

## Communications Consumer Panel response to Ofcom's consultation further to its statement on the processes for switching fixed voice and broadband providers on the Openreach copper network

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### Introduction

The Communications Consumer Panel welcomes Ofcom's statement on the processes for switching fixed voice and broadband providers on the Openreach copper network and the opportunity to comment on improvements to the existing GPL Notification of Transfer process ('GPL NoT'), referred to as GPL NoT+.

The Panel works to protect and promote people's interests in the communications sector. We are an independent body, established by the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, Government, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses. The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which face many of the same problems as individual consumers. There are four members of the Panel who represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively.

The Panel believes the current regime has not, for some time, been sustainable and has long called for the process of switching CPs to become easier for consumers and small businesses. Low switching levels lead to reduced competition and a worse deal for consumers across the board. If consumers are more aware of the benefits of switching and can switch between providers quickly and easily, consumers will benefit from enhanced competition and innovation in communications markets.

However switching between CPs is often complex, and involves steps that must be coordinated between different providers in ways that do not arise in other consumer markets. What should be an easy and seamless consumer journey as part of a vibrant market can in many respects be an obstacle-ridden process that, evidence suggests, discourages switching and thus deprives consumers of potential benefit. Additionally, consumers may suffer instances of poor service that are in themselves a cause of harm and detriment - as well as having a negative impact on the industry's reputation.

Based on the evidence to date, we support Ofcom's view that a GPL process should be the model for all switching processes. We appreciate the complexity of the issue and that Ofcom has been working on improving switching processes for many years. However, we

believe that consumers now require rapid action. It is in our view therefore essential that this issue continues to receive a high priority and we would again urge Ofcom to explore how the proposed timetable for completing this work could be compressed significantly.

The Panel has also advised Ofcom that its strategic aim should be harmonised switching processes for all communications services such as mobile, pay TV and cable services. We therefore continue to urge providers to work with Ofcom to design a unified system as quickly as possible and similarly would encourage Ofcom to take a lead in progressing this aim.

We welcome the proposed modifications to the General Conditions of Entitlement. In relation to the specific drafting of the proposed modifications, although we recognise the underlying rationale, we suggest that in some circumstances it might be more appropriate to require CPs to take action rather than require them to undertake "reasonable steps" and "reasonable endeavours" in relation to that action. For example iv) *requirement to use reasonable endeavours to create and keep all records regarding the sale of the communications service* could be amended to iv): "requirement to create and keep all records regarding the sale of the communications service".

We comment below specifically on the proposed GPL NoT+ elements.

## Slamming and erroneous transfers

Slamming and erroneous transfers have significant implications for consumers and industry - in terms of both hassle, potential loss of service and financial cost. In our earlier response, we encouraged consideration of mandating all CPs to record sales calls and welcomed the safeguards incorporated into the proposed GPL process in terms of record keeping - including the recording and retention of the consumer's authorisation for a switch in case of a slamming dispute. Our view remains that these will be beneficial developments.

We welcome the proposed enhancement to place a new requirement on CPs to obtain and store a clear 'record of consent' to switch from a consumer; and that to ensure this obligation is met, CPs will have to ensure a direct record of the consent, as given by the consumer, is kept for each of their sales channels.

We note that records of consent could be constituted by call recordings for all successful telesales; a written record of consent signed by the customer to transfer for all successful retail/shop and doorstep sales; or for online sales, screen shots of order systems or account interactions relating to the sale in question. We also agree that sending notification to end users by the incumbent CP is a proportionate response and should be of benefit to consumers in the avoidance of slamming and erroneous transfers. We would wish steps to be taken to ensure that information about consent is consistent and accurate, and that it is easily accessible on a customer's file without delay so that queries and complaints can be dealt with effectively.

In our 2012 response we also raised our concern that, in terms of those consumers who find that their service has been slammed, it is vital that there is a simple, swift and well-

publicised route via which they can seek redress and potentially compensation. It is unacceptable that anyone who has been slammed has to pay an Early Termination Charge to a provider that they did not wish to join. We would argue, too, for a “safety net” process whereby affected consumers could very quickly have their service restored if it was lost as a result of slamming. It is also important that penalties for proven malicious slamming act as a commercial disincentive to the companies involved.

We support fully the proposals in respect of getting an “exact match” before a Working Line Takeover can proceed.

## Informed choice

In our previous response we noted that quantitative research by SRB<sup>1</sup> found that 1 in 10 switchers said that it was difficult to get information from their existing provider. The Panel considers it vital that letters from a consumer’s losing provider are clear and specific to the individual consumer and do not, for example, use generic language such as ‘you *may* incur an ETC’. We stated that consumers who are about to enter a switch should be given information on when that switch is likely to happen, any associated costs, the key terms and conditions of the new service, the possibility of any loss of service during the switch and what remedial action can be taken should something go wrong.

The Panel’s previous work on behavioural economics<sup>2</sup> highlighted that, in contrast to traditional economic models, consumers do not act in a perfectly rational manner and are not constantly assessing the market for better deals. Consumers have limits to their ability to take in information; they are influenced by how things are presented; they tend to be less good at anticipating the future; they care about other people and fairness; and they care more about losses than gains.

When consumers are considering switching, therefore, they need to be given information relevant to their needs. We have previously stated that consumers should be able to access easily information about their current contract and services as well as the services to which they are considering switching. Increased tariff transparency, and simplicity, - for both a consumer’s existing contract and the potential new contract would greatly aid people’s ability to make a fully informed decision. Ideally, this information should be in an easily comparable form. Consumers also need information to be available before they make a decision to switch so that they can assess the implications of switching. Changes of mind part way through the process have financial and hassle implications for both the consumer and the providers.

We therefore welcome the proposal to enhance the NoT letter (or e-mail) sent by the LP so that it must contain the following information: precise information on any applicable ETCs, including the means by which the ETC must be paid; information about the impact

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<sup>1</sup><http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf>

<sup>2</sup><http://www.communicationsconsumerpanel.org.uk/smartweb/telecommunications/behavioural-economics-and-vulnerable-consumers>

of the transfer on the prices of all continuing services; that the consumer is not required to contact the LP to cancel the contract for the fixed voice and/or fixed broadband service being switched but that this will happen automatically when the transfer is completed and a final bill will be sent accordingly. We welcome that the relevant information must be set out in clear, intelligible and neutral terms. We agree that information on ETCs must be specific and calculated on the basis on the planned transfer date to ensure that consumers have full visibility of the financial implications of their decision.

We fully support the provision of clear and precise information for consumers on the services that will be impacted by the switch away from their current provider and agree that the notification therefore needs to identify clearly the direct and indirect impacts of the switching decision.

There is also a need to increase the transparency of communications service provision generally. In common with the Government's midata initiative, consumers should be able to access easily information about their usage and contract. Information about contract length and ETCs should be available to all customers - on bills, by phone and online, and specifically when enquiring about switching.

We remain particularly concerned that changing email address presents as a main or major issue for a significant number of consumers who are considering switching - we note that 42% of dual play considerers mentioned this as an issue. This raises similar issues to those mentioned in the YouGov study of Fixed Broadband Switching<sup>3</sup> which found that among the remaining people who stayed with their existing provider for reasons other than 'offers', 13% did so because they did not want to lose their email address. It is also worth noting from the SRB study that 6% of those actively considering switching experienced difficulty because of their email address. As people aged 55+ are more likely to use a provider specific email, it is not surprising that more people than average in this age group experienced difficulty due to their email address when considering switching. In short, switching should not in and of itself create barriers to consumers participating in online engagement; hassle in respect of e-mail addresses could be one such barrier - thus there needs to be clarity and advice for consumers on the issue.

## The switching process

The Panel has previously expressed its view that, as society becomes ever more reliant on internet services, it is unacceptable that one in five consumers who switched broadband provider lost their service for about a week<sup>4</sup>. According to the YouGov<sup>5</sup> quantitative

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<sup>3</sup>[http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband\\_slidepack.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack.pdf)

<sup>4</sup>[http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband\\_slidepack.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack.pdf)

<sup>5</sup>[http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband\\_slidepack.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack.pdf)

research, a fifth of fixed broadband switchers (not including home movers) had experienced an unwanted break - for an average of nine days. The previous consultation noted that this is, in part, due to some consumers - estimated at 42% of those who went through the 'cease and re-provide' (C&R) process - being put through a C&R process when this was not necessary but rather was often as a result of cost saving measures by the provider. We remain strongly of the view that it is unacceptable that the convenience of the CP is placed ahead of the convenience of the consumer. Neither should consumers be expected to have to undertake mitigating action in the form of 'dual running' and incur extra costs - or alternatively suffer significant inconvenience - as a result of wishing to change provider. This situation is even more pronounced in the case of micro businesses who risk losing business whilst they cannot be reached by customers and suppliers.

We therefore welcome Ofcom's intention that the principles of switching processes i.e. the ability to seamlessly transfer services without suffering a lengthy break in service or incurring disconnection and re-connection fees, should now include, as far as possible, the seamless transfer of bundled fixed voice and broadband services over the Openreach copper network.

As mentioned briefly earlier in our response, the Panel remains of the opinion that there should be a "safety net" provision within the overall switching process. In other words, there should be the capability to restore easily a consumer's service when an error has occurred or where there is a proven case of slamming. The Panel understands that there is already an Openreach "emergency restore" process which enables consumers to return quickly to their original provider but that it is limited to home movers and that only a few CPs support this process. We do not believe that this is an acceptable position. Such a "restore process" should be part of the overall switching process so that consumers can have confidence about continuity of service and protection from errors.

Finally, and mindful of the length of time that this has already been a priority issue, we remain concerned about the overall timescale for progress. We note the 12 month timeline and we recognise the complexity involved. That said, we believe that CPs have already had preparation time and we would urge that the timeline be shortened. At the very least it must not be allowed to slip.