

Making switching easier and more reliable for consumers

Ofcom proposals to reform landline, broadband and pay TV switching between different platforms

Response by TalkTalk

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Introduction

TalkTalk welcomes the opportunity to comment on Ofcom's consultation on how to make switching easier and more reliable for consumers when they want to switch between different platforms (respectively the Openreach, Virgin cable and Sky satellite platforms).

The fact that Sky and Virgin TV customers are currently forced to speak to their current provider after they have already agreed to switch to TalkTalk's broadband, phone and TV bundle dampens and distorts competition and so harms consumers. This distortion is compounded by asymmetry whereby TalkTalk TV customers switching to Sky (or Virgin) do not have to contact TalkTalk thereby discriminating against new TV entrants like TalkTalk in favour of established incumbents like Sky and Virgin.¹

In short, there are two problems that cause harm:

- In some cases customers are forced to contact their losing providers; and
- having multiple switching processes for switching between platforms is confusing for consumers, costly for providers and harms competition.

We are therefore pleased to see that Ofcom favours the introduction of a single gaining-provider led (GPL) process for switching between the three platforms. We believe that Ofcom's cost-benefit analysis is robust and provides clear evidence as to why the imposition of a single GPL process would be objectively justifiable, non-discriminatory, proportionate and transparent as required by Section 45 of the Communications Act 2003.

We are concerned that it has taken such a long time to get to this point. The original call for inputs was published by Ofcom over two years ago and the consultation document now suggests it would take at least until the end of 2018 until the new switching process would be in place. It is essential that Ofcom does not allow this time frame to slip any further by

¹ By asymmetry in this context we mean for instance that a TalkTalk triple-play customer does not need to speak to TalkTalk if they want to switch to Sky whereas a Sky customer does need to speak to Sky before they can switch their TV service to TalkTalk.

taking an active role in ensuring that all providers cooperate fully in implementing the new switching process once the final statement is published next year.

We set out in the following section our responses to the specific questions in the consultation document.

Response to 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?

We believe the current cross-platform switching arrangements are causing significant consumer harm in the form of the hassle and inconvenience experienced by the consumer from having to contact their current provider and coordinating the switching between platforms. When a customer has already decided to leave, they are forced to have a lengthy conversation with their existing provider who will attempt to convince them to stay. Many customers as a result are tempted into staying for short term deals while in the longer term they would have been better off from switching to an alternative provider. This creates an uneven playing field in which customers find it hard to switch and as a result are paying too much for their broadband and TV services.

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

We believe there would be a significant benefit to consumers from clearer switching process and information about switching. It would encourage more consumers to consider all options for switching and ensure that consumers make the decision on the basis of the commercial offers available to them without having to consider the perceived hassle or inconvenience of switching. Current cross-platform switching arrangements cause consumer hassle, inconvenience and therefore also harm as they end up paying more than necessary for their broadband and TV services by failing to switch provider.

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

We do not have any further comments at this stage.

Q4 We would welcome views on the proposal for an EC&R process (Option 1), in particular:

(a) whether is it effective in reducing the consumer difficulties and deterrents identified through our analysis;

We are very concerned that any form of enhanced “cease and re-provide” process² would always produce a sub-optimal outcome from a consumer welfare and competition

² A cease and re-provide process means that a customer of network A has to terminate the service completely on network A and, separately, request new service on network B (rather than request that the existing service on network A is transferred or migrated to network B).

perspective. The EC&R process outlined by Ofcom would maintain the uneven playing field whereby a customer of Sky or Virgin would always need to contact their current provider if they wanted to switch to TalkTalk whereas the same would not be true if a customer wanted to leave TalkTalk for one of the other two platforms. Any cease and re-provide such process places an undue or unwelcome burden on the consumer to speak to their existing provider in order to initiate the switching process.

The existing provider will always have an inherent commercial incentive to retain the customer on their platform or service by creating unnecessary barriers to switching. Although the customer would be *“given a choice of methods to contact their old provider to cancel, including via webchat, online accounts and using an Interactive Voice Response (IVR) option, rather than necessarily having to speak to a customer service agent”*,³ this still gives an opportunity for the existing provider to act on that commercial incentive.

Therefore even if one combined Ofcom’s proposed EC&R process with clear regulatory obligations set out in general conditions, these would always have to be monitored by Ofcom for compliance because the existing provider would have an incentive to abuse by instituting a process that favoured the customer staying rather than making the process as consumer-friendly as possible. And even if the process was deemed compliant by Ofcom, it would still be prone to system errors and/or downtime such that there would always be a risk that the customer was not able to get through to the existing provider when they wanted to switch.

(b) whether you agree co-ordination by the new provider should be opt-in for the consumer; and

As outlined above, we do not believe that the proposed EC&R process would remedy the consumer harm that is currently being caused by the lack of a proper switching process. Whether or not the new provider is assigned to coordinate the switching would not make any material difference in this regard.

(c) if the information on implications of switching provided at the cancellation stage is likely to be as effective as receiving it in durable form during the transfer period?

As outlined above, we do not believe that the proposed EC&R process would remedy the consumer harm that is currently being caused by the lack of a proper switching process. We do not believe that this flaw can be addressed by providing the customer with more information about the implications of switching when they still have to contact their current provider in order to switch.

³ Ofcom consultation document, section 4.14.

Q5 We would welcome views on the proposal for the GPL process (Option 2), in particular: (a) whether is it effective in reducing the consumer difficulties and deterrents identified through our analysis; and

We believe that the envisaged GPL process would be very effective in reducing or even removing the consumer difficulties and deterrents identified through Ofcom's analysis. The fundamental principle of a GPL-based process is that it removes the need for the consumer having to contact their existing provider in order to switch. This has a number of advantages and/or benefits:

- It empowers the consumer to act on their own decision to switch without any undue interference from their existing provider.
- It removes the hassle that consumers may feel of having to speak to their existing provider who they know will try and save them.
- It saves the consumer time and money from not having to speak to their existing provider and is therefore a more economically efficient option.
- It removes the automatic opportunity for the existing provider to act on their natural commercial incentive to save the customer thereby forcing the provider to ensure that all customers benefit from the best deals and not just those who are threatening to leave.
- It removes the cost of monitoring compliance with a losing provider led process (such as the one outlined by Ofcom as the proposed EC&R process).

Overall we believe Ofcom's analysis is accurate and robust providing sufficient evidence to support the introduction of the GPL process.

(b) if the ten working day transfer period is a sufficient length of time for a consumer to receive, understand, and act upon implications of switching information that is sent to them by the old provider?

Yes. The current GPL switching process on the Openreach network is based on a ten working day transfer period and we do not see how that would not also be sufficient for a GPL process for switching between platforms.

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?

Yes. We believe a ten working day transfer period would be more than sufficient for the old provider to stop existing services and administer the end of contracts. As far as we can see, like the Openreach network, there is no manual engineering activity required to stop service on the cable or satellite TV platforms. Stopping would solely be electronic/billing activity which could be carried very quickly and certainly within 10 working days.

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

The GPL process should apply to all cross-platform services as the consumer harm can be identified across all such services. It would be very confusing for consumers if different processes applied to bundles and standalone services. This would cause consumer harm and also make the implementation of the GPL process more complicated and hence more costly.

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

It is extraordinary that the process of rolling out a gaining provider led process has now taken over 10 years and by Ofcom's own estimate the final leg of this work may not be completed until the end of 2018. It is imperative that this project is progressed and concluded as soon as possible given the amount of consumer harm that is being caused by the current cross-platform switching arrangements.

Ofcom suggestion to leave the implementation of the "back-end" communications channel to industry discussions is simply not realistic. Given the disparate views between different platform providers, such discussions will be protracted and unproductive without Ofcom's attendance and leadership. Ofcom must therefore reconsider its involvement in such discussions and explain how it intends to ensure that implementation of the GPL switching process on all three platforms is progressed as quickly as possible.

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

We do not have any further comments at this stage.

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

We believe the assessment of the consumer benefits to be exhaustive and robust providing firm evidence for the comparatively larger consumer benefit of the GPL process.

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.

We agree with the assessment of the likely costs set out in the Cartesian report. It is important that the "back-end" communications channel between providers is implemented in the most cost-effective manner possible.

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?

It is possible that a manual communications channel for small providers might be appropriate in some circumstances. We do believe also that the introduction of the GPL

process for inter-platform switching may well create a demand for third party solutions providers who may be able to meet the demands of small providers. It is important that the implementation work allows such solutions to be developed and offered.

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

Yes for the reasons set out above.

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

We believe this is an area worth exploring given the increasing presence of quad-play bundles in the market. Certainly the design of the background industry process should ensure that it can interact with the envisaged GPL process for mobile services.

Q15 Do you consider that Option 2 (GPL) could enable consumers to go through the switching process through TPIs/ PCWs? Would this be beneficial to consumers?

We have not been able to analyse this potential aspect of the GPL process at this stage.

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

We do not have any further comments at this stage.