

## LETTER TO COMMUNICATIONS PROVIDERS

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Dear Sir/Madam,

### Compliance with switching regulations

We recently published a non-confidential version of our Confirmation Decision against Guaranteed Telecom and Met Technologies for contravening regulations which prevent customers from being switched from one company to another without their knowledge or consent (known as ‘slamming’) and for not following some of our rules designed to make switching easier.<sup>1</sup>

Following our investigation, we are writing to remind providers of the importance of ensuring that they do not engage in slamming and that their own switching practices are compliant with Ofcom regulations.

### Ofcom’s switching regulations

General Condition (GC) C7 of the General Conditions of Entitlement (GCs)<sup>2</sup> sets out Ofcom’s regulations in relation to switching, including slamming. It is essential that providers within the scope of GC C7 are aware of and understand the full requirements set out in the regulations, seeking legal advice where necessary.

To assist providers, we have summarised below some of the key switching requirements, including those that relate to slamming. These detail the specific provisions which were engaged in our Guaranteed Telecom and Met Technologies investigation. We have also included some explanation and further information which may assist providers in complying with these requirements.

- Providers must ensure that they do not engage in ‘slamming’, an extreme form of mis-selling where a provider transfers a customer’s service to another provider without that customer’s permission – consumers have the fundamental right to choose their CP and should not have their services transferred without their knowledge and consent. Slamming is one of the most serious breaches of the GCs that can occur.<sup>3</sup>
- Gaining Providers must create and keep retrievable direct records of the (authorised) customer consenting to switch their services – this is known as a ‘Record of Consent’.<sup>4</sup>

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<sup>1</sup> Ofcom, February 2022, [Investigation into Met Technologies and Guaranteed Telecom’s compliance with slamming rules](#).

<sup>2</sup> Ofcom, December 2021, [Annex 3: Revised General Conditions \(unofficial consolidated version\)](#).

<sup>3</sup> GC C7.3(a).

<sup>4</sup> GC C7.7.

- The Losing Provider should ensure that ‘Cancel Other’ – a mechanism that allows the Losing Provider to cancel a transfer order – is only used in the limited circumstances set out in the GCs.<sup>5</sup>
- Where a Transfer Order is cancelled by the Losing Provider, if the Gaining Provider believes that this happened incorrectly (i.e., the customer still wishes to transfer their services) then they should contact the customer to reestablish consent, creating and keeping a new record of that consent, before placing a new Transfer Order to switch the service.<sup>6</sup>

## Ofcom’s approach to non-compliance

Ofcom may open an investigation where it considers that a provider may have contravened its regulatory obligations.<sup>7</sup> Our [Enforcement Guidelines for regulatory investigations](#) can be found on our website, and set out what criteria we may consider when deciding whether to open an investigation.

Ultimately, if we find that a provider has failed to comply with the regulations set out in GC C7, we have the power to issue penalties of up to 10% of their Relevant Turnover.

## New switching rules

As you may be aware, in December 2020 we confirmed changes to GC C7 necessary to implement the European Electronic Communications Code.<sup>8</sup> These changes come into force on 3 April 2023.

In February 2021, we also consulted on proposals for a new fixed switching process for residential customers. In September 2021, we published our policy decision on these changes, including our requirement for a new ‘One Touch Switch’ process.<sup>9</sup> Following this, on 3 February 2022, we published our final decision on amendments to the GCs to implement One Touch Switch, confirming that those amendments will also come into effect on 3 April 2023.<sup>10</sup>

We highlight below some of the key changes to the GCs summarised above, taking effect from 3 April 2023:

- The requirement relating to slamming (currently GC C7.3(a)), will change – see GC C7.9 in the 3 April 2023 version of the GCs which states,
 

*“The Regulated Provider that is the Gaining Provider must take all reasonable steps to ensure that:*

*(a) it does not transfer a Relevant Communications Service without the Switching Customer’s Express Consent, and in particular, that it does not engage in slamming; and*

<sup>5</sup> Para 2 in Annex 1 to GC C7.

<sup>6</sup> See paragraph 3.68 of the Guaranteed Telecom/Met Technologies Confirmation Decision.

<sup>7</sup> In addition to our recent investigation into Guaranteed Telecom and Met Technologies, we have previously also investigated [Onestream](#), [True Telecom](#), and [Supatel](#) in relation to their switching practices, and in particular, in relation to slamming.

<sup>8</sup> See Ofcom, December 2020, [Statement: Implementing the new European Electronic Communications Code](#). This followed our policy statement published in October 2020: [Fair treatment and easier switching for broadband and mobile customers](#).

<sup>9</sup> Ofcom, February 2022, [Statement: Quick, easy and reliable switching](#).

<sup>10</sup> [Revised General Conditions \(unofficial consolidated version\) in effect from 3 April 2023](#)

*(b) any Switching Customer who is requesting a Communications Provider Migration is authorised to do so and intends to enter into the contract.”*

- The Records of Consent requirement (GC C7.7) will change. See GCs C7.15-7.16 in the 3 April 2023 version of the GCs.
- ‘Cancel Other’ (as well as ‘Failure to Cancel’, ‘Transfer Order’ and ‘Transfer Period’) will be removed as a result of the removal of Notification of Transfer rules. The Notification of Transfer process will be replaced by One Touch Switch. We envisage that the industry, when designing the detailed One Touch Switch requirements, will develop equivalents to these processes and functionalities if necessary.

If you have any questions about the findings of this investigation, please contact [enforcement@ofcom.org.uk](mailto:enforcement@ofcom.org.uk).

Yours faithfully,

Madhu Gohil