

Making switching easier and more reliable for consumers

**Ombudsman Services' Response to Ofcom's
proposals to reform landline, broadband and pay
TV switching between different platforms**

21 October 2016

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Ombudsman Services' (OS) response

General Comments

OS welcomes the opportunity to respond to this consultation. Specific information about OS can be found at Annex A, at the end of this document.

In general terms, OS supports Ofcom's proposals to modify the switching process for triple play services between different platforms. The changes would bring cross-platform switching into line with new processes introduced in June 2015 for switching landline and broadband across Openreach and KCOM platforms. OS believes uniformity of process would be desirable if it can be achieved.

Of the two options proposed, OS also agrees that the **option 2: the gaining provider led ('GPL') process** is preferable over option 1: the enhanced cease and re-provide ('EC&R') process.

Responses to the consultation questions

Q1. Do you agree that current cross-platform switching arrangements lead to consumer issues with loss of service and double paying when switching, and issues with contacting losing provider / cancelling a previous service?

OS somewhat agrees – existing cross-platform switching arrangements could potentially contribute to the consumer issues described. Our data suggests few consumers actually complain to us about these issues, specifically, but that does not

necessarily imply that no consumer detriment is suffered as a result of them. In our view, consumers may simply tolerate low-level problems they do experience or may simply be put off from switching in the first place for fear of encountering such problems.

Our data indicates that in the nine calendar months from the beginning of January to the end of September 2016, OS investigated a total of 31,126 communications complaints. Of these, contractual, billing (including disputed charges), and service complaints (including loss of service, etc) accounted for the majority of matters (71%).

Our data does not confirm the number of these complaints that originate as a consequence of consumers switching across platforms in the manner described in Ofcom's consultation paper. We can surmise it is possible a number of complaints about disputed charges, etc, may be the consequence of cross-platform switching when taken into account with Ofcom's own research into the problems caused by this specific issue. For example 3,051 of all complaints related to problems around service cancellation and contract duration. It is possible that some of these may be a consequence of cross platform switching. Certainly, Ofcom's proposed reforms would reduce the scope for such complaints to arise in the context of cross-platform switching.

Having noted the above, we should point out that instances of consumers complaining specifically about the transfer process (in contexts other than cross-platform) are uncommon. Problems with the transfer of services, specifically, account for a very small proportion of the complaints OS has investigated in this period (1.44%). Of this small proportion, not all would pertain to cross-platform switching.

In summary, OS believes that problems around cross-platform switching likely generate low level inconvenience to consumers (i.e. inconvenience that does not result in them escalating a complaint to OS). We envisage that, if more people began to switch, and the cross-platform switching processes were not reformed, it is possible the volume of complaints would rise.

Q2. Do you agree that consumers would benefit from clearer switching processes and information about switching?

OS certainly agrees consumers would benefit from clearer switching processes.

We additionally believe that, insofar as possible, uniform processes should exist both across differing communications providers and also in relation to differing communications services (e.g. broadband, landline, mobile telephone). In our view equivalent standards, where practicable, should be adopted across differing industry sectors, too. We note that the former Department for Business, Innovation and Skill's ("BIS") consulted on "switching principles" across different sectors in autumn 2015.¹ BIS's consultation indicated that consumers in the communications sector and sectors such as banking and energy often express reluctance to transfer across suppliers, citing actual or perceived barriers to doing so. As a result, many fail to take full advantage of the available market, meaning the pressure on industry to innovate is reduced.

OS believes consumers would probably be more willing to "switch" if they felt comfortable with the processes involved. In our view comparable cross-sector standards, such as gaining provider led ("GPL") switches, comparable timeframes and access to independent redress in the event of a problem, would foster greater confidence.

Q3. Do you have any other comments on the matters raised in Section 3?

No additional comments

Q4 & Q5. We would welcome views on the proposal for an EC&R process (Option 1), ...and on the GPL process (Option 2).

¹ <https://www.gov.uk/government/consultations/switching-suppliers-making-it-easy-for-consumers>

OS's principal concern with regards to the proposed **EC&R process (Option 1)** is that it looks to leave scope for consumers to unwittingly incur Early Termination Charges (ETCs) if they do not adhere to it properly. For example, the process presented in the consultation document indicates that consumers will be able to contact their old provider prior to switching to ensure they will not incur any ETCs but also indicates there is scope for them to transfer without actually doing so (for example, by allowing the new provider to coordinate the switch).

Complaints about contract cancellations, generally, and Early Termination Charges, specifically, generate a significant volume of the complaints we investigate. They accounted for 6.7% of the complaints we investigated between January and September 2016. In our view, such disputes can present a significant concern to consumers because the sums of money in issue can be relatively substantial (typically amounting to the sum total of the applicable monthly charges due for the remainder of the contract term).

OS therefore believes that, if the EC&R process is adopted, Ofcom should take all reasonable steps to ensure consumers who switch will receive accurate and prompt information about any ETCs that they might incur.

The **GPL process (option 2)** looks to be the preferable option of the two that Ofcom is considering implementing. We believe that this process would work well in the majority of circumstances. You ask whether the ten working days transfer period is sufficient for a consumer to receive, understand, and act upon the implications of information about switching. In our view, ten working days is likely adequate in the vast majority of instances.

By way of comparison, in circumstances where an erroneous transfer or “slam” is likely to be executed, a consumer will also usually have ten days to prevent it from completing. However, OS has received very few complaints with regards to erroneous transfers and so-called “slamming” (just 77 between January and September). This suggests that, in most cases, consumers have enough time to prevent erroneous transfers from going ahead; if this were not the case, we expect we would receive

many more complaints. We therefore expect that the ten day timeframe would also be sufficient in the scenario in issue.

Q6. On both process options, we would welcome views on whether old providers are provided with sufficient time during the respective transfer periods to: (a) stop existing services and administer the end of contracts; and (b) if not, can you provide detail of what actions/steps are necessary to undertake such activities, and how long these would take?

On the face of it, the proposed timeframe looks to be reasonable.

Q7. Do you agree that the proposals should apply to all cross-platform services, whether provided in a bundle or on a standalone basis?

In line with our view set out in response to question 2, we believe uniform processes should be adopted across services insofar as is practicable.

Q8. For both process options, we welcome any views on the estimated 18-month implementation period.

OS has no contribution to make regarding the proposed implementation period.

Q9. Do you have any other comments on the matters raised in Section 4?

No additional comments.

Q10. Do you agree with the assessment of the consumer benefits of the proposals?

As noted, OS receives very few complaints about the switching problems highlighted in this consultation. In this regard, we believe our data is consistent with Ofcom's own analysis; in the consultation document you note that 81% of surveyed switchers initially stated that they found the process to be easy but that, when prompted, a significant volume described experiencing problems.

In our view, the problems consumers experience can potentially be typified as relatively modest but seemingly prevalent. This, in turn, would explain why so few consumers complain to OS about related issues (i.e. because problems are resolved promptly).

Regardless, we agree that a number of consumer benefits would likely ensue from the proposed changes. Specifically, we envisage that the changes would likely simplify the switching process, making it easier for more consumers to switch.

Q11. Do you agree with the assessment of the likely costs of the proposals as set out in the Cartesian report? If not, please state how and provide information and evidence relating to the costs

No comment.

Q12. Do you think that a manual communication channel for small providers would be more appropriate compared to an automated communication channel? What costs would be involved in setting up a 'manual' communication system?

No comment.

Q13. Do you agree with our preference for Option 2 (GPL)?

OS agrees. The GPL process looks to be preferable.

Q14. Could there be synergies across costs between implementing a GPL proposal for triple play services and mobile phone services?

It is difficult to envisage significant synergies because (i) the infrastructure and systems around these services look to be very different and (ii) different sets of providers are prominent in each subsector. That said, we envisage uniformity of process might assist providers in providing consistent training to their staff. This could, in turn, raise standards overall by minimising the scope for error (because the same process would be applicable in different contexts).

Q15. Do you consider that Option 2 (GPL) could enable consumers to go through the switching process through Third Party Intermediaries/ Price Comparison Websites? Would this be beneficial to consumers?

OS would have some reservations with regards to enabling the switching process to go through via third party intermediaries or price comparison websites. This is because, at face value, there looks to be greater potential for switches to be progressed in error or to go awry. That said, if consumers were able to switch via third parties it might encourage more to do so, in turn driving higher standards via greater competition.

Q16. Do you have any other comments on the matters raised in Section 5?

No comments.

OS is happy to discuss its comments in more detail or to provide additional data from its dispute resolution work if it would further assist.



Lewis Shand Smith
Chief Ombudsman

21 October 2016

Annex A - Summary about OS

Established in 2002, The Ombudsman Service Ltd (TOSL) is a not for profit private limited company which runs a number of discrete national ombudsman schemes across a wide range of sectors including communications, energy and property.

We are an independent organisation and help our members to provide independent dispute resolution to their customers. Each scheme is funded by the participating companies under our jurisdiction. Our service is free to consumers and, with the exception of an annual subscription from the former Department of Energy and Climate Change (DECC) now the Department of Business, Energy and Industrial Strategy for the Green Deal, we operate at no expense to the public purse. OS governance ensures that we are independent from the companies that fall under our jurisdiction and participating companies do not exercise any financial or other control over us.

We have in the region of 10,000 participating companies. Last year we received 220,111 initial contacts from complainants and resolved 71,765 complaints. We saw a year on year increase in complaints of 118% between 2013 and 2014 and a further 35% increase between 2014 to 2015. In the energy industry alone we have witnessed a 336% increase in complaint volumes between 2013 and 2015. The company currently employs more than 600 people in Warrington and has a turnover in excess of £27 million.

In July 2015 the EU Alternative Dispute Resolution Directive (the ADR Directive) came into force requiring all member states to ensure that ombudsman or ADR schemes are available in every consumer sector. The former Department for Business Innovation and Skills (BIS) - now known as the Department for Business, Energy and Industrial Strategy, the government department responsible for implementing the ADR Directive in the UK, called upon the market to plug the gaps where no ADR provision existed and to coincide with this in August 2015 we formally launched our new portal (<http://www.consumer-ombudsman.org>). The launch of this website was welcomed by BIS and means that consumers can raise a complaint about a product or service in any sector where there is no existing redress provision - including retail, travel and home improvement.

Our complaints resolution service operates once a company's own complaints handling system has been exhausted, and we have the authority to determine a final resolution to each complaint. Our enquiries department handles primary contacts and makes decisions on eligibility. If a complaint is not for us, or has been brought to us too early, we signpost the consumer and offer assistance. Eligible complaints are then triaged. The simplest can be resolved quickly, usually by phone in two or three hours. Around 10% are dealt with in this way. For the majority of complaints we collect and consider the evidence from both parties, reach a determination and seek agreement; about 55% are settled like this. The most complex cases require a more intensive investigation; they may require more information and lead to further discussion with the complainant and the company to achieve clarification. The outcome will be a formal and binding decision.

Traditionally our key focus has been on handling individual complaints and ensuring that consumers, where appropriate, receive redress. In future we will take a much more proactive role. Firstly, through identifying and tackling issues in individual companies, and making recommendations to improve customer service and complaint handling. Secondly, by identifying systemic industry wide issues and either making recommendations for improvement, or referring them to the appropriate body for action. This will allow us to make a stronger contribution to tackling consumer detriment in the sectors in which we operate, and in addressing emerging problems before they become systemic.

We are 'Good for Consumers and Good for Business'.

For consumers, we offer a free, fast and accessible form of civil justice with no requirement for legal representation or specialist knowledge, and with a particular focus on access for vulnerable consumers. We ensure that complaints are dealt with swiftly in an impartial manner, and we make decisions based on what is fair and reasonable rather than the narrow remit of the law.

For businesses, we offer a fast and low-cost alternative to the courts, and make decisions based on expertise in industries. By looking to resolve disputes, we promote

brand loyalty and repeat purchasing as well as building reputation and trust. We offer guidance on improving standards of service hence sharpening competitiveness. We go beyond individual complaints to find broader trends which can be a source of innovation.

More broadly, we provide an efficient and effective means of addressing consumer detriment and building business capability without recourse to the public purse. We take pressure and cost away from small claims court and legal system and help to build consumer confidence which bolsters the economy.