

*Representing the Communication Services Industry*



Consumer switching – a consultation on proposals to change the  
processes for switching fixed voice and broadband providers on  
the Openreach copper network  
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## Introduction

The [Federation of Communication Services](#) represents over 300 businesses delivering products and services via wireless, copper and fibre technologies. This response has been prepared on behalf of FCS members who deliver fixed and mobile services, as Communication Providers (wholesale or retail), Service Providers or Resellers, to residential and business customers. More than 150 FCS members consume WLR and related wholesale products to deliver services to end user customers. A list of FCS members can be found on the FCS website.

We are pleased to have the opportunity to respond to this Ofcom survey on consumer switching as efficient and reliable services for switching customers are fundamental to ensuring effective competition. With this in mind, FCS has played an active part in the industry working groups set out by Ofcom following the 2010 consultation and is familiar with the issues and the process by which Ofcom arrived at its recommendations.

FCS has also surveyed its members specifically to assess views on the key aspects of Ofcom's findings and proposals set out in the consultation and to provide evidence for these views based on experience. Respondents consisted of a mix of large and small CPs involved in a correspondingly wide range of volume of switches. These CPs serve a broad range of customer bases including residential customers, micro businesses, SMEs and corporates in various combinations. The majority of respondents are focused on business customers.

## Key points of the FCS response

Members who responded to the FCS survey generally agree with Ofcom's analysis that processes are becoming more complex and that the data about customer installations which is required to manage these processes is becoming more fragmented. This can make the provision of advice to customers difficult, although this depends on the business model and customer base of an individual CP. The advent of new fibre infrastructure and associated products is mentioned in responses to our survey as a specific factor which is likely to increase the options available to customers and, therefore, the complexity in this area.

A clear majority (90% of respondents) support Gaining Provider led (GPL) processes as the best way to support competition and good outcomes for customers.

Members operating in the relevant business sectors recognise the limitations of the existing Advice of Transfer (AOT) and MAC processes, although some believe that both of these processes can work well in certain scenarios. The focus of concern is on the behaviours of some CPs and specifically about the ability of the Losing Provider to frustrate the transfer in both processes, as they are currently designed. Although the AOT process is essentially a GPL process, the misuse of Cancel Other by Losing Providers can negate this benefit.

There is virtually unanimous agreement that Number Porting is becoming an integral part of a growing proportion of switches and also on the urgent need to improve the Number Porting process to make switching work effectively. Most respondents agree that improvements to the Number Porting process should be carried out at the same time as the implementation of any new switching process. Ofcom's proposals need to recognise this and to set out some specific activity to address the current shortcomings.

There is broad agreement that adoption of a common switching process for all the transferable products within the scope of the overall project (Fixed Voice, Broadband, Cable, Mobile and Pay TV) will simplify activity and improve understanding for both the customer and the CP. Members agree that this will remove potential barriers to switching and thereby support competition more effectively. However, the application of the chosen process to those products which are not in the scope of the current consultation must be considered in appropriate detail before any final decision on mandating of the chosen process is made.

CPs strongly disagreed that the very high level of slamming suggested by the Ofcom research which was carried out as part of this consultation reflected their own experience. (The figure of 520,000 estimated by Ofcom in section 4.09 as a percentage of the total annual volume of switches cited in Annex 8 (A8.63) suggests that 25% of all switches are slams or attempted slams.) It was also noted that the findings of this research is at odds with the trend in complaints about slamming received by Ofcom, as reported in the consultation document.

CPs responding to the FCS survey estimated, based on their own experience as Losing Providers, that between 5% and 10% of the customers switching away from them was due to slamming activity (estimates from individual CPs varied within this range). An accurate assessment of the level of slamming is crucial as Ofcom's decision to propose Third Party Verification (TPV) as its preferred option, despite TPV being the most expensive to implement and run, is based on the need to protect customers against slamming.

There are mixed views on the impact of reactive save on competition. On a theoretical level, the ability to make a save offer increases competition for a particular customer. However, specific comments from the FCS survey suggest a clear perception that the practice encourages larger companies to restrict their best offers to "at risk" customers which disadvantages smaller players and does not support competition in the wider market.

There is some divergence on the preferred options for the process to be mandated but there is significant support for the two Gaining Provider led processes, using either the Transfer Code or Unique Service Number. There is virtually no support for any of the Losing Provider led options.

The majority of respondents are sceptical about the effectiveness of Third Party Verification (TPV). It is not clear that this option will provide benefits or consumer outcomes which are superior to some of the other process considered. Concerns were raised about a potential increase in the complexity of the process and potential confusion for customers about the role of the various parties involved. Specific concerns were also expressed about the additional cost of implementing and running this type of process which could thus be considered as "gold plating" the solution.

Specific areas requiring further detailed attention would be how to operate a TPV process in retail environments where access to a phone or computer terminal might be restricted and the development of a TPV variant which will efficiently and reliably manage the requirements of businesses seeking to switch complex multi-line installations. It is recognised that Ofcom's regulatory remit in this area is specific to consumers and small businesses but operators of the wholesale platforms which will be used to manage switches, for example Openreach, have indicated that they are likely to operate processes on a product rather than customer type basis.

It is crucial that careful consideration is given to the governance arrangements required to support the new processes. This must ensure that governance is independent and allows the framework to be adapted as required to address future market and product developments.

Specifically, Ofcom must consider how the systems and processes underpinning switching will be designed, set up, funded and managed, the remit of any central bodies required on either a temporary or ongoing basis to support the new processes and the means by which participation by all CPs with these central bodies will be achieved. This could be very effectively done, for example, through the establishment of a General Condition. More detail on this key aspect of implementation should be included in the next consultation due later this year.

Finally, there are concerns about the overall timetable for the project. Delays to the current consultation which only covers products delivered over the Openreach copper network mean that implementation of new processes for Cable, Mobile and Pay TV are being pushed further into the future to the detriment of the industry and consumers.

### **Consultation questions**

We have restricted our responses to those questions which are most relevant to the interests of our members and areas where we have had access to relevant feedback.

**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.*

This varies and depends on the services consumed by the customer and the underlying technology and infrastructure used to deliver the service (i.e. BT network, unbundled infrastructure, cable etc). The customer generally has little understanding of this and the data necessary to establish and advise customers is becoming more fragmented

**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. As LLU and other new technologies (such as fibre – both from BT and other providers) becomes more common, the problems alluded to in the response to question 2 will become more acute.

**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.*

Yes. Clearly, any difficulties in understanding the process and its implications or perceived complexity or uncertainty is bound to be a barrier to switching.

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

Yes. No industry would design a marketplace with such varying processes for transferring processes within a bundle. The existence of multiple processes for similar services is unnecessarily inefficient and inevitably leads to errors and a poor customer experience.

There is also some asymmetry in costs. An MPF to WLR transfer is significantly more expensive than a WLR to WLR transfer. Transfer costs on fibre are also higher than the copper network.

**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, for the reasons stated in our response to question 2. As the adoption of new products and technologies has grown, there has been a fragmentation of data sources and difficulties in obtaining data (e.g. identifying the correct line at a multiple occupancy customer's premise) which is likely to get worse.

**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.*

Responses to the recent FCS survey, carried out specifically to provide evidence for this response, indicate much lower levels of slamming than suggested by Ofcom's own research. It seems likely that consumers responding to the Ofcom survey are identifying a number of scenarios as slams which are not genuinely triggered by this form of mis-selling.

**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.*

A more secure process with better audit trails and backed up by more rapid and targeted enforcement would be the best way to eliminate the practice. The use of an industry standard transfer code in the way proposed and logging of transfers via the hub would be effective without the need for a "gold-plated" TPV process.

**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.*

As stated in our response to question 9, we believe more secure and better audited transfer data would both reduce the volume of slams and help to target enforcement more effectively.

**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.*

This is unlikely to be effective in its own right and may not be required if the new process is more secure.

**Question 18:** *Do you think that the introduction 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.*

This could be costly and complex to implement and, depending on the new process, may not add sufficient value to make it worthwhile.

**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.*

Governance arrangements are the key issue. If an effective mechanism for capturing input from all stakeholders is established, this will be the best way to address any detailed process and funding issues.

**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 would be beneficial for the GP to close out the call to ensure that the customer understands, and the GP can manage, the overall progress of the transfer effectively.

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

We broadly agree.

**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 homemoves? Please explain your answer.*

This depends on how the transfer code is generated. Use of address data on its own is not likely to be sufficient to guarantee the accuracy of the transfer; a unique identifier for the premises/assets concerned is required to achieve this.

**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 disagree. See our response to Question 31.

**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. These options will not address the key issues effectively.

**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.*

Yes. A fee at the level envisaged by Ofcom would very nearly double the cost of transfer and thus the cost of acquisition for new entrant CPs trying to establish themselves in the market. The impact of this increase will not fall equally on small and large CPs.

**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?*

Evidence provided by FCS members suggests that the level of slamming is much lower than Ofcom's research. On this basis we do not believe that the additional cost can be justified.

**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 disagree. We do not believe that the additional cost of TPV is justified by the benefits it delivers in comparison with other options considered. We do not believe that TPV is suitable for the transfer of larger and more complex business installations.

**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.*

We agree.

**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.*

We disagree. If the level of slamming and consequent harm is not at the levels suggested by Ofcom, an adequate level of benefit in simplifying the process and improving the accuracy of the transfer can be provided by the GPL TxC and USN options.

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

As noted in the introduction, it is crucial that careful consideration is given to the governance arrangements required to support whatever new processes are adopted. This must ensure that

governance is independent of platform providers and that there are arrangements in place to allow full industry participation in the specification of changes to the framework which may be required to adapt process and to cater for future market and product developments.

Specifically, Ofcom must consider how the systems and processes underpinning switching will be designed, set up, funded and managed, the remit of any central bodies required on either a temporary or ongoing basis to support the new processes and the means by which participation by all CPs with these central bodies will be achieved. This could be very effectively done, for example, through the establishment of a General Condition. More detail on this key aspect of implementation should be included in the next consultation due later this year.