



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus response to Ofcom's consultation on switching

May 2012

About Consumer Focus

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland.

We operate across the whole of the economy, persuading businesses, public services and policy makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

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Introduction

Consumer Focus welcomes the opportunity to respond to Ofcom's consultation on switching, which is long overdue.

Switching is an essential tool to foster market competition. The revised EU Framework that amended the Universal Service Directive places special emphasis on ensuring that the switching process is not hindered by legal, technical or practical obstacles and protects consumers against slamming practices:

'In order to take full advantage of the competitive environment, consumers should be able to make informed choice and to change providers when it is in their interest. It is essential to ensure that they can do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges and so on.[...]

'Experience of certain Member States has shown that there is a risk of consumers being switched to another provider without having given their consent. While that is a matter that should primarily be addressed by law enforcement authorities, Member States should be able to impose such minimum proportionate measures regarding the switching process, including appropriate sanctions, as are necessary to minimise such risks, and to ensure that consumers are protected throughout the switching process without making the switching process less attractive for them.¹

Making switching easier is particularly important in the current economic climate to help cash strapped consumers switch to a better deal. According to the Eurobarometer survey 2008 about consumer views of switching providers, the majority of consumers who switched benefited financially from doing so.² Easing the switching process and encouraging consumers to switch was recognised in the energy market for example and remained one of the key agenda items of the Government Energy summit.³

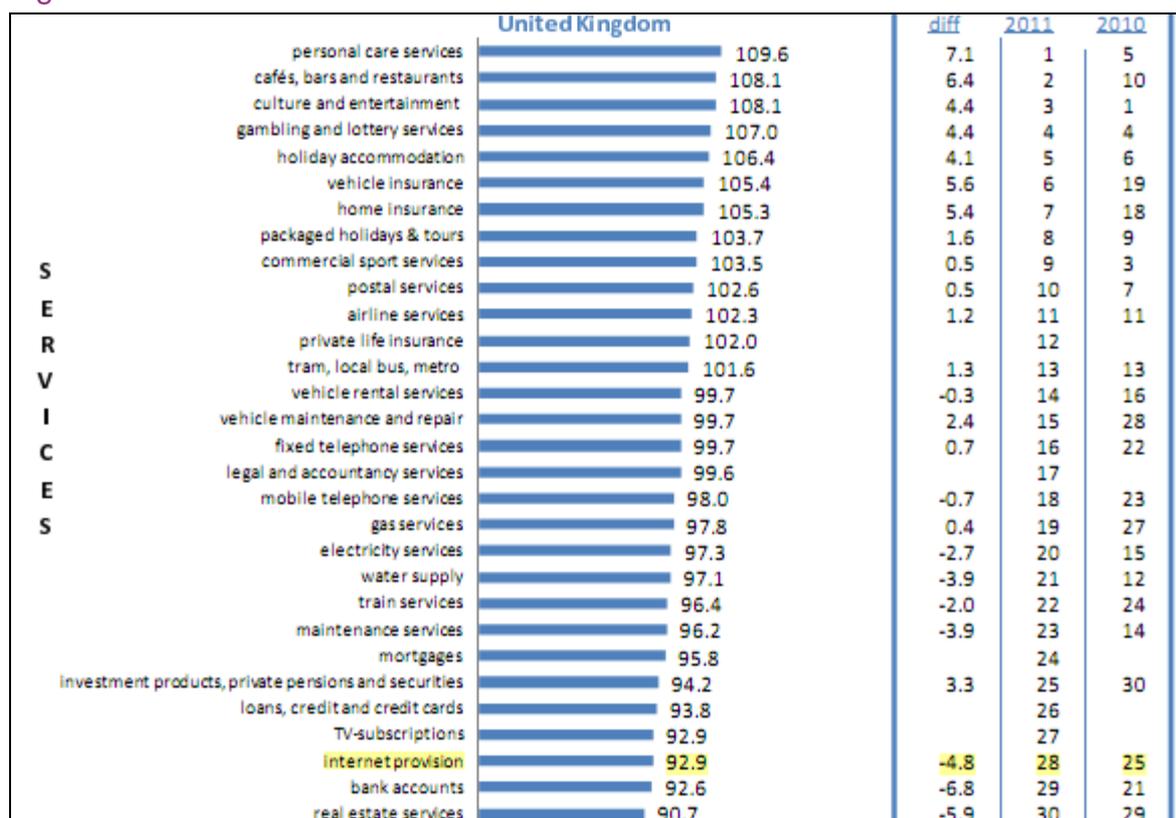
Yet, despite new legal requirements being embedded into the UK law for two years and evidence of low consumer satisfaction with the broadband and fixed line phone market (as per Figures 1, 2 and 3) little has been done to improve consumer switching experience.

¹ Recital 47 to the 2009 amending Universal Service Directive (2009/136/EC).

² <http://bit.ly/Js9jI0>

³ <http://bit.ly/JUpd31>

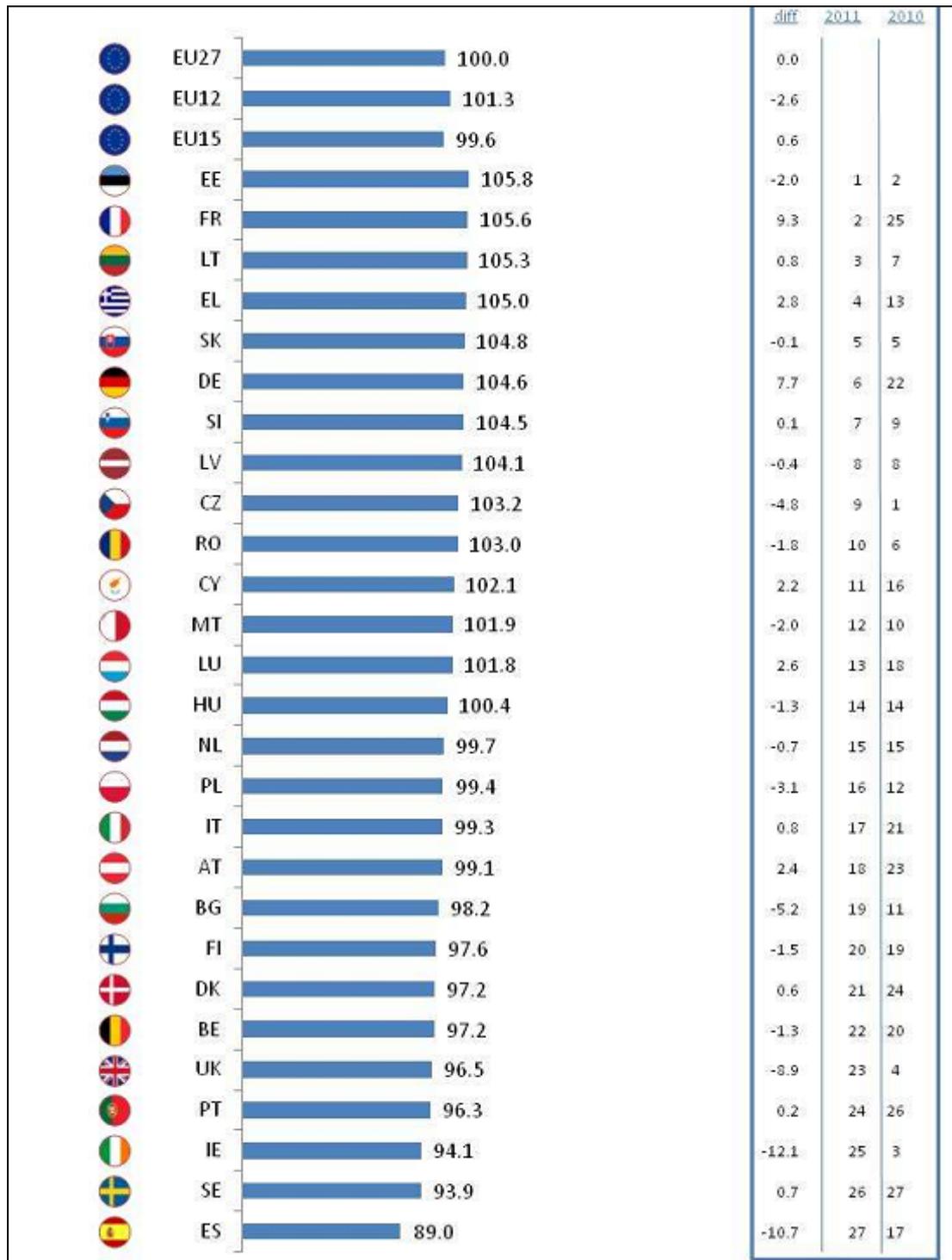
Figure 1 Consumer satisfaction



The European Commission Consumer market Monitoring Survey, 2011 Report
<http://bit.ly/Jd0gkE>

The survey takes into account indicators such as ease of comparisons, trust, living up to expectations, switching, problems, complaints and competition.

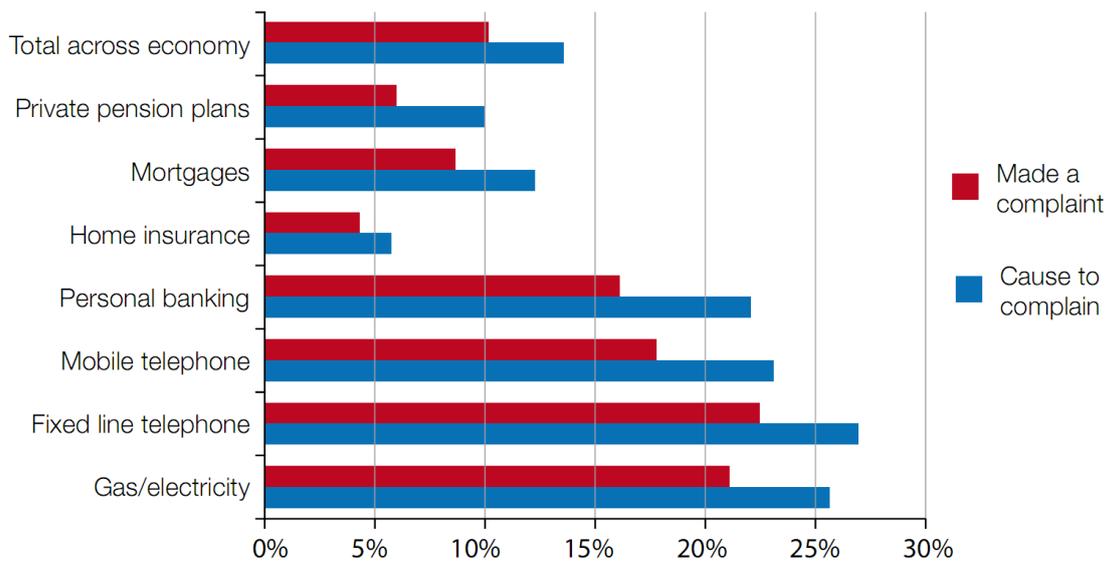
Figure 2 Internet provision (normalised MPI by country)



The European Commission Consumer market Monitoring Survey, 2011 Report
<http://bit.ly/Jd0gkE>

The UK also scored below the EU average in consumer satisfaction survey of 2011.

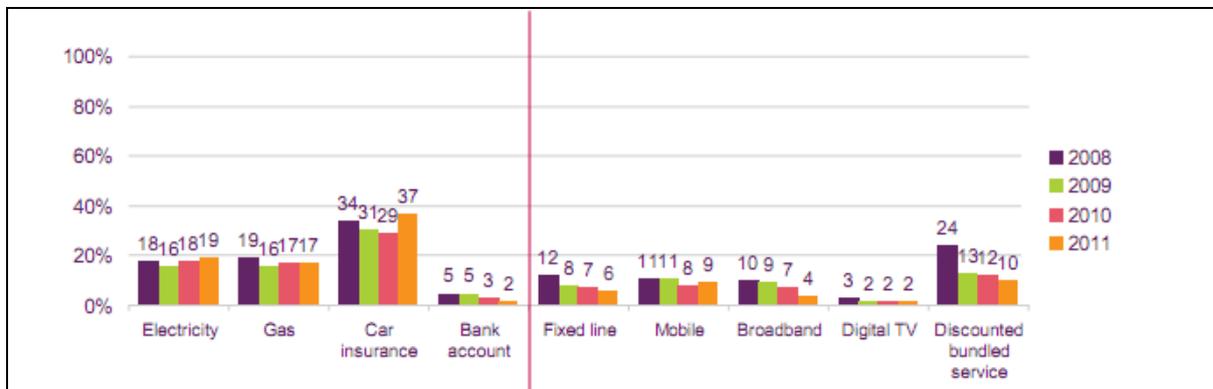
Figure 3. Consumers that made a complaint, or had cause to complain.



Survey: Ipsos-MORI 2009, between 478 and 535 respondents per market, 22,835 for total

Ofcom's research indicates that switching in the UK broadband market is low even in comparison to other service markets that are perceived as challenging to switch by consumers as illustrated in Figures 4 and 5.

Figure 4 Proportion of customers who have switched communications and utilities suppliers in the last 12 months⁴

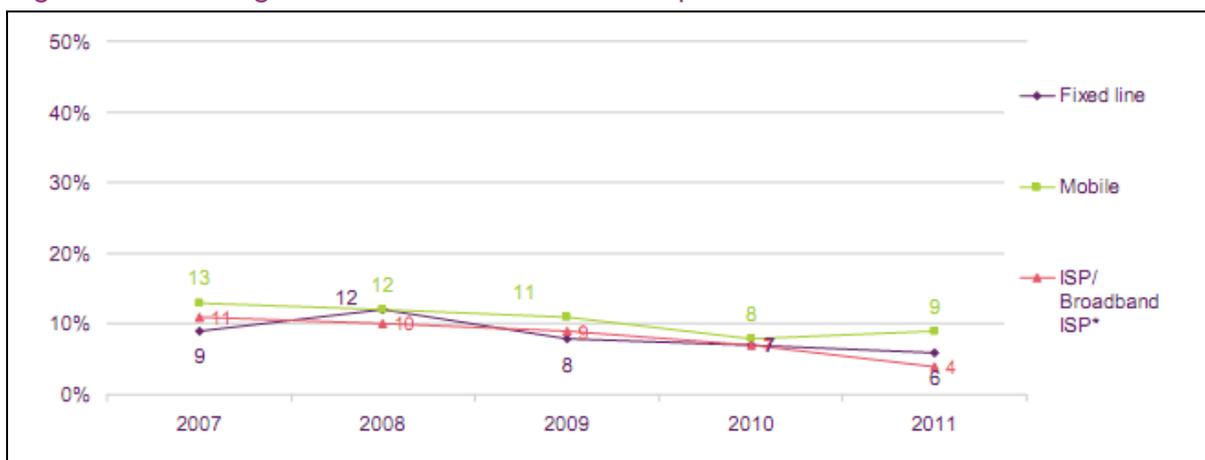


Source: Ofcom switching tracker survey carried out by Saville Rossiter-Base in July to August 2008, 2009 and 2010, June to July 2011

Base: All adults aged 16+ who are the decision maker for fixed line** (2008; 941) (209; 781) (2010; 627) (2011; 585); mobile** (2008; 1,270) (2009; 1,231) (2010; 1,200) (2011; 1,564); broadband** (2008; 460) (2009; 388) (2010; 226) (2011; 253); digital TV** (2008; 896) (2009; 837) (2010; 775) (2011; 945); bundle (2008; 534) (2009; 631) (2010; 570) (2011; 795). **NB Base amended in 2010 and 2011 to exclude those who receive this service along with another service from the same supplier without receiving a discount. Base for broadband in 2010 and 2011 represents those with fixed broadband rather than fixed or mobile broadband as in previous years. Too few interviews were conducted with those with mobile broadband to report these separately. Trend data may be affected by these changes.

⁴ *The Consumer Experience*. Research Report, Ofcom, 6 December 2011, p.103.

Figure 5 Switching in the internet market in the past 12 months⁵

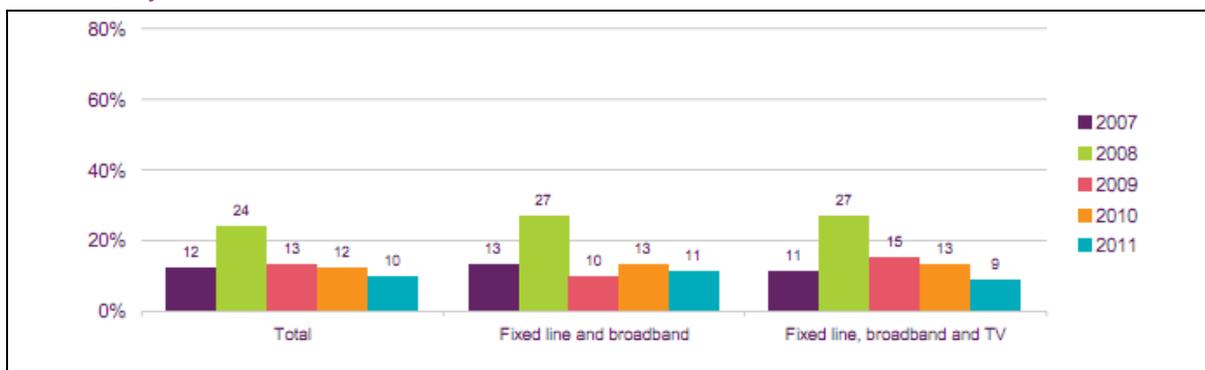


Source: Ofcom switching tracker survey carried out by Saville Rossiter-Base in July to August 2008, 2009 and 2010, June to July 2011

Base: All adults aged 16+ who are the decision maker for fixed line** (2008; 941) (209; 781) (2010; 627) (2011; 585); mobile** (2008; 1,270) (2009; 1,231) (2010; 1,200) (2011; 1,564); broadband** (2008; 460) (2009; 388) (2010; 226) (2011; 253); digital TV** (2008; 896) (2009; 837) (2010; 775) (2011; 945); bundle (2008; 534) (2009; 631) (2010; 570) (2011; 795). **NB Base amended in 2010 and 2011 to exclude those who receive this service along with another service from the same supplier without receiving a discount. Base for broadband in 2010 and 2011 represents those with fixed broadband rather than fixed or mobile broadband as in previous years. Too few interviews were conducted with those with mobile broadband to report these separately. Trend data may be affected by these changes.

Switching levels remain even lower for broadband bundles and have fallen from 15 per cent in 2009 to 9 per cent in 2011 as per table below. This is despite the growing take up of bundles amongst consumers in the UK, and in particular in Scotland and Wales.

Figure 6 Switched bundled communications services supplier in the past 12 months, by services within bundle⁶



Source: Ofcom switching tracker survey carried out by Saville Rossiter-Base in July to August 2008, 2009 and 2010, June to July 2011

Base: All adults aged 16+ who are the bundled decision maker (2007; 384) (2008; 534) (2009; 631) (2010; 570) (2011; 795)

⁵ Ibid, p.97.

⁶ *The Consumer Experience*. Research Report, Ofcom, 6 December 2011, p. 100.

A Which? survey conducted in September 2010 found that only 3 per cent of respondents had switched provider in the past six months. This figure compares to 15 per cent who said they would consider switching at the end of their contract.⁷ The discrepancy between these two figures is indicative of switching barriers. Consumer Focus research on consumer experiences of broadband providers indicates that switching is perceived as complex and difficult particularly by vulnerable consumers falling into low income and low literacy category.⁸ Consumers also experience frustration: when trying to get issued a migration authorisation code (MAC); with 'reactive save' activity; and loss of connection.⁹

The most common switching barriers include:

- the 'hassle' factor
- lack of difference in costs
- lack of alternative suppliers and service availability
- consumers' limited practical knowledge on how to switch provider¹⁰

Therefore we strongly support Ofcom's proposals to reduce the existing switching barriers faced by consumers, and in particular the proposals for a unified gaining-provider led (GPL) switching processes.

Experience of other sectors, notably the energy market, shows that GPL system is preferential to consumers and is likely to enhance market competition. In our view, during switching process consumers' interests are more closely aligned with the interests of the gaining provider who has a greater incentive to provide a better quality experience and service in case of problems, ie services disruption. The GPL process is also better for market competition to drive prices down and increase choices as it reduces instances of reactive save activity, such as counter offers, often experienced by consumers who made a decision to switch.

The GPL system is also dominant in the EU countries hence any European harmonisation of switching processes is likely to favour GPL solutions.¹¹

However, we are disappointed that Ofcom has focused less attention on the issue of promoting awareness of switching and consumer information. These are the key factors that contribute to low switching figures. We are therefore concerned that, without paying due attention to the two issues, switching levels are unlikely to improve even when technical procedural barriers are resolved.

We are also disappointed that Ofcom has chosen to focus on fixed-line and broadband separately and sooner than considering switching of mobile numbers (MNP) and pay TV. However, we welcome the fact that some of the models proposed as for example Ofcom's preferred Third Party Verification (TPV) option are forward looking and have the capacity to accommodate switching of mobile numbers and pay TV.

⁷ <http://bit.ly/vJaYsl> (PDF)

⁸ Consumer Focus has commissioned ICM to carry out qualitative focus group research into consumers' understanding of broadband providers on a sample of 71 adults in March 2012. We will be publishing a research report in a due course.

⁹ Ibid

¹⁰ *The Consumer Experience*. Research Report, Ofcom, 6 December 2011, p.45.

¹¹ <http://bit.ly/Js9ji0>

Our recommendations

As communicated in our previous consultation response, Consumer Focus has set out some core principles which we believe should guide Ofcom when considering making changes to consumer switching processes.¹² We believe a switching process should:

- be led by the provider whose incentives align most closely with the interests of the consumers and
 - be safe and secure, minimising the risk of slamming
 - have limited disruption of service
 - provide clear information to consumers, such as any outstanding contractual liabilities
- be a straightforward process for consumers that takes place swiftly and smoothly
- have the ability to smoothly align switching of multiple services
- ensure that consumers have access to clear, independent information about providers to aid their switching decision
- give consumers the opportunity to receive the best deal from their current provider, while avoiding excessive retention activity
- promote healthy competition in the market

Our specific recommendations are as follows:

- Ofcom addresses the issue of back end system deficiencies to adequately cope with switching across evolving access technologies and bundled services to make the switching process smooth and trouble free for consumers
- Ofcom undertakes more robust enforcement actions to combat mis-selling/slamming practices by for example increasing penalty notices to offenders and forcing the latter to compensate consumers. The energy industry voluntary compensation scheme for erroneous transfers could be considered a potential remedy model
- While we welcome emphasis on consumer benefits in Ofcom's preferred Third Party Verification (TPV) switching model we recommend Ofcom gives a serious consideration to the Unique Service Number (USN) switching option that has a successful track record in the GB energy sector
- Alongside tackling procedural barriers to switching such as reactive save activity, slamming, and back end system deficiencies Ofcom needs to address other significant barriers that prevent consumers from making switching decisions such as marketing practices, information overload and difficulty of making comparisons, customer services and complaint handling
- Ofcom addresses the issues of promoting awareness of switching and tackling the problem of consumer inertia, in particular amongst vulnerable consumer groups who would benefit from switching most. For example a collective switching model could be examined to increase consumer engagement in the telecom market
- Ofcom addresses specific switching issues faced by consumers in remote and rural areas where there are fewer telecoms providers.

¹² <http://bit.ly/hNdyWA>

Specific questions

Question 5: Do you agree with our assessment of problem 1: multiple switching processes? If not please explain why you disagree.

Question 14: Are there any other key problems with the existing Notification of Transfer and Migration Authorisation Code processes that we have not identified? Please provide evidence to support your answer.

We agree with Ofcom's analysis that multiple switching processes add complexity and hassle for consumers, increase switching costs and dampen competitive neutrality. Our qualitative focus group research on consumer experiences of broadband providers¹³ pointed out that typical switching requires consumers dealing with two providers, the gaining provider and the losing one that normally is required to issue a MAC. However some consumers indicated that they experienced a different switching process, in particular when adding broadband to an existing satellite TV subscription, which did not require a MAC and the gaining provider took care of the switch. The existence of different switching systems is likely to add to consumers' confusion about the process, and act as a barrier to consumers taking appropriate action in cases of 'slamming' or delays in receiving a MAC. For example our research indicates that not all consumers are aware of different switching processes and in cases where switching does not require a MAC they assume that this is because the issue is dealt behind the scenes by both the old and new providers, where in fact they might be the subject of slamming.

As far as authorisation of the MAC is concerned our research indicates that consumer experiences vary. For example our research found that some consumers receive the MAC immediately, others are told they would receive it shortly, while some have to wait or even chase provider for several days for the MAC to arrive. The inconsistency in the MAC authorisation services can increase consumer frustration and hinder the switching process as recorded by focus group participants below:¹⁴

'Well, [the MAC] never arrived when they said it would. So had to call again and they said it had been requested but for some reason not been issues. So I still had to make it my business to chase them'

'The first time I rang up they said they were going to email me my MAC and they didn't. So then I was phoning them again, it was really annoying. They made it as difficult as they could. It wasn't a case of phone up, "Can I have my MAC?" I think this is something they can easily generate'.

Some of our focus group participants expressed the view that providers deliberately frustrate the MAC issuing process in order to retain customers as recorded below:

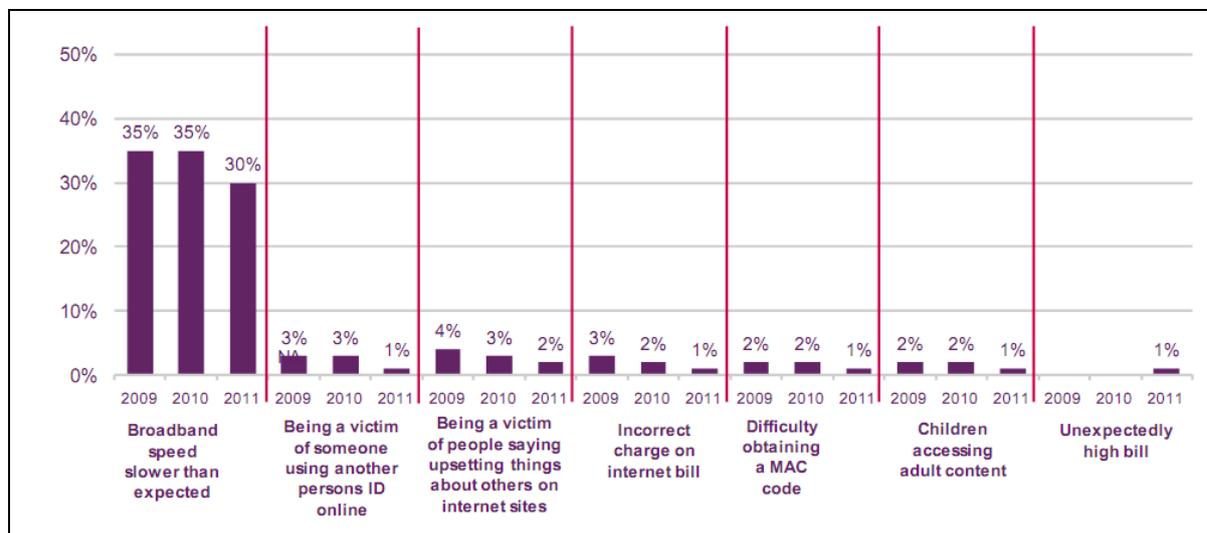
'Is it difficult for them to get a MAC? I don't think it is, but they make it seem like it's so, you know, we have to send a request to head office... They just don't want you to leave. Yes, exactly. That's what came though for me, it was, 'We're going to make this as difficult as possible.'"

¹³ Consumer Focus has commissioned ICM to carry out qualitative focus group research into consumers' understanding of broadband providers on a sample of 71 adults in March 2012. We will be publishing a research report in a due course.

¹⁴ Ibid

The evidence of providers delaying issuing the MAC is also found in Ofcom’s research that suggest that 1 per cent of all complaints reported by consumers about the internet market related to difficulty in obtaining a MAC or incorrect billing as per figure below.

Figure 7 Whether the respondent has experienced a problem in the internet market over the past six months¹⁵



Source: Ofcom consumer concerns tracking survey

Base: All GB 16+ with internet (Q3 2009; 702) (Q2 2010; 708) (Q3 2011; 759)

Note: Data for 2010 based on Q2, all other data based on Q3

Even in cases where MAC is issued promptly it is not designed to facilitate switching across other access technologies such as cable or support switching bundles that might incorporate four services: broadband, landline, TV package and a mobile phone package. Hence the revised switching model needs to be capable of supporting the switching of multiple services, including bundles that are growing in popularity among consumers, and ensure that the process is smooth and trouble free for consumers.

Question 7: Do you agree with our assessment of problem 2: Back end systems deficiencies? If not please state why you disagree.

We agree with Ofcom’s assessment that the existing back end systems are deficient, and as different access technologies evolve, future consumers will face a greater risk of the wrong service being switched. As Ofcom points out the current system is based on a model originally designed to switch one service provided over one line using a single technology. Such model is ill placed to support switching of growing multiple services and access networks, other than the copper wires managed by Openreach, and increases the likelihood of customers being switched to incorrect lines.

The lack of a centralised database system slows down the process of identification and correcting errors, meaning customers often receive confusing and conflicting information about the progress of their orders.

¹⁵ Ibid

As a consequence the back end system deficiencies increase the likelihood of hassle and additional costs for consumers undergoing the switching process such as potential loss of connection and/or telephone number, cease charges¹⁶, or contract cancellation charges in case of erroneous transfers.

For example our qualitative focus group research on consumer experiences of broadband providers¹⁷ found some consumers experiencing problems with communication breakdown and incorrect line activation, as described below by one of the focus group participants:

'They [ISP] said that anything up to midnight it can be switched on. Three days after my activation date, I am still waiting. I was still waiting for my broadband to be switched on. Phoned up and he said, 'No, no it's active'. They'd activated the wrong phone line in the house, because I had two. They activated the old dormant one that was not being used at all. Whereas my landline and all the rest of it, comes through the other one, but they did my broadband on the wrong ones'.

Therefore, addressing the issues of back end system deficiencies to adequately cope with switching across varies access technologies and multiple services, including a set up of an up-to-date and accurate database system of connection lines should be central to the Ofcom's switching review.

Question 8. Do you have evidence to suggest that the incidence of slamming has changed significantly? Please provide any evidence you have to support your views.

Question 9: Is there further action you think could be taken to help tackle slamming (eg preventative measures to stop it from occurring or enforcement activities after it has happened to act as a deterrent) under the existing processes? Please explain your answer.

Question 10: Do you think it would be more appropriate to introduce stronger upfront consumer protections within the switching process or continue with the current reliance on enforcement to tackle slamming? Please explain your answer.

Question 11: Do you agree with our assessment of Problem 3: Insufficient customer consent? If not, please explain why you disagree.

Question 17: Do you think strengthening record keeping obligations for consent validation would increase protection against slamming? Would this be adequate to safeguard consumers now and in the future? Please explain your answer and provide any supporting evidence.

Slamming¹⁸ can cause considerable distress, hassle and costs for consumers hence we are disturbed by Ofcom's evidence that suggests around 520,000 households are affected by deliberate slamming practices annually.

¹⁶ A charge you may have to pay for cancelling a service, even if it's after the minimum period of the contract

¹⁷ Consumer Focus has commissioned ICM to carry out qualitative focus group research into consumers' understanding of broadband providers on a sample of 71 adults in March 2012. We will be publishing a research report in a due course.

¹⁸ An illegal practice, in which a subscriber's telephone service is changed without their consent

While we agree with Ofcom's analysis that stronger upfront consumer protections within the switching process such as more sufficient customer consent and upfront customer verification, delivered potentially via the proposed TPV model are likely to alleviate slamming practices, we are not convinced that these alone will fully eliminate what appears to be a widespread market malpractice.

We are also concerned about Ofcom's lack of proposals to reduce the high level of consumer detriment in the interim period while a new switching model is being developed and implemented fully.

Therefore we recommend Ofcom uses its enforcement powers more effectively and extend the available remedies in particular when enforcing mis-selling that could include increasing penalty notice to the guilty provider in case of mis-selling/slamming, and obliging the guilty provider to give consumer a full refund as a means of compensating for the harm caused.

We also would like to point to examples from the energy market, specifically Ofgem's enforcement actions against mis-selling, as well as the energy industry voluntary compensation scheme for erroneous transfers.

As far as upfront consumer protections are concerned, apart from strengthening the consent and verification processes, we believe Ofcom could adopt a number of solutions such as:

- improving the level of transparency on marketing information on services to consumers, and making information simple and in plain English
- improving transparency of information on implications of switching
- introduce a penalty free post switch period with the new provider

In addition we also recommend Ofcom applies BEREC's best practice recommendations developed to minimise instances of mis-selling/slamming and other unfair practices that include the following principles:¹⁹

- Registered evidence of the consumer's authorisation to switch service provider should be kept, for a reasonable period, in the light of national legislation, by the service providers
- The overall switching process should take into account consumer protection considerations, including an opportunity for consumers to stop the switch happening where they have not given consent to the switch or where they simply wish to change their mind
- There should be clarity on the type and level of information that needs to be made available to new customers, both at the point of sale and after the sale has been concluded
- There should be a quick and reliable restoration process so that consumers switched in error can have their original service restored quickly, with minimum effort, and at no cost
- There should be clarity about consumers' key rights and choices
- Consumers' legal rights and best interests must be protected

¹⁹ <http://bit.ly/Js9jl0>

Question 12: Do you agree with our assessment of Problem 4: Lack of awareness of the implications of switching? If not, please explain why you disagree.

We agree with Ofcom's assessment that under the current systems consumers are not fully aware of the implications of switching. Full switching costs that can potentially be harmful to consumers are often communicated once the decision to switch has been made and the switching process has been started.

Therefore addressing the issue of enhancing the current level of transparency on the implications of switching such as early termination charges (ETC), cease charges, minimum contract periods, potential service disruption and other associated costs such as cost of new phone line and equipment should be central to Ofcom's switching review.

This entails addressing communication shortfalls with both losing and gaining providers and working out communication models and channels that can benefit consumers most. Other consumer protection provisions to consider would be extending cooling off period to allow sufficient time for consumers to digest information received from the losing and gaining provider and test the service. For example we would like to note that some providers already extend the cooling off period to enable the service to bed in. Another option would be an introduction of a penalty free switch period.

However, in parallel, Ofcom needs to show more ambition and tackle the problem of consumer inertia to switching and low understanding of switching benefits and the processes involved. For example the EU Eurobarometer market scoreboards carried out in 2009 indicated consumers perception that 'the cost and effort requested in switching is too large' as a switching barrier.²⁰ Our research on consumer experiences of broadband providers found that consumers who are reluctant to switch often do not see or know about financial or service quality incentives that would prompt them to switch, and these generally are characteristic to a group of older generation and/ or less technology literate consumers.²¹

In addition, many consumers are not aware about the switching processes, and can find existence of difference systems confusing, as addressed earlier in Q5 and Q14.

We fear that without properly addressing the latter switching levels are likely to remain low even if procedural and systemic barriers to switching are resolved.

We therefore recommend studying pro-switching information models that exist in other markets. For example we suggest examining a model of annual renewal notices used in the insurance sector that incentive people to shop around and switch. Our qualitative research on consumer experiences of broadband pointed out that a receipt of similar notices from ISPs might prompt people to consider switching supplier on an annual basis.²²

In addition Ofcom needs to address the issue of quality of information, in particular information complexity and overload and look into other avenues such as collective switching discussed more in depth in the 'Additional comments' section.

²⁰ <http://bit.ly/Js9jl0>

²¹ Consumer Focus has commissioned ICM to carry out qualitative focus group research into consumers' understanding of broadband providers on a sample of 71 adults in March 2012. We will be publishing a research report in a due course.

²² Ibid

Question 13: Do you agree with our assessment of Problem 5 Unnecessary switching costs/hassle? If not, please explain why.

Switching is perceived as hassle and complex by consumers. Consumers are sceptical as to whether better value and service can be attained, and perceive that even if they could be, gains risk being cancelled out by the time and effort used in achieving them.

However in order to improve consumer switching experience Ofcom needs to take into account a consumer's journey through the entire switching processes from the point which prompts the decision to switch to procedural processes.

Hence, while we agree that there are procedural barriers to switching such as reactive save activity, slamming, back end system deficiencies, other factors that prevent the switching decision such as marketing practices, ease of making comparisons, customer services and complaint handling, need to be put on an even footing.

For example in our research non-switchers pointed out various reasons why they resist changing providers that included:²³

- **Information complexity:** eg confusion about broadband speeds and download limits which prevent people, especially vulnerable consumers getting involved in a process in case they choose the wrong product and, in particular, lose money
- **Lack of clarity on bills:** eg difficulty in working out bills at least in the initial months when they receive bills from their old and new suppliers
- **Lack of choice of providers:** particularly in rural areas
- **Transferring personal data:** eg inability to port email address
- **Lack of confidence about installing new equipment:** such as the router or any necessary software prevalent among less tech savvy, affluent and low literacy groups

Therefore we call on Ofcom to address the switching barriers listed in the table below in the review.

Figure 8 Common problems that consumers experience with switching²⁴

- **Confusion marketing** – ‘I can't tell whether this is the best deal or not’
- **Tariff proliferation** – ‘where do you start?’
- **Mis-selling / slamming** – ‘I can't believe they did that’
- **Perception that suppliers constantly move prices in lock-step** – ‘nothing to be gained’
- **Low-to-no trust in providers/insufficient scope for differentiation** – ‘they're all as bad as one another’
- **Fingers burnt before** – ‘I won't be doing that again’
- **Time poor** – ‘I don't know when I'll fit that in’
- **All of the above in combination:** – ‘it's too much hassle for too little return’
- **Lock ins** – ‘locked into long contracts and early termination fees’

²³ Ibid

²⁴ <http://bit.ly/JZIMwt>

Question 18: Do you think that the introduction of a requirement to include specific information about early termination charges (ETC) and/or minimum contract periods (MCPs) in bills should form part of the enhancements to the current NoT process? What are the likely costs and benefits of such an approach? Please provide any evidence to support your answer.

We have always advocated for the principle of transparency, hence we strongly support proposals that would require full disclosure of information on early termination charges (ETC) and minimum contract period lengths. We regard this type of information as essential not only to help consumers make an informed decision about switching options but also to prompt the decision to switch.

Evidence indicates that the current level of transparency provided by service providers fails consumers. For example Ofcom's data indicates that the majority of fixed broadband customers found out about early termination charges only after they signed up and placed an order with a new supplier.²⁵ Our research indicated that understanding information on billing when switching to a new provider is an issue for consumers, particularly those from less affluent groups and people for whom reading is difficult.²⁶ Also BEREC's research pointed out to contractual barriers to switching.²⁷

However any models to be adopted would require careful consideration and thought to maximise consumer benefits. For example our research into consumers' perceptions of energy bills found that providing additional information on energy bills is not a panacea for increasing consumer engagement in the market that is likely to encourage switching or other socially desirable behaviour.²⁸ The same research found that many consumers have little interest in the content, other than the amount to pay.²⁹

Therefore while we support the idea of transparency, any models applied should focus on ways to decrease complexity and enhance ease of understanding and comparisons.

In addition Ofcom needs to consider enforcing through information remedies more effective and simple ways of raising awareness about the implications of switching, including ETC through other forms such as mail outs, online information, independent telephone helplines, local agencies or trusted intermediaries and/or generic leaflets. For instance, using an example from the energy market – Consumer Focus Scotland initiated the Energy Best Deal Scotland (EBDS) campaign to train frontline advisors, how to provide advice to low income/vulnerable consumers about the savings that could be made through energy switching. We therefore recommend Ofcom to consider scoping to deliver a similar campaign to target vulnerable groups who may need this type of assistance when switching communication services.

Question 23: Are there any particular data protection and/or privacy related issues that you think would need to be considered under the GPL TxC and/or the GPL TPV options? Are these issues likely to be significantly different to the issues that need to be considered under the current processes? Please explain your answer.

²⁵ Ofcom's switching consultation, Figure 20. Point that switchers found about their ETC, p. 72.

²⁶ Consumer Focus has commissioned ICM to carry out qualitative focus group research into consumers' understanding of broadband providers on a sample of 71 adults in March 2012. We will be publishing a research report in a due course.

²⁷ <http://bit.ly/Js9jl0>

²⁸ <http://bit.ly/H6k7PU>

²⁹ *ibid*

Question 24: Are there circumstances in which you can envisage that consumers would be likely to be distressed and/or harmed by the sharing of their personal data as required under the GPL TxC and/or the GPL TPV options? Do you think that consumers will object to the sharing of their data in this way? Please explain your answer.

We believe a centralised database of all UK fixed voice and broadband services, identified either by the unique service number (USN) or through account references, is required to decrease deficiencies in back end systems and reduce disruptions in connection for consumers. However, we are concerned about a lack of clarity on personal data quality, safety and security controls. For example we are unsure:

- who would hold legal responsibility as data controller in cases of
 - data breach notification
 - data subject requests (eg requests to modify/delete data)
- who would manage the database
- what personal data would be held
- how the data would be processed
- with whom the data be shared
- what measures would ensure that data would be used strictly for the purpose of switching and not other purposes (eg marketing)

We strongly recommend that any centralised database meets the following principles:

- **Transparency** in relation to the collection and processing of data that would require the data subject to be informed about the most relevant information regarding the processing, including the identity and the contact details of the controller, the purpose of the processing, the retention period and the existence of rights and the modalities to exercise them
- **Data minimisation** to ensure that only personal data strictly necessary to processing the switch is collected
- **Limitation principle** to ensure that personal data is not used for different purposes from those initially pursued by the data controller
- **Data quality** to ensure that the data is accurate and up-to-date
- **High level security** to ensure the data is stored safely to minimise the risks of data security breaches

Question 41: Do you agree with our assessment that the TPV option should be preferred to the USN option. If not, please provide your reasoning.

We strongly support Ofcom's proposals for a unified GPL switching process to reduce the existing switching barriers. As we mentioned before we believe that GPL switching model is likely to benefit consumers most as it is led by the provider whose incentives align most closely with the interest of the consumers.

As far as the proposed TPV option is concerned we welcome emphasis on a likelihood of consumer benefits it could deliver, in particular:

- strengthening consumer consent and verification likely to reduce instances of slamming practices
- addressing deficiencies of back end systems and making the switching process more future-proof by potentially allowing for easier switching of bundled services, including mobile and TV packages

- minimising the hassle and confusion for consumers eg dealing with one provider, solving the problem of frustrating issuing a MAC and reducing instances of save activity

However, before this option is to be considered we need Ofcom to provide more details regarding:

- data quality controls
- minimum quality of customer services and complaint handling to ensure that the TPV body would efficiently cope with the volume of switchers
- improving consumer awareness about the implications of switching
- addressing data protection concerns mentioned in Q23 and 24
- cooling off period and cancellation rights
- implementation time frame

We also suggest Ofcom gives serious consideration to the USN option. We would like to point out that the USN model known as the Code on Bill³⁰ process has a successful track record in the GB energy sector. The USN model has many benefits such as potentially lower start up costs and speedier implementation time frame achieved by creating a relatively simple, centralised database with information on the UK fixed voice and broadband services only, without the need to hold additional personal data records. This would also resolve the issue of data protection concerns. The USN model would also solve the costs of building a customer facing TPV body to facilitate switching.

However in order for this model to be considered Ofcom would need to strengthen its enforcement actions to reduce instances of slamming.

³⁰ To switch, the customer gives the Gaining Provider a code and other details provided on their bill. These are then checked by the Losing Provider before the switch goes ahead

Additional comments

Consumer Focus would like to make a number of additional comments.

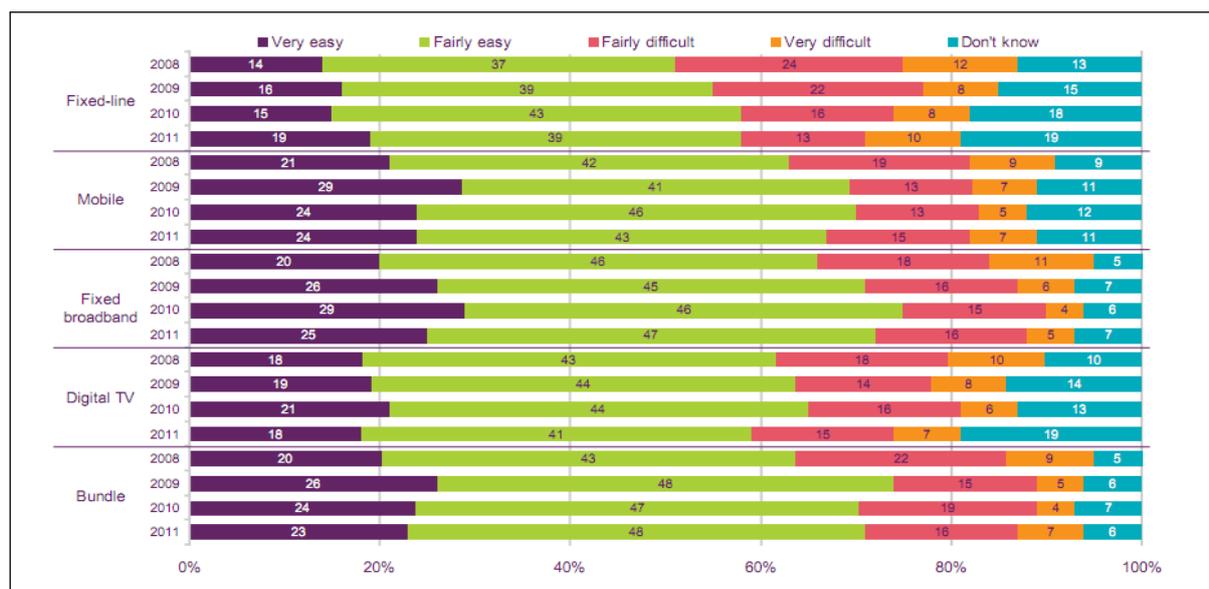
Consumer information

A key facilitator for successful consumer switching is the presence of useful, comparable information. A consumer's decision to switch providers depends on many factors, including switching processes, cost, customer service levels, bundles of products on offer, network coverage, connection speeds and usage, and contract lock-ins. Yet consumers are often presented with an overwhelming level of information that is not transparent and clear, and which makes it difficult to compare prices and quality of services. Despite regulatory information remedies that require providers to give transparent and clear information on services they provide consumers do not find it easy to make informed decisions and compare services. This is due to several reasons relating to:

- complexity of the information
- poor quality of the information provided often containing technical language and jargon
- poor accessibility
- consumers' lack of technical knowledge to interpret the information
- not providing information at all

For example Ofcom's research indicates that consumers find it difficult to compare information on broadband services as per table below:

Figure 9 Consumers' opinion on the ease of making cost comparisons³¹



Source: Ofcom switching tracker survey carried out by Saville Rossiter-Base in July to August 2008, 2009 and 2010, June to July 2011

Base: All adults aged 16+ who are the decision maker for fixed line** (2008; 941) (2009; 781) (2010; 627) (2011; 585); mobile** (2008; 1,270) (2009; 1,231) (2010; 1,200) (2011; 1,564); broadband** (2008; 460) (2009; 388) (2010; 226) (2011; 253); digital TV** (2008; 896) (2009; 837) (2010; 775) (2011; 945); bundle (2008; 534) (2009; 631) (2010; 570) (2011; 795). **NB Base amended in 2010 and 2011 to exclude those who receive this service along with another service from the same supplier without receiving a discount. Base for broadband in 2010 and 2011 represents those with fixed broadband rather than fixed or mobile broadband as in previous years. Too few interviews were conducted with those with mobile broadband to report these separately. Trend data may be affected by these changes.

We believe that switching levels are likely to increase if the quality of information provided to consumers is substantially improved. In particular Ofcom needs to address barriers faced by vulnerable consumer groups who would benefit from switching most. Our research into consumer experiences of broadband providers found that complexity of information provided, lack of understanding of technical jargon and low technical skills puts vulnerable groups from engaging with the market and considering switching.³² To tackle the problem Ofcom could consider models that exist in other regulated sectors, including the Energy Best Deal Scotland campaign mentioned earlier, to reach and deliver advice services to these groups.

Also schemes such as Ofcom's price accreditation scheme that offer consumers assurance the price calculator is accessible, accurate, up-to-date, transparent and comprehensive need to be expanded by more companies providing such services. For example currently the so called big 4 comparison websites which dominate the UK price comparison market are not part of the scheme. Ofcom also needs to take a more active role in rising awareness of the accreditation scheme among consumers in particularly vulnerable consumer groups.

³¹ *The Consumer Experience*. Research Report, Ofcom, 6 December 2011, p.115.

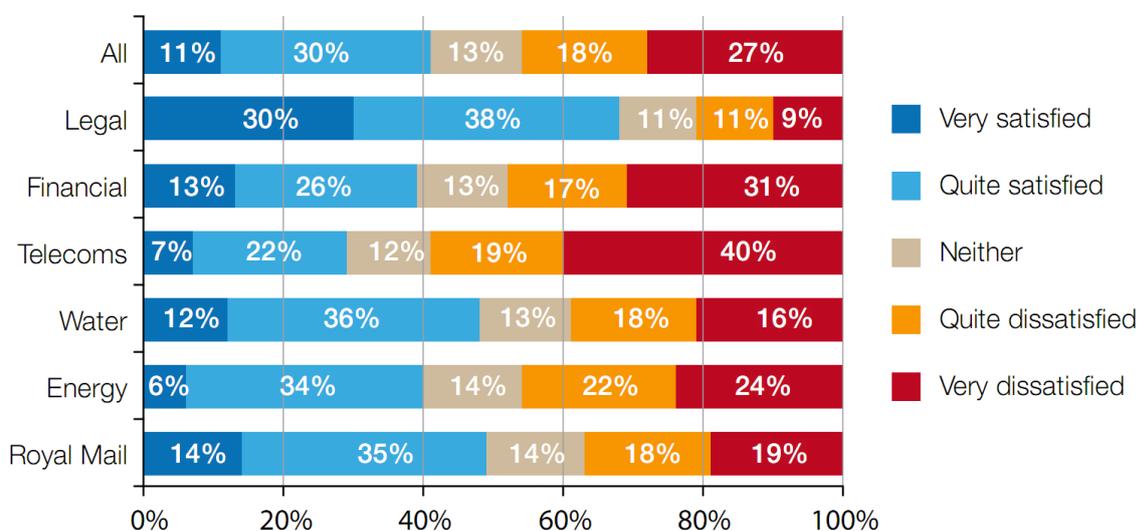
³² Consumer Focus has commissioned ICM to carry out qualitative focus group research into consumers' understanding of broadband providers on a sample of 71 adults in March 2012. We will be publishing a research report in a due course.

Complaint handling

Part of the hassle related to switching is generated by poor customer services and complaint handling. For example our research into consumer experiences of broadband providers indicated that consumer expectations of customer services are low with many held back by IVR (interactive voice response) systems, served by staff with limited technical knowledge, or struggling to understand technical advice of staff from call centres abroad whose mother tongue is not English.³³

In addition the Consumer Focus report *Cross-market complaints* that investigated complained handling in energy, water, telecoms, mail, financial and legal services found consumer satisfaction with complaint handling particularly low in the telecom sector.³⁴

Figure 10 Setting aside the outcome, overall, how satisfied were you with the way that the company handled complaint?



Source: Consumer Focus report *Cross-market complaints: complaint handling in energy, water, telecoms, mail, financial and legal services*, 2012.

We therefore recommend Ofcom addresses the issue and considers a number of solutions including:

- clear information on who to approach for what
- quicker resolution times and clear understanding of timelines involved
- trained staff with knowledge and skills to deal with the range of complaints
- addressing issues of call centres (especially those situated abroad, to ensure clear English spoken)
- filling enquiries eg reference numbers and case file at the initial enquiry, address the issue of preference for phone or email over other channels, avoid lengthy forms)

³³ Ibid

³⁴ Cross-market complaints – complaint handling in energy, water, telecoms, mail, financial and legal services, Consumer Focus 2012 (forthcoming)

Collective switching

We recommend considering a collective switching model as an additional solution to address consumer inertia and lack of bargaining power faced by an individual consumer. For example our recent report *Get it together* examines the potential for introducing a collective switching model and highlights ways collective switching can make consumers more powerful in some important markets, including telecoms.³⁵

This does not preclude wider reform of switching in the telecom market that is also needed if it is to be made to work for consumers.

Transferring personal data

It is important for Ofcom to consider both questions around the procedural switching of services and the porting of 'personal elements' of services, including landline numbers, email accounts and stored data such as photos and calendar appointments. Personal information on the personal elements of services may not be at the forefront of consumers' minds when they switch, but consumers need to be aware of how to delete, transfer and access the personal information connected to the service they are switching. For example our research indicated that the need to change email address is perceived as a hassle that is likely to prevent switching.³⁶

Scottish specific issues

As we highlighted in our response to the strategic review of consumer switching, there are some specific switching issues facing consumers in Scotland. There are often fewer opportunities to switch in remote and rural areas, as fewer telecoms providers are likely to be operating in these areas. For instance, only 48 per cent of rural households in Scotland are connected to a unbundled local exchange, compared to 89 per cent of all households across the UK³⁷

We reiterate our belief that Ofcom should take action on the following issues, to ensure that barriers to switching in Scotland are tackled effectively:

- work closely with the Scottish Government to encourage consumers to switch telecoms providers in order to get the best deal that they can
- ensure that any UK-wide approach or strategy to support and enable switching is both 'nation proofed' and 'rural proofed' to make sure that the impact of this work delivers benefits for consumers across Scotland
- consider how it can encourage and incentivise providers of broadband services to deliver services in remote and rural areas, including for example consideration of how freed-up spectrum can be used to benefit consumers in these areas

³⁵ <http://bit.ly/JZIMwt>

³⁶ Consumer Focus has commissioned ICM to carry out qualitative focus group research into consumers' understanding of broadband providers on a sample of 71 adults in March 2012. We will be publishing a research report in a due course.

³⁷ Communications Market Report; Ofcom; 2011



Consumer Focus response to Ofcom's consultation on switching

If you have any questions or would like further information about our response please contact Marzena Kisielowska-Lipman, Policy Manager, by telephone on 020 7799 7981 or via email: marzena.kisielowska-lipman@consumerfocus.org.uk

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Published: May 2012

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From a textphone, call 18001 020 7799 7900
From a telephone, call 18002 020 7799 7900

Consumer Focus

Fleetbank House
Salisbury Square
London EC4Y 8JX

t 020 7799 7900
f 020 7799 7901
e contact@consumerfocus.org.uk

Media Team: 020 7799 8004 / 8006

For regular updates from Consumer Focus, sign up to our monthly e-newsletter by emailing enews@consumerfocus.org.uk