

CityFibre Response to Ofcom Consultation: 'Fair Treatment and Easier Switching for Broadband and Mobile Customers'

Date: 17th April 2020

Contents

1	Executive Summary	3
2	Background and introduction	5
3	Changes to the defined terms used in the General Conditions	8
4	Provision of information to customers about their services	9
5	Publication of information and provision of data to third parties	10
6	Contract duration and termination	12
7	Switching and porting	13

1 Executive Summary

- 1.1 CityFibre welcomes this opportunity to respond to Ofcom's consultation document entitled 'Fair Treatment and Easier Switching for Broadband and Mobile Customers'. As a builder of open access infrastructure, the ability of consumers to switch easily between competing network infrastructure providers is of key interest to us.
- 1.2 We note that Ofcom has consulted on its annual plan for 2020-21, and has set itself a strategic priority of supporting investment and competition in high capacity connectivity (including fibre broadband):¹
- We are carrying out a range of work under the theme "Better broadband and mobile – wherever you are". This is aimed at promoting competition and investment in new networks and the use of spectrum for the benefits of people and businesses. We share the Government's commitment to world-class digital infrastructure for the UK, and our work takes account of the conclusions of the Future Telecoms Infrastructure Review.*
- 1.3 We welcome that Ofcom has set out its priority so clearly and are pleased to note that Ofcom has focused its 2021-2026 Wholesale Fixed Telecoms Market Review consultation proposals on the need to promote investment and competition in fibre networks. There is a monumental task ahead if we are collectively to deliver the Government's fibre build objectives. There are numerous obstacles to the commercial viability of this task. It will require a dedicated focus on identifying and removing all of these obstacles if we are to deliver the future-proof full fibre infrastructure needed by consumers and businesses across the economy.
- 1.4 While Ofcom is working to address numerous supply-side obstacles to full fibre competition and investment through its Wholesale Fixed Telecoms Market Review (such as in regard to proposals on access to BT's ducts and poles), we note that there are also significant demand-side obstacles. These demand-side issues critically impact the investment case for fibre deployment, and as such, must be addressed if the Government's and Ofcom's ambition is to be realised.
- 1.5 Through its consultation, "Fair Treatment and Easier Switching for Broadband and Mobile Customers", Ofcom has launched a review of a number of key demand-side factors that will impact take-up of fibre services. Such factors include:
- the way that information is presented to consumers by broadband providers, including when they are seeking to choose whether to take a full fibre service;
 - the steps consumers need to follow, and the burden placed on them, when seeking to change to a full fibre supplier;
 - the contractual obstacles placed on consumers, that have the effect of restricting their freedom to take up a new service from a new supplier.
- 1.6 This review represents a significant opportunity for Ofcom to consider strategically how these obstacles impact customer choice, and the resulting implications for the delivery of the Government's fibre broadband ambition.
- 1.7 In our view, Ofcom have focussed too narrowly in the "Fair Treatment and Easier Switching for Broadband and Mobile Customers" consultation on implementing the EECC provisions in their exact form, without thinking through the scope Ofcom has to go beyond those proposals.
- 1.8 The EECC has afforded Ofcom with a great deal of discretion over how it acts to support consumer choice. As such, in seeking to deliver its strategic objective, Ofcom must consider how to address the very material demand-side barriers that exist in the market, which may mean going above and beyond the minimum acceptable criteria set out in the EECC.
- 1.9 CityFibre wishes to impress the urgency of the matter. If critical demand-side barriers are not addressed quickly, there is a very real risk that there will be delays in the delivery of the ubiquitous fibre ambition.
- 1.10 We urge Ofcom to ensure that its approach to assessing demand-side barriers mimics its approach to addressing supply-side barriers in the WFTMR which is, to ensure that all proposed interventions

¹ Ofcom (2020). 'Proposed Plan of Work 2020/21', para 3.3

support the overall strategic objective of promoting investment and competition in new high capacity connectivity, such as fibre networks.

1.11 It is in this context that we set out the key messages of our response:

- i. Ofcom's overriding principle when implementing the provisions of the EECC should be the promotion of competition and investment in new networks, and in particular the delivery of full fibre coverage. Any intervention or obligation Ofcom intends to implement should be measured against this overarching objective. This should include having due regard to promoting customer awareness of the benefits of full fibre and easing access to full fibre services provided on alternative networks.
- ii. Any regulatory obligations regarding the relationship with end users (e.g. the provision of information to or management of the relationship with end users) are best managed at the retail level. The retailing Communications Provider (CP) or Internet Service Provider (ISP) have a direct relationship with the end-user and are best placed to manage such obligations; wholesale providers and resellers are not well placed to deal with such matters.
- iii. In pursuit of EECC compliance Ofcom needs to recognise the differences in characteristics and needs between the residential and business markets. This might manifest itself in a level of regulatory forbearance and difference in approach between the two markets. Residential broadband services are consumed by consumers and micro businesses whereas SMEs and large corporate customers often consume business grade products such as ethernet circuits including passive (dark fibre) and active (leased line) services. Ofcom has often failed to have sufficient regard to the distinct characteristics of these markets – for example their diverse service requirements, commercial arrangements and terms, and the ability of end-users to negotiate bespoke deals and switch their services. We are therefore concerned that Ofcom risks repeating this approach by attempting to create a universal switching solution. We believe that Ofcom risks creating unnecessary regulatory burdens for Communication Providers (CPs) and is attempting to mitigate a market failure which does not exist.

2 Background and introduction

- 2.1 CityFibre is the UK's leading alternative provider of wholesale full fibre open access network infrastructure. With major fibre infrastructure projects across 50+ towns and cities throughout the UK, we provide a portfolio of active and dark fibre services to our customers which include service integrators, enterprise and consumer service providers, local authorities and mobile operators.
- 2.2 We are making significant investment across the UK as we look to rapidly expand the number of homes and businesses which have access to full fibre. CityFibre has partnered with Vodafone to bring Gigabit-capable full fibre broadband to up to one million UK homes and businesses by 2021. With the acquisition from TalkTalk of the FibreNation business we will increase this target to eight million homes by 2025.
- 2.3 This investment is being undertaken against the backdrop of the Government's ambition to accelerate full fibre deployments, in order to achieve ubiquitous full fibre coverage, ideally by 2025. Ofcom acknowledges this ambition and has set in motion various regulatory initiatives to promote competition and investment.

Ofcom's full fibre objectives and infrastructure competition

- 2.4 Ofcom's 2015 Digital Communications Review² marked a significant change in its strategic direction, placing a greater emphasis on infrastructure competition as the principal means to drive better outcomes for consumers. Central to this is providing a choice of network providers to end-users (and retailing CPs) and an upgrade of the UK's digital infrastructure to full fibre.
- 2.5 Full fibre coverage has now become top priority for DCMS, as shown in its Future Telecoms Infrastructure Review (FTIR)³ and has been supported by Ofcom in its own statement on "Regulatory Certainty to Support Investment in Full Fibre Broadband" (IFFB)⁴.
- 2.6 Both documents emphasise the importance of full fibre broadband for the future of the UK's economy and both have set themselves goals and targets to realise this intent. Ofcom has since underlined the importance of full fibre coverage and network competition in its Wholesale Fixed Telecoms Market Review (WFTMR), with regulatory proposals intended to create "the conditions to **transform the business case for investment in full-fibre broadband [and] removing barriers to help the rollout of fibre networks right across the UK**"⁵ [emphasis added].
- 2.7 The EECC also emphasises the strategic primacy of infrastructure competition. There is particular emphasis on continuing to promote "the existing three primary objectives of [...] competition, the internal market and end-user interest" and a further shared focus under Article 3 on the need to "pursue an additional connectivity objective [for] widespread access to and take-up of very high capacity networks".⁶
- 2.8 Ofcom itself notes this objective in its latest WFTMR consultation, stating that by ensuring compliance and consistency with Article 3 it "[is] seeking to incentivise investment in full fibre networks by both Openreach and other operators with the aim of delivering widespread roll-out of full fibre across the UK. [It] consider[s] that this is consistent with the EECC's new connectivity objective [as under Article 3]".
- 2.9 In light of this, Ofcom's overriding principle when implementing its market review remedies and - with particular regard to this consultation - the provisions of the EECC should be the promotion of network competition and the delivery of full fibre coverage. Any process or obligation Ofcom intends to implement should be measured against this principle, which may include regulatory forbearance in certain instances in order to avoid stifling the investment case for full fibre.
- 2.10 To ensure it maximises compliance with Article 3 and the Government's objectives, we believe that Ofcom must ensure that it adopts a consistent approach to both supply-side and demand-side issues.

² Ofcom. (2015) "Strategic Review of Digital Communications – Discussion Document". 16th July 2015. Page 84. Paragraph 9.6. [\[link\]](#)

³ Department for Digital, Culture, Media and Sport. (2018) "Future Telecoms Infrastructure Review". 23rd July 2018. [\[link\]](#)

⁴ Ofcom. (2018) "Regulatory certainty to support investment in full-fibre broadband". 24th July 2018. [\[link\]](#)

⁵ Ofcom, (2020) 'Wholesale Fixed Telecoms Market Review'. Volume 1. Page 1.

⁶ Article 3. See also: Recital 23, Recitals 26-29

The importance of demand-side factors to network competition

- 2.11 Much of the regulatory effort to drive and achieve these objectives has to-date been concentrated on addressing the supply-side of the market. This approach relies on an assumption that, if the market is effectively competitive, Internet Service Providers (ISPs) and downstream consumers will engage, make rational choices in terms of what is available and be able to enjoy the benefits of this competition.
- 2.12 However, recent experience has shown that this is not necessarily a safe assumption. There are many examples of markets being ‘effectively competitive’ (in a supply-side context) but still leading to poor consumer outcomes. A good example of this is the recently identified lack of consumer engagement and switching across a number of markets (including broadband, mobile and energy), which has forced regulators to intervene and introduce measures to encourage consumers to assess the available options and switch providers. Furthermore, given that the investment case for deploying full fibre relies on people taking up the services once they become available, addressing demand-side barriers is critical.

Misalignment between Ofcom’s approach to demand-side and supply-side barriers

- 2.13 As noted above, Ofcom’s decisions and focus in delivering full fibre coverage objectives have concentrated on removing supply-side barriers to deployment. Since its DSR 2015, all of Ofcom’s market reviews have focussed on supply-side market issues with the aim of incentivising network rollout, with a recent focus on driving full fibre network coverage.
- 2.14 In its pivot towards infrastructure competition, Ofcom has recognised that full duplication of civil infrastructure such as ducts and poles is not required to deliver the benefits of competition. Ofcom has therefore adopted policies designed to mandate shared access to the incumbent’s duct and pole architecture.
- 2.15 Ofcom has also, in certain instances, adapted supply-side regulation to ensure it reflects the current market dynamics and does not adversely impact incentives to invest. A good example of this is its change in policy position on ‘Dark Fibre’. Notwithstanding other concerns we may have with Ofcom’s proposals in the WFTMR, we welcome Ofcom’s cautious approach to introducing this remedy, in “determining the appropriate scope of the dark fibre remedy for this review period. [It has] placed **significant weight on [its] strategic objective to encourage investment in very high capacity networks**. [It] believes that competition between different networks is the best way to drive investment [...]”⁷. [emphasis added].
- 2.16 Ofcom has progressively amended (and is amending) its supply-side decisions to ensure primacy of strategic objectives where possible. It is, however, CityFibre’s view that the same cannot be said of Ofcom’s approach to demand-side issues.
- 2.17 We are, therefore, greatly concerned that not enough has been done in light of the “world-class digital infrastructure” objective and strategy for the market to ensure demand- and supply-side remedies are aligned in achieving this.
- 2.18 There are number of regulatory levers Ofcom could invoke to ensure demand-side decisions are aligned with supply-side objectives, but which to-date have been omitted from its considerations.
- 2.19 A case in point is promoting general consumer engagement and awareness (including via advertising). Ofcom has generally been reluctant to consider the matter of ensuring consumers understand the benefits of full fibre. It is CityFibre’s position that this awareness and education process is essential for consumers to make informed choices and is critical to maximising usage of full fibre. The current consultation seeks to introduce or reinforce a number of obligations on providers to set out some of the detailed technical features of the broadband service. It is an omission of significant potential harm to Ofcom’s strategic objectives that this does not start from a consideration of the way consumers actually relate to and act on information, and the way it is presented. This review has been an opportunity to address that gap in consumers’ ability to genuinely distinguish broadband products according to quality: one that has been thus far been missed.

⁷ Wholesale Fixed Telecoms Market Review (2020). “Promoting competition and investment in fibre networks: Wholesale Fixed Telecoms Market Review 2021-2026”. 8th January 2020. Volume 3. Paragraph 6.10. Page 98

2.20 We encourage Ofcom to take the necessary steps to consider the need for consumers to be able to genuinely exercise effective choice. Only by removing artificial obstacles to their ability to do so, can Ofcom hope to address the serious demand-side obstacles that may prevent the delivery of the extensive roll out of competitive full fibre networks which its supply-side activity is seeking to facilitate.

3 Changes to the defined terms used in the General Conditions

Bundles

3.1 As Ofcom notes in its consultation:⁸

the EECC recognises that bundles comprising at least either an internet access service or a publicly available number-based interpersonal communications service, as well as other services or terminal equipment, have become increasingly widespread and are an important element of competition.

3.2 These bundles are packaged in ‘multi-play’ forms usually reflecting some form of cost saving, technological dependency (or synergy) between the services being consumed or in some instances, for the consumer, single billing and product management convenience.

3.3 However, whilst bundles can in some cases bring these benefits for consumers, they can also ultimately make switching more difficult or costly, effectively locking-in the end-customer into the bundled contract.

3.4 A large majority of businesses and homes take and will continue to take broadband as part of a bundle of services. In its WFTMR Ofcom states “80% of UK adults took a bundle of services”⁹, raising a serious concern as to the number of end-customers who may potentially be locked-in and inaccessible to a competitor.

3.5 One of the key drivers for making the business case for full fibre investment is ensuring a sufficient amount of take-up of the business’s services to cover the significant initial costs of deployment and ensure a sufficient return for investors taking the risk.

3.6 Therefore, in order to make any switching obligation effective in driving both competition and full fibre take-up, it is right such switching provisions and processes capture services consumed within and as a bundle and the various forms of bundling, ensuring all of this (80%) customer base is contestable.

3.7 We therefore:

- support Ofcom’s amendment to its General Conditions to add an amended definition for bundle;
- support the criterion of dependencies it has included to assess whether services are linked in a way to amount to a bundle for the purposes of the amended definition and the relevant obligations which flow from it.

⁸ Ofcom (2019). ‘Fair treatment and easier switching for broadband and mobile customers’, para 3.31

⁹ Wholesale Fixed Telecoms Market Review (2020). “Promoting competition and investment in fibre networks: Wholesale Fixed Telecoms Market Review 2021-2026”. 8th January 2020. Volume 2. Paragraph 2.2. Page 12.

4 Provision of information to customers about their services

Utility of data to potential end-user

- 4.1 Ofcom notes the EECC includes a number of measures to ensure customers are given clear information about their communications services before they enter into a contract so that they can make well-informed choices.¹⁰
- 4.2 CityFibre does not contest the importance of this information to the consumer. It is CityFibre's view that greater understanding of the opportunity cost and its duration for the consumer should be accurately communicated to them. But we are concerned with the rigidity of the process for providing this information and its impact on switching.
- 4.3 CityFibre would like to encourage Ofcom to have due regard to the policy objectives mentioned at the beginning of this document, with particular regard to ensuring the consumer is not put off by a case of information overload.

¹⁰ EECC Article 102.

5 Publication of information and provision of data to third parties

- 5.1 As Ofcom notes, the EECC includes a number of measures to ensure that customers have clear and comparable information on communication services.
- Article 103(1) seeks to provide transparency about providers and their services;
 - Article 103(2) requires that end-users have access to at least one independent comparison tool that enables comparison and evaluation of different communication services;
 - Article 104 requires CPs to publish information on quality of service over network elements it controls and how it provides equivalent access customers with disabilities.

Utility of data to market

- 5.2 Ofcom notes the EECC requires that information is “clear and comparable” and cites the list of data and information points included under Annex IX.
- 5.3 As noted above, CityFibre acknowledges the importance of consumer empowerment, particularly in terms of the consumer having a greater understanding of the market, ensuring they have the means to make an informed and effective choice.
- 5.4 However, CityFibre is concerned the amount of information and detail required to publish may cause “information overload” for the consumer. The current proposals include publishing a substantial number of datapoints which the average consumer may not understand, want to know or find useful. Thus, in attempting to impose this information onto consumers Ofcom may end up countering the benefits it wishes to achieve in terms of consumer education and awareness.
- 5.5 To note, CityFibre does not contest the importance of information that helps consumers draw a distinction between services. It is in fact CityFibre’s view that differences in speeds, latency and reliability should be made available to consumers. We are, however, concerned with the detail with which this will be presented and whether that will genuinely enable most consumers to distinguish between different broadband products according to quality.
- 5.6 Indeed, we are strongly of the view that what is needed is a mechanism that standardises labelling of broadband technologies to facilitate the consumer’s ability to understand different products available to them, and the implications on service quality and reliability.
- 5.7 There is also the additional concern around regulating what the third-party comparison website provides in terms of relevant information. There is no clear guidance under the current proposal as to what the third-party is permitted to publish and/or the way in which they it publishes this data. There is a concern that third-party data integrators may present data in such wide-ranging formats that it may make it difficult for consumers to know what to pay attention to and/or to have an accurate representation of the market as is.
- 5.8 As set out above and in correspondence over recent months, CityFibre’s view is that Ofcom should seek to prescribe standardised performance/quality of service rating/ranking metrics which identify all the requested datapoints, and combines them to produce a simple intelligible system of descriptors on which consumers are better able to act.
- 5.9 If the consumer wishes to understand more – notwithstanding our concerns below – then data can be made available on a deeper layer of the website, accessible to all consumers with minimal effort. The crucial point is this information has to be in the first instance delivered in a standardised and useable format for the consumer to make an informed decision.

Wholesaler access to end-user data

- 5.10 Whilst Ofcom cites that information is required from providers of IAC and ICS, [§].
- 5.11 Whilst we welcome steps that will empower consumers to make better choices and to be able to shop around and switch between providers more easily, [§].
- 5.12 [§].

5.13 [REDACTED].¹¹

Complexity around a system and process

- 5.14 There is added complexity around collecting, managing and feeding this data back to the consumer into an accessible, quick and useful manner via a third-party data manager and integrator
- 5.15 Ofcom notes that the provision of data to third parties could lead to an additional cost burden for providers, but CityFibre fears (notwithstanding our initial reservations above) Ofcom may be underestimating the significant cost and process work required to initiate and develop internal processes and systems to feed this data securely into a third party provider.
- 5.16 APIs will likely be required to be developed per provider to feed end-user and quality of service data it captures into the third-party – which in itself may be an enumerate number of third-party comparison sites with their own bespoke requirements for the API.

¹¹ [REDACTED]

6 Contract duration and termination

The role of resellers in business customer relationships

- 6.1 Ofcom seeks views on proposals to extend the end of contract notification provisions added to the general conditions of entitlement last year to bundled services, both to residential and business customers. We are concerned that there are already real difficulties in complying with these provisions in many business contexts involving resellers. Adding further requirements in relation to bundled services will only complicate matters further.
- 6.2 Our concern in this area relates to the following type of scenario which typically occurs:
- Openreach provide the network infrastructure
 - BT Wholesale sell it on to a CP
 - The CP, at the request of their reseller, sell it on to the end business customer, billing them directly
 - The reseller bills the CP for the difference between the end customer price and the trade price (“commission”)
- 6.3 The issue here is that the tariffs for the end customer are set not by the CP but by the reseller which is able to select a range of packages (speeds, tariffs, terms) from the CP’s customer portal. It is impossible for the CP (who bills the customer and has the direct customer relationship) to advise on the best tariffs since they are determined by someone else.
- 6.4 It is far from clear how the General Conditions would apply to this type of relationship. Adding in the requirement to advise on bundled (non-telecoms) contracts and services seems to us to complicate matters unduly. It is clear to see how this could be applied in the realm of consumer triple play services but in a business context with complex relationships between infrastructure providers, wholesalers, resellers and end users we struggle to see how it might operate.

Minimum contract periods and early termination charges

- 6.5 Ofcom notes in paragraph 6.7 of its consultation that “[t]he first part of Article 105(1) sets out a general requirement that conditions and procedures for contract termination should not act as a disincentive to changing provider.”
- 6.6 Yet Ofcom has not considered the extent to which the current practice – of forcing fixed broadband consumers onto 18- or 24-month contracts with very high charges for early termination – is itself a significant disincentive to switching providers.
- 6.7 Fixed period contracts were originally introduced by mobile operators in order to recoup the cost of subsidising an expensive mobile handset. To the extent that consumers prefer to pay-off their handset charge over the term of the contract, this may be welfare enhancing. However, in regard to fixed telecoms, we do not see a similar reason for placing such an artificial contractual restriction on consumers’ ability to exercise choice and change provider. We would therefore urge Ofcom to consider this area further.
- 6.8 Minimum contract periods with high charges for early termination place a significant burden on consumers’ freedom to change provider. This is particularly damaging in the context of roll out objectives for new full fibre networks, where take up is inhibited if a significant proportion of the customer base is unable to take the service due to this artificial contractual restriction. Ofcom should not assume, therefore, that the practice of imposing minimum contract periods with high termination charges is an “acceptable” restriction of trade.
- 6.9 When a new fibre rollout is in progress, incumbent operators are aware of the imminent arrival of competition and have a commercial incentive to sign up their existing customer base to a further contract term. This is a perfectly natural pattern of behaviour which the current system of 18- and 24-month contracts facilitates, and which incumbents can and do use to reduce the impact of new entrants on their business.
- 6.10 Ofcom should challenge broadband providers to explain why this practice is not a “condition and procedure for contract termination” that “act[s] as a disincentive to switch”. Absent a convincing explanation of the consumer benefit (which of course differs from the case in mobile markets, where the consumer is benefiting from a subsidised handset), it is our view that the practice of minimum contract periods with high early termination charges may actually be inconsistent with Article 105(1).

7 Switching and porting

- 7.1 As Ofcom notes, the EECC sets out the requirement of ensuring that switching communications services adheres to the “Gaining Provider Led” (GPL) standard. In short, GPL means that the switching process must be driven by the gaining CP, and not the losing CP.
- 7.2 Ofcom acknowledges the EECC includes the requirement that GPL is implemented for both intra-network switches (i.e. between Communication Providers (CPs) on a single network, such as a customer moving from Sky to TalkTalk on the Openreach network) as well as inter-network (i.e. between CPs on different infrastructure networks, such as a customer moving from Virgin Media to Vodafone/CityFibre).
- 7.3 The shift to extending GPL to cross-network switches is crucial to encouraging competition between networks. This, in turn, is needed to drive speedy investment in full fibre roll out and to increase take up.
- 7.4 Whilst Ofcom acknowledges the importance of GPL to network competition, CityFibre is concerned with some of the switching proposals it is considering as candidates for securing compliance with the EECC that all switches be GPL.
- 7.5 CityFibre’s concern is that (contrary to the objective of the EECC) some of the industry proposals being considered by Ofcom are:
- not GPL; and
 - do not remove barriers to network competition and full fibre deployment;

Bundles

- 7.6 In regard to the issue of bundles (e.g. triple and quad play offers), including both virtual and physical variants, while these are ‘in scope’ for the EECC, at present Ofcom is focusing only on simple scenarios such as voice and broadband, and to therefore not include bundles including PayTV or mobile within the remit of the processes.¹²
- 7.7 Due to time constraints and the need to have an efficient inter-network switching solution in place, industry has reluctantly accepted this for the initial phase of switching discussions with the intent to extend the process to all elements of the bundle in due course.
- 7.8 However, we wish to take the opportunity of this consultation response to reaffirm our position which is that, for a switching processes to be effective in realising and removing the barriers to network competition, they must include the issues of bundles within their remit.
- 7.9 We do not consider the inclusion of bundles as simply a desirable outcome of the GPL switching process but as a pre-requisite to actually delivering the requirements of Article 106 of the EECC. If the broadband component of a bundle is (notionally) covered by a GPL obligation while other parts of the bundle are not, then customers will simply not be able to switch out of their broadband service using a GPL process.
- 7.10 For customers who consume broadband as part of a broader bundle, they will be categorically excluded from the benefits of a GPL process. It will not be the case that the switching process will “entail automatic termination of the losing provider contract” which, as set out by Ofcom, is a requirement of Article 106.
- 7.11 As such we strongly encourage Ofcom to consider including bundles as part of the GPL switching process.

Auto-switch is not GPL

- 7.12 For mobile services, Ofcom introduced a switching and porting solution which uses a regulated ‘Auto-Switch’ process.¹³ In this process the customer is able to request a code from the losing provider by

¹² Ofcom has also stated that it “has the discretion to introduce a GPL switching process for bundles, but [it does] not intend to exercise this at present”.

¹³ Ofcom (2017) ‘Consumer Switching: Decision on reforming the switching of mobile communication services’. 19th December 2017. [Link]. As accessed 20/02/2020.

text¹⁴ and is then given a Porting Authorisation Code (PAC) if they are porting their number or a Service Termination Authorisation Code (STAC) if they are switching without a port.

- 7.13 The need for a review in mobile switching was primarily driven by a laborious process for consumers when requesting and obtaining a PAC and porting a mobile number¹⁵, the risk of double paying after the switch has taken place¹⁶, the risks around a the loss of service while switching provider¹⁷ and the deterrent impact this had on consumers wanting to switch.
- 7.14 Ofcom initially considered a GPL solution as being favourable but eventually opted for the Auto-switch solution on a cost and benefit analysis of the two.¹⁸
- 7.15 It is important to note at this point Ofcom treated the Auto-switch solution very much as a separate solution from GPL and prior to this consultation whilst articulating the fact Auto-Switch limited the amount of contact (and by extension save opportunity) the end-user had with the LP.
- 7.16 Ofcom has since revised its view so as to include auto-switch within the definition of it being a GPL process. CityFibre does not agree with this view, and instead believes that **Auto-switch is not GPL**. As stated above, the Auto-switch solution requires the end-user contacting their losing provider to action the switch. The nature of GPL is that this contact does not exist – it is CityFibre’s view for a process to be GPL the end-user must contact the GP and it is the GP who actions and leads the switching process; there should be no contact with the LP.
- 7.17 Furthermore, the auto-switch process was developed specifically for mobile. That is to say, the mobile process is a much simpler switch requirement as it uses all the services associated with a single handset (which always has a single provider). For fixed network infrastructure there are multiple services provided by multiple providers, of which the end-user may not want to switch all of them. With fixed broadband, there is also not, as there typically is with mobile, a single device associated with the connectivity service, or a single number that facilitates text messaging. These are features that allow for (relatively) less friction in delivering a code to the customer in mobile than would be possible with fixed broadband services.

¹⁴ They are also able to complete this process via their online account or phone

¹⁵ Ibid 13. Paragraph 3.6. Page 17.

¹⁶ Ibid 13 Paragraphs 3.7 & 3.8. Page 17.

¹⁷ Ibid 13. Paragraphs 3.9 & 3.11. Page 17.

¹⁸ Ofcom (2017) ‘Consumer Switching: Proposals to reform switching of mobile communications services’. 19th May 2017. [Link].

As accessed 20/02/2020. Paragraphs 1.12 – 1.19. Pages 2 – 3.

Options

7.18 CityFibre has been engaging in extensive industry discussions to discuss/agree what potential switching options could be workable. We acknowledge that Ofcom are not currently consulting on the options being proposed and that currently there are industry discussions around the detailed development of the options. We nevertheless wish to use this response to address some of the high-level issues we have.

7.19 For ease of reference we summarise the current options in the below table:

Option X	Option Y	Option Y+
<p>This option is similar to the current Mobile Switch Release Key (SRK) solution.</p> <p>The process requires the customer to contact their current retail provider – the Losing Retailer (LR) - and request a switch code which they would give back to the gaining retailer (GR) to authenticate the switch.</p> <p>The process is extremely long-winded and requires API developments across the whole value chain. The LR pings their wholesaler who then pings their network provider (if any) who identifies the asset in question and requests a Switch Code from a HUB for the asset and relays this back the same chain to the End Customer.</p>	<p>This option switches the order of things and puts the onus on the retailer to raise a switch request.</p> <p>In this scenario the end customer requests a switch from the GR and provides mandatory information in designated field boxes which include:</p> <ul style="list-style-type: none"> • Customer Name • Current Retailer • Service requiring switch • Address information. <p>The GR pings a HUB which sits at the retail level with the other parts of the value chain only getting involved in delivery.</p>	<p>This builds on Option Y and is a day 1 go-between Options X and Option Y.</p> <p>It requires an additional identity code/reference key in the scenarios where the HUB produces no results back.</p> <p>The identity codes would be against each working service and would be obtained directly from the LR.</p>

7.20 CityFibre does not currently consider Option X as a solution suitably GPL and able to preserve the incentives for network competition and full fibre coverage.

7.21 CityFibre have provided the OTA (and by extension Ofcom) with a detailed, 'group' response to Options X and Y in December 2019. As such, to avoid repeating some the arguments contained within that document, we briefly set out our two main issues:

- **CityFibre does not consider Option X provides consumers with ease of use.** CityFibre considers there to be a significant risk of the end-user being reluctant to apply for a switch code or choose not to switch because the process is too difficult or time consuming, with the complexity tending to arise where services are split by different providers.
- **CityFibre does not consider Option X as providing a reliable process.** CityFibre considers the proposed Option X process increases the risk (and cost) of gaining retailers of requesting new provisions/line rather than switching existing assets, particularly costly for intra-network switches.