

Consumer switching: Proposals to reform switching of mobile communication services

Response to Ofcom from Citizens Advice



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Introduction

Rates of switching in consumer markets, including mobile, remain stubbornly low. People lead busy lives and overly complex, time consuming switching processes can be a key driver of disengagement. As the Government recently acknowledged in their [action plan](#) for improving switching processes, gaining provider led mechanisms are a key feature of efficient, consumer friendly switching processes. A majority of essential markets, including broadband, have already moved to gaining provider led switching processes. In this respect, the mobile phone market has fallen behind comparable markets and reform is urgently required. This consultation is the latest installment of a lengthy process - the first call for inputs on the topic was issued nearly two years ago. We hope Ofcom can now swiftly move forward to implement a full gaining provider led mobile switching process.

We have limited our response to areas which best align with our expertise and evidence base.

1. Switching processes and consumer harm

This section sets out our response to questions 1-3 in the consultation document.

The mobile market currently operates a 'losing provider led' (LPL) system. This means that the consumer must contact their original provider to cancel their contract before they move to a new provider. If they want to keep their phone number, they must also request a 'Porting Authorisation Code' (PAC) from their losing-provider, and give this to the gaining provider in order to transfer the phone number. This system - which is one of the last losing provider led switching processes in essential regulated markets - causes unnecessary hassle for consumers who decide to change their provider and acts to discourage mobile switching more generally.

Citizens Advice sees many examples of consumers struggling to navigate the switching process amongst the 26,000 mobile phone enquiries made to the Citizens Advice Consumer Helpline each year. Many of these calls fall under the three categories of harm identified in the consultation document:

First, switching can involve a considerable amount of time and hassle for the consumer, particularly when contacting their existing provider to request a PAC and/or cancel the contract. At best this process is unnecessarily bureaucratic, at worst it can lead to consumers becoming confused and failing to switch successfully. In particular consumers do not always know how to request a PAC and/or know what to do with one once they've got it. For example:

Tom contacted the Citizens Advice Consumer Helpline on behalf of an 85 year old friend who wanted to change provider in order to move to a cheaper contract. His friend had been told by his new provider that he had to get a PAC from his new network and found this very confusing. While trying to get his PAC he was charged £45 but did not know why.

As well as causing frustration, the complexity of the current switching process can lead to consumers unknowingly failing to fully close down their account with the network they are trying to leave. For example, some of our clients assume that requesting a PAC means that their account will be closed automatically, whether they pass it on to their new supplier or not. Others think that they can leave simply by cancelling their direct debit. In both scenarios consumers only discovered that

their account had not been closed when they were later pursued for unpaid bills by the network.

Second, consumers are currently at risk of temporary loss of service during the switching process. The current system involves no direct communication between the consumer's old and new provider - except on occasion to port the number - which means that consumers are only guaranteed a continuous service if they themselves can ensure that the old contract ends on the exact day the new one starts. This can be difficult for consumers to co-ordinate even if the whole process runs to schedule. In cases when the start of the new service is delayed by technical difficulties consumers can be left with no service for as long as it takes for the problem to be solved. For example:

Joe bought a new contract and gave the new provider his PAC, and they told him that the transfer would take place within 24-48 hours. A week later, his number had still not been transferred, despite his having made several calls to the new provider. Joe found this experience very stressful - his family and friends had been unable to reach him and he had spent a significant amount of money on a Pay as You Go sim calling the networks to resolve the issue.

Finally, the current system can lead to consumers paying for two services simultaneously during and immediately after the switch. Ofcom's research shows around 1/3 of consumers who have switched contracts recall being charged by both providers during the switching process. Some chose to double pay in order to ensure continuous service, while others had bought a new contract before they became aware of the length of the notice period required by the old provider. We also see cases where an overlap has been caused by mistakes made by the network or the consumer. For instance:

Jolene's sim-only contract was coming to an end. She notified her old network that she would like a PAC so that she could transfer her number to another provider. The losing provider have now told her that the PAC has expired and that she will have to pay for another month's worth of service as she didn't use the PAC in time.

As these cases illustrate the current system of mobile switching is unnecessarily complex, can leave people without service while they switch, and make them feel they have to pay for overlapping services to avoid problems whilst changing providers. These problems are not uncommon, or unique to our clients. As the consultation document states, Ofcom's 2015 research found that nearly 1 in 5 consumers (18%) who have switched their mobile provider in the past 18 months rated the experience as 'difficult'. When prompted, nearly 2 in 5 (38%) said they had experienced difficulties. Furthermore, concern that something could go wrong during the switching process can act to dissuade consumers from attempting to switch in the first place - Ofcom's research found that 15% of inactive customers

said that concerns about the process deterred them from considering switching providers.¹ Reform to the system is overdue and urgently needed.

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http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/mobile_switching/quantitative/

2. Options for reform

This section sets out our response to questions 4-11 in the consultation document

The case for gaining provider led switching

In May this year the Government recognised gaining provider led switching as an essential feature of any good switching process by including it as one of its 6 switching principles. We strongly agree with this assessment and support the introduction of full gaining provider led switching - a step already taken in the vast majority of essential markets.

In a gaining provider led system the consumer's new supplier takes responsibility for ensuring that the old account is closed and a new account is opened. This has several advantages for consumers:

- Consumers do not need to contact multiple suppliers in order to complete the switch - they only need to engage with the gaining provider. This reduces the amount of time and effort it takes for consumers to be able to switch, and ensures that losing providers can not discourage switching by making their contract exit procedures unduly laborious.
- The switch is managed by the party whose interests are most clearly aligned with the consumer's - the gaining provider, who benefits from giving the consumer a swift, efficient switching process. This reduces the chance of errors occurring during the switching process - including gaps in service and double payments - and makes it clear who consumers should hold accountable if something does go wrong.
- Consumers who want to change supplier can do so without having to give their existing provider the opportunity to try to persuade them to stay. GPL systems should operate with a 'no wrong door' policy, which allow consumers to contact their current provider to renegotiate their contract if they wish to do so. But if a definite decision to switch has already been made, GPL reduces the potential for delays and sales pressures from the losing provider.

The automated PAC proposal does not go far enough

The automated PAC proposal set out in the consultation would to some extent address the consumer harm caused by the current switching process and would therefore be an improvement on the current losing provider led process. By broadening the methods of requesting the PAC (text, call, and web form), the automated PAC proposal would make it easier for consumers to use the medium which best suits them. Automated PAC would also mean that consumers do not have to have a phone conversation with the losing provider, and so can avoid unnecessary retention activities if desired. The specified information providers would be expected to supply when a consumer requests the PAC, such as any details of any outstanding charges and the remaining notice period on their old contract, would also be useful for consumers when making a decision on whether to switch.

However, the automated PAC proposal is not a suitable substitute for full gaining provider led switching. Full gaining provider led switching would address consumer harm far more fully in the following key areas:

- Full gaining provider led switching would mean that the gaining provider takes responsibility for all aspects of the switch. The gaining provider's incentives are more closely aligned with that of the consumer - it is clearly in the interests of the gaining provider to ensure that the switch proceeds quickly and without error. There are also clear lines of accountability should anything going wrong under the gaining provider led system. The gaining provider is also in a better position to make the necessary calculations to arrange a seamless switch, reducing the chance of miscommunication and misalignment of porting times. The automated PAC system does not create a clear line of accountability in the same way, leaving consumers at greater risk of double paying or loss of service.
- Ofcom's research showed that 57% of those considering switching indicated that the time consuming nature of the process was a factor in their decision not to switch.² Therefore, a process which involves as few steps as possible is clearly preferable. Gaining provider led switching removes a stage of the switching process entirely. Consumers would no longer be required to contact their losing provider for the PAC or pass it on to the gaining provider. Although the automated PAC proposal would make it easier for consumers to get their PAC, they are still required to request and pass on this code themselves.
- The automated PAC process will only help consumers who wish to keep their phone number - not all consumers wish to do this. The consultation does not explain how automated PAC would work in a 'cease and re-provide' context (consumers who want to switch but don't want to port their number). This would mean that customers in these circumstances would have to continue

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http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/mobile-switching/mobile_switching_quantitative_research_feb16.pdf

to use a losing provider led process. In the GPL system, the gaining provider is responsible for the switch in either scenario. Automated PAC would also not be suitable where there are multiple phone numbers on an account, for example when multiple members of a household take out mobile phone contracts linked to the same account.

Suggested improvements to the gaining provider led proposal.

The proposed gaining provider led system represents a substantial improvement on both the current situation and the proposed automated PAC system. If implemented, full gaining provider led switching would help to prevent many of the difficulties consumers experience when switching their mobile phone provider - reducing a major barrier to switching. There are, however, a few aspects of the proposal which need to be either strengthened or clarified:

- The consultation document makes no reference to the role of third party retailers, and therefore it is not made clear whether they will have to follow the same procedure as the mobile networks. Consumers should be able to expect a seamless GPL switch no matter where they shop, and should not have to go through extra stages if they chose an independent retailer. Therefore any central porting system created by the mobile networks should allow third party retailers to initiate a GPL switch, and mobile networks must be expected to conduct due diligence to ensure that any retailer who sells their contracts abides by the new process.
- Consumers must also have the same rights to cancel the switch wherever they buy their new contract from. In particular the provision to allow consumers to cancel switches within 24 hours should state that consumers will be able to return any handset bought as part of the cancelled contract. Consumers who buy their handsets online or over the phone automatically have this right under the Consumer Contract Regulations. However, on premises retailers do not by law have to accept the return of non-faulty goods. As the current proposals only explicitly refer to mobile service contracts it is possible that some retailers may seek to penalise consumers who cancel a new contract by attempting to charge them for the handset.
- Figure 6 states that gaining providers will be expected to 'offer to defer the start of the new service, and number port if required, by up to 30 days, such that any double payments and ETCs were reduced.' This expectation should be strengthened to place an explicit requirement on providers to make the switching process as seamless as possible. Action to prevent overlaps should be routine rather than merely 'offered', and double payments should, in the overwhelming majority of cases, be avoided entirely, rather than just 'reduced'. Therefore, for consumers who are out of their minimum contract period, the default switching date should be the first day on which they can

switch without making a double payment. The gaining provider should communicate with the losing provider to establish when this is, and be liable for any double payments made as the result of any errors.

- As the consultation document notes, it is possible that making the switching process easier could lead to some consumers being switched against their will. Any such practice would be a clear case of misselling, and could therefore be tackled under the provisions of Ofcom's General Condition 23 which regulates the sales and marketing of mobile telephony services. These regulations, along with the requirement that the losing provider will ask for the client's consent to complete the switch, should be adequate to prevent involuntary switches becoming a substantial problem. However Ofcom should consider requiring providers to report the number of switches they cancel in order to be able to monitor any problems as they develop. Furthermore it should be guaranteed that consumers should be refunded any money they have been charged by either the losing or gaining provider for a switch they did not consent to. This should happen automatically as soon as the error is discovered - and should not be affected by any disagreement between the providers or any other third party as to who was responsible for the initial error.
- Section 5.39 specifies that 'loss of discounts where mobile is part of a communications service bundle' should not be considered as core information provided to consumers when arranging a switch. This reflects the fact that currently very few mobile contracts are bought as part of bundled services. However, for those that do buy their service in such a way the loss of any discount is a vital piece of information. When deciding whether to switch, consumers need to be fully aware of how much money they will save if they go ahead and should not be put in a situation where their overall bills may go up unexpectedly. Details of any lost discounts should therefore be considered as core information which should be automatically given to the consumer when they are deciding whether to switch.