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Attention: Ofcom
Riverside House
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London SE1 9HA

TELEFÓNICA UK LIMITED RESPONSE TO
OFCOM'S REVIEW OF CONSUMER SWITCHING: A CONSULTATION ON
PROPOSALS TO CHANGE THE PROCESSES FOR SWITCHING FIXED VOICE
AND BROADBAND PROVIDERS ON THE OPENREACH COPPER NETWORK

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INTRODUCTION

1.   Telefónica UK Limited ('O2') welcomes the opportunity to respond to Ofcom's Review of Consumer switching: A consultation on proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network ('the Consultation').

2.   O2 offers an increasingly broad portfolio of products and services to UK consumers and our position in the mobile market, as well as the home phone and fixed broadband market, means we have invaluable experience of how switching processes can affect competition both as an established player and also a new entrant. It is this experience upon which we base our response to the Consultation.

3.   We agree with Ofcom that competitive communications markets are more likely to work well for consumers when it is quick and easy to switch between providers. We believe it is important that consumers are well informed and have a positive experience when switching, and that the underlying processes are able to sustain the highly competitive conditions which currently exist within the retail fixed broadband and home phone market.

4.   Our experience with communications services and listening to our customers has taught us that services that are used together should move together.   Fixed broadband and home phone are inherently linked both at a technical and retail market level and home phone is increasingly becoming little more than a broadband enabler. There is an expectation for customers of these services, that the services should be moved together in one transaction and in comparable timeframes.

5.   Conversely, there is an equal expectation that other services do not necessarily need to follow the same or even a single process, just because they are purchased from the same supplier. Expectations about migrating services are more influenced by how customers use those services and what is motivating them to change, rather than whether or not they are all supplied by the same company.

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6.   We recognise that for services that customers perceive as being core to their home utilities, (such as home phone and fixed broadband) switching is likely to be motivated by significant life changes – like home moves.   On the other hand, other services such as mobile are far more personal and switching is generally motivated by other factors such as device features, trends and functionality.   It is therefore unlikely that a customer would consider switching their broadband service every time a new Smartphone was brought to market. From this we can understand that it isn't necessarily appropriate or desirable to treat all services and products in exactly the same way.

7.   Motivation for switching differs for different products and we can use this information to better inform a convenient 'bundle-switching' process, rather than the narrow assumption that all bundled products can or should be switched in the same way or at the same time. Our home phone and fixed broadband customers do indicate expectations that these services will, at least, migrate together under similar timings. But that expectation has never extended to their mobile service and it is therefore not appropriate or beneficial for all these services to be migrated together or even under a single process.

8.   We welcome the fact that Ofcom has recognised that the increase in demand for bundled fixed services provided over the Openreach copper network could result in an increasingly detrimental switching experience for customers looking to switch between those bundles. That, coupled with the concurrent design of next generation services, suggests that the timing is right to consider the migrations landscape to provide a good consumer experience and to ensure that the process is efficient as possible.

9.   Our experience is that no system or process is completely perfect, but that in general, existing home phone and fixed broadband switching works well. There are however, areas that could benefit from attention and improvement and we stand the best chance of fixing things that go wrong quickly when the process and the technical elements of switching complement and support each other.

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10. Ofcom's Consumer Experience report 2011 found that "*The vast majority of consumers who have switched in the past said that they considered it to be 'very' or 'fairly' easy to do so in each of the communications markets.*"[1] This corresponds to 93% for home phone and 83% for fixed broadband. In addition, when comparing opinions on the ease of switching in the communications and utilities markets, findings are broadly consistent, with around 90-95% stating they found the process easy.

11. Ofcom's own qualitative research commissioned by YouGov also found that most felt that the process was simple, stress and hassle free, as well as being reasonably quick. Furthermore it found that overall respondents were surprised about how easy the process was.[2]

12. We believe this demonstrates that in general, current switching processes work well for consumers and industry alike and we would therefore caution the need for immediate regulatory intervention in any significant or structural manner. Intervention that is not targeted or proportionate could distort competition and detrimentally affect the existing positive experience currently reported by consumers.

13. We do however understand the need for improvements where these can be made in a cost effective, efficient and consumer friendly manner. We support the need for accurate asset validation and agree that the Transfer Code ('TxC') method appears to provide the best solution yet proposed for achieving a reliable back-end switching process. It offers the ability to guarantee accurate asset validation and to deal robustly with switching to and from networks as well as being able to cater for Working Line Takeovers ('WLTOs').

14. We believe it is important that Ofcom continues to look beyond the narrow and simplistic Gaining Provider Led ('GPL') vs. Losing Provider Led ('LPL') debate as we do not think this offers any solutions in the current circumstances. Instead it is more

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[1] Section 5.3.1, Ofcom Consumer Experience report 2011
[2] Section 3, YouGov Broadband Consumer Qualitative Research 2011 slide pack

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helpful and constructive to properly identify the actual problems consumers and industry face when switching, and attempt to understand their underlying causes and correct them. By identifying the features of a good or bad switching process this will help to identify an achievable, efficient and practical migrations solution.

15.   This important consultation has the potential to have a significant impact (both positive and negative) upon consumers, Communications Providers ('CPs') and the competitive marketplace within which they co-exist. We strongly believe any proposed switching process must be customer led and based upon a thorough assessment of the detailed benefits and shortcomings of each individual process both in respect to consumers and CPs alike.

16.   The implementation of a single harmonised process applied across home phone and fixed broadband within the Openreach copper network will only prove to be a success if it genuinely provides a better customer experience, fixes persistent problems (supported by sound evidence), and it is demonstrated to be a balanced and proportionate solution through a sound and robust assessment.

EXECUTIVE SUMMARY

17.   The implementation of a single harmonised switching process, whilst overwhelmingly desirable, cannot in itself be expected to be either the best, or the only, solution to all the problems that currently exist, or are likely to exist in the future, when switching providers. There is unlikely to be a panacea, rather a series of improvements and changes are required to address each area that is problematic.

18.   Whilst we share Ofcom's ambition to optimise the customer experience of switching, we do not believe that Ofcom's current preferred option to this review, to implement a harmonised Third Party Validation ('TPV') model, will deliver on its stated aims in a way that will resolve current issues with switching, or in a way that is consistent with Ofcom's legal obligations.

19.   We believe that the interests of consumers would be met in a more effective way if industry also worked to address problems with existing processes in the interim. Whilst we appreciate that not all problems can be resolved using current processes there are many areas that can benefit from improvement through the deployment of tactical work across industry. Such improvements could be achieved within a relatively short space of time and deliver real benefits to consumers.

20.   In the longer term, we agree that a single harmonised process across the Openreach copper network, if implemented correctly, would provide a better and more consistent customer experience. We agree with Ofcom that the current situation in which there are multiple switching processes for the same type of service can be confusing for consumers and makes it difficult for CPs to give clear advice about how to switch home phone and fixed broadband services.

21.   Reliability and continuity of service are key switching principles, both of which rely on robust underlying systems. Our experience tells us that the underlying systems (particularly with home phone switching) cause a great many of the problems that consumers face. Difficulties will not be resolved just by introducing a new front-end

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switching process, without first fully resolving the underlying technical issues. We believe that the implementation of a TPV process is unlikely to be a proportionate or effective way to resolve the actual underlying problems that consumers face when switching services.

22.   We are concerned about any proposal for a costly new switching process which involves either a Unique Service Number ('USN'), or TPV model at the front end of the process. We strongly believe that implementation of either of these options would be a misguided and disproportionate response to the issues that currently affect existing switching.

23.   We know from our experience that we and our customers have faced greater difficulties with home phone switching (a GPL process) than with broadband switching using the MAC process, and fewer problems still with mobile number porting (both LPL processes). It is this experience and the real problems that should guide Ofcom's decision when looking to improve upon existing processes.

24.   We believe that out of all the harmonised options presented, the LPL TxC (ALT) would offer a far more efficient and cost effective solution to the current problems and provide a better all-round experience for consumers. We also support the concept of the Transfer Code (TxC) to underpin the process and improve reliability by acting as a robust asset validation tool; and (with some development) can be used to support WLTOs in a stable manner.

25.   We do not believe that reactive save activity constitutes a major problem that requires intervention and we take the view that Ofcom's assessment of save activity is unbalanced and presents save activity as being more problematic than it actually is. We believe that the reduction of Erroneous Line Transfers ('ELTs'), the provision of timely information on the implications of switching such as Early Termination Charges ('ETCs'), and shorter lead times are of greater concern to consumers and should be more important considerations for Ofcom when assessing and deciding upon the best switching process.

26.   We believe that the implementation of a TPV process would be a disproportionate response and unjustified intervention in terms of set-up and operating costs which could also have a negative impact upon consumer's switching experience. The creation of an inter-provider hub containing a centralised database on the scale proposed which requires the collection and storage of the details of all customers and their services raises several issues and concerns. The accuracy and quality of data cannot be validated, the requirement to frequently update the information would be onerous, and serious questions arise in relation to data protection and security as a result of a third party holding such a large volume of sensitive customer data.

27.   Our experience tells us that customers benefit from knowing the implications of switching in specific detail; they like having an opportunity to change their mind once they have considered those implications and losing providers are generally in a better position to deliver that information.

28.   The LPL TxC (ALT) process would provide a far better customer experience placing the customer in control and providing key improvements to today's switching processes. It is a more proportionate solution and avoids excessive cost to industry and the likelihood of that cost being passed onto consumers.

EXISTING SWITCHING PROCESSES

29.   It is important to remember that existing switching processes are generally effective. Switchers are generally satisfied with the current process, with the majority rating the process as easy. Figure 1 shows that only one in ten rate the process as difficult[3]. Ofcom's Consumer Experience report 2011 also found that the vast majority (90-95%) of consumers who switch considered it to be easy to do so. Ofcom's own qualitative research commissioned by YouGov found that most felt that the process was simple, stress and hassle free and reasonably quick. The research also found that overall; respondents were surprised about how easy the process was.[4]

Figure 1: Ease or difficulty of the switching process at a service level amongst switchers[5]

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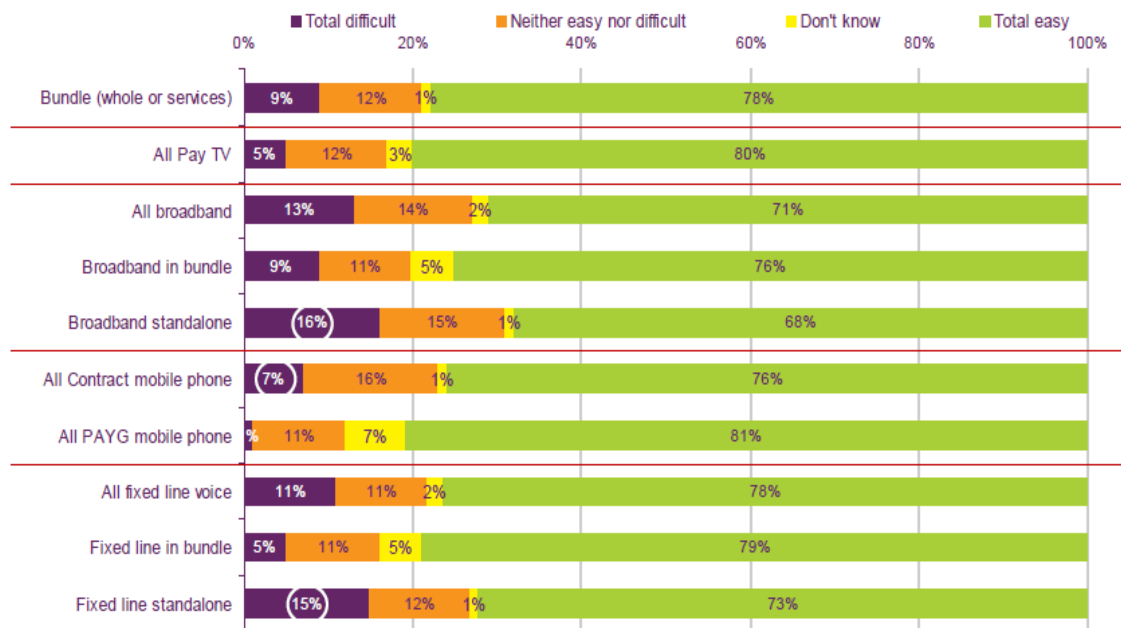
[3] Section 4.1, Saville Rossiter-Base, Consumer Switching and Bundling, September 2010
[4] Section 3, YouGov Broadband Consumer Qualitative Research 2011 slide pack
[5] Section 4.27, Ofcom's Strategic Review of Consumer Switching, Sept 2010 (based on section 4.1, Saville Rossiter-Base, Consumer Switching and Bundling, September 2010)

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30.   We believe that these consistent findings provide a clear illustration of the fact that overall current switching processes work well for consumers.

31.   Whilst we agree that improvements to the consumer's experience of switching are desirable, it is important that we keep the high rates of satisfaction in mind when determining the proportionality of any prospective changes and whether those changes should be mandated by regulation.

32.   Figure 2 shows that complaints about slamming and mis-selling of fixed line services have continued to decline over the last couple of years and complaints about the MAC (fixed broadband switching) have significantly reduced down to very low levels.

*Figure 2: Monthly complaints specifically about MAC codes received by Ofcom CCT[6]*

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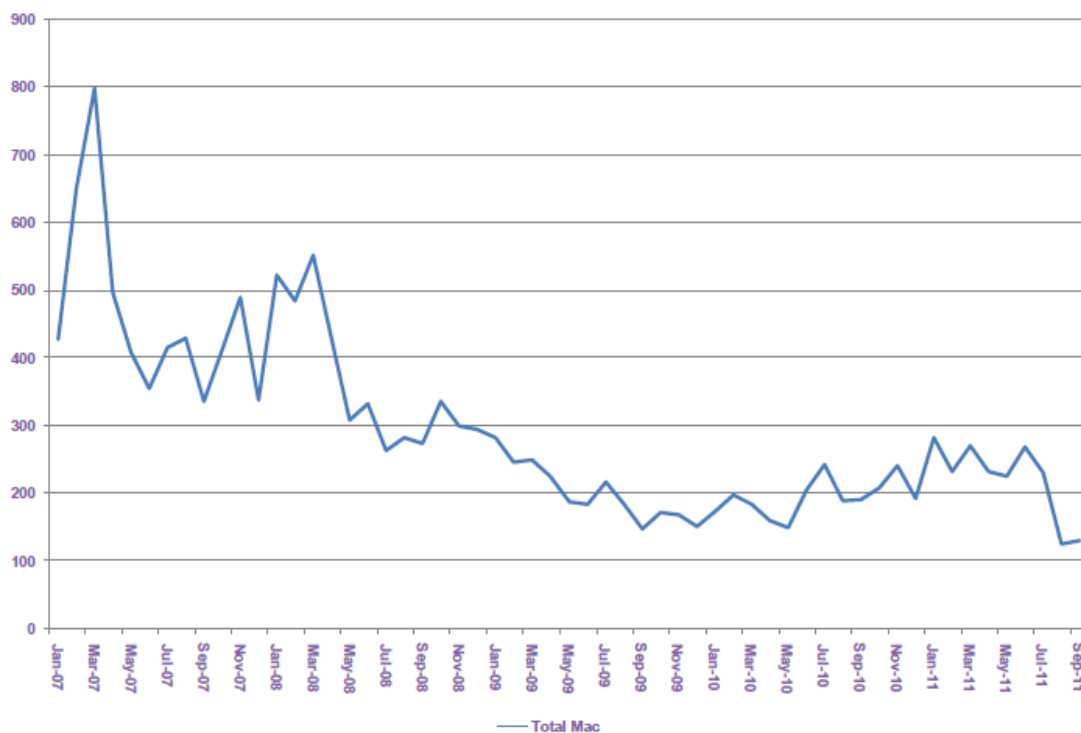
[6] Section 6.1.4, Ofcom Consumer Experience Report 2011

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33. In the 2010 Consumer Experience Report, Ofcom stated that "...*slamming cases have fallen significantly...*"[7] and in the last Consumer Experience report published in 2011, Ofcom again stated that "*Complaints about mis-selling/slamming in the fixed line market have declined*" in the past 12 months[8].

34. Figure 3 shows that issues unrelated to switching such as silent calls, and those concerning general customer service problems are generally recorded in higher volumes; and in the case of silent calls complaint volumes are almost twice that of fixed line mis-selling or slamming. The data also suggests that complaints related to the MAC (an LPL process) are significantly lower than those related to fixed line voice (a GPL approach).

*Figure 3: Trend in complaints about telecoms issues received by CCT, over time.[9]*

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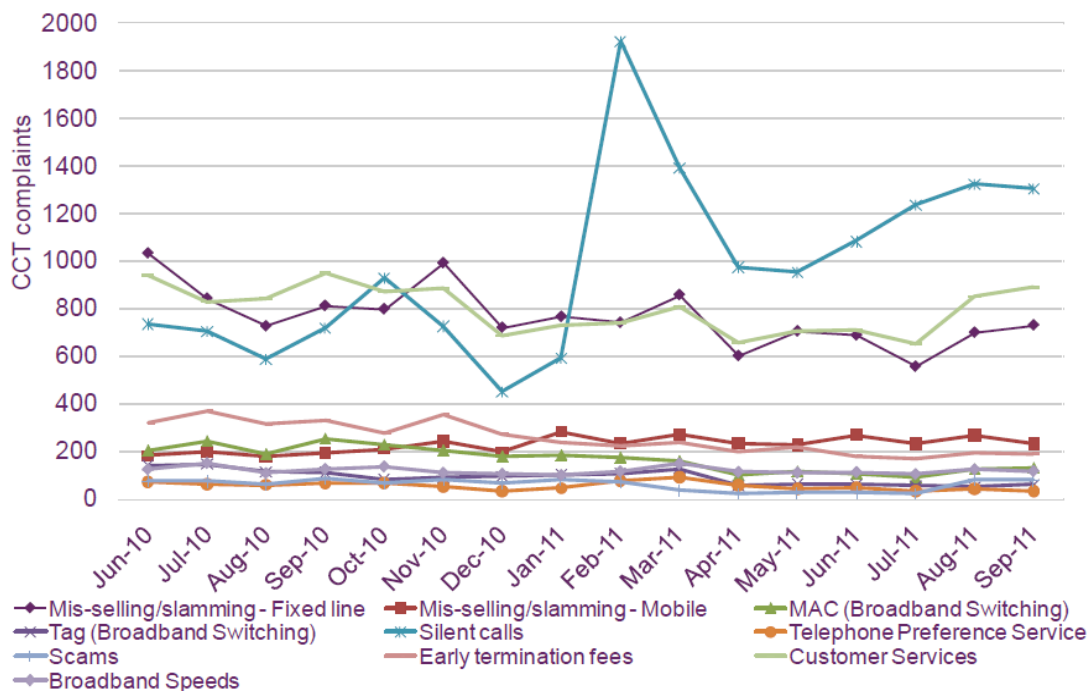
[7] Page 6, Ofcom Consumer Experience Report 2010
[8] Section 6.1, Ofcom Consumer Experience Report 2011
[9] Section 6.1, Ofcom Consumer Experience Report, 2011

35.   In addition to the fact that most switchers rate the process as easy, Figure 4 shows that the key reason that non-switchers did not switch was due to the high level of satisfaction with their existing provider.

Figure 4: Reasons given by inactive consumers for not considering switching in the last 12 months[10]
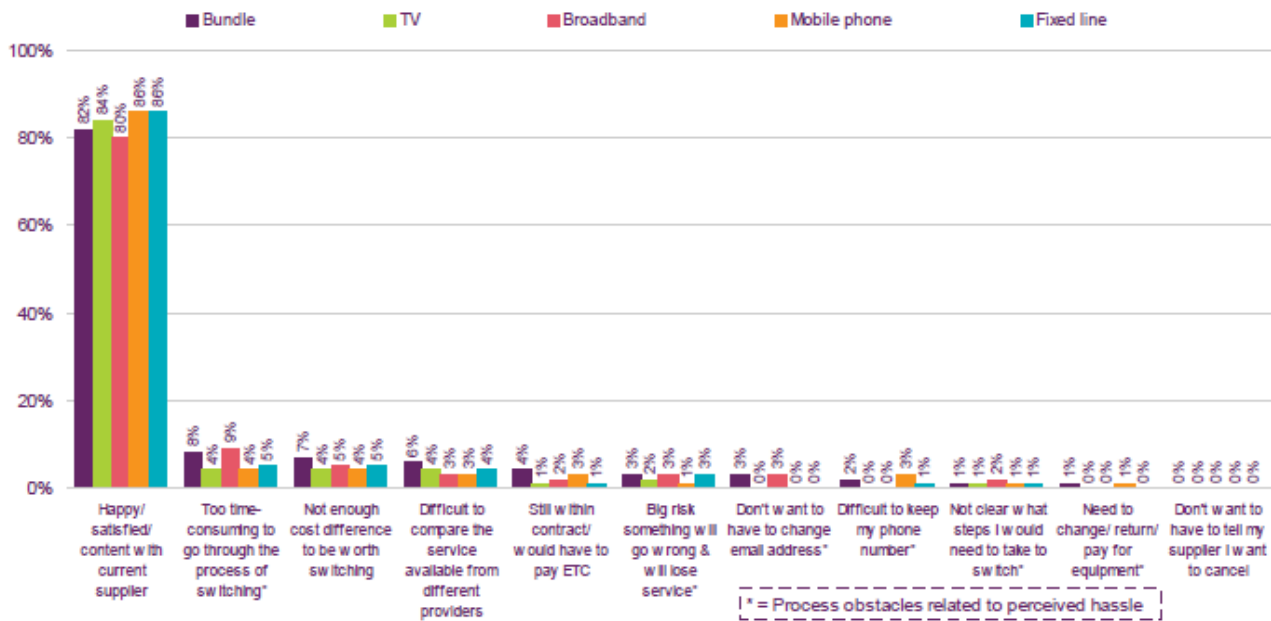
36.   This high level of satisfaction provides a clear indication of the healthy competitive state of the market and demonstrates that the existing switching processes are generally effective.

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[10] Section 4.10, Saville Rossiter-Base, Consumer Switching and bundling Report 2010

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PROBLEMS WITH THE CURRENT SWITCHING PROCESSES

37.   No system or process is completely perfect and when switching problems occur they colour the consumer's experience of both the gaining and losing providers involved, and of the switching process itself. We accept that, in the case of the home phone, and to a lesser extent, the fixed broadband service, the customers experience is currently far from perfect and improvements are necessary.

38.   Customers do not care to understand whether such problems are caused by human error, process, or technology; or which party involved in the process caused the problems. They do care about the real problems that they face when they try to switch and how they can be fixed. O2 cares about finding practical, experience-based solutions to help those customers receive either a warm welcome or a gracious 'goodbye'.

39.   We believe that the existing MAC process currently works well for fixed broadband but that the current NoT process does create problems and could be optimised. Whilst a single harmonised process for switching home phone and fixed broadband is desirable, it is not clear that Ofcom has provided sufficient evidence to demonstrate and justify that implementation of a new harmonised switching process is the least intrusive mechanism to achieve its stated policy aims. We believe that it is also possible to make significant tactical improvements to the current systems and processes which will achieve tangible benefits and improve the overall customer experience.

Multiple processes for switching the same type of service or bundle of services

40.   We agree with Ofcom that the existing situation whereby multiple processes are used for switching the same type of service can lead to consumer confusion, inefficiencies, and to a lesser extent, potential distortion of competition.

41.   The fact that some CPs choose to deliver the majority of their services over MPF whilst other CPs deliver their services over SMPF, means the switching process (and the associated customer journey) differs for the same type of services resulting in a lack of consistency.

42.   Customers generally don't like the idea of having to call their gaining provider for one service and their losing provider for another. This naturally creates confusion for the customer and unnecessary costs for CPs when designing systems.

43.   The current situation in which there are multiple switching processes for the same type of service can also make it difficult for CPs to give clear advice about how to switch their home phone and fixed broadband services.

44.   We agree that in the longer term, a single harmonised process across the Openreach copper network for home phone and fixed broadband, if implemented correctly, would provide a better and more consistent customer experience.

Backend system deficiencies

45.   Current fixed line switching is only ever as good as the incumbent's systems. As an LLU provider the switching experience we can offer our customers can only ever be as good as Openreach's systems and processes.

46.   Our understanding and experience is that moving house is a significant prompt for consumers to consider switching their home phone or fixed broadband provider. We think that one of the biggest problems that customers face when switching providers are ELTs. These are generally caused by systems issues rather than process issues and commonly occur during house moves (particularly in the rental sector and with apartments) as a result of multiple assets being listed for the same address and the wrong asset being selected. In such cases this causes significant inconvenience to both the customers and provider, and can prove difficult to rectify.

47. We also experience problems when a customer switches to us. Whilst it is relatively simple to train customer service staff to be rigorous about choosing the correct address when placing an order, it is not so simple to ensure a customer on a website chooses the exact address when they place their order. Customers are used to selecting the addresses from an address file, which often isn't as accurate as it should be or offers multiple choices for the same premises. Incorrect selection of another consumer's address can result in that line being taken over in error. Data cleansing to remove old, erroneous or duplicate data to enable customers and operators to more easily identify and select the correct line at any given point would improve this problem but may not resolve it fully.

48. Whilst we have implemented tactical changes to attempt to reduce this underlying problem of asset identification, multiple asset entries persist within the current GPL NoT process and it would appear that such improvements are unlikely to resolve this enduring problem. In light of this we believe that a transfer code process would be a much more accurate and effective way to tackle this problem and manage these types of orders to ensure less likelihood of ELTs and a better customer experience.

49. Whilst ELTs are primarily caused by systems issues, our experience has also shown that they are closely linked with the NoT process because:

    i. In some circumstances, where an ELT occurs it could have been prevented if the NoT process had more effectively taken the systems issues into account. This is particularly relevant for LLU providers where the switching process can only ever be as effective as the incumbent wholesale provider's systems and the compatibility of the LLU provider's infrastructure with those systems.

    ii. In some circumstances, where an ELT has been prevented, it has only been prevented because the NoT process has worked, demonstrating that there are benefits from considering the process and the system together.

    iii. Ofcom have previously found that 33% of complainants which were logged as 'mis-selling/slamming' were actually subsequently identified as being ELTs,

demonstrating that, from the customer's perspective (and perception) there is no difference between a problem caused by the process (slamming) and one caused by the systems (ELTs).

50.   The significance of this data revealing the customer's perception is particularly relevant to this review when Ofcom's own data reveals that one of the biggest barriers to switching is the perception that the process is more difficult than it is in reality. If we discover that that perception is negatively influenced by actual ELTs then, it appears to us that it is incumbent on Ofcom to address this.

51.   The Switching Working Group ('SWG') have run a series of workshops to assess how the approach to WLTOs can be adapted for each of the alternative approaches to switching, with the additional aim of reducing ELTs. It is our view that Ofcom's preferred approach to switching (the GPL TPV process) will not significantly reduce the issues in the area, but that enhancing the LPL TxC ALT approach as discussed at the recent workshop, has real merit. We await the results of further work being undertaken in this area.

The NoT letter

52.   In our experience (which we have shared with Ofcom in the past) we have often found that the customer has not received the NoT letter from the losing provider. This could be due to a number of reasons, for example, failure on behalf of the losing provider to send the letter or failure of the postal system (i.e. letters becoming lost in the post). In addition, unless a change is made to clearly label the envelope to alert the consumer to the fact that their home phone or fixed broadband service is being switched; instances whereby consumers fail to open the letter will persist. The result being that they will simply put the envelope in the bin or recycling without even opening it in the belief that it is marketing mail (which now accounts for a larger proportion of the mail received through consumer's letter boxes every year). This demonstrates the need to review how consumers should be informed about the

switch and whether there are more meaningful and effective methods of communications that can be used in place of, or in addition to, the letter.

53.   The NoT letter is also open to interpretation. O2's interpretation is that we have a duty to be transparent and honest with the customer. If they are no longer within their minimum contractual period and the account payments are up-to-date we clearly advise them that they do not owe us any money and they are free to leave. If the minimum term has not yet been reached or payments are due, then we tell them and ask them to contact us. It's possible that other providers may have different interpretations and therefore the experience may be inconsistent between CPs.

54.   We also think that the mandatory 10 day lead time associated with the NoT process can unnecessarily slow down the switching process. Customer expectations are high and we believe that there is an opportunity to speed up the process and improve the speed of switching for the benefit of the customer.

55.   It is clear that deficiencies exist with the current systems and processes, but we would question whether they exist to the extent that there is market failure that requires costly structural regulatory intervention. It would seem appropriate to first understand the full and accurate extent of problems and look closely at whether intervention is required, and if it is, then carefully consider the application of the least intrusive mechanism to address such issues.

56.   ELTs are an example of a persistent real world problem that, in our experience, can either be exacerbated or prevented (depending on the circumstances) by the migrations process that sits on top of it[11]

57.   In our experience, the existing NoT fixed line migrations process fails to provide customers with the information they need effectively, as it is relies on a medium of

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[11] We have experiences of customers who have read and responded to the NoT letter and, by doing so, have managed to stop and impending erroneous transfer of service. However, we also have more numerous examples of the NoT letter failing to adequately notify the recipient of an impending transfer.

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communication that is unreliable and largely irrelevant to most of today's customers – the letter.

58.   Customers don't always read, receive, or pay attention to, the letters they receive and the NoT process's dependence on using a letter as a means of communication to deliver important information is outdated and inefficient. We believe that more modern and faster methods of communication such as email and SMS would provide a better customer experience, or as a minimum, be used to supplement the letter.

59.   We agree that the current NoT process can lead to ELTs and loss of service due to the reliance upon CLI and address matching information which in some circumstances does not provide sufficient information to positively identify and validate the asset. Without tacking this fundamental shortcoming, this problem is likely to persist and potentially become worse in the future when next generation fixed line services are rolled out which have multiple services provided over a single 'line' going into the same building. ELT's must be prevented by accurate validation of the customer's identity, consent, and asset(s) to switch, *prior* to the order being placed. By moving to an LPL approach, the accuracy of identifying and validating the asset will improve as it is carried out by the existing CP.

Insufficient customer consent and slamming

60.   We agree that slamming is an undesirable practice which can cause significant consumer harm and we strongly believe that an effective migrations process should protect against slamming. In order to provide robust protection the switching process must be capable of accurately validating the consumer's identity and confirming their consent to switch, *prior* to the order being placed. In addition the asset validation method must be able to correctly identify individual services that may be provided over the same underlying network.

61.   We agree that GPL processes lead to a greater risk of slamming than LPL processes and we believe that this provides a logical basis upon which to consider the application of an LPL process in favour of a GPL one. The implementation of an

effective process that minimises slamming as a preventative measure is preferable to total reliance upon enforcement after the event.

62.   Whilst we do not dispute that slamming takes place, we have some concern about the reliability of the data presented by Ofcom in relation to the extent of slamming. Ofcom define 'slamming' as, "*an extreme form of mis-selling, where customers are simply switched from one company to another without their knowledge or consent. Forms of slamming can include, for example, passing off (i.e. where representatives claim to represent a different company to the one they are actually working for), and customers being told they are merely signing for information and then being switched to another provider*"[12].

63.   Ofcom's research conducted by Saville Rossiter-Base asked decision makers whether any of their phone, internet or TV services had been switched to another provider in the last 12 months without their express knowledge or consent.   The findings were that 2% had experienced this practice which Saville Rossiter-Base say is referred to as 'slamming'.[13]   The research stated that the actual number of decision makers with any experience of 'slamming' in the last year totalled 112 of all the respondents surveyed (2008) and concluded that there was limited scope for further analysis of this group.

64.   With no analysis of the cause of the unintended switch it is not possible to determine if these are cases of behavioural slamming/mis-selling or in fact system related ELTs. Our experience has shown that a significant number are likely to be ELTs which are caused by underlying systems problems related to asset validation and the home movers process. We do not believe that they are generally caused by a lack of consent on the part of the customer or with any intent on the part of the gaining provider. We therefore do not believe that the implementation of a TPV process would resolve this problem.   Instead an effective back-end code-based asset validation system, is the key to reducing ELTs and the majority of associated 'slamming' cases.

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[12] Section 6.1.2, Ofcom Consumer Experience Report 2011
[13] Section 7.1, Saville Rossiter-Base, Consumer Switching and bundling Report 2010

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65.	Positive responses to the survey question which asked if services had been switched to another supplier without the consent of knowledge of anyone in the household, have not been proved to be attributed to behavioural slamming. There are various other reasons why this could have taken place including ELTs, customer confusion (both of the question and the circumstances around the switch they experienced) and disagreement or lack of communication between those living within the same premises.

66.	Ofcom estimate that implementation of an LPL TxC (ALT) model would reduce slamming by 95% - more than the reduction estimated with the proposed TPV model. We believe that this demonstrates that a costly TPV front-end process is simply not required in order to reduce levels of 'slamming' dramatically and we therefore question why Ofcom propose to introduce a model that is less effective and adds unnecessarily high costs for a validation process which is not required.

67.	We do not believe that Ofcom's 'slamming' figures accurately represent the level of slamming present in today's market. Without further research to validate these figures and their underlying causes, it is misguided to believe that a front-end validation process will resolve this issue when in our experience, the majority of these such cases are in fact ELT's caused by back-end system deficiencies which is where the focus should be on making improvements.

68.	We believe that Ofcom's evidence is not robust and slamming is being mixed up with ELT's which have a different cause. [✂]

69.	Ofcom's slamming research 2010 found that approximately 1.8% of households had experienced an actual home phone or fixed broadband slam in the last 12 months[14]. Subsequent research in 2011 found that approximately 2.5% of households had experienced a fixed voice and/or broadband slam in the last 12 months[15]. Ofcom states this corresponds to 650,000 households experiencing a slam in the last year.

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[14] Bespoke calculation by Saville-Rossiter Base based upon the data from the consumer research 2010
[15] Bespoke calculation by Saville-Rossiter Base based upon the data from the slamming research 2011

We believe this figure is misleading and does not accurately reflect the true picture of slamming. Extrapolation of these figures through a bespoke calculation cannot be relied upon to produce an accurate figure that would be representative of the UK. Furthermore there has been no root-cause analysis conducted on the data to establish the accuracy of the categorisation as a 'slam' or identify the true reason behind instances of unintended switching.

70. We believe that further research and investigation is required to establish the true level of slamming and the extent of ELT's that are mis-categorised as slamming. We are pleased that Ofcom plans to carry out further analysis during 2012 as part of its broader mis-selling work to help provide further insight into the incidence of slamming. We agree that forensic analysis of Ofcom's fixed line mis-selling and slamming complaints is required to help determine the root cause and test the extent to which complaint data can be relied upon when assessing consumer harm. We believe that this analysis, if conducted thoroughly, will demonstrate that most 'slamming' is in fact not intentional but instead due to ELT's caused by deficiencies in systems and data.

71. We believe that it is important to have an accurate understanding of the level of slamming which currently exists within the market but this does not yet appear to have been clearly established. This casts further doubt on the foundations upon which Ofcom have used to support a proposal to implement a TPV process. Such a process is heavily based upon a stated need to protect consumers from slamming but the extent of the problem has not yet been accurately established.

72. [✂]

73. We note that reported levels of slamming have reduced considerably in recent times. Ofcom's own complaint data shows that there has been a significant decrease in complaints about slamming. This demonstrates that reductions are achievable without the need for expensive structural intervention. Ofcom states that it expects to deliver a possible further reduction in consumer complaints about slamming with

continued active enforcement.[16] We believe that Ofcom has an important role to play in the enforcement of intentional behavioural slamming.   We think that practical enforcement measures are a more efficient and proportionate way to combat the problem and deliver benefits to consumers, as opposed to a proposal to introduce a costly and complex TPV model which will ultimately increase the overall time and cost required to switch and deliver a potentially inferior consumer experience.

74.   We have concerns about the quality, accuracy and extent of the evidence Ofcom has presented in relation to the extent of the problem of slamming within the home phone and fixed broadband market.   Inaccurate estimation of the problem has a direct impact upon the assessment of the proposed models and critically the robustness of the associated estimated costs and benefits.   Without a clear and accurate picture of slamming, it cannot be concluded that there is a sound and justified requirement to implement a model that is designed to prevent slamming.   Other problems related to switching such as asset validation and the provision of timely information to consumers about the implications of switching are more extensive and important aspects that require addressing.

Lack of awareness of the implications of switching

75.   We believe that it is important for consumers to have information about the implications of switching *up-front* and *before* they place their order with the gaining provider. We agree with Ofcom that consumers should be in a fully informed position when making their decision on whether to switch.   They should be made aware of any possible liabilities before they switch provider so they can factor this into their decision making to ensure they avoid incurring unexpected ETCs after they have switched.

76.   O2 undertook research to understand more about consumer's opinions on switching home phone and fixed broadband services[17].   We wanted to ask a range of

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[16] Section 4.131, The Consultation

[17] O2 Research on consumer's opinions of switching home phone and fixed broadband services, April 2011

consumers (both our customers and those of other CPs) how they felt about some of the proposals, and understand the key aspects of the switching process that were important to them.

77. The research group comprised members of O2 'Join-In'; an online community of consumers with different backgrounds and interests who are customers of various CP's including O2. The initial participation group consisted of 488, which was then reduced to a sample of 211 as a result of selecting only those who had indicated they had switched home phone or fixed broadband within the last 3 years.

78. We asked consumers to rank five features of the switching process in order of importance. Figure 5 shows that the most important aspect was identified as being able to understand what costs would be incurred before placing an order with a new provider.

Figure 5: Importance of switching features[18]
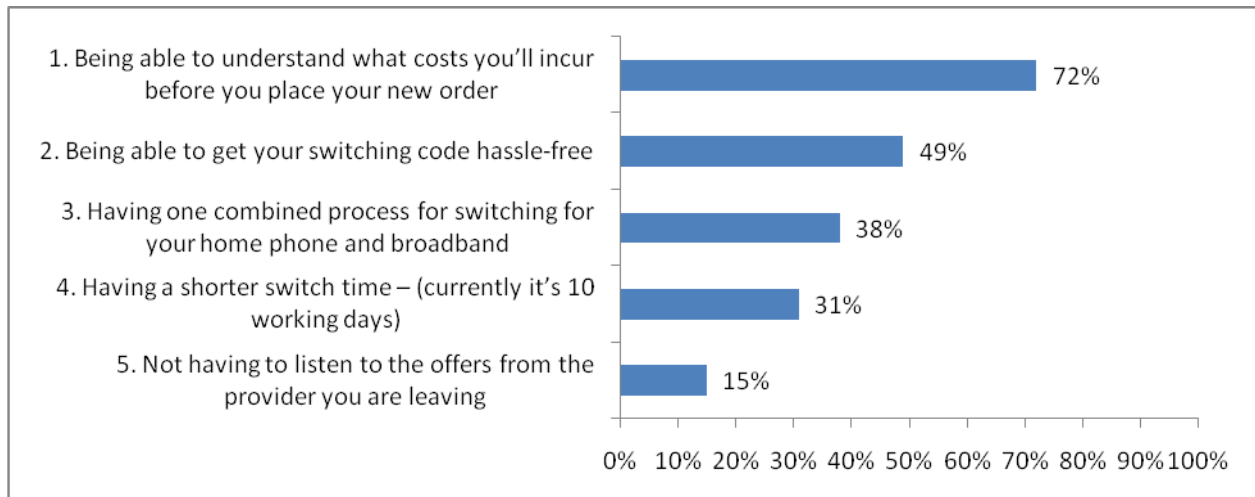
79.   These research findings, along with our experience in the market, show that the provision of information such as ETCs and awareness about services which may be affected by the switch are key pieces of information which are integral to the switching process and should be made available to the consumer at the earliest stage. Consumers strongly express a desire to be able to clearly understand about the implications of switching before they commit to switch and the order has been placed with the new provider.

80.   Where evidence demonstrates that the lack of clarity of contractual arrangements is a real world problem for switchers, then we believe it should be addressed. The current situation whereby customers generally only receive such information after they have placed their order with the gaining provider is a fundamental flaw of the existing NoT process and of GPL processes in general, resulting in increased cancellations, additional calls for the customer, and extra costs for CPs.

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[18] O2 Research on consumer's opinions of switching home phone and fixed broadband services, April 2012

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81. The untimeliness of the provision of this information can often result in customers changing their mind when they have been made aware of the key facts, but as awareness has taken place too late; this creates significant work for CP's in order to stop the order resulting in an inefficient process and poor customer experience.

82. We believe that customers using the existing GPL NoT process to be made aware of ETCs are hindered from making well informed switching decisions more than customers using the LPL MAC (and PAC) process. This information, together with our experience, leads us to conclude that:

    i. customers benefit from knowing the implications of switching in specific detail,

    ii. they like having an opportunity to change their mind once they have considered those implications and

    iii. losing providers are, usually, in a better position to deliver that information.

Other forms of hassle

83. We agree that a switching process should be easy for customers to use, and rely on the least number of touch points (made by both the customer and CP) for consumers to be provided with the information they require to make a fully informed decision and to ensure the process is effective and reliable.

84. It is unlikely that the customer will care how complicated the migrations process is behind the scenes, as long as it works and appears to be simple for the customer. Whilst Ofcom may have considered the 'hassle' of multiple processes, from the customer's perspective of switching home phone and fixed broadband packages, it appears as one process – it is irrelevant to customers that the MAC is required only for their fixed broadband and not the home phone service.

85. We agree that some of the steps involved in switching providers that may be perceived as hassle by consumers are intended to protect them from harm later in the process, for example customer authentication and asset validation. It is vital that these important steps are not weakened or removed from the process in favour of a misguided attempt to eradicate perceived hassle.

86. Given the evidence that the vast majority of consumers that have switched do not agree that processes are a hassle and do in fact think that it is not difficult to switch, there is nothing to suggest that actual hassle is a significant enough issue to warrant intervention. Therefore we would argue it is 'perceived' hassle; and whether this respective 'hassle' can be resolved without the need to change the process itself.

87. Ofcom's research has found that, of the difficulties perceived by inactive consumers, it appears that informational issues outside the migrations process (searching for information, knowing what steps to take), were considered to be the highest rated difficultly amongst inactive switchers[19]. Apart from any awareness campaign that might be launched alongside any changes, it is not clear how changing the switching process to a gaining provider or losing provider led model would make it any easier for customers to search for information or know what steps to take.

88. The majority of switchers rate the process of making contact with providers in order to make the switch as "easy". In fact for the MAC/PAC process 94% stated they did not find it difficult to make contact with providers[20]. This clearly demonstrates that any hassle perceived with contacting the losing provider is just that – perceived and not actual. When in fact the reality is the reverse and the overwhelmingly majority rate the process as easy.

89. Furthermore the majority of decision makers rate the process of getting their existing supplier to give them the necessary information to be able to switch as easy. With 86% of fixed broadband and home phone customers indicating it was not difficult.

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[19] Figure 22; Saville Rossiter-Base, Consumer Switching and Bundling September 2010
[20] Section 4.6, Saville Rossiter-Base, Consumer Switching and Bundling Sept 2010

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Figure 6 shows that 99% of consumers did not have difficulty obtaining a MAC when trying to switch their broadband service in the previous 6 months during 2011.[21]

Figure 6: Whether the respondent has experienced a problem in the internet market in the last 6 months[22]
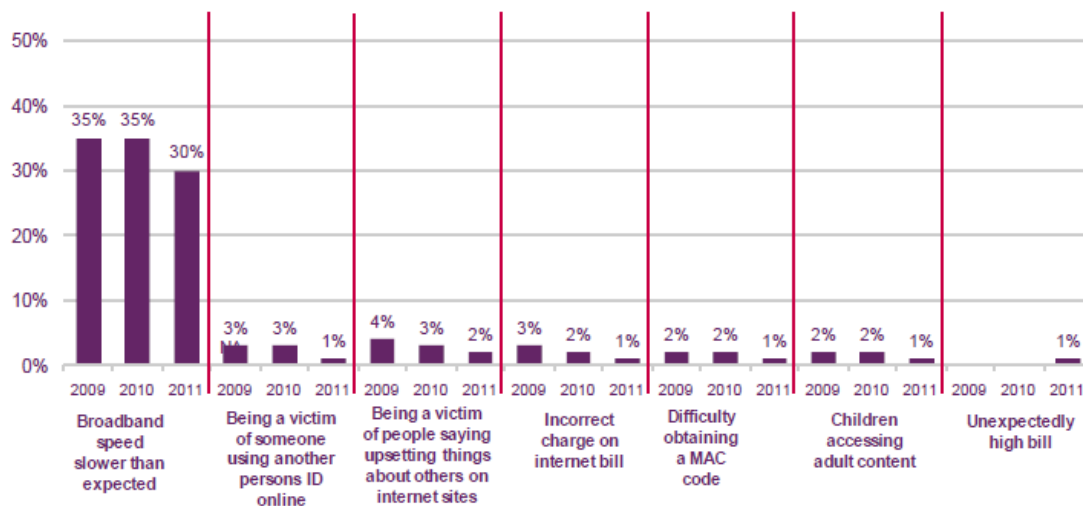
90.   This demonstrates that consumers have a straightforward experience when obtaining a MAC code and LPL code-based models do not create unnecessary hassle for consumers.   This view is supported by Ofcom's own qualitative research commissioned by YouGov which also found that for the MAC process, in the majority of cases the old supplier was very helpful and efficient.[23]

91.   In addition to switching the wrong services (caused by weak asset identification), the hassle of scheduling engineer visits (where manual intervention is required to effect new line installs), delays (where engineer resources fall short) and open-ended timeframes (where the delays and resource constraints are not managed effectively) are significant issues which consumers face and will persist regardless of which high-level switching process Ofcom may seek to impose.

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[21] Section 6.2.1, Ofcom Consumer Experience Report 2011
[22] Section 6.2.1, Ofcom Consumer Experience Report 2011
[23] Section 3, YouGov Broadband Consumer Qualitative Research 2011 slide pack

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Reactive save and its impact on competition

92.   We believe it is time to dispel the myth that a losing provider led process is bad due to save activity being permitted, and a gaining provider led process is good as save activity is prohibited. Save activity can benefit consumers if it means achieving low prices and high quality with less switching costs and hassle. However, we agree that customers should be able to avoid it should they wish to do so. In such cases it is likely that the customer is highly dissatisfied with their existing provider and a long call will only exacerbate that. We believe that this issue should *not* be driving the choice of process and that it is important to weigh up all costs and benefits of the process. In any case, banning reactive save will not prevent general save activity within a GPL process, so any effects are unlikely to be realised in practice.

93.   Our consumer research on switching home phone and fixed broadband services[24] found that when asked to rank five key features of the switching process in order of importance, avoiding save activity was found be the least important of all five features (see Figure 5). Being able to understand what costs would be incurred before switching was seen as the most important factor. Consumers felt that having a single switching process, or a shorter lead time were both more important than the avoidance of losing provider save activity.

94.   Ofcom acknowledge that in other subscription markets, customers may often contact their losing provider in order to cancel the service.[25] It is a common practice in many subscription markets that service providers make counter-offers to consumers who are considering switching or are in the process of doing so, without this necessarily raising competition or regulatory concerns.[26] In fact, Ofcom's own consumer research in 2010 found that a large majority of consumers who were subject to save

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[24] O2 Research on consumer's opinions of switching home phone and fixed broadband services, April 2011
[25] Section 5.11, The Consultation
[26] Section 5.11, The Consultation

activity reported a positive experience with the practice.[27] The Saville Rossiter-Base research found that 90% of customers indicated they were not put under any pressure by their existing provider when switching[28]. This demonstrates that concern over unwanted pressure is not significant in a code based LPL process. The vast majority of consumers have a good experience when contacting their existing provider.

95. We do not support Ofcom's assessment that an LPL process is less favourable because it 'builds' save activity into the process. The absence of an unbiased and full consideration of the customer empowerment and welfare benefits of negotiating with providers leads us to believe that customers can, and do, gain value from the opportunity to get a better deal with their existing provider if that is offered to them.

96. Ofcom suggests that the LPL MAC process does not support competition, but this is not borne out by the evidence of healthy and robust competition in the UK market. It is not useful for this review to assess only the theoretical impact of the processes, whilst ignoring how these processes are working in practice.

97. We do not agree that reactive save activity dampens competition[29], the market is highly competitive and levels of consumer satisfaction are high. We do not believe that Ofcom has provided robust evidence to demonstrate that save activity results in any negative impact on competition which would justify the need for the level of intervention proposed.

98. Ofcom's own research demonstrates that save activity is generally ineffective and the majority of customers do not listen to save offers.[30] Non-price reasons such as dissatisfaction with the existing provider, is an example of a key reason for switching which is unlikely to be affected by save activity. The lack of effectiveness of save offers means that, contrary to Ofcom's view, CPs are unable to rely on this activity to

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[27] Section 5.94, Ofcom's Strategic Review of Consumer Switching, Sept 2010
[28] 6.4, Saville Rossiter-Base, Consumer Switching and Bundling Sept 2010
[29] Section 7.112, The Consultation
[30] Page 42, Consumer switching and bundling research, Saville Rossiter-Base, Sept 2010

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effectively segment customers who are likely to switch and target them accordingly, rather they are compelled to compete for all customers.

99.   Ofcom cites "empirical evidence" to support concerns about reactive save. In the September 2010 consultation Ofcom presented evidence from a new entrant who acquired customers through both the LPL and GPL NoT processes. This provider collected data from a single week's worth of sales in April 2010. This provider found that of 45 sales which were keyed in and required a MAC code, 10 (22%) became customers. We believe this evidence is flawed on several counts, firstly we do not believe that a single week's sample can be validated as being an accurate representation of the true picture of sales. Data from other sales periods and across a longer timeframe would be necessary to form any kind of accurate picture and as such this data cannot be relied upon. Furthermore there are a number of other factors (such as a poor sales flow or credit checking) which could have a direct effect upon a weak sales conversion and it cannot therefore be concluded with any certainty that reactive save was a factor in each case.

100.   This evidence is also contradicted by Ofcom's own research which found that 51% of fixed broadband customers using the NoT process who contacted their losing provider were given a save offer. This aligns with 53% of consumers who used the MAC process[31]. The similarity between these figures for the two different processes demonstrates that the evidence provided by the new entrant provider for just one week's sales cannot be relied upon and does not support the claim that an LPL process is problematic for competition.

101.   We believe that attempts to ban save activity would work against the interests of the consumer, removing their control and the benefits that it can offer in terms of value propositions. An outright prohibition would make little difference to competition as CP's are likely to move to longer minimum contract periods, and introduce a greater number of retention offers to either pro-actively approach the customer just prior to the expiry of the contract period, or stimulate the consumer into contacting them prior

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[31] Ofcom Broadband consumer research 2011

to, or during the switching process. Furthermore reactive save offers are often constructed to replicate competitive acquisition offers; as such a prohibition on save offers could actually dampen competition through weakening acquisition offers.

102. Save activity has always been a contentious topic. O2 supports Ofcom's view that unwanted and aggressive sales techniques are inappropriate and unacceptable in any circumstances. However, we are not convinced that it is appropriate for this review to only consider consumer activity within the context of the LPL process (i.e. where "*the save offer is prompted by the losing provider systematically becoming aware of a consumer's intention to switch before the switching actually takes place*"[32]).

103. Unless it is specifically prohibited, retention activity, which may lead to the competition dampening effects of which Ofcom is concerned, could occur in all switching environments whether part of the switching process (delivered whilst trying to obtain a MAC) or not (during a 'cooling off' period before the switch is completed). Both circumstances provide opportunities for providers to identify consumers who are actively thinking about leaving. Consequently, we do not consider that a gaining provider led option is the correct counter-factual. However, in this review, the debate about the relative merits or faults of save activity is being used as evidence of the support or lack of confidence in the LPL system only.

104. We think that it may be more useful to consider how save activity, when it features in either LPL or GPL processes, can be managed to ensure that it is not aggressive or unwanted, but does deliver the information that they value along with an opportunity to negotiate with their existing (or potential) supplier, which they also value. Ofcom's latest amendment to General Condition 18 (mobile number porting), demonstrates that it is perfectly possible to address concerns in an efficient, and effective manner.

105. Save offers are prevalent in today's GPL switching process, Ofcom's broadband consumer research 2011 found that three quarters (77%) of broadband switchers contacted their losing provider when not required to do so under the existing NoT

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[32] Section 5.44, Ofcom's Strategic Review of Consumer Switching, September 2010

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process[33]. We believe this demonstrates that the implementation of a GPL TPV process would not prevent save activity.

106. Ofcom admits that *"…..we would be less concerned if validation requests (e.g. requesting a MAC / PAC) turned out not to be the expression of a credible intention to switch"*[34], but fails to present any evidence that it has investigated the intention of requestors of MACs. We note that consumer websites actively promote negotiating in this way. [✂]

107. Ofcom has assessed the economic theory of 'save activity', the opportunities it offers for providers to price discriminate and its theoretical impact on the market and on competition in great detail, leading to the overall conclusion that *"…the existence of price discrimination between new and existing consumers can be an indication of switching costs….."*[35] and that "*the increasingly growing literature on switching costs generally lends support to the view that switching costs dampen competition"*[36] and is, therefore, bad.

108. We note, however, that economic theory can be presented in many different ways. Ofcom argues the negative competitive effects of price discrimination, preferring a flat pricing model, but they fail to consider competing theories that test the broader welfare and efficiencies argument that favours price discrimination - namely that *"…flat pricing may have perverse consequences: forcing a producer to sell to everyone at the same price may sound like a good idea. But it can easily end up encouraging the producer to sell only to the high end of the market. Differential pricing gives the producer an incentive to supply the product to everyone who is willing to pay the incremental cost of production."* [37]

109. Our view is that Ofcom's consideration of price discrimination is unbalanced and incomplete. In the face of empirical evidence of the customer empowerment and

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[33] Slide 14, Broadband Consumer research 2011
[34] Section 5.82, Ofcom's Strategic Review of Consumer Switching, Sept 2010
[35] Section 5.40, Ofcom's Strategic Review of Consumer Switching, Sept 2010
[36] Section 5.29, Ofcom's Strategic Review of Consumer Switching, Sept 2010
[37] http://firstmonday.org/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/473/394

welfare benefits of negotiating with providers, we cannot support Ofcom's assessment that an LPL process is less favourable because of save activity.

OPTIONS UNDER ASSESSMENT

No change to existing processes

110.　In our experience existing switching processes generally work well. This is backed up by a significant amount of evidence and consumer research which finds that overall, the vast majority of consumers who have switched in the past said that they considered it to be "very" or "fairly" easy to do so.

111.　We understand however, that existing processes are not perfect; there are specific issues that would benefit from being addressed which are mostly focussed on backend system deficiencies. Examples of which are weak asset identification leading to ELT's, the home mover process, flaws in the existing GPL NoT process, and ensuring the timely provision of information to consumers regarding the implications of switching.

112.　We agree with Ofcom that in light of the ability to make improvements, a decision to 'do nothing' will clearly not address existing problems going forward and it should therefore be discarded as an option.

Enhance existing MAC and NoT process options (unharmonised)

113.　Our experience shows that the existing MAC process works fairly well by providing upfront validation to establish the customers consent to switch which protects against slamming. The process also provides a good level of accuracy in terms of identification of the actual asset to be switched, and has the clear benefit of being able to provide consumers with early awareness of the implications of switching.

114.　We also know that in practice, the existing GPL NoT process works far less efficiently and effectively than the LPL MAC process. Letters are not an effective means of communication and there are fundamental problems which we have already outlined

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including weak asset identification leading to ELTs, and a lack of upfront validation of customer consent due to the inherently flawed nature of the GPL NoT process, which results in an inability to prevent slamming.

115.   We believe that there is scope for tactical fixes to be made to the existing processes that could bring about improvements and provide benefits to consumers within a relatively short implementation period. For example, Ofcom could require MPF providers to support the optimal switching processes that are available rather than allow them to choose not to use them to the detriment of other CPs and consumers.

116.   However the proposal to retain the NoT process alongside the MAC process would mean that problems would persist with the NoT process including slamming, poor asset identification and the untimely provision of information to consumers.

117.   As a result, we believe that ultimately a move away from a GPL NoT process (enhanced or otherwise) is likely to be required in order to bring significant improvements to the switching process and tackle ELTs, increase efficiencies, and provide consumers with early awareness of the implications of switching and protection against slamming.

118.   Taking a forward looking view, in terms of providing a long-term solution which would fundamentally address existing problems we agree with Ofcom that enhancing the existing NoT and MAC processes (unharmonised) will not *fundamentally* address existing problems going forward and it should therefore be discarded as an option which would provide a long term solution.

Enhance existing NoT process and harmonise for all switches

119.   Whilst enhancing the existing NoT process could bring about some improvements as a result of tactical fixes, and deliver a consistent switching approach in the form of a single harmonised process, it suffers from the same flaws as the previous option. It will still result in enduring problems and fail to provide sufficient improvements to tackle the key issues that currently exist.

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120.   This option would continue to rely on CLI and address matching for asset identification which continues to be an inaccurate method which is likely to persist in causing problems and be incompatible with the increased roll out of fibre products.

121.   It would not involve the introduction of the TxC facility - something that we believe could be key to ensuring accurate asset validation throughout the supply chain. We therefore think it would be a mistake to proceed with such an option. It would not solve any of the existing problems caused by back-end systems deficiencies that lead to ELTs and would not benefit from use of the TxC system to support the WLTO process for home movers.

122.   Furthermore this option would have no upfront validation process such as that which exists with LPL processes, so not only would asset validation not be improved sufficiently, but validation of the customer consent will remain weak due to the inherent flawed nature of the NoT and GPL processes which are unable to prevent slamming.

123.   A harmonised NoT process would also fail to adequately provide the timely provision of information to consumers regarding the implications of switching such as ETCs and service changes.

124.   We agree with Ofcom that enhancing the existing NoT process and harmonising it for all switching will not fundamentally address existing problems and it should therefore be discarded as an option.

GPL TxC process (harmonised)

125.   We agree that the GPL TxC should not be a preferred option for implementation. The GPL TxC process lacks upfront validation and will not prevent slamming. In fact

Ofcom estimates that slamming would actually increase by around 8% per year which would result in additional costs and harm to consumers.[38]

126. We believe that implementation of a process that would increase problems rather than reduce them, would be misguided at best. Ofcom's cost/benefit analysis (which uses cost data inputs provided by consultancy firm CSMG), has shown that this option would result in a negative annuitised net present value of between -£0.3m and -£1.2m per year[39] and we do not therefore see the merit or value in its implementation.

127. The GPL TxC process would involve the creation of a large scale inter-provider hub containing a centralised database which we believe would result in inefficient and disproportionate set-up and operating costs to CPs. These costs would ultimately be passed onto consumers, and result in a system that is still potentially unreliable and prone to error.

128. The provision of information such as ETCs and awareness about services which may be affected by the switch are key pieces of information which are integral to the switching process and should be made available to the consumer at the earliest stage. However in the GPL TxC process, such information would come too late as it occurs after the decision has already been made to switch. This will result in an increase in the level of changes of mind on the part of the customer to switch and is another fundamental flaw of this process option.

129. As a result of these limitations, we believe that the implementation of a harmonised GPL TxC process will not fundamentally address existing problems and it should therefore be discarded as an option.

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[38] Section 7.66, The Consultation
[39] Section 7.149, The Consultation

GPL USN process (harmonised)

130.   The GPL USN model would suffer from many of the same problems that the GPL TxC process would. For example, the provision of information such as ETCs and awareness about services which may be affected by the switch would come too late in the process as it occurs after the decision has been made to switch, resulting in an increase in the level of 'changes of mind' on the part of the customer and is a fundamental flaw of this process option.

131.   It would also similarly involve the creation of a large scale inter-provider hub containing a centralised database which we believe would result in an inefficient and disproportionate cost to CPs and result in a system that is still potentially unreliable.

132.   We believe that it would create more hassle for consumers who would have to retain and provide multiple (and lengthy) codes for each service they wished to switch. Such a 'code on bill' system, whilst potentially suitable for a single service, is not well suited to multiple services due to the added complexity and potential for transposition error. We have concerns over this complexity, especially in light of the fact that we have invested a great deal of time and effort in simplifying bills for our customers, having achieved award winning status for customer satisfaction in this respect.[40]

133.   In addition it is not well suited to the retail environment where many customers would not have access to their code and would be unable to initiate the switching process causing frustration and hassle, resulting in a poor customer experience.

134.   Whilst the GPL USN process does provide an element of upfront validation, we believe it will not protect against slamming – something that Ofcom has also recognised. We agree with Ofcom that gaining providers could take USNs for services which the consumer does not intent to switch. The USN could also be obtained by unscrupulous CPs through a door-to-door sales process under the guise

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[40] BroadbandChoices 2009 Customer Satisfaction Award Winner for 'Billing Clarity',
BroadbandChoices 2010 Customer Satisfaction Award Winner for 'Clarity of Pricing/Billing',
BroadbandChoices 2011 Customer Satisfaction Award Winner for 'Clarity of Pricing/Billing'

of 'verifying details' when consent has not been provided to switch. As a GPL process it does not provide a reliable or efficient way to protect against slamming.

135. CPs would also have to make significant changes to CRM and billing systems in order to enable the capability to store and display the USN on the customer's bill.

136. As a result of these limitations and costs, and the fact that Figure 7 shows implementation is anticipated to only produce a very marginal annuitised net present value of between £0.3m and £3.6m[41], we believe that the implementation of a harmonised GPL USN process will not fundamentally address existing problems and it should therefore also be discarded as an option.

Figure 7: Summary of quantitative costs and benefits for each option (£m per year)[42]

Option	2b – GPL TxC	2c - USN	2d - TPV	3a-b – LPL TxC and LPL ALT
Benefits				
Back end system deficiencies				
Reduction in consumer costs due to ETs	0.5-1.1	0	0.5-1.1	0
Reduction in CP cost due to ETs	2.9	0	2.9	0
Customer consent				
Reduction/increase in consumer cost due to slamming	-0.4 - -0.1	1.2-3.5	1.4-4.2	1.5-4.4
Reduction/increase in CP cost due to slamming	-0.9	8.4	10.1	10.7
Reduction in consumer cost – no need for Cancel Other[273]	0.1	0.2	0.2	0.2
Reduction in CP costs – no need for Cancel Other	0.9	0.9	0.9	0.9
Implications of switching				
Reduction in consumer harm due to better information about ETCs	0	0	0	0.4
Varying and unnecessary switching costs/hassle				
Decrease/increase in time spent on the switching process (consumer)	0.5	-0.6	-0.5	-1.4
Reduction in consumer cost – no abuse of Cancel Other	0.03	0.03	0.03	0.03
Reduction in CP costs - no abuse of Cancel Other	0.1	0.1	0.1	0.1
Total benefits (consumers)	*0.8-1.6*	*0.7-3.1*	*1.7-5.1*	*0.7-3.7*
Total benefits (CPs)	*3.0*	*9.4*	*14.0*	*11.6*
Total benefits[274] (consumers and CPs)	***3.8-4.6***	***10.1-12.5***	***15.7-19.1***	***12.4-15.3***
Costs				
Implementation costs for CPs (annuitised)	4.8	8.4-9.4	11.4	7.6-7.7
Annuitised NPV[275]	***-1.2- -0.3***	***0.3-3.6***	***3.8-7.1***	***4.2-7.2***

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[41] Section 7.149, The Consultation
[42] Section 7.149, The Consultation

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GPL Third Party Validation (TPV)

137. We do not support Ofcom's preferred proposal for the implementation of a GPL TPV model as a long term solution to the problems identified with current switching processes. The GPL TPV model does not support upfront validation of the customer's intent to switch, nor does it provide the customer with key information on the implications of switching *prior* to the order being placed. Awareness of the implications of switching (ETCs and service changes) comes too late in the process as it occurs *after* the decision has been made to switch.

138. We believe the TPV proposal is a misguided and costly attempt to prevent slamming which will not deliver the improvements anticipated or provide a good customer experience. It fails to address the most important and enduring problems with switching in an efficient and proportionate manner.

139. The TPV model is the most costly of all options; the proposed creation of a third party body and an inter-provider hub containing a centralised database would be a very costly investment both in terms of set-up and ongoing maintenance. Whilst the exact funding model is still relatively unclear in terms of which parties would be required to contribute and how this would be apportioned across industry, what we do know is that these significant extra costs are likely to create a disproportionate burden to industry and ultimately be passed onto consumers as a result. This is likely to drive down competition especially for smaller or 'challenger' CPs as their margins will come under pressure as a result of these additional costs, and create a barrier to new entrants in the market. We strongly believe that such a proposal is not justified on the basis of the evidence Ofcom has provided.

140. For an inter-provider hub and centralised database to work it would have to contain details of all consumer home phone and fixed broadband connections. This is likely to be somewhere in the region of 24m fixed residential landlines and 20m fixed broadband connections. This would require data collection from a vast number of CPs and would be a highly complex exercise to undertake. Capturing such large

volumes of data would be a considerable task and require a long implementation period.   It also raises serious concerns around efficiency, data security and robustness.

141.   The TPV process requires that a third party organisation be provided with access to customer's confidential and sensitive personal data.   This raises a number of concerns and risks in relation to data protection (especially in light of the new EU Data Protection Regulations) and well as customer perceptions and experience. Implementation would require communicating this radical change of process to consumers and gaining their consent for their data to be passed to the TPV body. This in itself could be viewed as a hassle for consumers and act as a barrier to switching.   It would also require an additional switching process to be available for use in the event customers declined to provide their consent.   Consumers are now increasingly aware of the implications and dangers of handing over their sensitive data to organisations (especially those they do not have a current contractual relationship with) and the potential risks that it can pose.

142.   O2 undertook research to understand more about consumer's opinions on switching home phone and fixed broadband services[43].   We asked consumers to select from a number of options to describe how they felt about their details being passed to an independent third party to validate their identity and check that no one was changing their service without their permission.

143.   Figure 8 shows that almost half (49%) of consumers expressed concern or were unsure about the necessity of sharing their details with a third party.   Only a minority (11%) felt reassured that the risk of slamming would be reduced, and only 7% were reassured that it would be in their interest.
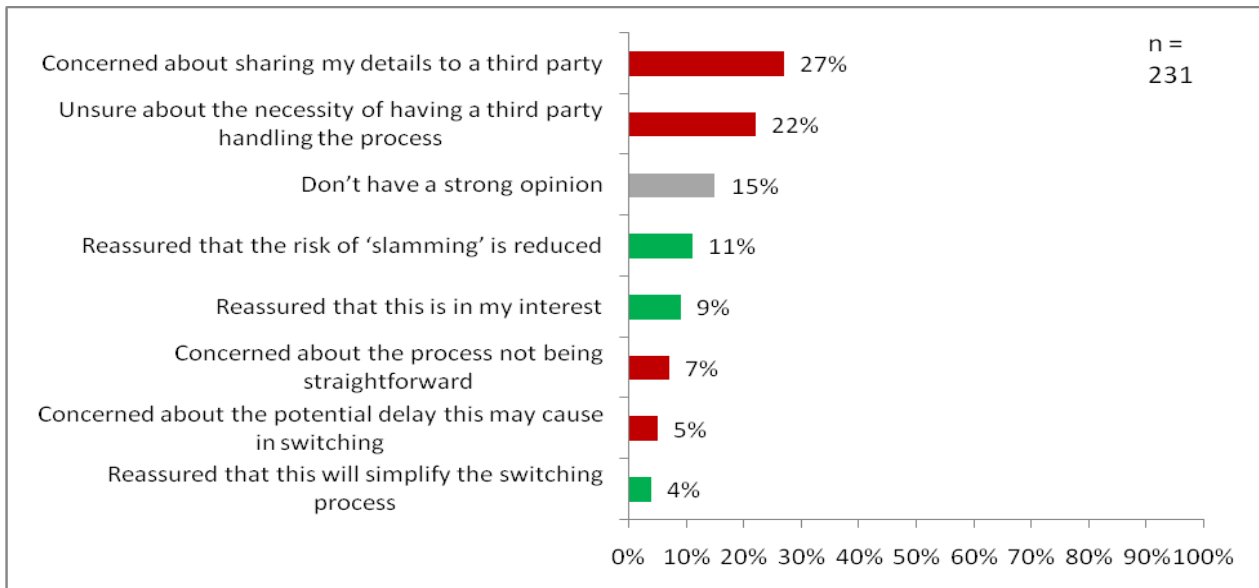
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[43] O2 Research on consumer's opinions of switching home phone and fixed broadband services, April 2012

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Figure 8: Consumer's feelings about passing their details to an independent third party to validate their identity and check that no one is changing their service without their permission[44]

144.   These research findings show that consumers are concerned about sharing their details with a third party and are reluctant to do so. We believe that this demonstrates a need to consider a more straightforward process that avoids and additional parties and unnecessary data sharing.

145.   We do not agree with Ofcom's assumption that the introduction of a TPV process would reduce cost to consumers associated with making contact with their existing provider, due to avoidance of the need to make such contact in a GPL process.[45] Ofcom's broadband consumer research 2011 found that three quarters (77%) of broadband switchers contacted their losing provider when not required to do so under the existing GPL NoT process[46]. As a result it cannot be concluded that a GPL

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[44] O2 Research on consumer's opinions of switching home phone and fixed broadband services, April 2012
[45] A8.74, The Consultation
[46] Slide 14, Broadband Consumer research 2011

process such as TPV will result in customers avoiding contact with their existing provider leading to cost savings when compared to an LPL process.

146. The creation of an inter-provider hub and centralised database would only serve to replicate existing data from a source which already contains erroneous data. In addition CPs would be burdened by having to regularly maintain the database with details that have changed and would be required to add new records and delete old ones on an ongoing basis.

147. It is also not clear that the TPV centralised database would be able to validate the customer in all instances, as some CPs may use additional systems and data to pinpoint assets and verify that they are in fact talking to the correct customer.

148. Conversely the enhanced LPL TxC approach being discussed in the SWG Offline Workshops would only require details to be held for in-flight switches which would have a fixed expiry period within which they can be activated. This is a far more efficient and streamlined solution that would also be significantly cheaper to set-up and maintain. It is likely to be virtually error-free due to the fact the losing provider would only add a transfer request when the customer requests it. Accuracy would be superior to a TPV inter-provider hub and centralised database since the losing provider will be clear that they are switching the correct customer and asset as they are being billed for that service.

149. We believe that the TPV model would be significantly more expensive to set-up and implement than the LPL TxC (ALT) option due to:

    i.   The increased complexity of involving a third party agent within what has evolved to become highly automated systems and processes

    ii.   The increased cost of setting up systems and processes to encrypt data which might be sent to the inter-provider hub / centralised database

iii.   The cost of notifying consumers that their sensitive personal data would be stored by a third party

150.   Whilst it is clear that the estimated cost of implementation of a TPV process would be very high, there has only been limited information provided in regard to technical specifications and likely implementation process upon which to base these estimates. Even taking into account the fact that industry estimates of the cost were around 23% higher than those calculated by CSMG, actual costs of implementation are likely to be higher in reality due to additional costs that have not been anticipated which arise in most major projects of this scale. This likelihood has the resulting impact that net benefits are reduced in the cost/benefit analysis.

151.   In addition we note that during the normalisation process, CSMG only removed costs and did not add any. CSMG therefore concluded that the industry assessment of costs may in fact underestimate the cost of implementation[47].

152.   [✂]

153.   The CSMG report found that both TPV models were estimated to have significantly higher ongoing costs than the USN and LPL TxC models. This is primarily due to the cost of paying for a third party agent to validate each customer switch. In addition the cost of implementation was also higher due to the requirement to construct a new inter-provider hub containing a centralised database as well as greater changes to CPs existing systems and processes.

154.   In fact, the cost of the TPV model over a 10 year period is over £90m more that the LPL TxC model. Industry was not asked to provide costs for the alternative TPV model which did not require the gaining provider to remain on the line whilst the validation was completed. As such the accuracy of the CSMG figure cannot be assessed with an industry view of costs but we believe it is likely that the cost of the

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[47] Section 4.34, CSMG Report on Switching Options: An Assessment of Potential Costs, 9 September 2011

alternative TPV model would still exceed the costs of the TPV model by at least £60m.

155.   We find this dramatic increase in cost concerning, especially in light of the fact that it is Ofcom's preferred option to implement. Such costs represent a disproportionate burden to industry and we do not believe their imposition is justified.

156.   We believe that the payment by the gaining provider of a TPV fee (estimated at around £2.70) for each sale is not only a disproportionate step in an attempt to prevent slamming but also represents a significant burden to CPs in challenging economic times. It is also likely to put smaller CPs (and larger CPs who have relatively small home phone and fixed line customer bases) at a disadvantage and act as a barrier to entry to by increasing customer acquisition costs and distorting the market.

157.   We are also concerned that the CSMG report identifies the TPV fee is assumed to have a 33% profit margin[48]. Not only would the TPV model burden industry with significant costs but it would result in a TPV body profiteering from each switch that a consumer makes. We would question the logic of this and like to understand further the rationale behind such a proposal and how it would meet Ofcom's aims to minimise switching costs and benefit consumers.

158.   CSMG concluded that "It is inherently difficult to estimate the potential costs in transitioning to a new switching process. Despite the level of engagement from industry during the SWG process there remains insufficient data to accurately represent the costs of every retail provider...[49]. We believe this conclusion casts a significant and fundamental doubt over the cost/benefit analysis which cannot be relied upon to justify intervention in the form Ofcom propose.

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[48] Footnote 6, Section 1.16, CSMG Report on Switching Options: An Assessment of Potential Costs, 9 September 2011

[49] Section 7.1, CSMG Report on Switching Options: An Assessment of Potential Costs, 9 September 2011

159.   The 10 year cost of the proposed TPV model is estimated by industry to be between £128 and £156m. This is between £62 and £90m more expensive than the industry estimate of £66m for the LPL TxC model. This difference represents a vast cost burden which we do not believe is justified or proportionate. CSMGs calculations estimate that the benefit of a TPV model over 10 years would be between £157m and £191m. This is compared to an estimated benefit of £124m and £153m for the LPL TxC model. The difference (if we assume the calculations are correct) is between £33m and £38m. We do not believe it makes sense for industry to be forced to fund between an extra £62m to £90m in order to realise an additional £33m to £38m over 10 years, and we would question the logic behind such as proposal.

160.   We believe that the TPV experience would not be customer friendly and result in a cumbersome and disjointed process particularly in the retail environment which is not designed for such a conversation over the phone. It will also undermine trust in the gaining provider. It will add considerable time to all sales journeys (not just in the retail space) as the customer will need to go through the repetition of validation by providing his credentials, confirming what they want to switch and providing their consent. This is a similar experience to how some companies operate today whereby the customer is passed around and asked the same questions again; something that is the cause of so much irritation to consumers. This kind of inefficient and repetitive process is likely to frustrate customers, is not conducive to a good sales experience and could undermine the trust in our brand and individual relationship that we have with our customers and potential customers. This would negatively impact upon the customer's perception of the gaining provider at a time when first impressions are of vital importance. The customer may also have questions following the TPV validation that the TPV agent will be unable to answer; this could lead to a higher drop-out rate and require the customer to contact the gaining provider, again adding an unnecessary additional touch point to the process.

161.   Under the proposed TPV process the customer needs to confirm with the TPV agent that they give their consent to switch. For phone, retail and door-to-door sales this will be done through a conversation with the TPV agent which is estimated to take

approximately 5 minutes. For online sales this is proposed to be done via a web form which is estimated to take approximately 1 minute.[50] If a TPV agent is not available due to a high demand or the conversation takes longer than anticipated, this is likely to cause frustration and hassle for customers and sales to be dropped. We also believe that the online method is unlikely to be able to be robust in terms of validation of the correct asset and will not be able to prevent instances of ELTs.

162.   The TPV process will result in a longer lead time due to the mandatory 10 day switchover period. This contrasts with the LPL TxC (ALT) process which is faster and more efficient due to the fact the customer provides their consent upfront and can place their order at the same time so the switch is initiated earlier in the process. We believe that maintaining this additional and unnecessary length of time is likely to cause additional frustration to consumers as evidenced with the current NoT process.

163.   We do not agree with Ofcom's estimation that the TPV model would reduce ELTs by 80%.[51] We believe that this is founded on a misguided belief that the overwhelming majority of so called 'slamming' cases are behavioural, when in fact a significant amount are actually not intentional but rather ELTs caused by back-end systems deficiencies.

164.   Since most of the difference between the benefits of TPV compared to LPL TxC (£3.3m-£3.8m) result from these savings this weakens the benefit case of the TPV model further and strengthens the case for the LPL TxC (ALT) solution. Using the costs provided by CSMG we conclude that it does not make sense to spend an extra £62m-£90m to realise an extra £7m-£10m over 10 years, this clearly demonstrates that a TPV model would be misguided and disproportionate.

165.   It is not clear how the high cost will be funded in its entirety. The cost to set up the TPV body in addition to creating new systems and infrastructure, employing staff and carrying out training will be high, and a complex and substantial task to undertake. It is likely to entail higher (and additional costs that have not been accounted for) due

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[50] Section A8.72, The Consultation
[51] Section 7.26, The Consultation

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to the nature of such a large project. In addition ongoing compliance would need to be set-up to monitor the TPV agents call handling and record kept to ensure that data was processed in an accurate and compliant manner.

166.   The provision of information such as ETCs and awareness about services which may be affected by the switch are key pieces of information which are integral to the switching process and should be made available to the consumer at the earliest stage. However in the TPV process, such information would come too late in the process as it occurs after the decision has been made to switch. This will result in an increase in the level of changes of mind on the part of the customer to switch and is a fundamental flaw of this process option.

167.   Implementation of a TPV process would create an additional touch point for consumers that does not exist today. This extra stage is not only unnatural and creates a disjointed feel to the switching and sales process but would increase switching costs and hassle for consumers – two key aspects that Ofcom is keen to tackle. As such we do not see how a TPV process provides an efficient method of switching or delivers a good experience for consumers

168.   O2 strongly believes that implementation of a TPV process would create a disproportionate burden for CPs. Ofcom must ensure that the regulatory burden is minimised and act with a bias against intervention. The high levels of switching in the market together with the overall satisfaction recorded by consumers when switching providers underpins our belief that implementation of an intrusive TPV process would not meet Ofcom's legal duties to act with a bias against intervention and to choose the least intrusive means to achieve their objective.

LPL Transfer Code (TxC) ALT Option (industry variant)

169.   We agree that the special features of the communications sector give the losing provider an important role in the switching process. We strongly believe that the early involvement of the losing provider is vital in order to correctly identify the asset which needs to be switched to avoid problems such as ELTs. The losing provider is

in a far better position to conduct this identification and validate the consumer's intention to switch.

170. GPL processes lead to a greater risk of slamming than LPL processes and we believe that this provides a logical basis upon which to consider the application of an LPL process in favour of a GPL one. The implementation of an effective process such as the LPL TxC (ALT) model will result in strong upfront protection against slamming through the provision of a code. This acts as a preventative measure making it highly unlikely that a switch can take place without the express knowledge or consent of the customer. This is likely to be more effective than a TPV process, and preferable to reliance upon enforcement after the event.

171. The LPL TxC (ALT) model protects against slamming and provides a reliable and cost effective upfront authentication of the customer and validation of their intention to switch. Accurate and reliable identification of the assets is ensured even where no CLI is available, also providing a future proof system for fibre services.

172. We believe that it is important for consumers to have information about the implications of switching *up-front* and *before* they place their order with the gaining provider. We agree with Ofcom that consumers should be in a fully informed position when making their decision on whether to switch. They should be made aware of any possible liabilities before they switch provider so they can factor this into their decision making to ensure they avoid incurring unexpected ETCs after they have switched. The LPL TxC (ALT) model works best for consumers due to its ability to fully inform them about the implications of switching before the order is actually placed.

173. We support the concept of the Transfer Code to underpin the LPL TxC process which can improve current switching processes by acting as a reliable asset validation tool and can be used to support WLTOs in a stable manner. Our involvement in the SWG has concluded that with some modifications the LPL TxC (ALT) approach

would substantially reduce ELTs in the home mover scenario and can be adapted to cater for WLTOs.

174. The LPL TxC (ALT) model would be far less costly to implement and to run, there would be no requirement for an inter-provider hub or complex centralised database holding sensitive information on all customers and their services, and no TPV body to fund. The LPL TxC (ALT) system would only require details to be held for in-flight switches which would have a fixed expiry period within which they can be activated. This is a far more efficient and streamlined solution. It is also likely to be virtually error-free due to the fact the losing provider would only add a transfer request when the customer requests it. Additional safeguards could also be built in to avoid erroneous switches being invoked as part of fraudulent account takeovers.

175. Obtaining a code within this process would be straightforward and could be done via a dedicated IVR option and online web request system provided by CPs which would allow the consumer to obtain a code in a quick and efficient manner and confirmation could be provided in a more effective way through SMS or e-mail. This would also reduce the risk of fraudulent switches and ELTs. The solution could also be implemented within a shorter timeframe than that of a more complex model, providing more immediate benefits to consumers.

176. Unlike GPL processes, the losing provider notification only serves as confirmation and is not critical to process, so switching lead times could be reduced providing a faster and more efficient switching experience.

177. The LPL TxC (ALT) option would address the existing situation whereby multiple processes are used for switching the same type of service. By having a single switching process it will reduce customer confusion, create efficiencies and avoid any potential distortion of competition.

178. As we have discussed earlier we do not subscribe to the theory that LPL processes that allow save activity necessarily create harm for consumers or competition. We believe that save activity can be beneficial to consumers and no not believe that the

negative effects on consumers and competition that Ofcom have suggested reflect the true picture with today's highly competitive market.

179. The LPL TxC (ALT) process would provide the opportunity for consumers to benefit from offers of low prices with less switching costs, placing the customer in control and providing key improvements to today's switching processes. It is a more proportionate solution and avoids excessive cost to industry and the likelihood of those cost being passed onto consumers.

180. We believe that ultimately a move away from a GPL NoT process (enhanced or otherwise) is likely to be required in order to bring significant improvements to the switching process and tackle ELTs, increase efficiencies, and provide consumers with early awareness of the implications of switching and protection against slamming. We believe that of all the harmonised options presented, the LPL TxC (ALT) solution offers a far more proportionate, robust, efficient and cost effective long-term solution to the current problems and will provide a better all-round experience for consumers ensuring a safe, easy, reliable and efficient switching solution.

CONCLUSION

181.   We are pleased that Ofcom has recognised the existence of valid problems with the current switching processes and the need for a reliable and accurate asset validation system to underpin the switching process in the longer term.

182.   Changes to existing switching processes have the potential to create a fundamental impact for both industry and consumers alike for some time to come, so it is vital that the decisions made as part of this review process are beneficial to consumers, based upon sound evidence, and any intervention is proportionate and justified. We agree that it is important to assess how potential changes will affect the future landscape of the market as a misguided decision could create new problems which do not exist today and impact negatively consumers.

183.   Ofcom has proposed the changes it ought to implement and examined options for regulatory intervention which would require amendments to the General Conditions. In doing so Ofcom must satisfy the duties and tests set out in the Communications Act 2003.

184.   We note that in order to amend the General Condition, any successful proposal must have regard to:

i.   The principles of transparency, accountability, proportionality and consistency and of ensuring that actions are targeted only at cases in which action is needed[52].

ii.   The desirability of promoting competition as well as encouraging investment and innovation in relevant markets[53]

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[52] Section 3(3) Communications Act 2003
[53] Section 3(4) Communications Act 2003

iii. The interests of those consumers (whose interests Ofcom is seeking to further) in respect of choice, price, quality of service and value for money[54].

185. In addition, any revised condition must be objectively justifiable, non-discriminatory, proportionate and transparent.[55]

186. The principle of proportionality requires that any action by Ofcom shall not go beyond what is appropriate and reasonably necessary to achieve their stated objectives. Also, where a choice exists between equally effective measures that might be adopted to address a problem, recourse should be had to the least onerous measure that will achieve the stated aim.

187. We are concerned that should Ofcom continue along its current path, it will be unable to demonstrate that it has met its duties under the Communications Act 2003, to have regard to the principles of transparency, accountability, proportionality and consistency and of ensuring that actions are targeted only at cases in which action is needed[56]. The decisions that may arise from this review must rest on solid foundations such that they can withstand any legal test or challenge. To do so requires profound and rigorous analysis at this stage. We feel that the present consultation falls some way short of that.

188. It is established law that Ofcom's analysis must delivered "*with appropriate care, attention and accuracy so that their results are soundly based and can withstand the profound and rigorous scrutiny*" [57]. In this context that means that Ofcom's impact assessment and costs benefit analysis must be based on sound evidence.

189. We question whether the evidence that Ofcom has relied on when gathering information about existing problems, and the inputs to the cost benefit analysis are reliable, and if not, they lead to a cost benefit analysis that is unreliable and not of a sound basis. We believe that the slamming figures Ofcom has presented are not

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[54] Section 3(5) Communications Act 2003
[55] Section 47 Communications Act 2003
[56] Section 3(3) Communications Act 2003
[57] http://www.catribunal.org.uk/files/Judgment_1094_180908.pdf

accurate, resulting in the cost reduction calculations being skewed in favour of a positive outcome which is unlikely to be realised and a cost of implementation which is therefore unjustified.

190. We do not think that it is possible to deliver a sound impact assessment based on hypothetical processes designed for an artificial environment. We believe that the technical specification for the proposed inter-provider hub containing a centralised database falls short of the required standard by which industry is able to fully provide accurate and realistic responses in terms of potential costs. CSMG concluded that despite the level of engagement from industry during the SWG process there remains insufficient data to accurately represent the costs of every provider.[58] This means that the existing consultation process is not effective as it does not enable industry to provide sufficiently informed view on the likely costs of the proposal.

191. We believe it is important that Ofcom should also take account of the current challenging economic environment that we currently face and is likely to be with us for some time. We are acutely aware of the fact that the conclusions reached by this review will require industry to be diverted away from developing and providing services that consumers want, or other initiatives that might have a more defined consumer benefit. It is vital that Ofcom consider the wider opportunity cost of pursuing this revolutionary approach to migrations, where an evolutionary approach may deliver a more successful and efficient outcome.

192. We are conscious that not much time has passed since Ofcom assessed switching within the mobile market and the outcome of which was a conclusion that investment of the scale proposed was not justified or based upon sound evidence. Ofcom needs to ensure it does not make the same mistake twice. We urge Ofcom to ensure that it does everything in its power to ensure that this review does not suffer the same fate Ofcom's decision on mobile number portability, and that all decisions are supported by sound evidence which has been interpreted correctly and held together with a thorough, clear and accurate impact assessment.

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[58] Section 7.1, CSMG Report on Switching Options: An Assessment of Potential Costs, 9 September 2011

193.   We are concerned that Ofcom continues to apply a narrow assessment of losing provider led and gaining provider led processes with a clear bias in favour of gaining provider led due to a desire to exclude the losing provider from the process in order to avoid reactive save activity. We believe taking such a narrow view would be both inefficient and risks missing the opportunity to ensure that action is targeted only at cases where it is needed.

194.   Ofcom is seeking to attempt to resolve underlying problems through a new and improved process which we fear will be ineffective and a waste of valuable time and resource. We are concerned that Ofcom's preferred option for a TPV process will not fix the real enduring problems that exist today and will instead create a significant burden for CPs and a poor consumer experience.

                                        END