

Otelo's response to Ofcom's consultation document "*Strategic Review of Consumer Switching*"

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- The Energy Ombudsman
- Ombudsman Service: Property
- Ombudsman Services: Copyright Licensing (currently PRS for Music)

This document is Otelo's response to Ofcom's consultation document "Strategic Review of Consumer Switching", issued on 10 September 2010. Ofcom's questions are listed below, followed by Otelo's responses.

Question 1: Do you think hassle is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

Ofcom consumer research found that a minority of consumers found it difficult to contact providers to switch services, but that this was with only a minority of consumers, and mainly using the cease and reprovide process.

While Otelo is the ADR service for most copper (i.e. Openreach) fixed line providers, Virgin Media uses CISAS, and we have exposure only to those complaints who are switching between copper and cable, where the complainants have problems with the copper providers. Complaints who come to us are typically those who have experienced problems only after their contact with the providers involved in the switching process, and we see very little information about any problems in making the first contact.

Question 2: Do you agree there is a lack of clarity about the switching processes that consumers need to go through to switch and this may create a barrier to switching? Please provide an explanation for your answer and any supporting evidence.

Question 3: Do you think clarity is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

Otelo cannot comment on barriers to switching. The complaints we get tend to be where consumers have actually switched but have had problems in doing so. However, we do think that clarity is an important issue in switching. We quite frequently get complaints from consumers who have decided to switch provider because they are dissatisfied with the service from their losing provider.

In a small but significant number of cases the customer cancels payments to the losing provider, even where the Minimum Contract Period (MCP) is unexpired, arguing that

they are justified in doing so because of the poor quality of the service. They do not appear to fully understand that they have made a contractual commitment, and that whereas they may consider the service to be less than they promised, it is generally not of such a level that they can exit the contract penalty-free before the end of the minimum period.

Question 4: Do you think continuity of service (including unwanted breaks and double billing) is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

This is an important issue. Customers (and indeed many people within the telecoms industry) do not understand why there should be a service break when moving from provider to another, of anything more than an hour or two. They think, not without good reason, that the telecoms networks are sufficiently sophisticated that switching should be smooth and seamless. Furthermore, any gap on a copper line service could potentially lead to the imposition of a reconnection charge (typically around £125) if the line is deactivated.

Double billing is also a key issue. There are two types of double billing. The first is where the switchover happens before the contractual notice period is ended, but charging carries on to the end of the month's period of notice. We rarely, if ever, see complaints about this. In any case, it would be a matter more for consideration under the Unfair Terms in Consumer Contracts Regulations 1999.

The other type is where the losing provider fails to cancel charges for the services it provided. This can sometimes be only for a short period, but if it is longer, and the customer does not notice until months (or indeed years later – we have seen some such cases), the provider may have taken several hundred pounds in charges before the problem is detected even though it is not providing a service.

Question 5: Do you think the ability of providers to frustrate the switching process is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

This is a problem that we see more frequently with small business users, and indeed is more common with niche providers which service both domestic and small business customers. There are two types of problem. The first is where a user wants to transfer but is prevented by the losing provider from doing so by misuse of the Cancel Other facility. This may (albeit unusually) be out of annoyance because the parties are in dispute (for example about minimum contract duration), but also may arise where a customer owes money and the losing provider is demanding payment before it will release the line. Both are, we understand, in breach of regulatory guidance. While we get only a small number of such complaints, customers have usually become extremely dissatisfied by the time they reach us. A Gaining Provider Led (GPL) system would be likely to reduce or remove this source of complaint if it prevented the losing provider from retaining the line.

The second is where a potential provider keeps trying (sometimes with success) to take over the line of a customer who does not want to leave their current provider but may

have been approached by a prospective new provider. This is a slamming issue, and we are concerned that a GPL system could exacerbate such problems.

Question 6: Do you think consumers' experience of save activity is a key issue we should tackle in this review? Please provide an explanation for your answer and any supporting evidence.

While we see some evidence of save activity, it is rarely if ever the subject of a complaint, and Otelo has no specific comments to make on this question.

Question 7: Are there issues specific to either residential or business consumers' experiences of the switching processes that you think we should tackle in this review? Please provide any evidence you have to support your views.

Our answer to Question 5 addressed this issue. Small businesses are much more likely to suffer financially from problems in switching, such as loss of service, changes in telephone number, repeated use of Cancel Other, and slamming. The majority of such activity that we see is from a small minority of service providers, usually small ones serving niche markets. However, once problems arise they can lead to significant detriment for the customers.

One of the biggest single issues that we see for small businesses is that of contract terms, and while there is nothing to prevent suppliers of services to small businesses from having long term rollover contracts (it is not uncommon to see three year contracts which on termination automatically roll over for a further three years), small business customers are frequently not provided with clear information about expiry dates and what their financial commitments are on termination of a contract before the end of the MCP.

Question 8: Do you agree with our analysis of switching costs? Please provide any evidence you have to support your views.

Otelo has no comments to make on this question.

Question 9: Do you agree with our analysis of save activity? Please provide any evidence you have to support your views.

Otelo has no comments to make on this question.

Question 10: Do you agree with our analysis around the multiplicity of switching processes? Please provide any evidence you have to support your views.

Otelo has no evidence that there are any particular problems arising from the multiplicity of switching processes. Those customers who are deterred by the switching process from switching generally do not come to us.

To the extent that multiple switching processes might increase switching costs, this is not a matter on which Otelo can comment.

Question 11: Do you agree with the general switching principles we have identified? Please provide an explanation for your answer.

Of the five principles listed in the document to support a positive consumer experience, Otelo is not in a position to comment on the first one, on the costs of switching. Otelo supports the other four principles, relating to: slamming; awareness of the implications of switching; ensuring a reliable process with speedy restoration if things go wrong; and enabling continuity.

A significant proportion of the complaints we receive are about these issues. Relatively few are about slamming, possibly because CPs are so concerned about this matter that they deal rapidly and effectively with such complaints.

We receive a significant number of complaints about the implications of switching, including whether customers believed that they would get a better or cheaper service, how easy or fast the move would be, and whether they would have to pay an early termination charge to their losing provider.

We also receive a significant number of complaints about things that have gone wrong during switching. Customers sometimes do not know who is providing their service for a period of time, and may end up, for example, taking advantage of services provided by their gaining providers, only to find that they have been charged by the losing provider at a higher rate because the service hadn't been switched and the customer was not aware of it.

An issue which we see fairly often is where a customer loses a CPS service during a switch, and has no idea that this has happened. We are aware that there is an industry process covering what happens when a customer moves address, but this can go wrong and the customer may be unaware that the CPS service hasn't been migrated to their new address/line.

Otelo has no comments to make on the principles to support positive impacts on competition and welfare.

Question 12: Do you agree with our proposed tier structure for the general switching principles? Please provide an explanation for your answer.

The principles which Ofcom proposes to prioritise are those which relate more to competition and costs, rather than on minimising the problems which can occur during switching. Otelo has concerns that such prioritisation may lead to CPs paying insufficient attention to the areas where such problems are likely to occur, but accepts that the overall welfare arguments may support Ofcom's proposals.

Ofcom's complaints handling review would be expected to address some of the switching problems, but a review of switching, especially one which considers such a solution as changing from a Leading Provider Led (LPL) to a GPL solution, might be expected to take the opportunity to tackle some of the more fundamental aspects of switching.

Question 13: Do you agree with our proposal that the preferred switching approach assuming a 'greenfield' basis is GPL?

We explained in our answer to Question 5 some of the ways in which a provider may frustrate the switching process. To the extent that a GPL process may alleviate some of these problems, our view is that the controls put in place to deter or prevent such activity are potentially more important than the precise process.

We do not have a 'greenfield' setting, and we would expect any proposal to move from an LPL to a GPL process would evaluate the benefits of the GPL process against the costs of changing it. To the extent that a GPL process would reduce switching costs, and have other economic benefits, Otelo has no comments.

Question 14: Which of the identified GPL switching options do you support? Please provide an explanation for your answer.

Otelo has no specific comments to make on which option might be best. Again, where the choice of process is driven primarily by economic and welfare issues, then consumers may be expected to benefit from any changes.

Question 15: Do you have any information or views on the costs of the switching options outlined above? Please provide any supporting evidence.

Otelo has no comments to make on this question.

Question 16: Do you agree with our proposals and implementation priorities for taking forward our work in relation to existing switching processes?

Otelo has no comments to make on this question.

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