

Virgin Media response to Strategic Review of Consumer Switching

Introduction

Virgin Media¹ welcomes the opportunity to respond to this consultation. Virgin Media is extremely concerned that in this consultation document Ofcom is putting forward a long term strategic view that Gaining Provider Led (GPL) processes are preferable to Losing Provider Led (LPL) processes without a robust evidential foundation for doing so.

Virgin Media believes that this has come about because of the way in which Ofcom has approached this exercise. Ofcom has decided to try and identify the perfect theoretical switching solution and then to examine the issue of trying to overlay this solution onto the existing real world.

Whilst the appeal of choosing the theoretical perfect solution to be applied if there were no existing switching processes to consider might seem attractive, Virgin Media has a number of concerns about this approach. Firstly even on a theoretical Greenfield analysis, cost, timing and resource implications of a chosen solution would be a key factor in any decision about what was the optimal process. No decision even a Greenfield decision would be taken in a cost vacuum. However in Ofcom's decision making cost, timing or resource implications are not even considered.

Secondly Virgin Media does not feel that it is appropriate to adopt a Greenfield approach when the reality is that we are in Brownfield scenario. Rather than looking for a theoretically perfect solution Ofcom should be concentrating on developing a solution that can resolve the key issues with the existing processes with the minimum of cost, resource and timing implications for the industry.

Ofcom's focus on a theoretically Greenfield solution perfect solution however means that it has not clearly identified the issues arising from the current processes and therefore it cannot identify possible solutions that would address the issues. Virgin Media believes that there is no doubt that the current systems of AoT and MAC for switching fixed line and broadband on copper infrastructure have the potential for consumer harm but crucially Virgin Media believes that this potential harm arises from the possibility of slamming and failure to provide information about the implications of the switch to consumers for the AoT process and the failure to offer a speedy restoration service where things go wrong as well as instances where processes which should ensure continuity of service do not so wrong.

Virgin Media therefore takes a dramatically different view from Ofcom on these issues. Virgin Media does not believe that the harm arises from hassle or switching costs which dampen the competitive process. Similarly Virgin Media does not believe that save activity under the existing LPL processes stifles competition in the UK.

Virgin Media therefore would support a focus on the existing fixed line and broadband processes of AoT and MAC to address the areas where Virgin Media has identified potential consumer harm. In that respect Virgin Media believes that Ofcom's terms of reference for its workshop are too limited and do not address the real issues related to those processes where Ofcom might legitimately be entitled to intervene to address consumer harm.

¹ This response is made by Virgin Media on behalf of itself and Future Entertainment S.A.R.L (FES) trading as Virgin Media Entertainment.

Virgin Media notes that Ofcom states that a key objective is to consider harmonising the switching processes for fixed line and broadband to make it easier to switch double play bundles. This means we would need to apply a GPL or an LPL process to both services. Ofcom of course favours a GPL process being applied to the bundle of services and says given that it is costly for industry and us to work up detailed specifications and costings it would seem a disproportionate burden on stakeholders at this stage to develop the LPL options given that GPL options are likely to be preferred. In light of this we are not proposing at this stage to give further detailed consideration of LPL processes although we recognise that this might change later.

Virgin Media is concerned that Ofcom is taking an approach whereby it intends for industry to develop costings and specifications for GPL processes ahead of knowing whether the responses to the consultation makes them rethink their position. Virgin Media recognises that Ofcom does not believe that the workshops prejudge the outcome of the consultation document but Ofcom itself acknowledges the work that will be required by industry in developing specifications and costings. Such work and resource will be effectively wasted if as Virgin Media believes Ofcom is forced to rethink its favouring of GPL options on the basis of responses to the consultation.

Virgin Media notes that Ofcom suggests that it will only consider whether changes are necessary to the switching processes for mobile and pay TV and for fixed line and broadband switching using the C&R process such as for cable (including triple play bundling) after we have published the 2011 Statement.

Virgin Media's view is that there is little robust evidence of consumer harm in relation to pay TV, mobile or fixed line and broadband switching using the C&R process that would form a basis for Ofcom to intervene in this area.

Given the paucity of evidence in this area and the fact that this is not Ofcom's primary focus at this time, Virgin Media has not commented extensively on Ofcom's limited statistics in these areas and has instead focussed its attention on the AoT and MAC process. A failure to comment on a statistic should not be read as Virgin Media agreeing with that statistic and Virgin Media reserves its rights to comment fully on issues relating to mobile, pay TV and fixed line and broadband using the cease and reprovide process such as for example over the cable network.

Responses to Questions.

- 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.**

The Focus Should be On Consumer Harm Not Hassle

Virgin Media is keen to ensure that customers receive excellent customer service and that the provision of communications services is as simple as possible for its customers. However Virgin Media is extremely concerned that Ofcom is approaching this consultation in a misguided manner, using inappropriate comparisons and misjudging its legal basis for intervening. To put it bluntly Virgin Media is concerned that Ofcom has made the fundamental error of conflating the concept of "hassle" with the concept of "consumer harm" which would legitimately be something that Ofcom could potentially address using its statutory powers.

To argue that consumers are able to seamlessly “switch” between shopping with different clothes retailer or listening to different radio stations and that there is no inconvenience or hassle in such switching and then to compare it with the provision of electronic communications services in Virgin Media’s view is to use an inappropriate comparator.

The purchasing of electronic communications services requiring the provision of a service into a customers home using a physical medium as well as hardware (such as a modem etc) on an ongoing contractual basis will obviously always be a different purchasing experience to a one off shopping experience for clothes. In addition “hassle” is a subjective concept as opposed to the concept of consumer harm which can be more objectively assessed.

What is a hassle will depend very much on the individual person who is being questioned and is also not a static phenomenon. Something may not be a hassle in the middle of a quiet day when everything is going well but the same activity on a frenetic bad day may well seem like a hassle.

The subjective nature of how consumers experience the switching experience and the idea of hassle is borne out by Ofcom’s research on switching Bundled Services carried out in 2008 (the 2008 Bundles Research). In the conclusions of that research it is stated “The outcome and the experience of the process appears to be defined more by what the customer brings to the process and the manner in which the consumer is treated by their existing and new provider, **rather than due to any complexity within the process itself**”.² (emphasis added)

Virgin Media notes that Ofcom suggests that any changes to the process would be carried out through the General Conditions. Virgin Media notes that Ofcom’s power to make a General Condition in the area is described as follows “Conditions making such provision as Ofcom considers appropriate for protecting the interests of the end users of public electronic communications services.” Such a condition must be transparent, proportionate, non discriminatory and targeted only at cases in which action is needed. Virgin Media suggests that the threshold for Ofcom to justify a new general condition is therefore extremely high and that the evidence presented in its consultation document would not meet these thresholds.

Ofcom is misreading the statistics

Putting Virgin Media’s concerns about Ofcom’s approach to one side, Virgin Media notes that in any case Ofcom’s own evidence does not appear to provide convincing support for anything that could be said to constitute “consumer harm”.

Virgin Media notes that that the Executive Summary of the 2010 Consumer Research (2010 Research) which forms the mainstay of Ofcom’s evidence in this consultation makes the overall finding that **“while most switchers rate the switching process as easy, around one in ten say it was difficult to change to a new provider.”**³ Ofcom’s own 2010 Research clearly **illustrates that nine out of ten switchers surveyed therefore do not find the switching process difficult.**

Further evidence that the majority of switchers find the switching process easy is also supported by the statistics contained in Ofcom’s Switching Omnibus Survey conducted in 2009 (2009 Switching Survey). In that survey of those adults who had switched ISP in the last 6 months, 74% thought the process was easy or very easy and only 19% found it difficult or very difficult.⁴ In addition of those

² FutureSight Research 2008 –Conclusions pg 8

³ Consumer Switching and Bundling –September 2010 pg 1

⁴ Table 87, Switching Omnibus Survey April/May 2009 , pg 193

who had switched landline in the last 12 months 83% found it easy or very easy and only 8% found it difficult or very difficult.⁵ These statistics show that most consumers do not find the current fixed or broadband switching processes difficult.

Ofcom suggests that broadband and the MAC process is a major cause of concern for it. However arguably consumer's own concerns revolve around other issues and the switching process and the MAC process in particular form a very low priority for consumers. The Consumer Concerns Omnibus Survey 2010 illustrates that more consumers have concerns with other areas. In the June 2010 survey only 2% of consumers expressed an unprompted concern about "difficulty in obtaining a MAC code when trying to switch broadband supplier".⁶ A far higher proportion of customers (27%) were concerned about their broadband speed being slower than expected.⁷

It is perception rather than experience which drives a view on hassle

Virgin Media finds it striking that in Ofcom's 2010 Research it is those people who have **neither switched nor even considered switching** who are more likely to agree with the statement that "Changing suppliers for my home technology seems like too much hassle". (**Emphasis added**). In contrast with inactive customers those customers who have switched or who have considered switched are less likely to agree with the statement that switching provider for my home technology seems like too much hassle

However the research also shows the strongest association with hassle for inactive consumers is searching for information about other providers they could use with 54% of those surveyed saying the aspect they considered to be a hassle was "searching for information about other suppliers you could use."⁸ In dramatic contrast with inactive consumers in the case of switchers for all services the highest total of customers who said they found finding information difficult was 7%.

Searching for information about other providers is however probably the part of switching that requires least activity by customers given the high levels of advertising by providers and the increasing number of price comparison services. This fact is borne out by the statistics for those who have switched all services with figures ranging from 69% of switchers of pay TV⁹ to 86% of switchers for mobile¹⁰ indicating that finding information about other supplies you could use was easy.¹¹ The 2008 Bundles Research also reveals that "Active researching of the market tended to happen when consumers were nearing the end of their contract (generally mobiles) and or/when there was a problem with their service and they were considering a change."¹² That research states "overall, consumers felt there was a vast amount of information pushed to them via advertising, leaflets, newspapers and magazine as well as sales calls-¹³".

⁵ Table 28, Switching Omnibus Survey April/May 2009, pg 133

⁶ Table 169, Consumer Concerns Omnibus Survey June 2010 pg 184

⁷ Table 173, consumer Concerns Omnibus Survey June 2010,

⁸ Figure 22-Consumer Switching & Bundling-September 2010 p 30

⁹ Figure 13, Consumer Switching & Bundling-September 2010, p21

¹⁰ Figure 15, Consumer Switching & Bundling-September 2010, p22

¹¹ The relevant statistics for customers who had switched bundles, fixed broadband and fixed line were 82%, 73% and 71% respectively. See Figures 12, 14 and 16 of Consumer Switching & Bundling September 2010 respectively

¹² Para 3.10- Report of Findings-Switching Bundled Services-Exploring the Impact of bundles on consumers' ability to shop around and switch May 2008

¹³ *ibid*

Virgin Media suggests that the statistics about inactive customers are extremely revealing and suggests that switching is not at all a priority for these inactive customers and that no matter what the switching process these customers are unlikely to switch. This is expanded on below.

Hassle is not the key reason that do people do not switch

As Ofcom itself acknowledges in the consultation document at Para 4.23, the key reason given by the vast majority of consumers who have not even considered switching is satisfaction with their existing supplier and **“the actual switching process did not appear to be the key barrier.”** Similarly in relation to considerers Ofcom itself notes that “there are a range of other reasons for considerers not switching (for example save activity, inertia, no benefit in moving and contractual terms) and **no particular reason stands out in the consumer research.** (Figure 13)¹⁴.

Virgin Media also notes that the unprompted responses in the underlying data tables of the 2010 Research are quite revealing about the reasons why people do not consider switching. When considerers were asked why you haven’t taken any of these steps towards switching to another supplier for your fixed line broadband so far:

44% said “I just haven’t got around to thinking about it”

22% said “Waiting until the end of the contract period”

11% said “Undecided /waiting for the right time”

Only 4% said “Too much hassle”¹⁵

When considerers were prompted with a list of reasons 80% said they were happy/satisfied /content with the current supplier.”¹⁶

Virgin Media believes that the clear thrust of all of this evidence is that Ofcom is unable to make out one of the key arguments that it is trying to make, that “hassle” is a dampener on the switching process and that as a result consumer harm exists which would justify Ofcom intervening in this area.

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.

Virgin Media considers that again in this part of the consultation document, Ofcom is directing itself inappropriately. The key question is “not do consumers who may never have switched and who have no interest in switching” understand the switching process but “can consumers who want to switch find out about it easily and have the process made understandable for them.” As with hassle clarity is a subjective concept which will not only depend on the customer but also their relevant providers (both gaining and losing).

Virgin Media suggests for customers it is also not the clarity about the switching process per se but the clarity of how they reset their services once they have switched (new router, password, login, email address that often confuse customers. **[Confidential material redacted]** Virgin Media suggests that when considering both clarity and hassle the fact that a switch of broadband for

¹⁴ Para, 4.25 –Ofcom Strategic Review of Consumer Switching 10 September 2010

¹⁵ Table 100, -Ofcom Consumer Switching and Bundling 18th February to 1st March 2010, page 222

¹⁶ Table 101, Ofcom Consumer Switching and Bundling 18th February to 1st March 2010, pg 224

example will require the sending out of a new modem and its set up by the customer may contribute to customers' perceptions of the switching process rather than the actual switching process itself. Regardless of whether the switching process is GPL or LPL customers will still have to deal with these issues.

It is perception rather than experience which drives the statistics.

The key statistics with which Ofcom supports its view that something needs to be done to address clarity are those relating to those surveyed who have never considered switching. Virgin Media suggest that this is a common sense response for those who have never considered switching and suggests that it would be the same for any industry where a switching process exists. So for example if a customer had never considered switching their bank account and direct debits they might not know what process to follow, until the point when they considered this and began to take steps.

Virgin Media notes that Ofcom also focuses in on the number of customers who don't know what a MAC or a PAC but as set out above Virgin Media queries whether this is the appropriate question for Ofcom to be asking.

Virgin Media thinks that there is very little evidence that lack of robust knowledge is a barrier to customers switching. The key question is can customers find out the information at the time they wish to switch and Virgin Media believes that there is clear evidence that customers can find out this information.

Virgin Media believes that for those customers who are interested in switching there are numerous sources of information which can make the process understandable for the customer and provide them with the information they need to switch service.

Some of the key sources of information are Ofcom's own website which not only provides descriptions of the switching process but also provides consumers with template letters. Similarly price comparison services such as Money Supermarket.com and Broadband Services all provide detailed information to consumers about the switching process. Finally each of the major providers also provides information about the switching process and Virgin Media understands some provide template letters and email documentation for customers to send to their losing provider.

Virgin Media notes that it is in providers interests to help customers to navigate the switching process. In this respect whilst as Ofcom acknowledges it is in gaining providers interest to help their customers navigate the switching process Virgin Media would also note that Ofcom fails to recognise that it is in losing providers interests to ensure that the last experience the customer has with their losing provider is a good one. Providers who make the switching process more difficult for their customers who are leaving are less likely to be able to win back that customer in future or to have that customer recommend their service to others.

At Annex A Virgin Media attaches some screens shots from the biggest providers and from some price comparison services to illustrate its claim that interested consumers can easily find evidence about switching.

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.

One aspect of clarity that Virgin Media wishes to address here is clarity about contractual information. Virgin Media believes that understanding contractual liabilities is extremely important for customers particularly if the reasons they are switching are not related to service standards or requirements for service but are aimed at reducing costs.

Virgin Media's view is that the issue of clarity around contractual information can extend beyond the application of an early termination charge (ETC) alone but can extend to the impact on monthly charges if a customer has a bundle of services and switches one of the bundle of services, the customer may for example lose a bundled discount, meaning that their monthly charge may change

Virgin Media suggest that depending on the size of any ETC or change to monthly charges the customer may be liable for it is potentially possible that any cost savings to the customer from switching may be lost or diminished.

Despite the suggestions by some market participants that ETCs should not be charged Virgin Media's view is that compliant early termination charges are part of a legitimate commercial model and that these charges are unlikely to disappear from the marketplace, given the growing move to 18 -24 month contracts for particular services. Virgin Media notes that Ofcom has been engaged in an exercise of assessing providers' early termination charges along with other types of additional charges against its guidance on additional charges and that this enforcement activity is likely to continue.

Virgin Media notes that Ofcom's theoretical behavioural exercise seems to suggest that customers make worse choices when they have a simple warning about the existence of ETCs and that the provision of additional information on ETCs as part of the switching process increases complexity.

Virgin Media suggests that this is contrary to a common sense approach and illustrates some of the limitations of theoretical behavioural research. In reality most customers would wish to be informed of the potential for ETCs and this information is likely to help them to make a better decision in their circumstances. This is in direct contradiction to the findings of the theoretical research.

Virgin Media notes that a very small base of customers surveyed in the 2010 Consumer Research indicated that they had paid an ETC but had only become aware of it after they had agreed to switch their package or service. Of these customers the majority (63%) said they would have still decided to switch if they had known they would have had to pay a cancellation charge but a sizeable number (37%) said they would not have decided to switch if they had known of the cancellation charge.¹⁷

Similarly of those considerers who did not switch the question was asked were cancellation charges important in their decision not to switch provider. For those who had considered switching fixed line broadband 82% said these charges were very important or fairly important with only 18% saying that they were not important.¹⁸

Virgin Media suggests therefore that little weight should be placed on the conclusions of the behavioural economic research and that clarity on contractual information should be regarded as a key principle of the switching process.

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¹⁷ Table 273 Ofcom Consumer Switching and Bundling 18th February to 1st March 2010

¹⁸ Table 572-Ofcom Consumer Switching and Bundling 18th February to 1st march 2010

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.

Virgin Media obviously supports efforts being made to ensure continuity of service for customers when they change providers. Indeed Virgin Media notes that avoiding breaks in service and the avoidance of disconnection and then reconnection fees when customers moved service provider on the same piece of copper going into their house was the original motivation for switching processes being developed.

Virgin Media thinks that the fundamental reasons why switching processes such as MAC and AoT were developed need to be borne in mind by Ofcom during this review. Given that there was only one piece of copper going into the house in the absence of a switching process the customer would need to disconnect and reconnect a new service as two services could not be provided to the house simultaneously. This could lead not only to breaks in service but also to reconnection or installation fees.

In cases where however there are two physical infrastructures going into the property, such as cable and copper or copper and a new FTTH network, it is possible for the customer to have two services operating simultaneously and therefore there is **no need** for an unwanted break in service provided the new service is installed on time.

Ofcom's Survey Evidence on Break of Service fails to explain the customer journey and therefore the reasons behind a break in service.

In this consultation Ofcom provides a number of statistics which illustrate large numbers of customers experiencing an unwanted break in service. However what concerns Virgin Media about Ofcom's work in the area of continuity of service is that for the customers who suffered a break in service while it is clear what process the customer said they followed, it is not clear what the customer journey actually was and why the customer suffered a break in service.

In the absence of qualitative evidence about the journey that the customer was embarked on and why the customer suffered a break in service it is impossible in Virgin Media's mind to draw conclusions about the real issues that might cause consumer harm.

What is clear to Virgin Media is that it is not appropriate to say "33% of MAC users (a LPL led process) suffered a break in service and therefore a GPL led process would be more appropriate.

Instead what is required is an understanding of why the process went wrong and what can be done to fix it. That Ofcom should be focussing on the reasons why there is an unwanted break in service when different processes are followed and understanding the customer journey rather than focusing on its characterisation of a process as GPL or LPL is illustrated by the fact that 11% of fixed line switchers using the NoT process and 17% of broadband users using the NoT process suffered an unwanted break in service.

Virgin Media notes that a large number of those who used cease and reprovide experienced a break in service. In relation to those customers who used a “cease and reprovide process” for their fixed line or broadband service Virgin Media queries what journey is actually represented by this process. Are these customers switching to or from cable to copper? If so again there is no theoretical reason why these customer should experience a break in service as they can have two services being provided into the house simultaneously. Alternatively were those customers who used the cease and reprovide service for broadband on MPF and switching to another MPF provider or an SMPF provider. Further details on the actual customer journey and the reasons behind the break of service are necessary.

Virgin Media notes that one of the key issues with continuity of service particularly for cease and reprovide where the customer is switching infrastructures will be whether an engineer visit is required to install infrastructure.

Another issue as referenced by Ofcom in para 4.31 was that customers experienced difficulty in keeping their phone number. Virgin Media notes that the porting process for fixed services is not mentioned anywhere in Ofcom’s consultation document. Virgin Media is of the view that a key issue for consumers alongside cease and reprovide processes for say copper to cable or vice versa is porting and therefore any reasoned consideration of this would need to be made after any amendments to the porting process (that will be required in order to meet the requirements of the EU Framework Directives).

Virgin Media notes that it is currently in the process of improving its cable join journey with particular reference to the customer installation as it recognises that the requirement to wait at home for an engineer is an important touch point in the join journey. Virgin Media notes that both its own experience and Ofcom’s research shows that consumers value certainty about when the switch/delivery of a new service will happen over having these events occur as quickly as possible.

Double Billing

The statistics would suggest that those using C&R for broadband and fixed line and those using MAC for broadband were more likely to have some element of double billing than switchers using other processes. However the 2010 Research also reveals that the only switching processes where some customers did not have to pay more than one company is PAYG mobile (PAC) or (PaYG C&R). All other processes whether GPL or LPL had some customers who experienced double billing.

The research report also suggests that the average period of double billing is 12 days with an average additional spend of £30. The Saville Rossiter Basse summary report provides no real detail on how the double billing is made such as whether the double billing is the remainder of the month, paying for another service that the customer was retaining etc.

The limited information that there is suggests that with the MAC process one in five customers who were switching using MAC were also switching other services in a bundle at the same time which may explain some of those experiencing a period paying more than one company. In addition as the commentary makes clear “some switchers reported paying more than one company through having an obligation to pay the losing provider to the end of the month” with some of those subsequently getting a rebate or refund.”

Virgin Media would suggest that double billing issues are unlikely to be resolved whatever the switching process (whether gaining provider led or losing provider led) because contracts generally provide for a minimum notice period. Virgin Media also notes that Ofcom has addressed issues with minimum notice periods through its guidance on additional charges.

Virgin Media notes that there is little evidence that double billing is a major concern for customers and that there is anything relating to double billing that could be classified as consumer harm. Indeed Ofcom itself suggests that double billing appears to be less of a concern for consumer than an unwanted break in services.

Virgin Media does not see that there is anything in Ofcom's work on continuity of service and double billing however that would support a move to GPL processes.

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.

Virgin Media thinks that there is very little evidence produced by Ofcom of providers' actually frustrating the switching process in the sense of providers breaching the existing rules to prevent the customer from moving.

Virgin Media notes that the only evidence that Ofcom produces of a breach of the current rules is based on its 2008 Bundling Research (which had a very limited base) where some participants in the focus groups were told that it would take 7-10 days for them to receive a MAC and some respondents reported not receiving one. Virgin Media notes that if Ofcom is concerned about providers' failure to comply with the current requirement to provide the MAC within 5 days this could and should be dealt with by enforcement measures.

Putting those very limited instances of breach of the existing regulations to one side Virgin Media notes that despite receiving data from industry on the average time it takes providers to issue a MAC, Ofcom does not provide any real detail about this in its consultation document. Ofcom's only comment is that some providers provide "a MAC to customers wanting to switch broadband provider on average in matter of minutes, whereas for others it generally takes a few days."¹⁹ In all cases this would seem to be within the current timeframe specified in GC22 and provides no evidence that providers are frustrating the process.

Statistics on Failure of CPs to provide Information to Customers Do not Support the Frustration Claim

In addition Virgin Media notes that only a very small minority of consumers surveyed by Ofcom who had switched provider within the last 12 months felt that getting their previous supplier to provide the necessary information was difficult (1 in 10). 9 in 10 customers therefore did not experience a difficulty with obtaining relevant information from their provider.²⁰

¹⁹ Paragraph 4.95 Ofcom Consultation Document.

²⁰ Virgin Media notes that there are figures in the research report for customers who are using switching processes where no information would appear to be required from the customer's current provider (ie pay TV) and fixed line to

Because Ofcom's 2010 Research provide little evidence of service providers failing to provide information to customers or frustrate the switching process, Virgin Media notes Ofcom is forced to rely on earlier statistics but in doing so it appears to cherry pick and present out of context the statistics it quotes from to support its arguments that there is frustration of the switching process.

Ofcom cites the fact that 3% of complaints into Ofcom were about difficulties consumers faced with PACs and MACs. However the Consumer Experience Research Report 2009 reveals that the number of monthly complaints relating to MAC has been falling over time and have currently levelled off to around 200 a month. In the context of the likely overall numbers of customers switching their broadband services using a MAC and the greater number of customers who request a MAC every month but do not go on to use it, Virgin Media notes that 200 customers a month would be a very low number.

In the Consumer Concerns Omnibus Survey for June 2010 only 2% of consumers surveyed have personally experienced difficulty in obtaining a MAC code when trying to switch broadband supplier.²¹ This compares with 31% of customers experiencing broadband speeds being slower than expected.²² When customers were asked an unprompted question about their concerns or worries with their internet service only 2 out of 708 respondents mentioned problems switching internet service providers.²³

Virgin Media notes that its national business currently aims to deliver its MACs as soon as possible and provides them verbally and by SMS to customers as opposed to providing the MAC by letter which it understands is the process adopted by some service providers.

Virgin Media notes that the Migrations Programme Board working group has already identified that there is value in industry working together to discuss how MACs could systematically be provided in a shorter timeframe and in ways that were more friendly for customer (ie a shorter format, provided verbally or by SMS or email).

Virgin Media believes that given that Ofcom's comments on timeframes for delivering MACs suggest that most providers are already providing MACs well within the current regulatory timeframe, providers should be able to reach agreement on some simple measures to improve the way in which MACs were provided. In Virgin Media's view this is the most proportionate way of dealing with the relatively small scenario of customers having difficulties with obtaining a MAC. Virgin Media is willing to work with industry to work together to come up with and implement a solution to this issue.

In relation to issues with obtaining a PAC, Virgin Media notes that Ofcom has recently amended the regulations to require the provision of PACs immediately or by SMS within 2 hours. Whilst the number of players in a fixed broadband chain is likely to be more extensive so that a MAC within 2 hours may not be possible, Virgin Media does believe there is room for significant improvement on the current 5 day period.

allow them to switch. Again this suggests that there needs to be more qualitative understanding of the customer experience and journey if the real issues with switching are to be addressed.

²¹ Table 169, Question 11.

²² Table 179, Consumer Concerns Omnibus Survey-June 2010 page 194

²³ Table 25 . Consumer Concerns Omnibus Survey June 2010 page 28

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.

Ofcom defines "save activity" for the purpose of the consultation as the situation where the save offer is promoted by the losing provider systematically becoming aware of a consumer's intention to switch before the switching actually take place.

In this section Virgin Media only addresses the consumer's experience of save activity. Its views on Ofcom's economic analysis of save activity are contained in its response to question 9.

A Large Percentage of Customers Want the Opportunity to Negotiate with their existing Supplier

Virgin Media notes that in contrast to Ofcom's views that save activity is uniformly negative there is a strong level of statistical evidence that consumers actually value and want an ability to negotiate with their existing provider. In the 2009 Switching statistics 47% of mobile customers²⁴ and 46% of internet customers who considered switching but did not so because their existing provider matched an offer **proactively asked their provider to match or better the offer**.²⁵

Indeed the fact that a provider does not offer a customer a save offer is itself a reason cited by an unprompted small minority of customers as to why they moved. In relation to those mobile customers who switched mobile provider 3% said they did so because the current provider did not improve their offer.²⁶ The comparative statistic for internet customers was 4%.²⁷

The fact that consumers use the threat of leaving to negotiate a better deal is clear to providers within the industry and this is acknowledged by Money Supermarket.com who write "Haggling for a better deal is also worth while. Seven per cent of those polled said they negotiated a better deal by asking for a MAC code and threatening to leave."²⁸

The statistics about preference for save activity among switchers and considers also illustrate that of those who had switched 35% of would prefer the current system where the supplier may or may not try to convince you to stay and 32% want a system where this can happen but only if you choose an option to allow it.²⁹ Of considerers the respective figures are 38% and 26%.

Virgin Media suggests that the responses to this question may have also been influenced by the way the question is worded "Which one of these three systems would you prefer to decide whether a supplier tries to convince you to stay?" A more open question which talked about the ability of a supplier to make a matching offer or to negotiate a better deal with their existing provider may well have elicited a different response.

Virgin Media notes that in the switching omnibus survey 2009 the question asked of landline customers was "When you contacted your existing home landline provider telling them you wanted

²⁴ Table 9, Switching Omnibus Survey April/May 2009 p41.

²⁵ Table 36, Switching Omnibus Survey April/May 2009 p173

²⁶ Table 13, Switching Omnibus Survey April/May 2009, p 59

²⁷ Table 39, Switching Omnibus Survey April/May 2009, p 187

²⁸ Broadband Providers still failing on MAC codes. Money Supermarket.com 5/1/2010

²⁹ Figure 36, Consumer Switching and Bundling, September 2010

to switch did they offer you a deal to encourage you to stay.” The language used in this question is arguably more neutral than the language used in the 2010 Switching Research.

Most customers do not feel under pressure from their losing provider.

Virgin Media notes that in the 2010 Research customers who had switched were asked to identify which of the following was the case “They did not try to persuade me to stay”, “They talked about me staying, but did not put pressure on me to stay”, “They put me under pressure to stay with them”. Importantly the vast majority of switchers for all services felt that their previous provider did not try to persuade them to stay or had talked about them staying but did not put pressure on them to stay. The combined percentages for each of the services of those who switched and who were not persuaded to stay or did not feel under pressure are as follows;

Service	Combined Percentage
Bundle (whole or services)	87%
Pay TV	70%
Broadband	82%
Mobile phone	78%
Fixed line voice	71%

What these figures reveal is that that vast majority of customers do not feel put under pressure to stay with their existing provider when they contacted them.

Similar figures are revealed for those who had considered switching and who had contacted their current provider. Whilst the number of those who felt they had experienced pressure was slightly higher again the vast majority of customers reported that they were not persuaded to stay or whilst talked to about staying, their provider did not put pressure on the customer to stay.

Virgin Media notes the 2010 Research does not set out why customers felt they had been put under pressure to stay. Rather this is contained in the underlying data tables only published on 29 October 2010. Virgin Media notes that the reasons customers put forward for why they felt put under pressure to stay include:

44% said “they waited in a queue on the telephone for a long time to tell them I wanted to cancel”
37% said “I was told I would have to pay a cancellation/early termination charge to leave the contract with them
19% were told it would take a long time to make a switch to the new supplier
17% said “I had to push them to give me the information/code I needed to make the switch”
17% said “I was told that their service was better than other suppliers/I wouldn’t do better anywhere else.
10% said “I was told it wasn’t possible to leave my contract with them.”
10% said “They told me the amount I would have to pay as a cancellation/early termination charge to leave the contract with them.”³⁰

³⁰ Table 368.Ofcom Consumer Switching and Bundling 18th February to 1st March 2010. These are the statistics for fixed line service. Similar statistics for those who felt under pressure from their current fixed line broadband supplier can be found in Table 582. Virgin Media acknowledges that in both cases there was a very low base figure.

Virgin Media suggests that these statistics (even if not statistically significant) support its view that Ofcom needs to be concentrating on provable consumer harm, rather than concentrating on subjective concepts such as hassle or feeling put under pressure. In particular the fact that 47% felt that being informed of an early termination charge or cancellation charge was a factor that made them feel put under pressure suggests to Virgin Media that this concept of being put under pressure is highly subjective and cannot be used to demonstrate consumer harm. Virgin Media notes that Ofcom suggests that a key principle for any switching process that the process must promote awareness of the implications of switching and states *“our main concern relating to ETCs, in this context is to ensure that consumers are aware of any possible liabilities before they switch provider(s) so they can factor this into their decision making. We want to avoid consumers incurring unexpected ETCs after they have changed provider.”*³¹

Virgin Media queries therefore how objectively the provision of information to satisfy a key principle of clarity for the switching process can also be regarded as a factor that might be seen to constitute harm.

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.

Virgin Media notes that Ofcom’s statistics relating to business consumers are drawn from its report on The Business Consumer Experience 2009. Virgin Media notes that as Ofcom notes in a footnote this report considers the experiences of all businesses including those with up to 250 or more employees. Ofcom’s ability to make general conditions however is limited to small business consumers which is restricted to undertakings for whom ten or less individuals work (whether as employees or volunteers or otherwise).

Virgin Media notes that Ofcom’s statistics reveal that negotiating a better deal with their supplier seems to be more important for businesses than for consumers. Ofcom reports on business consumers who had shopped around and then asked their current supplier to match their new deal reported on the subsequent outcome. 77% of mobile customers who had asked their mobile provider to match the deal had been successful in this regard. In relation to fixed line services 52% of customers had had the deal matched with 10% indicating that they did not yet know whether they had been successful while 63% of broadband customers had had the deal matched.

Virgin notes that only one in 10 mobile customers who had considered switching but did not do so said that the process was too complicated. In relation to fixed services whilst 12% said the process was too complicated Virgin Media notes that all of the adhoc comments are not about the complicated nature of the switching process itself but about alleged difficulties in comparing the deal. The position with customers who considered switching internet service appears to be the same, in that the ad hoc comments about complexity are about knowing what quality of service you would receive and comparison of tariffs.

Virgin Media notes that when questioned about the ease of switching only 16% of mobile switchers said the process was not very easy or not at all easy. In contrast 82% said the process was easy.³² In relation to fixed switchers 18% said the process was not very easy or

³¹ Paragraph 6.19

³² The Business Consumer Experience –Ofcom. -9 December 2009, figure 73, p 85

not at all easy with 80% finding the process easy.³³ Finally 23% of internet/data switchers said the process was not very easy or not at all easy and 75% found it easy.³⁴

Virgin Media notes that a lot of the anecdotal comments around the difficulties in the fixed market relate to porting, a subject which Ofcom has not mentioned in the consultation document but that this is an issue which will need to be addressed in any case to meet the requirements of the amended EU directives.

Virgin Media suggests however that the only real difference that is revealed by the statistics for business customers and residential customers is the importance for business customers of being able to negotiate a deal with their supplier and that this supports the retention of this opportunity.

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

Virgin Media notes that Ofcom defines switching costs as costs which arise “when there is a cost incurred by changing supplier that is not incurred by remaining with the current provider.” Ofcom comments that there are several types of switching costs including transaction costs, compatibility costs, learning costs, contractual costs, equipment costs, uncertainty costs, psychological costs, shopping costs and search costs.

Ofcom however suggests that not all of the different types of switching costs are relevant for their assessment of switching processes. They suggest that “for instance, search costs (of finding alternative products), learning costs (of how to use the new products) and contractual costs are all costs that might be incurred irrespective of what switching process a consumer has to go through in order to switch providers.”

Virgin Media suggests that whilst it is clear that search costs and learning costs might apply regardless of the process, it is not clear that contractual costs should be put in the same category. If by contractual costs, Ofcom is referring to the costs of entering into the new contract (without any regard to any ETCs) than Virgin Media can see how this might be incurred in any switching process. If however contractual costs include ETCs than Virgin Media's view is that the losing provider led switching process can allow the customer to understand these earlier and possibly avoid them, whereas this is less likely in a gaining provider led system (particularly the ones in operation in the UK today). Similarly the psychological costs of finding out that one has an ETC only after one has switched are likely to be higher than if one finds it out before one has switched.

Virgin Media notes that Ofcom's analysis of switching costs is primarily theoretical and there is very little practical discussion about switching costs. Virgin Media notes that what limited evidence there is about ease or difficulty of different processes should be explored in a more qualitative way by Ofcom. For example Ofcom suggests that the PAC process is easier for consumers to navigate than the MAC process yet both are a LPL led process where a customer needs to obtain a code from their losing provider with the only distinction being the regulations which cover the period during which and the form by which the PAC must be delivered as compared to the MAC.

From a theoretical perspective the switching costs of the two processes should be the same and the fact that consumers regard them differently suggests to Virgin Media that consumers are

³³ The Business Consumer Experience –Ofcom. -9 December 2009, figure 74, p 85

³⁴ ³⁴ The Business Consumer Experience –Ofcom. -9 December 2009, figure 75, p 85

(absent the differences in regulation) commenting on broader issues and not just the switching process per se.

Number of Touch Points.

Virgin Media notes that Ofcom places a large amount of weight on the number of touch points that the consumer needs to go through in its assessment of switching costs. In considering touch points however Virgin Media considers that Ofcom takes a particular view of what a touch point is that inherently favours its preferred option of Gaining Led Processes. So for example Ofcom suggests that a GPL process requires just one contact with the GP to initiate a switch, and that the consumer may also choose to contact the LP for example if they want information about any early termination charges.

Virgin Media suggests that this description of the touch points of the GPL process (AoT) ignores the fact that despite this conversation with the GP, the consumer will also be in receipt of two letters (one from the GP and one from the LP). Virgin Media believes that these interactions should equally be regarded as touch points. In addition where the consumer is subject to an ETC the consumer must contact the LP if they are to understand what the ETC is prior to switching and therefore there are at least two touch points in this scenario and four touch points if the letters to the customer are included.

In respect of LPL processes Ofcom notes that the process requires a minimum of two touch points and potentially three if consumers contacted the GP before obtaining the code from the LP. Similarly in respect of cease and reprovide Ofcom says that this process requires at least two touch points as consumers need to contact the GP to start their service and the LP to cancel their existing service,

Virgin Media's view is that Ofcom is overly focussed on the number of touch points and fails to understand how consumers would regard the trade offs that might be made between the number of touch points and certainty and clarity about the process.

Making Contact.

Virgin Media notes that Ofcom also places weight on the fact that a minority of consumers experienced difficulties in making contact with the relevant service staff to start the switching process and suggests that this is more likely to be difficult under a LPL process as the LP has less of an incentive to make the switch happen smoothly than a GP.

Virgin Media notes that despite requesting information on the manner in which providers provided MAC (ie a separate telephone number) or a separate option on an IVR etc, Ofcom fails to provide any details of this in the consultation document. There is no evidence therefore that the difficulty in getting through to the providers is any more or less difficult than getting through to the provider for any other customer service issue. In the absence of any such information to this effect Virgin Media suggests that Ofcom is unable to draw any real conclusions about this and any switching costs that might arise from this.

Theoretical Literature and Academic Research

In reaching its views on switching costs Ofcom appears to rely heavily on an academic workshop held by Ofcom. Ofcom states that the outcome of the workshop was a *“strong consensus that switching costs associated with the switching process should be minimised as much as possible.*

The LPL process came across as implying higher switching costs than the GPL processes. There was as strong consensus that higher switching costs dampen competition and that this was especially true in mature markets.”

In the absence of any detail about this workshop Virgin Media does not believe that Ofcom can legitimately place any weight on this alleged strong consensus. Communications providers have had no ability to test the alleged consensus of this workshop or to critique the arguments made at that workshop because of the complete lack of transparency around it.

In addition Virgin Media believes that Ofcom’s discussion of the academic literature are flawed and fail to take into account the nuanced nature of the economic literature. Virgin Media notes that the NERA report on switching costs completed for the DTI in 2003 makes the following key points about switching costs:

“Although switching costs have implications for the price structure they do not necessarily raise the average price level over time.”

“Entry is also affected by switching costs but not necessarily in the way that one would expect. Entry is obviously difficult in a mature market with high switching costs where most customers are already locked in to a supplier. However moderate switching costs can actually be conducive to entry as they make incumbents less likely to react aggressively to new entry. In cases where switching costs raise the profitability of markets, then they also encourage entry.”

“Whilst switching costs affect how competition operates in a market they do not necessarily make markets less competitive.”

“In considering any competition policy or other regulatory intervention in markets with switching costs it is extremely important to take a dynamic perspective.”

“In most cases the existence of switching costs is relatively benign as they will often not be sufficiently large to disrupt the operation of competition and no intervention will be required.”

Virgin Media suggests that Ofcom has fallen into the following trap as described by NERA:

“There appears to be a tendency among industry analysts to assume that the presence of switching costs is necessarily ‘a bad thing’ for the competitive process. The main message of our report is that that is not necessarily the case. Switching costs do affect how competition works in a market but they do not necessarily make markets less competitive. As we saw above switching costs intensify competition in growing markets with large numbers of uncommitted customers. Furthermore their softening effect in more mature markets may be compensated by aggressive ex ante competition (so that consumers have been refunded in advance for later high prices) and by competition from small competitors who price low, even below cost to attract customers from established firms.

Whats more switching costs can sometimes be an important spur to competition and innovation. By making customers who buy from A’s product today also likely to buy from A tomorrow, switching costs create a powerful incentive for innovation. It makes sense to spend money investing in new products and new business opportunities and in market share if success is likely to be rewarded by a stream of future profits. Switching costs increase and secure the returns from successful innovation..... The lock in caused by switching costs however they arise can consequently act like a patent in giving an incentive for risky investment.

All of this implies that the most important factor in assessing the effectiveness of competition in a market with switching costs is market dynamics. A dynamic assessment of competition is important in any competitive analysis but even more so in a market with switching costs."

Virgin Media also suggests that Ofcom has failed to carry out any dynamic assessment of the relevant markets and has failed to follow the basis rules set out by NERA. Virgin Media notes that Ofcom's own views on the competitiveness of relevant markets (see question 10) would suggest that switching costs have not affected the competitiveness of the markets under consideration.

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

Virgin Media has a number of real concerns with Ofcom's economic analysis of save activity. Ofcom suggests that the literature on price guarantees to save activity would suggest the following:

- Save activity is likely to reduce the incentive of rivals to offer better deals and encourages firm to set high prices;
- Save activity may deter entry.

Its final conclusion is that "We are of the view that save activity in a LPL environment is likely to weaken competition and reduce the benefits from competition to consumers overall. While those consumers who experience save activity in a LPL process may retain a positive experience and value such practice, it is unlikely to be in their interest overall. Consumers who receive a retention offer compare such offer with the currently existing prices. However, both these prices and the discounted prices they receive are likely to be lower under a different process that does not include an inbuilt process for retaining customers. *There is little doubt that consumers who are not considering switching are highly likely to pay lower prices if save activity in a LPL environment could somehow be restricted. (Emphasis added)*

Effectively Ofcom is making the extremely bold claim that all prices across the board would be lower in a gaining led environment. Virgin Media notes that in reaching this claim Ofcom bases this heavily on the economic literature and some limited evidence about the retention activity that takes place in the UK based on the information provided by two providers in response to information requests.

In respect of the economic literature, Virgin Media notes that targeted save activity in an LPL process has not been the subject of any specific academic research. As such Ofcom is relying on the literature about price discrimination and price matching guarantees to draw its conclusions. Virgin Media suggests that given that this is such a key part of Ofcom's justification for moving to a gaining led process merely to rely on economic literature that does not directly address the issue in question is not sufficient.

According to Ofcom the economic literature on 'save' activity may lead to either

- price discrimination facilitated by the switching process (see paragraphs 5.52 – 5.58).
- price 'guarantees' facilitated by switching processes (see paragraphs 5.59 - 5.66)

We deal with both effects in turn.

Price discrimination

According to Ofcom 'save activity' is defined as within the context of LPL process, and, refers to the situation 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'.

VM believes that this definition is too narrow and that it is difficult to distinguish save activity from a broader discussion between providers and customers about the benefit of educating or reminding the customer of the terms of their existing contract as well as performing a validation exercise for the customer.

For example a discussion between a provider and a consumer:

:

- Can allow the validation of the order against the account holder to be undertaken - this means that switches that have not been authorised by the account holder can be avoided
- Allows the customer to understand whether they are will incur an early Termination Charge' (ETC),
- Allows the customer to be informed of any impact on their remaining monthly charges if they are switching only one of a bundle of services (ie if they will lose a bundled discount for eg)
- Can allow the existing supplier to clarify the switching process for the customer. –

Ofcom itself acknowledges that price discrimination can lead to either of several difference outcomes- one of which is 'lower prices for all compared to uniform pricing' (see paragraph 5.55)

b) Price Guarantees

According to the review of the academic literature conducted by the University of East Anglia (footnote 105 on page 75), it states that 'The theoretical literature also identifies situations where the guarantees can benefit consumers either by enabling them to identify low-price firms or enabling firms to price discriminate'.

Virgin Media notes that even in the context of save activity as narrowly defined by Ofcom, it is not guaranteed that an offer is always made (i.e. a Price Guarantee). Virgin Media notes that in the 2009 Switching Survey 56% of customers who contacted their existing ISP telling them they wanted to switch were not offered a deal to encourage them to stay.³⁵ 57% of landline customers in the same situation were not offered a deal to encourage them to stay³⁶ and in relation to mobile 48% of customers were not offered a deal to encourage them to stay.³⁷

In any case it is not always clear that even if a save offer were made that the price guarantee will match the best offer the customer has received. Whilst the numbers are small and may not be statistically significant Virgin Media notes that of the those who had listened to an offer from their previous fixed line phone supplier 82% said the offer was worse than the best offer the customer had found.³⁸ In addition when one looks at the deals received by customers these were not all about price. Customers were also offered faster broadband speeds, better handsets etc.

³⁵ Table 38 of Switching Omnibus Survey April/May 2009 pa 181

³⁶ Table 25 of Switching Omnibus Survey April/May 2009, p117

³⁷ Table 12 of Switching Omnibus Survey April/May 2009, p 53

³⁸ Table 365 of Ofcom Consumer Switching and Bundling 18th February to 1st March 2010

As even Ofcom itself seems to note the economic literature does not allow one to conclude that 'Price Guarantees' necessarily lead to higher prices and in relation to save activity where a price guarantee is not guaranteed Virgin Media would suggest the impact is even less likely.

Virgin Media suggests that given the inconclusiveness of the economic literature it is therefore necessary to evaluate the reality of the market more closely.

Ofcom does not sanity check its analysis of the literature with the reality of the market

In particular Virgin Media notes that Ofcom does not cross check their conclusions from the economic literature with what is happening in the marketplace. There is no examination of the issue of entry into the relevant markets in the UK and also no analysis of the overall level of competition in the UK within Ofcom's consultation document. There is also no benchmarking of prices in the UK against prices in other countries including countries which only have a GPL process.

Virgin Media notes that Ofcom's own statements provides strong evidence that the UK markets are extremely competitive and that prices are competitive when compared internationally. In light of these statements Virgin Media would suggest that it is very difficult for Ofcom to make out its claim that effectively prices would be lower across the board in a gaining led environment.

For example in its Consumer Experience Report 2009 when discussing fixed line broadband pricing Ofcom reports *"Relatively low prices in the UK are maintained by a competitive environment in which no single provider has more than 30% market share, and consumers are able to choose from a range of services provided by operators offering service via wholesale. Line rental (WLR) (available to virtually 100% of the population), local loop unbundling (LLU) (available to 84% of the population) and cable (available to 49% of the population)."*³⁹ In addition in its recent Context and Survey for Ofcom's Consultation on the Wholesale Local Access and Wholesale Broadband Access markets document published in March this year Ofcom said the following about retail broadband markets in the UK.

*"The current generation of broadband services in the UK have become a success story with competition based largely on the use of local loop unbundling driving choices and innovation, low prices and take up."*⁴⁰

*"Over the past few years much of Ofcom's focus has been on enhancing competition in the broadband markets to stimulate competition and deliver competitive prices by ensuring efficient entry of competing providers in local loop unbundling.....This approach has delivered significant benefits, resulting in wide broadband availability, high take up and extensive choice of services at ever reducing prices."*⁴¹

"Effective competition in today's broadband market has delivered substantial benefits to UK consumers. The UK has one of the most competitive broadband markets in Europe, based on prices, choices and take up." "Competition has also driven lower prices, more choice and greater

³⁹ The Consumer Experience 2009, p 90

⁴⁰ Context and Survey for Ofcom's Consultation on the Wholesale Local Access and Wholesale Broadband Access Markets. Ofcom 23 March 2010, para 1.1

⁴¹ Context and Survey for Ofcom's Consultation on the Wholesale Local Access and Wholesale Broadband Access Markets. Ofcom 23 March 2010 paras 2.2-2.3

innovation. UK broadband adoption has grown almost three fold in five years and consumers have benefited from increasing broadband speeds and prices that have fallen steadily over time."

In relation to mobile services in its Mobile Evolution statement published at the end of 2009 Ofcom said the following:

*"Consumer survey data indicate barriers to consumer switching are low. Our most recent data shows that changes in market share are still occurring in the sector. We also find that on some measures (such as operating profits) the mobile sector in the UK has exhibited lower profitability than elsewhere in the EU across the period surveyed in Figure 10. This coupled with **evidence that retail pricing is low compared to other EU countries, provides indirect evidence that that market is working in consumers interests.** It implies considerable competitive pressure on operators to find new ways to win customers and improve margins, bring new services and devices to market."⁴² (emphasis added)*

Virgin Media notes that such findings are also borne out by industry analysts. A recent Enders Analysis report on Broadband stated "Competition at the bottom end is intensifying with aggressive plays from Tesco and from Orange and 02 for customers also taking mobile."⁴³

Virgin Media suggest that there is no practical evidence that providers in the UK have reduced incentives to offer better deals or that entry has been deterred as a result of save activity.

Switching is Not Just About Price

Ofcom says that they would have less concern about the impact of save activity if consumers switched primarily for quality or service reasons, because in these cases an offer of a better price on the existing service is less likely to be accepted. This is borne out by the Futuresight Research where it is said that *"there was some indication that those who have serious service issues were more likely to continue through this process than those who were interested in a better price alone."*

Virgin Media suggests that Ofcom is taking a very narrow view of why customers switch when it focuses on price and that particularly in relation to broadband and TV the reasons are more complex. Even when customers use the phrase best deal or cheapest they are likely to be carrying out an assessment that involves factors other than just price but is a value for money assessment such as quality of service, broadband speed, unlimited downloads, number of TV channels or VOD services etc.

Virgin Media notes that in the 2009 Research 53% of customers said that the reason why they decided to switch was the best deal/cheapest/cheap enough/wouldn't save enough staying whilst 23% said that the new provider offered broadband as part of a bundled package/new provider offer, 15% said they were unhappy/dissatisfied with the current supplier and 5% said they had slow connection speed where they lived.⁴⁴

⁴² Mobile Evolution Ofcom 17 December 2009, paras 3.22-3.23

⁴³ UK Residential Broadband Market 2010-pg 10

⁴⁴ Table 39 Switching Omnibus Survey April/May 2009, pg 185. Similarly in the underlying data tables Table 319 indicates that of those who switched broadband (but not at the same time as they moved home) whilst 63% said they switched for a better price/deal, 14% said it was to receive a better services, 13% it was for convenience to have one package, 13% said it was for faster broadband and 3% said it was it came together in one package.

In relation to mobile services whilst 44% of customers said the new provider was best deal, 14% said they were unhappy dissatisfied with their current supplier, 9% said they couldn't get a reception with current network provider where I live, 7% said it was cheaper to move to the same network as people they call and 12% said there were better handsets available with new network.⁴⁵

What these statistics reveal is that there are large numbers of reasons why customers switch provider and that it is likely that customers are carrying out a more complicated value for money analysis rather than switching solely for price, particularly for more complex services such as TV, broadband and mobile services as opposed to a service like voice.

[**Confidential material redacted**] The simple maxim that customers switch only for price is therefore not borne out by Virgin Media's experience.

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

Virgin Media notes that Ofcom's evidence around any possible consumer or competitor harm arising from the multiplicity of switching processes is extremely weak. Ofcom focuses on two issues whether knowing what process to use deters people from switching and the competitive impact of different processes. However Virgin Media notes that the key finding of the 2010 Research is "Very few considerers volunteer that a lack of knowledge of the necessary *switching process was a reason for deciding not to switch provider in the last year.*"⁴⁶

Whilst the statistics reveal that considerers often inaccurately estimated the process that they would need to use again Virgin Media queries whether this actually reveals consumer harm in light of the fact that very few considerers cited this as a barrier to switching.

Virgin Media does consider there might be some value in providing a single process for broadband and fixed services provider over the same copper infrastructure including SMPF and MPF. Virgin Media's key reasons for suggesting this is that currently the application of the AoT process to broadband switchers to MPF means that customers fail to understand that they may have early termination charges that are payable. It also understands that there are real issues with asset validation with switches between two MPF providers and there is often a loss of service.

Virgin Media would support all fixed line and broadband services provided over BT copper infrastructure moving to a MAC based process. The benefits of this process would be that the customer would be correctly validated and they would be adequately informed of any implications of the switch. Correct validation of the customer is likely to reduce the number of erroneous migrations but Virgin Media suggests that there is still room for improvement of the underlying asset validation and restoration processes.

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

⁴⁵ Table 13, Switching Omnibus Survey April/May 2009 pg 57

⁴⁶ Consumer Switching and Bundling September 2010 p 2

Ofcom identifies that its two principal duties are to further the interests of citizen in relation to communications matters; and to further the interests of consumers in relevant markets where appropriate by promoting competition. In performing those duties however Ofcom must have regard to the principles by which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is need.

Ofcom identifies that a positive consumer experience will have the following features;

- 1) minimise unnecessary switching costs both for individual services and for bundles;
- 2) protect against slamming;
- 3) promote awareness of the implications of switching;
- 4) ensure a reliable process with speedy restoration if things go wrong;
- 5) enables continuity of the main services being switched.

A switching process however needs to be implemented by industry and in this regard Ofcom acknowledges that the switching process should not in itself hinder or discourage competition. Ofcom suggests that the following general principles would support positive impacts on competition and welfare:

- 1) supports competition in retail markets;
- 2) is cost efficient to implement and maintain.

Whilst Virgin Media agrees in theory with these principles it is of the view that Ofcom must acknowledge that there will ultimately be a trade off between these principles. For example a process that promotes awareness of the implications of switching must necessarily involve a greater level of interaction with the consumer and therefore could be seen as having higher theoretical switching costs (although Virgin Media disagrees with this on the basis that the number of touch points is likely to be outweighed by the fact that the customer has a fuller understanding of the actual financial costs to them of switching).

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

Virgin Media disagrees with Ofcom's proposed tier structure for the general switching principles. Ofcom has taken the approach of having two tiers of importance for the principles. Ofcom classifies the first tier principles (ie higher importance) as:

- Minimise unnecessary switching costs both for individual services and for bundles;
- Protects against slamming;
- Supports competition in retail markets.

The remaining principles Ofcom classifies as second tier because Ofcom believes that either they can be dealt with outside the switching process or their importance might vary depending on services/scenarios under consideration.

Virgin Media is concerned that in classifying the principles as either first or second tier Ofcom is making its own subjective judgements in order to support its ultimate outcome of a gaining led process. There is no indication of the priority that consumers themselves would place on these principles and whether consumers would classify the principles in this way.

Virgin Media notes that in the research carried out for its Mobile Porting Consultation consumers placed greater emphasis on certainty and control of the process over speed of the process and Ofcom itself recognises in paragraph 4.61 that consumers prefer a guaranteed date rather than speed of switching. Virgin Media suggests therefore that it is likely that if similar views were expressed by customers in relation to other aspects of the switching processes, than it is likely that customers would put first protection against slamming, ensuring a reliable process with a speedy restoration process if things go wrong and continuity of service as well as understanding the implications of the switching process.

Virgin Media is also concerned that in its classification of the principles as first or second tier not only is Ofcom not taking into account the views of consumers but it is also failing to take into account the opportunity for objectively demonstrated consumer harm to arise from each of the different principles ahead of some of the other principles.

In Virgin Media's view breach of continuity of service and failing to be informed of the implications of a switch along with slamming can be seen to cause objective consumer harm. This contrasts with some of the other principles where the possibility of objectively demonstrated consumer harm is less likely. In addition Virgin Media thinks that the process needs to be cost efficient for operators to implement and maintain.

Virgin Media would therefore suggest that the first tier principles should be:

- protect against slamming;
- promote awareness of the implications of switching;
- ensure a reliable process with speedy restoration if things go wrong;
- is cost efficient to implement and maintain.

12. Do you agree with our proposal that the preferred switching approach assuming a Greenfield basis is GPL?

Virgin Media strongly disagrees with Ofcom's evaluation of the current processes against the principles. Virgin Media believes that in carrying out this analysis, Ofcom is heavily influenced by its own preference against losing provider led processes. Ofcom itself notes even using its own assessment the current GPL process does not perform better. Ofcom states that

"The assessment above shows that none of the current switching processes clearly performs better than the others against all of the seven general principles. As can be seen from Figure 27, the NoT process performs better against two of the first tier principles, i.e. supporting competition and minimising switching hassle. The MAC/PAC processes perform better at preventing slamming and informing consumers about the implications of switching."

Ofcom goes on to say however that *"As we argue later however, our analysis and international comparisons suggest that it is easier to remedy slamming issues in a GPL process than to remedy the switching costs and competition issues in a LPL process. Therefore, GPL options are likely to perform better than LPL options."*

Virgin Media notes that Ofcom does not address the issue of informing customers about the implications of the switch. Nor does it address how a GPL process will address asset validation and restoration issues. As such it seems to Virgin Media that the Greenfield analysis is extremely flawed.

At no time in assessing the best Greenfield option does Ofcom consider the issue of cost. This is completely unsustainable as even when deciding what the best option would be in a truly Greenfield situation where there were no existing processes and you were building a switching process from the beginning, the relevant cost of the different options would still be a relevant factor.

The cost of the various options must therefore be even more of a concern when existing processes exist. Virgin Media believes that in adopting the Greenfield approach that it has Ofcom has adopted a flawed approach to its analysis. The reality is that there is no Greenfield scenario within the UK telecoms markets and there will never be a Greenfields scenario. Each of the existing products has their own existing legacy processes and next generation networks are already being introduced and systems and processes are being put in place by providers to deal with issues arising from these networks now.

Therefore the approach taken by Ofcom cannot withstand scrutiny. If Ofcom were approaching this exercise properly with a real desire to reduce potential consumer harm then the questions it would be asking itself would be fundamentally different. It would be asking how do I amend or improve the existing processes to address the issues that have arisen in relation to these and in order to improve the customer experience. It would not be setting out to build the ideal switching process for a market in which no current switching processes exist.

One of the key reasons that Virgin Media suggests that Ofcom has got the process wrong is that it fails to address two of the principles which it says are important –ensuring continuity of service and a speedy restoration process if things go wrong. Virgin Media suggests that part of Ofcom's reluctance to deal with these issues is that these are the unglamorous part of the switching process. Despite these being the unglamorous part of the switching process however Virgin Media is concerned that these are the key areas where Ofcom should be focussing its attention, particularly in an environment that is only going to become more complex going forward. It notes that none of the GPL processes put forward by Ofcom would seem to address this fundamental issue.

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

Virgin Media does not support any of the three identified GPL switching options. Below Virgin Media sets out Ofcom's proposals and its response to each of these options.

Ofcom's Proposals for an Enhanced GPL (NoT) process.

Ofcom identifies the key weaknesses of the current NoT process as follows:

- A lack of upfront customer validation giving rise to higher incidents of slamming;
- Consumers switching without realising they may have existing contractual liabilities with their current provider;
- Consumer harm arising from abuse of the Cancel Other process where it has been used to prevent consumers from switching;
- Variability of sales records made and retained across the industry meaning we have found it difficult on occasion to enforce the rules;

Ofcom's proposed option would seek to address the identified weaknesses through the following measures:

- Introducing new record keeping obligations and possibly a requirement to record all sales calls and request for use of cancel other. This would mean we are better able to enforce against alleged slamming and misuse of Cancel Other by being able to investigate on the basis of much stronger forms of evidence.
- Strengthening the process for the despatch of NoT letters by increasing obligations on all providers to ensure that all consumers were receiving these. This would include ensuring that LPs are sending their NoT letters and including information about ETCs; and
- Mandating the Cancel Other process to ensure that consumers have stronger protection against slamming where this is identified.

Ofcom argues that the key advantages of this option are that it seeks to specifically target the weaknesses identified in the existing NoT process, building on a process which is familiar and it could also be adapted to allow consumers to switch multiple products with a single contact point to the GP (the GP would take on the role of managing the switching process for multiple products behind the scenes with minimum involvement from the consumer).

As Ofcom itself recognises however there is no guarantee that the solutions that they suggest will resolve the issues and in fact there is no view of costing for these issues.

Virgin Media's views on Enhanced GPL Process.

Virgin Media is concerned that in proposing this enhanced solution Ofcom is focussing on cancel other and the use or non use of cancel other as a key part of the solution rather than understanding why the cancel other issue arises and attempting to tackle that through their solution.

Issues around cancel other arise not only because in some cases customers are slammed but also because the current process fails to adequately inform customers of the implications of the switch prior to them agreeing a contract with the gaining provider.

So a customer may agree to switch to a gaining provider and then discover from the letter from their losing provider that they might have an early termination charge or that switching their fixed line will mean that they might lose their broadband.

This is not a reason for using the cancel other process as defined by Ofcom, but the easiest way for the consumer to get out of the existing contract they have with the gaining provider (without having what they might foresee as a difficult conversation with the new gaining provider) is to tell the losing provider that they have been slammed. This inevitably creates a situation which ends up pitting the losing provider and the gaining provider against one another when the reality is that both have relied in good faith upon the information given to them by the customer. Virgin Media notes that Ofcom's own complaint statistics put forward by Ofcom at the workshop on 18 November 2010 appear to support this view that some consumers use an allegation of slamming to deal with other issues.

Virgin Media suggests that the concept of extending the NoT process to more products and bundle of products is only likely to create more room for confusion and more instances where customers

allege that they have been slammed by providers because of the failure of this process to provide customers with upfront information about early termination charges.

Virgin Media is concerned that Ofcom by its suggested changes is intent on bolstering a process which is not fit for the 21st century. Requiring CPs to communicate with their customers using a letter process is not only costly for providers but is also not the most effective way of communicating with customers. Not only can CPs not be sure that customers have received their mail unless they send letters by registered mail (with the attendant cost), but there is no way of knowing whether customers have read the mail or have thought the mail was marketing and thrown it away.

Whilst most providers record some calls imposing an obligation to record all sales calls will bring significant cost impacts for CPs for little overall benefit to consumers and providers alike. Virgin Media suggests that the call recording requirements are likely to impose greater costs on smaller providers. In Virgin Media's view Ofcom's suggestions do not address the fundamental issue of preventing slamming but merely seek to build enforcement around Ofcom's Cancel Other process which it has introduced to tackle the slamming issue.

In Virgin Media's view this option does not address the fundamental concept of making the process simple and transparent for customers but rather only builds more and more regulation on top of what is already a fundamentally flawed process. In addition this proposal also adds nothing to the issues of continuity of service and easy and efficient restoration.

Ofcom's Proposals for Consumer Code on Bill.

Ofcom describes this option as the consumer being assigned a single code for each of their communications services which would appear on their bill (in either paper or electronic form). To switch a consumer would need to provide the GP with the code and other details which would be verified by the LP before the switch could continue.

Ofcom describes the advantages of this option as it provides specific and effective protection against slamming (eg attempts to switch the consumer without their knowledge or consent) in a GPL environment and it has been shown to work in other sectors eg energy.

Ofcom identifies the only disadvantages of this option as that it may not work well for PAYG mobile customers who do not get a regular bill and the ease with which the code can be obtained. They also say that the process may not map across all sales channels eg a consumer might not have a bill to hand if they wanted to switch at a retail shop) and that it may involve higher costs due to the need to set up a database of codes.

Virgin Media's views on Consumer Code on Bill

Virgin Media is concerned that this process gives little more in the way of protection against slamming than the current NoT process. Virgin Media can envisage a number of situations where a code on a paper bill could be used to slam a customer. There is the situation of shared houses or businesses where the bill is accessible by anyone in the house or business and who might therefore use the code to switch the services. Similarly Virgin Media can envisage situations where door step sellers might ask customer to show them their bill so that they can identify how much they can save them and thereby gain access to the number. Similarly given that it is unlikely that consumers will be aware what the code means, unscrupulous telesales agents could easily request the number from customers and then use it.

Virgin Media does not believe therefore that the code on a bill provides specific and effective protection against slamming and believes that if such an approach were to be adopted we would still see instances of slamming and the need to deal with these instances. Similarly Virgin Media does not see how this issue deals with the issue of ensuring that customers are aware of the implications of the switch and notes that Ofcom gives no consideration in its discussion of the code on bill solution as to how the customer would be made aware of the implications of a switch including any early termination charges.

Virgin Media also does not see how a single code on the bill approach would provide certainty to providers about which products a customer wished to switch. If as Ofcom suggests there are different codes per product on the bill, then Virgin Media can see that there are likely to be potential issues with the customer providing the wrong code for the service that they wish to switch.

Because of the risk that the code might be being used to slam the customer Virgin Media believes that the code on bill would have to be deployed in conjunction with the NoT letter process in any case, meaning that there will still be attendant touch points of losing and gaining provider letters as well as the costs to providers to continue with process as well as the costs of the consumer code on bill.

The code on the bill process also adds nothing to the process in terms of ensuring a reliable process with speedy restoration if things go wrong and also does not seem to address the underlying issues of asset validation which have been shown to cause problems. Ofcom has not made clear whether the code is linked to the customer or the asset but in any case unlike the MAC which is valid only for 30 days and then can be reused, the code will need to be permanent at least for the life of that customer and is likely to require therefore a vast pool of codes to be built.

Ofcom's Proposal for a TPV Process.

Ofcom describes the TPV process as providing an independent third party to facilitate the switch and act as a check in the process. Ofcom suggests that the consumer indicates to the GP that they want to switch and the GP then either transfers the consumer to the TPV or contacts the TPV who calls the consumer to check consent and gather any necessary details. The TPV may then perform any necessary steps to validate the switch so that it can proceed.

Ofcom suggests that it is possible to design a TPV process in such a way that it would have a minimal impact on existing switching processes and hence lower costs ie the TPV is simply overlain across the existing switching processes and hence lower costs. Ofcom suggests that there are different levels of TPV depending on the actual role of the TPV process including:

- i) merely validates desire to switch (ie checks that the customer has consented to switch)
- ii) and prompts awareness of ETCs' if the consumer is in a MCP;
- iii) and contacts LP and then provides the consumer with in/out of contract information or actual ETC information (there could be a possibility of providing this information in real time or re-contacting the customer)
- iv) and obtains information from LP about the different services and features currently provided and whether a switch would have implications for the provision of other products/services.

Ofcom suggests that the advantages of a TPV are an easy and straightforward process for consumers, minimal touch points and good validation upfront, thereby reducing the potential for slamming. They also suggest that it could be adapted to allow consumers to switch multiple products with a single contact point to the TPV and that depending on the model chosen, a warning about ETCs could be built into the process. They also indicate that it may be possible to add a warning where the switch has implications for other services taken by the customer (ie if changing fixed line provider has implications for broadband provision. Finally Ofcom believes that a TPV approach decouples the front end and back end switching process and encourages CPs to develop back office switching functions and it has been shown to work in other countries, eg Ireland, Spain and the US.

Virgin Media's comments on a proposal for a TPV Process.

Virgin Media notes that since Ofcom's publication of the consultation document Ofcom has published the CSMG report with an Assessment of UK Implementation Options. Without prejudice to Virgin Media's view on the overall choice of a gaining provider led process, Virgin Media suggest that it would have been more useful for Ofcom to have built some consideration of this material into the original consultation document. Whilst Virgin Media has not had adequate time to review and comment on the CSMG report in full, Virgin Media notes that what is apparent from both the consultation document and the CSMG report is that dependant on the version of the TPV process that is adopted such a process has the potential to have a similar number of touch points to the current LPL process and therefore is unlikely even on Ofcom's own view of switching costs to reduce switching costs or to reduce hassle.

For example any form of TPV where the customer is separately contacted by the TPV will involve at least two calls for the customer (one to the gaining provider and one by the TPV) and so has the same amount of touch points as an LPL process. In addition the TPV process in all but its most complex form is likely to require the customer to approach the losing provider for details on any ETCs and therefore will add a further touch point to the process. It is not automatically clear therefore that a TPV process significantly reduces the number of touch points so as to on Ofcom's view reduce switching costs for customers.

Virgin Media also notes that Ofcom suggests that TPV process has been shown to work in other countries being Ireland, Spain and the US but fails to provide in the consultation document sufficient detail for parties to judge the success or otherwise of the TPV process in these countries and to compare the operation of the TPV process in those countries with the proposed operation in the UK.⁴⁷

In any case Virgin Media notes that the key issues with any TPV process is likely to be cost, the complexity of processes needed to adopt it and the length of time that it will take for parties to implement the process.

⁴⁷ What Virgin Media does note about the TPV process in Ireland however is that the TPV is one option in Ireland. The other option is for the gaining provider to keep a Customer Authorisation Form which requires the customer to fill in their telephone number, their Universal Account number and their Customer Reference Form. Two important things to note about the CAF form are that there is no mention of the possibility of ETCs on the form and that the form talks about a short interruption of service. It is not clear therefore that the TPV process in Ireland addresses the key issues of no interruption for service.

Whilst Ofcom suggests that the TPV process can merely be overlain across the existing AOT and MAC and PAC processes thereby separating the front and back end processes, Virgin Media does not believe that this approach is as simple as suggested by Ofcom in the consultation document and indeed this appears to be borne out by the CSMG report

The CSMG report looks at five forms of Third Party Validation.

Validating TPV;

Authenticating TPV using LP data;

Authenticating TPV using independent data;

Informative TPV real time;

Information TPV non real time.

Virgin Media also notes that none of the forms of Third Party Validation address issues about a prevention of interruption of service or about restoration of service. As such the Third Party Validation methods can only ever address slamming (depending on the model) and also may add something in the way of informing customers but depending on the model adopted this may not be real time and therefore in Virgin Media's view offers little benefit over a losing provider led process.

In addition a number of the Third Party Validation models suggested in the CSMG report are likely to raise serious data protection issues within the UK. Virgin Media suggests that it is inappropriate for Ofcom to be suggesting models without having considered whether they can be legally implemented.

Finally Virgin Media notes the following comment from CSMG "Although in our assessment we review the cost to industry, ultimately it will be the consumer who pays for the implementation and support of Third Party Validation. Therefore the trade-off is between the increased consumer protection and benefit that each model can provide, and the cost to the consumer required to pay for this through higher bills."⁴⁸

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

Given the limited information which Ofcom has provided about each of the switching options outlined in the consultation document, Virgin Media suggests that it is impossible for providers to provide meaningful estimates about the costs to implement.⁴⁹

15. Do you agree with our proposals and implementation priorities for taking forward our work in relation to existing switching processes.

⁴⁸ CSMG-Third Party Validation-An assessment of UK Implementation Options-Final Report 8 October 2010 para 1.21

⁴⁹ Virgin Media notes however that Ofcom should already have some information about the costs of one of its suggested options (the enhanced NOT). Virgin Media notes that Ofcom has previously issued s135s to providers about the cost of recording all sales calls in order to allow for the enforcement of cancel other

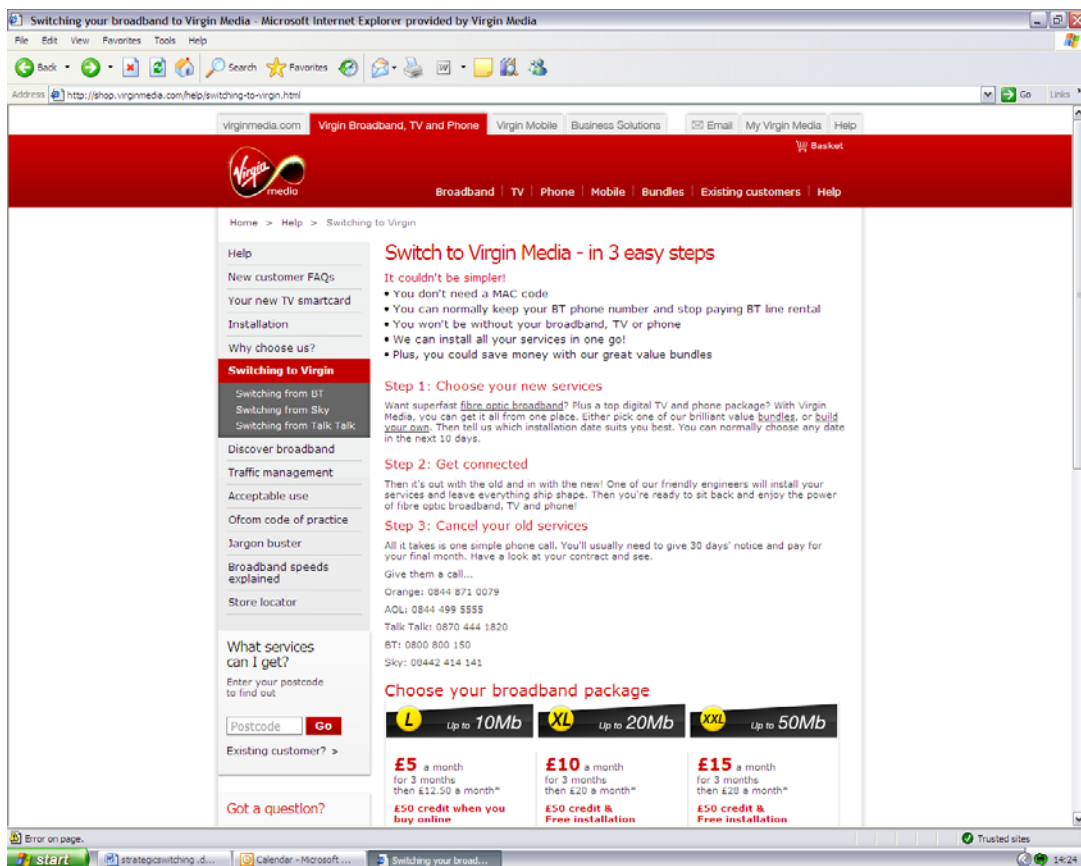
Ofcom suggests that in their second consultation they propose to only consider changes to current switching processes for fixed line and broadband services (including bundles of the two) which currently use the NoT and MAC process. Virgin Media notes that Ofcom states that a key objective is to consider harmonising the switching processes for fixed line and broadband to make it easier to switch double play bundles. This means we would need to apply a GPL or an LPL process to both services. Ofcom of course favours a GPL process being applied to the bundle of services and says given that it is costly for industry and us to work up detailed specifications and costings it would seem a disproportionate burden on stakeholders at this stage to develop the LPL options given that GPL options are likely to be preferred. In light of this we are not proposing at this stage to give further detailed consideration of LPL processes although we recognise that this might change later. They state that they will only consider whether changes are necessary to the switching processes for mobile and pay TV and for fixed line and broadband switching using the cease and reprovide process (including triple play bundling) after they have published the 2011 statement.

Whilst Virgin Media disagrees with Ofcom's suggestion of a Greenfield GPL switching process Virgin Media does agree with Ofcom that the most immediate focus should be on resolving the issues with the current processes (AOT and MAC) and for bundles of the two services where those services are offered on BT's copper infrastructure. Virgin Media believes that addressing the known and identified issues with these processes is the best way of addressing any identified issues of consumer harm. Virgin Media would also suggest that any consideration of the processes for fixed and broadband must deal both with services provided over SMPF or IPstream and services provided over MPF given that switches between the two often raised issues about informed customers and validation of assets.

Virgin Media remains unconvinced that Ofcom has made out an adequately evidenced case for looking at cease and reprovide between two separate infrastructures (ie cable to copper or vice versa) for voice and broadband and certainly has not made out an objectively justified case for looking at pay TV and mobile. Given the paucity of evidence produced by Ofcom on this topic, Virgin Media does not address these issues further at this stage but reserves it's rights to comment further on these issues should Ofcom proceed with its misconceived stance of examining these issues.

As Virgin Media has made clear both in correspondence with and in this consultation Virgin Media considers that it is inappropriate both from a procedural point of view for Ofcom to have held the first workshop ahead of the consultation closing and Ofcom reviewing the responses. Not only is this approach procedurally wrong but Virgin Media also believes that it is also a waste of industry time and resource as well as Ofcom's own resource. Virgin Media is concerned that Ofcom's terms of references for the workshop consider only gaining led processes on the basis that "it would be a disproportionate burden on stakeholders at this stage to additionally develop LPL options." Virgin Media strongly disagrees with this statement.

It believes that it is a disproportionate burden on Ofcom to set up workshops ahead of understanding the consultation responses and it is neither transparent nor objective for it to effectively rule out losing provider led processes in the way it does in the consultation document.





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FAQs

What if I can't get a MAC code?

Most broadband providers issue MAC codes. But if you receive your broadband from one of the few providers that doesn't, you need to contact them and cancel the broadband on your phone line.

You'll need to do the same if your broadband is provided through an 'LLU' broadband network (see also 'What is LLU?' below). It can take up to five days for your existing broadband to be cancelled, and another five days for BT's database - which we use for reference - to be updated.

So, once you've cancelled your existing broadband, it may take up to 10 days in total for your Sky Broadband to go live.

What is LLU?

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http://www.sky.com/...

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