



Ofcom strategic review of consumer switching

Communications Consumer Panel Consultation Response

1. Summary

The Communications Consumer Panel is a panel of independent experts established under the Communications Act 2003 to advise Ofcom, Government and industry on the interests of consumers and citizens in the communications sector. This is our response to Ofcom's consultation on consumer switching.

Effective and unified switching processes are vital to the competitive health of the UK communications sector. To ensure that consumers continue to receive a good deal in terms of quality, choice and value for money, we need Ofcom and industry to develop a switching regime that it is fit-for-purpose in five years' time and beyond. We have moved beyond the point where incremental improvements to existing processes will be sufficient to meet consumers' needs. To this end, we want to see a clear decision now to move all switching processes to gaining provider-led and we would like to see this decision implemented as quickly as possible.

The Panel has been engaged with Ofcom's work on switching for a number of years. We wrote to Ofcom in June 2009 in response to its proposals to reduce fixed line mis-selling and while welcoming the proposals, called on Ofcom to look strategically at the issue of switching and to work towards unified switching processes across all communications services. The Panel has also provided advice to

the Ofcom Board and participated in various stakeholder workshops to help ensure that the perspective of consumers is built into Ofcom's approach.

Therefore, we support Ofcom's decision to make improving switching processes one of the nine priorities in its Annual Plan for 2010/11. We welcome the fact that Ofcom is reviewing the different switching processes that have evolved over time, and highlighting the absence of switching processes for some services. We also welcome Ofcom's intention to look strategically at how the interests of consumers, including small businesses, would be served best. We also support Ofcom's ongoing work to tackle contractual, process and information barriers to switching.

In the Panel's view, it is vital for Ofcom's review to be founded on a clear understanding of how the market and consumer behaviour is developing. This should enable Ofcom to put in place a switching regime that will keep pace with changes in the sector and be fit for purpose well into the future. We welcome, therefore, Ofcom's statement in paragraph 2.26 of the consultation document that it will, "consider whether the current regulatory regime will deliver good outcomes for consumers and competition in the future given the increasing trend towards bundling and infrastructure-based competition."

The current regime is clearly not sustainable. We are particularly concerned that current switching processes will not keep pace with the trend towards increased bundling of services, including pay TV services. Consumers are buying bundles of communications services in increasing numbers and, as the consultation document highlights, the services that make up these bundles often have different switching processes or no switching processes at all. This will become more of an issue as convergence continues and competition intensifies. Two key developments are the launch of IPTV services such as YouView and the rollout of next-generation broadband services.

Ofcom's strategic aim should be unified switching processes for all communications services. Otherwise, consumers with bundles will face substantial problems in switching providers. We note the evidence that there is a substantial gap between consumer expectations and reality. Consumers assume that it will be easy to switch

a bundle of services and are unaware that there is not a seamless switching process. As more consumers reach the end of their existing contracts and try to switch, there is likely to be a lot of frustration with the currently uncoordinated switching processes. We expect that a significant number of consumers will be discouraged from switching bundles because of the complexity of the processes and the confusion that results. This would mean reduced competition and a worse deal for consumers across the board. It would also be likely to lead to an increase in consumer complaints to both communications providers and Ofcom.

As we explain below, the evidence which Ofcom has gathered points clearly to the conclusion that gaining provider-led switching processes work best for consumers. So we support Ofcom's view that gaining provider-led processes should be the model for all switching processes. We do not have detailed views on how these processes should be designed; it will be for industry to develop these processes, with the help of strong leadership from Ofcom and input throughout from consumer representatives to ensure that the processes are designed around consumers' needs.

In relation to the costs of moving from the current switching processes to new processes, we think it is important to compare these costs with the benefits for consumers and small businesses, and the long-term dynamic benefits that will result from more pro-competitive processes.

The Panel concludes that it is vital for Ofcom to make a clear decision now to move all switching processes to gaining provider-led. We would not want to see this issue reopened when Ofcom moves on to deal with mobile, pay TV and cable services.

We note that Ofcom has been working on improving switching processes for many years already. Consumers now require rapid action. So it is essential that this project continues to receive priority and we urge Ofcom to explore how the proposed timetable for completing this work could be compressed. It is hard to accept that Ofcom will not be able to start reviewing the switching processes for mobile, pay TV and cable services until 2012. One option would be to review the

processes for switching these other services in parallel with the ongoing work on fixed-line and broadband services.

2. The need for unified switching processes

More strikingly, triple-play voice, broadband and TV bundles now account for a third of all bundles. Seventeen per cent of households took triple-play services in Q1 2010, compared to just 3 per cent five years ago. And there is the prospect of further growth in triple-play bundles because only 40 per cent of the homes that have a fixed-line, broadband and pay TV currently buy these services in a bundle.

The Panel recognises that many consumers with bundles have not reached the end of their initial contracts yet. As a result, there is limited empirical evidence that the trend towards consumers buying bundles of services will lead to increased problems with switching and a detrimental effect on the level of competition. But we can anticipate with reasonable certainty that when consumers do try to switch bundles of services they will encounter significant problems. Ofcom market research shows that consumers do not realise that switching away from a bundle involves different processes and contact with a number of different service providers. Instead, consumers expect to be able to contact only one service provider before being able to switch. There is also some evidence that consumers with a bundle, particularly a bundle of three services, are less likely to switch in future because, for example, they have TV programmes stored on the hard drive of a set-top box. This makes it even more important that switching processes do not provide a barrier to switching.

There is also increasing infrastructure competition, with network providers competing to supply next-generation broadband services. This is significant because at the moment there is not a seamless process for switching from, for example, BT to Virgin Media. Consumers have to cancel their BT service and place an order with Virgin, with the risk that they will have a gap in service.

In the Panel's view, these market developments mean that Ofcom's goal should be a set of unified switching processes which mean that for consumers there is a

straightforward and reliable way of switching a single service or a bundle of services regardless of the provider or providers that they are switching to or from. Ofcom should pre-empt the consumer harm that is visible on the not too distant horizon. It is clearly in the interests of consumers in the communications sector to move towards a unified set of switching processes for all services.

3. The value of gaining led-provider processes

At the moment there is a confusing mixture of different switching processes, and in some cases there are no switching processes at all. Moving to a system of unified processes will involve choosing between two main options: losing provider-led services; and gaining provider-led services.

The Panel supports the principles that Ofcom has developed in collaboration with consumer groups and industry to help decide between losing provider-led and gaining provider-led processes. In the table below we have set out our own analysis of the extent to which gaining and losing provider-led processes fit with these principles and would be in the interests of consumers. We have drawn on the evidence which Ofcom has gathered: a review of the economic research literature; the findings of an academic workshop; experimental research that it has carried out with consumers; consumer research; and a survey of switching processes in other EU countries.

Principle 1: minimise switching costs	Favours gaining provider-led processes	Losing provider-led processes involve more hassle because consumers have to contact their existing as well as their new provider. Losing provider-led processes can lead to delay as losing providers can put off providing the authorisation code that a consumer needs in order to switch. So gaining provider-led processes involve lower switching barriers.
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Principle 2: protect against slamming	Favours losing provider-led processes, but gaining provider-led processes can be designed in a way that reduces the risk of slamming	Two per cent of consumers have experienced slamming in the past 12 months, according to Ofcom’s research. It is important, however, to distinguish between intentional slams and process-related slams that arise, for example, as a result of faults in the process designed for people who are moving home. Whereas switching processes do have an effect on the level of intentional slams, they do not influence the level of process-related slams. We note that Ofcom’s discussions with providers about the root causes of slamming complaints suggest that process-related slams could account for a significant proportion of the total. So we welcome Ofcom’s further work to better understand the root causes of slamming complaints. This should provide a clearer picture of the consumer harm caused by intentional slamming and ensure that Ofcom can take action to reduce slamming across the board as well as designing switching processes that minimise the slamming risk. We note that there is already an important safeguard built into the losing provider-led Notification of Transfer switching process, which applies to most fixed-line and some broadband transfers. This is known as the ‘cancel other’ process, which significantly reduces the number of actual as opposed to attempted slams. At the moment, gaining provider-led processes appear to carry a higher risk of slamming. However, based on Ofcom’s analysis of other sectors and international experience, we are reassured that it is also possible to build safeguards into gaining provider-led processes which enable consumers to validate transfers before they take place. Given the range of models that is possible to learn from, we expect
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Principle 3: Ensure consumers well-informed about implications of switching	Evenly balanced	With losing provider-led processes, losing providers can speak to their customers and explain the potential implications of switching. But they do not always do so accurately. Gaining provider-led processes can be designed so that an independent third party gives consumers information about the implications of switching.
Principle 4: Reliable with speedy restoration if things go wrong	Favours gaining provider-led processes	Gaining provider-led processes tend to be quicker and more reliable than losing provider-led processes because there are fewer steps involved in the process. They also tend to involve less effort and engagement on the part of consumers. The fact that there are fewer steps involved in the process also makes it easier for providers to keep consumers informed about progress.
Principle 5: Provide continuity of service	Evenly balanced	Both losing provider-led and gaining provider-led processes can provide continuity of service. This is in contrast with a situation where the consumer needs to 'cease and re-provide', which is what happens when, for example, consumers want to switch to a new network.
Principle 6: Promote retail competition	Favours gaining provider-led processes	Price discrimination is less feasible with gaining provider-led processes, which is beneficial for competition. Gaining provider-led processes have lower switching costs because there are fewer 'touch points' and less scope for delay, which promotes competition. Gaining provider-led

processes do not involve 'save activity', where the losing provider makes their customer an offer to encourage them to stay. Some consumers appreciate the opportunity to get a better deal from their existing supplier, but 'save activity' can also have a negative impact on consumers and competition. Research highlighted in Ofcom's consultation document shows that consumers tend to make worse decisions if they are subjected to such activity. It can involve consumers being subjected to considerable pressure to agree to a new deal with their existing provider and it creates a risk that vulnerable consumers will be left on worse deals because they tend to be less likely to switch than more well-informed, active consumers and are therefore less likely to be offered an improved deal. It is also important to look at the wider impact on competition and Ofcom's analysis shows that 'save activity' dampens competition to the detriment of all consumers. And where a switch to gaining provider-led processes prevented 'save activity' it would still be open to consumers to contact their provider and ask what deal might be on offer if they stayed rather than switching to another provider.

Principle 7:
Cost-efficient

Further analysis
needed

Detailed work is needed to understand the costs and benefits of possible unified processes, but in analysing the costs and benefits of moving to losing provider-led or gaining provider-led processes, Ofcom should use the option of not changing the current situation as the base case. This would enable the analysis to reflect the fact that consumer harm and the negative effect on competition will increase over time as bundling and infrastructure competition increases.

Overall	Gaining provider-led processes outperform losing provider-led processes	The application of the seven principles points towards adopting gaining provider-led rather than losing provider-led processes. It is notable too that the vast majority of EU countries use gaining provider-led processes, particularly for fixed and mobile services. Also, the experimental research carried out by Ofcom shows that gaining provider-led processes, with verification processes in place to protect consumers from slamming, outperform losing provider-led processes from the point of view of consumers.
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3. Conclusion

Effective and unified switching processes are vital to the competitive health of the UK communications sector. To ensure that consumers continue to receive a good deal in terms of quality, choice and value for money, we need Ofcom and industry to develop a switching regime that it is fit-for-purpose in five years' time and beyond. We have moved beyond the point where incremental improvements to existing processes will be sufficient to meet consumers' needs. Therefore, we want to see a clear decision now to move all switching processes to gaining provider-led. We also want to see this decision implemented as quickly as possible and urge Ofcom to explore how the timetable could be compressed, which might mean reviewing the processes for switching mobile, pay TV and cable services in parallel with the planned work on fixed-line and broadband services.