibility of erroneous transfers. Ofcom's description of this process does not explain how the unique code would be vetted by the access provider.

Principles to ensure good consumer experience

Prevents mis-selling by validating the customer and their intention to switch

- As proposed, the process would not validate the customer's identity. However, if the customer was who they said they were, the process would validate their intention to switch.

Prevents errors by validating assets and services to be switched

- There would be no attempt to validate the existing assets or services involved in a switch as there would not be any link to the assets and service records in the current supply chain.
- The gaining chain of suppliers could not be guaranteed to have sufficient data to progress their orders.

Ensures customers are informed of contractual terms and features relevant to switching

- The process would not include any provision for customers to be informed of the contractual consequences of a switch before an order is placed. Presumably, this part of the process would operate like Enhanced NoT: if so it would have the same disadvantages.

Principles to improve industry efficiency

Eliminates the need to rewind orders through validation

- Customer intent to switch would be validated, but there would still be cancellations due to mistakes arising from lack of asset validation and customer change of mind due to lack of advance information on the consequences of switching.

Maximum scope for automation

- Although the proposal sketches some aspects of automation the process would involve a costly extra level of activity for not much benefit. Openreach would be dealing with a large number of customer interactions and checking sets of *retail level* data which it would not otherwise hold in order to provide third party verification of the switch. It is not clear how the process could work for a switch across infrastructures since two access providers would be involved.

Development and implementation costs affordable

- The development cost would be large in relation to the benefit gained. A mechanism to allow recovery of Openreach costs would be required.

Operating costs affordable/no higher than under existing processes

- The cost of the extra dialogues will be permanent and ongoing. In effect, every switch order submitted by a GP will be re-confirmed for a second time by the consumer in a transaction with the access provider, whether or not the access provider needed to be involved.

Compliance costs affordable/no higher than under existing processes

- The extra activity on the part of the customer and access provider would incur costs, simply because it is not safe to leave customer validation solely in the hands of the gaining provider (as backed up by international experience – see Annex 4). Failure points and other sources of confusion would need to be monitored and reported on: for example, there would be cases where customers failed to carry out the digit activation in time and the switch would fail even though the customer wanted it to ahead.

Principles to ensure the process works well for fibre

Identifies and validates assets and services to be switched

- As assets would not be validated under this process, it would not work well in the multi-service FTTP environment.

4.5 Summary of our assessment of Ofcom's preferred options

BT does not believe that any of the options put forward by Ofcom in the consultation or for the Switching Working Group are suitable solutions for a single consumer switching process in communications markets.

In the following summary tables, red, amber and green indicate the BT view of how each of Ofcom's preferred options would perform against our suggested principles for a new process. Red means we believe there is little or no ability to meet the requirement; amber indicates some ability to meet the requirement; and green indicates full ability to meet the requirement.

Principles to ensure good consumer experience

Principle	Enhanced NoT	Code on Bill (identifies asset)	TPV (basic)	TPV (authenticating or informative)	Digit activation
Simple and easy to use	Yellow	Yellow	Yellow	Yellow	Yellow
Effective for all products and bundles	Red	Yellow	Red	Red	Red
Prevents mis-selling by validating the customer and their intention to switch	Red	Yellow	Yellow	Green	Yellow
Prevents errors by validating assets/services	Red	Green	Red	Red	Red
Ensures customers are informed of contractual terms and features relevant to switching	Red	Red	Red	Yellow	Red

Principles to improve industry efficiency

Principle	Enhanced NoT	Code on Bill (identifies asset)	TPV (basic)	TPV (authenticating or informative)	Digit activation
Eliminates need to rewind orders through validation	Red	Yellow	Red	Yellow	Yellow
Maximum scope for automation	Red	Yellow	Red	Red	Yellow
Development/ implementation costs affordable	Yellow	Yellow	Yellow	Red	Yellow
Operating costs affordable/ no higher than current processes	Red	Yellow	Yellow	Red	Yellow
Compliance costs affordable/ no higher than current processes	Red	Yellow	Green	Green	Yellow

Works well for fibre

Principle	Enhanced NoT	Code on Bill (identifies asset)	TPV (basic)	TPV (authenticating or informative)	Digit activation
Identifies and validates assets and services to be switched					
Supports the multiple service model					

Level playing field between product, platforms and suppliers

Principle	Enhanced NoT	Code on Bill (identifies asset)	TPV (basic)	TPV (authenticating or informative)	Digit activation
Switching equality on each platform					
Switching equality across platforms					
All platforms to bear implementation costs equally	These issues are not considered in the consultation document. Ofcom's proposals only cover the Openreach network initially: cable, pay TV and mobile would not be considered for inclusion until 2012				
Full recovery of costs	These issues are not considered in the consultation document				

Of the options listed here, Code on Bill with multiple service and asset identifiers is the least harmful, but it still has weaknesses in relation to mis-selling, costs and cross-infrastructure switching.

4.6 Suggested way forward

4.6.1 Goal

Many consumer switching process options could meet individual switching objectives. BT believes that the industry's goal in revising and extending consumer switching processes should be to design one that addresses as many of these objectives as possible.

In brief, BT's suggested way forward would be to implement one method across all communications markets which:

- is easy for consumers to understand and use;

- provides up front validation of the customer, their status as the account holder, their intent to switch, the services they want to switch, and the assets and companies involved in their current supply chain;

and where:

- the customer is fully informed about the consequences of the switch;
- they can choose to port their number to the new supplier should they wish to do so;
- the process can be automated, delivering convenience for consumers and efficiency for providers;
- all providers are treated equally, with a level competitive playing field.

4.6.2 Options

We believe that there are a variety of potential designs which could meet the majority of the switching objectives, but that none of these are covered by Ofcom's proposals. In our view, Ofcom's approach has unnecessarily foreclosed valuable design options. The development, implementation and ongoing operational costs of workable solutions that meet all the objectives vary significantly. We agree with Ofcom that the final choice between options is likely to be influenced by their relative cost. We would like to work with industry and Ofcom to develop proposals based on a revised set of principles that take account of the issues raised in this response.

4.6.3 Automated, code-based solutions

We believe in simple, reliable end-to-end electronic mechanisms designed to allow consumer services to be switched quickly and efficiently. Each individual consumer switch should be identified to all the relevant stakeholders by a simple code, which they all recognise and use in their systems and processes.

The approach should be based on a 'right first time' principle in which the data needed for a switch is gathered and validated at the beginning of the process. The data should be held in the records of the providers in the consumer's existing supply chain, so that the customer and the services and assets to be switched are accurately identified. The code should be created and issued when validation has been successfully completed. The code itself should not contain data: rather it should act as a key to the relevant data in systems of the providers involved in the switch and as verification that the consumer wants the switch to go ahead. The process should be designed to ensure that switches can be carried out efficiently and with effective protection for consumers. The principle could be applied to other subject areas, such as number porting and working line takeovers, where consumer consent is required for providers to act on their services.

Code-based solutions are capable of being implemented in a range of different ways. For example:

- communication between consumers and providers can work via different channels such as internet portals, voice calls, text messages, etc;
- the process can be initiated by the consumer's existing or new provider, i.e. it can be 'losing provider led' or 'gaining provider led';
- save or retention activity can be accommodated within the process or excluded from it as an industry policy choice.

Annex 6 contains an outline description of one such solution, 'Transfer Code'. This was outlined to Ofcom in July 2010. BT would like to see an industry discussion of this type of process as part of Ofcom's planned series of workshops for the Switching Working Group.

4.6.4 A note on customer information

Sometimes customers agree to change suppliers in the heat of the moment but later change their minds. As described above, one of the main reasons for changes of mind, and subsequent problems with orders under the current NoT process, is that customers find out after placing an order that contractual features exist which would have led them to reach a different decision. BT agrees with Ofcom's conclusion that generalised warnings to consumers that they should check their contractual liabilities are not effective, but we do not agree that no advance information is needed at all.

This suggests that customers need an easy way to check what the specific contractual effects of switching would be to them. The question is how the customer receives this information. BT believes that a TPV process with access to all providers' records would involve unnecessary and ongoing cost. Further, the transfer of the data to the TPV, solely for onward transmission to the consumer, would present security and data protection issues that would undermine the effectiveness of the process. Clearly, providers would not want their competitors to have access to such data. Including the information on a bill would not be a practical solution, would need regular updating and would be unacceptable to most retail providers.

In BT's view, direct contact between the customer and their current provider is the simplest, most efficient method of providing this information to consumers. A consumer can obviously contact their provider by phone, e-mail or web portal at any time to receive this information, irrespective of the nature of the switching process. However, if there are concerns about consumers flagging interest in switching to their current provider by making an enquiry, industry could also consider a solution in which all providers made up-to-date contractual information permanently available to customers via web portals without tracking access.

5. Answers to Ofcom's questions

Consultation document Section 4 – Consumer experience of switching

Question 1: Do you think hassle is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

Clearly if there is any form of 'hassle' or significant inconvenience encountered when customers are trying to switch, the industry is failing in one of our key goals to provide a good customer experience. We therefore agree that any hassle should be minimised or avoided. However Ofcom appears to be taking a very blinkered view of what constitutes "hassle" by linking it too closely to the number of initial touch points or contacts that the customer has to make. The evidence from Ofcom's own research shows that most consumers consider the main source of hassle to be the need to search for information about other providers' services, pricing offers etc; and that any hassle associated with the switching process itself is not the key reason for not considering switching – the main reason is satisfaction with existing suppliers/inertia.

There should be no artificial barriers to switching; but a step in the process that is justified because it assists in the completion of the work required is not necessarily 'hassle'. Work done at the start of the process which eliminates the possibility of errors in the process has value and prevents 'hassle' occurring later on at critical times for the consumer. Simplicity, certainty, protection from mis-selling, adequate information in advance and service continuity are all more important in encouraging consumers to switch than a crude count of 'touch points'. Gaining providers have the incentive to make a switch smooth, but they do not always have the tools or the information with which to offer practical steps to assist the switch. A hassle-free experience is one where customers get the outcome they desire – which might mean a smooth switch to a new provider or the ability to change their minds on the basis of timely information. It certainly includes not being subjected to mis-selling or slamming.

There are differences in the initial number of contacts with providers that consumers have to make in GPL and LPL processes, but there is no hard evidence anywhere in the consultation that this is a statistically important form of harm to consumers or a deterrent to switching. Other switching events, specifically slamming, mis-selling and confusion over ETCs, are *proven* to be more harmful to consumers. The consultation over-emphasises the 'hassle' of touch points and there is no scaling of the effect on consumer behaviour compared to other forms of harm. It is worth noting, in contrast, that the experimental economic research carried out by Ofcom showed the disastrous effects on the subject's switching performance of the experience of being slammed.

Question 2: Do you agree there is a lack of clarity about the switching processes that consumers need to go through to switch and this may create a barrier to switching? Please provide an explanation for your answer and any supporting evidence.

We agree that consumers are likely to be confused by the number of different switching processes currently in existence, which vary according to the service to be switched and also according to the underlying infrastructure. We doubt whether this lack of clarity would actually prevent consumers from switching once they have decided they want to do so, and we are not aware of any evidence of this. Nevertheless it may cause a delay to switching, and is certainly likely to result in a poorer experience if the consumer first has to research how to switch and which process to use. This lack of clarity is likely to continue if Ofcom does not include all platforms and infrastructures, including cable and pay TV, in the scope of its proposed new switching from the outset.

Question 3: Do you think clarity is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

We agree that clarity is very important to consumers. We think this is best delivered by an early move to a single process for switching and porting that applies to all communications services and infrastructures.

Clarity regarding the consequences of switching – such as the amount of any early termination charges that might be payable – is another extremely important factor in creating a smooth switch and a good customer experience. This is evidenced by the number of customers who change their minds under the NoT process when they find out the size of such charges and then decide to cancel a switch. At least 10% of orders are currently cancelled due to a change of mind; and 30% of the unfair trading reports that BT receives from its customers are due to the gaining CP failing to cancel an order on request.

Question 4: Do you think continuity of service (including unwanted breaks and double billing) is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

We agree that continuity of service is a key issue. Unwanted breaks and double billing are most likely to occur when there is a cease and re-provide, as applies to switches involving cable and pay TV networks – this is a key reason why we believe it is vital for Ofcom to include these within the scope of its first set of proposals.

We believe a process which allows accurate identification of assets and services to be switched, and involves unique identifiers that can be shared between the providers who

have to co-ordinate their activities and systems, is the most likely way to achieve continuity of service.

Question 5: Do you think the ability of providers to frustrate the switching process is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

With any switching process, there are likely to be 'rogue' providers who, either deliberately or through inefficiency, do not adhere to the rules set out in General Conditions. There will need to be clear rules, backed up by strong enforcement procedures against those who do not follow those rules, and this is the case regardless of whether the switching process is GPL or LPL.

There is evidence that some providers fail to issue MACs and PACs within the required timescales, or at all; but the volume of complaints relating to the provision of MACs has significantly decreased over the last three years following introduction and enforcement of General Condition 22⁵. Any new code-based process could require all providers to issue codes immediately over the phone, with compliance monitoring to ensure that this happened.

Equally there are providers who frustrate the NoT process by incorrect use of the 'Cancel Other' facility, as Ofcom notes. There appears to be no analysis in the consultation as to which of these abuses is more widespread as a proportion of total switches, but simply an unproven assertion that "there is generally a greater scope for the LP to frustrate attempts to switch in LPL processes as compared to GPL processes, due to the validation that consumers need to obtain from it." This has to be weighed against the fact that of the 8,673 complaints about slamming received by Ofcom between July 2009 and June 2010, "the vast majority of the complaints were from consumers with fixed-line as a standalone service or combined with broadband (8,198) and only a small proportion were from consumers with broadband as a standalone service (272) or mobile (203)". The introduction of General Condition 24 in March 2010 has had no impact at all on the high level of mis-selling complaints we receive relating to the NoT process.

⁵ Ofcom Consumer Experience Research 2009 – Figure 164 - OAT data shows that there has been a significant decrease in the volume of customers complaining about difficulties in obtaining a MAC (dropping from over 600 complaints a month in Jan 08 to under 200 in July 09).

Question 6: Do you think consumers' experience of save activity is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

The making of a counter offer by a losing provider is not an intrinsic part of any switching process; it is an option. Counter offers can be included or excluded from any process. Ofcom should not assume that because these offers are part of the existing LPL process (MAC), they are inextricably linked to a LPL process. Counter offers can potentially be made in GPL, LPL or C&R processes. Similarly, regulation could be used to introduce rules to prevent counter offers under any of these types of process. This should be a separate debate, and not a factor in choosing an optimum switching process.

We accept that consumers who have definitely decided to switch do not necessarily want to hear 'save' pitches from their current providers. However, many consumers relish the opportunity to seek a better deal without having to change suppliers. Research carried out for BT⁶ indicates that just over half of consumers are likely to positively welcome a counter offer from their existing provider. And in further research carried out amongst customers who had just left BT⁷, 34% said they would prefer to be told about counter offers to help their decision making, whilst 29% said they would like to have a choice whether to hear them or not. Ofcom's own research appears to have arrived at similar results: of those who switched using the MAC process, 50% preferred the current system (under which they would be likely to be given a counter offer), and a further 40% would like to be given the option to hear a counter offer, either on an opt-in (23%) or an opt-out (17%) basis. Only 10% were unsure.

Given the preference shown by our research, we consider that a switching process should ideally allow consumers a choice as to whether they hear counter offers or not, and in annex 5 we discuss the economic impact of such 'save' activity.

The key point for us is that the potential ability for a losing provider to make a counter offer should not be a determining factor in deciding the optimum switching process. Once a process has been designed, Ofcom and industry should debate the pros and cons of such offers. We recommend that this debate should be held later in the review as part of Ofcom's second consultation on switching next year.

⁶ BT Provisioning Survey – November 2009 (prepared for BT by Sweeney Pinedo)

⁷ BT Churn Tracker – Wave 5, October 2010 (prepared for BT by ICM Research)

Question 7: Are there issues specific to either residential or business consumers' experiences of the switching processes that you think we should tackle in this review? Please provide any evidence you have to support your views.

We believe the issues experienced by small businesses are similar to those of residential consumers, but that the negative impact of process failures on small businesses can be materially greater. Loss of service as a result of slamming or another form of switching failure can result in serious loss of profits and can ultimately lead to a small business being unable to trade any longer.

Small businesses are perhaps even more likely to find bundles of services appealing, for the sake of simplicity of supply arrangements, and this underlines the importance of designing a process which is suitable for bundle switching. They are also more used to 'doing a deal' in their working lives, and so are even more likely to expect and welcome a counter offer from their losing provider, seeing it as part of normal business negotiations.

It should be noted that whilst any new processes will only theoretically be applicable to services for customers with up to ten employees, in practice providers' systems are such that the same processes will likely have to apply to all customers taking the products and services affected. Even if providers were able to separately identify business customers with ten or fewer employees, this is an unstable distinction since small businesses grow and contract frequently. As a result, a new process will necessarily impact on a much wider base of customers than the regulation requires. This underlines the importance of ensuring that the best, most cost-effective solution is chosen.

Consultation document Section 5 – Impact on competition and market structure

Question 8: Do you agree with our analysis of switching costs? Please provide any evidence you have to support your views.

We do not agree with Ofcom's analysis of switching costs, and we consider the evidence does not support it. Our views are set out in detail in Annex 4.

Question 9: Do you agree with our analysis of save activity? Please provide any evidence you have to support your views.

We do not agree with Ofcom's analysis of save activity, and our detailed views are set out in Annex 4.

More importantly, as stated previously, we believe Ofcom must bear in mind that the making of a counter offer by a losing provider is not an intrinsic part of any switching process; it is an option.

Question 10: Do you agree with our analysis around the multiplicity of switching processes? Please provide any evidence you have to support your views.

We agree that the existence of multiple switching processes is likely to lead to more confusion and higher switching costs for consumers. It can also have an effect of preventing a level playing field between competitors if certain switching paths are easier than others.

Consultation document Section 6 – Assessment framework for identifying a preferred ‘greenfield’ switching process

Question 11: Do you agree with the general switching principles we have identified? Please provide an explanation for your answer.

We believe any strategic review of switching processes should take as its starting point the principles and key objectives that underpin an effective process. Ofcom’s principles are helpful but incomplete, and do not provide a full or adequate framework for measuring the effectiveness of different process options.

A number of important aspects of switching are not covered: for example there is no reference to the importance of service and asset validation at all levels in the supply chain, no consideration of the need for a process to be future-proofed for mass fibre take-up, and no acknowledgment of the need for consumers to be able to switch between services on different platforms.

An alternative framework of principles against which we believe any process should be assessed are described in section 3 of this response, with an analysis of the extent to which Ofcom’s proposed GPL processes meet these principles in section 4.

Question 12: Do you agree with our proposed tier structure for the general switching principles? Please provide an explanation for your answer.

Ofcom appears to have taken a very blinkered ‘GPL v LPL’ approach again here. For example ‘Ensuring a reliable service’ is relegated to a second tier principle purely on the basis that it is likely to be achievable with either a GPL or LPL switching process; but clearly there will still be differences in how well various types of GPL and LPL processes meet this

principle, and we would argue that this principle is just as important to consumers as 'supporting competition in retail markets', one of Ofcom's first tier principles.

As mentioned above, section 3 of this response contains a detailed description of an alternative, more comprehensive framework of principles, all of which we think are equally important.

Question 13: Do you agree with our proposal that the preferred switching approach assuming a 'greenfield' basis is GPL?

We do not agree with this proposal, for all the reasons explained earlier in this response. We believe that 'GPL v LPL' is the wrong perspective from which to approach the issue of a new process.

Question 14: Which of the identified GPL switching options do you support? Please provide an explanation for your answer.

We do not support any of the identified GPL switching options put forward by Ofcom. This is not because they are GPL but because, in the case of Enhanced NoT and TPV, they do not promote upfront validation of consumer intent, identity, account authority, services to be switched or assets; nor do they allow the customer to make a fully-informed decision through provision of information in advance on the consequences of switching.

Code on Bill delivers more of the elements of a switching solution that BT would like to see but does so in an inefficient way which is clumsy for consumers and leaves them open to certain forms of slamming. Section 4 contains an analysis of Ofcom's proposed solutions and how they perform against our switching principles, and Annex 5 explores in more depth the technical problems with these switching options.

Question 15: Do you have any information or views on the costs of the switching options outlined above? Please provide any supporting evidence.

As mentioned above, BT's analysis of Ofcom's preferred switching options is provided in Section 4 and Annex 5. These include our initial, albeit very high level, views on costs.

Consultation document Section 7 - Consultation, implementation priorities and next steps

Question 16: Do you agree with our proposals and implementation priorities for taking forward our work in relation to existing switching processes?

We do not agree with Ofcom's implementation priorities or its proposals for taking forward this work. For the reasons explained above, we believe it is essential to include cable and pay TV networks in the first stage of the review, and we strongly disagree with the proposal to limit further discussions to GPL processes only.

The terms of reference for the Switching Working Group which Ofcom has set up state that the workshops will "develop detailed specifications and costings for the selected gaining provider-led ('GPL') switching processes for fixed-line and broadband services using the current Migrations Authorisation Code ('MAC') and Notification of Transfer ('NoT') processes only". We believe it is vital that Ofcom also allows consideration of processes that focus on asset and service validation, and on ensuring that customers are fully informed about the impact of switching. We are concerned that Ofcom is foreclosing the outcome of the consultation process by choosing such a narrow scope for the next stage of its review. We also note that the Switching Working Group has been launched, and its terms of reference set, before the closing date of the consultation, and therefore before Ofcom has seen or assessed any responses.

Annex 1

Consumer research

This annex begins with a summary of research carried out by BT into consumers' experience of switching. It then goes on to examine Ofcom's own research, to point out where we believe there are flaws in the methodology and conclusions and where the results are contradicted by our own findings.

A1.1 BT's Research

BT has commissioned two sets of research in relation to consumer switching.

The first piece of research, undertaken by Sweeney Pinedo in October 2009, involved customers who had (i) switched in the last 6 months, (ii) intended to switch in the last 6 months and (iii) intended to switch from BT but had stopped the transfer. The first two groups were not just limited to customers transferring to and from BT. The intentions of the research were to identify what mattered to these customers when switching and how their experience could be improved, and to understand whether contacting the losing supplier was a barrier to switching. In addition we sought customers' views of the BT Transfer code process.

The second piece of research, undertaken by ICM Research in October 2010, involved customers who had recently cancelled BT Broadband, fixed line rental and/or calls, or any combination of these. The research was undertaken to identify how easy the process was, what difficulties were encountered and the customers' information preferences.

A1.1.1 Summary findings

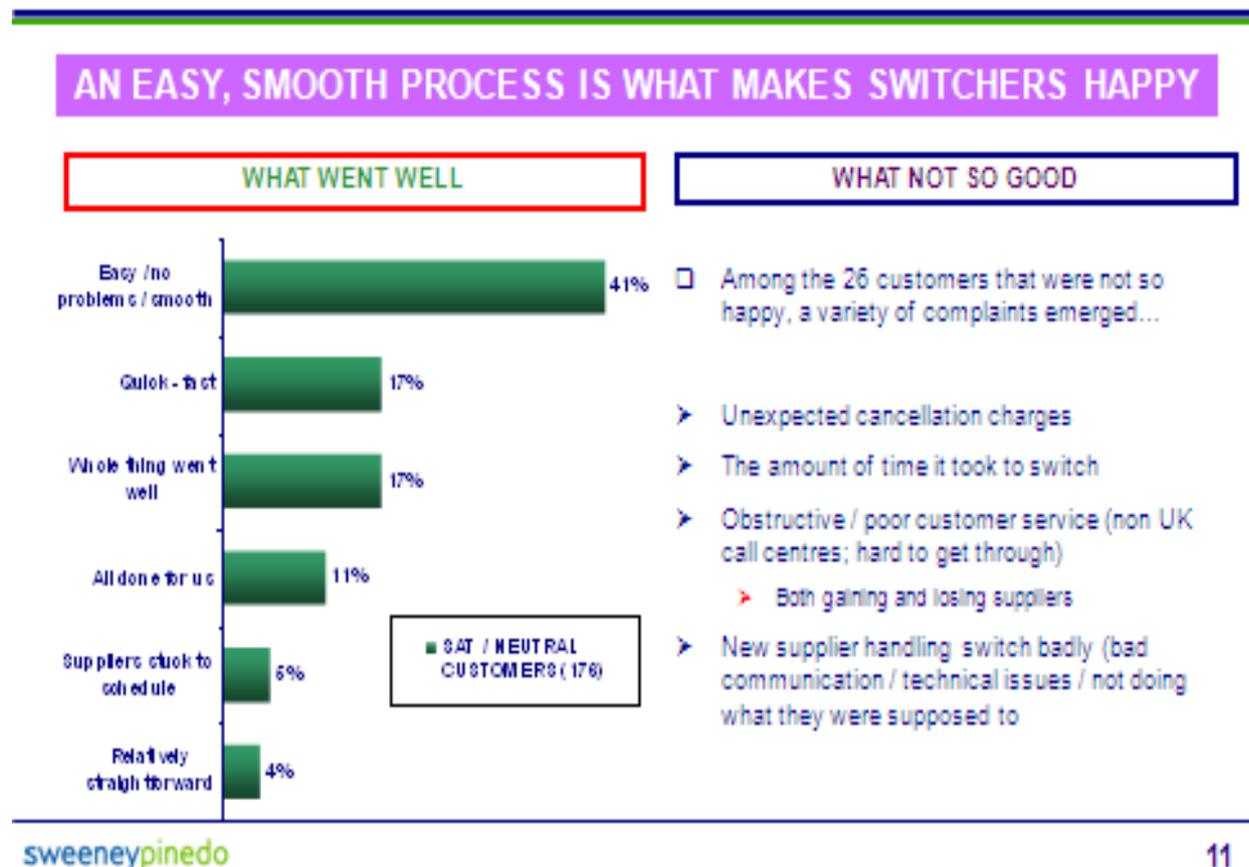
- The current NoT process has some potentially significant issues which could impact on the customer's satisfaction with the switching process, eg failure to receive letters, and being informed of cancellation charges after the switch has taken place.
- Satisfaction with switching is less for those customers switching bundles than those switching single products.
- People planning to switch were concerned about switching but their worries were in relation to the time it took and the general hassle, i.e. identifying a new supplier etc.
- The majority of customers did not see the need to contact the losing provider as a barrier to switching, and in fact more than a quarter of switchers made contact when there was no requirement to do so, mainly out of courtesy but also to find out about potential 'save' offers or termination charges.

- Customers who had switched or were planning to switch believed it is a good idea to be informed of cancellation charges before the switch.
- The majority of planners and stoppers wanted to be told about retention offers and often expected to be offered them. Even switchers were more positive than negative about such offers.

Switching process

A1.1.2 Most customers who had switched were satisfied with the ease of switching, but 10% were not. The causes of dissatisfaction among those who were not happy were unexpected cancellation charges, the amount of time it took to switch, obstructive or poor customer service from both the GP and LP and the new supplier handling the switch badly. Overall the main source of satisfaction (75%) was the fact that the transfer went smoothly and quickly.

What Went Well / Badly With Switching

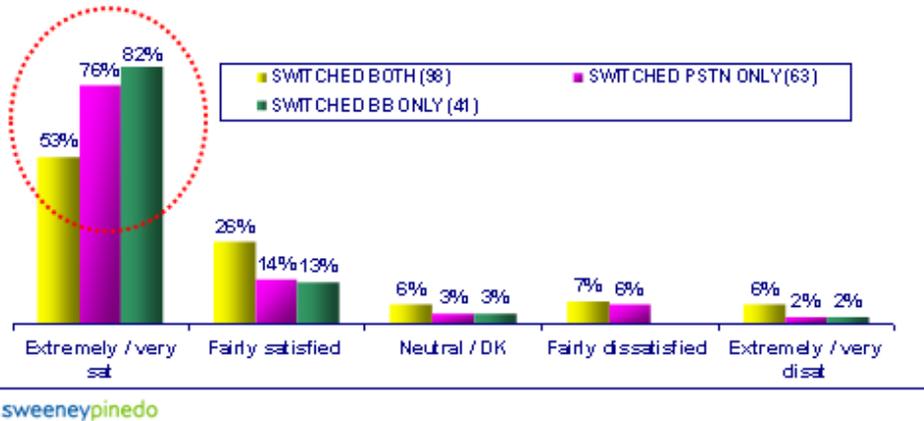


However those switching both PSTN and broadband tended to be less satisfied with the ease of switching, suggesting a need for an integrated process.

Overall Satisfaction By What Switched

Overall, how satisfied are you with how easy it was to change suppliers?

- Those switching both services tend to be less satisfied with the ease of switching – **need integrated process**
- (In most cases (78%) those switching both are leaving one supplier for both products.)



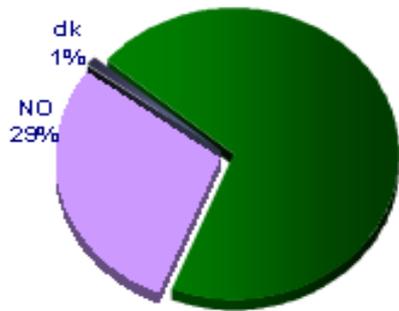
A1.1.3 In addition there was evidence of process failures which may have impacted customers' protection from slamming and their decision to switch suppliers:

- There was a potentially high failure rate with termination letters, where 34% of customers stated that they did not recall receiving a losing provider letter (17%) or it came after the switch had taken place (17%). There was also a 16% failure rate on the Gaining Provider letters with 7% stating they did not receive a welcome letter.
- 28% of switchers who received cancellation charges were told about the charges after they had switched.

A1.1.4 Our research showed that people who were planning to switch did have worries about switching (70%), but these were more in relation to the time it took and the general hassle involved rather than the need to contact suppliers.

Are Planners Put Off Switching by Anything?

CLEAR NEED TO DEVELOP A LOW – HASSLE AND FAST SWITCHING PROCESS



BASE ALL PLANNERS 200



BASE ALL PUT OFF 139

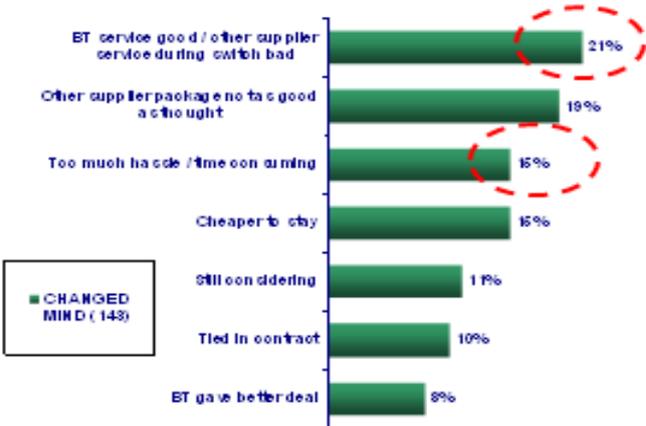
sweenypinedo

A1.1.5 A poor experience during switching is a key barrier. Whilst 83% of people who cancelled the switch during the transfer process did so due to a change of mind, this decision was mainly due to the fact that they were happy with their current supplier (or unhappy with the new supplier) and that it was too time consuming or too much hassle to switch. However 13% of the customers stated that they had in fact been mis-sold to.

Stoppers Experience

MIS-SELLING & POOR EXPERIENCE OF SWITCHING PROCESS DOES PUT CUSTOMERS OFF

WHY CHANGED MIND & STAYED WITH BT (87%)



CHANGED MIND (143)

MISSED (13%) – HOW?

- Among the 30 customers that were mis-sold...Half said they got a phone call and were switched without agreeing it
 - 4 were already using supplier and they tried to switch them for other services
 - 4 were just asking for info - and were switched
 - 3 said they were door-stepped and did not want to switch
 - 3 said they were switched without any contact / knowledge
 - (Talk Talk, Virgin, Euphony and Tesco all mentioned)

sweenypinedo

Contacting Providers

A1.1.6 Our research showed that customers do not see contacting the losing supplier as a barrier to switching and in fact many do so (24% to 29%) when there is no requirement. This appears mainly to be a matter of courtesy but also to understand any cancellation charges or to ask whether there might be a better offer available.

Views of Contacting Losing Supplier



Information at point of switching

A1.1.7 In the most recent ICM research, 65% of customers who switched stated they would prefer to contact BT first to get information regarding the consequences of leaving, e.g. early termination charges or impact on existing products, prior to contacting their new supplier. In the earlier Sweeney Pinedo research, 94% of planners and 88% of the switchers thought it was a good idea to be fully informed of cancellation charges before the switch. This would suggest that this is key to customers' decision making and that they want to be fully informed before they make a decision

Save offers

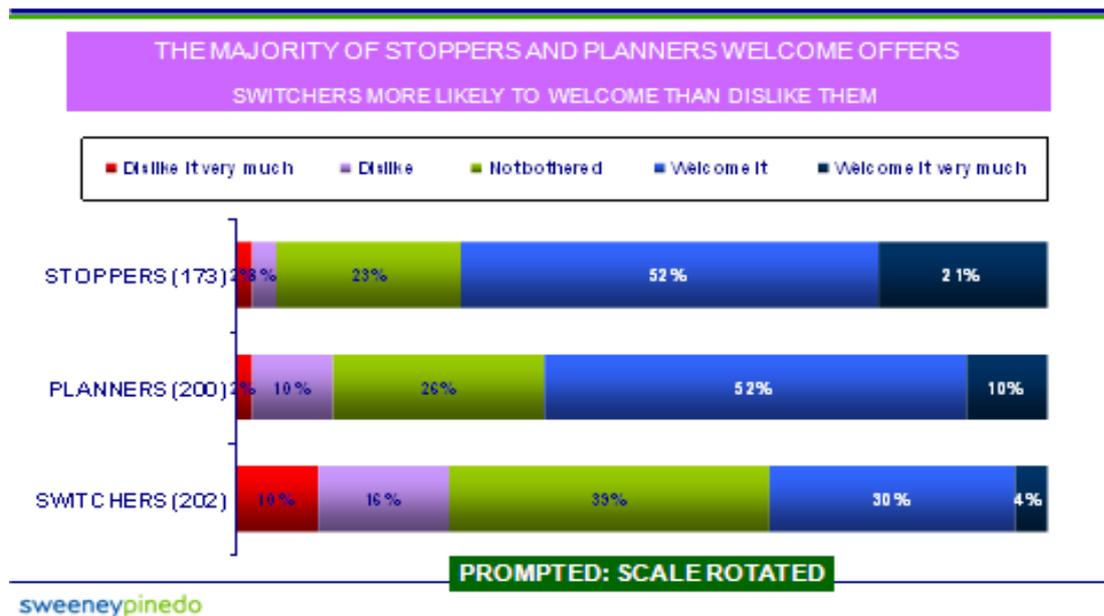
A1.1.8 The majority of planners and stoppers (72% and 73% respectively) actually welcome deals at the point of switch, and even switchers, who will hopefully feel they have chosen the

best product when they switched, are more positive (34%) than negative (26%) about a retention offer. Some customers stated that they felt 'unwanted' when no effort was made to retain them.

Our ICM research on the customers who had switched supported the findings in the Ofcom Consumer Switching and Bundling research, in that the majority of customers using the GPL process would prefer to continue with the current system. However 31% of customers stated they would prefer to be told of save offers to help their decision making and 27% would like a system where they had the choice of whether to hear about a save offer. For switchers using the LPL process, 34% of the customers would like to know about save offers and 34% would like the choice.

This research shows, consistently across switchers and people considering switching, that the majority of customers would prefer to have a choice as to whether they are told about save offers from their current supplier.

Views of Being Told About Offers at the point you contact losing supplier to say you are leaving



A1.2 Ofcom's research

We do not believe that Ofcom's research unequivocally supports their decision that a GPL process performs better than LPL process. We believe Ofcom's conclusion decision is

fundamentally flawed and omits other key dimensions from the assessment of fit-for-purpose switching processes.

In our view, the Consumer Switching and Bundling research undertaken for Ofcom had a number of key flaws, especially in relation to the makeup of the sample and the questions asked. As described above, we have also commissioned research in the last year which would call into question some of the data and the conclusions drawn from Ofcom's research.

Ofcom's Communications Market report dated 19th August 2010 shows that in the previous 12 months, more switching had taken place in broadband (11%) than in fixed line (6%). Whilst this level may be influenced by a number of factors, we believe the process used has a major part to play, since when switching broadband providers using a MAC, consumers generally experience no slamming and no problems with the movement of the wrong asset.

In addition most customers are moving to a bundled product, where the existence of two different switching processes causes difficulties. BT's own research showed dissatisfaction rates were 6 times higher when switching a line and broadband (13%) compared to just switching broadband (2%). One switching process would alleviate these issues and therefore we believe Ofcom's decision to postpone the inclusion of cable and pay TV is wrong, since a significant proportion of switches involve moving to and from these infrastructures.

The research states that save activity, inertia, no benefit seen in moving or existing contractual terms are all barriers to people switching. We do not believe these should be viewed as negative barriers, but as a positive indication of a process which allows people to make an informed choice. Therefore a change to current switching processes to try to reduce the volumes of customers in these categories should be carefully considered to ensure that the change will be to the benefit of all customers and will not remove their ability to make an informed choice.

Saville Rossitter-Base Consumer Switching and Bundling research

A1.2.1 We believe there is a significant omission in this research as a result of not surveying customers who initiated a transfer but then decided to stop during the transfer period. Around 50,000 customers cancel their lines and/or calls transfer during the transfer period, compared to less than 1000 customers who cancel MAC transfers. Due to the significant volumes, we believe that these 'stoppers' should have also been included as one of the sample groups to understand their reasons for not completing the transfer.

As described earlier in this response, the process to stop a transfer is not always as simple as making one phone call; it sometimes requires two or three calls to the GP to ensure the transfer has been cancelled. This could have an important bearing on customers' experience of the process and is likely to impact on their switching behaviour in the future. BT has undertaken research into this group and the findings are discussed above.

In the Saville Rossiter-Base research sample, the volume of broadband switchers using the NoT process is nearly four times as high as those using the broadband MAC process, which seems to be at odds with the total volumes currently using the different switching processes. We would have expected the ratio to be the other way round or at least equal. This may not have an impact on the eventual results, but the use of the NoT process for switching broadband suggests a high proportion of moves to the MPF product, which provides further evidence for the growth of bundles and the importance of addressing bundles switching in Ofcom's review.

Hassle

A1.2.2. The question 'To what extent do you agree or disagree that changing suppliers for my home technology seems like too much hassle?' is a leading question. It does not specify or identify what the customer means by hassle and therefore should not be used as the basis for a decision on whether a GPL or a LPL process is preferable. In fact, when inert customers are questioned, they mainly state that the hassle comes from actually searching for information about other providers. When asked why they have not considered switching, 80 to 86% of the customers stated it was due to satisfaction with their current supplier and inertia, compared to 9% who had an issue with the process as they thought it was too time consuming.

The research findings state that no single switching process is more likely to be rated as difficult by switchers, which would suggest there are no real issues with a LPL process. Whilst the NoT process is more likely to be rated as easy, we believe that the drawbacks of this type of process, e.g. slamming or not being informed of cancellation charges, negate this benefit.

When looking at the difficulty of the switching process by product, the findings are very similar between fixed line and broadband. When looked at by process, whilst MAC has the greatest difficulty at 13% (compared to NoT at 8%), only 6% of these customers indicate that their problem was in relation to contacting suppliers (similar to NoT at 4%). Therefore it would suggest there was something else, other than contacting the provider, which the customer thought caused the difficulty. This aspect does not appear to have been explored,

although later in the survey findings it is mentioned that there appeared to be a greater feeling of hassle with the MAC/PAC process (42%) compared to the NoT process (22%). This again is not really explained, except there is an indication that this seems to relate to customers' concerns about changing their home technology rather than the switching process used.

Inactive customers seemed to suggest it is more 'hassle' to switch providers (48%) compared to those who have switched (31%), but when asked their main reason, again this was the need to search for information about other suppliers (54%). So again where the perception of hassle could be seen as a barrier to switching, it is not the switching process itself but the need to take time and effort to look at what options are available which causes the hassle. This would be an inevitable aspect of any decision to switch providers.

The reasons given by 'considering switching' customers for not switching do not support the conclusion that the LPL process is causing the difficulty. Most customers considering switching broadband state contractual reasons (16%), inertia (15%) or no benefit in moving (17%) rather than process reasons (10%). However on the GPL fixed line process, whilst still quoting the same reasons - contractual (19%), inertia (29%) and no benefit (19%), more customers state a process reason (18%). The research conclusion actually states that the key reason for people not moving is their satisfaction with their current provider (80% to 86%) and also that perceived hassle is unlikely to be a prime reason for not switching among inactive consumers.

We believe that the question regarding preference for speed over certainty of switch is an irrelevant question as most people would want to know when to expect the change. Any process should be able to give a guaranteed date of switch, but we believe that it is also possible to have a speedier transfer if the correct safety mechanisms are employed which eliminate slamming and erroneous transfers.

Clarity

A1.2.3 The research shows that many of the customers are confused as to the process they should follow to switch provider. We agree that by having a number of processes, customers are likely to be confused and we would urge a move to a single migration process.

Providing information on early termination charges (ETCs) is a key element of the process. It should not be seen as something that frustrates the process, but as part of the process and part of the need to make sure a customer is fully informed of any consequences when

making their decision to switch. Although not stated in the research document due to small volumes, 10 out of 14 fixed line customers stated that the cancellation charges were important in their decision not to switch providers.

Contact with provider

A1.2.4 The research on contact with providers shows a similar level of difficulty between broadband and fixed line customers. However this research does not seem to recognise that there could also be a requirement to cancel an unwanted order (Openreach data shows this occurs in at least 10% of fixed line transfers). If the customer feels they have been slammed they can contact their Losing Provider to cancel the order, but where they have changed their mind, they have to cancel the order with the Gaining Provider. A number of Gaining Providers make it difficult for the customer to cancel, insisting the request is put in writing which can delay implementation of the request, whilst a large number of CPs seem not to issue the cancellation in time, resulting in the customer being switched over against their will. (Some 30% of the unfair trading reports that BT receives are due to other CPs failing to cancel orders on request.) To try to prevent this happening, customers can end up making two or more additional calls just to ensure that their order has been cancelled. This source of “hassle” – a prevalent feature of a GPL process - has not been considered by Ofcom.

Save offers

A1.2.5 The research on save offers suggests that customers using the MAC process want to continue with the current situation, i.e. hear save offers (50%), with only 17% wanting an option to stop it if they chose. On fixed line NoT, whilst 41% of customers state they wish to continue with the current system, 37% state they would like the option to choose whether to hear a save offer, with only 11% wanting an option to stop it if they chose. This would suggest that customers want to have the option to hear about save offers. These findings have also been mirrored in the research undertaken by BT where the majority of planners and stoppers (72% and 73% respectively) actually welcome deals at the point of switch and even switchers are more positive (34%) than negative (26%) about a retention offer.

Slamming

A1.2.6 We are surprised that this research seems to identify more slamming in broadband than fixed line transfers, as broadband has not up to now been known to have a slamming problem. However whilst not stated in the document, and accepting that these volumes are small, the actual breakdown of the slamming incidents show that the majority of these were

in relation to the broadband NoT process, not the MAC or C&R processes. This was also the case for fixed line, where the majority were for the NoT process not the C&R process.

We would expect the incidents of slamming to be small among switchers, but if stoppers had been included, this figure would have been much higher as BT research showed that 13% of stoppers had been mis-sold to. Ofcom's own complaints show that mis-selling on fixed line transfers is a significantly greater problem than for broadband (over 8k complaints a year compared to 272).

This supports our belief that a code-based process better protects customers from mis-selling and erroneous transfers.

We do not agree that switching processes can only make an impact on intentional errors (slamming). BT's position is that the misapplication of NoT principles to working line takeovers (WLTO) is the root cause of erroneous transfers and the resulting customer harm. Whilst it is not helpful to describe erroneous transfers as 'slams', as they are not, they do however share a common root cause.

We have explained to Ofcom how authorisation code-based systems could provide a solution to both intentional slamming in consumer switching and erroneous transfers in WLTO scenarios.

Experimental economics research on Consumer Switching

A1.2.7 We believe this research is flawed on a number of levels and the conclusions unreliable. Ofcom appear to want to prove a point about LPL processes versus GPL processes and in doing so omit other key dimensions from the assessment.

Consumers' desire for simplicity is obvious. The research findings suggest that a GPL process is better for the customer and that customers make better switching choices under a GPL process. However we believe this conclusion is unreliable.

- Consumers do want simplicity, but we believe the core issue of complexity does not come from the switching process, but the complexity of comparing prices which is further magnified in bundles.
- Whilst customers want simplicity they do not want to be led into harm. The absence of information such as ETCs could result in harm to customers who end up paying more than the savings they obtain from the new provider. To argue that they are better off without relevant information is irrational, especially as a significant number of customers

end up deciding not to proceed or cancelling existing orders once they are aware that termination charges will be raised.

- We believe the method used was flawed as receipt of too much information in a short space of time, perhaps under pressure, could well lead to confusion and inability to act. We do not believe this accurately reflects how consumers would act, as in reality they would not be under such pressure to make a decision and would be likely to take their time looking at various options rather than taking snap decisions.

One conclusion we would definitely agree with, however, is the fact that an experience of slamming would impact on a customer's future decision regarding switching.

Annex 2

Case studies: consumers' experiences of today's switching processes

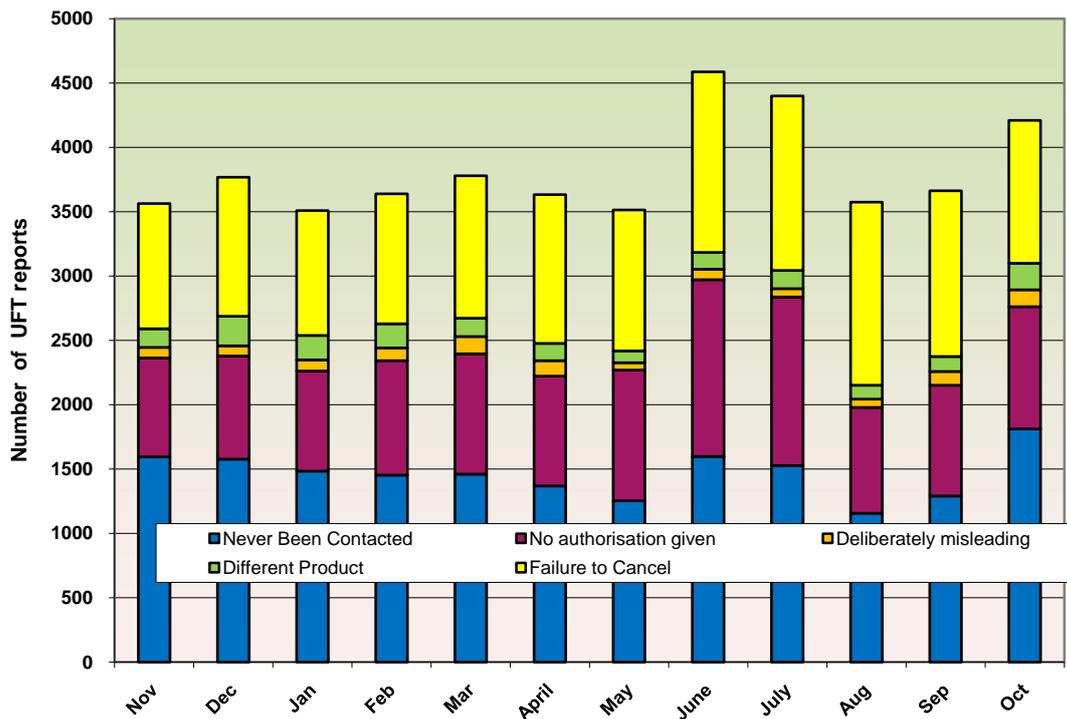
In this Annex we look at the individual customer complaints and mis-selling reports which are compiled by BT following discussion with customers who have been trying to switch, to explore the main causes of problems. We also explore the potential impact of Ofcom's proposed switching processes on these types of issues.

The number of customer complaints related to mis-selling and erroneous or failed switches is too high. After years of intensive focus and action from Ofcom and industry, Ofcom is still receiving over 8,000 complaints a year concerning mis-selling on fixed line services. However, consumer research carried out by Ofcom in September 2008 indicated that over half a million households a year would be affected by mis-selling. This is in dramatic contrast to the negligible 272 complaints a year that Ofcom receive in relation to broadband mis-selling.

In the last 12 months, BT Retail has received over 45,000 reports regarding mis-selling in fixed telephone services based on the NoT process. This level of consumer harm clearly points to problems with the underlying process.

We have categorised the mis-selling reports received by BT Retail into the five categories specified in General Condition 24 under which the 'Cancel Other' transaction can be used. 'Cancel Other' is a facility that enables the losing provider to cancel another provider's transfer order. This should only be used for instances of mis-selling, although not all types of mis-selling are included; e.g. customers who are misinformed or misled about the product specification, prices, achievable savings etc are not entitled to have the order cancelled by the losing provider via 'Cancel Other'.

The following chart shows the relative volumes of each type of problem over the last 12 months.



1. Never Been Contacted – There are multiple reasons for this category ,but the bottom line is that the customer believes they have not had a conversation giving their authority to have their service switched. There are four main reasons for this occurrence:

- a. The customer has been deliberately moved to another provider without being consulted and/or without their consent – known as slamming.
- b. The customer who has the contract for the service/asset that is to be switched, and therefore the authority to agree, is not the person to whom the gaining provider spoke, so they are unaware of the order.
- c. The gaining provider, or customer, has made a mistake and ordered a transfer of the wrong line so the customer who is transferred knows nothing about it (so appearing to be a slam).
- d. Working Line Takeover – This is a known problem within the industry which arises when a customer is moving house. It results in a different customer being moved to another provider without their permission (so again appearing to be a slam). The problem is caused by a gaining provider placing an order to take over a working line, without effective validation of the line to be switched. This could be due to advisor error, customer error or even systems errors, and is a particular issue where there are multiple lines at an address, or multi-occupancy premises such as flats or converted buildings.

2. No Authorisation Given – There are multiple reasons for this category but the bottom line is that the customer does not believe they have given authority to have the service switched. There are two main reasons for this occurrence:
 - a. The customer has spoken to a provider about transferring their services, but they do not believe they have given their authority for the transfer to go ahead as they believed they:
 - i. declined the offer
 - ii. asked for more information in order to make their decision
 - iii. agreed to another product e.g. mobile or broadband, but were not made aware that fixed line services were part of the offering;
 - b. The customer who has the contract for the service/asset that is to be switched, and therefore the authority to agree, is not the person who agreed to the switch.
3. Deliberately Misleading – The customer has advised us that they were led to believe they were agreeing a product/service with their current provider, and were not aware they were agreeing to transfer to another provider.
4. Different Product – The wrong product has been moved, through an error either by the customer or by the gaining provider. For example, voice service may be switched as well as broadband, when the customer only intended to switch their broadband.
5. Failure to Cancel – The customer has agreed to switch providers, but has changed their mind, usually due to the lack of information up front from their existing provider, which arrives a few days later and causes the customer to change their decision after the initial order has been placed. This becomes an issue where there is a lack of cooperation from the gaining provider in cancelling the order, resulting in the customer being switched against their will.

All these issues require the customer to take action to stop the order or, in the worst scenario if the switch completes, to take action to reverse the process. This wastes all participants' time and causes customer dissatisfaction and possible detriment.

The majority of the BT customer reports relate to issues where the customer has been a victim of mis-selling but any significant detriment (but not customer distress or inconvenience) has been avoided by the use of Cancel Other. Cancel Other does not stop any mis-selling from occurring prior to the order being placed; it just stops the switch from taking place. Therefore Cancel Other is a key protection mechanism in the NoT process, but it also requires the customer to make at least one more call to the losing or gaining provider to prevent the switch. In that sense it is just a sticking plaster, rather than a cure.

Further, the Cancel Other facility is open to abuse, as the losing provider can use the facility to cancel legitimate orders and thus prevent the customer from switching to the provider of their choice. BT has strong evidence that despite the introduction of GC24 there is still significant misuse of Cancel Other by a large number of providers. These providers are either:

1. cancelling orders on customer change of mind instead of transferring back to the gaining provider to cancel
2. cancelling without the customers agreement to
 - a. enforce notice periods
 - b. enforce other contract terms such as minimum contract periods, payment of termination charges
3. some losing providers are restricting customers' services which can result in the customer agreeing to stay in order to get their service restored.

BT has contacted over 50 providers in the last few months in relation to cancellation of customers' orders to transfer to us. In a number of cases, we have had to refer the issue to Ofcom to resolve the situation for the customer. Many of the providers contacted by BT believe that the Cancel Other facility allows them to cancel the gaining provider order if their customer has not notified them of their wish to transfer and they want to enforce their notice period or minimum contract term.

The industry expectation was that Ofcom's consultation would propose solutions to dramatically reduce these problems. Unfortunately this does not appear to be the case. The following section outlines the information required to prevent so many customers suffering from the frustration, inconvenience and potential loss of service that these switching problems result in.

1. Never Been Contacted

a) Slamming

Effect of Ofcom's proposed processes: Any process which includes effective validation of the customer's identity, authority and intention to switch should prevent this problem.

- Enhanced NoT would not prevent it.
- Code on Bill would prevent it as long as code is not disclosed unintentionally and there is a short time limit on it after use (so that it cannot be used repeatedly after an initial order has been cancelled).

- Third Party Verification of customer's identity and intent would prevent it.

b) No authority from account holder

Effect of Ofcom's proposed processes: Any process which includes effective validation of the customer's identity, authority and intention to switch should prevent this problem.

- Enhanced NoT would not prevent it.
- Code on Bill would prevent it as long as code is not disclosed unintentionally and there is a short time limit on it after use (so that it cannot be used repeatedly after an initial order has been cancelled).
- Third Party Verification of customer's identity and intent would prevent it.

c) Order mistakenly placed on wrong line by gaining CP through customer's mistake or theirs.

Effect of Ofcom's proposed processes: A combination of effective validation of customer's identity and intent, and full validation of the assets/services to be switched throughout the supply chain, should prevent this problem.

- Enhanced NoT would not prevent it.
- Code on Bill would prevent it, if code identifies asset to be switched.
- Third Party Verification would prevent it if TPV obtained full information from LP regarding existing services as well as verifying customer identity and intent.

d) Working Line Takeover

Effect of Ofcom's proposed processes: Since this scenario arises when a customer is moving house rather than when they are switching supplier, this problem could only be addressed by extending to home moves the principles of a switching process that requires full validation of the assets/services to be switched throughout the supply chain.

- Enhanced NoT would not prevent it.
- Code on Bill would prevent it, if code identifies asset/service at premises to be taken over, and incoming customer can obtain code from departing customer.
- Third Party Verification is not designed to work in this scenario.

2. No authorisation given

Effect of Ofcom's proposed processes: Any process which includes effective validation of the customer's identity, authority and intention to switch should prevent this problem.

- Enhanced NoT would not prevent it.
- Code on Bill would prevent it as long as code is not disclosed unintentionally to someone other than the account holder.
- Third Party Verification of customer's identity and intent would prevent it.

3. Deliberately misleading

Effect of Ofcom's proposed processes: Any process which includes effective validation of the customer's identity, authority and intention to switch should prevent this problem.

- Enhanced NoT would not prevent it.
- Code on Bill would prevent it as long as code is not disclosed unintentionally and there is a short time limit on it after use (so that it cannot be used repeatedly after an initial order has been cancelled).
- Third Party Verification of customer's identity and intent would prevent it.

4. Different Product

Effect of Ofcom's proposed processes: A combination of effective validation of customer's identity and intent, and full validation of the assets/services to be switched throughout the supply chain, should prevent this problem.

- Enhanced NoT would not prevent it.
- Code on Bill would prevent it, if code identifies asset to be switched.
- Third Party Verification would prevent it if TPV obtained full information from LP regarding existing services, as well as verifying customer identity and intent.

5. Failure to Cancel

Effect of Ofcom's proposed processes: Any process which includes provision to the customer of full information on the consequences of switching, and gives them time to

change their mind after the initial sales call/visit, should prevent this problem.

- Enhanced NoT would not prevent it.
- Code on Bill would not prevent it.
- Third Party Verification would prevent it if TPV obtained full information from LP regarding consequences of switching, such as ETCs and effect on other services.

6. Mis-use of Cancel Other

Effect of Ofcom's proposed processes: The use of Cancel Other is in theory heavily regulated, but misuse still occurs. Ofcom haven't identified any action they are considering in this area to prevent such problems occurring.

- Enhanced NoT would not prevent it.
- Code on Bill could alleviate the need for Cancel Other.
- Third Party Verification of customer's identity and intent could alleviate the need for Cancel Other.

Case studies

To bring these problems to life we have selected a random sample of customer complaints of each type that have recently been raised with senior managers within BT Retail. Below is a description of each complaint, and an assessment of the extent to which Ofcom's proposed switching processes would have prevented each one.

1. Never Been Contacted

Slamming:

Case 1

An MP contacted BT about an elderly couple who were slammed and found the experience 'not nice and very debilitating'. Repeat requests were placed by another CP to transfer the customer's service. The customer cancelled the first two on 17/5/10 and 23/6/10, but the third request went through and they transferred away from BT on 29/6/10. The customer was charged cancellation charges by BT and stated they were left without service. They had had no contact from any CP up to this point.

BT placed an order to bring the customer back on 15/7/10. Following this the 'new' CP sent the customer a NoT letter. The letter confused the customer, but he then realised the order to transfer him away from BT was connected to the migration of his broadband service to a new network. The customer was then worried that the transfer back to BT would mean loss of his broadband service.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER VALIDATION

The customer would not have been switched if his identity and intent had appropriate validation. Involving the losing provider or a third party to validate the customer's intent would have prevented it.

Case 2

An MP contacted BT about a customer who had had two 'anonymous and malicious' attempts to transfer his service away from BT on 27/7/10 and 3/8/10. The customer cancelled both of these attempts and requested the name of the CP involved. When contacted by the MP, the CP advised that as a previous employee of the council, the customer's number had been incorrectly included on a list provided to them to enact transfers.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER VALIDATION

The customer would not have been switched if his identity and intent had appropriate validation. Involving the losing provider or a third party to validate the customer's intent would have prevented it.

Working Line Takeover

Case 3

An MP contacted BT on behalf of an elderly vulnerable couple who lost their telephone service in March 09 due to a working line takeover order issued by BT. The order was issued correctly but the system had the numbers recorded at the wrong addresses, so when an order was issued, the line next door was taken over. The losing customer had been told by their CP of the takeover request, but their cancellation request was not actioned. The customer's line was returned to the CP 26 days after being taken over by BT.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: ASSET VALIDATION

Ofcom's GPL solutions would not resolve this. A process involving asset validation throughout the supply chain, such as Transfer Code, would resolve it.

Case 4

A customer contacted the Openreach High Level Complaints team as her BT line had been taken over by another CP in error on 10/9/10, which resulted in the loss of her broadband service. The customer was 'pretty desperate and wanted to know what caused the mix up'. This was a result of an incorrectly issued working line takeover by another CP. BT contacted the gaining CP, who agreed to renumber the customer's line back to their original number. BT then brought the line back 19 days after it was taken over by the other CP.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: ASSET VALIDATION

Ofcom's GPL solutions would not resolve this. A process involving asset validation throughout the supply chain, such as Transfer Code, would resolve it.

Case 5

An MP contacted BT regarding one of his constituents who was diabetic and quite frail and was unable to receive incoming calls. The customer had service with another CP and had recently moved house and asked BT to provide service at her new address retaining her phone number. When issuing a working line takeover, BT picked up the wrong address. This resulted in the customer at the wrong address being renumbered and transferred to BT. The prospective BT customer remained with their current CP but lost their telephone number. To resolve the situation, BT renumbered the customer at the wrong address back to their original number and contacted their CP to issue orders to return the customer back to them. The BT customer's issue took longer to resolve as their old provider still showed the number as working with them. Despite contacting the CP to try to rectify the issue, BT finally had to issue a new provision to get the customer's service working and then seek to renumber it back to the original number.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: ASSET VALIDATION

Ofcom's GPL solutions would not resolve this. A process involving asset validation throughout the supply chain, such as Transfer Code, would resolve it.

2. No Authorisation Given

Case 6

Customer emailed Ian Livingston, stating he had had to contact BT twice in three months (28/5 and 14/7/10) to 'plead with us not to move his phone line to another provider'. He advised that he had been approached by another provider about their service but he had told them he had just got connected with BT on 13th and had no intention of moving. The

customer stated he would be complaining to the MD of the CP in question but wanted us to note on his account that he had no intention of moving his services unless he contacted BT directly to advise differently. He also stated that whilst he appreciated the notice in the post, he thought the system needed looking at as the CP in question seemed to have the power to try and move him without his consent.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER VALIDATION

The customer would not have been switched if his identity and intent had appropriate validation. Involving the losing provider or a third party to validate the customer's intent would have prevented it.

Case 7

The customer's daughter complained to Ian Livingston that her 83 year old mother, who was recovering at home from an operation, had been cold called by a CP and inappropriately sold a phone and broadband package (despite the fact she has no computer). She was also unhappy that this was sold on an 18 month contract, even though the mother was due to move in with her daughter soon. The customer did not read/understand the letters from BT and the CP, but when the daughter found the letters and phoned the CP to cancel, she was told it was too late as the order was due to go live the next day 12/10/10. The daughter also contacted BT, but as it was after 4pm, we were unable to cancel and had to advise the customer that we would have to let the order close and then issue an order to bring the customer back to BT.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER VALIDATION

The customer would not have been switched if her identity and intent had appropriate validation. Involving the losing provider or a third party to validate the customer's intent would have prevented it.

Case 8

Customer complained that his telephone services had been moved away from BT without his permission on 21/6/10. He informed us he thought a certain CP was involved. The customer stated that he was not to be transferred again without his permission and without him calling us first. This was imperative as he had ended up with cessation charges. The customer was brought back to BT 28 days after the service was transferred to the other CP.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER VALIDATION

The customer would not have been switched if his identity and intent had appropriate validation. Involving the losing provider or a third party to validate the customer's intent would have prevented it.

Case 9

An MP wrote to BT on behalf of an elderly, vulnerable constituent who was trying to get service with BT. She was with another CP and they had advised her they would be discontinuing her telephone services on 29th September. The customer contacted BT to transfer her service and was advised that it would take 11 days to do so. She was very distressed and frightened that she would be alone with no means of contacting anyone in an emergency. This issue was caused by a third CP issuing an order to transfer the customer's service.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER VALIDATION AND CUSTOMER INFORMATION

The customer's identity and intent should have been validated up front, and she should have been given more information in advance of the order being placed. None of Ofcom's favoured GPL processes appear to have this capability apart from TPV ("informative" version).

3. Deliberately Misleading

Case 10

The customer had recontracted with BT for broadband and calls on an 18 month contract. 3 months later he was contacted by another CP. He agreed to the offer as he was informed by the CP that termination charges would not be raised as the service was coming back to BT. When the customer transferred he was asked to pay £xxx termination charges to BT. The customer phoned BT 3 days later and asked BT to transfer his service back.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER INFORMATION

The customer would not have moved if they had been informed up front about termination fees as part of the process. None of Ofcom's favoured GPL processes appear to have this capability apart from TPV ("informative" version).

Case 11

The customer copied Ian Livingston in on his complaint to a CP. The customer had taken out their line with BT in Sept 2010. Shortly afterwards they were approached by the CP who stated they were part of BT and they had noticed that he had not been sold the best package. The customer agreed to change the package and was told he would receive everything in writing. He did not receive anything from the CP and BT charged him £xxx in termination fees plus £xx to convert his feature line. His alarm also stopped working and he was charged by the alarm company to get it working again.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER VALIDATION AND CUSTOMER INFORMATION

The customer would not have been switched if his intent and identity had appropriate validation. Involving the losing provider or a third party to validate the customer's intent would have prevented it. Also the customer would not have moved if they had been informed up front about termination fees as part of the process. None of Ofcom's favoured GPL processes appear to have this capability apart from TPV ("informative" version).

4. Different Product

Case 12

The customer had transferred his line to another CP 12 months before, but had retained his BT Broadband service. The customer had taken out a new contract on his broadband service at a discounted special offer price. Two months later the CP transferred his line to MPF, which caused his BT Broadband to be ceased and resulted in £xxx in termination charges from BT.

The customer rang BT to set up his broadband again. To do this BT had to migrate his line back to BT which took place 19 days later. The original broadband offer was no longer available, so BT provided a credit of £xxx to put him back to the position he was originally in.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: ASSET/SERVICE VALIDATION AND CUSTOMER INFORMATION

If service and asset validation had been carried out correctly it would have identified that broadband wasn't intended by the customer to be switched and that the move to LLU would result in BT Broadband being cut off. Then the order could have been stopped. A code-based process that involves asset/service validation would do this.

If the customer had been informed up front that his existing broadband service was at risk then this would also have prevented this problem. None of Ofcom's favoured GPL processes appear to be able to prevent this issue.

5. Failure to Cancel

Case 13

The customer wrote to Ian Livingston as he was having difficulty transferring his line back to BT. He had been approached by another CP in July. The customer contacted BT during the transfer period and agreed a new broadband and calls package. The customer was advised (as per the regulatory rules for Change of Mind cancellations) to contact the gaining CP to cancel the transfer order. We also advised the customer to contact us 2 days before the transfer was due to take place to check to see if it had been cancelled. The gaining CP did not cancel the order and the customer did not contact BT again until the day after the transfer. The customer then experienced difficulty in transferring the line back to BT.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER INFORMATION

The customer would not have moved if they had been informed about alternative offers available from the LP. None of Ofcom's favoured GPL processes appear to be able to prevent this issue.

Case 14

Customer had their line with BT and their broadband with another CP. An order was placed to transfer their line to another provider, which took place and resulted in £xx cancellation charges being raised. The customer had contacted BT 5 days before transfer, stating they did not want to transfer to the CP and they had asked the CP to cancel the order, which they had agreed to do. BT advised the customer to phone back the day before the transfer was due to go live to check the order had been cancelled. The customer rang again two days before the transfer and was advised to phone in the next day. The customer stated he had asked the CP to cancel three times. The customer contacted BT again, but after 4pm the day before the order was due to transfer, when it was too late for the order to be cancelled. Customer advised we would have to let the order complete and then issue an order to bring the customer back to BT.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER INFORMATION

The customer would not have moved if they had been informed up front about termination fees as part of the process. None of Ofcom's favoured GPL processes appear to have this capability apart from TPV ("informative" version).

Case 15

Customer contacted BT after receiving the BT NoT advising her service was being transferred to another provider. The customer had agreed to transfer to the CP via a door step sale, but had changed her mind and cancelled it the next day. As the customer had initially agreed to the transfer, she was advised that BT could not cancel the order, but to phone BT the day before the transfer to check if the order had been cancelled. The customer then wrote to BT 5 days before the transfer to say she would be away and asked us not to cancel her account as she had contacted the CP and asked them to cancel. The letter was not acted on in time and her line transferred to the CP and her BT Broadband stopped working. BT contacted the customer in response to the letter and was advised by the customer they now did not want to return to BT

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER INFORMATION AND TIME FOR RECONSIDERATION BEFORE ORDER PLACED

The customer would not have moved if they had been fully informed of the consequences and had had more time to consider in advance of the order being placed. None of Ofcom's favoured GPL processes appear to have this capability apart from TPV ("informative" version). A code-based process puts the timing of the order back under the customer's control.

Case 16

The customer complained that their service had been transferred to another CP which resulted in £xx termination charges being raised by BT. The customer stated the transfer should not have taken place as they had asked the CP to cancel the order, but no cancellation had been requested. The customer asked BT to transfer the line back.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: CUSTOMER INFORMATION

The customer would not have moved if they had been informed up front about termination charges as part of the process. None of Ofcom's favoured GPL processes appear to have this capability apart from TPV ("informative" version).

6. Misuse of Cancel Other

Case 17

A large business agreed to bring their lines back to BT. The whole order involved over a 1000 lines, but initially just over 300 orders were placed for PSTN, ISDN2 and ISDN30.

These orders were cancelled by the losing CP, some as many as 3 times. The BT operational team held calls with the losing supplier and the CPs through which they were wholesaling their lines, to try to get agreement to allow the orders to proceed. Despite this, orders were still cancelled. BT had to flag the issue to Ofcom for resolution, and despite Ofcom gaining the losing CP's agreement that orders would be allowed to proceed, some of the orders were still cancelled and the customer was informed that the lines would be restricted due to unpaid bills. Ofcom again had to get involved to ensure the remaining transfers went ahead. The 6 to 8 week delay has cost BT £xm in lost call revenue.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: ASSET/SERVICE VALIDATION, CUSTOMER VALIDATION AND CUSTOMER INFORMATION

If these were present, there would be no need for a Cancel Other process, thus stopping the abuse.

Case 18

A business customer wanted to bring their lines back to BT. The Retail orders were cancelled on at least 4 occasions. When challenged by the Retail Fair Trading team, the losing CP stated the customer was in a 5 year contract and would not be released. The customer disputed that they were in a 5 year contract and reiterated their intention to transfer to BT. They also emailed their losing CP stating their intentions. The losing CP still did not accept that the orders should be allowed to proceed so BT again had to flag the issue to Ofcom for resolution.

THE PROBLEM WOULD HAVE BEEN PREVENTED BY: ASSET/SERVICE VALIDATION, CUSTOMER VALIDATION AND CUSTOMER INFORMATION

If these were present, there would be no need for a Cancel Other process, thus stopping the abuse.

Annex 3

Switching processes in other countries

A3.1 Summary

- Ofcom concludes in the consultation document that GPL processes are the way forward. This is justified partly with reference to experience in other countries where Ofcom believes GPL processes have been developed which successfully address the issue of slamming through additional consumer protection methods.
- Based on our own research as well as Ofcom's paper on international comparisons, we believe this conclusion is misleading. There are countries that have GPL processes and only limited slamming problems: however, in the cases we have investigated, the GPL process incorporates far stronger consumer protection measures, potentially going further than those envisaged in Ofcom's preferred solutions. Typically, these involve the use of unique account identifiers, written consent, and in some cases even a requirement for the consumer to be physically present when an order is confirmed.
- The validity of Ofcom's conclusions is also limited by the fact that many of the quoted examples relate to simpler environments than that in the UK. For example, a switch may simply involve identifying a line and transferring control to another provider, and there may only be two levels in the supply chain. A process designed for such environments is unlikely to work in the mature and highly competitive UK market, where multiple networks vie for service, and where within the BT fixed network there are multiple levels of wholesaling and a number of retail providers can supply services over a single line.
- However, we agree with the conclusion in Ofcom's benchmarking report, which aligns with our analysis of switching processes: i.e. that the key characteristic of switching in countries where slamming is limited is "involvement of the LP or use of a code."
- Although some of the processes cited by Ofcom prevent mis-selling, they do not tackle the provision of information to consumers on contractual terms relevant to switching, or the validation of assets: these are equally important to switching in the UK.
- We are surprised that Ofcom's report does not cover the Netherlands. Here, the industry has set up a joint venture to control switching. The process operates across all fixed networks including cable and handles bundles as well as single products. Information on a switch is assembled on a 'just in time' basis for efficiency and to prevent slamming. The need for asset identification in the fibre world has been recognised. We think the Netherlands experience holds valuable lessons for the UK and should be investigated as part of the review of consumer switching.

A3.2 TPV models in other countries

In the consultation document, Ofcom discusses TPV as a switching process in its own right. In reality, TPV is most often a remedy applied to a GPL process in order to enable telemarketing and distance selling by a gaining provider without the potential for slamming. In GPL regimes where the physical presence of the customer or a written signature is mandated, slamming is rare.

The overseas examples quoted are instructive. In the Irish and American cases the basic consumer switching system in place is a GPL process based on provision of written authority: the customer has to provide strong evidence of identity and intent including the identity of the service provider being switched away from and a signature. The TPV element has in each case been introduced in order to mitigate the harm caused by telemarketing in GPL processes. Thus the TPV elicits a minimum data set from the consumer which extends beyond identity to include account status, right to switch, intention to switch, etc.

In Ireland the process is also linked to a concept called the UAN (Universal Account Number, in effect the consumer's former Eircom Account Number) which is used as a unique service identifier by the wholesaler in a market with a single tier of regulated wholesaling. It is worth noting that telephone number is not used.

No such universal identifier is available in the more complex and diverse communications market in the UK. Today there are multiple infrastructures - fixed copper line, cable, mobile, fibre line & MPF copper lines - together with multiple levels of wholesaling. This means that in the UK the original BT Group records and current data records of BT's regulated wholesalers (BT Wholesale and Openreach) do not contain sufficient data to identify all customer services and therefore cannot be used definitively to identify any service instance to be switched. The data to support switching need to be assembled from diverse CP sources. It is preferable to assemble the data as and when required to execute the switch rather than trying to assemble a permanent centralised database of UK communications services or to distribute information about how all services are assembled to customers in their retail service records and on their bills.

In short, a 'basic' TPV model as applied by many overseas NRAs achieves no more than the prevention of slamming in GPL processes that lack sufficient upfront validation. It is an expensive method of tackling the problem and one which becomes more expensive, long winded, manual and prone to error the more responsibility is laid at the door of the TPV. This type of process fails to tackle the most important issues in consumer switching for the UK, including the provision of information to consumers on contractual terms relevant to switching and the validation of assets.

A3.3 The Irish example

One of the overseas processes highlighted by Ofcom as successful in addressing mis-selling is the Customer Authorisation Form (CAF) process used in Ireland. This process is described in a consumer leaflet produced by ComReg, the Irish national regulatory authority, which can be viewed on-line at

<http://www.askcomreg.ie/fileupload/File/Guides/SWITCHING%20LAND%203%20Aug%202010.pdf>

The way in which CPs operate the process can be seen from an Eircom industry document entitled "Requirements for Operator Internal Customer Verification". This document is also available on line, at

<http://www.eircomwholesale.ie/Products/Access/.../Voice-Customer-Authorisation/>

The process is essentially a GPL process based on either a written authorisation form or a phone call. In the latter case, the call is handled by a verification agent, who may work for the new provider or a Third Party Validator.

Although the ComReg leaflet tells customers that they can switch without contacting their existing provider, it nevertheless advises customers to

"contact your [existing] service provider or consult your terms and conditions to check your minimum contract period, whether you are required to provide notice of cancellation and if any early penalties apply for ending your current contract"

In practice, it is likely that many customers following this advice would find it easier to contact their current provider.

When switching, the customer has to present strong evidence of their identity and intention to switch, including the identity of their current provider. Another key feature of this validation process is disclosure by the customer of their Universal Account Number, which is their former Eircom Account Number as described earlier in this annex. No such universal identifier is available in the more complex and diverse communications market in the UK, where there are multiple infrastructures and levels of wholesaling. This means that in the UK, unlike Ireland, the ex-incumbent's records and those of wholesalers in the market do not constitute sufficient data to identify all customer services and therefore cannot be used definitively to identify any service instance to be switched.

BT considers that the Irish process has many merits - strong validation of the customer and their intent to switch, and a basic form of asset validation via the UAN. However, we do not believe it provides a suitable model for the UK industry, which is more complex and more advanced in roll-out of fibre-based services for consumers.

A3.4 The USA example

The key point to note about the examples from the USA is that stronger customer validation rules apply for NoT processes than in the UK. The default position for all switches is that consumers must sign a personal order for the switch, include key data about their identity and even a clear declaration of their intention to switch. With these ground rules in place, extra arrangements were specified to deal with telemarketing contexts. In short, it appears that the regulator was reluctant to allow GPs to complete the validation themselves and TPV in various forms has been invoked since then in order to reduce slamming and mis-selling. We believe this demonstrates that processes relying solely on the GP to validate the customer are not viable: extra steps are always needed to ensure customers are protected.

Basic details of switching processes in the USA, as outlined on the FCC website, are reproduced below.

USA Authorized Switching Methods

Your telephone service cannot **legally** be switched from your existing authorized telephone company to a new company unless the new company verifies the switch by one of the following methods:

1 Uses an independent third party to verify your oral authorization to switch;

or

2 Provides and obtains your signature on a letter that indicates, in writing, that you want to switch authorized telephone companies;

or

3 Provides a toll-free number that you can call to confirm the order to switch authorized telephone companies.

NOTE: The Communications Act and FCC slamming rules make telephone companies responsible for the acts of their agents, including their telemarketers.

USA Additional Rules for Verifying Telemarketing Switches

Before a telephone company can place an order to switch you to a new telephone company that you agreed to use during a telemarketing call, the company must verify your decision to switch by: (1) connecting you to a third party verifier; (2) sending you a letter of agency (LOA) to sign and return; or (3) providing you a toll-free number to call to confirm your decision electronically. The requirements for each verification method are:

Third Party Verification: All third party verifications must elicit from you: (1) the date of the verification; (2) your identity; (3) confirmation that you are authorized to make the change;

(4) confirmation that you want to make the change; (5) confirmation that you understand that you are authorizing a company change, not an upgrade to existing service, bill consolidation, or any other potentially misleading description of the transaction; (6) the names of the telephone companies affected by the change (not including the name of the company you are leaving); (7) the telephone numbers to be switched; (8) the types of service involved; and (9) appropriate verification data (such as your date of birth or social security number).

Letter of Agency: Any written or electronic LOA used to confirm a telemarketing order must include: (1) your billing name and address; (2) each telephone number to be switched; (3) a statement that you intend to change from your current authorized telephone company to the new company; (4) a statement that you designate the new company to act as the agent for this change; and (5) a statement that you understand that there may be a charge for this change. To the extent that a jurisdiction allows the selection of additional authorized telephone companies for local, local toll, or long distance calls, the LOA must contain separate statements regarding those choices, although a separate LOA for each choice is not necessary.

A3.5 Analysis from Ofcom’s report “Slamming and switching validation processes – International Comparison”

Countries with limited slamming problems

The report notes that the key characteristic of switching in countries where slamming is limited is “involvement of the LP or use of a code” – there is no reliance on the GP for customer validation. BT agrees with the direction of these arguments and supports both concepts in any future switching process for the UK.

Countries with more significant slamming problems

BT agrees that the key characteristic is that these countries “largely rely on the GP to validate the switch”. This is similar to the NoT process currently used in the UK and the ‘Enhanced NoT’ process which Ofcom puts forward as one of its preferred options for the future.

Belgium: It is hard to draw any clear conclusions from the description of switching in Belgium other than the fact that the GP collects the consent for switching and the wholesaler

does no more than check that the switch is technically possible. This is roughly akin to what BT Wholesale and Openreach do under NoT in the UK. This technical check does not prevent slamming.

Greece: It is interesting to note that a 'pure GPL NoT' regime applies to LLU and (presumably) generates the opportunity for slamming, but that "for transfers to WLR the LP validates the request which includes the validation of the customer information". It is probable that in this case the LP referred to is the incumbent and that the incumbent in its wholesaler role still holds access to customer data for the check. There is also only one level of wholesaling in this example.

France: In the GPL processes used in France, the written consent of the customer is required, an important if not foolproof guard against slamming which is absent in the UK. The text of the section of the report relating to France is difficult to interpret and it is hard to distinguish why there are differences between number portability and simple switching. The key message is that in France it appears that where a GPL a process is used (not for all switches) there is stronger protection for consumers than is the case in the UK under NoT.

Germany: Here, we note that written authority from the customer is required for a switch.

A3.6 The Netherlands Example

The Netherlands provides a very interesting case study which is not covered in Ofcom's international benchmarking report. Here, consumer switching is controlled by the **COIN** organisation. This is a joint venture of 80 communications providers (CPs, ISPs, resellers, etc) in the Dutch market. It was created in 1998 in order to deal with number porting. When LLU services were introduced on the KPN network in 2002, end-to-end provisioning process were brought under COIN's governance. In 2008, COIN's remit was extended to cover consumer switching for lines and broadband service. COIN is an industry led response to a threat by the Netherlands NRA to implement a set of regulated consumer switching rules "if industry did not sort out a workable set of arrangements that limit customer harm and encourage switching".

COIN holds authority for control of number porting and consumer switching across all fixed networks. The process operates across all fixed line networks including cable and it handles bundles, including a very common dual play of line/calls and broadband. Extension of the process to cover triple play bundles including pay TV is under consideration. COIN operates a closely controlled messaging hub for number portability, roughly in the manner recommended by Deloitte for a new switching process in their 2008 proposal for Ofcom. In the near future, switching for broadband services will be integrated into the central messaging hub.

BT believes the COIN experience can provide valuable lessons for consumer switching in the UK. Its processes can handle bundles and work across infrastructures. Processes and systems are continuously evolving stem through regular working groups and in accordance with an agreed change process.

The COIN designs and experience of converged markets supports many of BT's key principles. For example:

- COIN processes for switching are GP-led, but they involve the LP in validating the customer, services and assets.
- The GP sends electronic, encrypted switch orders that fully identify the GP, the customer, etc. and includes a 'switchid' field. The electronic order is sent into COIN which routes it to the LP.
- The LP is obliged to respond to the electronic request but is able to refuse on a number of important grounds such as 'switchid is not unique', 'contract id not recognised', "can't find the customer record", "this is not the customer at that address", etc.
- The 'switchid' contains both LP and GP identities and other information. It can be used as a common reference to co-ordinate activities across the separate parties who are involved in the switch.
- There are third party integrators who are able to carry out this messaging on behalf of smaller players.

COIN has also confronted some of the key issues in making processes work smoothly for all stakeholders. For example, they considered and rejected the idea of a central asset database on cost and operational grounds. They rejected the idea of dispersing all the data down to consumers on bills because of the dangers of slamming. COIN is currently going through a business requirements exercise in order to examine the way forward for asset identification in switching. They recognise that there cannot be a universal service identifier that operates across all infrastructures. They also recognise that there will no longer be a universal identifier known to consumers, such as telephone number, that can be used to initiate a switch. COIN has concluded that the only viable way forward is to identify the assets at the time of a switch. It will be likely that the information will have to be extracted from the existing supply chain, during the switching process.

Annex 4

Assessment of Ofcom's Economic Analysis

Overview

In this Annex we provide our views on Ofcom's economic analysis contained in section 5 of the consultation document.

The analysis in section 5 consists mainly of a literature review and a theoretical assessment of the relevance of this literature for the UK telecoms market. The conclusions Ofcom draws from this analysis seem to provide one of the core justifications for Ofcom's preliminary view that gaining provider-led (GPL) switching processes are preferable to losing provider-led (LPL) processes since the former are "more likely to lead to lower prices, greater choice and innovation for consumers".⁸ Ofcom further states that "in LPL processes [the] incentive for providers to enter and compete for rivals' customers is reduced"⁹ because of save activity.

Ofcom has portrayed the debate around switching processes as a clear choice between GPL v LPL processes and claims to have shown a clear link between a particular switching process, the level of switching costs implied by it, the degree of competition that would result in the market and hence the level of prices, choice and innovation that one could expect.

We believe Ofcom's analysis is fundamentally flawed as it relies on the ability to isolate and measure the impact of a particular switching process on the degree of competition in the market and the set of outcomes (prices, choice, innovation) that would result from such a competitive process. Furthermore, even if it were possible to isolate the impact, it would be necessary to measure how material this alleged benefit would be in order to assess this against other criteria in a comprehensive cost-benefit analysis of various alternatives.

Ofcom's analysis in section 5 fails to show a clear link between particular switching processes and the set of competitive outcomes they would be associated with and, more importantly, fails to evaluate the magnitude of benefits that might result from moving to a GPL process in all markets.

As we explain in further detail below, the fact that the UK has one of the most competitive communications markets in the world, despite the fact that multiple switching processes co-exist in the market, is clear evidence that there is a weak link, if any, between a particular switching process and the degree of competition in a market.

⁸ Ofcom Strategic review of consumer switching, paragraph 1.8, b.

⁹ Ofcom Strategic review of consumer switching, paragraph 1.8, b.

Furthermore, competition is equally intense across all communications market segments – fixed voice, broadband, mobile, pay TV, bundles, etc. – and each of which has a different combination of switching processes (GPL, LPL, C&R, etc.).

It is therefore simplistic at best, and misleading at worst, to suggest that moving all markets to a single GPL process would result in greater market entry and lower prices. New operators have already entered the retail market thanks to the effectiveness of non-discriminatory wholesale products launched by Openreach and BT Wholesale, and the existence of different switching processes in the different market segments where they have entered has not hampered their ability to compete, nor is their evidence that this has resulted in higher prices to consumers.

To be clear, we are not suggesting that consumers would not benefit from a single, unified switching process for all communications products. Quite to the contrary, we fully support Ofcom's aim to deliver a better consumer experience and support the competitive process, and agree that a single process is necessary to achieve this goal. However, we question Ofcom's reliance on the alleged improvement in competitive outcomes that would result if the industry moved to a single switching process (and GPL in particular). Any potential benefits in terms of greater competition and lower prices – assuming these can actually be isolated and measured – are likely to be marginal given the starting point in which the UK communications market finds itself.

We would therefore caution Ofcom against basing such a fundamental policy decision on unproven competitive benefits. Rather, we believe that the debate needs to be framed around the essential features that a switching process needs to have in order to deliver an experience that allows consumers to exercise their right to change provider and protects them from slamming, mis-selling and unintended errors in the process.

Question 8: Do you agree with our analysis of switching costs? Please provide any evidence you have to support your views.

We do not agree with Ofcom's analysis of switching costs contained in paragraphs 5.3 to 5.43. Ofcom's analysis and conclusions in relation to switching costs can be summarised as follows:

- Lower switching costs are unambiguously associated with more intense competition, greater entry and lower prices for consumers;
- GPL processes are associated with lower switching costs than LPL processes;
- It therefore follows that GPL processes will lead to better competitive outcomes for consumers than LPL processes.

We believe this line of reasoning is fundamentally flawed. In particular, we believe that the link between switching costs and competitive outcomes is far more complex than Ofcom has portrayed.

Ofcom's conclusion is based on a partial assessment of the theoretical and empirical literature of switching costs. Ofcom relies heavily on a survey by NERA (2003) and Farrell and Klemperer (2007) (F&K), as well as on a few empirical studies showing that switching costs appears to dampen competition (which we note are largely focussed on studying the impact of mobile number portability on competition).

Citing F&K, Ofcom concludes that "on balance, switching costs seem more likely to increase prices".¹⁰ Whilst F&K is indeed an authoritative source covering the switching costs literature, it is clear from this conclusion that one cannot unambiguously state that higher switching costs always lead to higher prices, or vice versa.

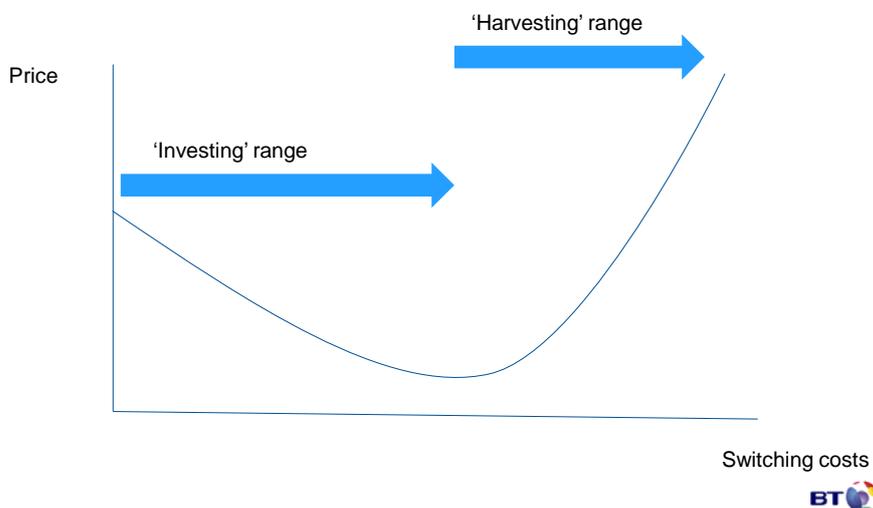
Indeed, a recent body of theoretical and empirical literature that has not been included in Ofcom's analysis nor reviewed by F&K, provides strong support to the view that higher switching costs can actually lead to lower prices if switching costs lie within a particular range.¹¹

The intuition behind this result is as follows. Firms have two opposing incentives: raise prices to 'harvest' existing customers or 'invest' in acquiring new customers that will remain with the firm for a number of years. These studies show that for sufficiently low switching costs, the 'investment effect' dominates the 'harvesting effect' and increasing switching costs leads to lower prices.

¹⁰ Paragraph 5.31.

¹¹ See, for example, Dube, Hitsch and Rossi (2009), Do switching costs make markets less competitive?, *Journal of Marketing Research*, Vol 46, Issue 4, pgs, 435-445; Luis Cabral (2008), Small switching costs lead to lower prices, available at: <http://pages.stern.nyu.edu/~lcabral/workingpapers/JMROct08.pdf>; and Guy Arie and Paul Greco (2010), Who pays for switching costs?, available at: http://www.econ.psu.edu/~plg15/Switching_June_2010.pdf.

Switching costs may reduce prices: investing and harvesting effects



For example, in their recent paper, Dube, Hitsch and Rossi (2009) find empirical evidence for this result by calibrating their model to the orange juice and margarine markets where switching costs are estimated to be between 15%-60% of the product price. Other recent theoretical papers based on an earlier version of Dube et. al.'s results suggest that these findings are quite general and can be observed in many markets (Cabral 2008; Arie and Greco 2010).

In a number of respects, the models and analysis developed by these papers are arguably more robust and realistic than the models discussed by F&K. For example:

- they assess infinite-horizon games (rather than two-stage games as most of the literature reviewed by F&K);
- they allow for differentiated products; and crucially
- they allow for imperfect lock-in as opposed to most other models where switching costs are assumed to be infinite

We therefore believe it is misleading for Ofcom to rely on the generic conclusion that F&K reach to suggest that there is an unambiguous link between switching costs and prices.

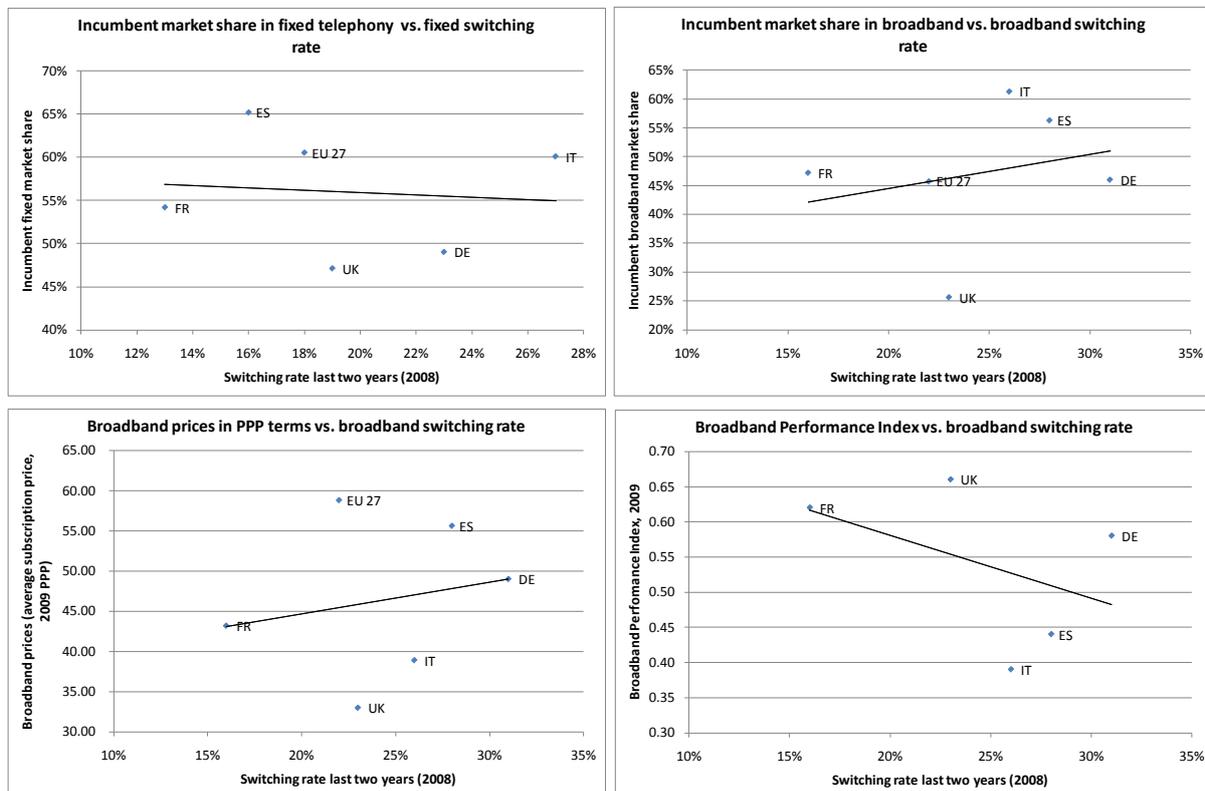
To sum up, the impact of higher switching costs on prices is an empirical matter related to the size of switching costs in a given market (and how the harvesting effect plays out against the investment effect) and other characteristics of the competitive process in that market. As Cabral (2008) puts it:

“(…) the effect of switching costs on market competitiveness is largely an empirical question. For this reason, papers like Dube, Hitsch and Rossi represent important contributions to our understanding of this phenomenon”

Lack of empirical evidence

Ofcom’s analysis is largely based on a theoretical assessment of how switching costs may affect competitive outcomes. However, there has been no attempt to measure this link in practice.

Our view is that if Ofcom attempted to measure this effect it would, at best, find a weak relationship between switching costs and competition. To illustrate the difficulty in attempting to do so, the charts below show the switching rates for fixed and/or broadband markets in a selection of European countries (including the UK) measured against a number of market outcomes.



Source: Europe’s Digital Competitiveness Report, Dec 2009, OECD Broadband Portal July 2010, Flash Eurobarometer 243 January 2009, 15th Progress Report on the Single European Electronic Communications Market – 2009. The Broadband Performance Index (BPI) ranks the EU-27 countries plus Norway in terms of the supply and demand factors that affect the take-up and use of broadband. The BPI is represented by a value ranging from 0 to 1, higher values implying that a country performs better than others in terms of the various components – coverage of rural areas, competition coverage, price, speeds, socio-economic context, and take-up of advanced services

As can be seen, all broadband measures show relationships which run contrary to Ofcom's key line argument – the higher the switching rate observed (implying the existence of lower switching costs) the incumbent's market share is higher, prices are higher and the broadband performance index is lower. Similarly, it can also be seen that there appears to be a negative relationship between the incumbent's share of fixed telephony and switching rates in that market (the higher switching rate, the lower the incumbent's share) but the correlation is very weak.

Whilst these graphs are not proof of causality they serve to illustrate our main point – that it is difficult to make a clear link between switching costs or switching rates and market outcomes, and even if it were possible to do so, the impact of switching rates compared to other factors which influence the degree of competition in a market would be minimal.

This is best illustrated by the fact that the UK is consistently shown as an outlier in all of the charts presented above. It has one of the lowest incumbent shares in fixed and broadband markets, lowest broadband prices and best broadband indices in Europe and this appears to be unrelated to the level of switching rates that can be observed in the market.

Question 9: Do you agree with our analysis of save activity? Please provide any evidence you have to support your views.

Ofcom's core argument is that in the presence of save activity prices would be higher because firms have the "risk-free opportunity to charge higher prices to all consumers and only lower prices to consumers who are actively seeking to switch".¹²

We believe Ofcom's concerns with save activity are massively overstated. First, because it assumes that save activity is risk-free, costless and fully effective at retaining customers that are planning to switch; and second, because Ofcom once again fails to assess empirically the potential benefits that removing save activity would entail in an environment where prices are already among the lowest in the world (and certainly in Europe).

In relation to the first point, Ofcom's own consumer research data shows that save activity is, actually, quite a blunt and ineffective customer-retention tool. For example, in 2010, the percentage of switching customers that listened to save offers when in contact with the losing provider ranged from only 9% for fixed-line to 31% for Pay TV.¹³ Similarly, the percentage of customers that considered switching but decided not to because they accepted save offers was just 10% in fixed line, 11% in internet and 14% in mobile.¹⁴

¹² Ofcom Strategic review of consumer switching, paragraph 5.56.

¹³ Ofcom Strategic review of consumer switching, paragraph 4.96.

¹⁴ Ofcom Strategic review of consumer switching, paragraph 4.97, footnote 61.

These figures clearly demonstrate that charging a high price and relying on save offers to retain customers is not a risk-free strategy and could, in fact, result in significant detriment if, in order to retain customers, firms need to offer prices far below those that would prevail in the absence of save activity.¹⁵

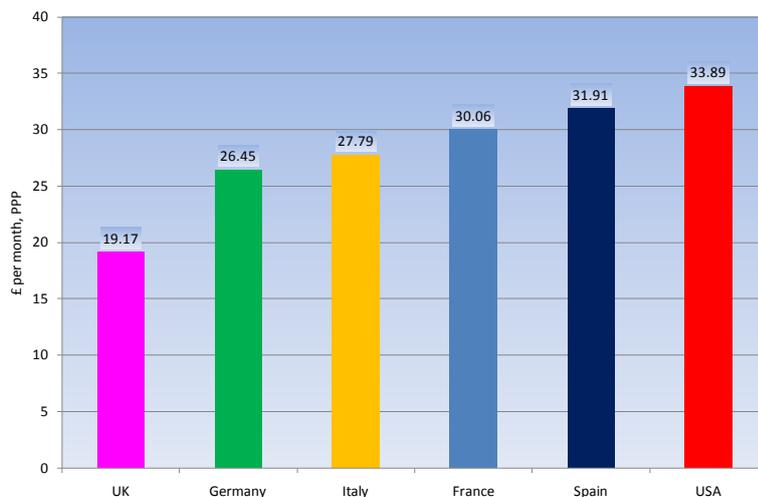
In other words, the less effective save offers are in a market – and Ofcom’s consumer research shows that save offers are far from effective in retaining customers – the lower the incentive to set high prices overall since the costs of doing so (lost profit from customers leaving and/or large discounts offered to retain customers) are likely to outweigh the benefits of setting higher prices to inert customers.

In relation to the second point, we note that Ofcom has not assessed the likely impact that removing save offers would actually have on the level of prices in UK communications markets. Notwithstanding our arguments about the ineffectiveness of save activity as a customer retention tool, even if Ofcom were right and eliminating save activity would reduce prices as Ofcom states, we do not believe that this effect would be material compared to the effect that all other pro-competitive measures have had on the UK communications market.

As explained earlier, the UK is a front-runner on a large number of measures: prices, entrants’ market share, penetration levels, effectiveness of wholesale remedies, etc. In relation to prices, the UK has the lowest landline and broadband prices amongst a selection of developed countries (see charts below).

¹⁵ For example, Ofcom notes that average save offer discounts vary between 25% and 44% of the current price for broadband (with one provider offering a 60% discount on the high monthly fee plan) (paragraph 5.97). In mobile, retention discounts varied between 32% and 60%, on average (paragraph 5.98).

UK has lowest landline prices amongst major countries



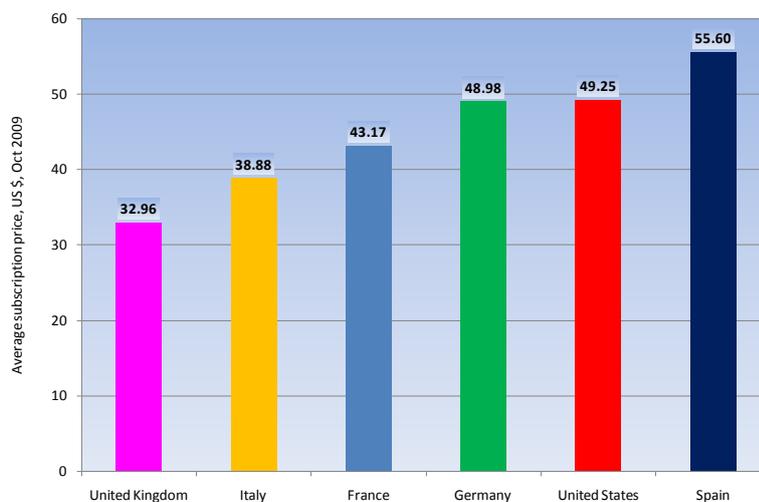
Source: International Communications Market, December 2009, Ofcom

Notes: weighted average of best-value tariff from each of the three largest operators by market share in each country, for 600 outbound minutes, July 2009, PPP adjusted. Based on a family of two parents and two children, who are cost conscious and favour using the fixed-line phone whenever possible, which gets fairly heavy use. Includes line rental and cost of purchasing enhanced tariffs that offer reduced prices.



4

UK broadband prices are the lowest among major countries

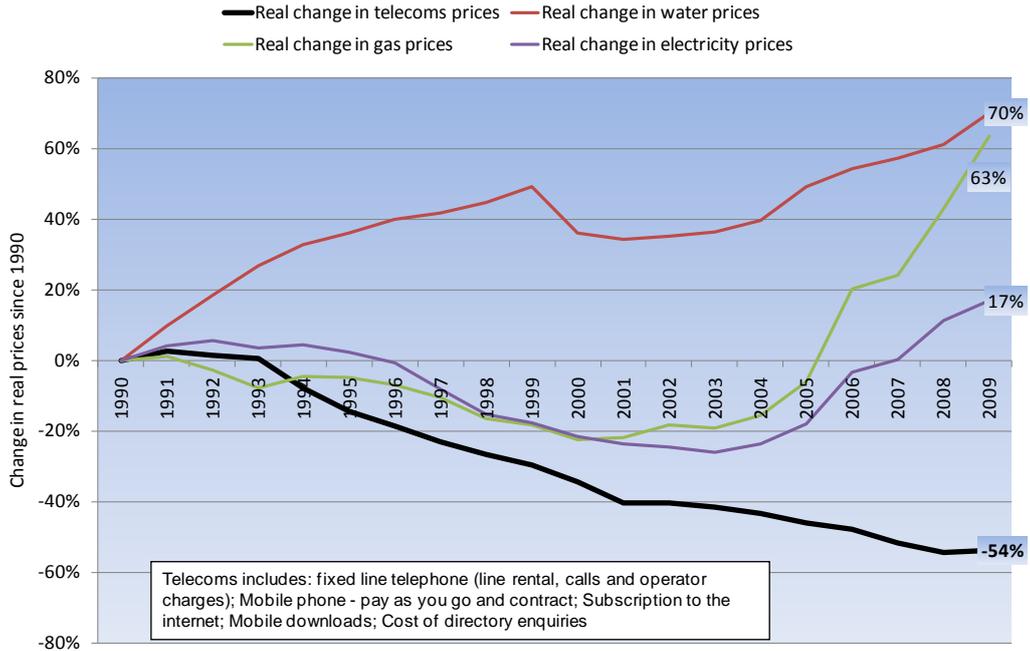


Source: OECD Broadband Portal, August 2010

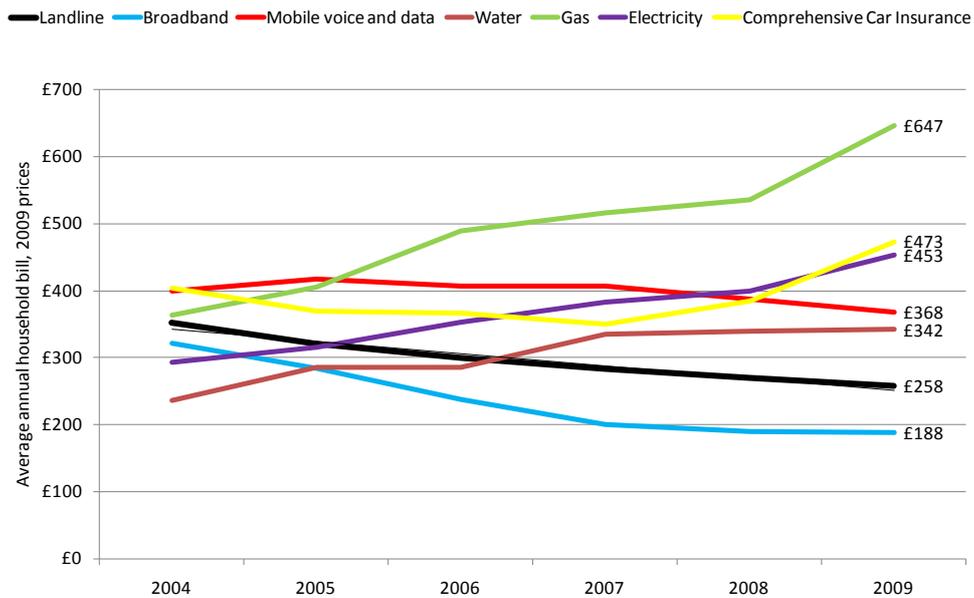


Furthermore, since the 1990s, prices have fallen considerably in real terms compared to other utilities (see charts below).

Against this backdrop, it is unclear how removing save activity can have any material effect on prices. We therefore believe that Ofcom should not base its decision on switching processes on a perception that LPL is associated with save activity and that banning save activity would have a material effect on competition.



Source: ONS & BERR, 2010



Sources: Ofcom Communications Market Report 2010; DECC 2010, Quarterly Energy Prices; Ofwat 2010, Average Household Bills, 2009-2010; AA British Insurance Premium Index records premium movements for 2,800 car insurance 'customers' throughout the UK, from more than 80 insurers, brokers and schemes. The premium is an average of the cheapest three premiums returned for each 'customer' in the basket of risks, and is thus closer to what customers pay for their cover.

Annex 5

Technical issues in switching processes and detailed assessment of Ofcom's preferred options

A5.1 The technical form of regulatory interventions in consumer switching

Regulatory interventions in consumer switching were originally devised to ensure that incumbent operators providing regulated wholesale services on a single network to their competitors at the retail level must switch assets in a non-discriminatory way without preferring their own downstream businesses.

In the UK, regulated switching processes in the fixed sector have taken the following forms:

- **Notification of Transfer (NOT).** Wholesalers are obliged to unilaterally end the contracts held between them and their CP customers by ceasing service to a CP on receipt of a valid switch order from another (gaining) CP. Notification rules and timings are also applied. Openreach and BT Wholesale both operate this process.
- **Migration Authorisation Code (MAC).** Wholesalers are obliged to unilaterally end the contracts held between them and their CP customers by ceasing service to a CP on receipt of a valid switch order from another (gaining) CP provided that such orders include a MAC code that has been provided by Openreach via BT Wholesale and the existing CP. Notification rules and timings are also applied. There is an associated understanding that, in the absence of a valid MAC code, the wholesaler has no mandate to cease its contract with its existing retail CP customer.

Ofcom's descriptions of these processes in the introduction to the consultation give only a partial representation of how the switching processes actually work. In our view they do not provide sufficient evidence upon which to base some of the later judgements in the consultation document.

- **NoT process description**

The description does not contain the relevant detail about how NoT works. The diagram implies that the GP has direct contact with the LP. In fact the GP does not contact the LP: rather, the GP contacts their wholesaler (Openreach or BT Wholesale) and asks for the switching to be carried out, and the wholesaler informs the losing retail CP, if they can identify them. This is a very significant difference. Failure to address the way in which NoT processes actually operate leads to an unrealistic view of their effectiveness and their limitations.

- **MAC process description**

Again, we find the process description misleading. The MAC check is only partially about the customer's legitimacy. More importantly, it is used to discover the assets and to mark them in the records of the wholesaler(s) controlling the switch. This is not reflected in Ofcom's description. In addition, it is implied that LPs create MACs themselves. In fact, LPs cannot provide MAC out of their own resources and must involve the existing wholesale supply chain in agreeing the assets to be switched.

- **PAC process description**

We do not agree with the description of PAC as a complete end-to-end switching process. In fact, what happens is that a C&R sequence runs to completion and then a separate porting process is initiated. PAC is not used for the ceasing of one contract and the starting of another; those things have to happen separately. In that regard using the PAC to organise the port has parallels to the way in which numbers are ported in fixed telephony between the BT and cable networks, though with a different set of porting rules. In the fixed line case the port that follows the C&R switch is NoT-based, not PAC.

A5.2 The impact of evolving market structure

The BT fixed network in the UK is the only one in the world where an advanced form of functional separation is well established, with mass-market services provided and supported at three levels in the supply chain: retail, wholesale and access provider levels. In this framework, there is clear separation of data between the different levels. Because of this, there is no reason or justification for either of BT's wholesale businesses, Openreach and BT Wholesale, to hold information about the end-users of their retail CP customers.

In the case of MPF providers this extends to any knowledge of which retail customers are on the MPF logical networks. In this situation it is not possible to operate switching processes that rely on an "all seeing eye" at the centre of the switch activity controlling both LP and GP service. The overseas examples where Ofcom observes NoT working (albeit with strong measures to prevent slamming) tend to be those with a single level of wholesaling operated by the original incumbent. The UK market has developed well beyond those simple structures. There is no significant market power in retail markets for calls, voice lines or broadband. MPF LLU is very widely available and growing. The old data certainties no longer hold true.

The diagrams below show the original and current fixed line market structures in the UK ('EU' stands for 'end-user').

Fig A5.1 Original UK fixed line market structure

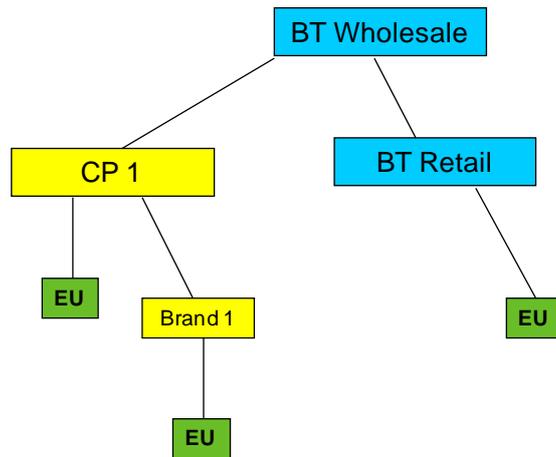


Fig A5.2 Today's UK fixed line market structure

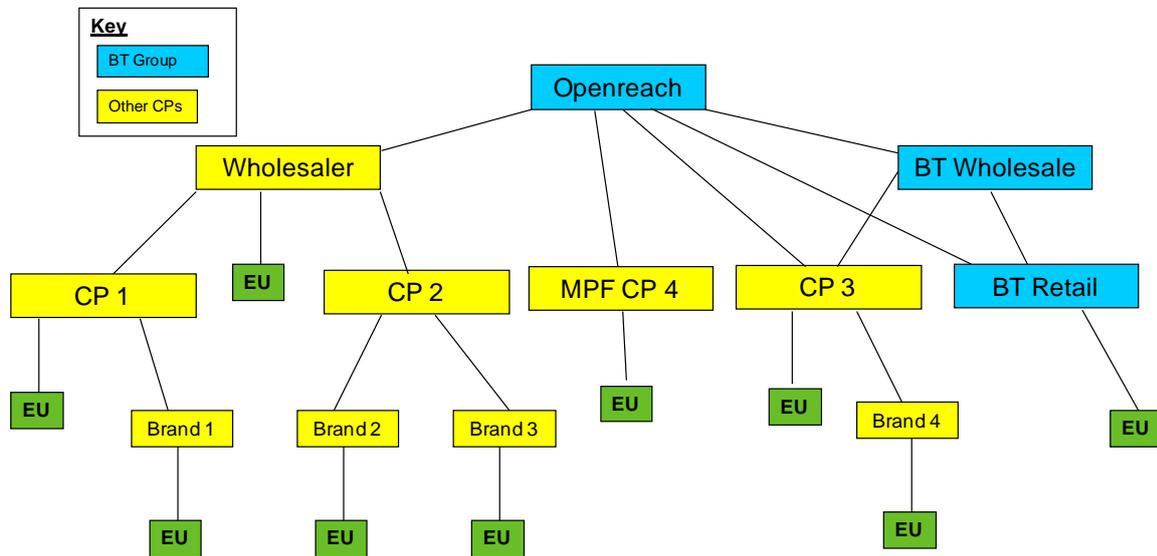
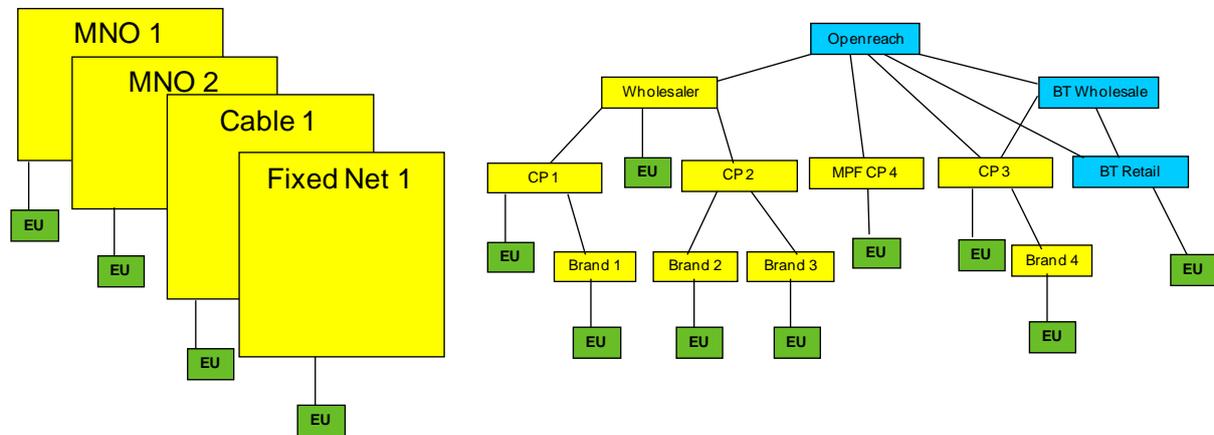


Fig A5.3 All electronic communications markets



A5.3 The impact of operating services on shared assets

On the UK network, call packages, SMPF, FTTC and FTTP services can be provided by more than one retail CP on a given piece of network infrastructure. This means that any consumer switching process which operates amongst these retail CPs will need to discriminate amongst the services on the asset or 'bearer'. It does not matter whether that bearer is copper or fibre. The simplest forms of regulatory intervention assume that if the retail CP changes, then all services on the asset/bearer default to the new CP. This model works well for gas, water, electricity and simple telecoms environments where one retail service provider per asset/bearer is the norm. In the UK fixed communications sector, this simple 'one bearer to one retailer' situation is found on those networks with only one provider (e.g. Cable & MNO networks) and on MPF versions of LLU. For the bulk of the retail competition between CPs that takes place on the BT network, the ability to...

- distinguish between services on the line
- record and monitor the actual service from amongst the set on the line that is being switched to a new CP
- and recognise different wholesale supply chains for each CP service on the line

... is crucial in order to support the switch. An arcane set of rules about service hierarchies and relationships has grown up on the BT network in an attempt to preserve service and commercial integrity, but this is unwieldy for consumers, the retail CPs and for the regulated wholesalers. All are required to navigate a complex array of product /service relationships.

The consultation analysis, which concludes that GPL processes are 'easier' for consumers than the existing LPL example (MAC) and therefore recommends a GPL process, does not recognise the complexity of multiple CP services on one shared asset/bearer. The consultation does not explore whether the GPL processes which it recommends would be viable in complex markets with more than one level of wholesaling and multiple CP services on a shared infrastructure node. The shared service model is likely to be the mode of operation for converged services in the future and on NGA specifically. We do not believe the GPL processes recommended by Ofcom would form a viable basis for competition and switching in such environments.

A5.4 Data availability not data quality

When a gaining retail CP places an order with their wholesaler for a service that is to be switched from another retail CP, they do so in the expectation that the wholesaler will be able to...

1. identify the service in question

2. notify the losing retail provider that a managed cease has been initiated
3. (by implication) prompt the losing retail provider to notify the customer
4. prepare to fulfil the switch order.

If the gaining CP's immediate wholesaler in turn places an order with their wholesaler, e.g. Openreach, for a service that is to be switched from another wholesale CP, they do so in the expectation that, in turn, their wholesaler will be able to...

1. identify the service in question
2. notify the losing wholesale provider that a managed cease has been initiated
3. (by implication) prompt the losing wholesale provider to notify the losing retail provider
4. (by implication) prompt the losing retail provider to notify the customer
5. prepare to fulfil the switch order.

This chain illustrates how essential it is for the wholesalers in the gaining chain to be able to identify the assets and the services which are to be switched to the gaining wholesale and retail CPs. Put simply, the wholesaler has to be able to find the correct bearer and service to switch across to the gaining supply team.

The key questions become...

1. "Do the wholesalers hold enough information to be able to identify the services and assets (the copper or fibre bearer) involved in the switch when presented with the switch order?"
2. "If the wholesalers don't hold that information, can the customer and gaining provider give the 'missing information' to them as part of the switch order?"

Question 1

NO. The wholesalers do not have sufficient information

The data that they hold relates to the service and assets that they are currently using to provide service to the existing CP(s). They hold their own detailed inventory and know which of their assets are used to serve their CP customer(s), with which services. They know the bearer they are using to serve their CP customer. They hold other contextual data such as the CP identity, the serving address and sometimes other data such as telephone number.

They do not hold any retail level information about how their CP customer serves the consumer. Specifically, if the retail CP was using other wholesalers to supply different services to the consumer (perhaps as part of a bundle) the wholesale CP would be completely unaware. They do not know the identity and services of the consumer being served by the retail CP.

When presented with a switch order created by the GP and the customer, no matter that contextual information such as the address, name, telephone number are supplied; the wholesaler cannot, with certainty, know which bearer (asset) to hand over to the gaining CP. That information, namely the linkage between the wholesaler's bearer and the consumer service(s) to be switched lies within the records of the existing supply chain.

Question 2

No. Out of the information that they normally hold, neither the consumer nor the gaining retail CP can supply the wholesaler with details of the asset (bearer) and services that the existing retail CP has contracted for with their wholesale suppliers.

There are potential remedies to the data availability problem identified here. They are described elsewhere in the consultation and in previous work on consumer switching such as the Deloitte report provided to Ofcom in 2008. Each of the potential remedies is dependent upon the key information being provided into the switching process by the members of the existing supply chain, retail and wholesale.

A5.5 Porting and Consumer Switching

The consultation analysis in which PAC is represented as a LPL consumer switching process is misleading. The PAC is used for the porting of an important service attribute after the C&R sequence to cease one service and start another has completed. Typically consumers have service from their new provider for a short while before the port takes place. In this regard there is a direct analogy with line switching between the BT network and cable. In that scenario a C&R process runs and a separate port process (based on NoT) also runs. The consultation does not clearly articulate the relationship of porting to consumer switching, which is as follows:

1. The ability of consumers to take key attributes of a service (e.g. telephone number, email address) forward to their new service provider is very important in reducing the cost of switching to them.
2. On a unitary infrastructure like BT's fixed copper network, porting is not always required but may be in some cases (e.g. to /from MPF voice providers).

3. When a consumer switches services between infrastructures, the ability to bring key service attributes with them (to port them) becomes the main determinant of the ease and cost of switching. This is illustrated in switching between mobile networks.

BT believes that porting is an essential element of consumer switching and that any new, comprehensive single process ought to include the ability of the consumer to opt for a port of one (or more) attributes as part of their switch and not have to deal with it as a separate process.

If the consultation is intended to look strategically across fixed, mobile, broadband & pay TV markets it is not clear why it focuses solely on BT's fixed network. The analysis in the main body of the consultation, with its emphasis on GPL processes, militates against any of Ofcom's preferred solutions being suitable in the wider context of all markets and all infrastructures. GPL processes of the type recommended are least able to deliver a widely applicable solution and to include porting.

A5.6 Preventing Erroneous Transfers

The consultation implies that erroneous transfers 'cause' slams. That is not the case. Slamming leads to erroneous transfers as does the current agreed process for working line takeover (WLTO). The key question is whether there is an underlying, prior cause to intentional slamming and to erroneous transfers in WLTO. We believe there is: it is the NoT principle of the wholesaler being required to issue a managed cease of service in favour of a new supplier on the basis of insufficient validation and available data. The figure below illustrates this.

This is the reason why the GPL v LPL choice is not the key issue in consumer migrations. The most important determinant of success is how early in the switching process validation happens. BT supports up front validation of consumer identity, account authority, intent, services, assets, together with appropriate information available to the consumer; followed by a RFT (right first time) process. Ofcom, in deliberately seeking to exclude the involvement of the LPs in switching processes, adopts an extreme point of view on the subject and seriously compromises the conclusions that it draws in the consultation.

A5.7 Technical assessment of Ofcom's preferred 'greenfield' options

BT outlined a GPL process based on the principle of a 'transfer code' to Ofcom in July 2010. We would like to see this method compared with the GPL options put forward by Ofcom. There are further possible options that could be considered but which are not covered in the consultation document as a result of Ofcom's approach of analysing all possibilities under the LPL and GPL banners. For example a transfer code-based system could operate by presenting the consumer with a choice as to which provider to contact first to initiate a switch.

It is unlikely that any change to a single new method for consumer switching would be without cost for CPs. We believe that our outline proposal would be workable and affordable for the industry and would bring long term benefits to consumers and CPs. The following paragraphs explore some of the issues we have with Ofcom's proposed solutions.

A5.7.1 Enhanced GPL (NoT) process

The remedies aimed at incrementally eradicating the weaknesses of the GPL (NoT) process that are presented do not address all the weaknesses in today's NoT. We also believe they would be expensive to implement and ineffective. Furthermore, the method is incapable of facilitating switching across infrastructures or porting of service attributes within the switching process. We do not think it would be fit for purpose.

As recorded in earlier industry responses to Ofcom's consultation on mis-selling, the record keeping obligations and potential requirement to record all sales and Cancel Other calls would be very expensive for industry. As ex-post measures they would not prevent slamming.

Relatively simple measures such as the requirement for the account holder's signature, a declaration of customer intent, provision of the retail LP account number, a universal identifier, third party validation, etc are all far more effective at addressing the (inevitable) problem of slamming and mis-selling in the GPL (NoT) process. In the regimes in other countries, including those presented by Ofcom as examples of successful GPL processes,

these extra measures are deployed in whole or in part to protect consumers. The NoT regime in the UK leaves consumers more open to harm from slamming and mis-selling than those in other countries, and we do not believe 'Enhanced NoT' option would address this.

The provision of appropriate customer information (for example ETCs, detail of service capabilities lost) in NoT letters comes well after the switching process has been initiated. Specifically it comes after the GP has placed the order with their supply chain and the managed cease of the existing supply chain CPs' services has been issued by the wholesaler. This is too late in the process. It generates re-work and cancelled activities. When such late arriving information is acted upon within an NoT process it amounts to as many as 20% of all orders placed being cancelled. This is wasteful of CP resources and a poor experience for customers.

The NoT proposals do not address the issue of proper validation of the services which the customer wants to switch, either in terms of asset identification or in terms of the customer's intent.

A5.7.2 Consumer Code on Bill

The description in the consultation does not include a proper analysis of how the process would work in practice. The narrative focuses on customer tasks but does not explore how information is created, vetted or used by the stakeholders in the switching process. Examples are give below.

"To switch the consumer would need to provide the GP with the code and other details which would be verified by the LP before the switch could continue"

The statement is confusing.

If this is intended to mean that upon receipt of an order from a customer, each gaining retail CP would contact the losing retail CP in order to verify the information which the customer will have obtained from their bill (itself provided by the losing retail CP) then two issues arise:

- The ability for all retail CPs to contact each other by phone, fax, email or business gateway would be a new capability for intra-industry communication. This investment may be worth making for an important value-add contribution to switching, but not if...
- ...the check has little value. All that the losing retail CP can do is vet that the customer has transmitted the information correctly to the gaining CP. In terms of action to progress the switch, the retail GP can only take such action with their suppliers. The only action that a losing retail CP could take is to initiate its own cease process by treating the request as notice of cancellation.

We do not think that this is what Ofcom intended in the consultation document. Our view of the more likely interpretation is given below.

If the LP in the statement refers to the wholesale units of BT (either BT Wholesale or Openreach), these are the parties whom a gaining CP may approach in order to progress the service switch. For GP service orders to these wholesalers, it is of no consequence or of any use to the wholesaler to know the losing retail account information of the consumer. The only data that would be of use to them would be information about which of the services that they are currently providing to their (losing) CP customers that they need to act on. This is not data that originates with the losing retail CP; it is data that exists in the losing *wholesale* supply chain. The [ii] interpretation is affirmed in the sentence “This process is similar to the MAC process, with the key difference being that the consumer is not required to contact *their current provider* to request the code in order to switch”. If the code is to be ‘like a MAC’ then it will need to contain service / asset data that comes *not from the losing retail CP* but from one or more companies in the wholesale supply chain serving that existing CP or ISP.

If this second interpretation is correct, then this has an impact on where and how the codes on the bill are produced, distributed and updated as well as their format. In short, the service codes on bills would need to come from one or perhaps all of the wholesale suppliers if they were to be of use to wholesalers when switching a service to a gaining retail CP.

The reference to switching in the energy sector is instructive. It reveals that Ofcom is assuming a simplistic network, service and market model in its analysis. The other examples quoted from Ireland and other European telecommunications regimes elsewhere in the consultation are similarly limited and inappropriate to the UK communications market which has the distinguishing feature of Openreach in the access provider role, a very competitive market on the Openreach network with multiple levels of wholesaling, and no retail SMP for narrowband voice and broadband services on the infrastructure. Because there are multiple digital services on a given piece of infrastructure (e.g. a copper pair or fibre end point) and also because these may be provided to consumers by more than one CP (potentially competing CPs) the desire to reduce switching to a single unique reference such as the MPAN, or Mnumber in the energy industry or the UAN (universal account number) in Irish telecoms is unworkable for the rich and diverse UK communications market.

We note that in the UK energy market the ability of GPs to obtain strong authentication codes such as MPANs or Mnumbers has led to slamming. This reveals the inherent danger that even where such simplistic codes are viable, there is a risk of slamming wherever the strong codes enter the public domain and are not ‘time bound’.

By implication, although the consultation does not explicitly bring the point out, the codes on the bills would have to be provided by the wholesalers, Openreach and BT Wholesale, to the existing retail CP who puts the code on the consumer's bill. This raises the questions of

1. What form does the code take?
2. What does the code represent?
3. How and when the wholesalers deliver the codes to the retail CPs (and keep them up to date)
4. Would the GP's wholesale suppliers need to check that the code is valid and if so how?
5. Will Openreach and BT Wholesale (and other providers?) be required to issue managed ceases on orders that include a service code?
6. If Openreach and BT Wholesale have to issue managed ceases, how can they verify the code (*if they have not issued it themselves*)?

NB At points in the description, the term LP reverts to the more usual meaning in the consultation of losing retail provider.

It is not clear what the logic for a central database is, nor whether such a database is intended to be separate from the databases of the wholesalers who will (necessarily) issue the codes (e.g. the Openreach records of MACs). Equally it is not clear why it is asserted that the codes would need to be checked on each billing run. We do not believe this would be the case, and the subsequent inference that such a step would be costly is misleadingly negative.

If the codes are intended to come from a 'third party' central database, it is unclear whether this is almost the same as the 'full third party validation method' described in the report on switching compiled by an industry working group in 2008, but with a different (batch and in advance) mode of distribution.

A5.7.3 TPV process

The description is not clear on how any one of the several options would work in practice. The only dimensions described are the consumer facing parts. It is unclear why the option of the consumer contacting the TPV directly for the validation service has not been explored. It is also unclear what the value is in the GP contacting the TPV, either to transfer the customer to them or to ask them to phone the customer back. This appears to involve passing unnecessary detail, as well as new opportunities for communication failures.

The simple TPV model implied by Ofcom and deployed in other countries is simply a device to prevent slamming in an exclusively GPL process. As such it is an expensive method of tackling the problem and one which becomes more expensive, long winded, manual and prone to error the more responsibility is laid at the door of the TPV. In our view, the idea that TPV could be overlaid on existing processes is ill-considered. TPV as proposed here, i.e. without a centralised database of assets and services, is simply a remedy for slamming. It would be superfluous for MAC, PAC and C&R. There is therefore no benefit to a TPV overlay except in the context for which it was originally conceived, namely to prevent slamming in GPL based systems that lack sufficient upfront validation.

We believe the levels of TPV intervention described are unrealistic. It is not clear how the TPV would contact the losing retail CP in order to establish the consequences of a switch to the consumer. They would need to establish their credentials as the TPV and then present the losing retail CP with sufficient credentials to access the consumer's records in its own systems. For this to succeed a large amount of data would be required, and the TPV would either need to have ensured that the GP had collected the information accurately or to have phoned back the consumer to collect the information needed to hold a dialogue with the losing retail CP; all before going back to complete dialogues with either the consumer or the GP.

This description does not explore the overhead that is incurred when the TPV acts as an intermediary in the validation and customer information exchanges between stakeholders.

The examples quoted are instructive. In the Irish and American cases the basic consumer switching system in place is a GPL written authority where the customer has to present strong evidence of identity and intent including the identity of the service provider being switched away from and a signature. The TPV element has in each case been introduced to mitigate the harm caused by telemarketing in GPL processes, specifically to prevent slamming and miss-selling in the USA calls market. Thus the TPV elicits a *minimum data set* from the consumer which extends beyond identity to include account status, right to switch, intention to switch, etc.

In Ireland the process is also linked to a concept called the UAN Universal Account Number (formerly the Eircom Account Number) which is used as a unique identifier of service id by the wholesaler in a market with a single tier of regulated wholesaling. It is worth noting that telephone number is not used. No such universal identifier is available in the more complex and diverse communications infrastructure in the UK. Today there are multiple infrastructures - fixed copper line, cable, mobile, fibre line & MPF copper lines - and multiple levels of wholesaling. This means that in the UK the original BT Group records and current data records of BT's wholesalers do not constitute sufficient data to identify all customer

services and therefore cannot be used definitively to identify any service instance to be switched. It is preferable to assemble the data as and when required to execute the switch rather than trying to assemble a permanent centralised database of UK communications service or to distribute information about how all services are assembled to customers in their retail service records and on their bills. In short, a 'basic' TPV model achieves no more than the prevention of slamming in an exclusively GPL process. It therefore fails to tackle the most important issues in consumer switching.

The TPV does no more than provide a record of the consumer's clear intention to switch the bundle. There is no description here that explains how the record could be used with the CP supplier(s) (retail and wholesale) to expedite the switch. Would a 'proof record' be held by the TPV that both losing and gaining suppliers could access? Would Openreach, BT Wholesale and any other future wholesalers be required to issue 'managed ceases' on orders that have a TPV proof record? If wholesalers were mandated to issue the managed ceases, how would they verify the proof record?

In relation to informing customers of the consequences of switching, the TPV can only provide generalised warnings if there is no contact between the TPV and the existing supplier. If contact is made by the TPV with the LP in order to establish the customer's precise contractual position, the TPV will have to both prove its identity as the TPV and then present an appropriate level of customer information (e.g. the account number with the LP) in order for the LP agent / system to pass back to the TPV the data needed to provide the customer with the detailed information. In essence, this would be a cumbersome way to achieve a simple end that could be more readily achieved by the customer obtaining the information direct from the LP.

We believe TPV does nothing special to "decouple front end from back end process", itself a vaguely defined objective. The consultation document does not present evidence to support the assertion that the existence of TPV would improve any CP systems, either front end or back end.

Annex 6

Description of BT's preferred solution – 'Transfer Code'

A6.1 Summary and Introduction

The Transfer Code process is an end-to-end electronic mechanism designed to allow consumer services to be switched quickly and efficiently. Each individual switch is identified to the relevant stakeholders by a simple code which they all know and use.

The process is based on a "right first time" approach in which the data needed for a switch is gathered and validated at the beginning of the process. The data is held in records held by CPs in the consumer's existing supply chain, so that the customer and the services and assets to be switched are accurately identified. The code is issued when validation has been successfully completed. The code itself does not contain data: rather it acts as a key to the relevant data in systems of the CPs involved in the switch and as verification that the consumer wants the switch to go ahead. The process is designed to ensure that switches can be carried out efficiently and with effective protection for consumers.

Transfer Code is capable of being implemented in a range of different ways. For example:

- communication between consumers and CPs can work via different channels such as internet portals, voice calls, text messages, etc;
- save or retention activity can be accommodated within the process but is not an essential part of it;
- the process can be initiated by the consumer's existing provider ("losing provider led") or their new provider ("gaining provider led"). Section 6.6 below considers the implications of these options.

BT outlined its Transfer Code option for consumer switching to Ofcom at a meeting in July 2010. This presentation was aimed at:

- defining the problems that Transfer Code option is aimed at solving;
- explaining how Transfer Code would overcome the identified problems;
- showing that Transfer Code would address many of the key consumer requirements of an effective switching process, and not only be focused on 'back office' efficiency;
- showing that Transfer Code could be used in other scenarios dependent on identification of customers and assets and verification of authority to switch, such as Working Line Take Over, another long standing industry problem area.

This annex gives a high-level summary of the key points in this presentation.

A6.2 The problems which Transfer Code aims to solve

Transfer Code is aimed at preventing the problems inherent in today's switching processes. In particular it is designed to prevent situations where:

- someone who is not the customer or their authorised agent is able to initiate a switch, for example an unauthorised CP or an unauthorised member of the customer's household;
- a simple enquiry about a new service is misinterpreted as an intention to go ahead with a switch;
- a customer wants to switch one service (e.g. a calls package) but another service (e.g. broadband) is switched instead or in addition;
- the wrong service or asset is switched by mistake, for example the line in a neighbouring property.
- there are difficulties in switching bundles.

The process is designed to resolve these problems by:

- accurately establishing the identity of the customer, the service(s) and the asset(s) involved in a switch and by confirming the customer's intention to switch, both for individual services and bundles;
- and by conveying the relevant information to all the CPs involved.

The process is also designed to resolve other important but less fundamental issues, such as the length of today's MAC codes.

A6.3 How the process would work

An overview of how the process would work is given below.

Customer Identity

The customer is identified to the losing provider, either through the gaining provider or directly, depending on how the process is implemented. In either case, the information must be sufficient to assure the losing provider of the customer's identity in line with their normal security standards. This is likely to involve the provision of details that are not publicly available and only known to the customer and their existing CP, for example account number. This minimises the risk of slamming under a gaining provider led implementation of the process - although providing such information to a gaining provider could raise concerns over the confidentiality of customer information held by the losing provider.

Service Identity

The losing provider verifies that the customer currently consumes the service or bundle that they want to switch and captures the identity of the service or services to be moved.

Asset Identity

Associated assets, for example the copper line, are identified in the losing provider's records.

Requesting and issuing a code real-time

The losing provider passes a request for a code up its supply chain for the service to be switched. The service and asset are validated by the relevant CP at each stage in the chain. Following validation, a code is issued. When the code is issued, it is disseminated back down the existing supply chain: at each level in the chain, the relevant CP tags their records for the service and assets with the code. This process works electronically in real time via business to business gateways. The losing provider then gives the code either to the gaining provider or the customer, depending on how the process is implemented. The fact that the code has been issued demonstrates the customer's confirmed intention to switch.

Using the code to switch the right service/asset

On receiving the code from the losing provider or the customer, depending on the implementation, the gaining provider passes the code up their supply chain for the service. At each level in the new supply chain, the CP's record for the asset is tagged with the code. Because of this, the process ensures that the correct asset is switched: the code on the order placed by the new CP matches the code on the record in the existing CP's records and the records at all other levels in the losing and gaining supply chains.

A6.4 Principles of the process

A6.4.1 There are two key principles that underpin the Transfer Code concept. First, in order to assure and make accessible the information required to complete a switch, industry does not have to:

- gather and maintain key CP data together in one place, i.e. in a central database of all service/asset records, or
- make sure customers always have access to the data, e.g. by including it on bills.

This saves large amounts of data copying and transmission, and it avoids the problem of keeping copies up to date with originating CP systems and consistent with each other.

The second is that the code itself does not have to contain key information, whether it is about customers, assets or services – such data need not be part of the code itself. In view of this:

- no data are 'encoded'. Instead the process places the Transfer Code in the CP databases which hold the key data, allowing the information to be accurately recalled and used;
- the Transfer Code is a common key which unlocks key migrations data and authorisations for the CPs who need to use them;

- the Transfer Code is created 'just in time' for the duration of the migration and only for migrations. Its use and maintenance therefore generates no ongoing overhead for industry, nor any security risk of misappropriation later on;
- the Transfer Code is designed to be short, simple and easy to use. BT is recommending six, randomly generated, unique alphanumeric characters.

A6.4.2 There are a number of possible options for issuing codes. Each CP could be issued with its own block of codes to issue to gaining providers or customers, depending on how the process was implemented. Another possibility would be to allow customers to select codes themselves in the way the people select their own user ids and passwords for on-line accounts. We believe the most efficient option is to have a single code issuing authority, since this eliminates any possibility of duplicates, minimises the probability of transposition errors and avoids the administrative overhead involved in allocating blocks of codes. There are also options for who the single code issuing authority should be. We believe it would be most efficient for Openreach to be the authority on the BT network. This is because most CPs already have gateways with Openreach, whereas all CPs would have to set up new gateways to any new third party issuing authority. An additional benefit would be that where an Openreach asset was involved, Openreach could tag the asset when issuing the code. Various options could be explored for issuing codes for cross-infrastructure switches, for example between the BT and cable networks.

A6.4.3 Through being stored in CPs' systems as part of the switching process, the Transfer Code is able to deliver key information to the stakeholders involved in a switch:

For the existing retail CP (the losing provider), the Transfer Code means that

- I have accepted the switch order; I know the customer's identity and account number, I know which service the customer may decide to switch, I know which asset supplied to me by my wholesaler is involved.

For the existing Wholesale CP, the Transfer Code means that

- I have accepted the switch order, I know the identity of the existing retail CP, I know which service may be switched, I know which of my own assets is involved, and I know which asset supplied to me by my Access Provider is involved.

For the Access Provider CP, the Transfer Code represents

- I have accepted the switch order, I know the identity of the wholesale CP, I know which service may be switched and I know which of my own assets is involved.

For the Customer, the Transfer Code represents

- I know that my new retail CP has the right to re-use assets in the supply chain in order to switch my services quickly and easily.

For the new retail CP (the gaining provider), the Transfer Code represents

- I know I have the right and ability for me and my suppliers to go ahead with our provision, knowing that those assets in the existing supply chain that we want to re-use are already tagged and ready for us to take over.

A6.5 Problems which Transfer Code could not resolve

The Transfer Code process is designed to resolve as many as possible of the current problems with consumer switching, however there are some problems which it cannot address. It could not in itself:

- eliminate the possibility of a fraudster misrepresenting themselves as the customer, i.e. giving a false identity. However, the process would limit proportionately such incidences since customers would identify themselves using information that was not publicly available and would likely to be known only to the customer and their existing CP;
- ensure that information given to a customer by a gaining provider on the benefits of switching was accurate;
- ensure that information given to a customer on costs of switching (e.g. early termination charges) was accurate;
- correct existing, underlying data errors in CPs' systems – although failures in the validation used in the process would reveal data issues and prompt CPs to resolve them.

A6.6 How Transfer Code would handle GLP and LPL variants

The core features of the process remain constant whether in gaining or losing provider mode. The main difference between gaining provider led and losing provider led variants is that when the gaining provider leads the process, they act as an agent for the switch. As such, they rely on the customer providing accurate information to them, which they then need to validate with the losing provider. This validation can be done electronically or by telephone. Each contact method has different cost and efficiency implications.

The other core difference is in how the process handles losing provider data on the costs of switching to the consumer, including potential loss of associated services, contract termination costs, etc. The transfer of information to the customer can be done via telephone or electronic means either directly by the losing provider or by some other means, electronic or via the gaining provider acting as the agent.

Overall, we consider the losing provider led variant would be likely to be more efficient, as:

- the extra validation step via the gaining provider agent would not be needed;
- because the customer would interact directly with their losing provider, there would be less chance of the initial validation failing;

However, the increased efficiency in a losing provider implementation would need to be weighed up against the fact that in such processes, the customer needs to contact both losing and gaining providers at the start of the process.

With either variant, save or retention activity could be either permitted or prohibited: it is an optional rather than essential part of the process.

A6.7 Transfer Code principles applied to Working Line Takeover

The concept of an 'authority code' based on Transfer Code principles can be extended to cover other scenarios such as Working Line Take Over (WLT), porting, bulk transfers and other situations where joint action by CPs on an end user's services is needed. Development costs and substantial amounts of process capability and infrastructure could be shared amongst the different uses. This would be much more cost effective than developing 'stand-alone' solutions for each subject area.

A6.8 Conclusion

The Transfer Code process developed by BT is essentially based on pre-order validation. The code issued when initial validation is successful is roughly equivalent to a 'common switch reference number' shared by the consumer and all the CPs involved in a switch end-to-end. The fact that the code has been issued assures all the parties of the accuracy of the information and authority to act which is needed for switches to be carried out efficiently and successfully.

The core features of the Transfer Code process remain constant in losing or gaining provider mode. The only element that varies is the means by which the relevant data is conveyed at the start of the process. BT believes that the process would constitute a huge step forward for consumers and the industry, and we would be happy to discuss it further.

We have previously prepared and provided to Ofcom step-by-step process walk-throughs for Transfer Code in the following variants and scenarios:

- Single product switch, gaining provider-led;
- Single product switch, losing provider-led;
- Bundle switch, gaining provider-led;
- Bundle switch, losing provider-led;
- Working Line Takeover.

We would be happy to share this documentation with other stakeholders on request.