

Strategic review of consumer switching

Citizens Advice response to Ofcom

November 2010

Introduction

Citizens Advice welcomes the opportunity to respond to Ofcom's consultation on the strategic review of consumer switching.

The Citizens Advice service is a network of almost 400 independent advice centres that provide free, impartial advice from more than 3,500 community locations in England, Wales and Northern Ireland.

In 2009/2010 the Citizens Advice service in England and Wales advised 2.1 million people on 7.1 million problems. Debt (2.4 million problems) and welfare benefits (2 million problems) were the two largest topics on which advice was given.

Problems with utilities (including communications) accounted for approximately 103,000 problems dealt with by Citizens Advice Bureaux in 2009-10, and of these just over 34,000 problems related to communications (including landline phones, mobile phones, broadband and digital and satellite television).

Breaking down figures for 2009-10 reveals that problems relating to switching supplier accounted for:

- almost five per cent of fixed line phone problems;
- four per cent of broadband and internet problems; and
- just over one per cent of mobile phone problems.

Switching supplier in the communications markets may also entail cancelling or withdrawing from an existing contract, possibly prompting the imposition of early termination charges (ETCs). In 2009-10 Citizens Advice Bureaux problems relating to cancellation or withdrawal of contracts accounted for:

- 13 per cent of fixed line phone problems dealt with by bureaux;
- almost 18 per cent of mobile phone problems;
- 10 per cent of digital and satellite TV problems; and
- 20 per cent of broadband and internet problems.

Further analysis of these problems, split by client's age, prompts some concerns since it reveals that elderly clients aged 75-84 are over-represented. For example, the national client profile of CAB clients (which takes into account all topics on which advice is given) in Quarter 4 2009-10 shows that people in the age range 75-84 accounted for approximately seven per cent of all CAB clients. However, people in this age range represented over 15 per cent of those who came for help about switching landline supplier in 2009-10, and 11.5 per cent of those who received advice about cancellation or withdrawal of landline phone services.

In addition, bureaux dealt with almost 78,000 problems about communications debts in 2009-10.

Citizens Advice has a strong interest in ensuring that switching processes work well for consumers, but that an appropriate balance is struck between achieving this ambition and protecting consumers from slamming or mis-selling.

Given the large proportion of cases involving cancellation or withdrawal of services dealt with by Citizens Advice Bureaux, we also consider that it is imperative that in seeking to improve switching processes Ofcom also considers:

- whether communications providers are complying with requirements in this area;
- whether such requirements remain appropriate in their current form or need strengthening; and
- whether consumers are provided with adequate information about the implications of cancelling a contract and switching to an alternative provider.

Key points

- Citizens Advice welcomes Ofcom's efforts to improve the switching processes in communications markets in order to improve consumer and competition outcomes.
- We are persuaded that a Gaining-Provider Led (GPL) process offers the potential to achieve better outcomes for consumers as a whole than a Losing-Provider Led (LPL) process.
- Our support for the GPL process is conditional upon Ofcom introducing robust and effective protections to guard against slamming activities, which can cause significant consumer harm.
- Given consumers' increased propensity to buy bundled communications products it would be sensible to seek to move towards the application of consistent switching processes across different communications markets.

Detailed responses to the questions posed in the consultation document are provided below.

Responses to specific questions

Question 1: Do you think hassle is a key issue we should tackle in this review?

Citizens Advice Bureaux report many cases about switching communications providers which involve consumers having to spend inordinate amounts of time and money in seeking to transfer their communications services or resolve the problems caused by switching provider. The hassle involved in such attempts at switching provider is considerable and can cause frustration, anger and in some cases may put consumers off from seeking to transfer to a different supplier in future.

A CAB in Hampshire reported a case in which their client attempted to switch her fixed line phone and broadband contract in February 2010. Although the gaining provider informed the client that the switch had been carried out successfully, the client's broadband service did not work. Despite making numerous calls to her new provider, they failed to resolve this issue. To make matters worse, for two periods of two weeks the client was without a phone line at all, which caused enormous stress and anxiety since she is a single parent with triplets (age approx 11), two of whom have lung disease and require oxygen at short notice, meaning that they need access to a telephone at all times. In May 2010 the client received a bill from her former broadband provider which helped to throw some light on the problems that had been encountered with the transfer. The client therefore contacted the new provider and asked it to remove the charge for broadband which she had never received. However, when the client received another bill from the new provider it still showed the original charge but to this had been added an additional £151 for a 'disconnection fee'. The client then received a call from a debt collection company, threatening court action. The client had wanted to make her new provider aware that she did not, in fact, owe them any money and was outraged at the way she was treated and the difficulties she experienced in attempting to receive broadband service following her transfer.

A Norfolk CAB reported that their client, an 84 year old man, came for assistance because he was extremely stressed having received a series of bills from his former landline phone provider. The client had informed his provider of his switch to a new provider but this had been ignored. The client had recently lost his wife and was finding it difficult to cope so had inadvertently paid a number of bills to his former provider. The client was now being chased for £33.32. The client was unable to write a letter of complaint himself so the CAB adviser assisted him and sent the letter by recorded delivery, including a copy of the verification of the transfer.

We therefore consider that Ofcom should seek to remove the hassle that can be faced by customers in attempting to switch provider, or rectify the shortcomings of communications providers in initiating a transfer.

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?

Question 3: Do you think clarity is a key issue we should tackle in this review?

We agree that there is currently a lack of clarity about the switching processes among consumers, both in terms of the processes involved and also in the impact that switching may have, for example through the imposition of early termination charges. As we note above, problems relating to cancellation or withdrawal of contracts accounted for a significant proportion of the communications problems dealt with by Citizens Advice Bureaux in 2009-10, with 20 per cent of broadband and internet problems and almost 18 per cent of mobile phone problems relating to problems cancelling contracts.

A CAB in the West Midlands reported that their client decided to switch her communications provider six months into a 12 month contract as she found that her bills were too high. The client was then sent a bill for £437, only £21.40 of which was for her telephone usage whilst the rest of the amount consisted of cancellation charges (for telephone, broadband and TV services). The client was unaware that she had entered into a contract with the communications provider as she had never signed any documentation. The client's communications provider said that the client had entered into a verbal contract, which would have been confirmed by a letter sent in the post. The client was also unaware that she would be charged cancellation costs to leave the service before the contract had expired. The client stated that had she been aware of such charges she would not have switched provider. The client was left feeling very distressed; she was only working part-time and felt that the amount demanded by the communications provider was extortionate. She felt that she should have been made more aware that there would be cancellation fees

The fact that different processes apply to different communications products and that consumers are increasingly opting to purchase bundles of these further complicates matters. Moving towards more consistent switching processes across the different communications markets would be a helpful step in efforts to raise awareness of what is involved in switching provider.

Question 4: Do you think continuity of service (including unwanted breaks and double billing) is a key issue we should tackle in this review?

Yes, we agree that tackling issues such as double billing and unwanted breaks in service should be a core component of Ofcom's work in this area. The following cases provide examples of the type of problems that can be experienced by CAB clients in relation to double billing and unwanted breaks in service.

A CAB in the West Midlands reported that a 73 year old male in receipt of state pension and disability living allowance, attempted to switch his TV subscription. The client cancelled the TV agreement with his existing provider and transferred it to the new provider but left his phone service with his existing provider. However, in February 2010 he decided that he wanted to deal with only one company so he attempted to transfer his phone line as well. To do so, he contacted the chosen new provider (which was supplying him with TV services). The provider assured the client that they would make all the arrangements for the transfer, including notifying his former provider that this was what he wanted. The transfer did not proceed smoothly, however. The client was given a new, different, phone number despite the fact that he had not agreed to this and was not made aware of it, and he also continued to receive bills from his former provider which covered the same period for which he had bills from the new provider. As well as causing confusion through double-billing, the breakdown in communications between the two providers caused the client a large amount of hassle, prompting the CAB adviser to comment that "this has not been a smooth transfer."

A CAB in Shropshire reported that a widowed pensioner had been with her fixed line provider for some time and was happy with them. However, she was contacted on several occasions by another communications provider and asked repeatedly to transfer her phone line. Eventually she reluctantly agreed to switch, persuaded by the fact that she would receive free calls to Portugal, where her daughter lived, as part of the package. The new provider told the client that they would arrange the transfer and the setting up of the payment arrangements, and the client presumed that this had been done satisfactorily. However, she then saw from her bank statement that she was continuing to pay her former provider, and the following month she received a county court claim from her new provider for non-payment, informing her that she had to pay £30 immediately. The client investigated this matter and found that the new provider had made some errors in setting up her payment arrangements. She informed the new provider of this and asked them to set up payment arrangements once again. In September the client went to stay with her daughter in Portugal and while there received a call from her granddaughter informing her that the new provider had blocked all outgoing calls from the client's phone. In the client's next bank statement, the client saw that another payment had been made to her former provider and the following month payments were made to the former provider and the new provider. The client tried to resolve this matter with the providers but received nothing but unhelpful and rude replies. She also tried to cancel her new contract but was told that she would have to pay £70 cancellation charges if she did so.

Question 5: Do you think the ability of providers to frustrate the switching process is a key issue we should tackle in this review?

We consider that putting an end to suppliers' ability to unfairly frustrate the switching process should be an integral part of Ofcom's work in this area. In too many cases, it appears as though communications providers are able to unfairly stop consumers from switching supplier.

A CAB in Leicestershire reported that their 80 year old client wanted to switch his broadband provider so contacted his existing provider to request a MAC Code. The client was aware that this process should take approximately five days but six weeks after making the request the

client still had not received the MAC Code. The client reported that he felt great frustration at his inability to obtain the MAC Code and considered that he was being coerced into accepting a new contract with his existing provider.

In our experience, suppliers' ability to frustrate customers' ability to switch often involves instances where providers have failed to provide any adequate service(s), customers have attempted to resolve the matter but have been unable to do so, and they have therefore understandably sought to switch to another provider. Where consumers are unable to do so, they are effectively held 'captive' by their provider which can demand payment for services – even where these have not been delivered – before deigning to allow the customer to switch.

A CAB on Merseyside reported that a 78 year old man who lived alone switched his fixed line phone provider in June 2009. Unfortunately, the new provider gave only an intermittent service from October 2009 and so, unable to resolve the matter to his satisfaction, the client stopped making payments. The client then attempted to switch to another supplier but was informed that they were unable to accept him as a new customer since the switch had been blocked by his previous provider. The client contacted Trading Standards and Ofcom, and was referred to Otelo. He currently had no phone service.

Question 6: Do you think consumers' experience of save activity is a key issue we should tackle in this review?

We agree that save activity is more likely in a LPL system, and while an individual customer may find such activity useful in effectively entering into a process of bartering with their existing provider in order to get a better deal, we are concerned that large segments of the customer base who may be less able or less confident may be excluded from getting a better deal. Enabling communications providers to segment the market in this way is likely to produce unwelcome results, both in terms of the deals offered to customers who are not looking to switch provider and in terms of efforts to encourage robust competition among existing and new communications providers.

A CAB in Cornwall reported a case in which a pensioner and his wife contacted their broadband supplier to request their MAC Code so they could transfer to another supplier which was offering a lower priced deal. During the conversation with her existing provider, the client's wife was persuaded to stay with the provider but change to a different contract. However, when the client and his wife analysed the costs involved on the following day they realised it would cost them over £50 per month. The client therefore rang the supplier again to ask them to revert to the original contract and give them a MAC Code. The supplier refused to do so unless they paid about £230 to cancel the contract.

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?

We consider that the key issues for residential consumers' experiences of the switching processes have been covered in Ofcom's consultation document. As a consumer organisation we are not well-placed to give a view in respect of business consumers.

Question 8: Do you agree with our analysis of switching costs?

Question 9: Do you agree with our analysis of save activity?

Yes, we find Ofcom's analysis of switching costs and save activity to be compelling and persuasive.

Question 10: Do you agree with our analysis around the multiplicity of switching processes?

As Ofcom notes, there are at least two switching processes which apply in the broadband, mobile and fixed-line markets. This undoubtedly causes unwelcome complexity and confusion for consumers attempting to negotiate a switch, especially which might be a bundled product and therefore involve more than one type of switching process.

A CAB in Sussex reported that their client attempted to switch communications provider as she was offered mobile, landline and broadband at a lower rate. The new provider switched the two phone services but not the broadband. The client had written, phoned, and e-mailed the new communications provider as she was without broadband for seven months. Having to do without this made it extremely difficult for the client to access her online bank account. When the broadband was finally connected the communications provider gave the client just £20 to apologise for the inconvenience suffered.

Given consumers' increased propensity to buy bundled communications products it would be sensible for Ofcom to seek to move towards the application of consistent switching processes across different communications markets.

Question 11: Do you agree with the general switching principles we have identified?

Question 12: Do you agree with our proposed tier structure for the general switching principles?

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

Question 14: Which of the identified GPL switching options do you support?

We agree with the main tenets of Ofcom's proposals, including the general switching principles and the hierarchy on which these principles should be ordered. We are persuaded that a Gaining-Provider Led (GPL) process offers the potential to achieve better outcomes for consumers as a whole than a Losing-Provider Led (LPL) process. However, our support for the GPL process is conditional upon Ofcom introducing robust and effective protections to guard against slamming activities, which can cause significant consumer harm.

Despite significant improvements in protecting consumers against cases of slamming, Citizens Advice Bureaux continue to report cases involving this odious practice. Any new switching process must not permit such practices to continue, and while we would welcome discussion about the best way to seek to achieve this, we would also expect that new processes should be matched by a willingness from Ofcom to take swift and decisive enforcement action should such practices, or some variant on them, emerge.

A CAB in Cumbria reported a case in which an unemployed man and his pregnant wife received an unsolicited visit to their home from a representative of a communications provider who attempted to convince them to switch from their current provider. The client did not agree

to this switch, either verbally or in writing, and asked for time to think about it. The entire conversation lasted for around 30 seconds. However, the client then received a letter from his existing provider on 12 May 2010 informing him that they had received a request from another company to switch his service, that this had occurred on 11 May and the only way for him to cancel this switch would have been for him to contact them before 4pm on 10 May. The client then contacted the new provider to query the switch and was told nothing could be done as the transfer had already taken place. The new provider charged the client a connection fee of £126.64, in addition the client's previous provider also charged cancellation and disconnection fees of £284.41, which have been passed to a debt collection agency (Moorcroft) and have now increased to £355.15. The client could not afford to pay either of these debts and the new provider had since disconnected the phone line following his non-payment.

A CAB in Sussex reported that a female pensioner on a low income noticed a direct debit payment to a communications provider which she did not recognise since she had not agreed to set up any new direct debits or to change communications provider. When she contacted the communications provider that was receiving payment from her, they claimed that the client had authorised the transfer and would have received a welcome pack with a copy of the contract. The client had no recollection of this whatsoever, and when she challenged the communications provider about it they stated that they would only provide proof that this conversation had taken place on receipt of £25. The client felt that she had been deceived into changing providers and would have to pay a fee of £68.74 to cancel the contract.

A CAB in Hampshire reported a case in which an 86 year old disabled lady living on her own found her fixed-line telephone service had been switched. The client had been with the same communications provider for many years, paying her bill at the post office, and had no wish to change this arrangement. However, she received a call from another telecoms company asking her to switch her fixed-line to them. She asked the company's representative to send her more details but unfortunately also gave her bank details during the course of the conversation. The client subsequently told her son this and he contacted her bank, asking them not to set up any direct debits. As the client could not recall who had called her, her son was unable to contact the telecoms company directly. Six weeks later the client received a letter from the new provider welcoming her as a new customer. When her son called the company they confirmed that the client was now signed up to a two year contract and that, although the client had not signed anything, by giving them her bank details, this meant that a verbal contract had been agreed. Moreover, to withdraw from the contract would cost £199 plus VAT. The client's son also contacted the client's previous provider who confirmed that the client's landline had been transferred. The client was extremely upset and angry that one cold call had led to an arrangement she did not want and had not requested. The client did not wish to pay her phone bill by direct debit but would be forced to if she had to remain with the new provider. The client stated that she would never knowingly have agreed to this contract.

A CAB in Dorset reported that a 79 year old man was cold-called by a communications provider. Despite saying that he didn't want to change provider as he made very few calls, the client was told that he would be sent something in the post which he could look at and make a decision about whether to switch. The client did not receive anything in the post from this provider but then the client received a letter from his previous provider saying 'sorry you have decided to change your telephone provider'. The client phoned his former provider and was informed that he would have to contact the new provider to cancel the transfer. The client found it so difficult to talk to the new provider that had transferred his fixed line without his consent that he had to come to the CAB for help.

Question 15: Do you have any information or views on the costs of the switching options outlined above?

No.

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

Yes, we agree with Ofcom's proposals and implementation priorities for taking forward work in relation to switching processes. Statistics about communication problems involving switching or cancellation and withdrawal issues dealt with by Citizens Advice Bureaux support Ofcom's proposal to focus initially on fixed-line and broadband. As we note in our introductory comments above, problems relating to switching supplier accounted for almost five per cent of fixed line phone problems and four per cent of broadband and internet problems dealt with by bureaux in England and Wales in 2009-10. By comparison, such problems accounted for just over one per cent of mobile phone problems.

In addition, in 2009-10 Citizens Advice Bureaux problems relating to cancellation or withdrawal of communications contracts accounted for 13 per cent of fixed line phone problems dealt with by bureaux and 20 per cent of broadband and internet problems. Although such problems also accounted for almost 18 per cent of mobile phone problems, we consider that it is right to prioritise fixed-line and broadband markets for more immediate attention and action. We would stress, however, that as markets converge and customers increasingly purchase bundled communications products, it is imperative that Ofcom moves as swiftly as practicably possible to ensure that consistent switching processes apply across different communications markets.