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Date: 30 September To: Shaun Kent

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Consultation Response

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Consumer Switching

Which? exists to make individuals as powerful as the organisations they deal with in their daily lives. We are now the largest consumer body in the UK with almost 800,000 members: we understand consumers and what makes them tick. We operate as an independent, a-political, group social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. We plough the money from our commercial ventures back into our campaigns and free advice for all.

Introduction

Telecommunications are important services for consumers and are increasingly considered essential. As consumers continue to increase their usage of these services it is vital that these markets work well for consumers. One important feature of well-functioning markets is the ability of consumers to switch providers easily and quickly when they desire, ideally achieving the best available deal for their circumstances. Switching plays an important role in promoting competition amongst retailers and helping drive innovation. Therefore we welcome Ofcom's consultation on consumer switching.

We take this opportunity to highlight similar issues around ineffective competition in the domestic Energy retail market that we have highlighted over the last 5 years. There was insufficient action to address the issue, hampering effective competition. As a result, despite two reviews of competition in the energy retail market, in March this year the Energy market was referred to the Competition and Markets Authority. We urge the Telecoms sector not to follow in these footsteps and take strong action now to deliver markets that work for consumers as well as industry.

We urge Ofcom to also include fibre and wireless broadband services in this next phase of work. Despite there being lower take up of these services, consumer demand for these is growing, and as discussed below, we consider multiple switching processes in telecommunications to be potentially confusing to consumers. This in turn may undermine competition.

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We agree with Ofcom's characterisation of the switching processes and practices for the networks outlined in its consultation. We also agree that the issues identified from switches on the Openreach network may be relevant to switching across other areas. The aspects we consider to be extremely relevant to consumers are: consumer difficulty and unnecessary switching costs, such as time wasted during retention offers; and the lack of consumer awareness about the implications of switching, such as early termination charges.

Gaining Provider Led Switching and Competition

There are several characteristics of the current switching regime across all telecoms markets that are undermining the effectiveness of competition, and as a result delivering poor outcomes for consumers.

Currently, many switches rely on cease and re-provide (CR) practices whereby consumers must contact their current and new providers simultaneously to terminate their old contract and activate their new one. Unnecessary switching costs arise for consumers when they must spend time calling their provider, often being subjected to sales pressure known as reactive save activity. For consumers who have made up their mind to switch, reactive save activity may be viewed as unnecessary hassle or a waste of time.

We believe the switching processes across telecommunications markets are in need of urgent reform and we urge Ofcom to move quickly to implement gaining provider led switching (GPL) quickly and uniformly across the entire market. GPL is standard practice across most other EU countries where it appears to work well. We believe it would significantly reduce consumer hassle and would drive forward competition, as described below. It would also diminish hassles around sim locking, as discussed below.

Haggling

Currently, competitive offers seem to be reserved for new customers or those who attempt to switch, with existing customers often losing out. Our research shows consumers who threaten to switch are usually offered preferential deals in order to stay. In a Which? home telecoms investigation almost half of people surveyed had tried to haggle for a better deal on their digital TV subscription (which usually include other home telecommunications like landline and broadband).¹ Those who did negotiate a better deal saved on average £157 a year. In a similar investigation looking at mobile phone haggling, respondents who were successful at negotiating saved on average £106 a year.² These sums represent significant savings. It also highlights the lack of value in a market that is supposed to be open and competitive.

While consumers who haggle often end up better off, the process can be annoying and time-consuming. Although many respondents said haggling was easy, a separate Which? survey revealed 35% of respondents who had contacted their mobile phone provider to ask for a deal agreed that it was hassle to get their provider to offer a "special" deal.³

Retention offers made to consumers who threaten to switch are effectively subsidised by the supplier's remaining customers who pay higher prices. If consumers did not have to contact

¹ Which? public survey of 2,232 people, May-June 2013.

² Which? public survey of 765 people, September 2013.

³ Which? public survey 2064 people, February 2014.



their existing provider before switching, there would be more incentive for suppliers to focus on retaining customers at all parts of the journey rather than the end-point. We would expect this to result in better value deals for all consumers, with prices harmonising across customers of the same supplier. This would also do away with the need to spend time and effort dealing with the hassle of haggling.

Confusion

One of the unnecessary switching costs is confusion around how to switch. It is possible that confusion be exacerbated by the patchy reform to switching processes in the broadband market that Ofcom is currently implementing. Ofcom has only ruled that a new GPL switching process be applied to broadband switches on the copper-based portion of the Openreach network only. Table 1 in the consultation document highlights the many different paths consumers can take when switching, with the process being dependent on both the technology the consumer is moving from and to.

While this information may be straightforward to suppliers, consumers may not be aware of the exact technology nor the wholesale supplier underpinning their broadband connection. Indeed consumers do not take out contracts with Openreach, but with the various retail suppliers who use the Openreach network. Additionally, to exclude fibre connections when there is a growing proportion of households adopting this service seems counterintuitive from the consumer's point of view. The lack of a single switching process across the entire broadband market could potentially heighten consumer confusion over how to proceed in the event they want to switch. Therefore we strongly urge Ofcom to implement GPL switching to the remaining sections of the broadband market, including fibre, to create a single regime.

Similarly, we would argue that a single switching regime across the entire telecommunications industry would further alleviate confusion around the process of switching. Increasingly, consumers view broadband, landline, TV and mobile as complementary services. The take up of bundles of the first three services has risen significantly over the last few years and Mintel forecasts the volume and value of telecommunications bundles to continue increasing.⁴ Mintel research also shows that by November 2013 7% of people had a “quad” bundle which includes mobiles. As these services are increasingly grouped together, it is important that the switching processes be uniform to encourage consumer confidence around switching. We urge Ofcom to move quickly to adopt switching reforms across the landline, mobile and pay TV markets, as well as to all telecommunication bundles.

One issue with GPL switching is that the consumer may not be aware of, for example, exit fees. If consumers choose to switch while they are still in the minimum term period of their contract, they will be subject to early termination fees. These could be significant depending on the duration left on their contract, and depending on how much they are paying towards equipment subsidies such as mobile handsets. As such, it is important that mechanisms will be in place to ensure that consumers know exactly what their obligations and rights are, including any financial commitments they still have.

⁴ “Bundled Communications Services - UK”, Mintel, January 2014.



Sim Locking

Other unnecessary switching costs arise from the need for consumers to unlock their mobile sim if they wish to keep their handset and contract mobile service from a different provider. Unlocking fees vary by provider and can be up to £20. However, even where there are no unlocking fees, the time taken to receive an unlock code can be an unnecessary switching cost. Some consumers may find sim-locking complicated or time consuming and this can act as an additional barrier to switching.

In Which? research, 77% of people with a mobile phone said that it's frustrating that phones need to be unlocked to use them on a different network.⁵ Furthermore, 31% of people on a mobile contract would like to be proactively told they have the option to unlock their phone when coming to the end of their contract. While respondents did not report why they stated the above, it is reasonable to consider that for some consumers, the process of unlocking handsets causes a further hindrance in the process of switching. It may mean that some are not confident switching to sim-only deals which work out much cheaper than contracts which include handsets.

Providers should unlock phones automatically and for free as soon as consumers reach the end of their minimum contract term. It should be noted however that if the switching regime were changed to become GPL, it would follow naturally that sims would need to be unlocked automatically by the supplier as soon as a switching request is made by the gaining provider to enable GPL to function smoothly.

Consumer Engagement

The factors contributing to consumer confusion and hassle come together to create a further impediment to consumer switching: the perceived complexity of switching may deter consumers from engaging to their full potential. It is well known from behavioural research that the more information a consumer has to take into account when making a decision, the more heuristics and behavioural biases come into play, and therefore the less predictable and less 'rational' individual decision-making becomes.⁶ In particular, when faced with complex choices, people tend to operate under 'bounded attention' in which they select some information to pay attention to and ignore other bits of information.⁷ Which information is given importance in decision-making is not necessarily the most rationally important but depends on a number of heuristics and biases that affect the way that people approach decisions. Essentially, excessive or complex product information can 'freeze' consumers' decision-making, so they end up deferring a decision or basing their choice on incorrect or less relevant information.⁸

We are currently conducting qualitative research into the consumer switching journey in the mobile market and will share further insight from our findings when they become available.

⁵ Which? public survey 2064 people, February 2014.

⁶ See for example, B Schwartz (2004) *The Paradox of Choice - Why More is Less*, New York: Harper Collins,

⁷ G Loewenstein, C Sunstein & R Golman (2013) 'Disclosure: Psychology Changes Everything' Regulatory Policy Program Working Paper, RPP-2013-20. Cambridge, MA: Mossavar-Rahmani Center for Business and Government, Harvard Kennedy School, Harvard University

⁸ CGAP, Applying Behavioural Insights to Consumer Protection policy



Other Factors to Improve Consumer Switching

While we consider that much improvement would be gained by implementing GPL switching, there are other factors that could be improved within the current regime to improve the consumer experience in the interim.

Suppliers should provide their customers with adequate notification of their contract end date to encourage engagement and action. In Which? research half of people on a mobile contract (53%) said they would like their mobile provider to proactively tell them the date their contract comes to an end as they're coming towards it; and a fifth (21%) say they are not sure when their mobile contract comes to an end.⁹ This reminder could prompt consumers into taking action and potentially switching deals.

Other elements that could help consumers include measures to improve the call centre experience - something most consumers will contact when cancelling or switching contracts. For example this should include ensuring calls are answered in a timely manner so that consumers are not put off from cancelling. We have heard anecdotal evidence of consumers who have delayed or put off cancelling their mobile contracts due to long phone wait times.

While switching processes are important, so is the quality of the switch. Although not directly related to the mechanics of the switching process itself, we believe there is room for improvement in terms of information remedies and other solutions that would encourage consumers to make better quality switches. These may include tools or prompts to help consumers engage and switch, but also to switch onto deals that are better for them. Better deals could mean a package that is suited to the consumer's actual consumption while providing better value, or it could be around ensuring consumers are able to properly evaluate the quality of the service they are contracting for. We are currently conducting research to inform this in the mobile sector and will share our results when available.

Which? September 2014

⁹ Which? public survey 2064 people, February 2014.