BT's response to Ofcom's consultation document

"Consumer switching:

A consultation on proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network"

28 May 2012

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1. Executive Summary

BT's proposal for a new way forward

1.1 The process used by consumers and business customers to switch between providers is of vital importance to the competitiveness of the communications industry. It is essential that customers are able to switch easily, seamlessly and efficiently so that they can exercise complete freedom of choice and achieve all the benefits that a healthy competitive market can bring. We welcome Ofcom's consultation as we have been active in the debate and are keen to ensure that the correct focus is given to the customer impacts of any new process.

1.2 We agree with Ofcom that the current multiple switching processes are unsatisfactory, causing confusion for customers and an unlevel playing field. We therefore support the drive for a new harmonised process across voice and broadband, which should be extended to other products (especially those purchased in bundles with voice and broadband, such as TV) as soon as possible. We also believe that *all* players in the voice and broadband markets should be included, regardless of technology, so we urge Ofcom to extend its review to cover cable and fibre network providers as soon as this current consultation is completed.

1.3 We disagree with Ofcom that a Third Party Verification (TPV) process would be the best solution. In our view, the losing provider-led "alternative" (LPL Alt) process proposed by BT, Sky, Virgin Media and Zen would provide the best overall customer experience. However, we believe the status quo is unsatisfactory for customers so action needs to be taken, despite the lack of industry/Ofcom agreement. We believe there is a way out of this impasse, outlined below, that provides a win/win solution:

- All the new process options involve the use of Transfer Code at the "back end", and all the Transfer Code-based processes are very similar for Openreach and for wholesalers. In view of this, we propose Ofcom should consider introducing the LPL Alt process first, on a trial basis.
- The investment by CPs necessary to introduce the LPL Alt process would not be wasted if it was subsequently found that it did not deliver the expected consumer benefits. In that case, the industry could then go on to make the incremental investment in the hub and centralised database needed to operate a gaining provider-led (GPL) "front end" retail process such as TPV, in the more certain knowledge that it was necessary.
- This incremental approach would avoid the risk of wasted and disproportionate expenditure, without shutting the door on future development if and when there was a proven need.

1.4 We would welcome the opportunity to explore this approach further with Ofcom and industry.

BT's assessment of the options

1.5 We are very pleased that Ofcom has recognised the merits of BT's Transfer Code concept and has included it in all of the proposed new process options. The importance of accurate

asset/service validation in any process cannot be overestimated and Transfer Code will deal with this effectively for voice/broadband switching within the Openreach footprint and in future for switching within and between other networks and services. We agree with Ofcom that just trying to enhance today's switching processes would be insufficient in a number of respects, but in particular this would not deal with the potentially growing problem of inaccurate asset validation.

1.6 We are firmly of the opinion that number porting should be an essential element of consumer switching processes and that a key criteria for judging any new process is its ability seamlessly to integrate number porting within the consumer switch. We believe that Transfer Code-based processes can achieve this and Ofcom should extend its considerations to cover this aspect. Similarly working line takeovers on home moves can be made more reliable using Transfer Code principles and we will continue to work with Ofcom and industry on the detail of this. Any harmonised process for consumer switching will require a significant investment by industry, and there is a strong case for making such an investment a long-lasting one which will also serve wider purposes.

1.7 However we believe Ofcom has made some significant errors in its assessment of the impact of each of its new process options, leading to the wrong conclusion that a Third Party Verification (TPV) process would be the best solution. We have carried out our own analysis of each of the potential new processes, putting the customer impact first and foremost, and we have significant concerns about a TPV process as specified, for the following reasons:

- **Unsatisfactory customer experience**. Customers do not like having to be passed on during a call, and the process would be particularly awkward in retail environments or for business customers switching multiple services.
- **Uninformed customers**. As with any gaining provider-led process, the customer would not be fully informed about any consequences of switching (such as early termination charges from the losing provider) until after the order is placed, leading to costly and inefficient cancellations.
- **Longer time to switch.** The need to wait for, and potentially act upon, a letter from the losing provider regarding the consequences of switching necessitates a longer lead time to switch.
- **Inefficiency**. It would be necessary to maintain a centralised industry database of all retail customers on an ongoing basis just to avoid switching customers talking to their losing provider.
- **Potential data integrity issues.** CPs would have little incentive to update the centralised database, and this would lead to switching failures.
- **High cost**. TPV is by far the most expensive option, with a potential knock-on impact on consumer pricing. Based on an independent analysis by PwC, we believe the costs to industry will be in the order of £140m NPC over 10 years. Ofcom's consultants CSMG have underestimated the costs by over 40%, and even CSMG's estimate (£98m) is 50% higher than their estimate for our preferred process (£65m).
- **Longer implementation timescales**. This option would be more complex, and there would be a greater need for industry co-operation and agreement on database standards.

1.8 The LPL Alt process (as proposed by BT, Sky, Virgin Media and Zen) remains our preferred option as we believe it provides the best overall customer experience, taking everything into account:

- **Easy for customers**. Customers could get their Transfer Code more quickly and easily than under today's MAC process, with confirmation in their preferred medium.
- **Informed customers**. The customer would be fully informed about the implications of switching before the order is placed, resulting in fewer cancellations and greater efficiency.
- **Faster switching**. Lead times would be shorter, with no dependency on letters.
- **Security and integrity**. The process would be more effective than TPV in validating the customer's identity and preventing slamming.
- **Customer choice on save dialogue**. The customer would have the *option* of listening to a save offer if they wish, but could choose not to.
- **Lower cost**. Much cheaper to implement and to run (with potential knock-on impact on consumer pricing).
- **Shorter implementation timescales**. The process would be simpler and quicker to implement, with no need for industry co-operation and co-ordination in developing hub and database interfaces and standards. Customers would therefore see the benefits sooner.

1.9 Ofcom appears to prefer the TPV process over the LPL processes primarily because of its perception that reactive save activity must be prevented. We believe Ofcom has given too much weight to this issue. An independent analysis by consultants Charles River Associates (CRA), attached at Annex 4, shows that Ofcom's assessment of the economic effects of reactive save activity is not robust; and in any case, the effects of a ban would be completely diluted by all the other save activity that would still be allowed (such as when customers *choose* to contact the LP despite following a GPL process, as happens today and which we think would continue). Therefore this consideration should not be driving Ofcom's choice of process, which should rather be driven by which process provides the best overall customer experience.

2. Introduction

2.1 BT is very pleased that Ofcom has recognised most of the problems with today's current switching processes, and particularly with the current Notification of Transfer (NoT) process. Compared to the previous consultation, where there was little recognition by Ofcom of the problems caused by erroneous transfers, and of the importance of accurate asset identification in any switching process, we have come a long way and it is good to see that all the industry/Ofcom discussions at the Switching Working Group over the past year have been fruitful in this respect.

The benefits of Transfer Code

2.2 In particular we are very pleased that Ofcom has decided on the inclusion of Transfer Code as the method for achieving accurate back-end switching in all the new harmonised gaining provider-led (GPL) and losing provider-led (LPL) process options, in recognition of its capability to guarantee accurate asset validation and to deal with switching to and from other networks, number porting and working line takeovers in future. Transfer Code is an efficient and effective way to ensure that the correct asset(s) and service(s) are always switched, without the need for a costly and potentially unmanageable industry-wide database of all CPs' asset and service data.

2.3 Transfer Code has the following advantages:

- It is generic and can handle voice, broadband and potentially any other service in future that customers want to transfer between CPs
- It could also be used in future for number porting, bulk transfers, working line takeovers and any other co-ordinated change to a customer's service that needs the reliable transference of assets from one CP to another
- It reliably and accurately "tags" the correct assets and services to be switched within the losing provider's supply chain, so that erroneous transfers are avoided
- It has the potential to be used for switching to, from and within different network infrastructures as well as different technologies
- It can be used to arrange for the switching of single or bundled products, with a single code to identify one or several services to be switched
- Since it is a unique reference to migration data held in systems, it does not need to "encode" anything within its structure; thus it can be simple and short
- It is efficient as it only exists in CPs' records for the time needed to effect the switch; no ongoing storage or duplication of service/asset data is required
- It can be made to work effectively with a gaining or losing provider-led "front end" customer interface.

2.4 We fully support Ofcom's desire to move to a single harmonised switching process across voice and broadband. We explore in the next section, and in our response to Ofcom's questions, why we agree with Ofcom that having multiple processes for switching the same services is undesirable.

Ofcom's cost/benefit analysis is flawed

2.5 We believe that Ofcom has correctly identified a number of the problems with current switching processes and we explore this further in section 3.

2.6 However, we feel that in carrying out its cost/benefit analysis, Ofcom has made a number of significant errors. Certain aspects – such as the perceived need to prevent reactive save – have apparently been given far too much weight in the analysis, leading Ofcom to the conclusion that a GPL solution must be the answer, when in fact a number of assumptions are incorrect and a GPL solution is very unlikely to lead to the outcomes that Ofcom anticipates.

2.7 In addition, some of the benefits of an LPL solution have been under-estimated or not counted at all, such as its ability to deal with erroneous transfers. The end result is that the GPL Third Party Verification (TPV) process option is deemed to be Ofcom's preferred solution when in BT's view it is a totally disproportionate response to the identified problems, in terms of cost, intrusiveness and impact on the customer experience. We believe the LPL Alt process would be a far more proportionate solution, offering key benefits without excessive cost. These issues are explored more fully in Section 4.

Proportionality

2.8 As Ofcom itself points out, it has a duty under the Communications Act 2003 to perform its duties and only to impose new regulation that is *proportionate.* This means that there has to be a full and robust demonstration that the costs imposed on industry by a particular new process will be justified by the benefits that it will bring. At Annex 3 there is a detailed explanation, prepared by independent consultants CRA[1], as to why Ofcom's proposal to introduce a GPL TPV process fails to clear this hurdle and therefore why it would be a disproportionate regulatory intervention.

2.9 Part of the problem is that Ofcom's consultants, CSMG, have under-estimated the likely costs of introducing the GPL TPV process. At Annex 5 is a report by independent consultants PwC[2], in which there is a full assessment by them of the way in which the GPL TPV process would need to be implemented and at what cost, based on their extensive experience of similar industry-wide projects. You will see that their cost estimate for the net present cost (NPC) of the GPL TPV model over a 10 year period, at £139m, is substantially (42%) higher than CSMG's estimate of £98m, as they have identified cost areas that were not included in the CSMG analysis, and assessed certain other cost drivers differently. It is worth noting that PwC has taken a conservative approach on certain aspects, in particular in relation to the likely annual volume of switches.

2.10 A further problem is Ofcom's analysis of the economic effects of "reactive save", and its conclusions on the likely benefits that would arise from prohibiting reactive save through

[1] "Ofcom's Impact Assessment of Changes to Switching Options for Fixed Voice/Broadband Lines: *An Economic Review*" – Charles River Associates, May 2012

[2] Ofcom consumer switching consultation – PwC's independent cost assessment of the GPL TPV model – Price Waterhouse Coopers, May 2012

introducing a harmonised GPL process. At Annex 4 is another report by independent consultants CRA[3] which finds Ofcom's analysis of the effects of reactive save to provide no credible basis for the conclusion that LPL switching processes are generally detrimental to competition or to consumers. Even more importantly, a ban on reactive save would be ineffective in preventing CPs from making save offers to consumers. This is a key area, where Ofcom's misunderstanding of the way in which CPs' marketing activities work, and of the likely consequences of a prohibition on reactive save, have led to erroneous conclusions on the wider question of which switching processes are better or worse for consumers.

The business customer issue

2.11 As well as drawing incorrect conclusions from its cost/benefit analysis, we believe Ofcom has also failed to recognise or acknowledge some other fundamental issues; in particular, the need to consider business customers as well as consumers. Ofcom needs to take into account the fact that, although the new regulation will not be binding for businesses with 11 employees or more, the switching process specified for consumers and small businesses will apply to large businesses as well, since access operators such as Openreach will only feasibly be able to operate a single switching process for the products in question, and cannot in any case distinguish between different end user types or sizes. It is therefore very important to look carefully at the impact that any option will have on those customers in order to avoid any unwanted consequences. We believe a GPL TPV process will be cumbersome and unsatisfactory for consumer customers, but for larger businesses it is likely to be completely unworkable. Ofcom does not appear to have considered this issue.

Other networks

2.12 Customers do not usually know or understand which technology is used to provide them with service; they simply want to be able to switch between providers seamlessly and in a straightforward way. This is true of business markets just as much as consumer markets; competition between different networks can be even more intense in business markets. We believe Ofcom should have addressed switches of voice and broadband services to and from other networks (in particular Virgin's cable network) at the same time as switches within the Openreach copper footprint. In order for any switching process to be future-proof and to enable a level playing field between competitors, it is vital that Ofcom's review is extended to other technologies as soon as possible.

Number Porting

2.13 To customers, the porting of their number (which is often required when they are switching to or from an MPF provider, or between different access networks) is seen as part-and-parcel of their service switch. Ofcom makes a brief reference to the need for number porting at paragraphs 3.25 to 3.27 but does not appear to acknowledge how important it is to ensure that number porting is aligned with switching as quickly as possible, and that a switching process is chosen which can readily be extended to the porting of numbers as part of the same transaction, in the interests of a seamless customer experience. Any Transfer Code-

[3] Ofcom's assessment of the use of reactive save activity by suppliers of fixed voice and broadband services: *An Economic Analysis* – Charles River Associates, May 2012

based process does, we believe, enable this, whether within the context of a GPL or LPL process, but we would have liked Ofcom to have acknowledged this and to discuss when it intends to address an extension of any new switching process to number porting.

2.14 Given that any unified solution will impose investment costs on industry and hence on consumers, a potentially more effective way to ensure proportionality of measures to improve consumer switching is to make the investment enduring and reusable across other areas of activity in the digital communications industry. A remedy which is disproportionate for consumer switching within the Openreach footprint alone may well be more proportionate if it simultaneously addresses other areas such as number porting, bulk transfers, switching between other networks and so on.

A potential way forward

2.15 BT's view is that the LPL Alt process is the most effective and proportionate solution, for the reasons explored in Section 4. However Ofcom has concerns about an LPL process, mainly because of its theories about the effects of reactive save, and its belief that there might be extra "hassle" for the consumer in having to talk to the losing provider to get a Transfer Code. Given that all the new process options involve the use of Transfer Code at the "back end", and all the Transfer Code-based processes are very similar for Openreach and for wholesalers, we suggest Ofcom should consider introducing the LPL Alt process first, on a trial basis, for a period of, say, two years. The investment by CPs necessary to introduce this would not be wasted if it was subsequently found that the expected consumer benefits did not materialise, and/or that Ofcom's concerns about an LPL process did materialise. In that case the industry could then go on to make the incremental investment in the hub and centralised database needed to operate a GPL "front end" retail process such as TPV, in the more certain knowledge that it was necessary. This incremental approach would avoid the risk of wasted and disproportionate expenditure, without shutting the door on future development if and when there was a proven need. We would welcome the opportunity to explore this approach further with Ofcom and industry.

Outline of the rest of this response

2.16 BT, Sky and Virgin Media jointly commissioned market research by Ipsos MORI into consumer experiences and preferences regarding switching of landline telephone and broadband services, completed in May 2012 ("the consumer survey commissioned by BT, Sky and Virgin Media"). This online research amongst panellists surveyed 2,000 respondents who were selected so as to give a balance of age, gender and geographic location. Ipsos MORI maintains a fully managed panel of over 400,000 respondents in Great Britain that is used solely for research purposes. Recruitment is carefully controlled using a diverse range of sources. Due to shortage of time we do not have a full report of the results, but we have referred to the outcomes to specific questions in the relevant places in the following sections of this response, and the questionnaire and data tables are attached at Annex 6.

2.17 In section 3, we explore BT's view of the current problems experienced with today's switching processes – where we agree with Ofcom, and where we think Ofcom has got it wrong. In section 4 we discuss the specific process options under consideration, focusing particularly on the generic problems with the proposed GPL options, the specific problems with the proposed TPV process, and the contrasting benefits of the LPL processes and particularly the "LPL Alt" option. In section 5, we answer the specific questions posed by Ofcom in the consultation document. Lastly in section 6 we draw some conclusions about the way forward and the importance for the future of the communications industry that we get the switching process right.

3. Current problems – BT's view

3.1 The following section examines the problems with today's switching processes identified by Ofcom, and explores where BT agrees and disagrees with Ofcom's views.

Multiple switching processes

3.2 We agree that multiple processes currently lead to a number of problems. It makes no sense for customers to have to follow a different process for switching their voice and broadband services depending on which technology the losing and gaining providers happen to use in that particular geographical area (which is something that customers are generally unaware of). The resulting confusion is exacerbated if the customer wants to switch a bundle of services, and has to follow a different (and potentially uncoordinated) process for each. Ultimately this potential hassle and confusion could deter switching altogether. It is also inefficient for CPs to have to operate multiple processes instead of one harmonised process.

3.3 As discussed in Section 5 in response to Ofcom's question 4, we agree there is a lack of competitive neutrality from having multiple processes. A customer switching voice and broadband services from a WLR+SMPF provider to another WLR+SMPF provider will have to follow two processes (NoT and MAC), which may not always happen smoothly and is more difficult for the customer; whereas if they are switching to an MPF provider they will only have to follow a single process (NoT), which is easier and less costly both for the gaining provider and the customer (in terms of time and effort).

3.4 Therefore we agree with Ofcom's assessment of this problem and we believe that a harmonised switching process for all voice, broadband and bundle switches would be to the benefit of both consumers and CPs.

Back end system deficiencies

3.5 On the UK fixed copper network there are multiple levels of wholesaling and multiple CPs on one piece of infrastructure, requiring the switching of assets and service attributes through multi-level supply chains (sometimes in bundles, sometimes separately). Any switching process must be able to cope with this complexity, otherwise the customer experience will be poor because there will be insufficient verification of the assets and services to be switched *at each level* in the supply chain, resulting in confusion, errors and service/switching failures – and thus increased costs for both CPs and customers.

3.6 It is essential that the losing CP, its wholesale provider and the access provider are each involved in identifying the correct asset and service to be switched, regardless of whether the gaining or losing supplier is the first point of contact for the customer. This does not happen with today's NoT process, which is one of the reasons why the wrong line can sometimes be switched.

3.7 This situation will be compounded in a fibre world. A key feature and advantage of FTTP is that on a single fibre connection, a customer will be able to have up to two voice and four

broadband services, all potentially from different providers. In this environment it is essential that the switching process pinpoints exactly which of the services is to be switched: without a means of identifying the port involved, switching will be a matter of guesswork and erroneous switches will be frequent.

3.8 We agree with Ofcom that reliance on CLI for asset validation leads to problems and is not future-proof. Under the current NoT process, CLI is not visible on Openreach's systems where the customer is using an MPF provider, and therefore it cannot be used to identify the correct line to be switched. This is not a "system deficiency" but just a factor of the way in which systems have been developed to reflect the UK's competitive market. It particularly causes a problem where there are multiple MPF lines in use at a single location, such as a building that has been converted into flats. Businesses consuming services on more than one MPF line will also raise issues.

3.9 In future, as Ofcom notes, CLI will become more unreliable as a means of asset identification as not all services and technologies will have an associated CLI, and/or multiple services will be delivered over shared assets, so that CLI cannot be used to identify a unique service.

3.10 Where CLI is not available, it becomes necessary under the NoT process for the postal address to be used to identify the correct line; but for a number of reasons (not due to "systems deficiencies" but rather due to structural changes and inconsistencies that Openreach could not be expected always to be aware of), there is sometimes not a direct match between the address given by a customer and the address on Openreach's system. This can again lead to the wrong line being switched, particularly in the context of a home move where the incoming customer may have less accurate address information for premises they have not occupied.

3.11 The result, as Ofcom has noted, can be an erroneous transfer which results in hassle and cost for the customer whose line is switched in error, as well as for the customer who wanted to be switched but for whom the switch failed. In the context of a home move, there is harm both to the customer whose line is switched in error and to the incoming customer who fails to get uninterrupted service in the new premises.

3.12 A switching process based on Transfer Code, which "tags" (during the switching transactions) all of the assets in the losing provider's supply chain, is the best and most efficient way to ensure that the correct line and service will always be switched when the gaining provider places its order. A Transfer Code process can also be extended to scenarios involving Working Line Takeovers for home moves, as explored more fully in the answers to Ofcom's questions and in Annex 1.

3.13 We agree with Ofcom that unwanted breaks in service for customers can also arise as a result of CPs choosing not to support the "MPF migrate" order type, or (in the case of bundle switches to WLR + SMPF) the Linked Orders and Parallel Orders functionalities, resulting in services being switched sequentially rather than simultaneously, with a break in service for the consumer. These scenarios do not seem to us to be anything to do with "back end systems deficiencies", but rather are down to the commercial decisions of CPs.

3.14 A mandated single, harmonised process for switching between all technology types, based on Transfer Code for identifying and tagging the right assets for bundles of voice and

broadband services and switching them simultaneously and in a co-ordinated manner, would deal with all of these issues.

3.15 We agree with Ofcom's view (in paragraph 4.90) that it is important to ensure that the chosen switching process is capable of being extended to work for other technologies and infrastructures such as cable and FTTP. The current NoT and MAC processes are not capable of such extension, but a Transfer Code-based process would be. We urge Ofcom to look at these areas as soon as possible, to ensure technological and competitive neutrality.

Insufficient customer consent

3.16 We agree with Ofcom that slamming creates significant harm for those customers affected. The ability of any new switching process to deal effectively with the verification of customers' identity, authority and consent to switch is absolutely vital.

3.17 We agree with Ofcom that slamming is virtually impossible within an LPL process (such as today's MAC process), and that GPL processes carry a much greater inherent risk. The notification of a forthcoming switch in a letter to the customer during the ten working day switchover period, and the ability of the LP to cancel the GP's order where slamming is reported, provide some limited protection but clearly not enough, since slams still happen. It is much better and more efficient to prevent the potential for slams to happen in the first place, rather than trying to stop them taking effect "after the event".

3.18 However we believe Ofcom's consumer research and the conclusions drawn from it may exaggerate the incidence of slamming. BT's data concerning slamming and attempted slamming is showing a decrease in volumes year on year, and last year (Jan to Dec 11) slamming again reduced by 45% in volume, a similar reduction to the Ofcom complaint statistics.

3.19 BT Retail has kept records of customers who have complained about slams or attempted slams by other CPs. These are usually as a result of the customer receiving the NoT letter and subsequently contacting BT to state they had not agreed to transfer their service, or had agreed to a different product, or thought they were making an agreement with BT (i.e. the gaining provider had been passing themselves off as BT), or the gaining provider had failed to cancel the order at their request. These orders would usually have been cancelled by BT, thus would be recorded as an attempted slam. However, a proportion of the reports came from customers whose services had already been transferred away from BT, i.e. actual slams.

3.20 Over the years BT has seen a decrease in the volume of these reports in line with the Ofcom complaint data. See the table below.

	2008	2009	2010	2011
Yearly volumes (Jan to Dec)	77.5k	47.2k	44.7k	21.6k
Monthly volumes (average of Jan to Dec)	6.5k	3.9k	3.3k	1.8k
% decrease from previous year	24%	40%	15%	45%

N.B. Over 30% of the reports received by BT relate to customers who have changed their mind about transferring but the gaining provider has failed to cancel the order as requested. Customers answering consumer research questions who had experienced this scenario may or may not have described it as slamming.

3.21 BT's complaints data, like Ofcom's, therefore casts doubt on the volumes suggested by Ofcom's consumer research results, and we note that Ofcom intends to carry out two further pieces of analysis to investigate this further. Please see also section 6.2 of CRA's review of Ofcom's impact assessment at Annex 3, where CRA discusses why these volumes appear to be overestimated.

3.22 Nevertheless we believe that whatever the volumes, any new switching process must prevent *any* slamming from happening, rather than just detecting it after the event, given the consumer harm and costs to providers that it generates.

3.23 We believe Ofcom may have underestimated the costs of slamming for individual providers. Ofcom notes (paragraph A8.16) that between 28% and 60% of those who experienced a slam or erroneous transfer did not get service restored back to the original provider. Ofcom has chosen to use this information to *reduce* the estimated costs of slamming to CPs, because it reduces the overall costs of restoration. However this ignores the fact that, for the CP who has lost the customer unfairly, if not for the industry as a whole, there is clearly a cost in terms of lost ARPU, which is very difficult to quantify but which could be quite significant, particularly in the case of a business customer. Tolerance of this situation rewards unethical behaviour.

3.24 All of this points to the importance of ensuring that any new switching process prevents slamming from happening in the first place.

Lack of awareness of the implications of switching

3.25 We agree it is essential for customers to have a full understanding of the consequences of switching – both financial and service-related - so that they can make a fully-informed decision. It is much more efficient, both for customers and CPs, for them to have this information *before* the order with the GP is placed. If they do not find out the consequences until after the order is placed and then decide to change their minds, the GP order has to be cancelled, which is costly and inefficient both for customers and CPs and can be subject to failure.

3.26 We also agree with Ofcom that it might be preferable for some customers to have the information about Early Termination Charges (ETCs) and other consequences set out in writing. For some customers – for example perhaps those just switching a single service on

a single line, for which they are no longer in contract – there will be few consequences and the position will be fairly simple. For others, however, it will be more complex and they may benefit from being able to see it in writing and to be able to consider it further at their leisure and compare it against different offers from other CPs before making their decision. In a GPL process, customers must wait for the LP letter to discover the consequences, unless they choose to ring the LP proactively (which over 70% of customers do, as shown by Ofcom's research). The GP must wait for ten working days to ensure that the customer has had sufficient time to receive and digest the letter and request a cancellation if required. However in an LPL process, we believe that it should be up to the customer as to whether they want to wait to receive written confirmation of the consequences (in a letter or an email) or whether they are happy to go straight ahead and place their order, having understood enough from their conversation with the LP not to feel the need to wait.

3.27 It is also worth noting that any process which relies on CPs despatching a letter and customers receiving and reading that letter within a ten working day window is inherently flawed. There are several potential reasons for failure, including:

- System failure/delay in producing the letter
- Wrongly delivered post
- Postal delays – e.g. bank holidays, industrial action
- Customer being away on holiday or on business
- Customer treating the notification as junk mail and not reading it
- In the context of business customers, the letter going to the wrong contact point or department.

3.28 Ofcom notes that consumer harm can arise as a result of customers having to pay an ETC which they had not taken into account when making their decision. From a very small sample (2 respondents who were unhappy out of 38 respondents who paid an ETC), it is concluded that only 0.14% of all switchers unwillingly paid an ETC. Ofcom estimates this to equate to a "level of harm" of £0.4m per year. Firstly, we would question the robustness of this result given the small sample size. Secondly, and more importantly, this ignores two potentially more significant causes of harm: lack of awareness of other types of consequences (e.g. loss of discounts, loss of other services), and the costs associated with cancelled orders when customers *do* realise the consequences in time to prevent the order going ahead.

3.29 There are many potential consequences of switching which the LP should make the customer aware of. Technological developments potentially make the consequences harder for customers to understand or anticipate – particularly in the business environment where services and contractual arrangements may be more complex. Even for consumers, the consequences that need to be pointed out to them can include loss of their current broadband service (if they are moving their line to an MPF or cable provider), loss of their e-mail address, loss of free wifi minutes, loss of social/care alarms where applicable, inability to meet call commitments (if moving their calls to a CPS/Wholesale Calls provider – in which case they may be charged for "value added" services such as BT Answer and Caller Display), and the fact that retained products might not work in the same way. Of course with most CPs there will also be pricing implications for any retained products if the consumer is breaking up a bundle.

3.30 Lack of awareness of the implications of switching means that customers are more likely to have to cancel their order with the GP once they have subsequently become aware of those implications and changed their minds about the benefits of switching.

3.31 In relation to the costs of cancellation, we have looked at the costs to BT Retail Consumer of cancelled orders. For each cancelled WLR switch, we are charged £3.29 by Openreach. For a switch from an MPF provider, we are charged £3.50 if the order is before the "point of no return" (PONR) and £34.86 if after the PONR. If the order requires the provision of a new line (such as a customer moving from Virgin's cable network), the charge for cancellation is £3.50 before PONR, and £50.44 afterwards. We estimate that total cancellation charges paid by BT Retail Consumer to Openreach amount to approximately [✂] per year, with cancellation rates at around [✂] from WLR/MPF and [✂] from cable, assuming conservatively that all cancellations go through before the PONR. The cost with cable acquisitions excluded is approximately [✂]. (Openreach estimates that the industry-wide cancellation rate for NoT-based switches is 13%.)

3.32 This does not include Retail's own operational costs of handling cancelled orders. We estimate that for Consumer division this adds a further [✂] with acquisitions from cable included, and [✂] with cable excluded. This means that the total cost to BT Retail Consumer of cancelled orders per annum due to customers changing their minds within the NoT process is approximately[✂], or [✂]with acquisitions from cable excluded.

3.33 We have looked at a sample of 213 BT Retail Consumer orders that were placed under the NoT process and subsequently cancelled. On listening to call recordings to ascertain the reason the consumer gave for the cancellation, 30% were due to the losing provider making a better offer, 25% were due to ETCs charged by their losing provider, and 17% were due to changes of mind for other reasons (presumably other consequences of switching that the customer had not realised originally). (The remaining 28% were due to customers claiming they had been mis-sold, or not giving a reason, or orders placed in error.)

3.34 A similar piece of research was done back in February 2010, with consistent results – of 96 consumers requesting to come back to BT from an MPF provider but subsequently cancelling, 25% cancelled due to ETCs, 23% were made a better offer by their existing provider, 2% had subsequently been made aware of a broadband tie-in with their existing provider, and 18% changed their minds for other reasons. Of 67 consumers cancelling a request to come back to BT from another WLR provider, 30% had accepted a save offer, 21% cancelled due to ETCs, 3% cancelled due to a broadband tie-in with their existing provider, and 15% changed their minds for other reasons.

3.35 We get around [✂] complaints a week about ETCs from customers who have switched away from BT using the NoT process, which implies that despite including information about ETCs in our losing provider NoT letter, some customers do not read these properly, or at all, so the ETCs come as a surprise to them.

3.36 We also know that some [✂] customers per week who have switched away from BT Consumer using the NoT process decide to come back to us within 8 weeks of transferring away. This is despite likely ETCs from their new provider. This implies that these customers have quickly regretted their decision, or that they moved without fully understanding the

consequences, and this could be only the “tip of the iceberg” given that most will nevertheless stick it out with their new provider due to being in a new contract.

3.37 All of this evidence points to a big problem with customers being unaware of the consequences of switching until it is too late, causing either expensive cancellations for gaining providers or customer detriment caused by completed switches that turn out not to be beneficial when all factors are taken into account.

Unnecessary switching costs/hassle

3.38 We agree, of course, that hassle for customers should be minimised. However we disagree with some of the conclusions drawn by Ofcom in relation to this issue.

3.39 We note that Ofcom’s evidence points to unnecessary hassle and increased switching costs for customers having to use the Cease and Re-provide process, which we think shows that Ofcom should take steps to bring switches to and from cable networks into the scope of their review as quickly as possible (although of course in practice there is no infrastructure that can be re-used between cable and copper, so a managed switch will involve the co-ordination of a cease on one network and a new provision on the other, rather than re-use of assets). The worst form of “hassle” arises for customers when they find themselves without service; as Ofcom’s research shows, this is more likely to happen for a longer period where customers are forced to go through the C&R process. For a business customer, loss of service is beyond “hassle” and is likely to cause material financial loss.

3.40 We believe that currently the abuse of Cancel Other by LPs in the GPL NoT process is a significant problem and can cause a great deal of hassle both for customers and for GPs who are legitimately attempting to help the customer to switch. For the year from January to December 2011, BT Retail received 2.6k reports of unauthorised cancellations across Consumer and BT Business (this was derived from the ~50% of customers we were able to contact whose BT order had been cancelled by their losing provider; the real total of unauthorised cancellations could therefore be considerably higher – potentially ~6k). Many of these customers will give up trying to switch, and of those who do try again, there will potentially be a delay of up to a month, so there is a cost to the gaining provider in terms of lost revenue as well as the cost of having to place the order again. The costs to BT alone are therefore likely to be considerably higher than the £87k which Ofcom estimates to be the cost to industry. Depending on their reasons for switching, consumers may also be paying higher charges to the LP than they would have been paying to the GP during the time it takes them to re-arrange the switch, so the cost to consumers is more than just the time spent on the phone re-arranging. The Cancel Other process is only necessary in GPL processes as a customer protection mechanism to prevent slams from taking effect. Clearly it is preferable to ensure that slamming cannot happen in the first place, so that Cancel Other is not necessary and LPs are not able to frustrate the switching process in this way.

3.41 Ofcom argues that the number of “touch points” is higher with the MAC process compared to the NoT process, thus increasing the time and hassle involved in switching. We do not agree that the need for customers to have to speak to their losing provider should necessarily be equated with “hassle”, when (as explored above) it is important for customers to be able to make a fully-informed decision before placing their order. Inevitably this

increases the time involved on the telephone (by an extra 10 minutes, according to CSMG's estimate), and means that the customer has to make two calls rather than one prior to placing the order – but this avoids the extra hassle of having to cancel the order later, which can take much longer than 10 minutes to sort out (in some cases days), particularly if the order is beyond the PONR. Avoiding cancellations also avoids the customer being given a new number, having lost their original number (a particularly enormous hassle for small businesses). Having to cancel orders later, as is more likely with a GPL process, can often create hassle, particularly where the gaining provider fails to cancel the order on request. 31% of all the unfair trading reports received by BT Retail relate to GPs failing to cancel orders.

3.42 The consumer survey commissioned by BT, Sky and Virgin Media by Ipsos MORI asked respondents to choose between the following two statements:

- "You would prefer to have all the information about the consequences of switching before you place the order to switch"
- "You would prefer to switch and then be informed by your current provider what the consequences are a few days later, but be given the opportunity to cancel the switch at no cost to you."

88% of respondents chose the first statement, and 8% the second. (4% didn't know.)

3.43 In a gaining provider-led process, customers will still (in over 70% of cases, according to Ofcom's own research) choose to call their losing provider to query ETCs or other consequences of switching, either before or after they have waited to receive the NoT letter, even if they still decide to go ahead with the order. Whilst this call might not be part of the formal switching process, if it happens in the majority of cases it should still be considered when weighing up the pros and cons of different processes. And regardless of the switching process, most consumers and business customers will be keen to ring their losing provider, as well as a number of potential gaining providers, to "shop around" and make sure they are getting the best deal before making their decision. Therefore it seems unlikely to be true that they would be deterred from switching simply because the formal process itself involves two contact points instead of one. Certainty and confidence in outcomes, particularly that there will be no service break, are more important to consumers, and these are the features most likely to increase consumer propensity to switch.

3.44 We note that complaints about difficulties in getting a MAC have reduced significantly and that Ofcom only received 1,638 complaints about this in the year to October 2011. We believe that Ofcom's enforcement of GC22 has been very successful in this respect. We also think that in a new LPL process, there are a number of ways in which current problems with today's MAC process – such as difficulties in getting through to the LP, and difficulties in getting hold of the MAC – could be minimised so that there is no "hassle" at all. These are as described in the LPL Alt proposal. For example there should be a dedicated number to call to get the code, on which the time to answer is monitored and reported upon; the code must be provided in real time over the telephone, with confirmation by text or email at the customer's choice; and alternative channels such as an online portal could be provided, from which to get the code.

3.45 In its discussion of Ofcom's Impact Assessment at Annex 3, CRA discusses how the time spent on LPL processes compared to GPL processes should be more fairly assessed. See section 6.4 of CRA's report.

3.46 In addition, there are other forms of hassle not considered by Ofcom which we think are significant. Lead times for switching are important to customers (both businesses and consumers), who want to be able to transfer to their new provider quickly once they have made their decision, to take advantage of the benefits they believe will result. With the current NoT process, and with any of the proposed new GPL processes, customers will still have to wait for a ten working day "window" whilst the LP notification letter is generated, received and digested, before the GP can complete the transfer. In the LPL Alt process, however, the customer receives the information up front about any consequences of switching, and once they have made their decision the switch should be able to go ahead straight away if they so choose, and the completion date would depend only on technical constraints and resource availability in the GP supply chain. Whilst this would vary according to the products being switched, WLR to WLR transfers could in theory be carried out on the same day, and other types of switches within four working days on average. The key point is that there would be far more flexibility than the current NoT ten day transfer window allows, for the work to be carried out as soon as resource is available. Ofcom should allow that flexibility.

3.47 The hassle of having to wait ten working days is even bigger for business customers, not only because any delay might have a bigger economic impact on them, but also because as they are more likely to call their losing provider anyway, they will take a more informed decision about the switch. Once they have taken that decision they do not want to have to wait for ten working days before anything happens.

3.48 A further source of hassle today which Ofcom does not consider here is the lack of co-ordination between switching and number porting. As mentioned previously, we would have liked Ofcom to have included this issue within the scope of the current consultation, because customers see the move of their number from one network to another as intrinsically linked with the move of the service itself, whereas in reality these are currently two separate processes. Problems with number porting are a significant source of complaints to BT and we believe Ofcom should extend its review to cover this issue as soon as possible.

3.49 Lastly, we note here that we consider the GPL TPV process would be likely to lead to increased hassle in terms of the customer experience of switching. We explore this further in Section 4 in our discussion of the process options.

Reactive save activity

3.50 Ofcom believes that reactive save activity places new entrants to the market and providers seeking to expand their customer base at a significant disadvantage to "incumbents", and that it dampens the incentive to compete amongst existing providers, thus harming consumers. We disagree with this. In the first place, under Ofcom's own judgement, retail markets are fully competitive and should not need any artificial remedy to make them more so.

3.51 Ofcom talks about "adverse selection" – i.e. the concept that new entrants and smaller players will end up with the less valuable customers that "incumbents" have allowed to leave them, because incumbents have more information about each customer's value and can therefore choose to retain or "save" the most valuable. This is not true, firstly because CPs do not pick and choose who to save; BT attempts to save all customers who tell us they are considering leaving, regardless of "value", and we believe most, if not all, other CPs do the same. Secondly there is in fact very little difference in value between different customers on similar packages, and advisors working for a losing provider are unlikely to have significantly more information about a customer's usage levels than an advisor working for a gaining provider could easily glean from asking the customer. So in practice Ofcom's theory about adverse selection is very unlikely to materialise.

3.52 Ofcom does not show how the existence of reactive save – as narrowly defined by Ofcom – would make any material difference to a new entrant's ability to establish itself, compared to any of the other potential hurdles that it would have to overcome. Nor does Ofcom demonstrate that new entry into the market would be probable or even likely in the absence of reactive save activity.

3.53 Ofcom argues that reactive save activity reduces the incentive for providers to compete for customers. We do not believe there is any empirical evidence that prices for non-switching customers are held at an artificially high level. The nature and prevalence of national advertising campaigns via numerous different media channels means that customers are very well aware of the low price offers available to them and of their ability to get increasingly cheaper deals, either from their own provider or elsewhere, if price is important to them. It is common knowledge that if a customer rings their LP to say they are leaving (whether they really intend to or not), they will be offered a better deal. There is no evidence that less switching necessarily equates to less competition or to consumer harm.

3.54 It is important to consider what is likely to happen if Ofcom were to choose a harmonised GPL switching process for voice and broadband, with a ban on reactive save activity.

3.55 In practice, there is no distinction between reactive save activity as described by Ofcom, and save activity that comes about as a result of customers contacting their LP whilst in a GPL switching process to discuss the consequences of switching (as over 70% of customers do), thereby providing an opportunity for the LP to make a save offer. The same offers are available to sales advisors in both cases, and there is no reason why save offers made in that context should have any different effect on competition; and yet Ofcom states that it is not concerned about this form of save activity. If a unified GPL process were to be chosen, LPs would be very likely to come up with new ways to encourage their customers to ring them before or during the switching process, thus allowing them a legitimate save opportunity in potentially more than the 70% of cases where a save opportunity currently arises.

3.56 In the consumer survey commissioned by BT, Sky and Virgin Media, respondents were asked whether they would contact their losing provider even if they were not required to do so by the switching process. The answers were split more or less evenly – 43% said yes, 44% said no (with 13% who didn't know). The 866 respondents who answered yes were then asked why they would do so; 60% said it would be to see if they could get a better offer from the losing provider (other reasons were to confirm cancellation (50%) and to better

understand the consequences of switching such as ETCs and the effect on discounts (47%)). This demonstrates that Ofcom's proposal to ban reactive save would have no effect for nearly half of all customers, many of whom would continue actively to seek out a save deal.

3.57 The 408 respondents who said they would still contact the LP to better understand the consequences of switching were then asked whether they would choose to contact the LP if written confirmation and a cancellation option were available. The majority – 60% - said yes; 24% said no. (17% didn't know.) This result throws some doubt on Ofcom's theory (at paragraph 5.43 of the consultation) that under a harmonised GPL process, where the notification letter/email contained details of the actual level of ETCs due and where it is clear that there is no need to cancel the service, the proportion of consumers who contact the LP can be expected to decrease. Whilst the level might decrease to some extent, the proportion of customers contacting the LP is still likely to be significant.

3.58 In addition to making save offers to customers who rang in, CPs would probably look at expanding other retention tools, such as minimum term contracts. If more customers were on contracts, this would enable CPs to make save or retention offers whenever contracts came up for renewal, which would be likely to reduce switching significantly. Longer minimum terms might also become common, along with more segmentation of the customer base to enable more sophisticated targeting of offers. The effects of a ban on reactive save activity would be completely diluted by the effect of these other retention activities.

3.59 Thus it is not the case that a harmonised GPL switching process would mean no save activity at the point when a customer is considering switching. Nor does it have to be the case that with an LPL process, all customers must be subjected to a save attempt. Our view is that in an LPL process, customers should be given a positive choice as to whether they wish to receive a save offer or not. This way the customer remains in control and has complete freedom of choice.

3.60 It follows that if a harmonised GPL process will not prevent reactive save activity, Ofcom should not be placing so much weight on this issue in its analysis of which switching process to choose. Ofcom implies that the need to "ban" reactive save as a bad thing is sufficiently important to override other considerations, such as cost, efficiency and the requirement for customers to be able to make a fully-informed decision up front. We believe this approach is seriously flawed.

3.61 These issues are discussed in much greater depth by CRA at Annex 4.

4. Comparison of process options

4.1 In this section we will first discuss some of the generic problems we believe exist with the new GPL processes specified by Ofcom. We will then discuss specific problems with the GPL TPV process which Ofcom has selected as its preferred process. Lastly we will put forward the ways in which BT's preferred LPL Transfer Code "Alternative" (LPL Alt) process is more effective than the TPV process, and explain where we think Ofcom's cost/benefit analysis is flawed and has arrived at the wrong conclusions.

Generic problems with gaining provider-led processes

4.2 Ofcom's proposed new GPL processes – GPL Transfer Code (GPL TxC), GPL Unique Service Number (GPL USN) and GPL TPV – each require the establishment of a centralised database including the retail customer data relating to every CP in the UK, along with a "hub" that communicates information between the GP and the LP. We believe there are several disadvantages with this approach.

High cost

4.3 The most obvious disadvantage is the extra cost that the setting up and ongoing maintenance of the hub and database will result in. It is difficult to see from CSMG's cost breakdowns of each process to what extent the hub and database drive the difference in cost between the two GPL processes and the LPL process. Logically:

- since all three (USN, TPV and LPL) processes that CSMG assessed include the use of Transfer Code to effect the "back end" identification of assets/services to be switched; and
- since the TPV process results in extra costs in relation to the call to the TPV agent, compared to the USN process

it would seem likely that the costs of the hub and database are approximately equal to the difference between the USN process costs and the LPL process costs. This difference amounts to £16m (independent view) in relation to Net Present Cost (NPC) of each option over a 10 year time frame, according to CSMG.

4.4 In its independent estimate of GPL TPV costs, PwC estimated that the NPC of the Hub over a 10-year period would be between approximately £14m and £26m with a base scenario of costs amounting to £20m (see Annex 5). The detailed assumptions used by PwC can be seen in its report, section 4.3, page 46. These costs would be completely unnecessary with an LPL process which requires no centralised database or hub (although it should be noted that a small part of these costs include those for the generation and transmission of the Transfer Code between CPs, which PwC has not separated out from the rest of the hub costs, and which would still be incurred in the LPL processes).

Maintenance of database of all UK customers is inefficient

4.5 Whatever the precise cost, the concept of every CP in the country having to duplicate a significant set of customer data and to keep this updated on an ongoing basis for its entire customer base, just for the purposes of occasional switching by a proportion of that base, seems a very inefficient and disproportionate response to the requirement for accurate customer identity and consent validation, which could be achieved much more simply and for a fraction of the cost by following an LPL process.

Longer implementation timescales

4.6 The design and development work for the hub and centralised database would need to be managed differently from any previous industry development, with an unprecedented level of co-operation. CPs, Openreach and the third party(ies) running the hub and database would need to develop and change in parallel, not sequentially, once the specifications for the new process had been finalised and published. Design, development, testing and implementation would need common agreements and schedules. It is likely that some new management forums for the UK communications industry would be required to achieve this. In view of the level of co-operation and agreement needed across industry, it is likely that this development would take a good deal longer than the development of an LPL Transfer Code process alone, where many CPs are already operating the similar MAC process and would just need to adapt their existing systems and interfaces.

High risk of data integrity issues and security concerns

4.7 We are concerned that, whilst larger CPs would be likely to develop automated interfaces for updating the hub database on a regular basis to take account of the multitude of changes to customers' records, this might not be the case for smaller CPs. In any event, the potential for data errors and integrity issues is high, given that the process requires every CP in the country to duplicate its retail customer records on an ongoing basis.

4.8 The risk of failures to update accurately is heightened by the fact that there is a lack of incentive for LPs to comply, because if records on the hub are inaccurate, customers will not be able to switch away. Ofcom will presumably need to carry out compliance checks against the updating requirements, leading to increased enforcement and monitoring costs which do not appear to have been taken into account in Ofcom's impact assessment. These are likely to be just as high, if not higher, than the costs of monitoring and enforcement in relation to the giving out of Transfer Codes to customers in an LPL process.

4.9 It must not be forgotten that with a GPL process, it is not just consumers and small businesses that would need to be represented on the industry-wide database. Since it would only be feasible for Openreach to have a single migrations process per product, as today, and since it is generally not possible for CPs at any level in the supply chain to differentiate between customers based on their number of employees, large corporate customers would have to be included on the database, leading to much greater complexity as well as much higher volumes. Large business customers typically have a wider set of products, tend to change their estate more frequently and many have complex

organisational buying structures. Maintaining data quality and integrity in this environment would be extremely costly and challenging.

4.10 We discuss some of these issues further in our response to question 21 in the next section.

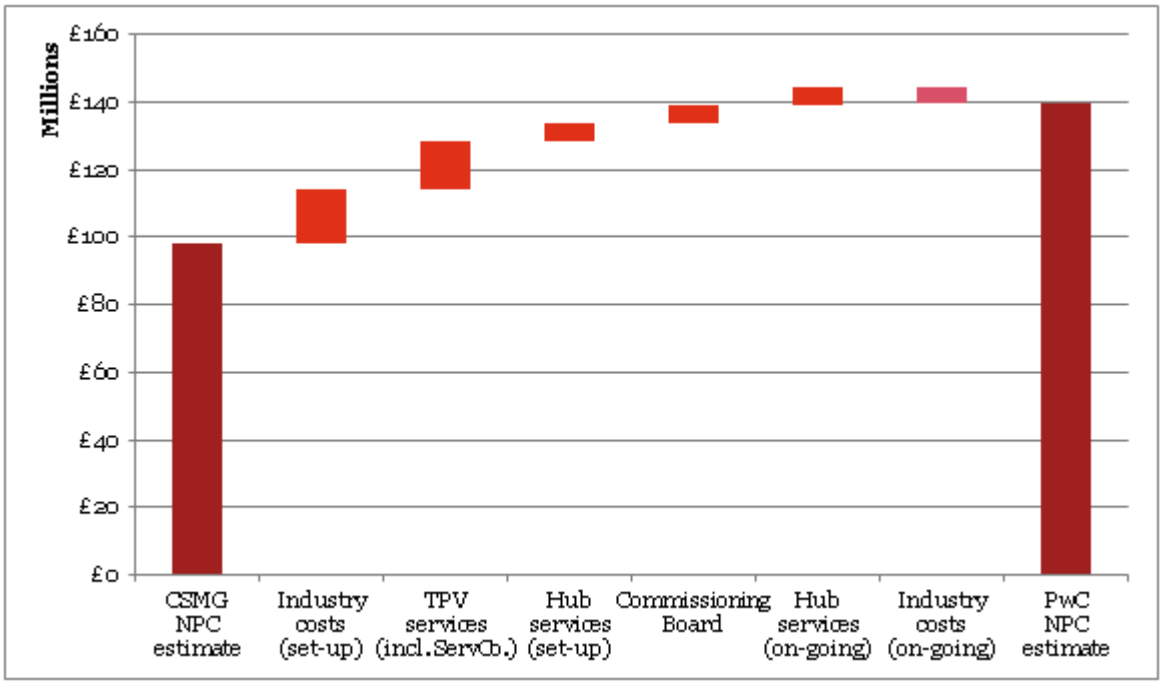
4.11 Respondents to the consumer survey commissioned by BT, Sky and Virgin Media were asked whether they would be happy for their personal details to be stored on a central database in order for the TPV confirmation process to be carried out. 28% said yes; but 57% said no – from which we could surmise that the majority of consumers do not like the idea of a central repository of data accessible by third parties, perhaps because they are wary of security issues and potential misuse.

Specific problems with the Third Party Verification process

High cost

4.12 PwC estimates the total cost for a GPL TPV process (including the hub costs mentioned above) to be between £90m and £196m, with £139m as the base case scenario, to set up and run for a 10 year period (see Annex 5). The initial cost to set up is estimated to be £61m, with a low case and high case scenario between £43m and £79m, followed by an annual on-going cost of £9m (between £6m and £14m). Overall this is some 42% higher than CSMG's estimate, and considerably higher than the LPL process. PwC's report explains in detail why these costs are necessary, and the assumptions they have made regarding organisation and service standards. We believe these high costs to be disproportionate in relation to the benefits of this process, compared to those of the LPL process options.

4.13 The graph below, extracted from PwC's report at Annex 5, shows how PwC's estimate differs from CSMG's.



Potentially poor customer experience

4.14 There is potential for the customer experience with a TPV process to be unsatisfactory. There are many considerations that would arise in ensuring that a TPV operation was effective, some of which are listed in our response to question 25 in the next section. Customers generally do not like being passed on to another agent during a call, and whilst they might find it more acceptable as part of a recognised switching process, we think many customers – in particular business customers – will find it hard to understand why they should need to be passed to a third party when they have already fully understood and given their agreement to what they are signing up to.

4.15 The consumer survey commissioned by BT, Sky and Virgin Media asked respondents to choose between the following two statements:

- "You would prefer to have all the information about the consequences of switching before you place the order to switch"
- "You would prefer to switch and then be informed by your current provider what the consequences are a few days later, but be given the opportunity to cancel the switch at no cost to you."

88% of respondents chose the first statement, and 8% the second. (4% didn't know.)

4.16 Even when asked about the TPV process in the context of its ability to prevent slamming, respondents did not appear to see its benefits in this respect compared to the LPL Transfer Code processes. When asked how strongly they agreed with the statement "You would be happy to contact your current provider to get a transfer code as confirmation you want to leave, in order to ensure you cannot be switched without your consent", (with 1 meaning strongly disagree and 10 meaning strongly agree), 63% of the 2,000 respondents marked this with a 7 out of 10 or higher (with 28% marking with a 10). However when asked how strongly they agreed with the statement "You would be happy to be put through to a third party to confirm what you've agreed with your new provider, in order to ensure you cannot be switched without your consent", only 42% marked this with a 7 out of 10 or higher, with only 15% marking 10.

4.17 We agree that it should not be a mandated part of the TPV model for the gaining provider to stay on the TPV call, because of the high costs involved in doing so and the waste of resource. Indeed we understand that in the Republic of Ireland when a TPV operation was established, the gaining provider was forbidden from remaining on the line because of the risk that they could try to apply pressure to the customer to give their consent to the TPV agent.

4.18 However, if the gaining provider has to close their conversation with the customer before passing them on to the TPV, it means that every detail of the sale has to be concluded down to the last detail, and the recap gone through which summarises what the customer has agreed to, in advance of the customer confirming their consent. This might not be very efficient if, on speaking to the TPV agent, the customer then thinks of a further query which

needs to be answered before they can give their consent. The TPV agent is unlikely to be able to answer anything other than the most basic question, given the number of different CPs and service combinations they will be dealing with (and indeed should never be in a position where they could be seen to be promoting a particular CP's services). Therefore if the customer cannot be "handed back" to the gaining provider to deal with any queries, they would have to start the whole process all over again, with a fresh call to the gaining provider. The customer experience would be far from ideal. (It is not clear whether CPs would also have to pay a fee for those verification calls that failed because the customer had to be referred back to the GP for further information.)

4.19 We have carried out some research on how the process worked in that respect in the Republic of Ireland, when BT was still active in the consumer market. We have found evidence that the average failure rate (i.e. the percentage of calls to the TPV which did not result in an order successfully being placed, largely due to customers having further queries) ran at around 9 to 10% in the last six months of BT's involvement in FY09/10 (and we are told that failure rates were significantly higher when the TPV operation was first established).

(It is worth noting that in Ireland, CPs have the choice of whether to use a third party for verification, or to do it "in house" using a team which is independent from the sales team. We understand the latter option was introduced because the third party process was found to be very expensive and not always effective.)

Doesn't entirely eliminate potential for slamming

4.20 Even more importantly, we don't think that the TPV process deals with all forms of slamming as effectively as the LPL processes do. This is for two reasons. Firstly, it would be relatively easy for a "rogue" CP to look up a customer's details on the hub database, and then have one of their agents pose as the customer in carrying out the conversation with the TPV to verify consent. This type of fraud would be much harder to achieve with an LPL process, because the LP is able to carry out much more foolproof validation of a customer's identity where there is any doubt; for example they can ask questions such as "What was the size of your last bill?" or "Please tell me the numbers that you call most frequently" – information which would not be available to a GP on the hub database.

4.21 It is particularly unclear how verification of the customer's identity and intent would be carried out reliably in an online transaction. There would appear to be little to stop a "rogue" CP from looking up a customer's details on the hub, using those details to place an online order to switch away from their existing CP, and ticking the TPV "consent validation" box that would appear at the end of the ordering process.

4.22 Secondly, when the customer is passed to the TPV to verify consent, the TPV agent would only be able to verify that the customer has agreed to switch their voice/broadband service from provider X to provider Y, as this is the only information that would be stored on the hub database. Unless the process included the development of the ability for the GP's order systems to be shared or "screen popped" to the TPV agent – at much greater expense than is currently allowed for in the cost estimates – information regarding the specific package that the customer had signed up to would not be available to the TPV agent. This means that "upslamming" by the GP (putting the customer onto a more expensive package with additional services to the one they had agreed to) would still be possible.

Inefficient cancellations will continue

4.23 As with today's NoT process, customers will not receive information from the LP on the implications of switching (ETCs, discounts/services lost etc) until after they have placed their order with the GP (unless they choose to contact the LP outside of the process).This means that the inefficient costs of cancellation that exist today (as discussed previously) will continue, but they will be exacerbated because a) all broadband switches that currently go through the MAC process would then be subject to the TPV process, and b) as well as the costs of cancellation charges paid to Openreach and wasted call handling/administrative costs (as documented by CRA in its report at Annex 3, section 7.1), CPs would also have wasted the charges paid to the TPV body for carrying out verification of their order.

4.24 In Annex 3, section 7.1, CRA has carried out calculations to ascertain the total cost to industry and to customers of cancellations due to change of mind, and how this would change under the proposed new processes. Compared to the status quo (which is partly LPL and partly GPL), there would be a *reduction* in consumer and CP costs under the harmonised LPL switching processes and an *increase* in consumer and CP costs under the harmonised GPL processes (including the GPL TPV process). CRA estimates the savings in time costs for consumers and CPs under the harmonised LPL options would be £0.5m, and the saving to CPs of cancellation charges would be a further £0.5m per year. They estimate the additional time costs under the harmonised GPL TxC and GPL TPV options would be £0.07m and £0.02m respectively, and the additional cost to CPs of cancellation charges under the harmonised GPL processes would be £0.1m per year. This excludes the wasted TPV fees (£2.70 per transaction, according to CSMG's benchmarking) which CPs would also have to pay for the verification transactions that did not result in a sale because the order was subsequently cancelled.

4.25 All the above weaknesses in the TPV process further undermine the justification for imposing the high costs of this solution on industry (with the inevitable knock-on effect on consumer prices), when the LPL Alt process would be more effective and significantly cheaper.

Benefits of losing provider-led Transfer Code processes

4.26 We believe the LPL TxC processes have a number of significant benefits compared to Ofcom's preferred TPV process. Our preference is the LPL Alt process, in which customers are given the option of whether or not they want to listen to a "save" offer from the LP when they ring to get their Transfer Code.

Significantly lower cost

4.27 According to CSMG's estimates, the TPV process ("alternative" version, with the GP handing the call over to the TPV and not remaining on the line) is still 50% more expensive than the LPL processes. This does not take into account the fact that according to PwC, CSMG has under-estimated the costs of the TPV process by some 42%. We believe the LPL processes, and in particular the LPL Alt process, would be a much more proportionate response to the problems identified and their associated costs.

4.28 Ofcom states (paragraph 6.45) "*Under the GPL models, the TxC is provided by a centralised Hub. Whereas, in the LPL models, the TxC would be provided to the LP's Access Operator by a TxC Issuing Authority (TxCIA) and the TxC would be passed back down the supply chain to the LP who would then pass it to the customer. The TxCIA would be a body which would be independent of Openreach. The TxCIA would potentially be able to provide TxCs across multiple infrastructure providers, if required."* It is important to note that the scope (and therefore likely cost) of the Transfer Code Issuing Authority (TxCIA) is likely to be much cheaper and simpler to implement than the hub and database required under a GPL process. Ofcom acknowledges this at paragraph 7.146 where it is noted that "*the TxCIA would perform simpler functions relative to the hub and database required for the GPL options, and would not require CPs to upload customer information to a central database, thus the TxCIA would be likely to require less effort and co-ordination to establish overall."*

Quicker to implement

4.29 It follows that with a much simpler process, involving less need for industry co-operation and agreement, the timescales within which the LPL Alt option could be implemented are likely to be significantly shorter. The LPL TxC processes are similar to the existing MAC process, with the exception that the codes would be generated by an independent body rather than by Openreach, so those CPs which already operate the MAC process are likely to find it relatively straightforward to adapt systems to send and receive Transfer Codes instead (although it will still require some work). This means that the benefits of a new, harmonised switching process could be delivered to customers much quicker.

More efficient – no need for centralised database

4.30 As noted in paragraph 4.5 above, the concept of every CP in the country having to duplicate a significant set of customer data and to keep this updated on an ongoing basis for its entire customer base, just for the purposes of occasional switching by a proportion of that base, seems a very inefficient and disproportionate response to the requirement for accurate customer identity and consent validation, which could be achieved much more simply and for a fraction of the cost by following an LPL process, for which no centralised database is necessary.

Better at dealing with erroneous transfers

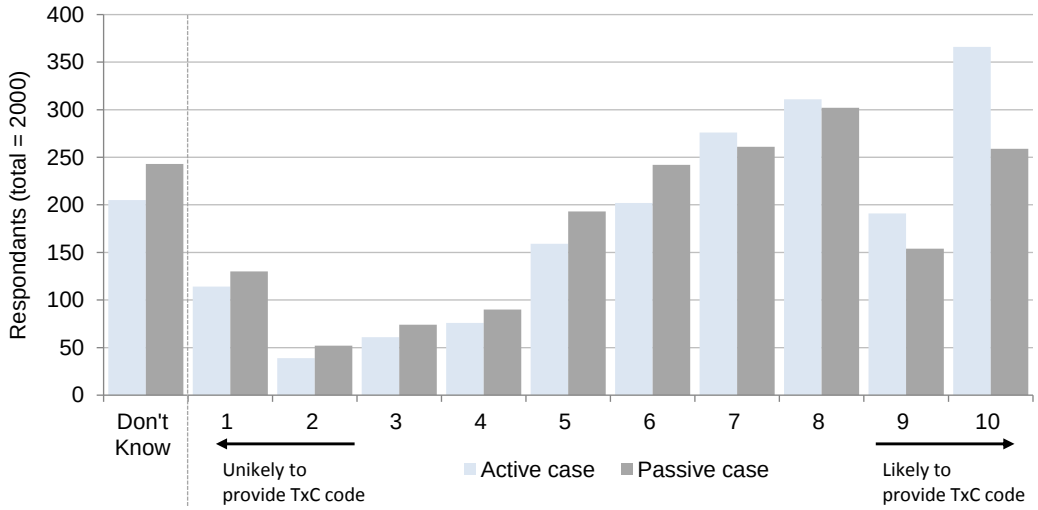
4.31 By far the majority of erroneous transfers (where the wrong line gets switched) happen in the context of Working Line Takeovers (WLTOs) in a home move. We explain in detail in our responses to questions 31 and 32, and at Annex 1, why we believe the GPL TPV process is less effective at preventing these erroneous transfers than the LPL processes.

4.32 In short, with the GPL process the "incoming" CP would have to search for the correct line to take over using little (if any) more information than is currently available to CPs using today's WLTO process. In some cases, the incoming customer might know the name of the outgoing customer, in which case this would help to ensure that the correct line is selected; but this would not always be the case, particularly where the property is rented, when the CP would just be selecting on the basis of address and (in some cases) CLI. It would still be possible to make errors, so that the incoming CP would apply for a Transfer Code on the wrong line.

4.33 However with the LPL process, the incoming customer would request a Transfer Code from the outgoing customer, who would always know the correct line. The outgoing customer would either proactively request the code from their provider, or reactively receive it from their provider when contacting them to arrange their own house move. In cases where the outgoing customer was not co-operative, we have described a "fallback" process where the incoming customer could ask their existing CP to look up the incumbent CP on Openreach's Dialogue Services, and then apply to that CP for a Transfer Code, with the incumbent CP getting consent from their (outgoing) customer before releasing the code if the incoming customer is unable to give a name which matches with that of the outgoing customer. We believe these options thus provide a failsafe way to ensure that the correct line is switched, without the need for any costly centralised database and with no possibility of erroneous transfers. Therefore we believe Ofcom was wrong to have assigned no benefit to the LPL processes for their ability to deal with erroneous transfers. CRA discusses this in more detail in its report at Annex 3 (section 6.1).

4.34 The consumer survey commissioned by BT, Sky and Virgin Media included questions on consumers' willingness to either *actively* or *passively* assist in the provision of a Transfer Code in the case of a homemove.[4] As the graph below (extracted from CRA's report) shows, the results are skewed towards a willingness to help by the homemover moving out. For the *active* case, 57% of respondents report a general willingness to assist (scores of 7-10) while for the *passive* case 49% of respondents report such willingness.

Figure 1: Extent to which homemovers moving *out* would be willing (actively or passively) to assist homemovers moving *in* to obtain a TxC to facilitate an LPL switch



Source: BT/VM/Sky commissioned consumer survey by Ipsos MORI

[4] The "active" question was: "At the request of the person moving into your home, you contact your current provider to obtain a transfer code - you then pass this to the person moving into your home. This transfer code would enable the person moving into your home to have a working line on the day they moved in. To what extent do you agree or disagree that you would be happy to do this?" The "passive" question was: "Whilst discussing moving or cancelling services at your old address, your current provider gives you a transfer code and asks you to either give it to your current letting agent or just keep it in case the person who will be moving into your home contacts you and asks for it. To what extent do you agree or disagree that you would be happy to do this?"

Better at dealing with slamming

4.35 We have described in paragraphs 4.20 to 4.22 above how rogue CPs would still be able to slam customers with a GPL TPV process which has a less reliable means of verification of customers' identity and authority than the LPL processes. With an LPL process, the LP has many more means of validating the customer's identity at their disposal, and every incentive to ensure that they genuinely want to switch and that they understand the consequences.

Customers are informed of switching implications up front

4.36 With a harmonised LPL process, cancellations after the order has been placed are likely to be virtually non-existent because the customer has been fully informed of the consequences of switching before they make their decision. As previously discussed, cancellations are inefficient and cause both the CP and the customer to waste time and resource.

4.37 As mentioned above, the consumer survey commissioned by BT, Sky and Virgin Media asked respondents to choose between the following two statements:

- "You would prefer to have all the information about the consequences of switching before you place the order to switch"
- "You would prefer to switch and then be informed by your current provider what the consequences are a few days later, but be given the opportunity to cancel the switch at no cost to you."

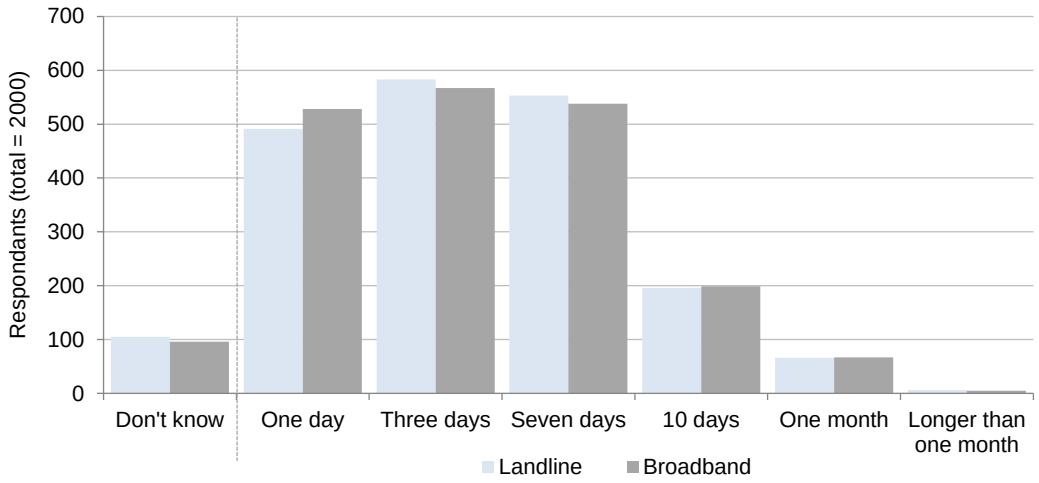
88% of respondents chose the first statement, and 8% the second. (4% didn't know.)

Allows shorter leadtime to switch

4.38 With no requirement to wait for a letter from the LP to discover the consequences of leaving, customers can choose to have their switch completed potentially much more quickly than the required ten working days for a GPL process. The leadtime would be dependent solely on any technical or resource constraints within the GP's supply chain. WLR to WLR transfers could, in many cases, be completed on the same day, whilst other types of switches might take around four working days on average (and in some cases the customer might have to wait for equipment – such as a new broadband modem – to be delivered). The key point is that there is far more flexibility to complete the switch more quickly with an LPL process; and Ofcom should allow customers and CPs to benefit from that flexibility.

4.39 Speed of switching is an important issue for customers, although Ofcom has not included this issue in its assessment of the process options; and consumers' expectations of what is reasonable are interesting. In the consumer survey commissioned by BT, Sky and Virgin Media, when asked what they perceived to be a reasonable length of time for landline or broadband services to be switched, over 80% of respondents said seven days or less (for either service). A further 10% thought that ten days or less would be reasonable. The following table is extracted from CRA's report at Annex 3:

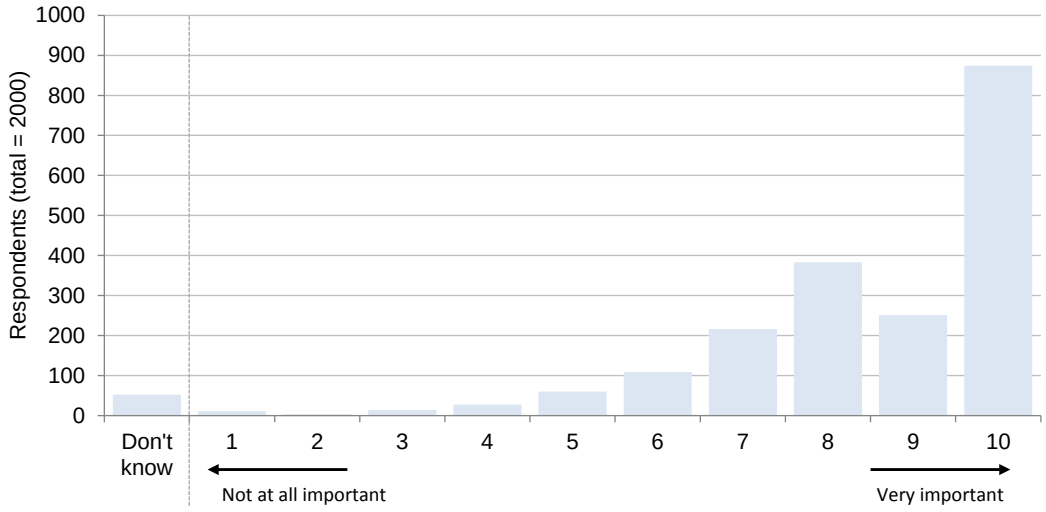
Figure 2: Length of time considered reasonable to have to wait for a landline telephone or broadband service to be switched from one provider to another



Source: CRA analysis of the BT/VM/Sky commissioned consumer survey by Ipsos MORI

4.40 When asked to rate how important they felt the length of time taken to switch from one provider to another is, on a scale of 1 to 10 (with 10 meaning very important), 86% rated this as 7 out of 10 or higher, with 44% giving it a score of 10. Given that GPL processes require a ten working day leadtime, these results point to a higher "hassle" factor with the GPL TPV process in relation to time to switch compared to the LPL Alt process.

Figure 3: Importance placed on time taken to switch



Source: BT/Sky/VM commissioned consumer survey by Ipsos MORI

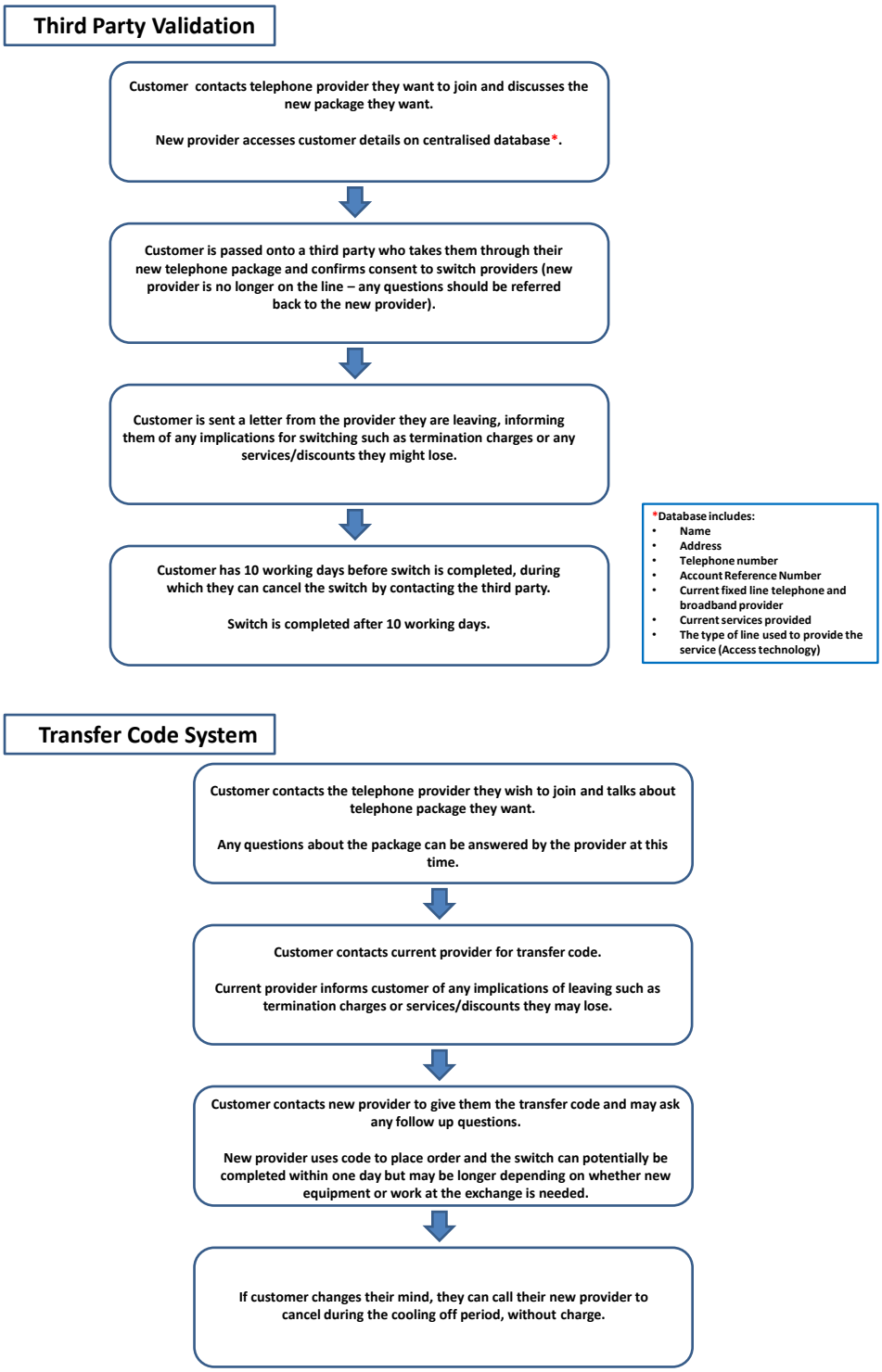
Potentially better customer experience

4.41 All-in-all, we believe the customer experience of switching with the LPL Alt process would be better than with the GPL TPV process because although customers would have to contact the LP as well as the GP, this results in them being better informed, and the call to the GP will be quicker without the need to be transferred to the TPV, with less potential for things going wrong (as described in paragraphs 4.18 to 4.19 above). The LPL TxC and LPL Alt processes would require LPs to make it easier for customers to get their Transfer Code, compared to today's MAC process.

4.42 In its discussion of Ofcom's Impact Assessment at Annex 3, CRA discusses how the time spent on LPL processes compared to GPL processes should be more fairly assessed. See section 6.4 of CRA's report, which suggests that Ofcom should have included an assessment of the time spent on the phone to the LP in the GPL processes, since Ofcom's research shows that 77% of customers make these calls. It concludes that the harmonised GPL options will result in additional time costs (i.e. time costs additional to those that Ofcom has modelled) for consumers and CPs of £0.2m and £0.6m respectively. The harmonised LPL options will offer savings in time costs (relative to Ofcom's modelling) of £1.2m and £4.2m for consumers and CPs respectively. There are also time costs for customers in reviewing the letter from the LP, in a GPL process, which partially offset the time spent on the phone to the LP to get a code in an LPL process.

4.43 Respondents to the consumer survey commissioned by BT, Sky and Virgin Media were asked how appealing they find the LPL Transfer Code process, with scoring from 1 to 10 (with 1 meaning not at all appealing and 10 meaning very appealing). 58% scored it with a 7 or higher, and 10% scored it 3 or below. The same question was asked of the TPV process; in this case only 38% scored it with a 7 or higher, with 25% scoring it 3 or below.

4.44 Finally, respondents were shown a simple explanation of the TPV and LPL Transfer Code processes as shown below, and asked "Now that you have had both processes outlined, which one would you say would be your preferred option?" 49% preferred the LPL Transfer Code option, whereas 18% preferred the TPV option. (25% said they had no preference, and 9% didn't know.)



Potential enhancement to consumer welfare from save activity

4.45 In its detailed analysis of the effects of reactive save activity (see Annex 4), CRA concludes that, contrary to Ofcom's view, reactive save activity could actually be welfare-enhancing for consumers as a whole. To quote from their conclusions:

"….in our analysis we find that the most relevant economic literature in fact emphasises the pro-competitive effects of save activities. Further, some simple conceptual modelling indicates that preventing reactive save can harm consumers. …..We therefore conclude that it is highly possible that under reasonable circumstances, the prevention of reactive save activity could have negative effects for consumers. Entry by efficient and differentiated competitors is unlikely to be materially deterred by reactive save activity. Reactive save activity may well not dampen competition between existing providers: in fact, it may strengthen it and lead to better outcomes for consumers. And any consumer benefits from preventing reactive save activity are likely to be mitigated by the response of consumers and providers."

Thus the existence of reactive save within the LPL Alt process should be seen as a potential benefit compared to a GPL TPV process where reactive save is banned.

Conclusion

4.46 For all the above reasons, we believe that the LPL Alt process is the most effective and proportionate solution, compared to the GPL TPV process. It allows customers the choice of whether to listen to a save offer or not; it allows the customer to make a fully-informed decision before the order is placed with the GP; it is significantly cheaper and more efficient; it allows the customer to switch more quickly; it can be implemented sooner; it is better at preventing slamming and erroneous transfers; and overall it would provide a better customer experience.

5. Answers to Ofcom's questions

Section 3: Current Switching processes

Question 1: Do providers support (i) each of the different order type processes (ii) Linked Orders (iii) Parallel Orders processes? Where providers do not support each of these individual processes, please explain why you think this is the case? Please provide evidence to support your view.

i) BT Retail does not provide service using MPF, but supports switches from MPF, to/from CPS and Wholesale Calls and to/from WLR using the NoT process, and switches to/from SMPF using the MAC process.

ii) BT Retail supports the Linked Orders process.

iii) BT Retail supports the Parallel Orders process.

We are aware that not all SMPF CPs are using the Linked Orders process and this could be for a number of reasons:

- The CP has not made the necessary system development and so cannot consume the facility
- The CP operates in a niche market where simultaneous provision of voice and broadband services is not needed
- The CP does not provide SMPF service on any other CP's WLR lines
- It is a small CP (not necessarily a niche player but not a mass market player either).

Section 4: Problems with the current switching processes

Problem 1: Multiple switching processes

Question 2: Are gaining providers currently able to correctly advise consumers at the point of sale on the correct switching process to follow (e.g. do agents have access to and the ability to use Dialogue Services and have access to information on which technology will be used to supply the service to the customer)? Please provide any evidence you have to support your views.

Yes, BT Retail advisors have access to Openreach Dialogue Services. Systems will flag any requirement for MAC at the point of sale and will create the right order type to accommodate the technology used by the losing provider.

Question 3: Do you agree it will become more difficult for Gaining Providers to advise consumers at the point of sale on the correct switching process to follow as new technologies or new combinations of existing technologies are rolled out? Please provide any evidence you have to support your views

Yes, we do agree this will become more difficult, particularly as new superfast broadband and voice services over fibre continue to be rolled out. The more complex the combination of technologies used, the less likely it is that the customer will know over what technology their line is being provided. In order to advise on the correct switching process to follow, GPs have to be able to identify the right line and see the underlying technology being used.

Currently MPF CLIs are not identifiable on Openreach's Dialogue Services, which means that other mechanisms must be used to ensure selection of the correct line over which to provide service when there is more than one line present. Openreach can only provide, via Dialogue Services, information it is allowed to share and has recorded in its own service inventory. As services move away from the 'traditional' CLI-identified copper-based products (i.e. WLR3 and SMPF) and towards more data-orientated products (i.e. GEA-FTTP), it will become more challenging for a GP to understand which service its customers (the end users or resellers) wish to switch, because service identity information known to customers (e.g. telephone number, email address, TV account number) may no longer be known to Openreach, and therefore will not be available via Dialogue Services.

Question 4: Do you agree there is lack of competitive neutrality from having multiple processes? Please provide any evidence you have to support your views.

We agree there is a lack of competitive neutrality from having multiple processes. A customer switching voice and broadband services from a WLR+SMPF provider to another WLR+SMPF provider will have to follow two processes (NoT and MAC), which may not always happen smoothly and is more difficult for the customer; whereas if they are switching to an MPF provider they will only have to follow a single process (NoT), which is easier and less costly both for the gaining provider and the customer (in terms of time and effort).

Ofcom's conclusions in paragraph 4.38 to 4.39 are highly questionable, however, as the level of orders not completed (under both GPL and LPL processes) is not purely a function of reactive save activity (which happens in both processes) but is also due to changes of mind for other reasons (ETCs, realisation of other consequences of switching). Customers ringing to request a MAC will be told up front about the consequences of switching and may change their minds *before* placing an order, whereas with a GPL process they do not find out about the consequences until after the order is placed, and in some cases once the switch has already happened, and therefore cancellation rates will be lower. However if the number of cancellations made *after* order placement in both processes is calculated, the cancellation rate will be much higher in a GPL process, implying higher costs and more wasted resource.

Question 5: Do you agree with our assessment of Problem 1: Multiple switching processes? If not, please explain why you disagree.

Yes, we agree with all of Ofcom's conclusions here.

Problem 2: Back end system deficiencies

Question 6: Do you agree that the current switching processes are likely to become less reliable in the future? Please explain your answer and provide any evidence you have to support your views.

Yes - the current NoT process is predicated upon the customer and the gaining provider being able to accurately identify the service to be switched to Openreach (e.g. with CLI for WLR), which then translates that identification into a working service to be switched. The increasing consumption of non-CLI translatable services (i.e. MPF and Future Voice Access), where there are potentially multiple services being delivered over shared assets, and services where CLI is not present at all (i.e. FTTP), will reduce the customers' and the CPs' on-going ability to accurately identify the services to be switched.

Openreach can only provide, via Dialogue Services, information it is allowed to share and has recorded in its own service inventory. As services move away from the 'traditional' CLI-identified copper-based products (i.e. WLR3 and SMPF) and towards more data-orientated products (i.e. GEA-FTTP), it will become more challenging for a GP to understand which service its customers (the end users or resellers) wish to switch, because service identity information known to customers (e.g. telephone number, email address, TV account number) may no longer be known to Openreach, and therefore will not be available via Dialogue Services.

Question 7: Do you agree with our assessment of Problem 2: Back end system deficiencies? If not, please state why you disagree.

Yes, we agree, although Ofcom estimates that 20% of slams are actually ETs, whereas BT's complaints data suggests that this number is actually close to 60%. The problems with erroneous transfers are likely to get worse in future due to market and technological developments limiting the reliability of the current NoT switching process in identifying the right service to switch. The Cease and Re-provide process (which may be used when other co-ordinated switching processes are felt to be unreliable) results in additional hassle and costs for consumers and inefficiencies for Openreach. Current processes are not capable of being extended to include other technologies and infrastructures such as cable and fibre, and it is essential that there is ultimately a single switching process for all voice and broadband switches, regardless of the underlying technology, as customers are generally unaware of the technology used.

Problem 3: Insufficient customer consent

Question 8: Do you have evidence to suggest that the incidence of slamming has changed significantly? Please provide any evidence you have to support your views.

Yes, BT's data concerning slamming and attempted slamming is showing a decrease in volumes year on year, and last year (Jan to Dec 11) slamming again reduced by 45% in volume, a similar reduction to the Ofcom complaint statistics. BT Retail has kept records of customers who have complained about slams or attempted slams by other CPs. These are usually as a result of the customer receiving the NoT letter and subsequently contacting BT to state they had not agreed to transfer their service, or had agreed to a different product, or thought they were making an agreement with BT (i.e. the gaining provider had been passing itself off as BT), or the gaining

provider had failed to cancel the order at their request. These orders would usually have been cancelled by BT, thus would be recorded as an attempted slam. However, a proportion of the reports came from customers whose services had already been transferred away from BT, i.e. actual slams.

Over the years BT has seen a decrease in the volume of these reports in line with the Ofcom complaint data.

	2008	2009	2010	2011
Yearly volumes (Jan to Dec)	77.5k	47.2k	44.7k	21.6k
Monthly volumes (average of Jan to Dec)	6.5k	3.9k	3.3k	1.8k
% decrease from previous year	24%	40%	15%	45%

NB Over 30% of the reports received by BT relates to customers who have changed their mind about transferring but the gaining provider has failed to cancel the order as requested. Customers answering consumer research questions who had experienced this scenario may or may not have described it as slamming.

BT's complaints data, like Ofcom's, therefore casts doubt on the volumes suggested by Ofcom's consumer research results, and we note that Ofcom intends to carry out two further pieces of analysis to investigate this further. Nevertheless we believe that whatever the volumes, any new switching process must prevent *any* slamming from happening, rather than just detecting it after the event, given the consumer harm and costs to providers that it generates.

Question 9: Is there further action you think could be taken to help tackle slamming (e.g. preventative measures to stop it from occurring or enforcement activities after it has happened to act as a deterrent) under the existing processes? Please explain your answer.

BT believes the only really effective way to prevent slamming is to change the NoT process so that before customers switch services they are fully informed of the consequences, and their full agreement can be demonstrated. We note that there is no slamming with the MAC process.

BT's mis-selling data also suggests there is a long tail of offending providers involved. Last year, BT Retail received reports relating to over 400 CPs (i.e. over 80% of all CPs on the Openreach network), although the top 20 accounted for 75% of the reports. This large volume of smaller CPs makes it difficult to target enforcement action. If Ofcom were to use industry data (cancelled orders where Cancel Other had been used, as a proportion of total acquisition orders), as well as their complaint data, Ofcom would be able to identify companies with higher than average cancellation rates. This would enable review of some of the smaller CPs who may be causing harm but only to a small number of customers. However to use this data effectively, misuse of Cancel Other by losing providers would have to be prevented, as this misuse impacts on the data and could potentially give an inflated figure of gaining provider mis-selling.

Question 10: Do you think it would be more appropriate to introduce stronger upfront consumer protections within the switching process or continue with the current reliance on enforcement to tackle slamming? Please explain your answer.

Yes, we believe it is appropriate to introduce stronger upfront protections. Whilst BT Retail data shows that mis-selling volumes are reducing, this is as a result of a long period of action by both BT Retail and Ofcom. This action is only possible where the offending CP's identity is known, where there are sufficient volumes to tackle the CP on any wrong-doing and where CPs have the resource to undertake this work. For small numbers of cases across a large number of CPs, this is no longer feasible. Therefore we need to introduce a process which stops the attempted unauthorised transfers from occurring in the first place.

We fully agree with the statement from Ed Richards to the Culture, Media and Sport Select Committee on 3rd May 2011 that *"Malicious 'slamming' should be prevented entirely",* and that the process should not be designed just to dis-incentivise slamming or make it less likely.

Question 11: Do you agree with our assessment of Problem 3: Insufficient customer consent? If not, please explain why you disagree.

We agree that the current NoT switching process is causing harm to consumers and may have a negative impact on competition both now and in future. We also agree that the current enforcement activities, whilst they have been successful in reducing slamming, will not be able to eliminate slamming completely.

We would question the level of slamming and thus the costs involved. Our own records show that slamming and attempted slamming have decreased significantly over the last few years. However there are still sufficient volumes - and thus consumer harm - to merit changing the process to better protect customers.

Problem 4: Lack of awareness of the implications of switching

Question 12: Do you agree with our assessment of Problem 4: Lack of awareness of the implications of switching? If not, please explain why you disagree.

We believe there is a fundamental problem with the lack of awareness of the implications of switching. The fact that this information is often provided at the end of the process is a cause of significant extra cost to the industry, and therefore ultimately to customers, as our experience is that many customers change their mind when presented with the full implications. Indeed, the reason that a relatively high proportion of customers who go to their losing provider to get a MAC but end up staying, is because they are made aware of the consequences of leaving and change their minds, rather than because they are made a "save" offer. If they do not discover this information until after they have placed an order with the gaining provider, they are likely to be less inclined to change their minds, even if the consequences will be detrimental to them, because of the hassle of having to cancel.

Technological developments potentially make the consequences harder for customers to understand or anticipate – particularly in the business environment. Even for consumers, the consequences that need to be pointed out to them can include loss of their current broadband service (if they are moving their line to an MPF or cable provider), loss of their e-mail address, loss

of free wifi minutes, loss of social/care alarms where applicable, inability to meet call commitments (if moving their calls to a CPS/Wholesale Calls provider – in which case they may be charged for "value added" services such as BT Answer), and the fact that retained products might not work in the same way. Of course with most CPs there will also be pricing implications for any retained products if the consumer is breaking up a bundle.

We agree with Ofcom that this information might be quite complex to weigh up against the benefits gained by switching, and in most cases it will therefore be beneficial for consumers to have this information up front so that they can consider it properly, taking whatever time is needed to do so, rather than receiving it several days after their order with the gaining provider has been placed, leaving limited time to re-consider before the switch is completed.

We have looked at the costs to BT Retail Consumer of cancelled orders. For each cancelled WLR switch, we are charged £3.29 by Openreach. For a switch from an MPF provider, we are charged £3.50 if the order is before the "point of no return" (PONR) and £34.86 if after the PONR. If the order requires the provision of a new line (such as a customer moving from Virgin's cable network), the charge for cancellation is £3.50 before PONR, and £50.44 afterwards. We estimate that total cancellation charges paid by BT Retail Consumer to Openreach amount to approximately [✂] per year, with cancellation rates at around [✂] from WLR/MPF and [✂] from cable, assuming conservatively that all cancellations go through before the PONR. The cost with cable acquisitions excluded is approximately [✂].

This does not include Retail's own operational costs of handling cancelling orders. We estimate that for Consumer division this adds a further [✂] with acquisitions from cable included, and [✂] with cable excluded. This means that the total cost to BT Retail Consumer of cancelled orders per annum due to customers changing their minds within the NoT process is estimated at approximately [✂], or [✂] with acquisitions from cable excluded.

We have looked at a sample of 213 BT Retail Consumer orders that were placed under the NoT process and subsequently cancelled. On listening to call recordings to ascertain the reason the consumer gave for the cancellation, 30% were due to the losing provider making a better offer, 25% were due to ETCs charged by their losing provider, and 17% were due to changes of mind for other reasons (presumably other consequences of switching that the customer had not realised originally). (The remaining 28% were due to customers claiming they had been mis-sold, or not giving a reason, or orders placed in error.)

A similar piece of research was done back in February 2010, with consistent results – of 96 consumers requesting to come back to BT from an MPF provider but subsequently cancelling, 25% cancelled due to ETCs, 23% were made a better offer by their existing provider, 2% had subsequently been made aware of a broadband tie-in with their existing provider, and 18% changed their minds for other reasons. Of 67 consumers cancelling a request to come back to BT from another WLR provider, 30% had accepted a save offer, 21% cancelled due to ETCs, 3% cancelled due to a broadband tie-in with their existing provider, and 15% changed their minds for other reasons.

We get [✂] complaints a week about ETCs from customers who have switched away from BT using the NoT process, which implies that despite including information about ETCs in our losing provider NoT letter, some customers do not read these properly, or at all, so the ETCs come as a surprise to them.

We also know that some [✂] consumer customers per week who have switched away from BT using the NoT process decide to come back to us within 8 weeks of transferring away. This is despite likely ETCs from their new provider. This implies that these customers have quickly regretted their decision, or that they moved without fully understanding the consequences, and this could be only the "tip of the iceberg" given that most will nevertheless stick it out with their new provider due to being in a new contract.

All of this evidence points to a big problem with customers being unaware of the consequences of switching until it is too late, causing either expensive cancellations for gaining providers or customer detriment caused by completed switches that turn out not to be beneficial when all factors are taken into account.

It is also worth noting that in any gaining provider-led process it is impossible to *make* customers read NoT letters, and the 'read rate' is variable, which means that the reliance on letters to ensure the customer is fully informed is a weak link in the process. This is particularly true for larger business customers where the letter may not necessarily go to the person who requested the switch. This issue affects not just cases where the customer may have been slammed, but also the awareness of ETCs and other consequences of switching. If customers do not read the letter or it is sent to the wrong person/address, the correct "decision maker" may be unaware of the content.

If customers agree to switch when they are unaware that they are in contract and have not read the NoT letter, this can also lead to a great deal of customer distress. They are faced with the losing provider maintaining ETCs and the gaining provider threatening ETCs if the customer tries to move back. Often the customer feels they are the only 'loser' in this scenario. Whilst this is distressing for a consumer, for a business customer such situations can jeopardise their business.

Problem 5: Varying and unnecessary switching costs/hassle

Question 13: Do you agree with our assessment of Problem 5 Unnecessary switching costs/hassle? If not, please explain why.

Naturally we agree that switching costs and hassle should be minimised for customers. We note that Ofcom's evidence points to unnecessary hassle and increased switching costs for customers having to use the Cease and Re-provide process, which we think shows that Ofcom should take steps to bring switches to and from cable networks into the scope of their review as quickly as possible.

We also agree that there is the potential for the losing provider to frustrate the switching process under both the NoT and MAC processes. However we note that complaints about difficulties in getting a MAC have reduced significantly and that Ofcom only received 1,638 complaints about this in the year to October 2011. We believe that Ofcom's enforcement of GC22 has been very successful in this respect.

We also note that complaints about abuse of Cancel Other within the NoT process (where the losing provider cancels the order to prevent the customer leaving) are much higher, and that evidence from only four providers suggested that they alone had experienced 8,400 such cases in the previous year. BT Retail's own statistics show that 69% of Consumer customers whose orders had been subject to Cancel Other said their order to switch to BT had been cancelled by their

existing CP because they had changed their minds about switching or had accepted a better offer from their existing CP. Cancellation for change of mind is a breach of the Cancel Other rules in GC24. Such problems would be avoided completely if customers did not need to cancel, because they had made a fully informed decision to place an order with the GP in the first place.

We do not agree that the need for customers to have to speak to their losing provider should necessarily be equated with "hassle", when (as explored above) it is important for customers to be able to make a fully-informed decision before placing their order. Inevitably this increases the time involved on the telephone (by an extra 10 minutes, according to CSMG's estimate), and means that the customer has to make two calls rather than one prior to placing the order – but this avoids the extra hassle of having to cancel the order later, which can take much longer than 10 minutes to sort out (in some cases days), particularly if the order is beyond the PONR. Avoiding cancellations also avoids the customer being given a new number, having lost their original number (a particularly enormous hassle for small businesses). Having to cancel orders later, as is more likely with a GPL process, can often create hassle, particularly where the gaining provider fails to cancel the order on request. 31% of unfair trading reports to BT Retail relate to GPs failing to cancel orders.

In a gaining provider-led process, customers will still (in over 70% of cases, according to Ofcom's own research) choose to call their losing provider to query ETCs or other consequences of switching once they have waited to receive the NoT letter, even if they still decide to go ahead with the order. And regardless of the switching process, most consumers and business customers will be keen to ring their losing provider, as well as a number of potential gaining providers, to "shop around" and make sure they are getting the best deal before making their decision. These issues are explored more fully in sections 3 and 4 above.

Therefore we do not agree that the MAC process is associated with higher switching costs than the NoT process.

Question 14: Are there any other key problems with the existing Notification of Transfer and Migration Authorisation Code processes that we have not identified? Please provide evidence to support your answer.

An inherent weakness with the NoT process is that it relies entirely upon the customer receiving and reading the letter from the losing provider within the ten working day window; but this is subject to several problems, including:

- Wrongly delivered post
- Postal delays – e.g. bank holidays, industrial action
- Customer being away on holiday
- Customer treating the NoT as junk mail and not reading it

In addition, postal charges have just seen a significant increases (2nd class +30%; 1st class + 39%) which imposes an ever increasing financial burden on CPs.

Section 5: Reactive save activity

Question 15: Do you agree with our assessment that a prohibition on reactive save activity under the LPL process would be difficult to enforce effectively? Can you suggest how enforcement of a prohibition on reactive save may be made effective?

We do not agree with Ofcom's view that there is any need to prohibit "reactive save", or any justification for doing so. The current prohibition on reactive save within the GPL NoT process is ineffective in preventing save activity from being carried out because customers still choose to ring their LP to find out about the consequences of switching, and sometimes to see whether the LP will make them a better offer, and any attempt to prohibit reactive save in a future new process would also be likely to be ineffective and much diluted. See our earlier comments in section 3, and the detailed analysis by CRA at annex 4.

Our view is that customers should be given the option, when they ring their losing provider to find out about the consequences of switching, as to whether they want to hear a save offer or not, enforced in accordance with the arrangements described in the LPL Alt proposal.

Section 6: Options

Status quo and incremental enhancements to today's processes (unharmonised)

Question 16: Are there other enhancements that you think should be included in the Enhanced NoT specification to help protect consumers both now and in the future? Please explain your answer and provide any supporting evidence.

No, we are not aware of any other enhancements that could be made to the Enhanced NoT specification that would make any material difference to its effectiveness in addressing all the problems identified. We do not think the enhancements identified by Ofcom would be effective.

Question 17: Do you think strengthening record keeping obligations for consent validation would increase protection against slamming? Would this be adequate to safeguard consumers now and in the future? Please explain your answer and provide any supporting evidence.

No, we do not think that strengthening record keeping obligations would make any significant difference to levels of slamming or to Ofcom's enforcement capability, for the reasons described by Ofcom. In any case, for large CPs such as BT, it would be extremely costly to achieve 100% call recording across any of the channels a customer could use when placing an order, and storage and retrieval of these records would also be extremely difficult to achieve, given the volumes involved. For smaller CPs, the cost may be prohibitive and create a barrier to entry. Therefore this would be a disproportionate response to the problem.

Question 18: Do you think that the introduction of a requirement to include specific information about early termination charges (ETC) and/or minimum contract periods

(MCPs) in bills should form part of the enhancements to the current NoT process? What are the likely costs and benefits of such an approach? Please provide any evidence to support your answer.

We agree with Ofcom's conclusion that the introduction of such a requirement would not be effective in addressing the problem of the lack of awareness of the implications of switching. As described above, ETCs payable as a result of leaving within a minimum contract period are by no means the only type of switching consequence that customers need to be aware of, so the inclusion on the bill of the MCP remaining or ETCs payable would only partially address the issue. Increasingly customers are opting for electronic billing with direct debit, and this trend is likely to grow in future, particularly for business customers. And we agree with Ofcom that a significant proportion of customers do not check their bills – or if they do, they would not check every part of it but just look for the key information such as the total amount payable.

We have done some initial investigations into the feasibility of putting ETC information onto our bills. Whilst it would be possible, it is likely to be relatively costly and resource-hungry. For smaller providers it might well be more so.

In view of all these points we do not believe the introduction of this requirement would be proportionate.

Question 19: Do you agree that Cancel Other call recording obligations should not form part of the Enhanced NoT model? What are the likely costs and benefits of introducing Cancel Other call recordings? Please provide any evidence to support your answer(s).

BT believes that call recording of calls to advisers authorised to use the "Cancel Other" facility helps in several ways – it acts as a disincentive for those who are less ethical (creates an audit trail for enforcement) but also helps the more reputable providers by allowing them to review staff performance and take appropriate action. In the event of a dispute between a gaining provider and a losing provider (and possibly the customer) the existence of call recordings can help resolution.

BT already has call recording in place in its Customer Options Teams for both business and consumer customers so there would be no incremental cost if this requirement were to be introduced. Abuse of Cancel Other is a significant issue, as described above, and the introduction of a call recording requirement might be a disincentive, although it would never completely prevent the problem from arising in a gaining provider-led process. Smaller CPs might argue that the costs are prohibitive and disproportionate.

Question 20: How can Ofcom best address competition concerns relating to reactive save activity through enhancements to the MAC process? What are the likely costs and benefits of such an approach? Please provide any evidence to support your answer.

We do not believe Ofcom should have any competition concerns relating to reactive save activity, for the reasons explained in section 3, and discussed in more detail by CRA at Annex 4. We favour Ofcom's option (i) here, where customers are given the choice of opting in to a save offer.

A dedicated and automated MAC provision facility (either a telephone facility or online) would also be possible, with customers identifying themselves to the losing provider in the normal way (using account number etc) and specifying which broadband service they wanted to switch, if they had more than one. However ideally the customer would still need to be made aware of the

consequences of switching, so would need to be given a number to ring if they wanted to hear about any ETCs etc. Customers who were sure that they already understood the consequences of switching and who did not wish to hear a save offer would have the choice not to ring.

A dedicated MAC provision facility via an advisor (without save, or with optional save) would incur minimal system costs to implement, whereas online auto-generation would be more costly for CPs to implement, requiring new interfaces with BT Wholesale's system.

GPL options (harmonised)

Question 21: Are there any particular issues that you think would need to be considered in establishing the hub and database under any of the GPL options (e.g. general practicability setting up and/or ongoing operation)? Please explain your answer.

We believe the establishment of a centralised hub and database in any of the GPL options will be extremely costly, inefficient and prone to error, creating potential problems that would never exist in an LPL process. We therefore think that any process involving the hub and database is unnecessary and a disproportionate solution to the problems identified.

In general, the hub and database would clearly become critical elements in the switching process, both in the early stages of establishing the correct customer services to switch and then in the switching process itself. This would require guaranteed 100% availability of the hub and database, seamless and automatic switchover of systems or processes in case of issues, backed up by robust disaster recovery processes.

Response times would become key in supporting (or improving) the current performance levels. Published interfaces, with agreed protocols, data specifications, response codes, etc would need to be agreed and to support all of the current data models held by Openreach (as the access operator), CPs and resellers where that data is required to be passed to/via the hub/database - additionally these same standards must be supported across the complex trading relationships (i.e. reseller to wholesaler 1 to wholesaler 2 to access operator to hub) - any failure in any element of this interconnected model would result in no switching requests being progressed until it was resolved. The highest service levels would be required to ensure that current contractual SLAs between Openreach and its CP customers could be maintained, and there is a need for exception analysis (unhappy path) elements of the process to be addressed (i.e. what would happen and where would responsibility lie when elements of the hub or database failed).

In addition, the earliest engagement of the body operating the hub with Openreach and CPs in relation to the issuing of Transfer Codes, to discuss interface specification, functionality and SLAs would be on the critical path to deliver any of the GPL options.

Establishing the database and managing the data at the significant scale of operations and the frequency of changes would present significant challenges. This is particularly complicated in the case of business customers who typically have a wider set of products, tend to change their estate more frequently and where many have complex organisational buying structures. Maintaining data quality and integrity in this environment would be extremely costly and challenging.
In general operation there would have to be the facility to address and reconcile individual data integrity issues – given the automated nature of the process, the ability to "unwind/override"

manually would be important. There would be significant issues about data primacy to address so that amendments were reconciled.

Keeping the database up-to-date would of course be critical to successful switching across industry. The sheer scale of the volume of updates needed across the whole of industry (including all business customers) would make maintenance of the database highly error-prone. Just to give an idea of the volume of updates required, in BT's Consumer division alone in 10/11 there were:

- [✂] closed acquisitions (excluding home moves)
- [✂] closed home moves
- [✂] closed line losses
- [✂] closed calls winbacks
- [✂] closed calls losses

That equates to 11.7k changes per day of just headline changes that would need to be reflected in the database – not counting broadband acquisitions and losses and any other customer conditions/changes which would need to be reflected, such as:

- Renumbers – 1k per week
- Name changes (which don't go through an order process)
- Background migrations of technologies e.g. 20C to 21C broadband; WLR to MPF; CPS to Wholesale Calls
- Regrades/new products and services ordered or cancelled

In our view, the costs of maintaining such a database have been significantly underestimated by CSMG (see Annex 5 for PwC's views on the necessary standards and scale and likely costs). This cost is, we believe, completely disproportionate compared to the alternative LPL TxC process costs which would address the specified problems with current processes far more efficiently and effectively. Maintaining up-to-date data on every single consumer and business in the UK on a permanent and ongoing basis in the centralised database is highly inefficient when each customer is only likely to want to switch occasionally.

Perhaps most significantly, CPs' incentive to comply with the updating requirements would be very low, given that if data are inaccurate, customers would not be able to be switched away because gaining providers would not be able to identify them effectively. We think it would be extremely difficult for Ofcom to monitor CPs' compliance, other than by carrying out audits to check consistency between data on CPs' own systems and data on the centralised database; or through reacting to complaints made by customers who found themselves unable to switch. Such compliance monitoring would be just as difficult, if not more so, than monitoring compliance by losing providers with requirements to provide Transfer Codes to their customers promptly on request.

Question 22: Do you agree that the GP staying on the TPV call should not be a mandated part of the TPV model? Do you think there are significant benefits from the GP closing the call with the customer after the TPV conversation? Please explain your answer(s) and provide any supporting evidence.

We agree that it should not be a mandated part of the TPV model for the gaining provider to stay on the TPV call, because of the high costs involved in doing so and the waste of resource. Indeed we understand that in the Republic of Ireland when a TPV operation was established, the gaining provider was forbidden from remaining on the line because of the risk that they could try to apply pressure to the customer to give their consent to the TPV agent.

However, if the gaining provider has to close their conversation with the customer before passing them on to the TPV, it means that every detail of the sale has to be concluded down to the last detail, and the recap gone through which summarises what the customer has agreed to, in advance of the customer confirming their consent. This might not be very efficient if, on speaking to the TPV agent, the customer then thinks of a further query which needs to be answered before they can give their consent. The TPV agent is unlikely to be able to answer anything other than the most basic question, given the number of different CPs and service combinations they will be dealing with (and indeed should never be in a position where they could be seen as promoting a particular CP's services). Therefore if the customer cannot be "handed back" to the gaining provider to deal with any queries, they would have to start the whole process all over again, with a fresh call to the gaining provider. The customer experience would be far from ideal.

We have carried out some research on how the process worked in that respect in the Republic of Ireland, when BT was still active in the consumer market. We have found evidence that the average failure rate (i.e. the percentage of calls to the TPV which did not result in an order successfully being placed, largely due to customers having further queries) ran at around 9 to 10% in the last six months of BT's involvement in FY09/10 (and we are told that failure rates were significantly higher when the TPV operation was first established). See further information provided at paragraph 4.19 above.

Question 23: Are there any particular data protection and/or privacy related issues that you think would need to be considered under the GPL TxC and/or the GPL TPV options? Are these issues likely to be significantly different to the issues that need to be considered under the current processes? Please explain your answer.

As Ofcom acknowledges, creation of an industry-wide database in any of the GPL options would fall within the scope of the Data Protection Act and as such BT would have the same concerns as it would with any relationship it set up where customers' data was provided to a third party as a data processor where BT was the data controller. This includes but is not limited to the following issues:

- How would CPs obtain the necessary guarantees that the customer data are securely held? Typically we would demand a right of audit including pre-audit before we were prepared to employ a third party as data processor. What would the regulatory position be if one or more CPs said that the owner/operator of the database did not meet audit standards? Of particular concern would be arrangements for any onward processing (these can often take data out of jurisdiction, i.e. outside the EU) and the rules around retention of information.

- We assume that the TPV body would act as a further data processor, receiving data from the hub/database in order to check customers' consent (although it is not clear how the TPV body would access this data?).

- It may be that the terms and conditions of CPs would require that they get customer consent from all customers to pass data in this way – customers have the right to object and in the future may have additional rights to insist that CPs stop "processing" their data (with the consequence that the GPL TxC or TPV processes would need to be set up to deal with this). As well as the considerable cost to CPs of communicating new terms and conditions to all customers, it is not clear what process would apply if a customer did object to the passing of their information to a centralised database and/or TPV body. Would they simply have to accept that they would not be able to switch providers (other than through a "Cease and Re-provide")?

- Looking forward we understand that there is likely to be a new Data Protection Act in 2014. Given the significant costs in setting up the GPL TxC and GPL TPV process options, ensuring that either is capable of complying with any new Data Protection Act rules will be critical.

Question 24: Are there circumstances in which you can envisage that consumers would be likely to be distressed and/or harmed by the sharing of their personal data as required under the GPL TxC and/or the GPL TPV options? Do you think that consumers will object to the sharing of their data in this way? Please explain your answer.

Account number is powerful in making changes to an account or finding out billing information, so it is quite likely that customers will be suspicious, if not distressed, about the sharing of this data with third parties. It is not clear what happens if customers do object. Ofcom implies that CPs would simply need to update their Fair Processing Notice or Privacy Policy if Ofcom decided to proceed with one of these process options, but would CPs have to get positive consent from customers to this change, or just assume consent if they don't dissent?

There are additional complexities where the account holder is a different person from the bill payer, and particular sensitivities in relation to VIP customers (celebrities, MPs etc), vulnerable customers (abused wives, people on witness protection programmes etc) and people who object on principle to any sharing of their data. In all these cases, the individuals concerned wish to keep their personal data as secure as possible with as little sharing as possible, so we would expect objections to a process that involved the copying of their data and the sharing of their details with (potentially) every CP in the country.

Respondents to the consumer survey commissioned by BT, Sky and Virgin Media were asked whether they would be happy for their personal details to be stored on a central database in order for the TPV confirmation process to be carried out. 28% said yes; but 57% said no – from which we could surmise that the majority of consumers do not like the idea of a central repository of data accessible by third parties, perhaps because they are wary of security issues and potential misuse.

There are many business equivalents too. Increasingly business customers are seeking conditions in contracts that limit the sharing of their data with third parties – government, defence, security organisations, etc.

Question 25: Are there any particular issues that you think would need to be considered in terms of the practicalities involved in setting up the TPV body and its ongoing operation under the GPL option? Please explain your answer.

In general, business customers used to dealing and negotiating with a wide range of suppliers would not understand why they needed "permission" from a third party to complete a transaction. The transfer would inevitably cause additional calls and cost to the gaining provider to resolve issues and questions that the third party discussions may prompt.

More specifically, there are a large number of considerations that would arise in ensuring that a TPV operation was effective:

- The hours available would need to be as long as the longest opening hours of any CP.

- The TPV body would need to be sufficiently resourced to enable warm transfer in minimal time, to avoid large increases in CPs' call handling time and poor customer experience. CSMG has carried out its cost estimate on the basis of 2.1m switches per annum, but we believe this could be a significant underestimate. See section 7.1 of CRA's report at Annex 3, footnote 43.

- How could fairness amongst CPs be guaranteed? How would CPs know they were all getting the same response times and service levels? Presumably the TPV would have to publish non discrimination / performance KPIs that showed overall handling time, its performance for individual CPs etc, which would need to be monitored.

- Systems resilience – what would happen if the hub/database went down, or the TPV body's own systems?

- What contingency plans would be in place if TPV agents went on strike or had high volumes of absence?

- What would be the "time to answer"? CPs would need to factor this into their additional call handling times /costs.

- How quickly would orders be validated (and services unlocked) or rejected?

- Where would the TPV organisation be located? Some customers have an aversion to being transferred to offshore advisers – language barriers would not be helpful in a transfer situation.

- What exactly would the TPV process be validating? Just that the customer wanted to move particular services to another CP? As Ofcom is well aware, mis-selling is not just about whether the customer wants to move between CPs – it is also about getting the products/services they expect. How would the TPV agent know if the products/services the customer was being provided with were the ones they wanted and were suited to their requirements, when presumably they would only (at most) be able to state the name of the service/package the gaining provider had given them?

- Would the TPV agent validate against what the customer told them they wanted to transfer or what they could see on the customer's pending order with the GP? (This assumes the TPV would have access to the GP's pending order, either through access to

the GP's systems or exchange of data in some other way; this point does not appear to be covered by the process specification and is likely to affect costs significantly.) Not all customers have a good understanding of the component parts of their order – especially if taking bundles – and the inability of the TPV agent to discuss or confirm requirements with customers would lead to repeat calls and delays on order processing.

- What would happen if the customer refused to be transferred to the TPV agent, did not have time to be transferred, or the call dropped out on transfer? There is a risk that the process would act as a deterrent against switching.

- How would the performance of the TPV body be monitored and reported?

- How would complaints about the TPV body from customers and CPs be handled, and by whom?

- How would the industry be protected against the inherent commercial risk of allowing a third party to have access to all customer information? Failures to protect this could commercially damage all CPs (– this TPV database would be akin to the DVLA in that virtually all consumers would be on it).

- It is not clear whether the £2.70 transaction fee proposed by Ofcom/CSMG, payable by gaining CPs to the TPV organisation, would be intended to cover just the ongoing costs of the operation and whether industry would be expected to fund the initial set-up costs. If so, a method would need to be found to spread these costs fairly across all CPs.

- The proposed Customer Cancel System (CCS) would introduce an extra level of complexity and cost. Effectively it would introduce a new form of "Cancel Other", allowing the TPV body to cancel the order placed by the GP, and it is not entirely clear why this would be needed if the TPV process is supposed to prevent slamming from occurring in the first place. Contractually, this could be complex, particularly where there are multiple providers involved in the supply chain. We believe this would require more careful consideration (there was little discussion of the CCS at SWG or consultation with industry on its design). It might be preferable for the GP actually to instigate the cancellation on the hub, but with the TPV agent providing an interface between the GP and the end customer; if indeed a CCS were to be needed at all.

LPL options (harmonised)

Question 26: Are there any particular issues that you think would need to be considered in terms of the practicalities involved in setting up the Transfer Code Issuing Authority and its ongoing operation under the Losing Provider Led options? Please explain your answer.

The Transfer Code Issuing Authority (TxCIA) has a much simpler task and role than that of the full-blown GPL hub and centralised industry database, as it would just be required to issue randomly or sequentially-generated codes to network operators on request. Nevertheless, the engagement of the 3rd Party TxCIA with industry (Openreach and CPs) to discuss and agree the interface specification, functionality and SLAs would be on the critical path to deliver the LPL options.

Additionally there is a need for exception analysis (unhappy path) elements of the process to be addressed (i.e. what would happen and where would responsibility lie if and when elements of the TxCIA failed).

Question 27: Do you agree with the proposed specifications for each of the options? If not, please specify what changes you consider should be made to the specifications and the basis for this.

The specification for the method of TPV call handling in the consultation document, i.e. that the GP drops off the call at the point of handover to the TPV agent, who then completes the call with the consumer, is not one that was fully worked through in sessions of the Switching Working Group or the off-line SWG meetings. Whilst we recognise it is important for the viability of the TPV proposal that call handling times be minimised, BT is not confident that the solution is practicable without further detailed industry workshops to prove the viability of the method (see answer to Q22).

In a similar vein, the need for, and practicability of, the Customer Cancel System, designed by CSMG as mitigation against the GPL processes which do not fully prevent slamming, such as USN, is unproven.

> ***7.61*** *In addition, the USN process will not require the current Cancel Other mechanism to protect against slamming.* [241]
>
> [241] *Consumers would still be able to stop attempted slams through the customer cancel system which performs a similar function to Cancel Other (i.e. the consumer would be able to contact an industry centralised function and request that the order to switch is cancelled - the centralised function passes this request to the access provider). The set up and running costs of the customer cancel system are included in the implementation costs for CPs produced by CSMG.*

The proposal here is that the access provider (Openreach) takes upon itself the responsibility for cancellation of orders placed with and by other CPs. We do not think that this is a workable solution. Detailed work with industry is required to design and agree a customer cancel facility which is effective, if indeed it is necessary.

Clearly, the proposed option specifications (including all the underlying detailed work from CSMG that arose out of the SWG) are still some way short of having sufficient detail for a full implementable design of each option. Therefore, assessments of each option can only be made based on a significant number of basic, but fundamental 'assumptions' that apply in each case (e.g. the viability of the Customer Cancel System). Overall BT feels that there is sufficient detail in the consultation to discriminate between the options, but that in every case further issues would be uncovered and would require resolution during implementation. For example, there are additional significant unresolved issues regarding the nature of the data to be passed between the stakeholders, in particular in relation to the handling of service bundles.

Question 28: Are you able to provide an estimate of the time it would take to make the necessary changes to your systems and processes to implement each of the options? Please explain your answer.

Work to change processes cannot commence until changes to systems are agreed – all process changes would be aligned with the date of system changes.

Openreach system change timelines are dependent upon the availability and engagement with the 3rd Party TxC Issuing Authority for LPL processes and, in the case of the GPL options, agreement of key interfaces and data elements for the hub and central industry database.

Further evaluation of this is required to more accurately assess the Openreach timelines, which would of course affect the timelines for all CPs. However we believe that the time required to implement any of the GPL options requiring the hub and centralised industry-wide database would take at least an extra 12 months to develop, given the need to agree database formats; interfaces; bulk upload procedures; organisational development and legal setup; service level agreements and performance monitoring arrangements.

Assuming that engagement and agreements have been achieved, the lead-time from that point for all the new process options would be an estimated 18 months to schedule the designs into a release and deliver into 'live'.

The LPL options would be quicker to implement because the initial complex phase of industry wide agreements around the hub and database would not be required and the therefore the BT development phase (including Openreach) could be limited to the c.18 month window.

As previously discussed with Ofcom, the changes to the Openreach EMP platform would be such as to require one or more Consumer Switching-specific releases and a measure of compulsion on CPs to consume the relevant EMP release that drives the new process (see Annex 2).

Erroneous transfers and home movers

Question 29: How could the switching process options be used (or amended) to support the WLTO process to deal with the problem of ETs in the context of a homemove? Please explain your answer.

We agree that WLTO processes should be aligned with switching processes so that CPs can implement in their systems at the same time and achieve resulting economies of scope. We also agree that the Transfer Code concept can readily be extended to deal with WLTOs to make them safer. However it is very important to ensure that this is done in such a way that the process is not too complex for customers or CPs, otherwise CPs might choose to place a new provision order instead, creating inefficiencies across the industry through unnecessary Openreach engineering visits and new line installations. We would like to see a regulatory obligation requiring CPs to adhere to the agreed new WLTO process in any home move scenario where a working line exists.

Ofcom's description of how each of the processes could be used to support the WLTO process is accurate, except that in the case of the LPL TxC option, there will be a minority of occasions where a code cannot be obtained by the incoming customer from the outgoing customer (either because the latter will not co-operate, or has left the premises without telling their provider). In these cases, as a fallback, we believe the issue could be resolved by co-operation between the respective CPs:

- *The incoming customer tells their provider they have been unable to get a TxC.*
- *The incoming provider identifies the incumbent provider on Openreach Dialogue Services (as used for current NoT-based process).*

- *The incoming provider contacts the incumbent CP and requests a TxC.*
- *The incumbent provider checks whether they have already had notice from the outgoing customer that they are moving/ceasing service at this address. If so, they issue a TxC.*
- *If no notice has been received from the outgoing customer, the incumbent provider attempts to contact them. If confirmation/consent to the takeover is obtained, they issue a TxC.*
- *If no contact can be made, the default should be that a TxC is not issued unless the incoming customer has provided the outgoing customer's name, address and CLI and these all match with the incumbent CP's records.*
- *If the incumbent provider can verify that the customer has already left and has/is intending to default on bill payment, a TxC could be issued to the incoming provider, or the line could be stopped/ceased (so that it is available for the incoming provider to re-use directly from Openreach).*

A further possibility would be to leave it to the incoming customer, as to whether they choose to get the TxC via the outgoing customer (eg where relations are good and/or time is of the essence), or whether they choose to go to their CP and ask them to liaise with the outgoing CP on their behalf (as per the "fallback" process above).

We disagree with Ofcom's conclusions that the LPL TxC and LPL Alt processes would not be able to deal satisfactorily with WLTOs and that the current WLTO process would need to be retained under these processes. This is explained more fully in answer to question 32 below.

Section 7: Assessment of the options

Problem 1: Multiple switching processes

Question 30: Do you agree with our assessment of the options regarding multiple switching processes? If not, please explain why you disagree.

Yes, we agree with Ofcom's assessment of the options in this respect.

Problem 2: Back end systems deficiencies

Question 31: Do you agree that the Options 2b (GPL TxC) and 2d (TPV) are likely in practice to deal effectively with homemove ETs? Can you foresee any problems with adopting this process for home moves? Please explain your answer.

We disagree that the assessment of how well each process addresses the problems with erroneous Working Line Takeovers (or "homemove erroneous transfers" - ETs) should be considered as a "GPL vs LPL" question. In the majority of home moves, generally there is no

competitive situation and no “gainer” or “loser”, as customers will not be changing their supplier but simply arranging with their existing supplier to take over provision of service on a different line.

We do not agree that the TPV process will deal effectively with homemove ETs, for the following reasons:

- We agree that the account reference of the customer moving out should not be disclosed, for obvious security reasons (this would allow the incoming consumer to make unauthorised changes to the outgoing customer’s account).

- However the lack of account number as identifier on the hub database means that the incoming provider is searching using little, if any, more information (CLI, address etc) than is used with the existing NoT process, which we know can cause erroneous transfers. (From our investigations of complaints, we believe a significant proportion of these – around 63% - are caused by customers or advisers using incorrect CLIs/addresses – and not just because of the lack of visibility of MPF CLIs on Openreach systems as less than half of these involved MPF lines.) In some cases, the incoming customer may be able to provide the name of the outgoing customer to give an extra means of identifying the correct line; but this will not always be available (for example it is unlikely to be known where the incoming customer is moving into a rented property).

- Passing the *incoming* customer to the TPV body (as per the “mitigation” proposal discussed at the SWG meeting on 16th March 2012) adds no value to the process, as they are generally not switching supplier and probably not even changing their existing package, so there is nothing for the TPV body to verify.

- What happens if the incumbent provider cannot confirm with its outgoing customer that they are moving out (perhaps because they have failed to make contact, or because they’ve already moved without asking for the final bill)? Bearing in mind that, as with the existing process, the incoming provider could have requested a TxC against the wrong line, we think the default position should be that no code is issued without the outgoing customer’s active consent, *unless* the incoming customer has provided the name of the outgoing customer as an extra means of identifying the correct line, and this has been matched by the incumbent CP. Otherwise erroneous transfers will be just as likely as they are today (and could become worse as CLI/address become less reliable as an identifier of services/assets*).*

- Continued or increased levels of erroneous transfers, or inability to find the correct line, will drive inefficiencies in the form of unnecessary new provision orders.

- If the incumbent provider can verify that the customer has already left and has/is intending to default on bill payment, a TxC could then be issued to the incoming provider, or the line could be stopped or ceased (so that it is available for the incoming provider to re-use directly from Openreach).

- How many attempts should be made/how long should the incumbent provider wait before refusing a TxC? This is debatable.

- The need for the incumbent provider to contact its outgoing customer *in every case* could potentially delay things considerably and does not seem an efficient end-to-end process.

But without this contact and consent, the process would be less reliable than today's WLTO process (when operated with the Best Practice Guide).

- We have already discussed in our answers to previous questions the likelihood of errors and inconsistencies in the alignment between individual CPs' databases and the central database, and the disruption this would cause would be magnified if it affected working line takeovers as well as switches.

The GPL TxC process raises the same issues as the GPL TPV process: the incoming provider will often be searching the hub database using no more information (CLI, address etc) than is used with the existing NoT process, which we know can cause erroneous transfers.

Question 32: Do you agree that the Option 2c USN and Options 3a-b LPL TxC and LPL ALT are unable in practice to deal with homemove ETs? If not, please explain how these options could be used to deal with homemove ETs?

We agree that the USN process is unable in practice to deal with homemove ETs. It is better than the GPL TPV process, as the correct asset to take over can be identified by the USN, but with the added problem that sharing of USNs with another consumer could create a security risk. And if the incoming customer has to get the USN from the outgoing customer, why not just get the TxC?

However we do not agree that the LPL TxC process options could not deal with homemove ETs. See Annex 1 which contains a description and process flow.

- We believe that in by far the majority of cases, if this process becomes the norm, this should work smoothly and outgoing customers will readily co-operate in providing the TxC along with other information often provided for purchasers (central heating instructions, guarantees for work done on the property, etc), or in an information pack exchanged via solicitors.

- Outgoing customers are likely to be contacting their existing provider anyway, to arrange for service to be provided at their new address or to ask for service to be ceased (if moving abroad, say). Therefore requesting a TxC will not create any extra "hassle" for the outgoing customer. It could also be the rule that when an outgoing customer contacts their incumbent provider to cease service at the old address, that provider must give them a TxC, to be used on request from the incoming customer, or landlord of the property, so all the outgoing customer has to do is store the TxC and pass it over on request. As we discuss in section 4, paragraph 4.29, respondents to the consumer survey commissioned by BT, Sky and Virgin Media showed their willingness, as outgoing customers, to receive and pass on codes to incoming customers.

- The big advantage of this process is that the correct asset/service will *always* be identified and the code always issued against the right thing.

- A further advantage is that the WLTO can be arranged quickly with no waiting for the incumbent provider to contact the outgoing customer, so no need for the ten working day window.

- As explained above, there will be a minority of occasions where a code cannot be obtained by the incoming customer from the outgoing customer (either because the latter will not co-operate, or has left the premises without telling their provider). In these cases, as a fallback,

we believe the issue could be resolved by co-operation between the respective CPs:

- *The incoming customer tells their provider they have been unable to get a TxC.*
- *The incoming provider identifies the incumbent provider on Openreach Dialogue Services (as for current NoT-based process).*
- *The incoming provider contacts the incumbent CP and requests a TxC.*
- *The incumbent provider checks whether they have already had notice from the outgoing customer that they are moving. If so, they issue a TxC.*
- *If no notice has been received from the outgoing customer, the incumbent provider attempts to contact them. If confirmation/consent to the takeover is obtained, they issue a TxC.*
- *If no contact can be made, as with TPV process, the default should be that no code is issued unless the incoming customer has been able to provide the name of the outgoing customer, and this name matches with that on the incumbent provider's systems..*
- *If the incumbent provider can <u>verify</u> that the customer has already left and has/is intending to default on bill payment, a TxC could then be issued to the incoming provider, or the line could be stopped/ceased (so that it is available for the incoming provider to re-use directly from Openreach).*

A further possibility would be to leave it to the incoming customer, as to whether they choose to get the TxC via the outgoing customer (eg where relations are good and/or time is of the essence), or whether they choose to go to their CP and ask them to liaise with the outgoing CP on their behalf (as per the "fallback" process above).

The consumer survey commissioned by BT, Sky and Virgin Media included questions on consumers' willingness to either *actively* or *passively* assist in the provision of a Transfer Code in the case of a homemove.[5] The results were skewed towards a willingness to help by the homemover moving out. For the *active* case, 57% of respondents reported a general willingness to assist (scores of 7-10), while for the *passive* case 49% of respondents reported such willingness.

So in summary, we believe that the LPL TxC and LPL Alt processes would deal very effectively with homemove ETs and prevent the problems of today from happening.

[5] The "active" question was: "At the request of the person moving into your home, you contact your current provider to obtain a transfer code - you then pass this to the person moving into your home. This transfer code would enable the person moving into your home to have a working line on the day they moved in. To what extent do you agree or disagree that you would be happy to do this?" The "passive" question was: "Whilst discussing moving or cancelling services at your old address, your current provider gives you a transfer code and asks you to either give it to your current letting agent or just keep it in case the person who will be moving into your home contacts you and asks for it. To what extent do you agree or disagree that you would be happy to do this?"

Question 33: Do you agree with our assessment of the options regarding back end processes? If not, please explain why you disagree.

As explained above, we disagree with Ofcom's assessment of the options regarding their ability to deal with erroneous transfers. However we agree with Ofcom's assessment in relation to loss of service and lack of technological neutrality.

Problem 3: Customer consent

Question 34: Do you agree with our assessment of the options regarding consumer consent? If not, please explain why you disagree.

We agree that options 1a, 1b, 2a and 2b do not deal with the problem of slamming and insufficient customer consent.

We agree that option 2c only partially deals with the problem, as USNs could easily be acquired by unethical gaining providers who could use them to effect a switch without the customer's consent, as described by Ofcom.

We are also concerned that that the TPV model has a number of inherent risks and flaws which, when combined with the disproportionate cost, makes it an unsatisfactory solution. Given that its main purpose is to prevent slamming, we believe it would help but not eliminate this, as an unethical organisation or individuals could easily thwart the protection by having one individual pretend to be the customer whilst one is the GP agent.

Problem 4: Implications of switching

Question 35: Do you agree with our assessment of the options regarding the implications of switching? If not, please explain why you disagree.

Yes, we agree with Ofcom's assessment. The losing provider-led process options are the only ones that deal effectively with the problem, in ensuring that all customers are fully informed about the consequences of switching *before* the order is placed, thus minimising costly cancellations later and preventing customers from paying ETCs unintentionally.

However we believe Ofcom has underestimated these benefits. Please see section 4, paragraph 4.24 and the response to question 12 above.

Problem 5: Varying and unnecessary switching costs/hassle

Question 36: Do you agree with our assessment of the options regarding unnecessary switching costs/hassle? If not, please explain why you disagree.

No, we disagree with Ofcom's assessment here. We believe that the TPV process, with the requirement for customers to be transferred elsewhere, will be seen as extra hassle. This could particularly be the case if the sale is an "ad hoc" opportunity that has arisen as a result of the

customer having called, say, Repair or Billing and having already been transferred to Sales when a need for extra lines or services became apparent. Customers generally do not like being transferred, and the process could act as a deterrent to switching unless all of the considerations listed under question 25 are addressed very effectively.

As explained above in response to question 13, we do not agree with Ofcom that having to make an extra call to the losing provider to get a code equates to "hassle" for the customer, given the benefits that this call also brings in ensuring full information about the consequences of switching. Under a GPL process the customer may only make one call to place the order, but may subsequently make a call to the LP to discuss ETCs and a further call to the GP to cancel the order if they have changed their mind (under current GC24 processes), or a call to the Customer Cancel System under the new processes, and maybe even a further call to the LP to check the transfer order has been cancelled. A GPL process could actually result in more calls than LPL in the end. An LPL process could provide all the information a customer needs to make a rational decision up front before wasting time in abortive orders with the GP.

We also believe there are other forms of "hassle" which Ofcom has not considered. For example, Ofcom does not seem to have considered the end-to-end time taken to complete a switch in its assessment. The consumer survey commissioned by BT, Sky and Virgin Media has shown that it is important to customers to be able to switch quickly once they have made their decision, and over 80% of respondents felt that seven days or less would be a reasonable length of time to expect (see section 4, paragraphs 4.38 to 4.40 above). Therefore it seems likely that they would consider it a hassle to have to wait ten working days to switch – particularly since this would be longer than they currently have to wait under the MAC process. Under the LPL Alt process, customers can switch more quickly because they do not have to rely on a letter from the losing provider to find out the consequences of leaving, and so there is no need to wait for the ten working day "window".

Ofcom acknowledges that any of the GPL options will be very dependent on the central database and hub working effectively and points out the potential for disruption if they fail. We believe the potential for such failure is much higher with these options than with the losing provider-led options where there is no central hub or database to fail. In addition, there is the incentive for losing providers to frustrate the switching process by not providing the correct information to the database. The inability to switch, or delay in switching, caused by such a failure would surely be the ultimate hassle for customers.

Ofcom's monitoring and enforcement of compliance with database updating requirements would be just as difficult, if not more so, than its monitoring of compliance with code provision requirements under the LPL processes.

Problem 6: Reactive save activity

Question 37: Do you agree with our assessment of the options regarding reactive save activity? If not, please explain why you disagree.

No, we do not agree with Ofcom's assessment. Please see section 3, paragraphs 3.50 to 3.61, and CRA's report at Annex 4.

Summary of how the options perform against the identified problems

Question 38: Do you agree that we should discard options 1a (status quo), 1b (enhanced NoT and MAC unharmonised) and 2a (enhanced NoT harmonised) on the basis that they fail to adequately address the current and anticipated future problems? If not, please provide your reasoning.

Yes, we agree that these options should be discarded as they fail to address the identified problems sufficiently.

Impact on CPs

Question 39: Do you think that the payment of a TPV fee for each sale is likely to be a significant barrier to entry for smaller CPs? Please provide any supporting evidence.

We believe that the TPV fee would need to be higher in order to cover the costs of the TPV body and the funding of the central database operation, which CSMG has underestimated. See Annex 5.

We believe that this may prove to be a significant issue for smaller CPs and it seems unlikely that many of them would be in a position simply to absorb this cost; this may result in the costs being passed on to customers in some shape or form. Larger players may be more willing or able to swallow this cost but, depending on the way in which it was applied, this might not necessarily be the case; once again, we may see some sort of flow through to the customer.

Ofcom underestimates the potential impact of the fee relative to the average residential fixed line revenue per customer that it quotes in paragraph 7.143; this figure needs to take account of the fact that customers can still change their minds after having asked to move – so the gaining CP still has to pay the TPV fee but doesn't necessarily get the new customer. This could act as a significant disincentive to acquisition.

Openreach estimates that approximately 13% of current NoT orders are cancelled; for smaller CPs in a new TPV process the impact of the fee for cancellations as well as for acquisitions could be significant.

As discussed in response to question 22 above, there is also likely to be a number of calls to the TPV which fail to result in an order being generated, either because the call drops out or because the customer raises further questions which the TPV agent is unable to answer. These will presumably still attract a charge to the GP, so they would need to be taken into account.

Comparison of the options and conclusions

Question 40: We welcome stakeholder views on whether the additional cost of the TPV option over the GPL TxC option is justified due to the superior protection against slamming?

We do not believe that the GPL TxC option is acceptable as it could result in increased slamming. However the additional costs of the TPV process are not justified when compared to the much

lower costs of the LPL processes, which deal more effectively with slamming than the TPV process (as it would be much harder for GPs to pose as the customer without being detected).

Question 41: Do you agree with our assessment that the TPV option should be preferred to the USN option. If not, please provide your reasoning.

We agree that the USN option is not acceptable because it does not deal effectively with slamming or with home mover erroneous transfers. However we do not agree that the high costs of the TPV process are justified.

Question 42: Do you agree with our assessment that the TPV option is pro-competitive relative to the LPL TxC option? If not, please explain why you disagree.

No. We disagree with Ofcom's assessment of reactive save activity. A prohibition would not have the benefits that Ofcom predicts, for the reasons explained at Annex 4, and Ofcom has been unable to quantify any such benefit.

Question 43: Do you agree that the TPV is the most proportionate way to deal with the problems identified? If not, please provide your reasoning.

No. We do not agree that the proposed TPV process is the most proportionate response. Please see Annex 3 for CRA's critique of Ofcom's cost/benefit analysis, and Annex 5 for PWC's assessment of the likely costs involved with a TPV process, which are considerably higher than Ofcom and CSMG have envisaged. Our conclusion is that the TPV process is disproportionate in terms of cost, and deals with the identified problems much less efficiently and less effectively than the LPL Alt process. Ofcom has placed far too much weight on the need for prevention of reactive save activity, which (for the reasons explained in paragraphs 3.50 to 3.61 above and in Annex 4) would not have the effect that Ofcom predicts.

Question 44: Do you have any other comments on our option assessment?

Ofcom's approach seems unduly biased towards GPL options, does not offer descriptions of 'unhappy path' scenarios nor any detail in 'bundling' solutions that describes how they will work.

The risk of this approach is that insufficient thought has gone into identifying system and process problems that can and will occur, leaving a large area of the consultation unresolved.

6. Conclusion

6.1 Consumer switching is one of a number of contexts in which consumer services, contracts and network infrastructure are changed, and where co-operation between the CPs (both wholesale and retail) who are involved in service provision is required. Other important contexts include number porting, working line takeovers on home moves, and bulk transfers. Any harmonised process for consumer switching will require a significant investment by industry. There is a strong case for making any such investment a long lasting, 'infrastructural' one, which is able to serve purposes beyond consumer switching on the Openreach network. Ofcom's acceptance of the Transfer Code principle goes a long way towards enabling such a generic "infrastructure" that can underpin an industry-wide scheme of *accurate permissions for service changes*, which is service- and technology-neutral. One method for changing communications providers in all contexts, across all markets and infrastructures, particularly for bundled services, would bring the benefits of certainty and predictability to customers. This gives a great opportunity to place the UK digital communications industry on a solid footing for decades to come.

6.2 BT believes that the LPL Alt process is the most effective and proportionate solution for dealing with the "front end" of a switch, and is highly preferable to the GPL TPV process. This is because:

- It can be made easy for customers.
- The customer would be fully informed about the implications of switching before the order is placed, resulting in fewer cancellations and greater efficiency.
- Lead times would be shorter, with no dependency on letters.
- The process would be more effective than TPV in validating the customer's identity and preventing slamming.
- The customer would have the *option* of listening to a save offer if they wish, but could choose not to.
- It would be much cheaper to implement and to run (with potential knock-on impact on consumer pricing).
- The process would be simpler and quicker to implement, with no need for industry co-operation and co-ordination in developing hub and database interfaces and standards. Customers would therefore see the benefits sooner.

6.3 Independent analysis by external economic experts has shown that Ofcom has underestimated the costs of a TPV process; that Ofcom's impact assessment of the various options has overstated the benefits of the TPV process and understated the benefits of the LPL Alt process; and that Ofcom has misinterpreted the likely economic effects of a ban on reactive save activity, leading it to give too much weight to this issue in its impact assessment. See annexes 3, 4 and 5.

6.4 Given that all the new process options involve the use of Transfer Code at the "back end", and all the Transfer Code-based processes are very similar for Openreach and for wholesalers, we suggest Ofcom should consider introducing the LPL Alt process first, on a

trial basis, for a period of, say, two years. The investment by CPs necessary to introduce this would not be wasted if it was subsequently found that the expected consumer benefits did not materialise, and/or that Ofcom's concerns about an LPL process did materialise. In that case the industry could then go on to make the incremental investment in the hub and centralised database needed to operate a GPL "front end" retail process such as TPV, in the more certain knowledge that it was necessary. This incremental approach would avoid the risk of wasted and disproportionate expenditure, without shutting the door on future development if and when there was a proven need.

6.5 We would welcome the opportunity to explore this approach further with Ofcom and industry.

Annex 1

Working Line Takeover (WLTO) process and proposed new switching processes

A paper provided to Ofcom SWG on 24 May 2012

1. A group of communications providers (CPs), BSkyb, BT, Virgin Media and Zen Internet (the Group), proposed to Ofcom[6] that it would be efficient for the industry to implement an improved WLTO process at the same time as making significant changes to the consumer switching process. In its latest consultation document, Ofcom has dismissed the use of the Transfer Code (TxC) process alongside a Losing Provider Led (LPL) switching process as providing any material benefit over and above the current WLTO NoT process. The Group disagrees with Ofcom's assessment. This paper provides a detailed review of possible WLTO processes under consideration to illustrate the benefits of using TxC alongside an LPL switching process to facilitate WLTO.

2. The Group agrees with Ofcom that WLTO processes should be aligned with switching processes so that CPs can implement improvements and changes in their systems at the same time as implementing changes necessary for a new switching process so as to achieve resulting economies of scope. We also agree that the TxC concept can readily be extended to deal with WLTOs to make them safer. However it is very important to ensure that this is done in such a way that the process is not too complex for consumers or CPs, otherwise CPs might choose to place a new provision order instead, creating inefficiencies across the industry through unnecessary Openreach engineering visits and new line installations. We would like to see a commitment by CPs to adhere to the agreed new WLTO process in any home move scenario where a working line exists.

3. We disagree that this should be characterised as a "GPL vs LPL" question. In the case of home moves, generally there is no competitive situation and no "gainer" or "loser", since the majority of consumers will not be changing their supplier but simply arranging with their existing supplier to take over provision of service on a different line. If the consumer chooses to switch their provider at the time of moving home, then this would be handled by the switching process not the WLTO process.

[6] Letter to Claudio Pollack, Ofcom: "An industry proposal", 26 September 2011

4. With this in mind, we think that some of the pros and cons of each process have been misrepresented. We will focus primarily on Ofcom's preferred process (GPL TPV) and on the Group's proposed process (LPL TxC ALT).

WLTO with GPL TPV process

i. *The consumer moving into the property tells their provider the information they know about the property they are moving into (address and where available the name of the consumer moving out of the property and the CLI).*
ii. *The incoming provider queries the hub database using the information the incoming consumer has been able to provide (name, address and CLI or a subset of these) to confirm the incumbent provider, service type, access type for the target line.*
iii. *The incoming provider submits a Transfer Code (TxC) request.*
iv. *The incumbent provider should contact their customer that is moving out of the property to gain confirmation of their intention to move out and cease service at the address, and the expected date.*
v. *The provider submits the WLTO order with the TxC and target date*

Issues:

i. We agree that the account ref of the consumer moving out should not be disclosed, for obvious security reasons (this would allow the incoming consumer to make unauthorised changes to the outgoing consumer's account).
ii. However the lack of account number as identifier on the hub database means that the incoming provider is often searching using *no more information* (CLI, address) than is used with the existing NoT process, which we know can cause erroneous transfers. (From our investigations, we believe a significant proportion of these – more than 60% - are caused by customers or advisers using incorrect CLIs/addresses – and not just because of the lack of visibility of MPF CLIs on Openreach systems.)
iii. Only where the incoming consumer knows the *name* of the outgoing consumer will there be more information for service identification purposes than is currently available with the current NoT process. This is unlikely to be the case where the property is rented.
iv. Passing the *incoming* customer to the TPV body (as per the "mitigation" proposal) adds no value to the WLTO process, as they are not switching

supplier and probably not even changing their existing package, so there is nothing for the TPV body to verify.

v. What happens if the incumbent provider cannot confirm with their outgoing customer that they are moving out (perhaps because they fail to make contact, or because they've already moved without asking for the final bill)? Bearing in mind that, as with the existing process, the incoming provider could have requested a TxC against the wrong line, we think the default position should be that no code is issued without the outgoing consumer's active consent, unless the incoming customer has been able to provide the name of the outgoing customer which matches with that on the incumbent provider's systems. Otherwise erroneous transfers will be just as likely as they are today (and could become worse as CLI/address become less reliable as an identifier of services/assets).

vi. Continued or increased levels of erroneous transfers, or inability to find the correct line, will drive inefficiencies in the form of unnecessary new provision orders.

vii. If the incumbent provider can *verify* that their customer has already left and has/is intending to default on bill payment, a TxC could then be issued to the incoming provider, or the line could be stopped/ceased (so that it is available for the incoming provider to re-use directly from Openreach).

viii. How many attempts should be made/how long should the incumbent provider wait before refusing a TxC? This is debateable…

ix. The need for the incumbent provider to contact their outgoing customer *in every case* could potentially delay things considerably and does not seem an efficient end-to-end process. But without this contact and consent, the process would be less reliable than today's WLTO process (when operated with the Best Practice Guide).

WLTO with LPL TxC process

i. The consumer moving into the property needs to get the TxC from the consumer that is moving out of the property who requests this from their provider.

ii. The consumer moving into the property provides the TxC to their provider who submits the WLTO request with the associated TxC.

Issues:

i. We believe that in by far the majority of cases, if this process becomes the norm, this should work smoothly and outgoing consumers will readily co-operate in providing the TxC along with other information often provided for purchasers (central heating instructions, guarantees for work done on the property, etc).

ii. Outgoing consumers are likely to be contacting their existing provider anyway, to arrange for service to be provided at their new address or to ask for service to be ceased (if moving abroad, say). Therefore requesting a TxC will not create any extra "hassle" for the outgoing consumer.

iii. This could also be carried out on a "reactive" basis, i.e. when an outgoing customer rings their incumbent provider to inform them that they are ceasing service and moving out, the rule could be that the provider gives their customer a TxC which they just store, ready to be given to the incoming consumer or their letting agent on request. This minimises hassle still further.

iv. The big advantage of this process is that the correct asset/service will *always* be identified and the code always issued against the right thing.

v. A further advantage is that the WLTO can be arranged quickly with no waiting for the incumbent provider to contact the outgoing consumer, so no need for the 10 day window.

vi. There will be a minority of occasions where a code cannot be obtained by the incoming consumer from the outgoing consumer (either because the latter will not co-operate, or has left the premises without telling their provider). In these cases, as a fallback, we believe the issue could be resolved by co-operation between the respective CPs:

vii. *The incoming consumer tells their provider they have been unable to get a TxC.*

viii. *The incoming provider looks up the incumbent provider on Openreach Dialogue Services, by searching on address and CLI (as for current NoT-based process).*

ix. *The incoming provider contacts the incumbent CP and requests that they raise a TxC.*

x. *The incumbent provider checks whether they have already had notice from their (outgoing) customer that they are moving. If so, they should already have issued a TxC and can pass it directly to the incoming provider.*

xi. *If no notice has been received from the outgoing consumer, the incumbent provider attempts to contact them. If confirmation/consent*

to the takeover is obtained, they issue a TxC. It is in the interest of the incumbent CP to undertake this action as they have an interest in understanding what the intended actions of their customer are – will their customer be moving out leaving unpaid bills or will their customer be moving and need to initiate their own WLTO?

xii. *If no contact can be made, as with TPV process, the default should be that no code is issued unless the incoming customer has been able to provide the name of the outgoing customer, as extra verification that the correct line has been selected.*

xiii. *If the incumbent provider can <u>verify</u> that their customer has already left and has/is intending to default on bill payment, a TxC could then be issued to the incoming provider, or the line could be stopped/ceased (so that it is available for the incoming provider to re-use directly from Openreach).*

xiv. A further possibility would be to leave it to the incoming consumer, as to whether they choose to get the TxC via the outgoing consumer (eg where relations are good and/or time is of the essence), or whether they choose to go to their CP and ask them to liaise with the outgoing CP on their behalf (as per the "fallback" process above).

WLTO with GPL USN process

i. *The consumer moving into the property gets the USN from the consumer that is moving out of the property who finds it on a recent bill.*
ii. *The consumer moving into the property gives the USN to their provider.*
iii. *The provider queries the database to confirm the incumbent provider, service type, access type for the target line.*
iv. *The provider submits a TxC request as normal.*
v. *The incumbent provider should contact their customer that is moving out of the property to confirm their intention to move out of the property and the expected date.*
vi. *The provider submits the WLTO order with the TxC and target date*

Issues

i. This process is better than the GPL TPV process, as the correct asset to take over can be identified by the USN, but with the added problem that sharing of USNs with another consumer could create a security risk. And if the incoming customer has to get the USN from the outgoing customer, why not just get the TxC?

ii. Given that this process is not favoured by Ofcom for switching, it should also be rejected for WLTOs.

WLTO with GPL TxC process

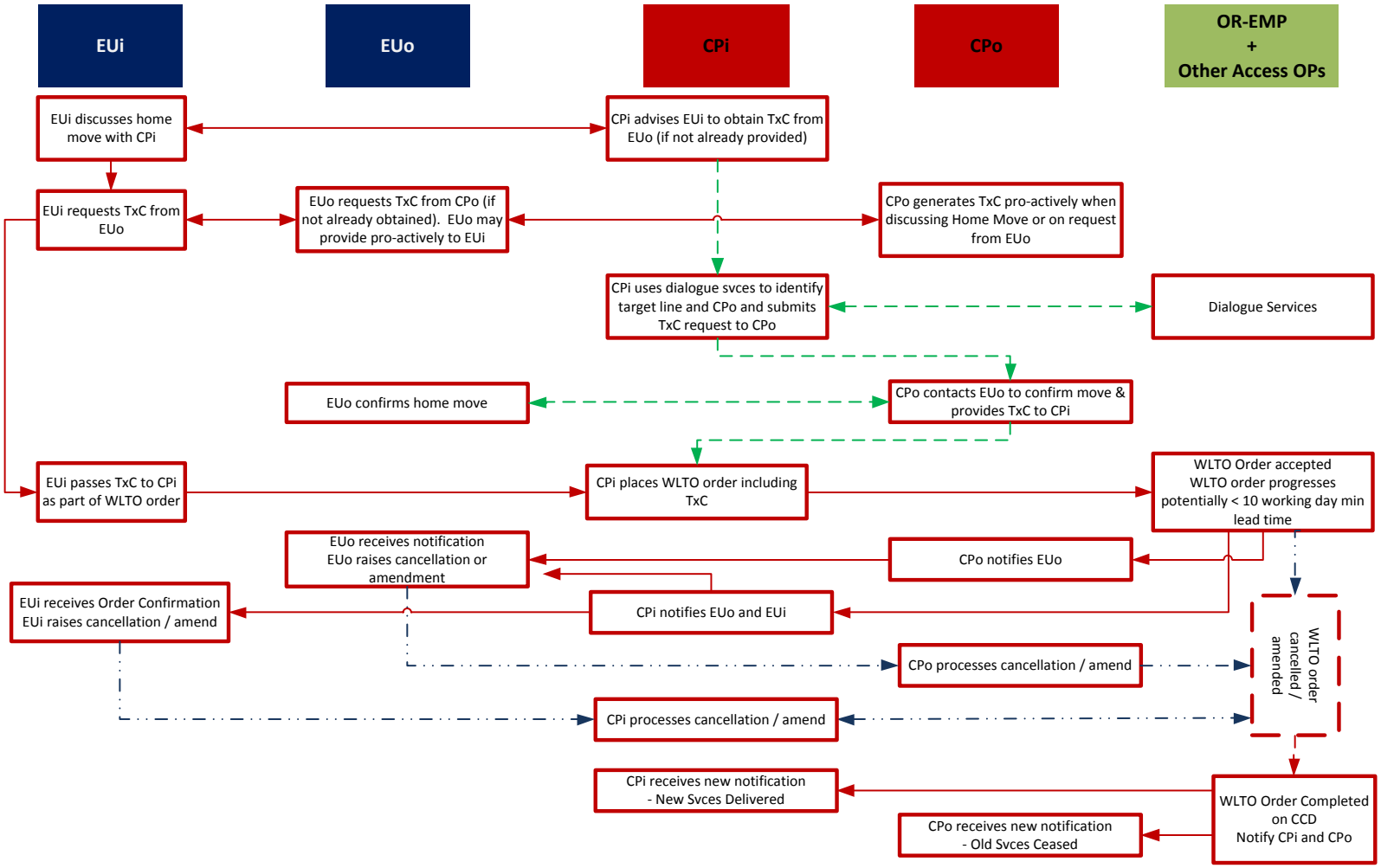
i. The consumer moving into the property tells their provider the information they know about the property they are moving into (address and where available the name of the consumer moving out of the property and the CLI).
ii. The provider queries the hub database using the information the consumer has been able to provide (name, address and CLI or a subset of these) to confirm the incumbent provider, service type, access type for the target line.
iii. The provider submits a TxC request.
iv. The incumbent provider should contact their customer that is moving out of the property to confirm their intention to move out of the property and the expected date.
v. The provider submits the WLTO order with the TxC and target date.

Issues

i. This process raises the same issues as the GPL TPV process: the incoming provider would often be searching the hub database using no more information (CLI, address etc) than is used with the existing NoT process, which we know can cause erroneous transfers.
ii. Given that this process is not favoured by Ofcom for switching, it should also be rejected for WLTOs.

Appendix

WLTO Process – LPL / TxC for Switching

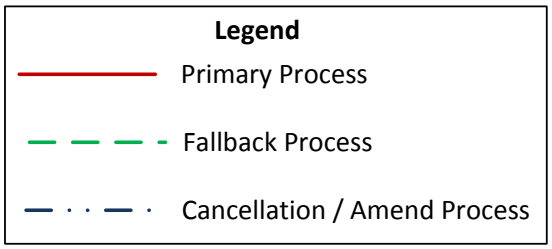


Positives:

- Eliminates risk of ELT's
- TxC from CPo underpins reliable execution
- Minimal risk of abuse by rogue CPi
- Future proof as CPo not wholly dependent upon CLI to validate EUo and their current services
- Opportunity to reduce lead times for WLTo
- Opportunities for minimal hassle factor for EUi
- Leverages existing processes and services, minimising additional costs

Negatives:

- Requires inter-CP comms
- EUo / CPo is on critical path (to eliminate ELTs)



Annex 2

Openreach Implementation Issues

This annex describes the high level implementation issues that a change of migration process will create for Openreach and that Ofcom should be aware of and take into consideration.

[1] A dedicated release of EMP

When the change is made to move to a new unified process for consumer switching, it will require all of those CPs in industry who supply or sell the products covered by the process to work to the new rules for placing orders. Openreach will continue in its role of Access Operator and will operate the new TxC based back end process for placing, orchestrating and delivering migration orders. The changes that will be required of EMP and of all its users are likely to be critical enough to warrant a release of EMP that is dedicated to the revised order handing process for switching. We assume that releases of any third party system interface (i.e. TxCIA or TPV Hub) will be specific to switching and that they will also need to be co-ordinated with EMP releases.

[2] Mandatory consumption of an EMP release

Because switching processes are ‘end to end’ and to ensure consumer benefits are delivered at the earliest opportunity, all CPs (including wholesalers, resellers and TPIs) interfacing with Openreach will need to consume the EMP release by an agreed date. It might even be necessary for Ofcom to mandate the date on which or by which all CPs should be consuming the EMP release to ensure it is met. Ideally Openreach would like all CPs to consume the new development at launch.
Leaving it to the CPs to consume the EMP release when they wish or when they are ready (which is the case today) would:

- Create unnecessary confusion for end users
- Delay benefits to end users by up to several years
- Increase the cost to Openreach to ensure parallel running of new and old migration processes and to manage any fall out between the two processes

[3] Agreement of interface specifications

Industry, the third party(ies) and Openreach will need to agree and lock down the detailed specification of interfaces before industry embarks upon the design and development work on Openreach and CP systems.

[4] Industry co-operation and possible joint management forums

The design and development work will need to be managed differently from any Openreach or Ofcom driven developments. CPs and third party(ies) will need to carry out their developments and change in parallel with Openreach, not sequentially, once the

specification documents in **[3]** above have been finalised and published. Design, development, testing and implementation will need common agreements and schedules. It is likely that some new management forums for the UK communications industry will be required to achieve this.

[5] Recognition of the pressures of other industry requirements on EMP development roadmap.

There will be other pressures on the Openreach development schedule in addition to the new switching process and as a result this programme of work might have to be prioritised into a particular release over and above other requirements in the Openreach product roadmaps.

[6] Implementation costs and cost recovery.

Openreach implementation costs have been estimated but so far in advance of actual development, with a level of uncertainty (+/- 50%) which means that they could change significantly. Factors such as the detailed solution design (as a result of which some early assumptions might have to be reviewed), the approach to consumption by CPs (mandated or not, on a particular date or over a specified period of time) will also impact the final costs. Openreach implementation costs will not be negligible and will be in the order of several millions. It is therefore important that Openreach is allowed to recover these costs in the most appropriate way across the products involved and as soon as the development is completed and deployed.

Annex 3

Ofcom's Impact Assessment of Changes to Switching Options for Fixed Voice/Broadband Lines: *An Economic Review* – Charles River Associates, May 2012

See separate attachment

Annex 4

Ofcom's assessment of the use of reactive save activity by suppliers of fixed voice and broadband services: *An Economic Analysis* – Charles River Associates, May 2012

See separate attachment

Annex 5

Ofcom consumer switching consultation – PwC's independent cost assessment of the GPL TPV model – Price Waterhouse Coopers, May 2012

See separate attachment

Annex 6

Consumer survey undertaken by Ipsos MORI for BT, Sky and Virgin Media – questionnaire and data tables

See separate attachment