



Making switching easier

A summary of the consultation on new switching proposals for landline and broadband providers

Consultation

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Contents

Section	Page
Introduction	2
Section 1: Consultation overview	
The problems with current switching processes	3
The options for consultation	6
Ofcom's preliminary view	7
Section 2: The consultation in more detail	
Background	9
Scope	9
Switching Working Group	10
The current switching processes	11
Problems with the current switching processes	16
The options for consultation	22
Comparison of the options and conclusions	24
Glossary	31
Diagrams of the options for consultation	33
Responding to this consultation	36

Introduction

Ofcom is the UK's communications watchdog. We watch over everything from television and radio broadcasting to mobile and landline phone services.

One of our many roles is to protect consumers and encourage healthy competition among phone and internet providers. If there are several companies out there wanting your business, they should want to out-do each other with better services and keener prices. And that's good for us all as customers.

However, there can be problems. Even if you know where you can get a better deal, actually making the move can turn out to be a lot of hassle – and that puts people off changing providers.

At Ofcom we've been looking into the whole process of switching landline and broadband services. To date, this is where the worst problems seem to have cropped up.

This consultation is to discuss how we think switching processes can be improved, and to ask for your views. This document is a brief summary, but for the full consultation document please go to: <http://stakeholders.ofcom.org.uk/consultations/switching-fixed-voice-broadband/>.

Section 1

Consultation overview

Healthy competition is more likely to thrive when consumers feel confident doing a simple thing: switching from one provider to another.

This review is consulting on specific proposals for improving switching landline and broadband services from one provider to another. It is focused on making sure that:

- switching those services is easy and hassle-free; and that
- the switching processes don't stop providers competing with each other to deliver lower prices, greater choice, innovation and good value.

This review also has an eye on the future. We need to make sure that switching processes are sufficiently robust to handle market developments such as product bundling and new technologies and services as they emerge.

At this point we are focusing on landline and broadband switching (but not switching services from, or to, the cable network). We expect future phases will look at cable, next generation access (NGA) technologies, mobile and Pay TV services.

The problems with current switching processes

At the moment, the industry uses three ways to switch landline and broadband customers from one provider to another:

- Notification of Transfer (NoT).
- Migrations Authorisation Code (MAC).
- Cease and Re-provide (C&R).

Based on our analysis, we believe that changes are needed to deliver easy and hassle-free switching and better competitive outcomes for consumers.

We have found a number of problems, some of which are likely to get worse in the future as the communications market develops.

Problem 1: Multiple processes

At the moment there is a patchwork of different processes which a consumer must go through in order to switch providers. They differ according to factors such as the technologies used by the provider you're leaving and the one you're joining. These behind-the-scenes workings are a mystery to consumers, making it difficult for them to know what to do and increasing their perceptions that switching is difficult.

In addition:

- The technologies behind landline and broadband are getting more complex. This means that providers may find it difficult always to give accurate advice on the correct process to follow.
- If you're switching a bundle of services, you may run into even more hassle as each service may require a different process. With the continuing trend towards bundling, this problem may well get worse.
- Different providers use different processes and this gives some providers an advantage over others when customers are thinking about changing providers.

Problem 2: Inadequate systems

Our research shows that there are problems behind the scenes.

For example, around 130,000 households a year are affected by the wrong line being taken over as result of inadequate systems. The current processes do not always identify the correct line to switch and we expect this problem to get worse as new services are rolled out.

There are also issues around certain technologies. For example, if you are leaving a provider that delivers services over Metallic Path Facility technology, your new provider needs to support some extra capabilities to help with the switching process. However, some do not, making it more difficult to switch.

Due to problems identifying the right line to switch, some providers are by-passing the industry-agreed processes. Instead, they ask you to cancel your existing service and start a new one with them (known as Cease and Re-provide, or C&R). This is inefficient for the providers, and may mean more cost and hassle for you, the consumer: there may be cancellation and connection charges, and the risk of losing your phone number and/or service. Our research suggests that 42% of people who went through C&R should have been switched using established and more straightforward processes.

If they're followed properly, these processes usually mean your service will continue seamlessly as you switch. However, many providers' systems have problems switching more than one service simultaneously. Instead, they switch bundled services in a sequence, and around one in five broadband switchers loses their service for an average of one week.

Problem 3: Slamming

Each year, around 520,000 households are the victims of 'slamming'. This means they discover they have been moved to a new provider without their knowledge or consent. Slamming mainly occurs when there's low levels of upfront checking by a provider to make sure that a customer, whose services are about to be switched, has been properly identified and has actually agreed to the switch.

This can cause significant harm to consumers in the form of distress and time and effort to resolve the issue. And they may even be hit with an early termination charge (ETC) from their provider if they are slammed during a minimum contract period.

Slamming also means costs to the providers in fixing the issue when a customer wants to return to their original provider. Ultimately, these costs fall on us all.

Competition also suffers. Research suggests that a significant proportion (28% - 60%) of people who have been slammed are not restored to their original provider. This may be because they don't want to spend the time resolving the issue. Or because they may even have to pay an ETC to the provider who slammed them.

Problem 4: Lack of awareness of the implications of switching

Sometimes, consumers aren't aware that switching may have knock-on effects. For example, there may be an ETC to pay, or the switch may trigger different prices for other services that they continue to take from their current provider.

Information may be vague or misleading, or simply not given at all. This means consumers who want to change provider can find it difficult to make an informed decision about continuing with the switch. If the implications only become clear further down the track, cancelling the switch can mean time and hassle. It also creates costs for the providers which in turn may be passed on to customers.

Problem 5: Other hassle

Consumers have to spend more time than necessary when a switching process is difficult or, in the case of a bundle, when they have to contact multiple Losing Providers (LPs). Also, there may be extra hassle in store if those LPs drag their feet or try to frustrate the switching process.

Problem 6: Reactive save and its impact on competition

'Reactive save' activity can happen when a LP takes steps to keep a customer who is leaving them by making them a better offer. They're able to identify switchers from information that flows through the formal switching process.

This activity is currently banned when the process is led by the Gaining Provider (i.e. when the customer only needs to contact the provider they're changing to, to start the switch). Losing Providers may not then use information from the process to make reactive save offers to switchers.

However, there is currently no regulation to stop this activity when a switching process is led by the Losing Provider— who has every incentive, and opportunity, to make a 'last ditch' save offer.

Our concern about reactive save activity is that it damages competition. It favours existing providers because new competitors in the market (and providers who are looking to grow) will have to spend more on marketing and sales to gain customers. Losing Providers can 'work the system' in a way which allows them to make a save offer to every single potential switcher. This undermines competition and, in the long-term, actually damages the interests of consumers because it creates a barrier to entry for new providers, and providers hoping to expand.

Reactive save activity may also reduce the incentives for LPs to provide good value to existing customers. If they can choose to make selective counter-offers to each and every switching consumer, they have less incentive to offer competitive prices to all customers.

Note: our concerns only relate to reactive save activity as part of the switching process. We have no problem with day-to-day contact initiated by customers who want to discuss better deals or other issues.

The options for consultation

This consultation is now exploring a number of options to take us forward in tackling the problems above.

Some have been drawn up with the help of the Switching Working Group, a joint body comprising industry, the Office of the Telecommunications Adjudicator and Ofcom.

The options we are consulting on are:

- **Existing processes options** (unharmonised)
 - Do nothing
 - Make improvements to both the existing NoT Gaining Provider and MAC Losing Provider-led processes
- **Gaining Provider-led options** (all switches would follow the same process, starting by contacting the new provider)
 - Make improvements to the existing NoT Gaining Provider-led process only, and expand the process to cover all switches (i.e. stop using the MAC process).
 - A Transfer Code option where changes are focused on addressing problems with the processes that go on behind the scenes away from the consumer. From a consumer's point of view, this process will feel like the current NoT process.
 - A Unique Service Number process where consumers need to use a code they find on their bill to switch provider.

- A Third Party Verification process where consumers need to go through an independent third party to confirm their consent to switch.
- **Losing Provider-led options** (all switches would follow the same process, starting by contacting the Losing Provider)
 - A Transfer Code option where changes are focused on addressing problems with the processes that go on behind the scenes away from the consumer; on improving the consumer experience of a Losing Provider-led switching process; and where reactive save activity is banned. From a consumer's point of view, this process will feel like the current MAC process.
 - ...or a variation where reactive save activity is permitted, unless the customer opts out of listening to offers.

Ofcom's preliminary view

We have analysed how effective these options would be in dealing with the problems we have identified with the current switching processes.

- The 'do nothing' and 'improvements' options would not do enough to address concerns over loss of service, slamming, and the extra costs and hassle that come with Cease and Re-provide. We are also concerned that market developments will make systems even less reliable in identifying the correct line or service to be switched. Although these options would probably be cheaper to implement, we think it would be a false economy to invest in changes that probably won't be fit for purpose in a few years' time.
- All of the other options involve single, harmonised switching processes.
- These options perform differently against the problems, with each having its pros and cons.

Overall, based on the information we currently have, we believe the Third Party Verification option performs best. In particular, it addresses harm arising from reactive save activity, slamming, problems with the processes that go on behind the scenes away from the consumer and hassle. This option would be the most expensive for providers but we believe it also delivers the most benefits.

- The GPL Transfer Code option would deliver well at tackling harm from problems with the processes that go on behind the scenes away from the consumer, reactive save and hassle. However, it wouldn't address the harm from slamming which is a key issue. We are asking whether there may be an effective way to protect consumers from slamming within the GPL Transfer code option, which might affect our view.
- The LPL Transfer Code option delivers well on slamming and on awareness of the implications of switching. However, we are particularly concerned that the ban on reactive save will not be fully effective, and the use of reactive save under this option will therefore harm competition. It will also be likely to lead to greater hassle for consumers. However, if responses show that there is a way of making that ban effective in an LPL process and it could be designed in a way that reduces hassle, we may reconsider our view.

Therefore, our preliminary view, subject to consultation, is that Third Party Verification is the most appropriate and proportionate way forward. We do recognise that it may be more costly than other options, but evidence suggests that this is justified by the long-term consumer benefits that it would bring.

Section 2

The consultation in more detail

Background

Being able to switch easily between providers is a key component of a competitive communications market.

This review of switching processes is one of the strategic priorities in our Annual Plan 2011-12¹. It lies at the heart of Ofcom's strategy to help consumers exercise choice and enjoy the benefits of competition.

The review is focused on achieving two goals:

- That consumers should enjoy an easy and hassle-free experience when they choose to switch their landline and broadband services. This means we must address current problems with the processes that result in direct consumer harm.
- That switching processes must not get in the way of providers competing with each other, and the resulting benefits to us all through lower prices, greater choice, innovation and value for money.

Consumers switch landline and broadband providers in a variety of ways. There are different processes - even for switching the same service - with very different features and experiences. Some of these features have been developed by the industry and some have been designed with input from Ofcom (or, previously, Oftel).

Consumers will only benefit from competition if they feel confident that they can exercise choice, relatively easily and without worry. Without that confidence, they may not switch due to avoidable barriers. In turn, this dampens the competitive process, with knock-on effects such as depressed innovation, less choice and poorer value for money.

In short, consumers will not receive the benefits that competition should deliver.

Scope

This review focuses on specific proposals to change the existing processes for switching landline and broadband services across the Openreach copper network (i.e. excluding switches involving the cable network).

Consumers switching these services between different providers should use the Notification of Transfer (NoT) and Migrations Authorisations Code (MAC) processes. However, consumers may sometimes end up going through the Cease and re-provide (C&R) process.

¹ Strategic Purpose 3, paragraphs 3.22 to 3.27 at <http://www.ofcom.org.uk/files/2011/04/annplan1112.pdf>.

Our proposals only focus on switching involving residential consumers, and small businesses with up to 10 employees.

Switching Working Group (SWG)²

After publishing a consultation in September 2010, we established the Switching Working Group (SWG). Its purpose was to consider the problems with the existing NoT and MAC processes in more detail, and to develop detailed specifications and costs for better options.

We encouraged all industry parties to be active contributors to the SWG and, specifically, to help us narrow down the switching options for detailed analysis. We explained this was a key opportunity for industry stakeholders to have an input, and that they are best placed to develop those detailed technical specifications and costings. We met with consumer stakeholders separately to update them on the SWG's work.

The SWG comprised a wide range of landline and broadband providers, as well as the Office of the Telecommunications Adjudicator (OTA) and Ofcom. An SWG sub-group also met to progress the technical specifications. Detailed notes of all the meetings and actions, as well as relevant papers, are available on the SWG website.³

The SWG also received expert consultancy support from the firm CSMG, who documented specifications for each of the three switching process models developed by the group. With this information, SWG members were able to conduct their own assessments of the costs and implications of adopting these models.

CSMG was also asked to develop costings for each of the three SWG models. In addition to the costs for providers, CSMG estimated the central cost elements of each model and included these in its total industry cost estimates. CSMG produced an independent report setting out its assessment of the costs (the 'CSMG Report').⁴ We have published this alongside the consultation.

² <http://stakeholders.ofcom.org.uk/telecoms/groups/switching-working-group/>

³ All of the SWG documentation including the terms of reference, meeting agenda, meeting notes and papers can be accessed at <http://stakeholders.ofcom.org.uk/telecoms/groups/switching-working-group/>.

⁴ http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/csmg_report.pdf

The current switching processes

The three existing processes used to switch consumers' landline and broadband services over the Openreach copper network are:

- Notification of Transfer ('NoT').
- Migrations Authorisation Code ('MAC').
- Cease and Re-provide ('C&R').

1: Notification of Transfer (NoT)

The NoT is a Gaining Provider-led (GPL) process. This means that the consumer only needs to contact their new Gaining Provider (GP) to make a switch. The GP then informs the Losing Provider (LP) on the consumer's behalf to organise the transfer.

The consumer receives letters from both their GP and LP confirming the planned switch before it happens. This gives the customer an opportunity to cancel the order, either because they've changed their mind or because the letter alerts them to the fact they are being 'slammed' without their knowledge or consent. This letter comes as part of a switchover period of 10 working days, when the switch can still be stopped.

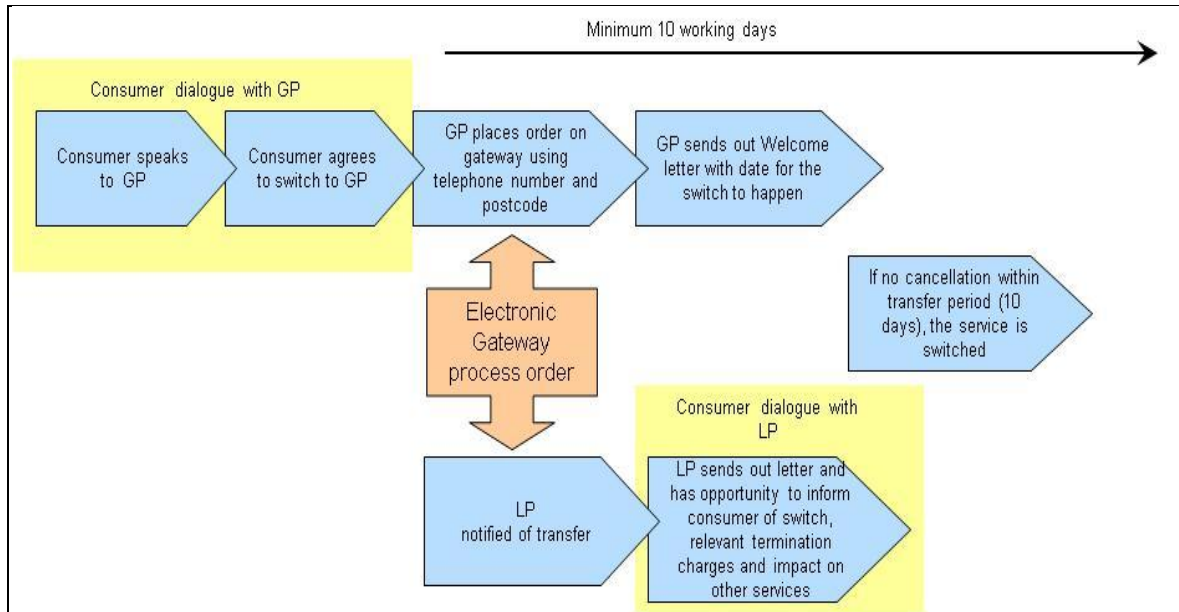
The NoT process is for switching:

- landline and broadband services where either the GP or LP uses Metallic Path Facility (MPF)⁵ technology; and
- landline services where both the GP and LP use Wholesale Line Rental (WLR)⁶ technology.

⁵ MPF is the product sold by Openreach to allow providers to gain full control of the local loop connecting to end users to deliver both voice and broadband to end users.

⁶ WLR is the product offered by Openreach to communications providers to enable them to offer fixed voice services to end users without having to fully manage the line.

Figure 1: The NoT process



Identification of the right physical line

In the NoT process, the customer gives their address and calling line identification (CLI or telephone number). If the CLI is correctly registered on Openreach’s Dialogue Services (DS), it will accurately identify the correct physical line (“asset”) to switch. The address details are used as an additional cross-check.

However, CLI information on Openreach’s database is limited to WLR services and BT’s public switched telecommunications network (PSTN) lines. The database doesn’t hold CLI information for MPF lines. So if a GP is switching an MPF service they might use the customer’s address to locate the correct asset. In some cases, there may be multiple MPF lines going into the same premises. In a case like this, the information provided by the customer will return a number of lines—and the GP won’t necessarily be able to identify accurately the correct line to be switched. This can lead to problems where the GP picks the wrong one.

Regulations

There are obligations on landline providers regarding sales and marketing activities.⁷ This is to try to prevent consumers from having their services switched without their express knowledge or consent.

2: Migration Authorisation Code (MAC)

The MAC is a LP-led (LPL) process which only applies to broadband where both the GP and LP are using the BT wholesale product IPstream or the Openreach Shared Metallic Path Facility (‘SMPF’)⁸ product.

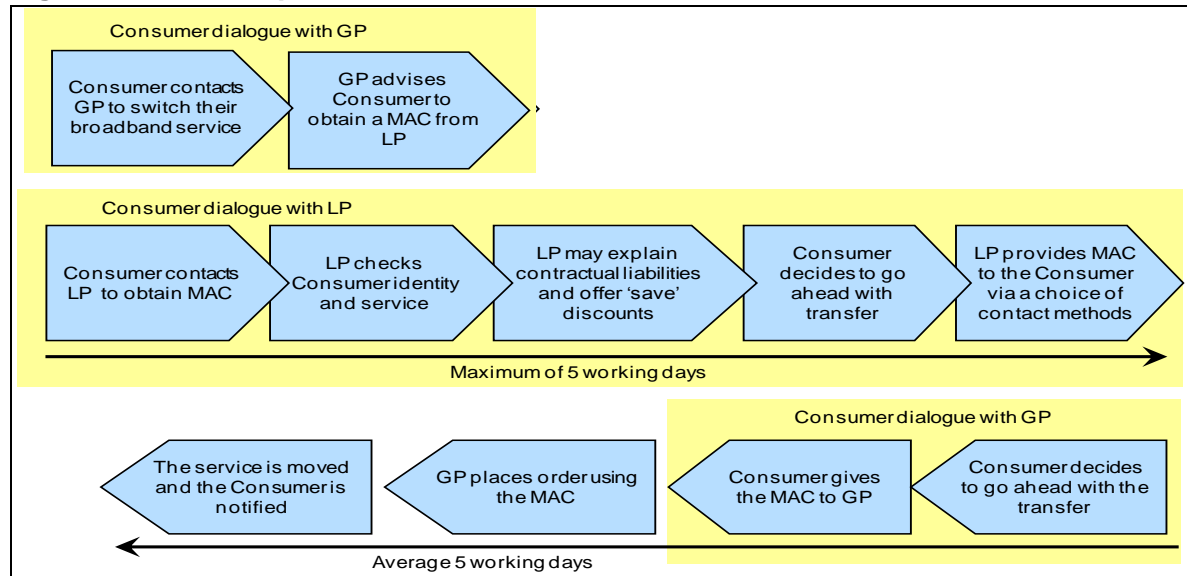
⁷ General Condition 24.

⁸ SMPF is a way for providers to gain partial control of the local loop connecting to end users.

If a consumer wants to switch providers, they must ask their LP for a migration authorisation code (MAC) and give it to their GP.

When they receive the request for a MAC, the LP carries out an authorisation check to confirm that the person making the request is indeed the legitimate account holder. Once this has been verified, and subject to certain other conditions, the LP is required to issue a MAC. The consumer must then supply this MAC to their GP within 30 days to allow the service to be switched.

Figure 2: The MAC process



Identification of the right physical line

Since the LP has access to the records which can accurately identify the customer’s line, the MAC issued by the LP correctly identifies the specific asset involved in the switch.

The MAC issued by the LP is stored by Openreach against the asset. For the switching order to proceed, the MAC used by the GP must match the MAC stored by Openreach. In this way the MAC is essentially an identifier, issued by the LP and used by the GP and LP to make sure the correct assets are switched.

Regulations

There are rules requiring providers to supply MACs to customers wanting to switch providers within a set period of time and ensure a positive experience for broadband customers.⁹

3: Cease and Re-provide (C&R)

The Cease and Re-provide process comes into play when there are no agreed switching processes to enable a seamless transfer of services. Here, the consumer separately terminates their contract with the LP and requests a new service from the GP. (It may not

⁹ General Condition 22.

happen in this order; the consumer may request a new service first before ending their contract.)

With C&R, customers have to manage the stopping and starting of their services. It is down to them whether they try to co-ordinate the C&R processes to happen simultaneously (with the risk of losing their service), or to run both services at once and only cease the existing service once the new one is up and running. This may involve paying for two services for a time, depending on the notice period agreed with their LP.

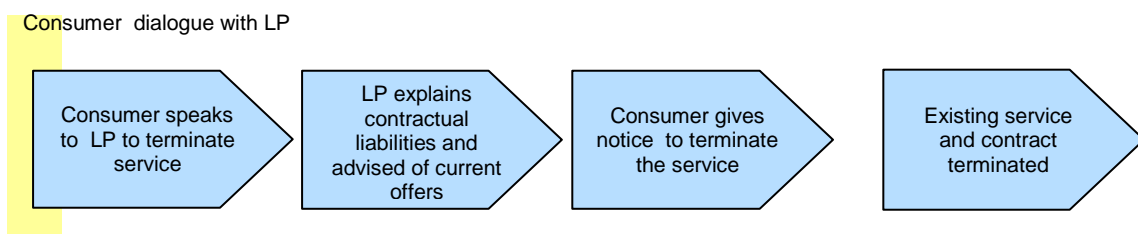
C&R is only intended to be used for switching landline and broadband services to or from the cable network. However, providers also appear to be using it (rather than the industry-agreed NoT process) for switching services that involve MPF.

For providers to follow the NoT process, they need to have invested in the correct order type process technology and tactical fixes that have been developed to address problems with loss of service.

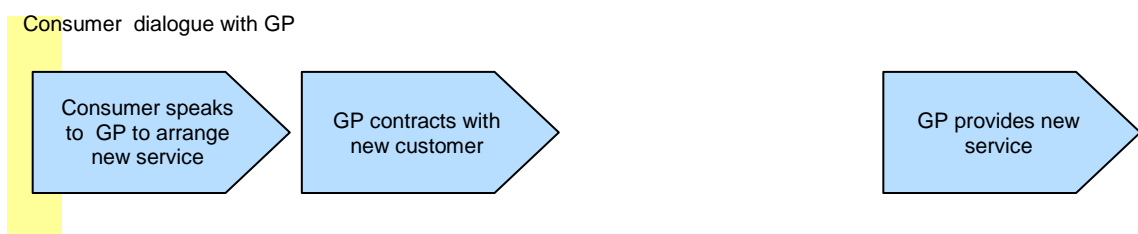
If they haven't made this investment, the customer's only option is to go through the C&R process. Providers may also choose C&R due to their own systems' deficiencies or because of problems identifying the right service and asset to switch.

Figure 3: C&R process

Cease



Provide



Key messages

The switching landscape has two main features:

- There is a variety of different switching processes used by landline and broadband providers. These vary according to the service being switched, the underlying technology (of both the LP and the GP) and the order type process technology which the GP has chosen to support.
- Continuity of service through a switch depends on whether the GP has invested in specific processes that allow them to switch bundles of services at once.

Problems with the current switching processes

Ofcom has identified six main problems that have a negative effect on quick and easy switching or which dampen competition between landline and broadband providers.

They are:

- Problem 1: The multiple processes for switching the same service/bundle of services.
- Problem 2: Inadequate systems.
- Problem 3: Insufficient customer consent.
- Problem 4: Lack of awareness of the implications of switching.
- Problem 5: Unnecessary switching costs/hassle.
- Problem 6: Reactive save activity.

Problem 1: Multiple switching processes

Over the years, the communications industry has developed its own switching processes, occasionally with input from Ofcom (and, previously, Oftel).

The result is a patchwork of different processes, even to switch the same type of service. Consumers may also need to navigate more than one process simultaneously to move multiple services, or if they're switching a complete bundle.

The lack of a single process has led to:

- confusion for customers;
- increased hassle since multiple processes have to happen simultaneously. This demands extra time to deal with providers and additional contact points, particularly when trying to switch a bundle of services;
- challenges for providers in giving advice to customers, depending on the systems they have in place. This is likely to get worse with the increasing popularity of bundles and developments in the market;
- increased costs to providers, which are ultimately paid by consumers; and
- an uneven playing field: providers who mainly gain customers from a GPL process can expect lower acquisition costs than those who gain business through an LPL process.

Against this backdrop, stakeholders have strongly supported harmonising the switching processes for landline and broadband, for both single services and bundles, over the Openreach copper network.

Problem 2: Inadequate systems

Behind the scenes, and invisible to the customer, the providers' 'back end' systems handle the business of switching.

The industry's processes were originally designed to switch one service, provided over one line, using a single technology. But while services and technologies have seen real change, processes have not always kept pace.

The result is that they do not always cope well with switching services which are part of a bundle; across different network technologies; where multiple services are provided over one line, and where they are not associated with a specific CLI. This can lead to a number of problems for consumers:

- Lack of reliability. A combination of relying on CLIs, and problems with address-matching tools, means the wrong line can be switched. This leads to additional hassle and cost to get consumers back to their original provider. This problem is likely to worsen as services become more complex.
- Extra hassle and cost. Some providers try to avoid switching the wrong lines by asking customers to go through the C&R process instead. In turn, consumers may lose their telephone number; may have to co-ordinate the start and stop of their services to avoid paying two providers; may incur cease and/or connection charges; and may risk a loss in service during the switching process. Openreach also incurs extra costs which ultimately fall on consumers.
- Loss of service where providers choose not to make investments in industry processes that support seamless switching. This can be a particular problem when switching a bundle of services.

Problem 3: Insufficient customer consent

Without upfront measures to verify that a consumer actually wants to move, there is scope for 'slamming'. This is when consumers are moved from one provider to another without their knowledge or consent.

Slamming takes many forms. It might be a salesperson claiming to represent a different provider. Or consumers being told that they're merely signing up for information, when in fact they're signing a contract. Or consumers being sold services over and above what they agreed to, or the switch being instigated without any contact with the consumer.

There is general agreement among stakeholders that slamming creates significant harm.

- It causes annoyance, distress and anxiety, and demands time and effort to resolve.
- It can also cause financial harm where consumers are charged an early termination charge (ETC) if they are slammed during their minimum contract period. Consumers switching back to their preferred provider following a slam may also incur an ETC from the provider that slammed them.
- We estimate the costs from slamming range from £12.8m to £15.9m per year (£1.6-4.6m per year for consumers and £11.3m per year for providers, which may be passed on to all consumers). The vast majority of the cost to providers is the wholesale switching costs they incur in returning the consumer to the correct provider.
- Slamming can also damage competition where slammed consumers are not restored to their original provider.

Ofcom's enforcement activities have been successful in helping to reduce consumer harm from slamming. However, if only low levels of customer consent checks are carried out upfront, we do not believe that enforcement alone can eradicate the slamming problem.

Problem 4: Lack of awareness of the implications of switching

Consumers may find that switching away from an LP comes with certain conditions.

They may be liable for a cease or early termination charge (ETC). They may also find that cancelling one service affects the price of another they had planned to keep with the LP. Or that continuing to receive a particular service depends on also receiving the one they are switching.

Consumers receive information on the implications of switching in different ways. LPL processes have an advantage here: consumers have an in-built opportunity to learn about any knock-on effects before placing an order with a GP.

ETC information can be hard for some people to process, especially if it's in a phone call or involves complicated bundled pricing discounts. It might therefore be better to communicate ETC and service implications in writing, to help the customer to digest the information. (This would also leave a paper trail and deter providers from manipulating the information to stop consumers from switching.)

- We believe consumers should be fully informed about the implications of switching as a routine part of the switching process. This is reflected in our Guidance on Unfair Terms in Contracts for Communications Services.
- If the consumer changes their mind after the switch has begun it creates costs in terms of time and hassle. Providers also incur costs (which are ultimately paid by consumers) in unwinding these orders, including wasted time and effort. This

problem is more likely to happen under the NoT process than with the MAC process.

- Consumer research in 2011 found that 14% of broadband switchers had paid an ETC. 7% said they knew about the charge before signing up with the GP, but 6% only found out about the charge afterwards. An estimated 1% of broadband switchers unwillingly paid an ETC; in other words, had they known about the ETC before the switch, they may not have gone through with it.
- The financial harm to consumers who didn't know about the ETC until it was too late, and who regretted making their decision to switch, is estimated to be £0.4m per year. However, this does not reflect the harm caused by other problems (such as the loss of other services, changes in the price of remaining services, or the costs of unwinding orders).

Problem 5: Unnecessary switching costs/hassle

The hassle involved in switching landline and broadband providers can vary according to the switching process involved. The level of hassle is also reflected in the switching costs faced by the consumer.

Three issues may cause extra and unnecessary hassle for the consumer:

- the relative difficulty of the process;
- the level of contact and number of contact points the consumer must deal with; and
- the ability of the LP to frustrate the process, resulting in a poor consumer experience and damage to competition.

Our conclusions are that:

- unnecessary switching costs dampen competition, and that processes that are free from needless hassle will deliver better experiences and healthier competition. We consider that the LPL MAC process has higher switching costs than the GPL NoT process.
- both processes are open to LPs deliberately frustrating the switching process: under the NoT process they can abuse the anti-slamming cancellations process (known as 'Cancel Other') to prevent customers from leaving, and under the MAC process they can drag their feet before providing the code. Existing regulations have helped to reduce these problems, but they still happen.

Problem 6: 'Reactive save' activity

'Reactive save' activity takes place when LPs try to 'save' departing customers by making them a last-ditch better offer.

On the surface this may seem to benefit customers but in the long run we believe it actually harms consumers' interests.

Reactive save happens during the switchover period, between the time the customer requests a switch and the actual transfer of the service. LPs have accurate information on *all* customers intending to switch, and have the chance to make counter offers because the process often requires that they are involved.

We believe reactive save can harm competition. It favours incumbents and deters new entrants in the market. As a result, consumers will not receive the benefits from competition they should be able to expect. Although we can, and have, regulated against reactive save activity under the current GPL process, a similar ban under an LPL process may be more difficult to enforce.

Reactive save activity may also reduce the incentives for LPs to provide good value to their existing customers. If they can choose to make selective counter-offers to each and every switching customer, they have less incentive to offer competitive prices to all customers.

Note: our concerns over 'reactive save' activity only relate to counter offers made in a switching period, as a result of information gained by LPs as part of the process that a customer is planning to switch. We are not concerned with counter offers that may be made when a customer makes contact with their existing provider for a better deal, whether inside or outside a switching period.

We consider that reactive save activity favours certain incumbents, and puts new entrants and smaller providers at a significant disadvantage through:

- higher costs to acquire customers; and
- incumbents thwarting their pricing by making selective offers exclusively to those who have started the switching process.

If all switches were made using a single LPL process, we consider that reactive save activity could have a significantly negative impact on competition in the market.

Although this activity can also happen in a GPL process, it is particularly problematic under LPL. There, *all* switching consumers contact the LP, providing an in-built opportunity for reactive save offers. Unlike a GPL process, these offers are also more likely to succeed because they would be made before a consumer has formally signed up to a new provider.

Although we can and do act against reactive save under a GPL process, we think that it would be much more difficult to enforce such a ban under an LPL process.

Conclusion

There are a number of problems with the current processes for switching landline and broadband services across the Openreach copper network.

The result is that a considerable amount of unnecessary harm is caused to the consumer, and change is needed to deliver better experiences and healthier competition.

The options for consultation

Ofcom has identified a clear need for change in the processes that govern switching between providers of landline and broadband services.

We are now consulting on a number of options (and please see the diagrams which outline how each of the options work at the end of this document):

- **Status quo, or enhancements to today's processes** (unharmonised)
 - **Option 1a: Current NoT and MAC processes.**

Do nothing.
 - **Option 1b: Enhanced NoT and MAC**

Make improvements to both the existing NoT (GPL) and MAC (LPL) processes.
- **Gaining Provider-led(GPL) options** (a single harmonised process)
 - **Option 2a: Enhanced NoT**

Make improvements to the existing GPL process only, and expand the process to cover all switches.
 - **Option 2b: GPL TxC**

A Transfer Code option where changes are focused on addressing problems with the processes that go on behind the scenes away from the consumer.
 - **Option 2c: USN**

A Unique Service Number process where consumers need to use a code they find on their bill to switch provider.
 - **Option 2d: TPV**

A Third Party Verification process where consumers need to go through an independent third party to confirm their consent to switch.

Options 2b, 2c and 2d would require the industry to establish a central system (a database and hub), through which providers would supply information and manage switches.

- **Losing Provider-led (LPL) options** (a single harmonised process)
 - **Option 3a: LPL TxC**

A Transfer Code option where changes are focused on addressing problems with the processes that go on behind the scenes away from the consumer; on improving the consumer experience of an LPL process; and where reactive save activity is banned.
 - **Option 3b: LPL Alternative ('ALT')**

...or a variation on 3a above where reactive save activity is permitted, unless the customer opts out of listening to offers.

Options 3a and 3b also require providers to work through a new central body. However, this body would perform simpler tasks than the bodies proposed under the GPL options and would not require providers to upload information.

How the options perform

Figure 4: Summary of how the options perform against the identified problems

Problem	Option 1a – Current NoT and MAC	Option 1b – Enhanced NoT and MAC	Option 2a – Enhanced NoT and MAC harmonised	Option 2b – GPL TxC	Option 2c – USN	Option 2d – TPV	Option 3a – LPL TxC	Option 3b – LPL ALT
Multiple switching processes	Red	Red	Green	Green	Green	Green	Green	Green
Backend process deficiencies:								
<i>Lack of reliability</i>	Red	Amber	Amber	Green	Amber	Green	Amber	Amber
<i>Loss of service</i>	Red	Amber	Amber	Green	Green	Green	Green	Green
<i>Lack of competitive neutrality</i>	Red	Red	Red	Green	Green	Green	Green	Green
Customer consent	Red	Red	Red	Red	Amber	Green	Green	Green
Implications of switching	Amber	Amber	Amber	Amber	Amber	Amber	Green	Green
Varying and unnecessary switching costs/hassle	Amber	Amber	Green	Green	Amber	Green	Amber	Amber
Reactive save activity	Amber	Amber	Green	Green	Green	Green	Amber	Red

Option 1a (do nothing)

1b (enhanced NoT and MAC unharmonised) and

2a (enhanced NoT and MAC harmonised)

Figure 4 above shows that:

- doing nothing (Option 1a) performs poorly against a number of the problems.
- Option 1b (enhanced NoT and MAC (unharmonised) performs only slightly better, with some fixes to the processes that go on behind the scenes away from the consumer to improve reliability (i.e. the problems associated with identifying the correct assets to switch).

However, neither option would deliver a harmonised single switching process so there would still be confusion among consumers and providers about the correct process to use, resulting in higher costs for consumers.

Option 2a (enhanced NoT (harmonised)) performs a little better. Since it is a harmonised GPL process it does well against issues with multiple switching processes, obtaining good consumer and competition outcomes and reducing unnecessary switching costs/hassle.

Even so, we are concerned that:

- all three of these options fail to deliver a future-proofed solution, and would not fully resolve issues around reliability and loss of service;
- none would address concerns about the lack of consumer consent; and
- although they are likely to be cheaper to implement, it would be short sighted to invest in flawed processes that may well be unfit for purpose within a few years.

Because of these fundamental failures, we are not planning to proceed with these options. However, we may reconsider them if we receive compelling evidence they should be investigated further.

Options 2b (GPL TxC)

2c (USN)

2d (TPV)

3a (LPL TxC)

3b (LPL ALT)

We believe all of these options deliver a number of common benefits compared with the current processes. In particular, they deliver well against:

- the problems associated with having multiple switching processes, since the processes are harmonised and create less confusion for consumers and providers; and
- aspects of the switching processes that go on behind the scenes away from the consumer, because these processes deliver benefits on:
 - Reliability of switching services where there are services and technological developments in the market.
 - Loss of service – providers would not need to use the C&R process to avoid the possibility of switching the wrong line and/or because they do not support the right tactical fixes.
 - Technological distortions – switching from MPF would follow the same seamless process as switching from other technologies.
 - Flexibility, with the possibility of expanding to other infrastructures such as cable because Openreach would not sit at the centre of the switching process.

In addition, the options have individual pros and cons. For example:

- The TPV and GPL TxC options deliver better in relation to reliability of process, compared with USN, LPL TxC and LPL ALT (because the TPV and GPL TxC is more likely to deal effectively with mistaken home move transfers).
- The GPL TxC, USN and TPV options deliver better against avoiding reactive save and unnecessary switching costs/hassle, compared with the LPL TxC and LPL ALT options.
- The TPV, LPL TxC and LPL ALT options deal better with the problem of consumer consent than USN and GPL TxC.
- The LPL TxC and LPL ALT options deal better with the implications of switching than GPL TxC, USN and TPV.
- The GPL TxC, and TPV options deal better with unnecessary switching costs/hassle than USN, LPL TxC and LPL ALT.

Our assessment (as summarised in Figure 4) shows that, overall, the TPV option delivers best in terms of dealing with the problems we have identified because it:

- resolves the issues associated with multiple switching processes;
- provides a future-proof solution to address problems with the processes that go on behind the scenes away from the consumer;
- would not result in significant unnecessary switching costs/hassle;
- improves the information provided to consumers on the implications of switching;
- delivers good competition outcomes by avoiding reactive save within an LPL process; and
- resolves issues around customer consent.

None of the other options scores as highly across all the identified issues.

The impact on providers

Of the shortlisted options i.e. 2b-d (GPL TxC, USN and TPV) and 3a-b (LPL TxC and LPL ALT):

- the TPV is the most costly and intrusive to implement and so will probably have the largest impact on providers;

- the GPL TxC is less costly as it does not include third-party verification of customers' consent to switch. Even so, it is still relatively intrusive as it requires the same central hub and database as the TPV option;and
- The LPL options are cheaper than the TPV and USN options, but appear to be more costly than the GPL TxC. The LPL options are likely to be the least intrusive to implement because the centralised body would perform simpler functions and would not require providers to upload detailed customer information to a central database on an ongoing basis.

Comparison of the options and conclusions

We believe that, on balance, and on the evidence we have seen to date, the TPV is the best option for dealing with the problems we have identified. However, we also recognise that for providers it is also the most expensive and intrusive.

Here, we compare the TPV to the other options to see if it is the most appropriate and proportionate way of dealing with the problems associated with current switching processes.

TPV vs. GPL TxC

Figure 4 shows that the GPL TxC performs as well as the TPV option, except in one area: it doesn't deal with the problem around consumer consent and could therefore result in increased slamming.

The TPV would mainly deal with the consent issue through independent third party verification of a customer's consent to switch. But this does make it significantly more expensive: its estimated annuitised Net Present Cost is £11.4m (versus £4.8m for the GPL TxC). Also, setting up a third party body would require a greater level of effort and co-ordination by the industry.

However, we believe that addressing slamming is a key issue for Ofcom: it is costing providers and consumers between £12.8m and £15.9m per year. Our assessment of the quantified costs and benefits for the TPV and GPL TxC options shows that addressing slamming does result in net benefits: the annuitised Net Present Value for the TPV option (i.e. costs and benefits generated over a number of years, expressed in today's values) is greater than the GPL TxC option.

On this basis it appears that an option which addresses slamming (even at a higher cost) is justified. We therefore prefer the TPV option to the GPL TxC option.

We welcome your views on whether upfront protections in the switching process are necessary, or whether slamming could be dealt with effectively through enforcement activity.

TPV vs. USN

Our analysis (as summarised in Figure 4) shows that, overall, the TPV option is better than the USN option at dealing with reliability problems in the switching processes that go on behind the scenes away from the consumer, customer consent and unnecessary switching costs/hassle.

Although the USN option is cheaper to implement than the TPV option, our partial cost benefit assessment (which reflects the TPV's higher costs) shows that the USN option has a significantly lower quantified net benefit than the TPV option. (An annuitized NPV of £0.4m-3.6m for the USN option compared with £3.8m-7.1m for the TPV option). Also, we do not see any higher qualitative benefits delivered by the USN.

The TPV option would be a more intrusive option to implement from a regulatory perspective: it would require establishing a third-party body, and more customer information would be included in the TPV database. However, we believe this would be justified by significant extra benefits. In particular, the third party body makes the TPV more effective in dealing with slamming. On this basis we prefer the TPV option to the USN option.

TPV vs. LPL TxC and LPL ALT

The main difference between these two LPL options is that the LPL TxC option attempts to restrict reactive save activity, but the LPL ALT option explicitly permits it. As explained earlier, we believe reactive save activity dampens competition and, therefore, we regard the LPL TxC option as the 'leading' LPL option. On this basis we have compared the TPV option to the LPL TxC option (although much our analysis would also apply to LPL ALT).

TPV vs. LPL TxC

Our assessment shows that the TPV and LPL TxC options deliver a similar level of quantified net benefit (the annuitised NPV for the TPV option is £3.8-7.1m compared with £4.2-7.2 for the LPL TxC option).

Although these NPVs reflect the differences in the options' estimated implementation costs, there are a number of qualitative benefits which are not included. We consider that the TPV has significant qualitative benefits relative to the LPL TxC option. We recognise that it is a more intrusive option to implement but believe the additional effort and co-ordination required to establish the TPV option may be justified by the long-term consumer benefits it would bring.

In particular, we expect the TPV process to be positive for competition relative to the LPL TxC process given the lower switching costs and because there is less incentive and opportunity for Losing Providers to engage in reactive save activity. Lower switching costs encourage consumers to move to the best deal in the knowledge that they can switch easily. Overall, we see the dampening of competition as a potentially serious adverse consequence

of an LPL process. Therefore, based on the evidence and analysis set out above, we prefer the TPV to the LPL TxC.

Conclusion

We conclude that:

- the current NoT and MAC switching processes have led to a number of problems which need to be addressed;
- although improvements to the current processes, or an enhanced harmonised NoT process, could deliver some benefits, fundamental problems would remain; and
- of particular concern is that the NoT process does not provide adequate protection against slamming. It is also difficult to see how the current switching processes could be adapted to meet future challenges such as switching next generation access (NGA) services.

Of the remedies which may be effective:

- the TPV is the only one which deals with all of the problems identified (except the implications of switching, which it partly meets); but
- the TPV option is more costly and intrusive to deploy than either the LPL options or GPL TxC.

We are therefore faced with a complex judgement, balancing the relative effectiveness of different options to address the various problems, against the costs of those options. **At present we believe that our assessment of costs and benefits supports the adoption of the TPV, and we now invite your response to this consultation.**

Equality Impact Assessment

As required by the Equality Act 2010, we have carried out an Equality Impact Assessment to see whether our proposals have any particular impacts on the defined Equality Groups.¹⁰

We do not consider that any members of these Equality Groups would be negatively affected by our proposal. Our objective is to make switching easier for all consumers and our proposed solution would apply to all consumers equally.

People with disabilities, and older consumers, could be more affected by obstacles to switching than others. We believe that our proposal to introduce a harmonised GPL switching process could benefit these groups.

¹⁰ The Equality Groups are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, religious belief/political opinion (Northern Ireland only) and Dependent (Northern Ireland only).

Next steps

We are now keen to hear from both industry and consumers on what you think of the evidence and analysis we have presented in this consultation. We would be particularly pleased to hear any further evidence you may have on the qualitative and/or quantitative assessment of the switching process, and your views on our preferred option.

Please note that the consultation closes on 23 April 2012.

Once we have considered responses and had further discussions with stakeholders, we will issue a further consultation. If no particular issues have been raised, its scope is expected to be fairly narrow. However, if significant new issues need to be considered the scope will be broader and we'll invite further comments. This may also lead us to look again at which option best addresses the current problems with switching.

Our aim, subject to the scope of the next phase, is to issue the next consultation in Q2/Q3 2012-13 and the statement in Q4 2012-13.

Glossary

A glossary of the key terms used in this consultation is set out below.

Act: means the Communications Act 2003

Broadband: a service or connection which is capable of supporting 'always-on' services which provide the end-user with high data-transfer speeds.

Bundle: Where a consumer purchases two or more services from the same provider on a single bill and considers this a package of services. The consumer may or may not receive a discount.

Cable Network: services provided by cable rather than over the Openreach copper network.

Cancel Other: a facility that can be used by a Losing Provider to cancel an order placed by a Gaining Provider during a switch. This may be used when a customer claims they are being 'slammed', or when the Gaining Provider has not acted on a customer's wish to cancel a switch.

Communications Provider (CP): a company providing landline and/or broadband services

Cease and Re-provide (C&R): the process that requires the consumer to terminate their contract with the Losing Provider and separately request a new service from the Gaining Provider (but not necessarily in that order)

Early Termination Charge (ETC): a charge for consumers who terminate their contract before the end of any Minimum Contract Period (or Subsequent Minimum Contract Period).

Erroneous transfers (ETs): where the wrong customer's service is transferred as a result of a process failure.

Full LLU: services where the provision of access to the copper wires from the customer premises to a BT exchange allows a competing provider to provide the customer with both voice and data services over those copper wires.

Gaining Provider (GP): the provider that the customer is joining in a switch.

Gaining Provider-led (GPL) process: Switching process where the consumer only needs to contact the provider they are transferring to in order to switch.

Losing Provider (LP): the provider that the customer is leaving in a switch.

Losing Provider-led (LPL) process: A switching process where the consumer needs to contact the provider they are leaving as well as the provider they are joining in order to switch.

Metallic Path Facility (MPF): a way for providers to gain full control of the local loop connecting to end-users to deliver both voice and broadband.

Migration Authorisation Code (MAC): a unique code that a customer obtains from the Losing Provider of their broadband service and gives to the Gaining Provider.

Minimum contract period (MCP): a minimum (fixed-term) contractual period set at the start of a contract (often for 12 to 24 months).

Mis-selling: Irresponsible sales and marketing activities, such as giving false or misleading information, applying unacceptable sales pressure or switching customers without their express consent.

Notification of Transfer ('NoT') process: where the consumer only has to contact their Gaining Provider in order to switch, and is informed of an impending switch in writing as part of a 10-day switchover period.

Ofcom: Office of Communications. The regulator for the communications industries, created by the Office of Communications Act 2002.

OAT (Ofcom Advisory Team): the team within Ofcom responsible for dealing with complaints and enquiries from members of the public.

Openreach: BT's access services division.

Price discrimination: where a provider sells the same service at a different price to different consumers.

Reactive save (also known as targeted save activity): where a Losing Provider attempts to keep a switching customer by making an improved counter offer.

Slamming: where a customer is switched to a new provider without their knowledge or consent.

Switchers: consumers who have switched their provider in the last year.

Unique Service Number (USN): a code consumers would need to quote to a GP from their bill before they could switch.

TPV: Third party body used to record a consumer's consent to switch.

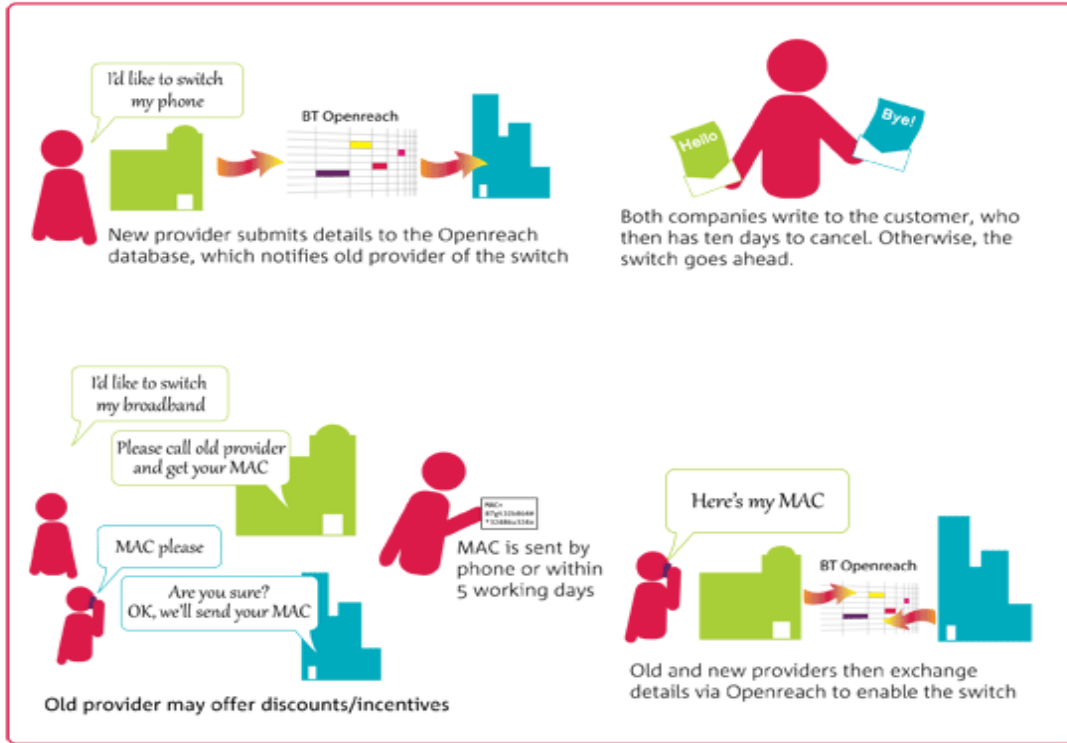
Transfer Code (TxC): code that identifies the assets and services to be switched at each level in the supply chain.

Wholesale Line Rental (WLR): is the product offered by Openreach to communications providers to enable them to offer fixed voice services to end users without having to fully manage the line.

Diagrams of the options for consultation

Option 1a (do nothing) - keep the current switching processes

Option 1b: Enhanced Notification of Transfer (NoT) and MAC

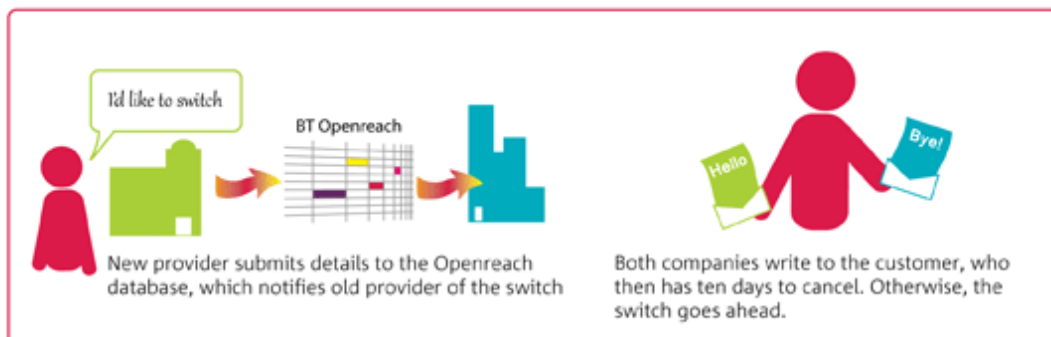


The process remains the same, but with a few behind-the-scenes improvements to fix existing problems. For example:

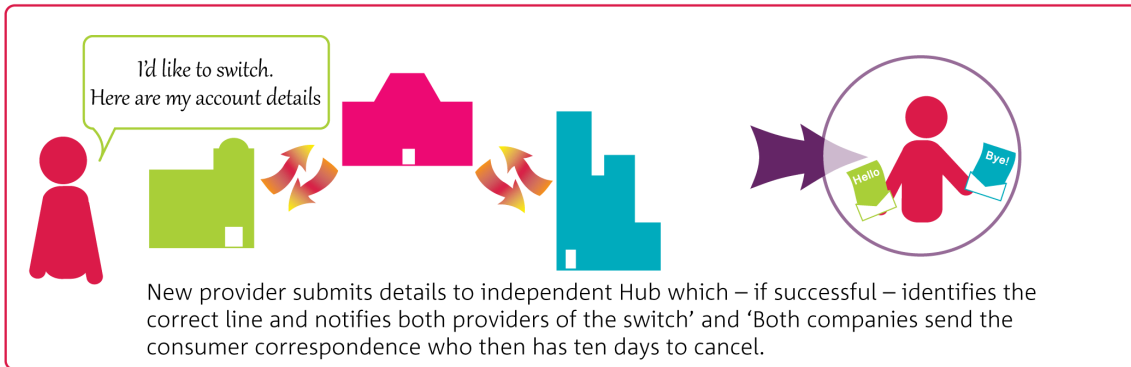
- Improvements to the process behind the scenes to help providers identify the right line to switch.
- More detailed information about the implications of switching including the actual level of any early termination charges.
- Improvements to the MAC process e.g. MAC provided more quickly.

Option 2a: Enhanced NoT

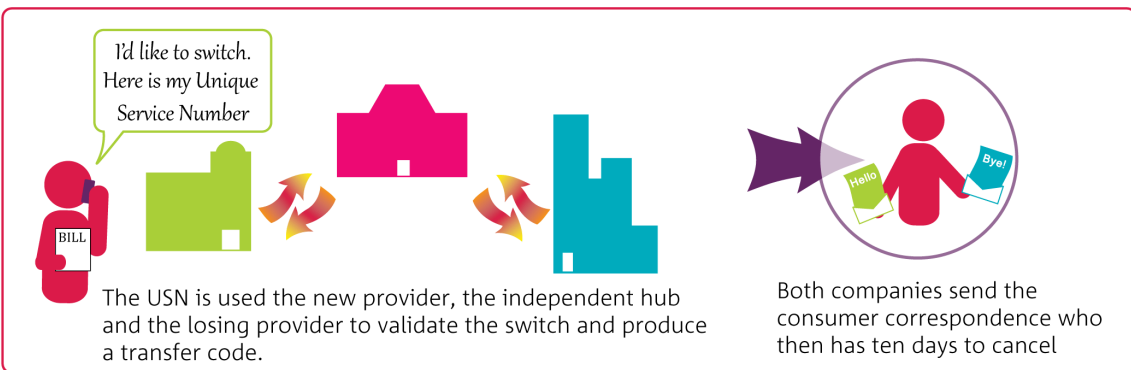
The MAC process is removed, so all switching following the same enhanced NoT process.



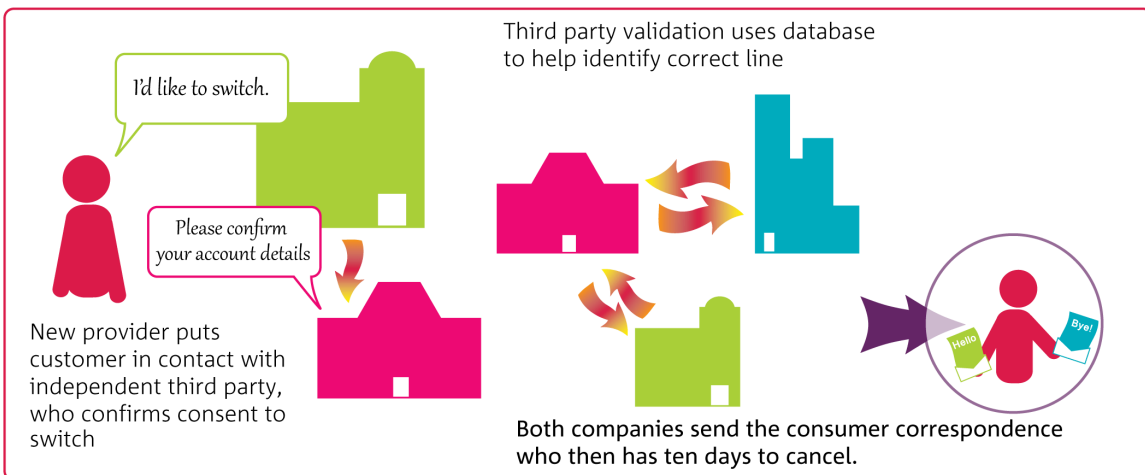
Option 2b: Gaining Provider Led Transfer Code (TxC)



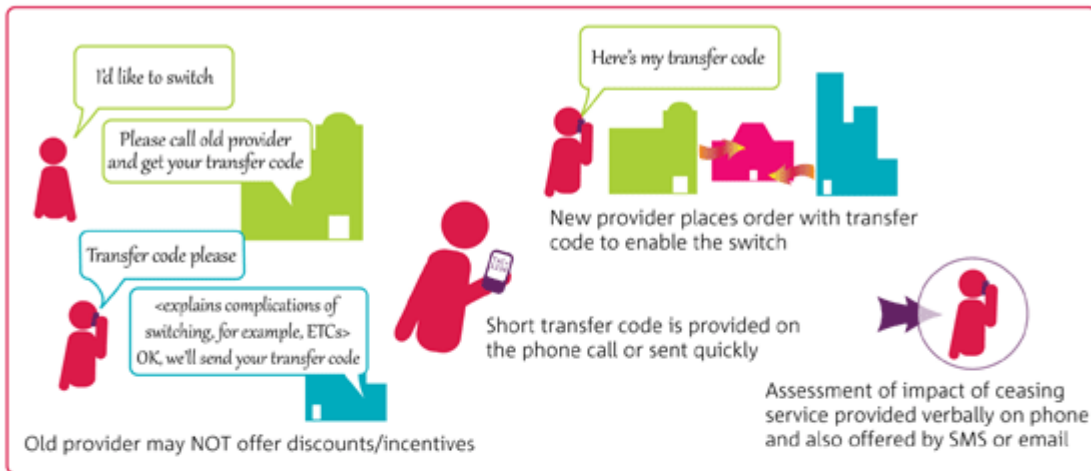
Option 2c: Unique Service Number (USN)



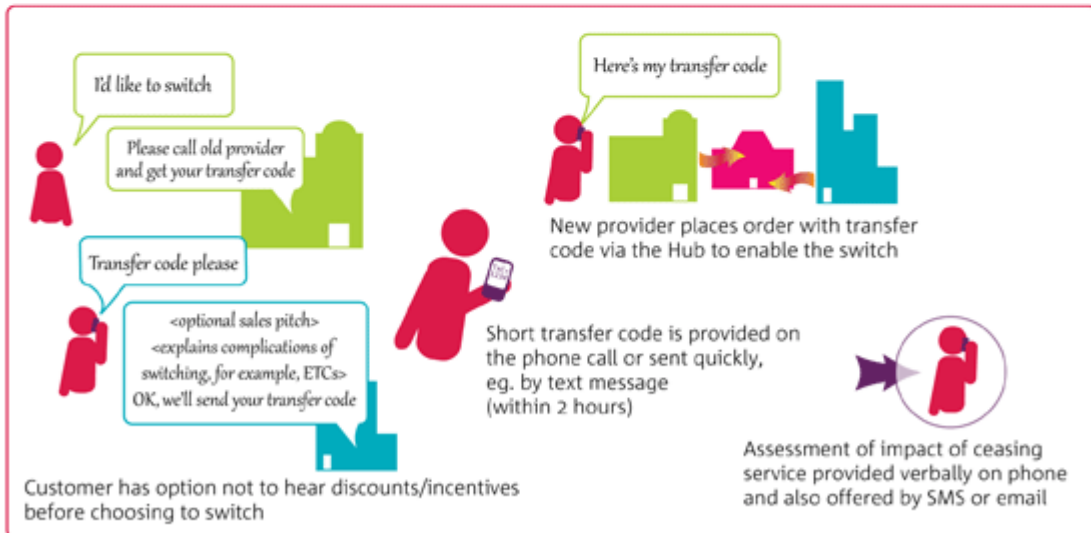
Option 2d: Third Party Validation



Option 3a: Losing Provider Led Transfer Code (TxC)



Option 3b: Losing Provider Led Alternative



Old provider



New provider



Independent third party

Responding to this consultation

How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 23 April 2012**.

Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/switching-fixed-voice-broadband/howtorespond/>, as this helps us to process the responses quickly and efficiently. Please also complete the response cover sheet at the end of this document, to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire. For larger consultation responses - particularly those with supporting charts, tables or other data - please email consumerswitching@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation, to:

Matthew Chapman
Ofcom
Riverside House – 2nd Floor
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7981 3333

Please note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.

Further information

If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Matthew Chapman on 020 7981 3809.

Confidentiality

We believe it is important for everyone interested in an issue to see the responses to consultations. Therefore, we usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think part or all of your response should be kept confidential, please tell us why and also place these parts in a separate annex.

We try to respect all requests for confidentiality. However, we sometimes need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach to intellectual property rights is explained further on our website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Ofcom's consultation processes

Ofcom seeks to ensure that responding to a consultation is as easy as possible. If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.

If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Response cover sheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)