7th May 2012

Matthew Chapman and Priya Sinha
Ofcom Consumer Affairs – Strategy & Market Developments
6th Floor, Riverside House
2A Southwark Bridge Road
London, SE1 9HA

Dear Matthew and Priya

Strategic Review of 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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Gemserv welcomes the opportunity to respond to the above consultation. We are fully supportive of Ofcom's assessment that the Third Party Verification (TPV) option is the most proportionate way of dealing with the problems identified in your paper, particularly intentional slamming. We fundamentally believe that Gaining Provider Led (GPL) processes are preferable to Losing Provider Led (LPL) processes and that this is the most effective method of protecting consumers and the integrity of the competitive market.

Our analysis of the issues for telecoms consumer switching is based on our experience in the design, implementation and management of processes in the electricity, gas and water industries. We have found, from practical experience, that GPL style arrangements place incentives in the right place; reducing the opportunity of the losing provider engaging in uncompetitive save activity and placing appropriate incentives on the gaining provider to smoothly facilitate the transfer.

We have focused our response to this consultation to TPV and its implementation, and have not attempted to answer all the questions where they would only confirm the position we set out above. Instead, our response looks forward to what will be the practical implementation considerations of introducing TPV. As a confidential attachment to this document, we include a case study from another utility market which is directly relevant to the issues that Ofcom is currently considering, which illustrates some of the issues that may arise, and possible solutions.

Our experience in designing and implementing switching processes is unparalleled and we have learnt invaluable lessons with regard to the implementation of strategic switching reforms. We offer practical suggestions to ensure TPV works for consumers and Providers, both on an operational and a cost efficiency basis. Our central proposal is that good governance, precise planning and careful design are the fundamentals to making TPV work, and will reduce overall costs in the medium term. Good governance reduces regulatory costs and gives a voice to all industry groups.

The journey that Ofcom and stakeholders have gone through to deduce that TPV leads the options for a switching solution has been made with a great deal of careful consideration and its conclusion is rooted in

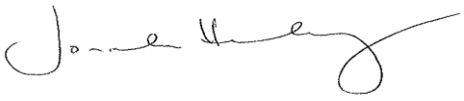
what is best for consumers, competition and a fair market. We understand there has been a diversity of opinion of the subject to date, but hope now the industry recognises TPV as the most effective way to gain both consent that the customer wants to switch and validation of what they want to switch. There is still much to consider, including questions such as whether there needs to be a live agent for all non-internet switches (as opposed to a proportion of IVR) and also ensuring that TPV processes determine capability in regards to what services a customer's property can receive.

We also note that due consideration must be given to governance as this underpins the success of a switching process; any solution is heavily dependent on the rules, processes and procedures governing it. Data accuracy and data protection are crucial, especially where central repositories of information exist. Overall, market design generally combines a number of processes that cut across each other, involving a variety of participants.

Gemserv would be pleased to build on the short paper attached and present a more detailed analysis of implementation issues and solutions to Ofcom, based on our experience implementing switching processes and developing competitive market architecture. The case study to this document is confidential to Ofcom, although the attached issues paper is not.

Should you have any questions on this document, please do not hesitate to contact me on 0207 090 1073 or jonathan.harley@gemserv.com. I will be in touch to discuss further implementation ideas.

Yours sincerely,



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Gemserv's Response to Ofcom's Strategic Review of Consumer Switching –

Implementing a 'GPL world' – Building a better switching process

Governance Frameworks

There are arguments for and against placing a governance arrangement around what we have termed the Market Agent (operating the central database and operating or procuring TPV services). The most obvious benefit is that it creates a mechanism through which future market changes can be managed in an open, transparent framework that ensures all Providers have access to a robust change process. A Market Agent Agreement might include a robust disputes mechanism, which may encourage Providers to deal with challenges through a formal industry process (ideally self regulated and independent) rather than bear the costs and inconvenience of making a legal challenge to Ofcom. Self regulation reduces the overall burden on companies and permits the regulator to maintain its focus on the strategic concerns for the industry, rather than day-to-day issues and concerns.

An independent Market Agent, providing a range of services to all telephony Providers, would not be prohibitively expensive. In our opinion, it would be possible to deliver or procure TPV services below the costs set out in your document; although we may need to revise our estimates depending on the length of time that the record needs to be stored. We note that it is much easier (and therefore cheaper) to store a record that does not contain any financial information, so we would suggest that the information collected is limited to that which is strictly necessary. We would be pleased to discuss these figures and present further detail.

In our opinion, wrapping a more general governance mechanism around the Market Agent functions would be considerably less than the figures stated in the CSMG Potential Costs document. Of course, there would be costs arising from the provision of services such as:

- Intelligent Secretariat: Meeting management, technical secretaries, informed Chairmanship;
- Issues management: If required, specialists to lead a meeting or propose industry solutions; or draft technical papers;
- Operate a change management process: Assisting parties to change processes and procedures, operating an agreed voting system;
- Disputes process: Design and operate a process for Providers to appeal against decisions; and
- Functional delivery e.g. TPV and database management.

We believe that set up costs for the governance body would also be significantly lower than the figures set out in the CSMG Potential Costs document. Whilst there would be capex requirements (technology, space and equipment to purchase) the most critical cost would be the chairing of meetings (and tasks associated with them, e.g. background papers) about the agreement itself e.g. would there be constituencies for voting?

If so, how would they be defined? What would the disputes process look like? How would you protect small Providers? (Indeed, do you see that they need any special protection?)

The speed and ease which these matters of principle can be agree would depend on Providers operating in a constructive and co-operative manner and having a process by which compromise can be reached. We do not foresee the costs of setting up a governance arrangement for the Market Agent to be as high as those assumed in the CSMG document.

Representation

Governance through representation is seen as a cost effective and efficient means of operating a switching agreement in the presence of a large number of industry stakeholders and views. Decisions based on a majority of parties' needs and views are likely to reflect efficient, timely and cost effective solutions and will embody the principles of self regulation. Whether or not the telecoms market has an appetite for representative style governance is a matter for the group to decide.

Change Management

Regarding the principle of evolution, effective change management should set out the process for initiating change and the timing and implementation of such changes. Any decisions taken should be transparent, with no exclusion of relevant information or views, and contributions should be allowed from all interested parties. An appeals process also allows for disputes of fundamental agreement issues to be addressed.

Implementing Strategic Change

Why is Project Management Crucial?

Successful implementation of switching arrangements (or strategic change programmes to existing ones) relies heavily on robust project management and a strong project champion to provide leadership. Ofcom will be required to provide clear direction from a policy perspective but an allocated project team (preferably independent to the regulator and participants) must have control over delivery and consistently drive for delivery within a fixed and credible timescale.

It may seem an obvious criteria but a formal programme management approach will provide a stable and open framework to deliver the most benefits to consumers, the market and individual Providers. Transparency and stakeholder participation is fundamentally important to ensure that:

- Market Participants are well informed of the market design;
- Stakeholder education and participation is increased; and
- Market Participants are committed to the project's success.

The following section takes the working assumption that GPL processes are adopted, with TPV and a central database. Naturally, the implementation could take many forms and this sets out only our initial thoughts.

Project Organisation Structure

We would propose Ofcom considers a project organisation structure comprised of a Project Board, Project Manager and a core project team, as set out in Figure 1 and designed using proven project methodologies and tools; to implement the outcomes of the strategic review:

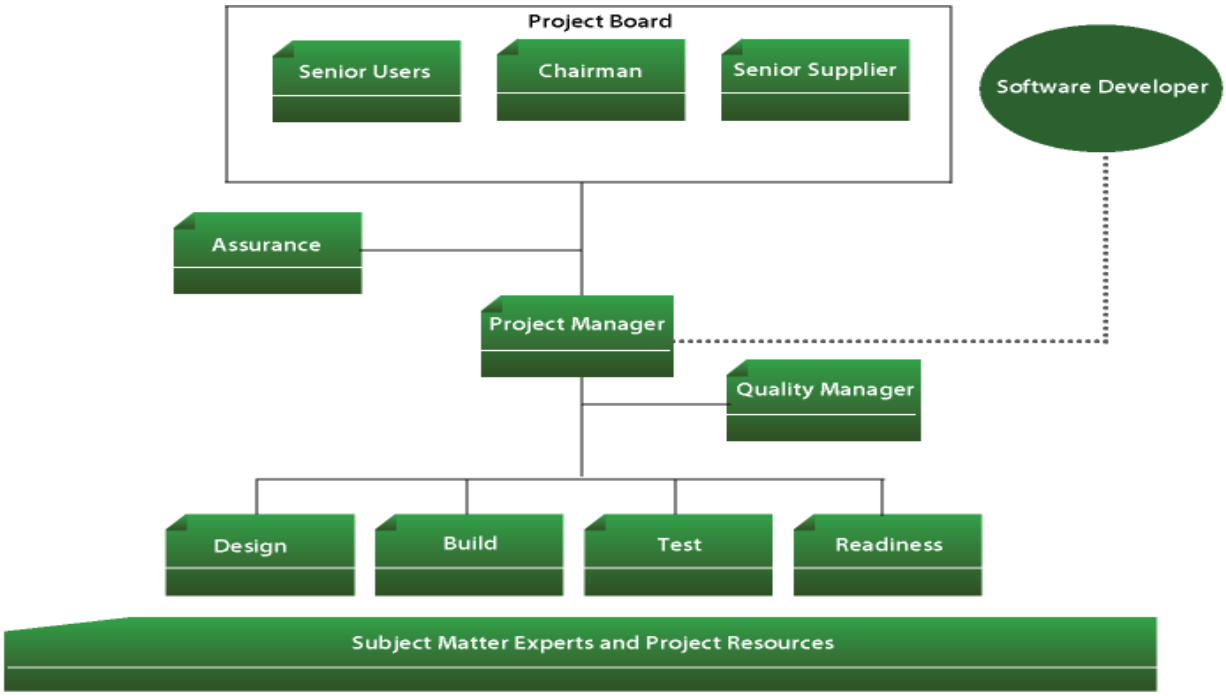

Figure 1: Standard Project Organisation Structure

The Project Board could comprise of three to five senior individuals as the project executive comprised of the Project Manager (from the market agency?), two to three Providers, and Ofcom.

The Project Manager would lead a core team with detailed knowledge in specific aspects of competitive market design. The Project Manager would be supported by a Quality Manager and could draw upon a wider pool of resources and associates as necessary, with agreement of the Project Board. The Project Board should be able to draw on subject matter experts (e.g. process mapping, regulation, or IT) and would manage any subordinate contracts. This structure would be maintained throughout the project lifecycle and be augmented with additional teams of resources as necessary to manage specific contingencies.

We propose a resourcing profile over the life of the project as set out in Figure 2, which was directly taken from a project we recently worked on. Whilst this is an initial estimation of time scales it usefully highlights time allocation between the different roles within the team.

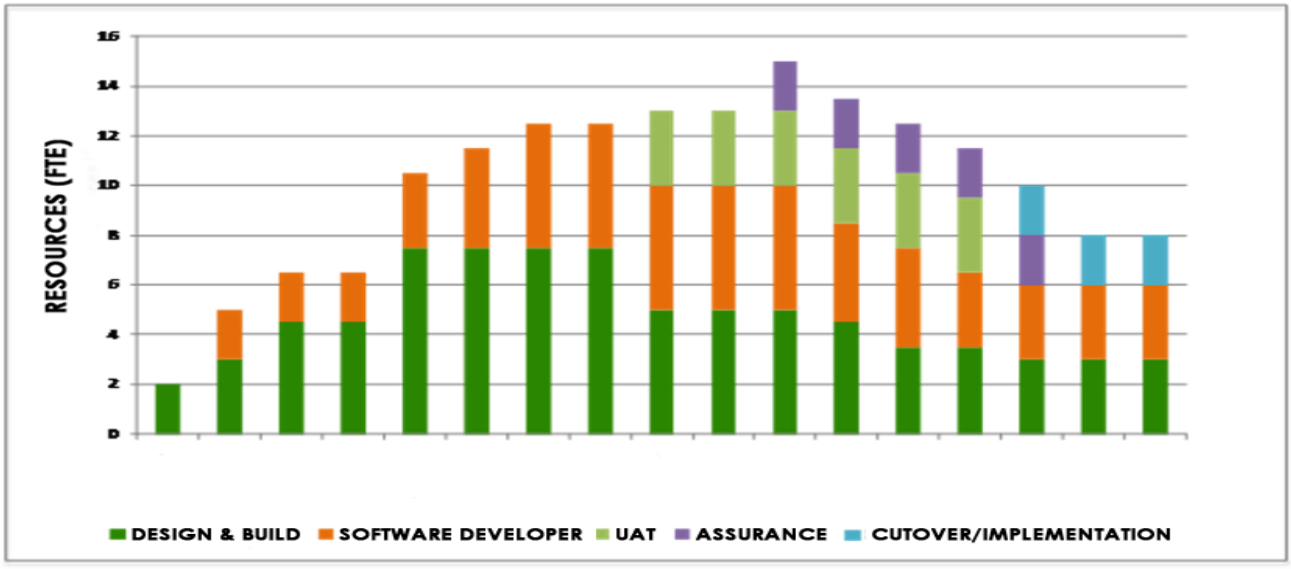

Figure 2: Resource Profile

A core team could provide a design authority function (design and build) across the period which would increase during the development of market processes. Software development will need to commence relatively early in the project lifecycle and continue throughout the remainder of the project. User Acceptance Testing will continue as requirements crystallise, enabling the software to be further developed and released for testing. Further resourcing will be required to support cutover and implementation activities.

Project Planning

An initial project plan for delivery of TPV services of would comprise two phases:

- Phase 1: Delivering the specific GPL Market Design and Delivery Solution Design, covering specification of market processes, Interim Registration System and Central Systems; and
- Phase 2: Implementation, covering systems development and testing, market process testing, implementation and cutover.

We would recommend a waterfall development methodology; the waterfall model is a sequential software development process, in which progress is seen as flowing steadily downwards (like a waterfall) through the phases of Conception, Initiation, Analysis, Design (validation), Construction, Testing and Maintenance. There may be an intended overlap between Phases 1 and 2 so as to design and deliver an Initial Registration System (IRS).

Market Design

Arrangements for GB electricity and gas markets, markets across Northern Ireland and the Republic of Ireland, and the Water market in Scotland provide comparable models for assessing and determining emerging best practice, and areas where implementation could be improved to deliver an optimum outcome. Certain policy initiatives may also need to be incorporated into the market design, such as next generation

networks and social policy initiatives, in addition to consideration of legacy arrangements and other regulatory requirements.

The creation of a Market Agent that is completely independent from the Providers will reinforce the credibility of the solution. Using a Market Agent model (with a central database) will reduce cost, increase security, ensure that a single custodian of standards and governance exists, and ensure avoidance of processing latencies inherent in multi-host systems. It will also ensure quicker dispute resolutions and less disputes arising out of duplication, and be in place to support future technologies align their services to TPV e.g. mobile and pay TV. We believe it is important to minimise data transactions and to implement hub and spoke data exchanges with a central market body, thereby avoiding inter-dependency between competitors and other agents. In Scotland the Central Market Agency (CMA) Central Systems were developed as a shared resource, removing the need for each market participant to host their own system, thus reducing potential barriers to entry. The creation of a Market Agent that is completely independent from any parts of the existing industry avoids the issue of a hidden agenda, which may hinder the promotion of effective competition or create a barrier to entry.

Similarly market data is stored in a single place; the avoidance of data duplication is an important step in securing the market data. The word 'security' is used both in the sense of protection against malicious use, and in the sense of guaranteeing the quality of the market's data. For example, it is not unusual for data quality issues to persist in the live market data; however, having a central data store allows such errors to be corrected openly (and importantly, securely and with due traceability).

TPV and TPV+

Gemserv supports the use of a TPV process to switch customers, a process that builds on the TXC as a back-end process. We consider TPV (and its variations) to be the most appropriate vehicle to:

- Improve and future proof the switching process;
- Reduce slamming; and
- If used well, protect interests of future telecoms customers.

In our opinion, Ofcom's stated aims will be best met using a 'TPV+; approach: utilising a combined identifier comprised of three parts of information and associated with the property not the account reference. As we later set out, this would radically improve the home-movers' process and would address the principle criteria Ofcom has set out.

We propose a TPV process underpinned by a unique property identifier (UPI), which would be formed from the Header ID (the 'spine'), PAF referencing and some form of data code that indicates what services the property is capable of taking, for example:

12345678/ GTQ/ 1234

Header ID/ asset capability/ PAF reference

Using this reference as the parent record on a central database, Providers would be able to validate records before switching to ensure the right customer was switched, and that time was not wasted trying to switch a home/ business where the correct facilities did not exist.

It is a key feature of our suggested TPV+ model that the code refers to the property and not the account reference. Whilst it is entirely possible (and a completely reasonable interim stage) to use a system based on account information, we do not consider that it meets all the criteria set out by Ofcom; namely that customers are switched with their consent; that the right property is switched; and the range of assets can be validated. We consider that TPV+ offers significant benefits in the home-movers' model; and future-proofs a world in which most UK households will have numerous communications account references; all of which could be shown as a subsidiary reference to a UPI parent ID:

- Home land line;
- Business land line for people working at home;
- Numerous mobile accounts;
- PPV account(s);
- Emerging technologies; and
- Broadband account(s).

(All of which may be replicated in a shared flat, annexed accommodation or a house with teenagers). We appreciate that the current consultation covers only fixed line and broadband, but consider that there are practical benefits to considering the process for future technologies.

Some comments on TPV+ (TPV plus UPI) approach are set out below:

Criteria	TPV	TPV+
Does the customer give their consent to the switch?	• Process is reliant on the customer knowing the CLI. GP can access information using CLI but the coverage is not exhaustive. • Process assumes that the customer providing account reference equals consent.	• Sale could be made without CLI as GP could access a fuller central database.
Are the assets at the property suitable for the switch?	• GP dependent on the customer for details of the property (although can check at TPV stage, if appropriate). • Even lower visibility in a home-movers' process where the customer may not be able to access any information about assets.	• Code shows the assets available at the property and allows supplier to switch the right assets at the right property.

Is it the right property?	• GP reliant on fuzzy matching. • Information is based on account. There could be several at each property and not necessarily the correct one is switched.	• Property based, therefore information on home-movers is easily accessed.

TPV in a homemovers scenario – but no CLI and no Account reference

	TPV – but no CLI and no account reference	TPV+
Home-movers – validation of information at new property	• Obliged to do a fuzzy match using postal address (but see note above). • GPL obliged to initiate the switch on the basis of very little data – introducing risk of error and therefore there is a risk of leaving customer with no communications provision.	• GP could look up UPI and go back to the customer for confirmation of the fuller data. • Whilst still a two stage process for the GP, it is no worse than property/ address information and CLI and offers greater benefits. • UPI can draw on other sources (e.g. MPAN data) to improve the accuracy of address information.

We believe that it is inappropriate to design a switching system so robust that it prevents all forms of possible misuse. This would hinder good companies' performance, stifle competition, impose high costs and encourage inertia. The system should be designed on a presumption that companies behave well; but monitor, measure and penalise those who don't. We return to this subject in the section entitled 'Incentivising Providers'.

Central Databases

Underpinning TPV or TPV+ is the need for a central database, and we would envisage this being operated by a body we are calling a Market Agent, a body who would be independent of both Ofcom and Providers.

Gemserv does not consider that the costs of setting up a central database holding either TPV consent files or more general TPV+ information to be prohibitive. Based on our experience of setting up similar central systems for competitive markets, set up costs of the database would be measured in the low tens of pence per customer (spread across the customer base). Given the manifest benefits to customers and the competitive market from introducing either of the implementation options, we consider that the case for undertaking strategic change is proven.

It is in the nature of the utilities industries to operate large databases of information to which multi-party access is required. Most of these systems operate on a hub and spoke approach, using a central database as the master data store. A further benefit of the central system is that it would future proof change by taking away UPI responsibility from OpenReach, and drive out an equality of access. In electricity, the hub and spoke arrangement operates around the new supplier – the Gaining Provider in telecoms parlance – holding the communication central point (as shown below). It is not a direct analogy for the telecoms situation but it does demonstrate the existence of proven arrangements which currently supports around 700,000 switches per month.

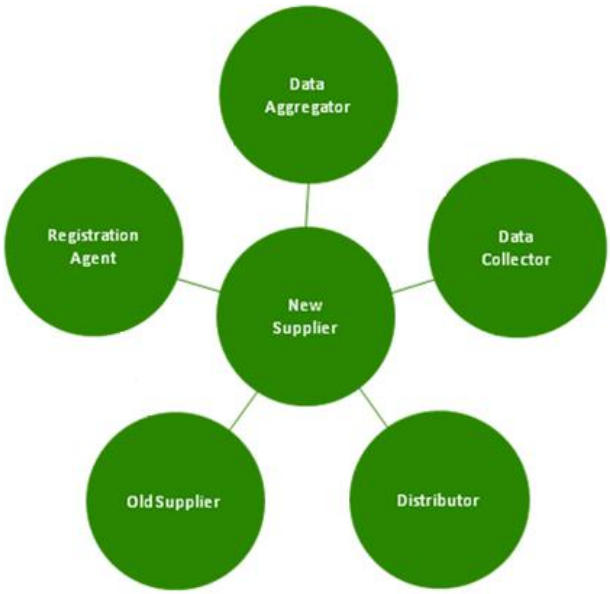

Figure 3: Energy Hubs

We understand and appreciate that several companies have highlighted concerns regarding a central database and the potential for mis-selling. In our experience, a system can be designed to prevent this by

- Only allowing single record access at any one time;
- Noting which company is accessing which records, and whether they go on to successfully switch that customer; and
- Providing regular statistical reporting to the Regulator and other Providers.

In our experience, it would be better to design a robust system that assumes companies behave responsibly and discharge their corporate responsibilities wisely, but monitor, measure and penalise those companies who don't.

Running a Central Database – Issues and Implementation

We consider that it is entirely reasonable to operate a Market Agent central database based on the assumption on the number of switches expected (2 million per year according to the CSMG Final Report). Furthermore, the Strategic Review should offer considerable benefits to customers and the competitive markets and therefore, this number is expected to rise in the short/ medium term.

Irrespective of the volumes, we consider it to be of prime importance that the telecoms markets have a unified and coherent set of switching arrangements (agnostic of network/ technology type). In our opinion, this harmonisation would offer significant benefits for the future proofing of the industry.

We recognise the importance of maintaining a competitive market open to large and small Providers, and the switching process should be an enabler, not a barrier to entry. We would propose that the central systems be open to both high volume and low volume interface, and open to different types of Providers offering a range of technologies.

We believe this aligns to Ofcom's objective for co- and self-regulation as it encourages a co-regulatory arrangement. Moreover, a unified switching process should cover non-BT infrastructure so that customers making the switch described above can also benefit from the ability to switch again on the same basis as customers on BT infrastructure. This could be achieved by a requirement for owners of unbundled local loops to provide access to service providers in a similar manner to the BT WLR product and to allow the customer to switch back to BT control of the local loop infrastructure in a seamless and economic manner. This raises issues beyond the bounds of the current consultation but is necessary to consider in maintaining a stable population of switchable customers and should be a key principle in the development of switching processes in the fixed line market.

High Level Principles/ Data and Systems

In support of the switching process, there should be a standard definition of the data that must be used when communicating switching information – used by all Providers in a consistent manner. Using standard terms minimises the risks of switching difficulties arising from poor quality or missing data. To make the process work effectively, Providers must be able to easily identify the relevant information that needs to be maintained in order to support the process. There must be clear lines of responsibility for the ownership and maintenance of the information. The list below shows data items for systems we have designed from scratch. Given that the telecoms market has current accepted protocols and formats for communication, we would propose that a system should be designed around them (insofar as is possible) to reduce costs and inconvenience for Providers. However, data items could include:

- A Data Dictionary, which defines the core data set to support the process and include Market Standing Data, Data Flow definitions and fields. A Data Flow is a logical flow of information between market participants and is defined in terms of its constituent data fields, which are the individual items of data that are transferred as part of the switching process;
- Market Standing Data is the set of data required to ensure inter-operability and includes the identification of Providers and products; and
- A centrally administered master record of data against which the data, used in customer switching, can be checked to ensure that accurate data is transferred.

To support the transfer process, the exchange of data needs to occur in accordance with agreed communication media and timescales. In electricity, the Data Transfer Catalogue (DTC) operates under the

Master Registration Agreement and defines the requisite components of Data Flows to ensure the availability, integrity and consistency of all items of data needed for suppliers to transfer a customer. This makes it possible to minimise errors and avoid delays to customer transfer. The ECOES[1] system that operates in electricity takes an automated update from each distribution company each night, with no additional human input required. Whilst there are costs associated with both development and maintenance of such a system for Providers and the Market Agent, we consider that the benefits of this approach outweigh the relatively small investment required.

Systems Development

Where practicable, the high-level market design should be completed, agreed and communicated to stakeholders prior to systems development, and we highlight this in our section on Governance. Where sufficient time and resource are available, Gemserv considers that a waterfall development method is most appropriate to a project of this type. However, where timescales require a rapid application development approach, in the absence of detailed understanding, the customer needs to have greater participation in the development team to ensure effective challenge and knowledge transfer.

Market Data

Gemserv recommends that Ofcom considers tackling data quality issues at the earliest opportunity as a pre-requisite of introducing market arrangements, based on our experience of introducing water competition in Scotland where data quality presented a number of implementation challenges. Given that Providers will operate different data models, it is important to firstly understand data structures and accuracy and then consider any changes that may be required to transition to an industry-wide data model. If a TPV+ model were to be considered, an analysis of Header ID data quality may be useful at this stage.

A suggested approach is to mandate that undertakers define their current data models and audit their databases to confirm accuracy of data. It is recommended that this audit is subject to a materiality threshold and subject to independent assurance. Where appropriate, this would provide a firm baseline for the industry to develop and agree a common data model to underpin the development of competitive market framework. It should be recognised that data will never be perfect and there will need to be a trade-off between data cleansing (an exercise that could take many years, especially if the right incentives are not in place) and the development and implementation of a central system market, which should include provisions for managing data issues.

Incentivising Providers

Behaviours are driven by placing appropriate incentives for companies which demonstrate a good performance record and suitable penalties for companies who do not act in the best interests of the market

[1] Electricity On-line Enquiry Service. A case study is attached for your reference.

and consumers. Perhaps cynically, it is worthwhile noting that if you make doing the right thing the easiest option, you are more likely to get the best outcome.

We note that mis-selling can be dealt with under general criminal law – an Agent who fakes a TPV is committing fraud and can be prosecuted through existing criminal law channels. Providers can also be incentivised by action taken by Ofcom under the General Conditions, but this can be a somewhat nuclear tool to contemplate as a policy option.

A range of interim approaches should therefore be considered and a number of options are set out below:

- Name and shame: Either Ofcom or the Market Agent could publish data to either identify all Providers or just the worst/ best. League tables are easily picked up by the media and published widely to consumers;
- Memorandum of Understanding: Providers could be obliged (possibly under the General Conditions) to sign up to a Market Agent Agreement or a slightly looser but still binding Memorandum of Agreement (MoU). One condition of this would be the timely and accurate provision of data updates;
- Provision of an upfront bond: Either independently or as part of an MoU, Providers could lodge an upfront bond, against which penalties for poor performance/ slow or inaccurate performance could be levied;
- Automation and technological options; and
- A combination of the above, mutually reinforcing e.g. Ofcom could highlight companies who have not signed the MoU and leave customers to make their own decision.

The obligation to undertake TPV before a switch creates a mechanism through which a Market Agent could act as a powerful incentive for Providers to produce accurate and timely updates. Assuming that Providers are gaining some/ many customers on the regular basis, the most dramatic incentive may be for the Market Agent to temporarily suspend TPV activity for a Provider who has failed to maintain their data in an accurate and timely manner.

A central database should hold accurate unified data, and over time, that data should improve assuming the customer either switches or regularly keeps the Provider updated.

Practical Implementation of TPV

Gemserv has put considerable thought into the implementation issues that might arise in setting up and operating the TPV body. Below, we set out a summary of our key thoughts.

- Costs: Ofcom will need to consider some mechanism for the correct and appropriate allocation of costs. This will largely depend on the appetite for constituencies and the degree to which you might use cost allocation to assist new market entrants;
- Thinking time critical: It is important to get Providers and other stakeholders together at the earliest possible stage; working out how they see the optimum solution, describing how it feels rather than diving into the detail and drafting. Rushing at this stage leads to sub-optimal outcomes;

- We suggest that Ofcom commissions a technical paper on current data quality in order to provide a baseline on which the process can build on. In particular, it might be useful to do some work on Header ID and its possible use in the UPI, to investigate benefits and establish costs; and
- Tender process: We would propose that delivery of this work be subject to an open and competitive tender process. We would also suggest that if possible, a senior user be included in the procurement panel for substantial pieces of work, as this encourages buy-in to the outcomes and delivers a more optimal solution.

We would be pleased to meet with you and discuss this response, or to present in greater detail.