

## Ofcom consultation on switching fixed line voice and broadband services

### Citizens Advice response

May 2012

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## Introduction

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Citizens Advice welcomes the opportunity to respond to Ofcom's consultation on switching fixed line voice and broadband providers on the Openreach copper network.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

The service aims:

- To provide the advice people need for the problems they face; and
- To improve the policies and practices that affect people's lives.

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,500 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.

In 2011/12 the Citizens Advice service in England and Wales advised 2.03 million people on 6.9 million problems. Debt and welfare benefits were the two largest topics on which advice was given.

In 2011/12 problems with fixed line voice and broadband accounted for approximately 9,593 and 3,888 issues dealt with by Citizens Advice Bureaux.

Breaking down the figures reveals that problems relating to switching supplier accounted for:

- 4 per cent of fixed line phone problems
- 3 per cent of broadband and internet problems

As highlighted in Ofcom's consultation document, switching suppliers during a minimum contract period may require payment of an early termination charge (ETC) to the losing provider. In 2011/12 Citizens Advice Bureaux problems relating to cancelling or withdrawal of contracts accounted for:

- 10 per cent of fixed line phone problems
- 15 per cent of broadband and internet problems

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## Key points

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- Citizens Advice welcomes the moves to reform the switching process in fixed line voice and broadband markets. For too long the existing processes have failed to protect consumers from avoidable detriment and reforming or replacing them is overdue.
- As highlighted in our 2010 consultation response, we are persuaded that a gaining provider led (GPL) model offers the potential for better outcomes overall for consumers than a losing provider led (LPL) model.
- Our support for this approach is contingent on effective measures to prevent slamming and we believe the third party verification (TPV) model proposed by Ofcom would address those concerns, albeit at the cost of some additional but proportionate hassle for switching consumers.

- We believe the measures to ensure awareness of the implications of switching should be strengthened by including details of minimum contract periods (MCPs) and likely early termination charges (ETCs) on consumers' bills as a matter of course.
- Ultimately the priority in a switching process should be the interests of consumers, rather than the administrative convenience of communications providers.

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## Responses to specific questions

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We have responded to those questions which are within our expertise and have combined a number of related questions rather than answering them in strict numerical order.

### Multiple switching processes

#### **Question 5: Do you agree with our assessment of problem 1: multiple switching processes?**

#### **Question 13: Do you agree with our assessment of Problem 5: unnecessary switching costs/hassle?**

Citizens Advice agrees with Ofcom's assessment of both problem 1 and problem 5 and believe them to be closely related from the consumer perspective. Having multiple switching processes is potentially confusing for consumers and having to find out which particular switching process to use is hassle in and of itself. Given that many consumers will be seeking to switch both their telephone and broadband services at the same time, some consumers will be required to use both existing gaining provider led and losing provider led processes at the same time.

Existing processes also create an uneven playing field with different costs and inconvenience experienced by consumers depending on which services they are switching and whether they are switching a number of services from different providers to one provider.

In that context it would be desirable to have a single switching process for all telephone and broadband services.

As stated in our response to the 2010 consultation on the strategic review of consumer switching, we are persuaded that a gaining provider led model delivers significant benefits in this area, although as we noted at the time it involves challenges to address slamming and unexpected costs of switching. We believe the third party verification model proposed by Ofcom would sufficiently address slamming and that the additional burdens it places on communications providers are outweighed by its net benefits.

Although the current consultation deals only with switching fixed line telephone and broadband services delivered through the Openreach copper network and we understand that a single switching process for all telephone and broadband services (including cable and mobile communications, for example) is not currently proposed, but we believe it is important to highlight the desirability of its development.

## Problems caused by inadequate back-end systems: loss of service, erroneous transfers

### Question 7: Do you agree with our assessment of problem 2: Back end systems deficiencies?

While we are not able to offer any quantitative data on the incidence of problems caused by back end system deficiencies, we do receive qualitative data from bureaux on the issue which suggests Ofcom's analysis of the back end systems deficiencies is correct. Whether the proposed switching model would adequately address these issues is beyond the expertise of Citizens Advice but their remedy should be a high priority.

A CAB in the East of England reported a case in which an 81 year old client moved house and switched her communications provider following difficulty in transferring her existing service. Her phone was disconnected by the losing provider but before the gaining provider could connect her, the losing provider claimed the client had cancelled the switch - something she refutes. The losing provider then claimed a fault on the line could have caused the cancellation by mistake but would not check as their contract had been cancelled by the client. It took the client over a week to resolve the situation and have her telephone service connected.

A CAB in Yorkshire and the Humber reported a case in which a client had his telephone line switched to a new provider in error. His original provider charged him to reconnect his service and required him to take a new phone number. Neither provider would compensate the client for the money he spent having his service reconnected or the hassle caused by the issue itself and having no telephone connection for a number of weeks.

## Slamming

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

The way in which data from bureaux is collected means it is not possible to disaggregate issues with slamming from issues with switching more generally. Unfortunately, this means we are not in a position to offer any quantitative data on trends in clients reporting slamming specifically.

We are however able to offer case studies on specific instances of slamming and highlight the impact it has had on those individual consumers. Here are a few of the most recent cases:

A CAB in the South East reported a case in which a client who worked from home found both his telephone and broadband connection stopped by his provider, who told him he had applied to transfer to another provider. The client requested that his original contract be restored but the original provider persuaded his wife to take out a new contract with a new number, which then took three weeks to provide, and now refuses to speak to the client on the basis that he is not the account holder.

A CAB in London reported a case where a 102 year old client had her telephone line slammed by a sales agent impersonating her existing provider offering her a better deal on her calls package. The client was told she would receive information in the post which she could check and then sign if she was happy with the details. She claimed not to have given the caller her bank details but after returning from holiday she found a direct debit had been set up by a new provider and money had been taken from her bank account. Following a complaint to the gaining provider and help from her grandson, her contract was cancelled and the cancellation

charges were waived but the client has struggled to recover the money deducted by direct debit from her account and has had minimal help from her bank.

A CAB in the East Midlands reported a case where a retired client aged 61 discovered he and his wife's telephone service had been slammed when they received a bill from their existing provider informing them that they owed £81 in early termination charges. Their existing provider was unable to offer any information about which provider they were being slammed to and did not offer to reinstate the account. Following complaints by the client about further letters regarding termination charges, their original provider opened a new account for them with a new telephone number. The client was worried that bailiffs would call at their property if they did not pay the termination charge levied through no fault of their own.

A CAB in the East of England reported a case in which a client, aged 85, found his phone line had gone dead. Upon further investigation by a neighbour on his behalf, it was discovered that the client had been slammed and his original landline provider had disconnected his line. The client had received no notification about the change in service provider. When his original provider was unable to tell him which provider he had been slammed to, he approached the CAB who had to contact Ofcom in order to discover the new provider. Meanwhile, his original provider arranged to reconnect him but at a cost of £130 and a break in service of over a month.

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

With clients continuing to report incidents of slamming to bureaux, and taking Ofcom's own research into account, it is apparent that existing enforcement activity is not preventing the phenomenon.

Accordingly, Citizens Advice is strongly in favour of preventative consumer protections within the switching process which would address slamming before it can occur. We believe that the scale of the problem and the harm caused to affected consumers is sufficient to justify additional measures as part of the switching process.

From the perspective of Citizens Advice, the question of whether introducing Ofcom's current preferred model of third party verification (TPV) hinges on one major consideration: the effectiveness at preventing slamming versus the potential additional hassle for consumers.

While slamming is a significant issue faced by consumers each year, the majority of consumers who switch provider do so intentionally and are not slammed. As such, any additional hassle introduced into the switching process for those consumers unaffected by slamming must be proportionate to the benefit experienced by consumers who would otherwise have been switched without their consent.

We understand from Ofcom that the details required from consumers for TPV would be minimal and the process would be very short. Providing this is the case we are satisfied that the introduction of an additional stage to the switching process is proportionate to the problem of slamming.

We understand the TPV process through the online sales channel would be more straightforward and analogous to the card verification schemes operated by Visa and Mastercard, which we note were introduced to protect a minority of consumers from fraud at the cost of introducing some additional hassle to the online purchasing process. Provided the online TPV process is similarly straightforward, Citizens Advice has no concerns about it.

An advantage of the TPV approach is that it creates a strong disincentive for any unscrupulous providers or agents to slam consumers without any contact – the most common form of slamming according to Ofcom complaints data – since it would be straightforward to identify the guilty party from records of who had accessed the central database. The requirement for consumers to explicitly confirm to a third party which services they wish to switch between specific providers would help eliminate slamming through misrepresentation and contact without a contract being signed. The ability of consumers to cancel the switch via the third party would also help deal with instances where consumers have exercised their right to cancel a switch but it has gone ahead in any case. While we recognise that the TPV model cannot completely eliminate slamming – indeed no model can - these are welcome protections which would greatly reduce the number of consumers experiencing slamming.

In establishing explicit customer consent, we believe the TPV model has benefits for providers not only through reducing the burden of correcting unwanted switches but also by eliminating any doubt in any cases where consumers claim not to have given their consent to a switch but the gaining provider believes they have. Resolving such cases can be time consuming for both parties and reducing them would be desirable for providers and consumers.

## Implications of switching

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

A lack of awareness of the implications of switching remains an issue and bureaux regularly advise clients who have been affected by unexpected early termination charges they receive from the losing provider.

A CAB in Wales reported a case where a client who switched telephone provider after four years with the losing provider was issued with an early termination charge of almost £250, with the client erroneously believing he was no longer under contract after that length of time. The client paid the charge but has lost more money than he hoped to gain by switching to a cheaper deal.

A CAB in the South East of England reported a case in which a client switched her telephone and broadband service to a new provider for a better deal but received an early termination charge of £100 on the basis that the client had recently agreed to a new contract. The client was unaware of the new contract, which had been entered into but not made clear to the client when she took up a special offer. The client reported feeling stressed by the having incurred a debt and the hassle of attempting to resolve the issue with her losing provider.

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

Citizens Advice would support the introduction of a requirement for specific information about ETCs and MCPs to be included in bills.

Quick and easy access to information about MCPs would help consumers to make informed decisions about when they switch providers and would help ensure consumers were in possession of this information before beginning the switching process. At the very least, the end date of a customer's contract should be clearly displayed on bills and this would be very straightforward for providers to put into practice.

There is an argument that information about ETCs is more complicated due to the increasing use of bundled services which – in theory – could create a number of different switching scenarios which could lead to different ETCs or have an impact on the cost of services which are not being switched. However, Citizens Advice believes that this problem is surmountable and should not be used as an excuse not to provide customers with information about their likely charges.

By way of illustration, information on how ETCs will be calculated under the agreement with BT, TalkTalk and Virgin to take into account their savings from no longer providing services is straightforwardly displayed on the news release issued by Ofcom in June 2010<sup>1</sup>.

Given the prevalence of issues presented by clients at bureaux relating to cancelling contracts and the withdrawal of services, the benefits to consumers of providing more up front information about cancellation charges and contract periods is clear. The incentive to providers should also be easily apparent: fewer customers cancelling switches in reaction to unexpected cancellation charges would reduce costs and free up time and resources for their switching and customer contact teams.

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<sup>1</sup> <http://media.ofcom.org.uk/2010/06/17/cheaper-charges-for-uk-consumers-to-end-phone-contracts-2/>