O₂

Attention: Ofcom

Riverside House

2a Southwark Bridge Road

London SE1 9HA

TELEFÓNICA O2 UK LIMITED RESPONSE TO

OFCOM'S STRATEGIC REVIEW OF CONSUMER SWITCHING

PUBLICATION DATE: 9 SEPTEMBER 2010

CLOSING DATE: 26 NOVEMBER 2010

A *Telefónica* company

O₂

INTRODUCTION

1.　Telefónica O2 UK Limited ('O2') welcomes the opportunity to respond to Ofcom's Strategic Review of Consumer Switching ('the Consultation').

2.　O2 offers a broad portfolio of products and services to UK customers which include mobile phones, airtime[1], mobile and home broadband[2], home phone[3], insurance as well as O2 Money services like 'Cash Manager' and 'Load & Go' cards.

3.　The range of our products means we have experience of customers managing diverse bundles. Our market leading position in mobile (in which we are net beneficiaries of customer switching) and very recent entry into the home phone market means we have invaluable experience of how switching processes can affect competition at both ends of the market. It is this experience on which we base our response to the Consultation.

4.　We have also had sight of a letter addressed to Claudio Pollack of Ofcom dated 17 November 2010, from participants of an industry meeting (which includes BT Retail) who gathered to develop migration policy options. We take this opportunity to confirm our support of its contents. It may be of interest to Ofcom that O2 (a predominantly net recipient of switchers) is supportive of a submission led by BT Retail (a predominantly net donor of switchers). We believe this demonstrates that both donors and recipients share common interests in improving the customer experience of switching and that industry co-operation is not impossible.

---

[1] Q1 Telecoms Data Tables report O2 as the mobile business with the highest number of subscribers and retail revenue. http://www.ofcom.org.uk/research/cm/tables/q1_2010/

[2] http://broadband.o2.co.uk/home/awards.jsp?cm_sp=Broadband-_-HomeBroadband-_-Awards

[3] Launched for the residential consumer market in May 2010

A *Telefónica* company

2

O₂

EXECUTIVE SUMMARY

5.   This review is laudably ambitious. Ofcom has recognised that the increasing demand for bundled services could result in an increasingly detrimental switching experience for customers looking to switching between (or in and out of) those bundles. That, coupled with the concurrent design of next generation services, suggests that the timing is right to take a step back and consider the migrations landscape from a wider perspective.

6.   To date Ofcom has, generally, viewed mobile, fixed and broadband switching processes in isolation and it seems to us that the result of varying degrees of regulatory intervention has been varying degrees of the effectiveness.

7.   This review provides Ofcom with the opportunity to assess switching holistically, to identify what is working and what isn't, to apply learnings from one sector to another and to implement changes that will fix persistent problems, where these are both required (supported by sound evidence) and proportionate (supported by a sound impact assessment). We urge Ofcom not to waste it.

8.   We fear that the opportunity will be wasted if Ofcom interprets the scope of this review too narrowly. It appears that Ofcom will only consider switching problems that are assumed to arise directly from existing migrations processes and has set aside any problems that are caused by the mechanics of migrating customers from one provider to another. We argue that this review should consider *all* the key issues arising from switching, as they all shape the customer's experience and perception of switching. We believe it is futile to attempt to 'fix' the process whilst continuing to ignore persistent system failures.

9.   If this review is to achieve its ambition to *"….make switching work more quickly, cheaply and easily for consumers and, in doing so, make competition work more effectively for single and bundled services"*[4] then Ofcom cannot be short-sighted.

---

[4] The Consultation. Page 1; Para.1.4

A *Telefónica* company

Ofcom believes it has been tasked with giving industry strategic direction, but it cannot do so if it insists on examining only one cog in the switching machine.

10.   In our view, when switching problems occur they colour the consumer's experience of both the gaining and losing providers involved and of the switching process itself. It is therefore incorrect to assume that industry has little or no common incentive to improve the switching experience. But, more importantly, customers do not care to understand whether those problems were caused by human error, process or technology. Neither does the customer care about Ofcom's aspirations for an 'ideal' switching process for a Greenfield setting. They do care about the real world problems that they face when they try to switch and how they can be fixed. And industry cares about finding practical, real world solutions to help those customers receive either a warm welcome or a gracious 'goodbye'.

11.   To that end, we believe that Ofcom is taking the wrong approach to this review. We urge Ofcom to take stock and reconsider that approach now, whilst we are still in the early stages of this review.

12.   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[5]. 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 these early stages. We feel that the present Consultation falls some way short of that.

13.   We set out our particular concerns of Ofcom's stated method[6] below:

---

[5] Section 3(3) Communications Act 2003
[6] The Consultation, Page 5, Para 2.8

A *Telefónica* company

O₂

a. *Identifying the key consumer and competition issues*, Ofcom does not appear to have considered any key consumer and competition issues that may be caused by the systems that affect migrations and are, consequently, inextricably linked to the migrations process. Often, the systems used to migrate services between providers, determine the effectiveness of the process itself.

We refer to erroneous line transfers('ELTs') as 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[7]. We cannot see how Ofcom can objectively justify ignoring real world problems like this, when they go to the very heart of this review – to make switching work.

b. *Developing a framework for assessing switching principles*. We are concerned with Ofcom's application of the existing framework to a narrow assessment of 'losing provider-led' ('LPL') and 'gaining provider-led' ('GPL') processes. Taking such a narrow view would appear to be both inefficient and risks missing the opportunity to ensure that action is targeted only at cases where action is needed.

Ofcom appears to have, unnecessarily, embroiled itself in the debate about which of the GPL or LPL processes performs better, but we do not think that that debate offers any constructive solutions in the current circumstances. We believe it may be more helpful to this review to identify the real and actual problems customers and industry face when switching and attempt to understand their underlying causes properly. We firmly believe that this will help identify all the desirable functions and features of a 'best practice' switching process, and how those functions can best be performed, or indeed by whom they can best be performed.

---

[7] 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.

A *Telefónica* company

5

c. <u>Identifying the preferred Greenfield switching process</u>. It is useful at this stage for Ofcom to provide some strategic direction by identifying a Greenfield switching process for those circumstances in which the industry is truly developing a new switching process from scratch. However, we do not see how Ofcom can objectively justify the decision to apply that preferred Greenfield switching process to Brownfield situations. We have observed that this is the approach that Ofcom appears to have imposed upon the Switching Working Group ('SWG'), by requiring it to consider only GPL options as a means for improving the NoT and MAC processes. This is despite our experience showing that, in practice the GPL NoT process works far less efficiently and effectively than the LPL MAC process.

Again, we think that a more practical and useful approach may be for Ofcom to first consider what are the preferred functions required of an effective and desirable switching process and, who may be best placed to perform those functions.

In our view this Consultation should have two potentially useful outputs:
i. to provide direction for industry when it is designing completely new migrations processes, and
ii. to identify what changes are necessary and proportionate to improve existing switching processes for fixed line and broadband.

However, we are concerned that Ofcom has confused the two. Ofcom has presented, to the SWG, its conclusions for (i), as the basis for dictating the scope of any outcome for (ii), without any evidence or explanation for doing so.

d. <u>Identifying deficiencies in the current processes and a plan to tackle them</u>. We think that Ofcom has failed to clearly identify all the relevant deficiencies or provide a clear plan to tackle them, other than its attempts to apply its

A *Telefónica* company

6

preferred Greenfield process to existing fixed line and broadband processes. We note that even this assessment, which has been tasked to the SWG, has been initiated whilst the Consultation remains open and long before Ofcom has had the opportunity to determine whether either its framework, principles or preferred option deserve further attention or consideration, in light of responses.

Furthermore, Ofcom appears to have assumed that many of the deficiencies that they have identified can be fixed by amending the process. We do not agree. We do not believe that a change of process would 'fix' the significant proportion of 'considerers' who perceive the process to be more difficult that it really is.

We recommend that Ofcom undertakes further analysis to ensure that a more transparent and efficient approach to tackling migrations is delivered.

14.   In this response we set out our concerns that Ofcom's aspiration to identify the ideal 'Greenfield' process is resulting in a failure to make the best of this opportunity to address real world problems of switching and achieving real world and effective solutions.

DELIBERATION AND OUTCOME

15.   Once Ofcom has properly determined the changes it ought to implement then it should examine options for regulatory intervention through amendments to the General Conditions. To do so, Ofcom must satisfy the duties and tests set out in the Communications Act 2003.

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

A _Telefónica_ company

i. The principles of transparency, accountability, proportionality and consistency and of ensuring that actions are targeted only at cases in which action is needed[8].

ii. The desirability of promoting competition as well as encouraging investment and innovation in relevant markets[9]

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[10].

17. In addition, any revised condition must be objectively justifiable, non-discriminatory, proportionate and transparent. [11]

18. It is clear that deficiencies exist, but do they exist to the extent that there is market failure that warrants regulatory intervention? Although we do not expect Ofcom to assess the full cost /impact assessment at this stage, it would seem appropriate first to understand the full extent of the problem and whether any regulatory intervention at all is required. We can then narrow the focus onto those areas in which regulatory intervention is justified.

TACKLING MIGRATIONS

19. This is an ambitious review, involving multiple services, multiple platforms, various technologies, different types of stakeholders and customers with different needs. In these circumstances it is essential that Ofcom use the above principles and the stated aim of the review, as touchstones throughout the project and at each stage of decision-making.

---

[8] Section 3(3) Communications Act 2003
[9] Section 3(4) Communications Act 2003
[10] Section 3(5) Communications Act 2003
[11] Section 47 Communications Act 2003

A *Telefónica* company

O₂

20. We share Ofcom's ambition to optimise the customer experience of switching, but we are yet to be convinced that Ofcom's approach to this review will deliver on its stated aims in a way that is consistent with its legal obligations.

IDENTIFYING THE KEY CONSUMER AND COMPETITION ISSUES

21. We recommend that Ofcom's starting point for identifying key consumer and competition issues should be with an assessment of the lessons we have learned over the course of the last four years. During that time Ofcom has amassed a wealth of research material (summarised in Section Three of the Consultation), received plenty of feedback on that material and experienced real world issues arising from the implementation, operation and evolution of various switching processes over that time. So, what have we learned?

22. ***It's mostly good:*** Switchers are generally satisfied with the process, (fixed and broadband less so), with the majority of decision-makers rating the process as easy, and only one in ten rating the process as difficult[12].

23. Whilst we agree that improvements to the customer'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.

24. ***We need to identify the source of the problem:*** Section Three of the Consultation sets out concisely the development of, and the debate surrounding, the migrations processes that are the subject of this review. It is clear that Ofcom and industry have both employed extensive resources to examine and improve those processes over a number of years. Despite that, Ofcom is seeking to review the matter once again.

---

[12] Saville Rossiter-Base - Consumer Switching and Bundling Sept 2010 ('Saville Rossiter-Base Sep 2010'). Paragraph 4.1. http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf

A *Telefónica* company

25. It is vital that we do a good enough job this time around to ensure that we are not here, carrying out another review in another four years' time. We think that we can only do a good enough job if this review:

    a. identifies ALL the problems that customers face (or are perceived to face) when switching providers; and

    b. considers ALL options for resolving those problems.

26. We think that one of the biggest problems that fixed line customers face when switching providers is ELTs. Ofcom appears to have dismissed ELTs as outside the scope of this review because they are generally caused by system issues rather than process issues and, because they are generally considered to be caused during house moves. But our understanding is that moving house is a significant prompt for consumers to consider switching fixed line or broadband provider. Ofcom should therefore not be so quick to dismiss problems caused by house moves.

27. Our experience shows that ELTs are inextricably linked with the NoT process because:

    a. In some circumstances, where an ELT occurs it could have been prevented if the NoT process had more effectively taken the system 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 kit with those systems.

    b. 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.

    c. 33% of OAT complainants logged as 'mis-selling / slamming were actually identified as 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).

The significance of this data is in revealing that the customer's perception is particularly relevant to this review, given that 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 ELTs then, it appears to us that it is incumbent on Ofcom to address this under the scope of this review.

28. Until Ofcom accepts the symbiosis between the system (and the problems it creates) and the process (which will only ever be as good as the systems on which it relies) we suspect it will be impossible realise the ambitions of this review or to make any significant improvement to the customer experience of switching between providers.

29. Ofcom has attempted to understand the customer's experience, using the Saville Rossiter-Base research (figures 12-16). But, we feel, that the research only makes a conservative attempt at understanding which of the following limited aspects of switching customers find difficult:

   a. Finding information about other suppliers you could use
   b. Knowing what steps you needed to take to switch from one supplier to another
   c. Knowing whether you needed to pay a cancellation or early termination charge to your previous supplier
   d. Keeping your current phone numbers
   e. Being able to get through to your previous supplier to tell them you wanted to cancel the service.
   f. Having to tell your previous supplier that you wanted to cancel their service
   g. Getting your previous supplier to provide you with the information you needed to be able to switch to another supplier
   h. Arranging for the old and new services to stop and start at the right time.

30. Our criticism is that the research and Ofcom have failed to consider any of the issues that appear to be causing the real problems that customers have when trying to

A *Telefónica* company

11

switch services, like 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). Without attention, these problems will persist regardless of which high-level switching process Ofcom may seek to impose.

31.   We do think it is still important to understand what customers are finding difficult with the high-level switching process, but only once the problems with the actual experience of switching have been properly identified and resolved. When we get to that stage, the Saville Rossiter-Base research could have some value. However if we are to rely on that data as evidence of how *the process* is not working well, then we must be absolutely assured that all participants experienced the process whilst on the 'happy path' and completely fault-free. Our experience tells us that the underlying systems (particularly with fixed line switching) cause a great many of the problems that consumers face and it is important that participants do not confuse problems with the inherent process with problems in the way that that process is applied in practice.

32.   ***Perception is a big problem:*** The Consultation accepts that perceived difficulties of switching are far greater, particularly amongst non-switchers, than the actual experience of switchers bears out. Given this position, we are disappointed to see that Ofcom has not attempted to address this in the Consultation but rather assumed that an improved process would automatically improve perception of that process. We do not agree with that assumption.

33.   We would expect Ofcom to consider further the reasons why perceived difficulties are so much higher than actual experience and, as part of this review, propose various steps to address those reasons. We do not consider that changing the process is the right option for dealing with this issue.

O₂

34. For instance, the Saville Rossiter-Base research shows that, of the difficulties perceived by inactive consumers, it appears that informational issues outside the migrations process itself (searching for information, knowing what steps to take[13]), were considered to be the highest rated difficultly amongst inactive switchers. 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.

35. ***Things will go wrong:*** Our experience is that no system or process is completely perfect, but we stand the best chances of fixing things that go wrong quickly when the process and the technical elements of switching complement and support each other.

36. Ofcom is familiar with our response to their initial proposals for mandating a two-hour window in which to complete a customer's mobile number porting request. We explained that the haste of moving as many mobile numbers as possible as quickly as possible, might actually result in significantly less speed, as the opportunities for identifying and preventing faults and problems become negligible. This, in our view, is an example of how a proposed process and the associated technology did not complement each other. We urge greater caution in this review. We are confident that should Ofcom focus its efforts on real world problems, the real world complementary solutions will become apparent.

37. ***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 BT's systems and processes.

38. We have seen the greatest amount of pain whilst switching customers during new line installs and when switching business customers. In the case of the latter, the problems of faults and delays are exacerbated by the lack of transparency that LLU providers have over the switching process when things go wrong.

---

[13] Figure 22; Saville Rossiter-Base Sep 2010

A *Telefónica* company

O2

39.   We accept that faults and delays will occur occassionally, but it is essential that where they do occur to customers of LLU providers, that we are able to help our new customer through those faults and to manage their expectations. As it stands, O2 is unlikely to be notified that a customer is experiencing a fault, or has not been switched on the relevant date, unless the customer calls in to complain, by which time we have already lost some of the customer's trust and goodwill. Blaming someone else in these circumstances sounds hollow and lacks credibility, even if it's factually correct.

40.   This is a real world issue that is compromising real world competition, and yet it has not been addressed in Ofcom's review at all. We urge Ofcom to address this oversight.

41.   ***Customers need the right information, in the right way:*** The Saville Rossiter-Base research does evidence that customers value the right information, delivered in the right way.

The letter

42.   In our experience, the existing fixed line migrations process fails to provide customers with the information they need effectively, as it is relies on a medium of communication that is unreliable and largely irrelevant to most of today's customers – the letter.

43.   Customers don't always read, receive or pay attention to the letters they receive. It would be interesting to understand if at least part of the reason why Ofcom suggest that "lack of clarity[14]" is a key consumer issue, is because of the NoT process's dependence on using a letter to deliver important information. We note that the letter continues to appear in all of Ofcom's proposed migrations models, varying the NoT process, and faster options such as email have not even been considered.

---

[14] The Consultation, para 4.51 – 4.57

A *Telefónica* company

O₂

44.   This is a further example of the risk that Ofcom poses by failing to consider the real world issues that customers face. Our experience shows that the NoT process in particular is too reliant on Royal Mail deliveries and a means of communication that is, increasingly archaic and untimely.

45.   We recommend that Ofcom withdraws itself from the contentious and infinite debate about the pros and cons of GPL and LPL solutions, instead focusing their efforts on the key features and functions required of a good switching process (like the timely and assured delivery of important information), who should be responsible for delivering that information and how it might best be delivered.

46.   By examining the matter this way, Ofcom will have the opportunity to consider how much of the 'hassle' or 'lack of clarity' it suggests that switchers face, is actually caused by the reliance on the NoT letter, leading to a proper consideration of real world solutions for real world problems.

The content

47.   There is little reference, research or debate in the Consultation on the kind of information that customers want and need to know. Ofcom has taken a step towards this by assessing the benefits of specific early termination charge ('ETC') information against general ETC warnings. Research also indicates that there are other types of information that customers value aside from ETCs, for example tariff choices, what steps to take when switching[15], although we note that customer understanding of types of information was not actively assessed.

48.   These days, there is greater 'value' that may be lost during a switch than early termination charges. Bundles are being more and more complex, as are the loyalty benefits that are available to customers of a particular brand (O2 customers have access to priority ticketing, Top-up surprises, O2 More). We appreciate the recognition in the research that more information ('information overload') does not

---

[15] Saville Rossiter-Base Sep 2010, Figure 22:

A *Telefónica* company

15

equate to better understanding[16], and therefore urge Ofcom to research thoroughly the kind of information customers want and need, and indeed who is best placed to deliver that information and when.

The clarity

49. The Consultation researches how many "considerers" were aware of what process would be used to migrate specific services, and correctly observes that "*This is potentially less of a problem if, when a consumer wants to switch, they can easily find out what they need to do[17]*". Despite this keen observation, Ofcom fails to explore whether, in reality, information telling the customer what to do is easily accessible choosing instead to conclude that *"….. having a clear and simple process for switching bundles is likely to become increasingly important[18]*". In essence, Ofcom has suggested that the problem of some considerers not spontaneously knowing what process they would need to follow in order to switch their services, could be remedied by making the process itself simpler.

50. We do not accept that a 'process' solution is the answer to all the problems of migration, and we certainly do not think it is the answer to this one.

51. O2 already makes the information required by prospective switchers readily available, as we are required to do by General Condition 14. The prominence of that information reflects a proportionate level of transparency given that consumers do not switch their services every day or even every month. It seems that Ofcom may be suggesting that those provisions are insufficient, in which case it may be better to review the provisions before the process.

52. The Saville Rossiter-Base research indicates that there clearly is demand for clear and relevant information and that access to it may give some inactive customers comfort that the process is not as difficult as they perceive it to be. But the only

---

[16] London Economics Experimental Research: http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/economics-research.pdf
[17] The Consultation. Para 4.44
[18] The Consutlation Para 4.50

conclusion that can be drawn from this is that there is either an information gap or a knowledge gap (about how to access the relevant information), neither of which are necessarily factors that can be solved by changing the process itself.

53.   In any event, we suggest that this is a matter could be considered further, either by Ofcom or by the SWG before it can be determined whether it is an issue that is key to this review.

Contractual arrangements

54.   Ofcom has assessed two sources of data; one is complaints data received by the Ofcom Advisory Team ('OAT') and the other is research that attempts to understand the reasons 'considerers' do not progress a migration. We think that the two data sources tell us very different things and cannot both be relied upon as evidence of a systemic lack of clarity about contract terms.

   a.   The OAT data gives us details of complaints from consumers who appear to be unclear about what their contractual liabilities are.

   b.   The research data gives us details of 'considerers' who do not go through with switching for contractual reasons (which we note include: still within contract period, needing to pay to leave contract, still having credit on the current phone, needing to wait until credit runs out, needing to re/connect a new phone line[19]). In our view this data doesn't indicate a *lack* of clarity but rather an indication of absolute clarity. It appears to us that those customers who participated in the research were very clear about the consequences of honouring a contract and it is the consequences of those terms, not the clarity of the terms themselves, that has dissuaded them from switching.

55.   Our interpretation is further supported by the research examining whether switchers were aware of the fact that they had to pay an 'ETC' before they agreed to switch,

---

[19] Saville Rossister-Base Sep 2010; Figure 13

A *Telefónica* company

17

which found that a significant majority of consumers were aware they had to pay ETCs.

56. Ofcom asks whether 'clarity of contractual arrangements' is a key issue that Ofcom should tackle in this review. We think that where the evidence demonstrates that the lack of clarity of contractual arrangements is a real world problem for switchers then the review should tackle it. We note that the research relied on by Ofcom indicates that only one in ten switchers were unaware of 'ETCs', but equally that lack of awareness did not prevent them from switching. This suggests the awareness of the implications of switching may not be a problem worth tackling. However, we are also conscious of the fact that Ofcom has not examined whether there is a disproportionately higher lack of clarity in one process over another.

57. On the other hand, the experimental research suggests that, in principle, the customers using the NoT letter process to be made aware of ETCs are hindered from making good switching decisions more than customers using the MAC or PAC processes.

58. 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.

    As a result we think that 'clarity of contractual arrangements' is a desirable feature to include when designing the ideal 'green field' switching solution. However, we do not think the evidence supports tackling this issue in so far as it presents itself in existing broadband and mobile processes. There is no evidence presented in the Consultation to suggest that this is a real world problem.

59. **_Empowering consumers:_** Save activity has always been a contentious topic. O2 supports Ofcom's view that unwanted and aggressive sales techniques are

A _Telefónica_ company

inappropriate and unacceptable in any circumstances. More so, when they can be used to hold customers "hostage". However, we are not convinced that it appropriate for this review to consider save activity only 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*"[20]).

60. 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 PAC) 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 not consider that a GPL option is the correct counter-factual. However, in this review, the debate about the relative merits or faults of save activity are being used as evidence of the support or lack of confidence in the LPL system only.

61. Notwithstanding that Ofcom has yet to submit sufficient evidence to suggest that save activity should be prohibited, we think 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 consumer information that the value and an opportunity to negotiate with their supplier, that they also value.

62. 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*"[21], but fails to present any evidence that it has investigated the intention of requestors of MAC and PAC numbers. We note that consumer websites actively promote negotiating in this way (see Figure 1). Anecdotally, our retentions team are

---

[20] The Consultation, para. 5.44
[21] The Consultation, p.79, para 5.82

A *Telefónica* company

familiar with many customers who periodically request a PAC in order to initiate negotiations. [**]

Figure 1

- **Beat the best packages available by bullying your network**

Anyone on a contract mobile phone is holstering a serious MoneySaving weapon.... loyalty. When nearing the end of the contract, ask for the very best deal possible, not just on your network but any out there.

If it won't budge, tell it 'give me a better package or I'll leave', and you'll be put through to the disconnections department, which internally is called 'customer retentions' and has massively more discretion to offer better packages to keep you. Full details in the Batter Down Your Mobile Contract article.

www.moneysavingexpert.com.mobile-phone-cost-cutting#existing

---

63. We consider a more relevant concern is that save activity can be used to hold a customer "hostage", and this is the problem that needs to be addressed. Ofcom's latest amendment to General Condition 18 (mobile number porting), demonstrates that it is perfectly possible to address these concerns in an efficient, and effective manner.

64. 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….."*[22] and that "*the increasingly growing literature on switching costs generally lends support to the view that switching costs dampen competition*"[23] and is, therefore, bad.

65. We note, however, that economic theory can be presented in many different ways. Ofcom argues the negative competitive effects of price discrimination, preferring a

---

[22] The Consultation p.71 para. 5.40
[23] The Consultation, p69 para. 5.29

A *Telefónica* company

20

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."* [24]

66.   In the face of empirical evidence of the benefits of save activity in the UK mobile market, we cannot support Ofcom's assessment that an LPL process is less favourable because it 'builds in' save activity into the process. Coupled with the absence of study or consideration of the customer empowerment and welfare benefits of negotiating with providers, leads us to conclude that Ofcom's consideration of price discrimination has not been balanced and is therefore incomplete.

67.   ***The process should be customer-led:*** The Consultation demonstrates that Ofcom has conducted a great deal of theoretical analysis of both GPL and LPL processes and, when measured against the Ofcom-designed framework for assessing switching principles, they both share equally beneficial and detrimental features. Despite these equal performance measures, Ofcom has concluded that GPL processes should be favoured.

68.   Its conclusions are based on understanding that the risks of slamming identified in GPL processes can be "*successfully dealt with …within a GPL switching process*", but Ofcom draws this conclusion without assessing whether the risks of save activity can equally be dealt with successfully within LPL switching processes. Ofcom has assumed that it cannot, because it is a less commonly used process, but we do not think that this serves as reason enough not to research the matter fully.

---

[24] http://131.193.153.231/www/issues/issue2/different/index.html

O2

69. Setting theory aside, however, we know from real world experience that we and our customers have faced greater difficulties with fixed phone switching (a GPL process) than we have with broadband switching, and fewer problems still with mobile number porting (both LPL processes). It is this experience and the real world problems that should guide Ofcom's thinking, particularly when looking to improve existing processes.

70. This conflict between the theory and reality suggests that spending resources determining which of GPL or LPL processes is better is futile and ineffective. A more constructive approach would be to find the preferred *features* that we would expect to see in a customer-led migrations process, and from there we can build a solid framework.

71. **The approach matters:** 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*"[25]. In this context that means that Ofcom's impact assessment must be based on sound and cogent information.

72. We also note the Competition Appeals Tribunal's advice to Ofcom that *"a staged approach to decision making in a matter of such complexity may be advantageous. Such an approach would enable information gathered from earlier stages to provide the basis for CBA-based decisions upon whether to proceed to the next stage(s)"*[26]. We think that this advice is particularly relevant in the current circumstances where Ofcom appear to be pre-empting the outcome of the current Consultation, by tasking the SWG with costing out the implementation of pre-selected GPL options to the NoT and MAC processes, without first giving due consideration to the responses to this Consultation.

73. 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 29 November 2007 decision on mobile

---

[25] http://www.catribunal.org.uk/files/Judgment_1094_180908.pdf
[26] http://www.catribunal.org.uk/files/Judgment_1094_180908.pdf Para. 159:

A *Telefónica* company

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.
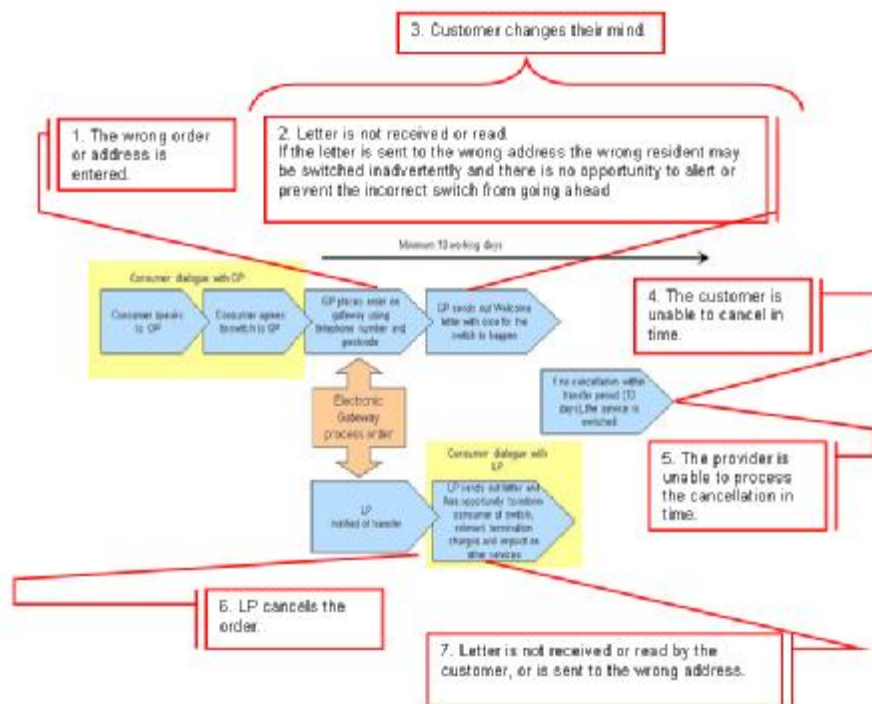
74.   We do not think that it is possible to deliver a sound impact assessment based on hypothetical processes designed for an artificial environment. We urge Ofcom to reconsider their review in light of real world data.

75.   Ofcom must take account of the current challenging economic environment that we are all working in today. We are acutely conscious 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.

76.   We urge Ofcom to undertake a thorough and extensive review of switching and do it once, rather than a less efficient and disparate series of consultations, in the manner it appears to have done to date.

77.   ***One size doesn't fit all.*** It may be that if we continue to be led towards a GPL versus LPL debate one possible consequence could be that currently effective and efficient processes are forced down a contrived path, with little or no net benefit to customers or industry.

78.   We accept that, in the case of the broadband and fixed services, the customer experience is currently far from perfect and improvements are necessary, but it does not follow that what is right for broadband is also right for mobile and we argue that, in some cases, we should expect differences.

79.   Our experience is that even if customers obtain a number of services from one supplier, their expectations about migrating services are more influenced by how they

A *Telefónica* company

use those services and what is motivating them to change, rather than whether or not they are all supplied by the same brand. The majority of customers moving their fixed line and broadband appear to do so when they are moving house, and when they do so they seem to use their mobile phone and mobile broadband services as a 'back up'. It would not be useful, in these circumstances, for all four services to be migrated together or even under a single process. Conversely, mobile customers tend to be far more influenced by device trends and features. It is unlikely that a customer would reconsider switching their broadband service every time a new smartphone was brought to market.
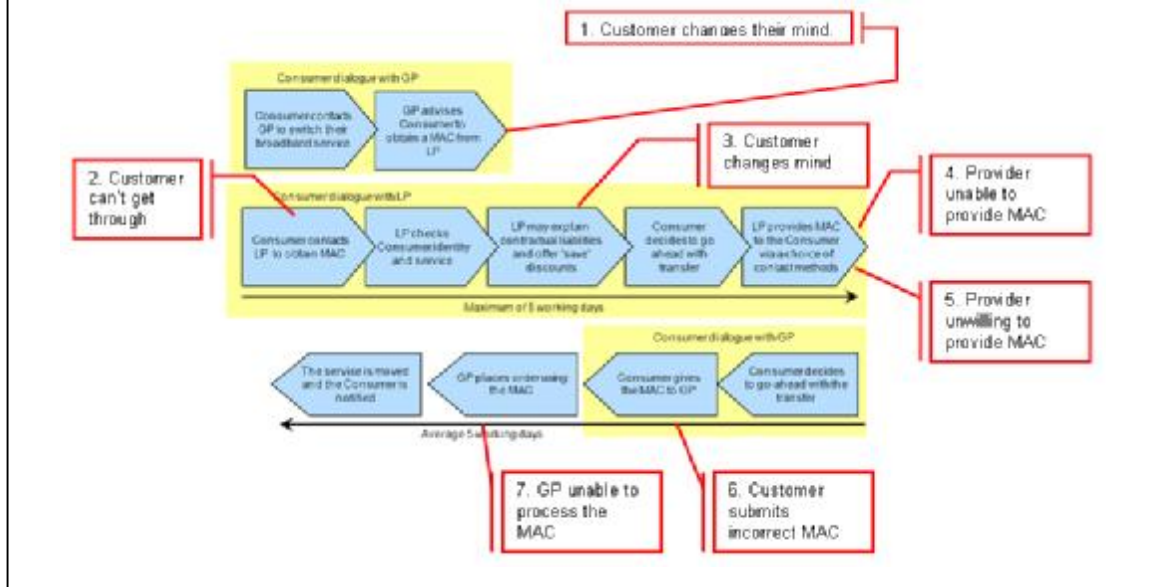
80.   We believe a closer examination of real world problems, and their underlying causes, would make it apparent that a 'GPL fits all' approach is unlikely to be effective at resolving the actual problems that customers face when switching services.

81.   We have attempted to illustrate some of these real world problems by adapting the process models Ofcom present in the Consultation, below in Figures 2 to 4. Similar illustrations were also considered by an industry meeting, gathered with the aim of developing migrations policy positions, and were considered to be useful indicators of the points in the existing processes in which there was a higher risk that things could go wrong. Ofcom will note that the illustrations do not seek to differentiate between problems caused by the process, by human error or by technology.
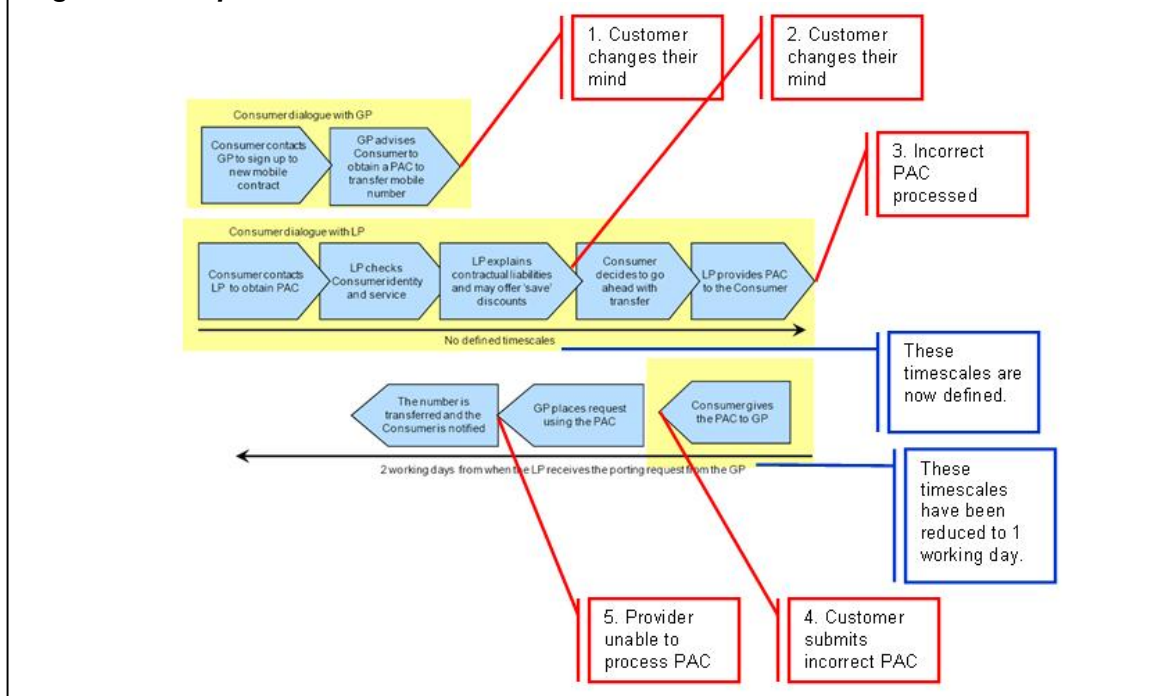

Figure 2: Home Phone

Figure 3: MAC process

Figure 4: PAC process

A *Telefónica* company

25

82. These figures show that the customer's experience of switching triggers a range of potential problems – arising from the processes, the operation and the underlying systems. The only way, we can see, of making the customer's experience of switching better is to take steps to review and assess ALL the identifiable real world problems highlighted in these figures, not just those that Ofcom consider to be part of 'the process'.

83. **_There are known unknowns:_** Our experience, and Ofcom's work, also tells us that there is also a lot of information we still don't know or problems that we don't fully understand and in order to draw some balanced recommendations it is essential that we acknowledge that there still many unanswered questions. For example:

   a. When we say that customers find the process "too much hassle", we still don't really know what they mean. Ofcom has interpreted it to mean that there are multiple touch points in the process or trouble getting in touch with a provider, but we are not convinced that there is sufficient evidence to interpret the data that way, nor is it conclusive that minimising switching costs (hassle) will be an effective means of encouraging more customers to switch.

   b. We don't know whether proposed changes would necessitate levying a retail charge to customers for switching. In short, there is a lot of work that needs to be done to fully consider the impact of any potential changes and without that cost information, it is impossible to identify a preferred process of our own, or to support Ofcom's preference.

   c. The consultation is silent on the root causes for many of the problems experienced by switchers. Until we understand these fully, it will be impossible to conclude that any adapted process would improve the customer experience in real terms. This is even more important where Ofcom relies on the of the core underlying systems to underpin two of seven their switching principles.

O₂

d. We still don't know what 'trade-offs' Ofcom, the industry and customers are prepared to make. For example, higher costs or less resilient systems? Better validation or a faster switching period? Without guidance from Ofcom, informed by consumers' preferences, on the trade-offs that they are prepared to accept, it will be impossible to find consensus on real world solutions.

84. We explore some of these unknown factors and Ofcom's approach to them, further below.

The Hassle Factor

85. Ofcom has translated 'hassle' into the core switching principle that an ideal process should "minimise switching costs", but has failed to properly explain the type of switching costs that cause 'hassle' and that it hopes can be minimised.

86. Indeed, it is still unclear whether minimising switching costs within the switching process itself, will have any beneficial effect on consumers or competition. We have referred to a few of the economic theories examined by BEREC to illustrate the uncertainty that surrounds the concept of 'hassle' and associated switching costs.

a. Grzybowski (2008) study of the mobile telephony market in the UK demonstrates that despite using the same process, switching costs vary significantly between providers (Orange had the highest, and Vodafone the lowest)

b. Gryzbowski and Pereira (2007) found that "*.... the main influence on switching behaviour for these particular consumers were their brand preferences and the network which their contacts tended to use. Even if the switching costs were zero, the market shares of the service providers would suffer little alterations in relative terms*"

c. Lee et al (2006) focused on switching mobile service provider costs in South Korea (after the introduction of number portability in 2004), and "*concluded that the switching costs would have fallen after the implementation of number*
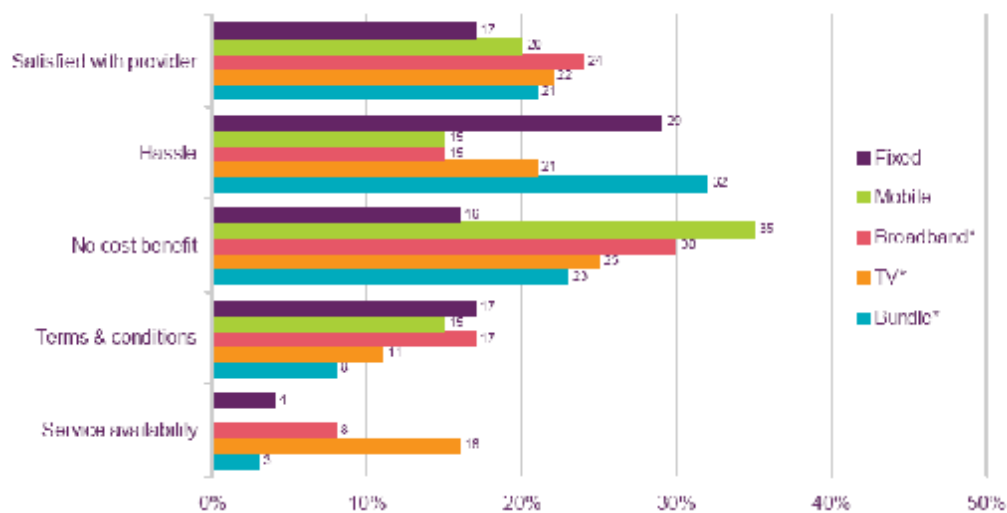
A *Telefónica* company

portability, but are still high, due to the persistent reputation for quality of service associated with the historic operator".

d. ARCEP, the French regulator's, study of mobile telephony switching costs in June 2009 asked "what is the main reason why you did not switch operators during the past 12 months?" to which only 4% of respondents mentioning hassle. The main reasons identified for not switching were that consumers had not considered the opportunity of switching (35%) and that the current mobile offer was the best adapted to their consumption profile (31%).

87.   Even Ofcom's Consumer Experience Report 2009[27], illustrated below, demonstrates that 'hassle' is not necessarily a significant issue in all processes.

Figure 147: Reasons for considering switching supplier, but not switching

88.   In the Consultation, Ofcom refers to the data above to assert that 'hassle' affects the decision of a "*significant minority*" of considerers, not to switch. But a closer examination of the data reveals that is not quite the case:

a.   It is not a significant minority for all services; (only fixed and bundle)

---

[27] http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/research09.pdf

A *Telefónica* company

28

b. It is not clear whether it is perceived hassle or actual experience that is affecting the decision of considerers. It is interesting to note that the preferred gaining provider-led model identified by Ofcom and used in fixed line services, has the highest hassle factor for an individual service, with mobile and broadband (losing provider-led switching processes) having the least (coming 4th out of 5 top reasons for not switching).

89. Ofcom's assertion further contrasts with the Saville Rossiter-Base research which states that only *"..one in ten say it was difficult to change provider"*[28] – this is by no means a significant minority.

90. Furthermore, the results relied upon by Ofcom that indicate 48% of inactive customers agree that switching provider seems like too much hassle – Figure 10) only serves to demonstrate that the issue is actually one of perception rather than reality[29].

91. We are disappointed to see that Ofcom has completely failed to consider how this review could influence changes in perception (e.g. through better consumer education, or awareness) and instead resorted to an assumption that a change in perception can only be remedied by a change in process.

92. It may not be straightforward to determine exactly what 'hassle' is, but, if Ofcom insists that 'minimising switching costs' remains a switching principle against which competing migrations processes are measured, it is vitally important that we know more about what 'hassle' means in real terms.

---

[28] http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf. Page 29 of the report goes on to state "*Switchers are less likely than considerers to agree that changing provider 'seems like too much hassle' (31% switchers vs. 40% considerers). Inactive consumers who have neither switched nor considered switching in the last year are more likely than both switchers and considerers to agree that changing provider 'seems like too much hassle', with half of all inactive consumers (48%) agreeing with this statement. These findings suggest that perceptions of hassle could be a barrier to considering switching among this inactive group of decision makers and, to a lesser extent, a barrier to switching among considerers. Those with experience of switching are relatively unlikely to agree that changing provider 'seems like too much hassle'*

[29] http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf p.29

A *Telefónica* company

O₂

93.   Additionally, we have some concern about the reliability of the data, as it would
      appear that the questioning methods may have been inherently leading. We
      understand that participants were given a range of 'hassle-related' options to choose
      from, but we note there was no option for 'none of these' or 'other reasons' available
      for participants to revert to.

94.   It is incumbent upon Ofcom to gather relevant data, but also to interpret it accurately.
      Ofcom suggests that the factors which consumers associate with hassle in the
      migrations process are:

      - The ease of switching process
      - The number of touch points; and
      - The ease of making contact with the relevant customer service staff

      But, we do not see how Ofcom has arrived at these factors from the options that
      consumers were given to choose from, which were, in order of popularity:

      - Searching for information about other suppliers (54%)
      - Knowing what steps to take (34%)
      - Having to be in contact with more than supplier (29%)
      - Being able to keep your current number (26%)
      - Having to tell your supplier that you want to cancel (22%)
      - Getting your supplier to provide you with information you need (21%)
      - The time between starting the process and having a new supplier (20%)
      - Your current provider trying to persuade you to stay (14%)
      - Moving your email address (13%)

95.   We would argue that only four of the above options are relevant to the switching
      process itself, with the remainder relevant to matters that may complement the
      process (like prominence and availability of information) or are consequences of the
      process (like moving your number).

A *Telefónica* company

96.   It would be helpful to this review and to us, if Ofcom took steps to more clearly define:

a.   What "hassle" they are trying to tackle (perceived or actual). Given the evidence that the majority of switchers do not agree that processes are a hassle, there is nothing to suggest that actual hassle is a significant enough issue to warrant further investigation. Therefore we would argue it is perceived hassle; and

b.   Whether the respective "hassle" can be resolved without the need to change the process itself. Ofcom has not presented this as an option for consideration which suggests a narrow and limited approach to this project.

What will is cost?

97.   Throughout this consultation, Ofcom has conceded that it has yet to complete relevant impact assessments and costs work for any of the proposed switching models. As a result, it is impossible to determine which of those models would work most efficiently and effectively in the real world.

98.   We also urge Ofcom to consider how much meaningful cost information can be garnered by the Ofcom SWG, when it is tasked with considering how to apply 'Greenfield' solutions to 'Brownfield' situations before Ofcom has even closed the consultation. The problem with this approach is that, as a matter of principle, only the marginal benefits should be considered against the full implementation costs.

Root causes

99.   Ofcom argues that both reliability and continuity of service are key switching principles- both of which rely on the robust underlying systems. Given this argument we are surprised that Ofcom has done so little work to understand the root causes of the most common features that cause switchers difficulties. We expect that, in many cases, these difficulties will not be resolved just by introducing a new superficial switching process, without fully investigating and resolving the underlying technical issues.

A *Telefónica* company

Trade-offs

100. Investigation into the source of the most frequent problems may demonstrate that, in some cases, there has to be a trade-off between reliability and continuity or that continuity may not always be technically feasible.

101. We note that during Ofcom's 2009 Stakeholder Workshop on Consumer Switching, "*all stakeholders recognised that ……. the difficulty would be to manage the necessary 'trade-offs' between these principles.*" It is therefore disappointing that Ofcom does not appear to have sought to understand these trade-offs better before determining preferred options for implementation. Some of the key trade-offs identified were:

- speed v. reliability;
- costs v. risks;
- costs v. time to implement;
- control v. engagement; and
- protection v. ease.

DEVELOPING A FRAMEWORK FOR ASSESSING SWITCHING PRINCIPLES

102.   As it stands, Ofcom's framework and analysis fails to identify or address the real world problems that we hoped this review would be alert to.

103.   A key failure, is the absence of a proper assessment of which issues are caused by the process, which are caused by practice and which are a matter of perception. Ofcom is currently attempting to resolve all three through a new and improved process which we fear will be ineffective and a waste of valuable time and resource.

104.   We suggest that a good starting point for developing a framework may be for Ofcom to set out the desirable real world customer experience it would be satisfied to see. For example:

a.   ***It's free***. Whilst other EU countries may have better switching processes, it is not the case that they are all free for customers to use. If Ofcom wishes for switching to remain at no cost to consumers, then it needs to actively and publicly consider this point. It is not necessarily the case that switchers should not cover at least some of the costs of switching through a retail charge. Whether or not they should and how much is, itself, a matter of judgement to be based on evidence. Our point is that Ofcom cannot simply assume that switching should continue to be free without giving it full consideration and public consultation.

b.   ***The services that I use together, should move together***. Fixed phone and broadband are inherently linked both at a technical and retail level and, early indications are that home phone is increasingly becoming little more than a broadband enabler. There is an expectation for customers of these services, that the services can be moved together in one transaction and in comparable timeframes. Conversely, we suspect that there is an equal expectation that other services do not need to follow the same or even a single process, just because they are purchased from the same supplier and, in some cases, it may be less convenient for the customer if it were so, for example, where customers use

A *Telefónica* company

33

mobile phone and mobile broadband products as a safety-net service whilst switching home phone and broadband.

c. ***I want my new provider to look after me:*** At present, the underlying wholesale systems and processes mean that gaining service providers may not be informed of the precise date that their customer will switch to them or of any potential delays or problems that may prevent the switch. Providers need to be able to offer new customers a warm welcoming experience and to manage their relationship with that customer, particularly where there appear to be faults that could disrupt the customer's experience. A migrations process and system that builds in greater transparency between wholesale supplier and service provider would enable this to happen.

d. ***It's easy, from the customer's perspective:*** It is unlikely that the customer will care how complicated the migrations process is 'behind the scenes' as long as it appears to be simple for the customer. Whilst Ofcom may have considered the 'hassle' of multiple processes, from the customer's perspective of switching broadband and fixed-line packages, it appears as one process – it is irrelevant to them that the MAC is required only for their BB and not the fixed line service.

e. ***I want the chance to get a better deal.*** We refer to our view of the value customers gain from the opportunity to negotiate, set out in paragraphs 59 to 67 of this response.

f. ***I want it to work.*** At paragraph 101 we list a number of trade offs that Ofcom's Stakeholder Workshop on Consumer Switching identified as requiring further consideration and which, we note, Ofcom has not attempted to consider. One of these trade offs was 'speed' versus 'reliability'. Our recollection of that meeting was that, on the whole, consumer groups preferred certainty over speed. This recollection appears to be generally supported in part of the CCP's response to the draft BEREC report on best practices to facilitate switching in which they

A *Telefónica* company

stress the need for *"…..a straightforward and reliable way of switching a single service or a bundle of services [30]"*.

105. Ofcom has attempted to look at the migrations models in the narrow terms of GPL and LPL process. We consider that, to benefit from experience, it may be more informative to assess each of the service migrations processes, as they occur in the real world in order to better understand the features of a good or bad migrations process, where things can go wrong, and where they can be corrected. It is these features, together that will dictate an achievable, efficient and ideal 'real world' migrations process.

106. We do support the view that a framework is necessary to assess the key features that a successful, customer-centric switching model could / should look like, but we disagree with Ofcom's assessment of the existing processes against the principles it employs in its framework, the details of which we set out in Appendix 1.

IDENTIFYING THE PREFERRED GREENFIELD SWITCHING PROCESS

Is it really a green field?

107. We suspect that customers are already forming their expectations of fibre products and superfast broadband and that those expectations are based around the fibre as an upgrade of an existing service, and consequently their expectations switching the service between providers will be coloured by the experiences of current broadband services. As a result, the process should be consistent and complementary to those that it will most commonly be associated and bundled with. In order to do this, we must take a closer look at why customers switch.

108. Our experience is that motivation for switching differs for different products and we can easily use this information to better inform a convenient 'bundle-switching' process, rather than the narrow assumption that all bundled products can or should

---

[30]http://www.communicationsconsumerpanel.org.uk/Response%20to%20BEREC%20switching%20consultation.pdf

A *Telefónica* company

be switched in the same way or at the same time. Our broadband and fixed customers do indicate expectations that broadband and fixed line products will, at least, migrate together under similar timings. But that expectation has never extended to their mobile.

109.   Those services that customers perceive as being core to their home utilities, (like home phone and broadband) switching is likely to be motivated by significant life changes – like home moves. On the other hand, mobile is motivated far more by device features, trends and functionality. From this we can understand that it isn't necessarily appropriate or desirable to treat all services and products in exactly the same way.

110.   Ofcom suggests that it needs to identify the preferred Greenfield switching process in order to prepare for next generation services. We have seen no invitation to a working group to progress the migrations process for next generation services, but instead we have been invited to assist Ofcom in applying the 'Greenfield' solutions to the existing 'Brownfield' fixed and broadband processes.

111.   Our concern is that none of these options will fix the real world problems. For example, Ofcom's preferred option for a third-party verification process doesn't fix BT's underlying infrastructure that causes so many erroneous transfers, nor does it make more BT onsite engineers available to complete new line installs. The option referred to as 'Consumer Code on bill' doesn't fix problems of unauthorised switching or the apparent lack of clarify about contractual terms.

112.   We appreciate that this is a complex review covering a broad range of issues, but in these circumstances it is even more important that Ofcom ensures that it stays on point and does not waste its own or industry's time and resource trying to make a square peg (the Greenfield options) fit into a round hole (the real world problems).

113.   One damaging consequence of haphazardly switching between an assessment of current issues and processes and the future ideal for next generation services, is that

A *Telefónica* company

it is unclear exactly how stakeholders should respond to Ofcom's questions, because it is not clear in what context Ofcom will use the answers or if industry's responses will be misunderstood and misinterpreted. We have therefore presented our response to the Consultation and its questions generally through the body of this response.

IDENTIFYING DEFICIENCIES IN THE CURRENT PROCESSES AND A PLAN TO TACKLE THEM.

114.   There is more work to be done to identify all the deficiencies in the current processes that may require tackling.

115.   We have argued that Ofcom has not yet identified and assessed all the relevant deficiencies in the process and, in the absence of that profound and rigorous assessment, we cannot see how Ofcom is in a position to "…*take forward work with relevant stakeholders in relation to a specification and cost assessment for various options for our implementation priorities[31]"*

116.   The very fact that Ofcom is tasking the SWG to consider and cost out implementation work for various options, runs contrary to their statement that "… *this document does not consider changes to current switching processes."*

117.   Although we appreciate Ofcom's enthusiasm for progressing this review quickly, we are concerned that such haste will result in missed opportunities to address some of the prevailing, ongoing real world problems that have not yet been identified in this Consultation and is likely to result in ill conceived proposals.

The Switching Working Group

118.   We note that the first meeting of the SWG was held on the 18 November, before this Consultation closes and before Ofcom has had the opportunity to review the responses.

---

[31] The Consultation, Para 7.10

A *Telefónica* company

O₂

119.   We have already expressed our concern that, at worst, this approach appears to presuppose the outcome of the Consultation and, at best, it is an inefficient use of industry members' time to assess implementation issues and costs of 'Greenfield' solutions to 'Brownfield' situations, particularly when all the 'Brownfield' issues have not been properly identified and consulted on. In all events, it appears to be an approach that runs contrary to the Competition Appeal Tribunal's advice to Ofcom referred to earlier in paragraph 73.

120.   We expect that there is a significant amount of work that still needs to be done, before Ofcom is in a position to determine which options it can narrow down for assessment by the SWG.

-END-

A *Telefónica* company

O₂

Appendix 1

Principle	O2 comment on Ofcom's assessment of the Fixed NoT, Broadband MAC and Mobile PAC processes, against the principles.
Minimises unnecessary switching costs	Ofcom concludes that the Fixed NoT process currently supports this principle, and that the MAC & PAC processes neither support nor do not support the principle.
	We do not think that Ofcom has established sufficient evidence about the impact of switching costs or the type of switching costs that it is trying to minimise to in order to properly assess each of the NoT, MAC or PAC processes against this principle.
	Ofcom states that the NoT process favours this principle because of "*reduced hassle due to lower customer involvement*", but Ofcom makes this statement against data showing that more considerers were deterred from switching their fixed line service because of 'hassle' than broadband or mobile.
	Ofcom must do more work to define this principle, or at least what consumers understand when they say that they find the process 'easy' or 'difficult', before a proper assessment can be made.
Protects against slamming	We agree that an effective migrations process protects against slamming, but we find it more useful to identify the relevant features of the process that achieve this outcome. In our opinion, the relevant feature that allows the process to do this is a robust validation process.
	The Consultation indicates that GPL processes present an "*increased risk of slamming*", and on the face of it that may well be the case. However, we note that Ofcom has failed to consider whether regulatory intervention, in the form of General Condition 24, has been an effective at balancing out those risks.
	In order to properly assess the migrations process that currently exist, it is important that the regulatory regime in which it operates is also considered as part of the process, including any relevant enforcement powers. We suggest that Ofcom re-visits its assessment of this principle, including where necessary regulatory measures that have been introduced to minimise the assumed effects.

A *Telefónica* company

Principle	O2 comment on Ofcom's assessment of the Fixed NoT, Broadband MAC and Mobile PAC processes, against the principles.
Promotes awareness of the implications of switching.	We agree that this is a desirable principle, however we think that the principle can stand or fall as a result of: • industry agreement on the type of information that correctly identifies the implications of switching (for each customer the full implications of switching are likely to be subjective, therefore a minimum set of information that is relevant for all consumers should be considered; • who is best placed to deliver that information, as accurately as possible, • how that information is delivered.
Ensures a reliable process with speedy restoration if things go wrong.	We agree that is desirable to have a reliable switching process that ensures speed restoration, however we do not think Ofcom has taken any steps to properly assess the existing processes against this principle. We think this is a necessary step, in order to identify what system features can enable this principle to be achieved. Ofcom's assessment that this "*should be possible so long as the underlying systems enable this*" is vague and unhelpful. The real world problems described in our response show that the underlying systems of the fixed line process clearly do not support this principle, and yet Ofcom assesses it as 'neutral'.
Enables continuity of the main service	As above, we do not believe that Ofcom has properly assessed the existing processes against this principle.
Support competition in retail markets	Ofcom has determined that the NoT process supports retail competition but, in practice that has not necessarily been reflected in our experience as a new entrant to the fixed line market. Our experience is that our ability to differentiate our service on customer experience (like switching) is limited and can only ever be as good as the systems delivered by the incumbent. This differs starkly from mobile switching, in which O2 aimed to deliver the majority of customers with their PACs in less than two hours, when the mandated process was to issue the PAC within two days. In this way, O2 mobile was able to differentiate it's brand in a way that O2 fixed line switching cannot. Ofcom also suggests that both the MAC and PAC processes do not support competition, but this is not bourn out by the evidence

O₂

Principle	O2 comment on Ofcom's assessment of the Fixed NoT, Broadband MAC and Mobile PAC processes, against the principles.
	of healthy and robust competition in the UK mobile 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. It may even be useful to understand what features of the existing processes enable the theoretical deficiencies to be countered in reality.
Is cost effective	We agree that Ofcom is not yet in a position to draw any conclusions about whether any of the processes is more or less cost effective.

A _Telefónica_ company