

The logo for Which?, featuring the word "Which?" in white text on a red square background.

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Date: - 8 May 2012 To: - Matt Chapman Response by: - John D Holmes

Consultation Response

By email

Consumer Switching

Introduction

Below we set out some views of Which?, the Consumers' Association, on the issues raised in Ofcom's consultation on Consumer Switching dated 9 February 2012. This consultation is reviewing the switching processes related to voice and broadband services over fixed-line copper networks.

Our views are based on the regular work done by our magazines in reviewing and assessing customer satisfaction and surveying members and the general public on performance of the broadband market. We are undertaking a survey on consumers' experience of switching broadband provider, and would be happy to share the results with you when it is finalised (no earlier than June 2012).

We have not answered specific questions, but addressed the broad issues of:

- current failures in the switching process;
- views on some of the proposed remedies, especially whether gaining or losing provider led industry switching processes should be adopted; and
- additional measures necessary to enable consumers to confidently switch provider.

We have been in contact with the Consumer Forum for Communication and Consumer Focus in the course of preparing our response.

If you have any questions, please contact:

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No part of this response is confidential.

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Current problems with switching

We broadly support Ofcom's analysis of the problems with the switching process. It appears especially damaging to consumers that multiple processes exist even where a single 'bundle' of services is being offered. This entrenches perceptions (and the reality) that switching is difficult.¹ This contributes to significant segmentation between consumers, leading to some adverse effects on the competitive process.

We are not however concerned about 'reactive saving' in itself. Instead, we consider that existing failings should be addressed that would strengthen consumers' independence of decision making:

- Current providers should make clear and regular disclosure of core terms affecting consumer switching. This could be on regular bills or account information and include clear information about duration of fixed terms, early termination contracts or other conditions contingent upon the consumer deciding to end a contract. This information should be personalised and relevant to the specific customer;
- Advertised information should be easily understood and allow genuine comparisons with current or rival offers. This would include issues addressed by the 'broadband speeds code of practice', other forms of advertising and the complexity of terms and conditions in consumers' contracts;
- Redress should be paid promptly where a consumer suffers 'slamming' or is otherwise let down by poor industry processes.

Views on regulatory outcomes

We strongly support measures that will:

- Make switching very simple, accurate and quick while ensuring continuity of service;
- Ensure that consumers make informed choices and achieve their objectives for switching, i.e. the 'quality' of the switch not just speed or process matters; and
- Offer prompt redress where a switch is failed (e.g. loss of service) or erroneous (slamming).

Therefore, given current failures, changes to industry processes must be implemented.

1. A single switching process

A single industry process for switching across all telecom products is necessary to address the increased range of service bundles offered to consumers and make switching simple.

The question of whether Losing Provider Led (LPL) or Gaining Provider Led (GPL) should be mandated is difficult: on balance we favour GPL, but are not yet convinced that third party verification (TPV) is necessary.

GPL would bring a single system that is simple for consumers - they just need to contact their new service provider - which in turn would encourage suppliers to work harder to keep all

¹ For example, Which?'s most recent survey of broadband use of Members found that 27 per cent have not switched because they are concerned something will go wrong, with a further 23 per cent considering it too much effort to change supplier (November 2011)



their customers. TPV appears costly relative to the scale of the problem with slamming and other remedies such as targeted redress payments.

On balance, a form of GPL would more effectively drive competition: customers would have a single point of contact and new and existing suppliers would face incentives to work harder to attract a wider range of customers. Losing providers would still have an opportunity to conduct 'reactive save' activity, but may also find a wider range of pricing, service offers and advertising more effective.

We are aware that the telecom industry has raised a number of arguments against GPL. These warrant consideration due to the risk of increased cost or delay that a disproportionate regulatory response would bring:

a. GPL provides a centralised database of information, leading to co-ordination and data update costs.

The core failing on LPL to date appears to be i. supplier complacency, with 'good' offers made solely to those willing to switch; ii. consumer loss of control, with consumers needing to contact two or more suppliers and relying on advice from their old service provider(s) with a clear vested interest to keep their custom. The costs of the current model are therefore widely dispersed across individual consumers, arising because they have not switched and so face a worse deal or because of the onerous nature of the current switching process.

The industry has had an opportunity to address the failings of LPL. We recognise that a switch to a GPL model, where information is centralised will make explicit some costs which will fall onto suppliers. We are also sensitive to problems with updating information in a central database, where losing providers have little incentive to do so. These risks should be recognised in the regulatory measures: suppliers must face clear sanctions should they fail to comply with industry processes necessary to make GPL operate effectively.

b. LPL ensures consumers' are fully aware of the implications of switching.

The LPL or GPL process itself should be irrelevant as to how well informed consumers' are of their choices to switch. The lack of existing clear and explicit information for consumers that covers the duration of contracts or contingent terms applicable if switching must be addressed. Publishing this information on customers' bills, and where possible personalised to their circumstances, should be a key part of these reforms.

c. LPL method can prevent slamming by more effectively verifying customers' identity.

There are clear concerns with slamming. Ideally, industry processes should reduce the incentive or opportunity to slam. However, other measures should also be introduced, which again are not tied to the switching process. First, sales staff should not be incentivised to aggressively sell or retain customers to the point that risks mis-selling. This is a well established problem in the financial services industry and has been a problem in the energy industry. Second, effective redress must be offered. If consumers are erroneously switched, the at-fault party should pay. Cases should be promptly escalated to the Ombudsmen if not resolved satisfactorily, e.g. no one agrees fault.

2. Other regulatory measures



We have already noted that this consultation process should lead to:

- much clearer contract information, especially relating to the consequences of switching
- further improve the advertising of offers
- introduce robust and meaningful redress, to act as a strong incentive to avoid slamming or other poor practices

Further ideas have been raised on lengthening the period of time that new customers can switch away without penalty. This has some merits, as it directly addresses the challenge of assessing the true benefits of a service with those claimed by the supplier.

Next steps

This is a significant regulatory reform. Ideally, the telecom industry will find it beneficial to work with Ofcom to implement its final decision, rather than resisting the process of reform. We hope that Ofcom will:

- set out a clear timetable of its next steps, this should include the following stages to review mobile phone and TV package switching processes;
- move quickly, in particular to bring to a head any potential challenge; and
- be sure to implement measures relating to clear information and redress, which are distinct from the issue of LPL or GPL switching processes.

Finally, some measures can and should be implemented quickly. The success of these at improving the switching process and addressing slamming should be assessed. Ofcom can retain the option to introduce further significant changes (such as TPV) in due course should problems remain.