Consumer Switching

Response by KCOM

4 May 2012

Introduction

KCOM Group delivers communications services to a range of businesses and consumers throughout the UK under a number of different brands. Kcom provides communications services for national multi-site enterprise and public sector organisations across the UK. In Hull and East Yorkshire, KC provides a range of communications services to businesses and consumers. Nationally, Eclipse Internet delivers a portfolio of internet based communications services with a focus on the SME market.

KCOM agrees that current switching processes are far from optimal in delivering benefits either for end users or providers. We are therefore generally supportive of moves which would improve switching processes and lead to greater consistency, clarity and ease of use and agree that the introduction of a common process across services and network infrastructures would go some way to addressing these issues. However, whatever process is decided upon needs to be fully justified and proportionate and cannot place excessive costs on any one provider or industry as a whole.

We do not believe that Ofcom's preferred option of a Third Party Validation (TPV) model is either justified or proportionate. In particular we are concerned about the complexity and costs it will impose on smaller providers. We are also skeptical about the negative impacts of reactive save activity. We address these concerns further below.

On balance, KCOM's preference would be for the alternative losing provider led process proposed by BT, Sky, Virgin Media and Zen (option 3b). We believe it addresses the concerns we identify below and has the advantage of having been developed by providers with a detailed understanding of the challenges and issues presented by current processes.

This response focuses on a number of key areas:

- Concerns about the proposed TPV model specifically the cost implications;
- The extent to which TPV will protect consumers from harm, in particular whether it provides any real additional protection against slamming;
- Whether TVP provides customers with adequate information about the consequences of switching at the time of entering into the contract and what that means in the context of any switching transaction;
- The basis on which Ofcom has determined that reactive save is damaging to competition;
- Data protection issues;
- The need for the implications for other services and networks to be considered to ensure that a consistent approach is achievable.

Cost of the TPV model

Across our business KCOM offers services to customer segments (i.e. residential and small business customers) in which switching processes are mandated. This brings a set of unique challenges for our business. KC, Kcom and Eclipse all use Openreach infrastructure to provide services to the customer segments Ofcom is proposing would be caught by any new switching processes. These businesses are very much run as separate entities with distinct customer bases defined not only by type of customer but also geographically. They are operated separately both commercially and operationally, most significantly they have each have their own Customer Services operations. We anticipate there could be significant cost impacts in establishing the appropriate processes for all of our businesses depending on the option Ofcom chooses to proceed with.

Additionally, we are very aware of the incumbent nature of our network infrastructure in Hull and the fact that we are subject to SMP obligations which require we provide both narrowband and broadband wholesale network access. This means we are required to support switching processes at both a wholesale and retail level. While we appreciate Ofcom's decision to consider switching processes to be used in the Hull area in a later work package we would expect that Ofcom's preference would be to mandate the same switching processes for services provided over alternative infrastructures as those to be used for services provided over Openreach infrastructure. We are therefore particularly mindful of the potential implications of Ofcom's proposals for our business in Hull.

The TPV model is the most costly of the options proposed by Ofcom and due to the nature of our business we would face having to incur these costs across multiple parts of our business. While we appreciate that would be the case with any option which involves the introduction of a common process, we feel that there has been inadequate analysis of the cost impacts to different CP business models to enable a true picture of the likely costs which would be incurred by providers.

Similarly, where businesses have a small customer base and/or low levels of switching the set-up costs for the TVP model are likely to be disproportionate. More detailed analysis of the impact in these circumstances is necessary. In particular, we are concerned that the CSMG assessment of potential costs and its segmentation of CPs does not accurately reflect how providers actually run their operations. The assessment of "Tier C" CPs (those who own or operate their own IT systems stack who will be heavily involved in changes to any part of their IT systems) as being generally large with an average customer base of over 1 million fixed line customers is questionable. We believe there will be a significant number of "Tier C" providers whose customer base is considerably below CSMG's assumptions and who could face disproportionate costs if Ofcom were to proceed with the TPV model. KCOM certainly falls into this category.

More generally, in terms of how TPV works in practice, KCOM has had some experience of a similar model through our Contact Centre business which has previously provided a validation service to a provider in the energy sector. In that particular instance we provided both a sales and validation service which entailed a customer being transferred to a validation agent once they had confirmed to the sales agent they wanted to proceed with switching their service. Our experience of providing that service provides insight into some issues which TPV services present and which

we believe need to be considered in any comparison of options as they could have a significant cost impact.

Firstly, the proposals put forward recognise that lower per call costs would be achieved if sales agents were not required to stay on the call while it was handled by the TPV. KCOM does not believe this is a viable option. In providing services to the energy sector each sales agent who passed a call to the verification agent did not stay on the call but was kept available while verification took place. This was to ensure that if the customer had additional questions about the service they were signing up to they could be transferred back to the agent they originally spoke to rather than another agent who would essentially have to begin the process again with the customer. Our experience was that the verification process often planted a seed of doubt with the customer prompting further questions about the service they were signing up to which the verification agent was unable to answer. Invariably there is a cost associated with this and we do not believe this cost has been sufficiently identified in the consultation analysis.

The second key issue which we see as having a fundamental impact on costs is TPV resourcing requirements which are driven by the number of calls being transferred to the TPV. CSMG have estimated 2.1 million switches per year. It is difficult to comment on this figure. However, assuming that figure is in the right ballpark that would suggest the TPV will have significant resource requirements. Our experience in the energy sector shows that it is vital that a verification agent is available without delay to handle the call. At the time of the sales call the customer is very "warm" and any delay in verification may result in the customer giving up on the switching process. KCOM is concerned that these resourcing issues have not been properly explored in the cost analysis and have the potential to have a considerable impact on the estimated costs of the TPV model.

The extent to which TPV will protect consumers from harm, in particular whether it provides any real additional protection against slamming

KCOM is not convinced that TPV will provide any additional protection to customers. The way in which providers engage in activities such as slamming has, in our opinion, become increasingly dishonest and we are not convinced that TPV offers any protection above and beyond the other options being considered.

The first point to note is that in the process descriptions the role of the TPV is simply described as being to record customer consent to the switch. TPV agents will not be in a position to answer specific questions or provide details about the packages customers are signing up to and nor should they be. This leaves open the potential for mis-selling to continue to be an issue.

With regard to slamming, KCOM has had instances of sales agents from other providers posing as the customer to request MAC codes having obtained customer account details during an attempted sale. We do not see how the use of a TPV will overcome this problem or other equally sharp practices which are used by those engaging in slamming. For example a provider engaged in slamming might advise a target customer that account details are needed to check whether they are able to provide services to the customer. Customers willing to provide account details to a potential supplier would essentially be enabling that provider to unlock the verification process.

Whether TVP provides customers with adequate information about the consequences of switching at the time of entering into the contract and what that means in the context of any switching transaction

KCOM's experience is that customers are largely unaware of whether they are still within contract and therefore whether they are liable to pay ETCs or other termination charges to their existing provider.

The TPV model does not address this issue and the cost implications of cancellation by customers after verification has taken place are not factored into the cost estimates. This creates inefficiencies which, as Ofcom recognises, result in costs for both the customer and the provider. Either the customer will have to contact their existing provider prior to switching their services or wait to be provided with written notification of any charges and other impacts of switching having been through the sales and verification processes.

Ofcom's proposals effectively mean provision of information to customers about the implications of switching becomes a post-sales activity rather than an integral part of the customer's decision whether or not to switch. This is far from ideal and does not assist customers in making informed decisions, which the ability to do is of fundamental importance in a successful competitive market.

The basis on which Ofcom has determined that reactive save is damaging to competition

KCOM agrees that there should be a consistent approach to save activity across services, particularly with the increasing prevalence of bundled offers. It also makes it difficult to provide clear advice to the business on the circumstances in which and at what stage a discussion can take place with the customer about retention offers.

We are not however convinced by Ofcom's arguments that reactive save activity is damaging to competition. We are concerned about Ofcom's conclusion that in a Losing Provider Led environment save activity is likely to weaken competition and reduce the benefits from competition overall. As we commented in our response to the September 2010 consultation economic theory may support this view there is no evidence that this has been the impact in the broadband market. Ofcom acknowledged that consumer research conducted in 2010 indicated that the large majority of consumers who were subject to save activity reported a positive experience with the practice.

In particular, we believe that in many cases business consumers would welcome the opportunity to engage with their existing provider in order to improve the package they are currently on rather than switch supplier. In the small business market we have seen a degree of misinformation provided to customers where they have had discussions with an alternative provider about switching their services, both concerning the services they are able to provide and the gaining provider's relationship with our business. Our concern is that a Gaining Provider Led process such as TPV would not enable us to engage with the customer and address these types of issues.

Data protection issues

Ofcom's consultation only briefly touches on data protection issues, concluding that given providers already hold the personal data that would be processed under the TPV model, consumers will not be adversely affected by the disclosure of their data to a hub or database, as long as that data is processed in accordance with the requirements of the Data Protection Act 1998, and is only used for the purpose of switching.

KCOM believes this is an overly simplistic characterisation of the potential issues. Essentially all customer data would be handed to a third party introducing a new data processor into the customer relationship. We would anticipate that this could raise customer concerns and some potentially difficult and costly security issues. At the very least it would be appropriate for Ofcom to engage with the Information Commissioner's Office to understand the implications of what is being proposed before coming to any conclusions on establishing an independent database containing customer data.

The need for the implications for other services to be considered to ensure that a consistent approach is achievable

KCOM agrees that fixed line and broadband services are priority areas for implementation of new switching processes. We also accept that there are practical considerations which necessitate switching for other services and network infrastructures be considered in a staged approach.

However, we are concerned that ultimately whatever process is decided upon for fixed line and broadband services provided over Openreach infrastructure will by default become the preferred process for other services and networks. To do otherwise would simply be reintroducing a lack of consistency and source of confusion for customers and providers and additional costs. Yet, Ofcom has given no consideration in the current consultation to the implications the process options would have if used for other services or networks. We would like to understand how Ofcom intends to carry forward consideration of switching processes for other services and networks in a way which ensures a full and proper consultation process is undertaken without compromising the need to address the key issue of multiple switching processes and the implications for both customers and providers.

We note that one key area which has not been addressed in Ofcom's consultation is fixed geographic number portability. We are very conscious that in many cases where customers are switching provider they will also wish to port their number as part of the switch making it an integral part of the switching process. We would urge Ofcom to ensure that number portability is included in its switching workplans.

Alternative Losing Provider Led Process

Having considered the various options proposed in the consultation, KCOM's preference is for the alternative Losing Provider Led process developed by BT, Sky, Virgin Media and Zen (option 3b).
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Option 3b addresses a number of the concerns which KCOM has with the TPV process. Firstly from a cost perspective, the issues which we have identified above with the use of TPV should not arise. More importantly however we would envisage that option 3b could be implemented using existing systems and while some development would be necessary it would be significantly less than that required to introduce a TPV model. For providers such as KCOM this is a fundamental concern and we believe option 3b provides a scalable alternative which will ensure that costs are not unfairly incurred by those providers with smaller customer bases.

While none of the process options can completely eliminate the potential for slamming or mis-selling, we believe that option 3b has the advantage of allowing the losing provider to make additional checks if they are concerned that a request for a transfer code is not genuine and take action before the switching process is initiated. As Ofcom notes only a small proportion of the slamming complaints it currently receives are from consumers using the MAC process and a losing provider led process such as option 3b would deliver benefits similar to, if not better than, a TPV process.

Option 3b would also ensure that customers are provided with clear information about the implications of switching prior to making the decision to transfer their services. KCOM believes this is vitally important in ensuring that customers are able to make fully informed decisions about their services. Crucially it ensures that this information becomes an integral part of the customer's decision making process rather than a complicating post-sale issue which may necessitate cancellation of the switch after it has been initiated.

KCOM is also supportive of the customer choice offered by option 3b with regard to save activity. As we have noted above our experience is that customers often welcome save activity and providing customers with a choice as to whether they wish to hear save offers is in our view preferable to removing that choice completely.

With regard to data protection issues, we do not envisage that option 3b would present any issues over and above those which providers currently experience with their own customer data systems avoiding any potential customer concerns regarding data security which the establishment of a third party database would invariably raise.

Finally, we would reiterate our concern that Ofcom has given no consideration in the current consultation to the implications the process options would have if used for other networks or services. While we believe option 3b is preferable to the introduction of TPV, whatever option is selected will have implications for future workstreams which need to be explored in order to determine whether a consistent approach is in reality possible across all networks and services.