

## Communications Consumer Panel and ACOD response to Ofcom's call for inputs on consumer switching

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### Introduction

The Communications Consumer Panel and ACOD welcomes Ofcom's call for inputs on consumer switching - next steps.

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.

Following the alignment of the Advisory Committee for Older and Disabled People with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

### Response

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

Consumers need to be aware of the potential benefits of switching and to have confidence that switching will be a hassle-free process with effective "safety nets" to mitigate against loss of services. Robust switching processes are the bedrock of this, but they are not sufficient by themselves - consumers need to be assured that they will not incur excessive cost, time or disruption as a result of a decision to switch.

The new switching regime on the fixed copper network means that consumers should benefit from better value services and innovations. The Panel has encouraged Ofcom to press ahead with its review of switching across communications services, including mobile and bundled services and so particularly welcomes this call for inputs focussing on next steps in switching policy.

The Panel has urged providers to work with Ofcom to design a unified switching system as soon as possible. Ofcom's strategic aim should, we believe, be harmonised switching processes for all communications services including mobile, pay TV and cable services. We were encouraged by the DCMS' announcement in its document "Connectivity, Content and Consumers" that it planned to legislate to give Ofcom a duty to ensure a consistent and effective experience for consumers switching between bundles.

As we have said previously, 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. However, 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 have supported Ofcom's view that a Gaining Provider Led (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. We are, however, concerned at this very slow rate of tangible progress from the consumer perspective and we believe that rapid action is required to achieve outcomes that truly benefit consumers (and by extension, the market as a whole). Therefore, in our view, it is essential that this issue continues to receive a high priority and we would again urge Ofcom to explore how to accelerate activities and complete this work without further delay.

The Panel therefore welcomes that Ofcom is exploring how to extend its work in this area. We recognise that a balance needs to be struck, so that while a process is simple and straightforward for consumers to navigate, it also provides sufficient information for consumers to be able to make an informed decision about their contractual undertakings, including especially any potential penalties for early termination of their existing contract.

## Informed choice

We note that Ofcom's Consumer Experience Report 2013 (CER) states that around one in ten consumers in all except the TV market (lower, at 3%) have switched their provider in the past 12 months. A consistent proportion (2-4%) of consumers across markets say they are 'actively looking for an alternative provider'. However, twice as many (6-8%) said they started looking but did not switch.

In terms of save activity it is interesting to note that the CER found that, among both switchers and considerers across the communications markets who had been in contact with their 'losing provider', at least one in ten said they felt they had been put under pressure to stay with their existing provider. This ranged from 10% among fixed broadband switchers to 14% among mobile switchers and considerers. The call for inputs references Ofcom's intention to conduct further research in this area. We would suggest that this include a study of how communications providers respond to consumers expressing their intention to terminate their contract.

The Panel's previous work on behavioural economics<sup>1</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 than assessing the current/short term situation; 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 inconvenience implications for both the consumer and the providers.

A theme that recurs across our work is relevant in relation to switching - the vital need to increase the transparency of information about communications service provision. We consider that prominent "plain English" information about contract length and early termination charges (ETCs) should be available to all customers - on bills, by phone and online, and it should be communicated specifically when enquiring about switching. We believe that clear information about service level expectations, pricing and customer service standards should be readily available to consumers without the need for undue searching. The Panel would also encourage consideration of what steps could be taken to facilitate switching for more vulnerable consumers and how best to support them, where needed, through the process.

## The switching process

The variety of ways in which consumers are required to switch different services appear to confuse, rather than aid the ease of switching. It is interesting to note that, according to the Payments Council, there has been a 19% increase in the numbers of people switching their current account since the introduction, in September 2013, of the current account

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<sup>1</sup><http://www.communicationsconsumerpanel.org.uk/smartweb/telecommunications/behavioural-economics-and-vulnerable-consumers>

switch service. (This is the system that allows UK bank customers to switch their accounts seamlessly in just seven days - a guaranteed timescale - rather than the 18 to 30 days it took previously.) We believe that it should be possible to replicate this kind of standard within the communications sector.

Communications services are increasingly purchased in 'bundles' of two or three services offered by a single provider - at the start of 2014, around 63% of UK households took some form of bundle. We are conscious that, as more consumers take bundled services, and that discounted offers are available for certain elements of a bundle by contracting for a further fixed period e.g. 12 months, there is an increased risk of non co-terminous services. This makes terminating bundled services without ETCs progressively more difficult for consumers to undertake (of fully understand).

We remain concerned that consumers are insufficiently aware of early termination charges (ETC) in relation to their communications services. In our previous responses we noted that quantitative research by SRB<sup>2</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 or any other communications from a consumer's losing provider are clear and specific to the individual consumer and do not, for example, use meaningless and unhelpful 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. We would encourage the provision of far greater plain English information about ETCs as consumers are entering into a new contract, so that they are aware of the potential implications, should they then wish to switch in the future.

In our 2012 and 2013 responses we raised our concern that, in cases where consumers 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 ETC 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 an effectively high commercial disincentive to the companies involved.

We are concerned about the notice periods required for communications services in some cases and the associated need for 'dual running' - which only serve to incur additional costs for the consumer.

The Panel considers that handset unlocking presents a particular barrier to consumer switching. In our view it is a restraint of trade for some communications providers to charge consumers for their handset to be unlocked - and to make them wait significant periods (potentially up to 30 calendar days) - if they have already completed their

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<sup>2</sup><http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf>

contracted period and, therefore, paid for their handset. We cannot see any justifiable rationale for any communications provider to charge a consumer for unlocking in this circumstance.

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. In short, switching should not in and of itself create barriers to consumers participating in online engagement; difficulties in respect of e-mail addresses could be one such barrier - thus there needs to be clarity and advice for consumers on the issue. One solution may be for the losing provider to be required to set up an automated forwarding service for a limited period - and perhaps provide it as a chargeable option after that period.

## Difficulties experienced with switching

We note that Ofcom's CER 2013 states that the majority of switchers (between 84% and 92%) considered it very, or fairly, easy to switch provider. But for some switchers (between 6% and 14%) changing provider was something they considered 'difficult'. Stated difficulty varied by market. The fixed broadband market continues to report the highest levels of stated difficulty in switching, at 13%.

The research found that the general perception among switchers, after switching, was that the process was at least relatively easy. However, when prompted, around half of switchers in each of the fixed line, fixed broadband and mobile markets said they had experienced some difficulties during their experience.

It is unacceptable that around half of switchers in the communications sector said that they had experienced some difficulties during their experience. Figures recently published by the Payments Council suggest that 89% of consumers who had switched bank account said that the process was error free.

In the fixed broadband market the top three issues causing difficulty were 'provider persuasion to stay'; 'arranging start and stop times'; and 'temporary loss of service'. Each of these issues was stated by around a fifth of fixed broadband switchers. 18% of people switching broadband services experienced a temporary loss of service. Given the importance of on-line services this is very worrying, and warrants urgent action. We see no good reason why any consumer should lose service at all through the - from a consumer's viewpoint - simple act of changing providers. Previous Ofcom consultations have 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 unnecessarily put through a C&R process often as a result of cost saving measures by the provider. We remain strongly of the view that it is wholly 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 while they cannot be reached by customers and suppliers. This puts them off even contemplating switching.

In the fixed-line market 'provider persuasion to stay' was also one of the top mentions, but this was followed by 17% of people stating 'provider sending bills for cancelled service'.

A range of other potential issues were stated by around one in ten switchers in each of the markets. These included 'technical issues', 'contacting provider to cancel the service' and 'keeping phone number/email'. Similarly, in the mobile market 51% of switchers said they had experienced difficulty with at least one of the prompted issues. Whilst chosen by fewer than in the fixed and fixed broadband markets, one of the top-mentioned issues was 'provider persuasion to stay'. This was followed by 'paying for two services'.

## Micro businesses' experiences

The Panel has just published research into micro businesses' experience of the communications market, conducting mainly qualitative research with 115 micro businesses around the UK. Interviews revealed that there may be a reluctance to switch amongst the sampled micro businesses.

The research revealed that there is an unmet need for information, advice and guidance specifically tailored for micro businesses. Some businesses highlighted that they found it difficult to make decisions with respect to communications services and providers - as complex pricing and packages made it hard to compare information and to determine the potential return on investment. Many micro businesses expressed scepticism in relation to provider claims about internet speeds and mobile coverage and so there was some reluctance to switch providers.

*"When we came to cancel our service after finding it wasn't what we were promised, we found that we couldn't get out of our broadband contract for two years which left us sort of stuck and quite unhappy."*  
(Domestic Appliance Company, Urban England)

47% disagreed that they 'change suppliers as often as I need to, to get the best deals'. A key barrier to switching was that they did not want to disrupt their existing service. If using residential services, switching could mean being without internet for a few weeks which would be intolerable from a business perspective, but this fear also applied to switching business grade services. In addition inflexible contracts were raised as a barrier to switching.

Those who had switched often did so in pursuit of cheaper costs but then frequently regretted their decision when the service was disrupted and the provider response was poor. These sorts of experiences could drive a preference for the provider they saw as responsible for the infrastructure, and the businesses could avoid the risk of having to channel all their issues via a different service provider when there was a fault or disruption to the service.

A potential reluctance to switch also needs to be seen in the context of how confident micro businesses felt about negotiating better deals with existing providers. For some micro businesses there was a sense of resentment about how they felt they had been treated by their providers. They felt they lacked any bargaining power compared to larger companies, and some micro businesses perceived that providers considered them to be 'too small' to care about.

*"Being a small business just means being trampled over, not only by the big businesses but by the legislation which allows them to trample over you".*  
(Restaurant, Urban England)

*"We are in the process of moving our broadband supplier from (provider) to (provider) mainly on the recommendation of our IT guy who is a specialist in this and from his experience knows that (provider) is more reliable, and there is better bandwidth, and would be better for us. When we came to cancel our service after finding it wasn't what we were promised, we found that we couldn't get out of our broadband contract for two years which left us sort of stuck and quite unhappy".*  
(Domestic Appliance Company, Urban England)

The Panel has said that it is vital that: information about contracts is in unambiguous language; and that there is transparency about key contract terms and conditions, price and any penalty clauses. We have also recommended that:

- Price comparison websites offer clear information on data and broadband packages that are relevant to micro businesses
- Ofcom uses its resources to support micro businesses seeking information that enables them to assess and judge different providers' performance.

## Perceived difficulties with switching

Finally, the difficulty - or perceived difficulty - of switching is undoubtedly a factor in consumers' switching behaviour. The CER found that hassle, or at least 'perceived hassle' continues to be a factor in consumers' decision on whether to switch, stated by between 21% and 26% of considerers across the communications markets.

The mobile market continues to report the lowest levels of perceived difficulty in switching among non-switchers, at around one in ten (11%). Around twice as many non-switchers in each of the fixed voice and fixed broadband markets perceive switching to be either very, or fairly difficult (20% and 21% respectively). This perception may increase the 'hassle' barrier for some potential switchers.