



Consumer Switching

A statement and consultation on the processes for switching fixed voice and broadband providers on the Openreach copper network

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Statement

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Section 1

Summary

Introduction

- 1.1 Well-functioning communications markets require effective switching processes. The ability to switch Communications Providers ('CPs') allows consumers to exercise choice, purchase the service or combination of services which best meet their needs, and switch away if they are dissatisfied with a provider. Conversely, ineffective processes constrain consumer choice, and hence can also be harmful to competition, investment and market entry.
- 1.2 Ofcom has a principal duty to further the interests of consumers in relevant markets, where appropriate by promoting competition. The interests of consumers in relation to switching processes mainly concern their experience of switching, including the ability to switch quickly and conveniently, to switch without loss of service, to be made aware of the implication of their decision to switch and to be protected from being switched against their will. In this process we are therefore primarily concerned with issues directly affecting consumers, but we also consider implications for competition.
- 1.3 We have looked at the processes used for switching between providers on the Openreach copper network.¹ Currently there are a number of different processes for switching services, involving complex technical coordination amongst gaining providers, losing providers and Openreach. To a large extent, these systems have evolved within industry, with some aspects subject to regulation under Ofcom's General Conditions ('GCs').
- 1.4 We have prioritised our work on the Openreach copper network as we identified this as the area of greatest potential consumer harm and because it supports the largest number of switches for fixed voice and broadband services.

Problems faced by consumers

- 1.5 We consulted in February 2012 ('2012 Consultation') on the problems associated with switching processes on the Openreach copper network, and set out options for reform. We favoured harmonisation to a Gaining Provider Led system ('GPL')² with a third-party system to verify consumers' consent to switch. This was consistent with the conclusions from our strategic review of switching in September 2010, in which we concluded that, in principle, GPL systems are preferable to Losing Provider Led systems ('LPL')³ when no legacy systems are in place.
- 1.6 We received a wide range of responses to the 2012 Consultation. Those from industry stakeholders demonstrated a lack of consensus on how to progress. We have conducted further detailed analysis in a number of areas, prompted by the responses to the 2012 Consultation, and drawing further on the experiences that consumers have communicated directly to Ofcom. We have concluded that consumers face a number of significant problems:

¹ Openreach copper network includes services provided using fibre to the cabinet.

² Under which the consumer only needs to contact their gaining provider ('GP') to make a switch.

³ The consumer must ask their losing provider ('LP') for a migration authorisation code and give it to their GP to switch providers.

- a) **Multiple processes.** The existence of multiple processes creates confusion and lack of clarity, which can deter some consumers from switching. It also creates added complexity and difficulty for consumers switching bundles, if they have to follow multiple processes simultaneously.
- b) **Consumer difficulty and unnecessary switching costs.** For some broadband switches, the current LPL Migration Authorisation Code ('LPL MAC') process makes the consumer's desired switch subject to the actions of a provider which has little incentive to make the switch happen. This results in delays, increased costs, and sometimes unwanted pressure on the consumer to reverse their decision.
- c) **Lack of awareness of the implications of switching.** Consumers often do not receive specific and neutral information from suppliers as to the implications of a switch.
- d) **Insufficient customer consent.** There are still concerns over consumers being switched against their will. The incidence of deliberate 'slamming' is now estimated at approximately 84,300 households per year, based on 2012/13 data, and we believe that this is consistent with informal and formal enforcement action having had a positive impact.
- e) **Erroneous transfers.** Switches where the wrong line is inadvertently switched account for a large proportion (46%) of the switches that happen without consent - often as a result of home moves. Based on 2012/13 data, we estimate that this affects approximately 118,700 households per year. We have identified a variety of underlying causes and a number of ways in which this problem might be addressed.
- f) **Loss of service.** A significant minority of consumers (20%)⁴ suffer some loss of service when switching – primarily when switching to or from a bundle of fixed voice and broadband services.
- g) **Platform neutrality.** Consumers are unable to use industry-agreed switching processes when switching between some providers, using specific types of wholesale services. Consumers also face difficulties when switching between different networks that provide fixed voice and broadband services; for example, switches between cable and the Openreach network.
- h) **'Reactive save'.** We also identified risks to competition associated with the fact that a LPL system provides the losing provider with prior contact with every consumer seeking to switch away. This enables losing providers to engage in 'reactive save' activity, which may lead to indirect consumer harm as it risks a dampening of the competitive process.

Ofcom's assessment and decision

- 1.7 We discussed in the 2012 Consultation the extent to which the options for reform would address the problems in consumer switching. We said then that identifying the best way forward would be a matter of judgement, balancing the treatment of

⁴ When including consumers moving home and switching at the same time, our broadband consumer research 2011 data identified that around 31% of all fixed broadband switchers experienced a loss of service

different issues and evidence of harm against each other and against the costs for consumers and industry.

- 1.8 We have considered three broad groups of options to address the problems described above:
- retaining the existing processes and making incremental improvements to them;
 - harmonisation to a GPL process, via either
 - i) improvements to the existing GPL Notification of Transfer process ('GPL NoT'),⁵ referred to as 'Enhanced GPL NoT' in the 2012 Consultation, or
 - ii) a new GPL process, based around a hub and database solution (i.e. new database of consumer data and a hub to facilitate exchange of information between providers); or
 - harmonisation to a new LPL process.
- 1.9 We have concluded that we should harmonise to a single switching process. The existence of multiple processes is central to a number of problems experienced by consumers when switching, but the maintenance of separate processes does not in itself generate material benefits for consumers. Consumers should always be able to understand what they need to do in order to switch.
- 1.10 That means considering whether it would be appropriate to move to harmonisation under a GPL or an LPL process. In making that judgement we have taken into account that, as many respondents communicated to us, the existing position is one in which most consumers have a good experience, within a market that is broadly competitive. Recent Openreach data shows that around 90% of migrations currently go through the GPL NoT process and around 10% go through the LPL MAC process. The industry is also making efforts to improve the GPL NoT process. Harmonisation to a GPL model is therefore likely to be less disruptive for consumers, industry and competition.
- 1.11 Against that background there are two key issues which strongly support the adoption of a GPL solution.
- 1.12 First, we consider that LPL systems create higher switching costs and difficulty for consumers, meaning that harmonisation to an LPL system would be likely to significantly worsen consumers' current experience of switching processes. Consumers' ability to put a switch into effect would be subject to a requirement for the consumer to go through a process with the losing provider, which the losing provider has little incentive to support. In contrast we find that the existing GPL process supports a positive consumer experience.
- 1.13 Second, we also have significant concerns over the risks that harmonisation to an LPL process would have for competition, given that this would promote the ability to engage in reactive save. Under an LPL system the switching process requires that all losing providers are notified about every customer intending to leave. Identification of

⁵ The GP informs the LP on behalf of the consumer in order to organise the transfer. The consumer receives notification letters from both CPs confirming the planned switch before it happens. This provides an opportunity for the consumer to stop the order going ahead where they change their mind or in cases where they have no knowledge of, or have not given their consent to, the attempted switch.

all customers intending to switch could make it more difficult for smaller providers and entrants to challenge the larger incumbents, and might weaken the incentive of existing providers to compete against each other. This is particularly the case if existing providers are able to rely on the certainty of being informed of their customer's intention to leave, and can therefore react effectively to this information through targeted 'reactive save' offers. We know that the majority of switches currently go through the GPL NoT process, under which 'reactive save' activity is banned. We consider that a wholesale reversal into a 100% LPL system poses a risk of distorting the current competitive market. In contrast a GPL system is likely to support competition.

- 1.14 Our assessment of how the other problems are addressed by the LPL and GPL options considered also does not cause us to conclude that an LPL solution should be preferred:
- Although in general LPL systems provide better protection against slamming than GPL systems, this is not as prevalent an issue as we had initially thought. We also understand how improvements to providers' records will help reduce this problem under the GPL options. We therefore place less weight on the need for an intrusive intervention to address this issue.
 - We consider that the GPL options can reduce the large number of erroneous transfers associated with home moves more effectively than the LPL options. Though we recognise that the LPL options may perform better at addressing the smaller number of erroneous transfers associated with switching, there are also effective means of reducing those under the GPL options.
 - We consider that all the harmonised options are able to address the problem of loss of service. Therefore, although we consider this is an issue which merits some attention, it does not support one system over another.
 - We consider that the more limited issue associated with awareness of the implications of switching can be largely addressed by all of the harmonised options.
 - We also do not consider that the problem of platform neutrality points to a need for an LPL solution over GPL, though we recognise the challenges associated with addressing this in the future under Enhanced GPL NoT.
- 1.15 Consideration of the costs associated with the different options also does not support the adoption of an LPL process. Our assessment indicates that the LPL options are unlikely to be less costly than a GPL approach.
- 1.16 We have therefore decided to move to a harmonised GPL system. In considering the appropriate GPL process we have taken into account other difficulties that would be associated with any wholesale change to the existing system. Ofcom has the power to impose GCs to regulate processes, but ultimately wholesale change is likely to require industry cooperation. Even with industry consensus, there would be significant logistical challenges in delivering a new GPL system, and we know from the responses to the 2012 Consultation that there is no such consensus.
- 1.17 We are conscious of the need to act promptly, to minimise harm and quickly deliver benefits to consumers. We also take into account our need to target intervention at cases where action is needed, and our objective to provide regulatory certainty to

industry. In the light of the above factors, we have decided to take a two-stage approach to change.

- 1.18 In this document we set out our decision to harmonise all switches on the Openreach copper network to the existing GPL NoT process.
- 1.19 We have also ruled out some harmonised GPL options (in particular, we have rejected the GPL Third Party Verification option ('GPL TPV'), primarily in the light of the new evidence on slamming).
- 1.20 Given the timing and implementation risks associated with the full form of the Enhanced GPL NoT option, as well as the GPL options based around a hub and database, we consider it is appropriate to proceed with those elements of the Enhanced GPL NoT process which it is proportionate to implement in the short term. The specific improvements that we are proposing to put in place to improve the existing GPL NoT process are:
- mandatory record of consent to protect against slamming;
 - mandatory use of systems and processes to minimise loss of service when switching bundles;
 - provision of better information on the implications of switching; and
 - mandating some best-practice elements of the Working Line Takeover ('WLT') process⁶ to mitigate some of the impacts of erroneous transfers. In particular, we propose to mandate i) that providers place WLT orders only where they have an exact match for the line and ii) that providers notify end-users, via notification letter or email, that their line is due to be taken over.
- 1.21 We term this proposed solution 'GPL NoT+' because it builds on the existing GPL NoT process. We therefore consult on the implementation of these enhancements and the changes to the GCs required to put them into effect. We aim to publish a final statement on this early in 2014, with the changes being implemented during 2014.
- 1.22 We consider that implementing GPL NoT+ will promote the interests of consumers by:
- ending the confusion and difficulties associated with multiple processes;
 - ending the LPL system which will ensure that the switching process works in consumers' interest, and that their decision to switch can be easily put into effect;
 - improving the information provided to consumers about the implications of their intended switch;
 - improving protection for consumers from being deliberately switched without consent, by enhancing Ofcom's ability to enforce against such providers;
 - reducing the number and impact of erroneous transfers on consumers; and

⁶ WLT is used for home moves to manage the transfer of the active line from the outgoing user to the incoming user.

- addressing the loss of service suffered during switching, particularly for bundles of fixed voice and broadband services.

1.23 We will then progress to a further stage of work under which we will consider what additional elements of the Enhanced GPL NoT option it may be proportionate to mandate, or whether it would be proportionate to proceed to a hub and database solution.⁷ This will involve considering whether it would be appropriate to make further changes to address the key issues of:

- i) Erroneous Transfers ('ETs')⁸ and
- ii) the ability to extend the switching processes to include other technologies and networks.

1.24 There are three specific areas with respect to i) above that we intend to consider further with industry stakeholders:

- evaluate options to improve the quality of Openreach address data which has emerged since the 2012 Consultation as a major new root cause of ETs;
- assess whether recent industry developments, such as the metallic path facilities ('MPF') helpline, are sufficient to address the lack of visibility of key data in identifying the correct line to switch; and
- assess, in the light of future industry developments, whether the risk to consumers of ETs due to future technologies (e.g. Fibre to the Premises ('FTTP')), continues to remain low, and whether the current processes can be adapted or further changes will be required.

1.25 With respect to ii) above, we intend to consider further the possibility of developing systems and processes across network providers to ensure that consumers have a similar end-to-end experience of switching, regardless of the underlying networks or wholesale service.

⁷ We note that an assessment of a hub and database solution would include consideration of: the GPL Transfer Code system ('GPL TxC'), its variant involving a virtual database ('GPL TxC-V'), and an option that some industry stakeholders (SSE, TalkTalk and the Federation of Communication Services ('FCS')) submitted to us in June 2013 (discussed in Annex 14).

⁸ ETs occur when the GP is unable to identify the correct line to switch, and switches another consumer's line in error.

Section 2

Introduction

2.1 In this section, we set out the objectives of our consumer switching review and the regulatory framework applicable to our assessment.

Scope

- 2.2 Our analysis is focused on switching involving only residential consumers and small business consumers (those with up to 10 employees so excluding larger business consumers).
- 2.3 We are focusing on changes to the existing processes for switching fixed voice and broadband providers across the Openreach copper network. This includes services provided using Fibre to the Cabinet ('FTTC')⁹ as this reuses the copper loop from the customer to the street side cabinet. For simplicity, we refer to the Openreach copper network throughout this document.
- 2.4 Specific proposals to change the process for switching fixed voice and broadband services to or from the Virgin Media cable network and FTTP are outside the scope of this consultation.

Background to Ofcom's review of consumer switching

- 2.5 Competitive communications markets are more likely to work well if it is quick and easy for consumers to switch between providers.
- 2.6 Ofcom has a principal duty to further the interests of consumers in relevant markets, where appropriate by promoting competition. We must therefore consider whether the processes that seek to give effect to consumers' decisions to switch are properly protecting the interests of consumers. This is reflected in our Annual Plan for 2013-2014, within which one of our priorities is to 'develop and implement policies that will improve the ease of switching between communications providers'.¹⁰ It is also reflected in our objectives for this review of consumer switching, which are to focus on ensuring that:
- An individual consumer's experience of switching communications services is easy and problem-free both now and in the future. This review seeks to address problems with the existing processes that result in direct consumer harm.
 - Switching processes do not get in the way of providers competing with each other to deliver benefits to all consumers through lower prices, greater choice, innovation and value for money. This review seeks to address problems with the existing processes that risk consumer harm via a dampening of the competitive process.

⁹ FTTC is a form of fibre optic communication delivery in which the fibre network reaches the street-side cabinet. The street cabinet is usually located only a few hundred metres from the user's premises. The remaining segment of the access network from the cabinet to the customer is the existing copper pair.

¹⁰ Ofcom Annual Plan 2013/14 28 March 2013, Figure 1 page 3. Available at: <http://www.ofcom.org.uk/files/2013/03/annplan1314.pdf>

2.7 The services involved are of vital importance to consumers. They spent an estimated £113.51 per month on communications services in 2012.¹¹ As explained in Section 3, we estimate that there are around 2.8m complete switches on Openreach infrastructure per year.

September 2010 Consultation¹²

2.8 In September 2010, we published a consultation that sought to:

- identify the key issues and problems with the switching processes across the fixed and mobile telecommunications, broadband and pay TV sectors;
- set out a view on the type of switching process that would deliver better consumer and competition outcomes assuming we were starting from first principles and there were no existing processes in place ('greenfield'); and
- identify deficiencies with the current switching processes and develop a plan to tackle these, prioritising areas where we identified the greatest consumer and/or competitive harm.

2.9 We set out our view that GPL processes are preferable to LPL processes on a 'greenfield' basis. We considered that GPL processes perform better than LPL processes in terms of both consumer and competition outcomes because:

- GPL processes are easier for consumers to navigate and result in significantly less hassle. The GP has an incentive to ensure that the switching process is as smooth and easy as possible.
- GPL processes are also more likely to deliver lower prices, greater choice and innovation for consumers because they force providers to compete vigorously for rivals' customers. In LPL processes this incentive for providers to enter and compete for rivals' customers is reduced because of the ability of the LP to identify (via the code request) and retain customers willing to switch through reactive save offers. Compared with a GPL process, such retention offers are likely to be beneficial to the individual consumers who get lower prices. However, the ability to make such offers reduces competitive intensity and so results in reduced innovation and is likely to increase average prices over time.

2.10 In our September 2010 Consultation we explained that the economic literature suggests that in order to promote consumer interests and competition we should seek to minimise switching costs, and that:

- GPL processes tend to have lower consumer switching costs than LPL processes (because there are fewer contact points for consumers); and
- the GP has a greater incentive to make the switching process smooth. This means that GPL processes would, on average, tend to perform better than LPL processes in terms of minimising unnecessary switching costs.

¹¹ Communications Market report 2013, page 4.

¹² Ofcom Strategic Review of Consumer Switching 10 September 2010, (referred to as 'September 2010 Consultation') . Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/summary/switching.pdf>

- 2.11 We explained that it is key to consider the steps a consumer is required to complete a switch, meaning that GPL switches require one contact point, while LPL processes require two. Other things being equal this means that GPL processes will have lower consumer switching costs than LPL processes.
- 2.12 The fact that contact with the LP is necessary under an LPL process provides the LP with an opportunity to frustrate the switching process. We also identified reactive save as a particular problem under LPL processes. Finally we identified that, under a GPL switching process, the incentives of the GP and the consumer are aligned because both want the switch to be quick and easy. This means that a timely and smooth switch is more likely to be accomplished, and consumer switching costs are minimised.
- 2.13 When considering the consumer experience of switching from a strategic 'greenfield' perspective we therefore concluded that GPL processes are superior to LPL processes.
- 2.14 The September 2010 Consultation also highlighted some key findings from the economic literature on the implications for competition of consumer switching costs. We noted the potential impact of switching costs on the structure of prices, and in particular that their presence 'distorts buyers' quantity choices' and 'gives consumers wrong signals about whether to switch'.¹³
- 2.15 We explained the potential impact on the level of prices, and the extent of market entry and expansion, noting that if economies of scale or network effects are important in a market (as they are in the telecommunications industries) with high switching costs, then large-scale entry is likely to be difficult,¹⁴ particularly when price discrimination between new and existing customers is possible.
- 2.16 The impact of consumer switching costs on the level of consumer welfare and industry profits is complex, but overall we explained that the position of the academic literature is that 'on balance switching costs seem more likely to increase prices,¹⁵ which would tend to reduce consumer welfare.
- 2.17 We therefore concluded that processes with higher consumer switching costs are, other things equal, more likely to dampen competition and cause detriment to consumers.¹⁶ Given the finding (explained above) that GPL switching processes involve lower consumer switching costs than LPL switching processes it follows that, in this respect, LPL switching processes are more likely to dampen competition and cause detriment to consumers than GPL switching processes.
- 2.18 In the September 2010 Consultation we also argued that GPL processes would, fundamentally, tend to perform better than LPL processes in supporting retail competition. This is because GPL processes:

¹³ J. Farrel and P. Klemperer (2007), 'Coordination and Lock-in: Competition with Switching Costs and Network Effects.' In Armstrong, M. and R. Porter eds, *The Handbook of Industrial Organization*, Vol.3, Amsterdam: North-Holland.

¹⁴ J. Farrel and P. Klemperer (2007, *ibid*).

¹⁵ J. Farrel and P. Klemperer (2007, *ibid*).

¹⁶ In our 2012 Consultation (Annex 6) we responded to a number of stakeholder comments on our analysis of the academic literature on switching costs, finding that the criticisms that had been made were unfounded, and that more recent work highlighted by respondents was consistent with our earlier finding that switching costs tend to dampen competition.

- promote vigorous competition for rivals' customers, and hence are more likely to deliver the benefits of competition in terms of lower prices, greater choice and innovation; and
 - can avoid the possibility of reactive save activity, which is currently banned under the GPL NoT process.
- 2.19 We therefore cited the likely dampening of competition under LPL processes as a reason to prefer GPL switching process over LPL switching processes, when considering the issue from a 'greenfield' perspective.
- 2.20 We highlighted that further work would be required to consider whether and how these considerations could be applied to current switching processes, and identified switching fixed voice and broadband services over the Openreach copper network as the area of highest concern.¹⁷ We therefore proposed to focus on this prior to considering other networks and services.

International Perspectives

- 2.21 The September 2010 Consultation also contained information on switching processes used in other countries, based on a BEREC draft report. We reported that 'the vast majority of countries follow a GPL switching process', and that National Regulatory Authorities ('NRAs') had given convenience, simplicity and advantages to consumer switching as reasons to prefer GPL. A number also suggested limiting save activity opportunities for LPs as a key consideration in their decision to implement GPL processes.¹⁸
- 2.22 In its final report BEREC recommended six principles of best practice, the first four aimed at supporting a positive consumer experience, and two more to encourage a positive impact on competition and welfare.¹⁹
- Minimisation of unnecessary switching costs/barriers (both for individual services and for bundles), so that there should be minimal effort on the part of the consumer in order to switch. This means that the overall switching process should be quick and reliable, as well as seamless and invisible to the consumer, with a specified maximum time for the switch to take. Also, consumers should be able to transfer more than one service, which is relevant to the switching of bundled services. In this context, BEREC concluded that the most effective method of facilitating switching is where the process is managed by the GP as the primary contact point.
 - Minimisation of instances of mis-selling/slamming. In particular, registered evidence of the consumer's consent to switch their CP should be kept, for a reasonable period, by the CPs. In addition, there should be a quick and reliable restoration process so that consumers switched in error can have their original service restored quickly, with no additional hassle, and at no additional cost.
 - Ensuring that accurate information on switching is given to consumers, before and during the switching process, with information being presented clearly and in an easily accessible format. This includes a brief and precise description of the

¹⁷ September 2010 Consultation, paragraph 4.123 .

¹⁸ September 2010 Consultation, See paragraph 4.14.

¹⁹ See http://berec.europa.eu/eng/document_register/subject_matter/berec/reports/185-berec-report-on-best-practices-to-facilitate-consumer-switching

switching process and information on the length of the switching process, key terms and conditions of the new service, as well as any contractual liabilities with the existing CP. In addition, consumers should be made aware of any loss of service and its maximum length of time.

- Publication of guidance by NRAs to ensure that CPs are aware of, understand, and comply with all obligations relating to national legislation and best practice principles that apply to them. This includes CPs acting in a responsible and transparent manner when alerting consumers to the existence of additional charges (ETCs and MCPs).
- Support competition in retail markets by ensuring that the switching process is non-discriminatory and does not unduly favour one CP over another, as well as by ensuring that all CPs act fairly and responsibly during the switching process.
- Cost efficiency of the switching process, meaning that a switching process should be efficient and cost effective to operate, as well as technically simple.

2.23 In its report BEREC identified a number of potential trade-offs in relation to the switching process. For example, a trade-off may exist between making switching easier for consumers (e.g. by eliminating the need to call the LP to obtain a MAC) and ensuring consumers are fully aware of the implications of switching. In light of this, it was noted that it is necessary for each NRA to assess how best to apply these recommendations, based on the considerations for such trade-offs.

2.24 We consider that the principles of best practice identified by BEREC align closely with the problems that we have identified in Sections 4, 5 and 6 and the aims of our work. We also note that the BEREC report found that switching is best facilitated by GPL processes.

Switching Working Group

2.25 Following publication of the September 2010 Consultation, we established the Switching Working Group ('SWG') to consider problems with the existing switching processes in more detail and to develop detailed specifications and cost estimates for the different switching process options for fixed voice and broadband services on the Openreach copper network.

2.26 The SWG was formed specifically to support Ofcom in narrowing down the switching options for detailed analysis. It provided industry stakeholders with a key opportunity to input into this work, and reflected our view that, at that point, industry was best placed to develop the detailed technical specifications and cost estimates of the options.

2.27 The SWG's work was supported by expert consultancy work from Cambridge Strategic Management Group ('CSMG'), which was asked to document a set of specifications for each of the switching process models and to estimate the costs of each of the models. These costs were published in a report accompanying the 2012 Consultation, along with SWG members' own estimates.²⁰

²⁰ CSMG Switching Options: An Assessment of Potential Costs, 9 September 2011, (referred to as 'CSMG report'). Available at: http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/csmg_report.pdf.

2012 Consultation

- 2.28 In the 2012 Consultation we identified a set of concerns with the switching processes that operate in relation to fixed voice and broadband services. We explained that the scope of our work at that stage of the review was focussed on those areas.²¹
- 2.29 Our evidence showed that the number of different processes for switching providers of fixed voice and/or broadband services, and the various problems associated with these processes, led to increased levels of difficulty and confusion for the consumer when switching. They also gave rise to other concerns, such as the transfer of consumers without their consent.²²
- 2.30 We considered that consumers' interests are best served when they have the confidence to switch between providers, without fearing that doing so will result in undue effort, disruption and anxiety. Once a consumer has established which services he/she wishes to purchase, the switching process should work in the consumer's interest to ensure that any decision can be put into effect. If consumers elect not to switch as a result of a lack of confidence in the switching process, the competitive process may be dampened. This can have further negative consequences for the market and consumers such as reduced innovation and higher prices.
- 2.31 In that context our key concerns with the processes for fixed voice and broadband switches were:
- that consumers be able to understand clearly the process required to effect their switch;
 - that the switching process should work in consumers' interests and be designed such that providers involved in the process are incentivised to put the consumer's decision into effect, helping to ensure that consumers have the maximum possible control possible over the process; and
 - that harm to consumers should be minimised, and, in particular, consumers should be protected throughout the switching process and should not suffer loss of service or be switched against their will.

Regulatory framework

- 2.32 We are proposing to improve consumer switching processes by using our power to amend the GCs. We set out below an overview of Ofcom's relevant duties and powers under the Communications Act 2003 ('the Act') and the requirements and procedures to be met before Ofcom can introduce new GCs or modify any existing conditions.

²¹ Consumer Switching: a consultation on proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network, 9 February 2012, (referred to as '2012 Consultation') paragraphs 2.6 to 2.9. Available at:

<http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/summary/condoc.pdf>

²² See Section 4 of this document.

The legal framework

2.33 Ofcom regulates the communications sector under, and in accordance with, the framework established by the Act and European Community requirements for regulation. This is known as the 'European Framework'. The European Framework and its associated Directives provide a common framework for the regulation of electronic communications networks and services in the EU. The Framework was revised in 2009, and was required to be implemented by all Member States, including the UK, by 2011. The UK implemented the revisions through the Electronic Communications and Wireless Telegraphy Regulations,²³ which made changes to the Act.

Ofcom's general duties

2.34 Section 3(1) of the Act states that:

'it shall be the principal duty of Ofcom, in carrying out their functions:-

to further the interests of citizens in relation to communication matters; and

to further the interests of consumers in relevant markets, where appropriate by promoting competition'.

2.35 Section 3(2) of the Act states that Ofcom is required, when carrying out its functions, amongst other things, to secure the availability throughout the UK of a wide range of electronic communications services.

2.36 Section 3(3) of the Act requires Ofcom, when performing its duties, to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and any other principles appearing to Ofcom to represent best regulatory practice.²⁴

2.37 Section 3(4) of the Act states that in performing its duties, Ofcom must also have regard to a number of matters as appears to be relevant in the circumstances. We consider this includes in the current context:

- i) the desirability of promoting competition in relevant markets;
- ii) the desirability of promoting and facilitating the development and use of effective forms of self-regulation;
- iii) the desirability of encouraging investment and innovation in relevant markets;
- iv) the desirability of encouraging the availability and use of high speed data transfer services throughout the United Kingdom;
- v) the needs of persons with disabilities, of the elderly and of those on low incomes; and

²³ The Electronic Communications and Wireless Telegraphy Regulations 2011, SI 2011/1210, 4 May 2011. Available at: http://www.legislation.gov.uk/ukksi/2011/1210/pdfs/ukxi_20111210_en.pdf

²⁴ Ofcom's Statutory Duties and Regulatory Principles. Available at: <http://www.ofcom.org.uk/about/what-is-ofcom/statutory-duties-and-regulatory-principles/>.

- vi) the opinions of consumers in relevant markets and of members of the public generally
 - vii) the extent to which, in the circumstances of the case, the furthering or securing of the matters mentioned in subsection 3(1) and 3(2) is reasonably practicable.
- 2.38 In addition, Section 3(5) of the Act requires Ofcom, when performing its duty to further the interests of consumers, to have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.
- 2.39 Consumer is defined in Section 405(5) of the Act and includes people acting in their personal capacity or for the purposes of, or in connection with, a business.

European Community requirements for regulation

- 2.40 Section 4 of the Act requires Ofcom to act in accordance with the six European Community requirements. In summary, these requirements are to:
- i) promote competition in the provision of electronic communications networks and services, associated facilities and the supply of directories;
 - ii) contribute to the development of the European internal market;
 - iii) promote the interests of all persons who are citizens of the European Union;
 - iv) not favour one form of or means of providing electronic communications networks or services, i.e. to be technologically neutral;
 - v) encourage the provision of network access and service interoperability for the purpose of securing:
 - vi) efficient and sustainable competition;
 - vii) efficient investment and innovation;
 - viii) the maximum benefit for customers of CPs; and
 - ix) encourage compliance with certain standards in order to facilitate service interoperability and secure freedom of choice for the customers of CPs.
- 2.41 In doing so, Ofcom has to read these requirements in accordance with the requirements of Article 8 of the Framework Directive.²⁵
- 2.42 Article 6 of the Authorisation Directive allows Ofcom to set conditions containing 'consumer protection rules specific to the electronic communications sector, including conditions in conformity with Directive 2002/22/EC ('Universal Service Directive')'.²⁶ Ofcom's power to set conditions relating to consumer protection is not limited to the measures set out in that directive.

²⁵ Directive 2002/20/EC of the European Parliament and of the Council (as amended by Directive 2009/140/EC), 7 March 2002. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:108:0033:0033:EN:PDF>

²⁶ Directive 2002/20/EC of the European Parliament and of the Council (as amended by Directive 2009/140/EC), paragraph 8 of Annex A.

- 2.43 In that context, relevant considerations are contained in Article 30 of the Universal Services Directive.²⁷ Article 30 was subject to substantial changes as part of the revisions to the European Framework. Recital 47 to the 2009 Amending Universal Service Directive states:

'In order to take full advantage of the competitive environment, consumers should be able to make informed choices and to change providers when it is in their interests. It is essential to ensure that they can do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges and so on. This does not preclude the imposition of reasonable minimum contractual periods in consumer contracts, Number portability is a key facilitator of consumer choice and effective competition in competitive markets for electronic communications and should be implemented with the minimum delay, so that the number is functionally activated within one working day and the user does not experience a loss of service lasting longer than one working day. Competent national authorities may prescribe the global process of the porting of numbers, taking into account national provisions on contracts and technological developments. Experience in certain Member States has shown that there is a risk of consumers being switched to another provider without having given their consent. While that is a matter that should primarily be addressed by law enforcement authorities, Member States should be able to impose such minimum proportionate measures regarding the switching process, including appropriate sanctions, as are necessary to minimise such risks, and to ensure that consumers are protected throughout the switching process without making the switching process less attractive for them.'
(emphasis added)

- 2.44 Article 30 of the Universal Service Directive was consequently amended to include new provisions dealing with the porting of numbers as well as the following provisions about switching:
- i) competent national authorities shall .. take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not switched to another provider against their will.
 - ii) without prejudice to any minimum contractual period, Member States shall ensure that conditions and procedures for contract termination do not act as a disincentive against changing service provider.
- 2.45 Article 8 of the Framework Directive requires national authorities to ensure that when they carry out the regulatory tasks specified in the European Framework, they take all reasonable measures which are aimed at achieving a set of objectives set out in paragraphs 2, 3, and 4 and requires that the measures shall be proportionate to those objectives.
- 2.46 The objectives contained in paragraph 2 of Article 8 include that the National Regulatory Authorities ('NRAs') shall promote competition in the provision of electronic communications networks, electronic communications services, and associated facilities and services by (among others):

²⁷ Directive 2002/22/EC of the European Parliament and of the Council (as amended by Directive 2009/136/EC), 7 March 2002. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:108:0051:0051:EN:PDF>

- i) ensuring that users, including disabled users, elderly users, and users with special social needs derive maximum benefit in terms of choice, price and quality; and
 - ii) ensuring that there is no distortion or restriction of competition in the electronic communications sector, including the transmission of content.
- 2.47 The objectives contained in paragraph 4 of Article 8 also require NRAs to promote the interests of the citizens of the EU by (among others):
- i) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of dispute resolution procedures;
 - ii) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services; and
 - iii) addressing the needs of specific social groups, in particular disabled users, elderly users, and users with special social needs.
- 2.48 Article 6 of the Framework Directive requires NRAs to give interested parties a reasonable period to comment on any draft of measures they intend to take in accordance with the European Framework which have a significant impact on the relevant market.

Powers and duties in relation to GCs

- 2.49 Ofcom sets GCs to which all CPs in the category specified in that GC (e.g. providers of publicly available telephone services) must comply, although the specific requirements will depend on the nature of the service and the type of customer.
- 2.50 Section 45 of the Act gives Ofcom the power to set GCs which can only contain provisions authorised or required by one or more of Sections 51, 52, 57, 58 or 64 of the Act. Section 47(2) governs the circumstances in which Ofcom can set or modify a GC. It states that a condition can be modified where that is:
- (a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (c) proportionate to what the condition or modification is intended to achieve; and
 - (d) in relation to what it is intended to achieve, transparent.
- 2.51 Under Section 51(1)(a) of the Act, Ofcom can set GCs which make such provision as we consider appropriate for the purpose of protecting the interests of end-users of public electronic communications services. Under Section 51(2) this power includes the power to set conditions for that purpose which:
- i) ensure that conditions and procedures for the termination of a contract do not act as a disincentive to an end-user changing CP;

- ii) relate to the supply, provision or making available of goods, services or facilities in association with the provision of public electronic communications services;
- iii) give effect to Community obligations to provide protection for such end-users in relation to the supply, provision, or making available of those goods, services or facilities;
- iv) require the provision, free of charge, of specified information, or information of a specified kind, to end-users.

2.52 Ofcom's power to set conditions in order to protect end-users is not limited to the list of purposes set out in 51(2).

Application of the legal framework to switching processes

2.53 Ofcom's principal duty, in carrying out our functions, is to further the interests of citizens in communications matters, and consumers in relevant markets, where appropriate by promoting competition.

2.54 In the current context, our primary objective is to further the interests of consumers by protecting their interests as end-users of voice and broadband products delivered over the Openreach copper network. This document is primarily concerned with how Ofcom should seek to protect those interests where a consumer wishes to switch supplier.

2.55 We therefore consider the consumer's experience under current switching processes. We note in particular that under Section 4(5) of the Act Ofcom is under a duty to act in accordance with the Community requirement to promote the interests of citizens by ensuring a high level of protection for consumers in their dealings with suppliers. Pursuant to Sections 51 and 52 of the Act, we may set conditions for the protection of consumers, in particular:

- i) to ensure that the procedures for contract termination do not act as a disincentive against changing service provider,
- ii) to require the provision, free of charge, of specified information, or information of a specified kind, to end-users; and
- iii) to give effect to Community obligations to provide protection for consumers in relation to the supply, provision or making available of public electronic communications services. Such obligations include those contained in Article 30 of the Universal Services Directive (as amended), which require Member States to:
 - a) protect consumers throughout the switching process; and
 - b) ensure that consumers are not switched to another CP against their will. Our powers to act in this context are framed around the protection of consumers. In particular we may set conditions:

Structure of the remainder of this document

2.56 The rest of this document is structured as follows:

- Section 3 contains background information on the levels of switching fixed voice and broadband services, consumer research on the ease of switching, and a description of the current processes;
- Sections 4, 5 and 6 contain our updated analysis of the problems with the current switching processes:
 - Section 4 considers the problems of multiple processes, consumer difficulty and unnecessary switching costs and lack of awareness of the implications of switching;
 - Section 5 explains our analysis of the problems of insufficient customer consent, erroneous transfers, loss of service and lack of platform neutrality; and
 - Section 6 explains our views on reactive save.
- Section 7 summarises the updated descriptions of each option and contains our reassessment of their performance against the problems;
- Section 8 contains our policy decision;
- Section 9 consults on the details of our proposed GPL NoT+ solution; and
- Section 10 sets out the next steps for our work on switching.

2.57 The document is supported by the following annexes:

- Annexes 1 to 4 contain information about our consultation process, including how to respond to the consultation, and sets out the list of consultation questions;
- Annex 5 summarises our research into the consumer switching information provided on the websites of four CPs (BT, EE, Sky and TalkTalk);
- Annex 6 explains the details of calculations supporting our findings elsewhere in the document (which are contained in an accompanying spreadsheet);
- Annex 7 describes the options, some of which have been updated in the light of stakeholder comments on the 2012 Consultation;
- Annex 8 contains the details of our reassessment of the options against the problems;
- Annex 9 details CSMG's assessment of stakeholder responses to the cost estimates it produced for the 2012 Consultation;
- Annex 10 builds on this by presenting CSMG's updated assessment of the costs of the options;
- Annex 11 gives an overview of our proposed changes to the General Conditions of Entitlement and contains a notification of our proposals under Section 48A of the Act including the draft modifications to the GCs;
- Annex 12 describes implementation issues with the options as identified by Gemserv;

- Annex 13 lists the main sources of evidence used in this document;
- Annex 14 details the proposed switching model that SSE, TalkTalk and the FCS have submitted; and
- Annex 15 provides a glossary of the key terms used in this document.

Section 3

Current switching levels and processes

Introduction

- 3.1 In this section we set out updated data on switching levels based on industry data and then present the latest consumer research on the level and ease of switching fixed voice and broadband services and how this compares to other sectors. We also respond to high level stakeholder comments about whether consideration of possible intervention is appropriate in markets which are largely competitive.
- 3.2 The final part of this section describes the processes that are currently used for switching fixed voice and broadband services.

Background on switching

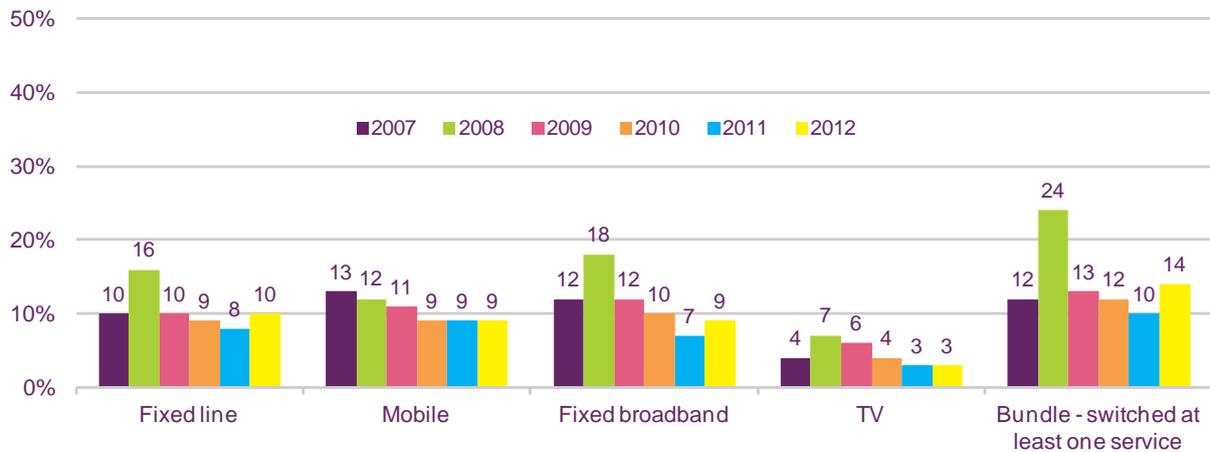
Switching levels

- 3.3 In the 2012 Consultation we reported that there were around 2.1m switches on Openreach infrastructure per year among residential users and small and medium-sized enterprises ('SMEs'), as estimated by CSMG.²⁸ However, in response to our 2012 Consultation, Charles Rivers Associates ('CRA') (on behalf of Sky, Virgin Media and BT) argued that CSMG had under-estimated the extent of switching of fixed line and broadband services on the Openreach copper network.²⁹ In the light of the evidence presented by CRA, we now estimate that there are around 2.8m complete switches on Openreach infrastructure per year (for detailed calculation of this figure see Annex 6). This revised figure is also more consistent with the views of the stakeholders about annual switching levels.
- 3.4 Ofcom's Consumer Experience Report 2012 ('CER 2012') (see Figure 3.1) indicates that switching levels between 2011 and 2012 remained broadly unchanged, with around one in ten consumers switching their fixed-line (10%), fixed broadband (9%) or mobile (9%) services in the last year, while 3% of consumers switched their main TV service. Among bundlers, 14% have switched provider for at least one of their services, up from 10% the previous year.
- 3.5 The Saville Rossiter-Base 2012 survey ('2012 decision making survey') finds that 59% of fixed broadband customers have never changed provider, and 43% of fixed broadband customers have been with the same provider for more than four years.

²⁸ CSMG Switching Options: An Assessment of Potential Costs, footnote 21.

²⁹ CRA Impact Assessment of Changes to Switching Options for Fixed Voice/Broadband Lines: An Economic Review, May 2012, (referred to as 'CRA impact assessment report'), paragraph 130. Available at: http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Charles_River_Associates_1.pdf

Figure 3.1 - Proportion of consumers who have switched in different communications markets in the past 12 months – across total markets regardless of purchasing method.



Source: Ofcom decision making survey carried out by Saville Rossiter-Base in July to August 2012. Base: All adults aged 16+ who are the decision maker for fixed line (2012, 1636) mobile (2012, 1714), broadband (2012, 1341), pay TV (2012, 1483), bundlers (2012, 1079).

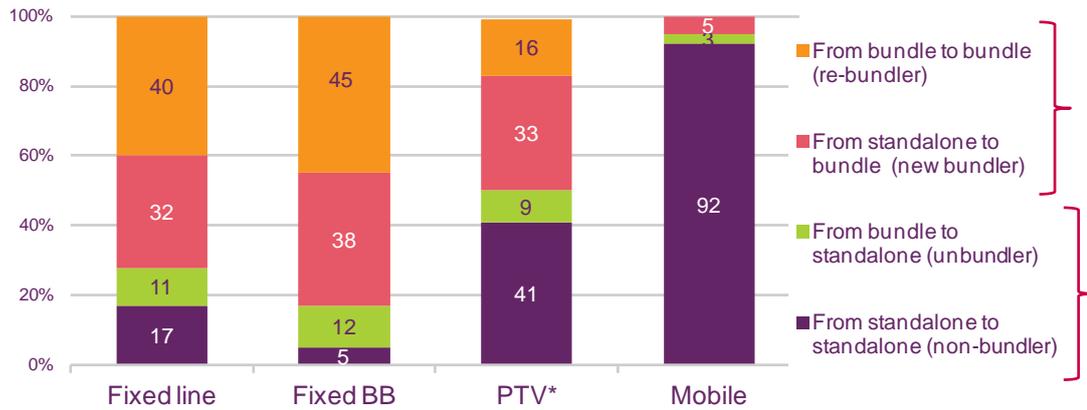
Note: trend not directly comparable due to change in methodology please treat as indicative only.

Note: The Bundle' category denotes those who have ended up with a bundle of communication services when they switched, even where they only switched a single service to create the bundle and includes switchers in each of the other markets who currently purchase this service as a bundle.

- 3.6 We noted in the 2012 Consultation that bundles are a growing feature of the market, with potential for a further increase in the proportion of consumers jointly purchasing communications services. Our consumer research 2010 found that there was a higher incidence of switching relating to services in a bundle (at 15%) than any of the standalone services; with 3% having switched the whole bundle and 13% switching individual services within or to their bundle of services in the last year.³⁰
- 3.7 While not directly comparable, more recent data and analysis from our 2012 decision making survey shows greater switching of entire bundles than was reported in the 2012 Consultation, with a third of all switching across communication services being for multiple services switched at the same time. Nearly three-quarters (72%) of switching in the fixed line market was due to consumers switching to bundles; 40% switched from one bundle to another, while 32% switched from a standalone fixed-line service to create a bundle. Among fixed broadband market switchers, 45% switched from one bundle to another while 38% switched this service to create a bundle. This analysis is not available from previous data sets.

³⁰ Consumer Switching and Bundling, Saville Rossiter-Base, September 2010, (referred to as 'Consumer research 2010'), Figure 1. Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf>

Figure 3.2 - Switching patterns within each market – amongst those who switched in last 12 months

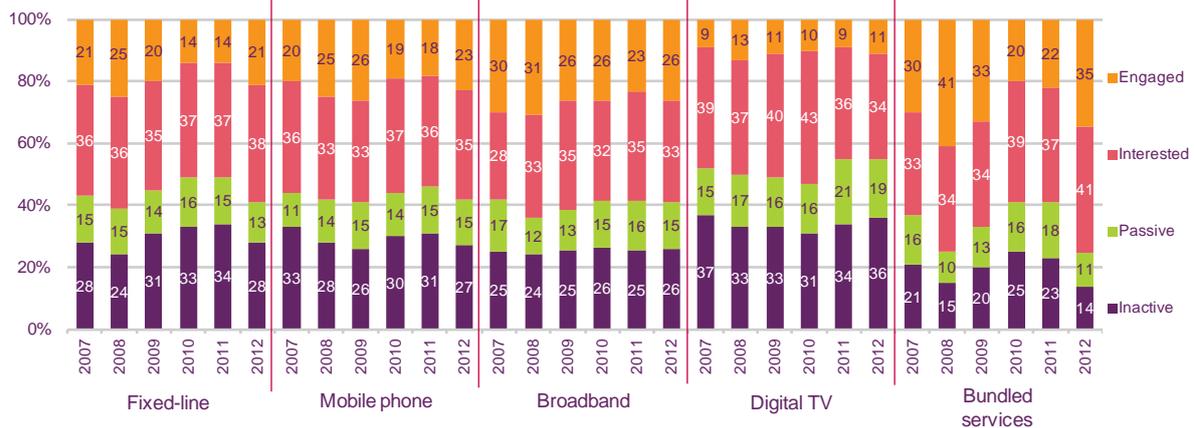


Source: Ofcom decision making survey carried out by Saville Rossiter-Base in July to August 2012. Base: All adults aged 16+ who have switched each service in the last 12 months: Fixed line (174), Fixed bb (142), Pay TV (*42), Mobile (139). * Low base for pay TV, treat as indicative only.

3.8 Household take-up of bundled services rose from 53% to 60% in the two years to Q1 2013. Bundled landline and broadband packages are the most popular, taken up by 27% of households.

3.9 In the 12 months to July 2011, levels of engagement (i.e. the extent to which consumers are switching, keeping an eye on the market and/or interacting with their CPs to negotiate a better deal) had risen in each of the mobile and fixed-line standalone markets. There was also a notable rise in engagement among bundlers - up from 22% to 35% over the same period. Bundlers also report some of the highest levels of ‘interest’, at 41%, compared to around a third in each of the standalone markets.

Figure 3.3 - Standalone purchasers and bundlers, by participation segments

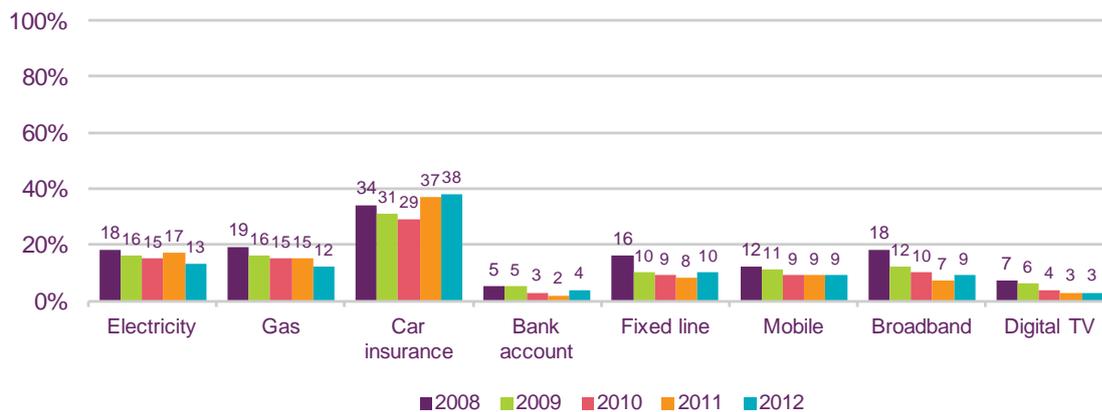


Source: Ofcom decision making survey carried out by Saville Rossiter-Base in July to August 2008, 2009 and 2010, June to July 2011.

Base: All adults aged 16+ who are the decision maker for fixed line, mobile, broadband, digital TV and bundled services. **NB Base amended from 2010 to exclude those who receive this service along with another service from the same supplier without receiving a discount. Base for broadband from 2010 represents those with fixed broadband rather than fixed or mobile broadband as in previous years. Too few interviews were conducted with those with mobile broadband to report these separately. Trend data may be affected by these changes.

- 3.10 We noted in the 2012 Consultation that, over the research period, consumers were most likely to have switched car insurance provider, followed by electricity and gas, then communication services. Only bank accounts experienced less switching than fixed voice, mobile or broadband services.³¹ The most recent data from this study, reported in the CER 2012, shows that consumers remain most likely to switch their car insurance provider (38%) but that the gap between switching levels in the communications market and utilities is closing. Yearly switching of fixed-line services (10%) is now broadly comparable with gas, and only marginally behind electricity (12% and 13% respectively).

Figure 3.4 - Proportion of consumers who switched communications (whole market) and utilities suppliers in the last 12 months (excluding movers)



Source: Ofcom decision making survey carried out by Saville Rossiter-Base in July to August 2008, 2009 and 2010, June to July 2011, July to August 2012.

Base: All adults aged 16+ who are the decision maker for fixed line (2008, 1424) (2009, 1356) (2010, 1419) (2011, 1741) (2012, 1636), mobile (2008, 1312) (2009, 1302) (2010, 1315) (2011, 1662) (2012, 1714), broadband (2008, 954) (2009, 914) (2010, 988) (2011, 1362) (2012, 1341), digital TV (2008, 1173) (2009, 1156) (2010, 1181) (2011, 1588) (2012, 1483), electricity (2008, 1309) (2009, 1226) (2010, 1286) (2011, 1624) (2012, 1635), gas (2008, 1125) (2009, 1069) (2010, 1119) (2011, 1423) (2012, 1421), car insurance (2008, 1107) (2009, 1019) (2010, 1069) (2011, 1387) (2012, 1382), bank account (2008, 1418) (2009, 1350) (2010, 1369) (2011, 1746) (2012, 1769). Too few interviews were conducted with those with mobile broadband to report these separately.

Ease and difficulty of switching

- 3.11 In the 2012 Consultation we highlighted that Ofcom research found that consumers switching at least some of the services in a bundle in 2011 were most likely to say that switching their CP was difficult (23%). They were also the least likely to rate switching as very easy (25%). Furthermore, switching fixed broadband services was deemed to be difficult for 15% of consumers while 9% of mobile and digital TV³² and 6% of fixed-line switchers reported difficulty switching.³³ In comparison, 4% of consumers who switched their car insurance or gas supplier said the process was difficult, while 8% of electricity switchers said the process was difficult.

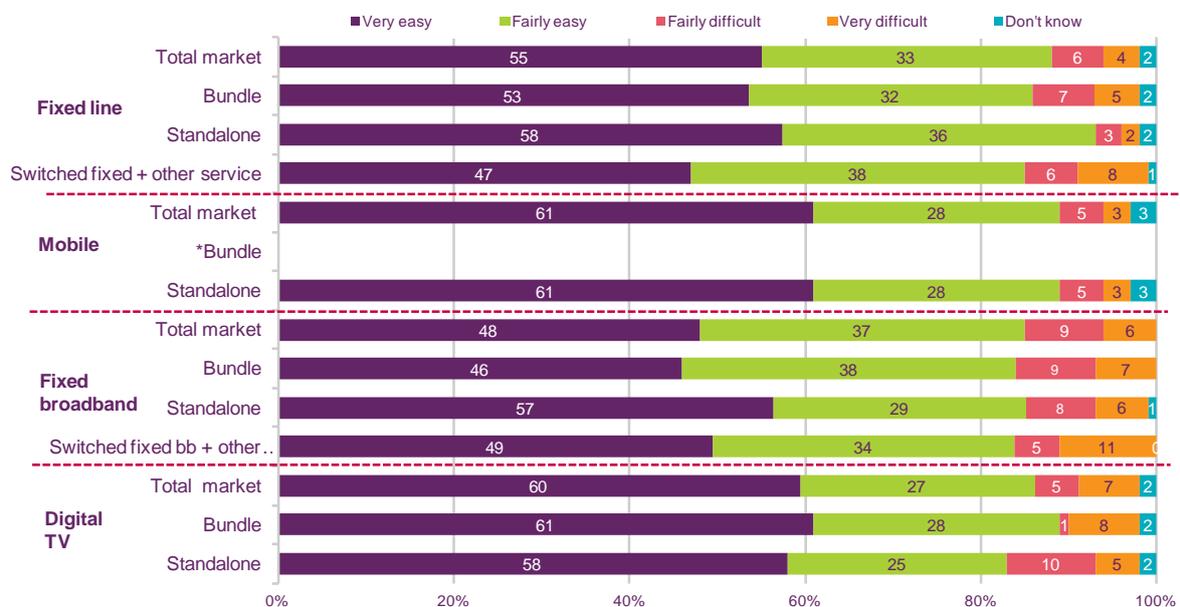
³¹ Consumer Experience Report 2011, 6 December 2011, Figure 134. Available at: http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-11/research_report_of511a.pdf

³² In this document the terms digital TV and pay TV are used interchangeably.

³³ Consumer Experience Report 2012, January 2012, (referred to as 'CER 2012'), Figure 135. Available at: http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-12/Consumer_Experience_Research1.pdf

- 3.12 Evidence from the CER 2012 shows that the fixed broadband market continues to report the highest levels of stated difficulty in switching (15%),³⁴ equal to that for bank accounts³⁵ (which has some of the lowest switching levels at 4%). Stated difficulty in fixed broadband is broadly consistent regardless of purchasing behaviour, or whether additional services are switched at the same time.
- 3.13 Although the fixed-line market generally reports less difficulty in switching than the fixed broadband market, in cases where fixed-line services are switched at the same time as at least one other service – most commonly fixed broadband – the stated difficulty in switching fixed-line services rises from 10% (for the total fixed-line market) to 14%. This is three times higher than the stated difficulty among standalone fixed-line customers (5%). This is consistent either with problems in managing multiple processes and/or issues relating to the fixed broadband switch which are having an impact on ease of switching for fixed-line customers who have switched a bundle or one other service at the same time. In the digital TV market the apparent differences between purchasing methods are not statistically significant.

Figure 3.5 - Consumer opinions on ease of switching supplier, among those who have ever switched (excluding movers) – whole market



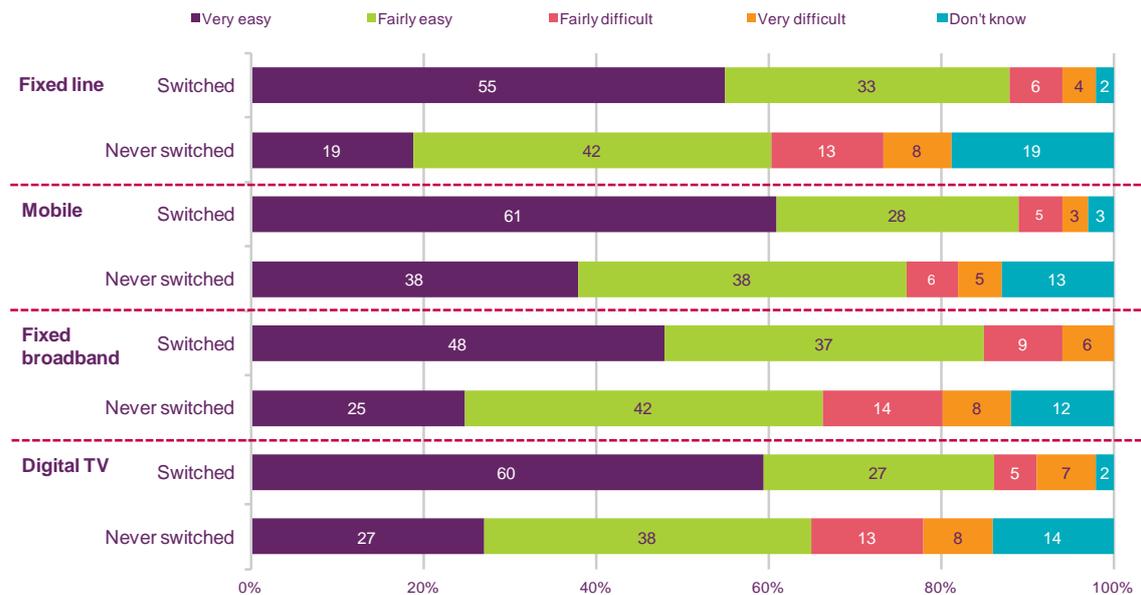
Source: Ofcom decision making survey carried out by Saville Rossiter-Base in July to August 2012. Base: All adults aged 16+ who are the decision maker and have ever switched provider. Fixed line - Total Market (801), Bundle (508) Standalone (196) Switched fixed + other service (98); Mobile - Total Market (722), Standalone (687); Fixed broadband - Total Market (455), Bundle (373), Standalone (**82) Switched fixed bb + other (103); Digital TV - Total Market (185) Bundle (105) Standalone (80**) * Too low to report ** Small base size, treat as indicative only

- 3.14 Among those that have never switched, around twice as many in the fixed-line and digital TV market perceive switching to be very or fairly difficult, when compared to those that have switched.

³⁴ This figure is 18% among consumers who have switched in the past 12 months which is not statistically significantly different to the 15% amongst all switchers.

³⁵ Consumer Experience Report 2012, Figure 121.

Figure 3.6 - Ease of switching supplier – perceived vs actual, by total markets



Source: Ofcom decision making survey carried out by Saville Rossiter-Base in July to August 2012. Base: All adults aged 16+ who are the decision maker and have ever switched provider for fixed line (2012, 508), mobile (2012, 61), broadband (2012, 373), digital TV (2012, 105). All adults aged 16+ who are the decision maker and have never switched provider for fixed line (2012, 394), mobile (2012, 966), broadband (2012, 228), digital TV (2012, 874). *Caution: Low base. Too few interviews were conducted with those with mobile broadband to report these separately.

The need for intervention by Ofcom

3.15 While some respondents to the 2012 Consultation agreed that there was a need for Ofcom to act to improve switching processes for consumers, others disagreed. In particular, CRA (instructed by BT, Sky and Virgin Media) argued that intervention in the switching processes for fixed voice and broadband services is unnecessary because the markets are already competitive and further market entry is unlikely.³⁶ CRA quoted evidence from BT and other sources to argue that there is already healthy price competition in the retail fixed voice and broadband markets. It also cited our Communications Market Report 2011 in support of arguments that large scale investment is currently being undertaken (and hence further competition is not necessary to improve investment incentives), and that the relevant retail markets are already competitive and mature. Telefonica made similar arguments.

3.16 As set out in Section 2, our focus in considering switching processes is the way in which those processes work from the perspective of the consumer, and whether they sufficiently protect consumers' interests. It is also clear that switching processes can have a broader impact on the competitive process. Efficient switching processes are an important part of competitive markets both in terms of:

- making it easier for consumers to move to a preferred provider to take advantage of competitive choice in the market (i.e. benefits such as lower prices or better service quality); and

³⁶ CRA Assessment of the Use of Reactive Save Activity by Suppliers of Fixed Voice and Broadband Services, May 2012, (referred to as 'CRA reactive save report'), Section 5.1. Available at: http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Charles_River_Associates_2.pdf

- enabling expansion for efficient CPs within the market where they already operate and/or removing unnecessary barriers to their successful entry into new markets. In this way, new or innovative CPs can challenge incumbents. This gives all CPs an incentive to innovate and to make improvements to current products and services.
- 3.17 As discussed in the 2012 Consultation, we have identified a number of problems with the existing processes for switching fixed voice and broadband providers on the Openreach copper network that are resulting in both direct and indirect consumer harm.³⁷
- 3.18 We agree that we must, in considering the potential for regulatory action, have regard to the possible impact on competition, and our work on switching has been focussed both on the need to ensure a good consumer experience of switching processes, and to ensure that switching processes do not create competitive distortions. We also agree that the markets for fixed voice and broadband at the retail level can be regarded as competitive, and that we should not seek to intervene unless action is needed.³⁸ We do not, however, accept that the competitiveness of the relevant markets in itself negates any need to act in this area. We observe in particular:
- Our principal concern in this document remains the protection of consumer interests with respect to switching processes. A competitive market does not necessarily guarantee good switching processes or that industry has the right incentives to make the switching journey smooth. It may be the case therefore that proportionate action is required to protect consumer interests, notwithstanding a finding that the market is broadly competitive.
 - Where consideration of the position of the consumer leads Ofcom to consider intervention, it is appropriate for Ofcom to take into account the competitive nature of the market, and the potential for intervention to disrupt competition. We note in that context that around 90% of migrations on the Openreach copper network currently go through the GPL NoT.³⁹ If the current competitive nature of the market is positively impacted by the structure of the switching process, then this will be the result of an underpinning by a GPL process.
 - We consider that the extent of competition in a market must in any event be regarded as a continuum, so that it will normally be the case that there is scope for the intensity of competition to increase.
- 3.19 In addition we recall that stakeholders have asked us a number of times to examine the switching processes for fixed voice and broadband services, and that there was general consensus at our stakeholder workshop on consumer switching in October 2009 that the current processes do not deliver the best outcomes for consumers and thus there was a need for change.
- 3.20 There are however, some clear challenges to addressing the switching process. The processes depend on complex interactions between stakeholders. To some extent

³⁷ 2012 Consultation, Section 4.

³⁸ Ofcom's Fixed Access Market Reviews: wholesale local access, wholesale fixed analogue exchange lines, ISDN2 and ISDN30 (published 3 July 2013), (referred to as 'Fixed Access Market Reviews 2013'). Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/fixed-access-market-reviews/summary/fixed-access-markets.pdf>

³⁹ Excludes use of C&R process to switch providers within Openreach copper network, the processes and the derivation of this figure are explained in the next sub-section.

the rules governing the processes are governed by aspects of existing GCs, but the existing position has evolved mainly through cooperation between stakeholders rather than being imposed through a central form of regulation.

- 3.21 As set out in Section 2, Ofcom acts in this area through GCs applicable to providers of fixed voice and broadband services. It does not itself have the ability to operate a switching system.
- 3.22 While there was general agreement in response to our 2012 Consultation that there should be a single harmonised switching process,⁴⁰ there was no industry consensus on what this switching process should be. This is unsurprising because, as noted in our September 2010 Consultation:⁴¹
- a) the characteristics of the market require CPs to co-ordinate their actions when consumers are in the process of switching, but
 - b) CPs lack the necessary incentives to co-ordinate their actions to achieve a positive outcome for consumers.
- 3.23 When the incentives of CPs to agree on a common switching process are not sufficiently aligned it makes it difficult for the industry to resolve its co-ordination problem on its own. Regulatory intervention may therefore be required. For example, the current system may give rise to relatively strong positions for some CPs, and these CPs are unlikely to want to give up their positions of strength through any changes to switching processes. Furthermore, even if there is a common interest among industry CPs, this interest is not necessarily aligned with consumers' interests. In these circumstances, CPs may agree upon a common switching process which favours CPs rather than consumers.
- 3.24 In this document we consider the most appropriate way to further the interests of consumers and improve switching processes, taking into account the above issues, and any risks associated with the implementation of improvements that they bring. By taking a policy decision on this we provide the strategic direction that has been requested by stakeholders.

Current switching processes

Introduction

- 3.25 In this part of the section we set out the processes that are currently used for switching fixed voice and broadband services. We then explain the processes that the industry has developed for switching bundles, for number portability and WLTs.
- 3.26 Currently consumers use three different processes for switching fixed voice and broadband services on the Openreach copper network. These are:
- GPL NoT;
 - LPL MAC; and
 - Cease and Re-provide ('C&R').

⁴⁰ With the exception of Virgin Media.

⁴¹ 2012 Consultation, paragraph 2.33.

- 3.27 The GPL NoT and LPL MAC processes are industry-agreed migration processes which help CPs to co-ordinate a switch and is led by the GP or the LP. The C&R process is used where there is no agreed industry processes where the customer has to contact both GP and LP, and therefore is not considered as a migration process as such.⁴²
- 3.28 As discussed in paragraph 3.3 above, we estimate that there are around 2.8m completed switches on Openreach's infrastructure per year. Our consumer research 2010 suggests that the vast majority of switches (75%) went through the GPL NoT process, 7% went through the LPL MAC process and 18% went through C&R (as presented in the Table 3.1 below).⁴³

Table 3.1: Share of switches by current processes

Switching process	Share of switches
GPL NoT	75%
LPL MAC	7%
C&R	18%

Source: Ofcom consumer research 2010.

- 3.29 This split of all types of switches is consistent with information on the breakdown between the GPL NoT and LPL MAC migrations processes. Recent Openreach data show that around 90% of migrations go through the GPL NoT process and around 10% go through the LPL MAC process, which gives roughly the same ratio of GPL NoT switches to LPL MAC switches as the split in Table 3.1 above.⁴⁴
- 3.30 The switching process used depends upon the services being switched (fixed voice, broadband or both) and the underlying wholesale service and technology used by the GP and the LP.
- 3.31 In addition to these three switching processes, industry has developed processes to ensure that orders of bundled services (such as voice and broadband) are linked, through the Linked Orders or the Parallel Orders processes. There is also a process in place to support the transfer of services when moving homes, the WLT process.
- 3.32 Each of these main and additional switching processes is described in detail in Section 3 of the 2012 Consultation. The 2012 Consultation also provides the process flow for each option, an explanation of how the relevant asset is identified and any applicable Ofcom regulations. As the processes and underlying regulations have not changed, we will not go into the same level of detail here. Instead we will provide a brief description of each process, the extent to which it is currently used and any developments since the publication of the 2012 Consultation.

⁴² Although C&R process is not a migration process as such, it is currently the only process available for certain customers wishing to switch their CPs. In the light of this, we consider C&R process to be relevant to this review of customer switching.

⁴³ These figures are based on Ofcom's consumer research 2010, but as explained in footnote 365 of the 2012 Consultation we use a bespoke calculation which includes C&R switches between CPs using Openreach wholesale services but excludes switches to and from Virgin Media on its cable network.

⁴⁴ These figures are based on s135 data from Openreach and relate to GPL NoT and LPL MAC switches.

- 3.33 These processes currently support switches of voice and broadband services provided over PSTN,⁴⁵ WLR,⁴⁶ MPF⁴⁷ and SMPF.⁴⁸ They have been extended to apply to Superfast Broadband ('SFBB') services provided over Openreach's FTTC network (using a wholesale product called Generic Ethernet Access ('GEA')).⁴⁹ Voice services provided alongside the SFBB service are still provided using MPF or WLR.

GPL NoT

- 3.34 In the GPL NoT⁵⁰ process the consumer only needs to speak to the GP in order to switch. The GP places the order via an interface provided by their wholesale CP or a Third Party Integrator ('TPI'), using the information provided by the customer to identify the asset.⁵¹ This is typically the customer's Caller Line Identification ('CLI')⁵² – i.e. their telephone number – and their address.
- 3.35 Once the order has been validated by Openreach, it is processed and notification of an impending switch is sent to both the GP and the LP. This notification process allows the LP to inform the consumer of any implications of switching e.g. any termination charges that may apply. The customer will receive letters from both the GP and the LP to inform them of the switch.
- 3.36 Consumers have a ten day transfer period⁵³ from the point at which they placed their order. The switch can be cancelled if the customer changes their mind, by contacting the GP or through contact with the LP in cases where they have not consented to the attempted switch.
- 3.37 The GPL NoT process is currently used for switches to or from an MPF line (providing both fixed voice and broadband services) and for switches of WLR services (used to provide voice-only services). As shown in Table 3.1 above, GPL NoT is the most commonly used switching process on the Openreach copper network. The detail of this process is explained in full in paragraphs 3.3 to 3.10 of the 2012 Consultation.

LPL MAC

- 3.38 In the LPL MAC process the consumer needs to first contact their current provider and request a MAC, which must be issued within five working days of the request.

⁴⁵ Public Switched Telephone Network – BT's fixed voice service.

⁴⁶ Wholesale Line Rental – wholesale fixed voice service provided to other CPs by Openreach.

⁴⁷ Metallic Path Facility – wholesale unbundling product provided by Openreach, giving the CP control of both voice and broadband services.

⁴⁸ Shared Metallic Path Facility – wholesale unbundling product provided by Openreach, giving the CP partial control of the line, usually for broadband services.

⁴⁹ GEA is the wholesale product sold by Openreach for CPs to provide SFBB services on FTTC or FTTP. For services on FTTC, it must be sold alongside a voice service which can be provided using MPF or WLR. Hence for FTTC customers, MPF will only be used to provide voice services (rather than both voice and broadband as for current generation services). To distinguish this from the variant of GEA used on FTTP, this is sometimes called GEA-FTTC.

⁵⁰ We use the term GPL NoT to refer to the switching process used for migrations between CPs that are currently covered under the existing GC 24. We note that GC24 also covers situations when the consumer is moving home and switching CP at the same time.

⁵¹ 'Asset' refers to the individual fixed line or broadband service to be switched

⁵² Customer Line Identification ('CLI') is the unique reference of a communications endpoint (normally a telephone number).

⁵³ The transfer period is defined within the GCs 24.19 (n) as the period of ten working days before a customer's order can be activated. It begins when an electronic notification with details of the impending switch is sent from the relevant access operator to both GP and LP.

Once issued, a MAC is valid for 30 days. The consumer then gives the MAC to the GP of their choice, who validates it and the GP uses the code to complete the switch. Even where the consumer acts immediately upon receiving the MAC, the length of time for the switch can be up to ten days (as the lead time is up to five working days to receive the code and a further five days for the switch to take place once the consumer gives the MAC to the GP).

- 3.39 This process is currently used only for broadband switches, both as a standalone service or as part of a bundle of services, in cases where both the GP and the LP are using either BT Wholesale's IPStream product or the Openreach SMPF product. Based on our consumer research 2010, as shown in Table 3.1, we estimate that, in 2012, 7% of all completed switches on the Openreach copper network used this process. This process is explained in paragraphs 3.11 to 3.17 of the 2012 Consultation.

C&R

- 3.40 C&R involves the cessation of the existing service, with a new service being installed by a different CP. This process is usually managed by the consumer, who will have to contact the LP to terminate their existing services and to arrange the provision of new services with the GP. We expect to see C&R where there is no agreed industry process in place to support switching of services, for example where services are switched between different network infrastructures (e.g. Openreach's copper network and Virgin Media's cable network).
- 3.41 C&R is also used for some switches within the Openreach network, where one of the CPs involved in the switch does not support an agreed industry migration process for particular order types or where the CP is unsure of the correct process to follow.
- 3.42 As C&R is used in the absence of an agreed switching process, there is no industry data about the proportion of switches which use this method. GPs will see the transfer as a new provide and the LP will only see a request for a cease from their customer. However, based on our consumer research 2010 we estimate that around 18% of all completed switches on Openreach copper network went through C&R (see Table 3.1 above). This process is set out in paragraphs 3.18 to 3.20 of the 2012 Consultation.

Switching Bundles

- 3.43 The GPL NoT and LPL MAC switching processes described above were originally designed for switching single services. In order to be able to follow the industry recommended process for switching bundles, CPs need to support the tactical fixes that have been developed. These adaptations were described in paragraphs 3.21 to 3.24 in the 2012 Consultation.
- 3.44 Depending on the way retail CPs supply their voice and broadband services, consumers may need to follow only the GPL NoT process or both the GPL NoT and LPL MAC process to switch a bundle of fixed voice and broadband services. Only GPL NoT is required where the customer is moving to or from a bundle delivered over MPF.
- 3.45 Where the customer is switching away from a bundle on MPF to services provided on two separate wholesale services, for example WLR for voice and SMPF for broadband, industry has developed the Linked Orders ('LO') process (which is also

referred to as the SIM Provide process)⁵⁴ in order to link the two separate orders and deliver them around the same time. Where the LO functionality is not supported by the GP, the services will be transferred sequentially and the consumer will suffer a loss in service.

- 3.46 Where the LP and GP both use two wholesale services for voice and broadband (e.g. WLR and SMPF/IPStream) the consumer will need to follow both the GPL NoT and LPL MAC process. Industry has developed a Parallel Orders ('PO') process for this scenario, where the two separate orders can be managed together. Under this process it is the GP's responsibility to manually manage the sequencing of the delivery of the services and to minimise the loss of service. Where the GP does not adopt this process, the services will be transferred sequentially and the consumer will suffer a loss in service.

Number Portability

- 3.47 GC 18 currently sets out the obligations on CPs to allow consumers to retain their telephone number(s) when they change CPs. GC 18.1 requires CPs to provide number portability 'within the shortest possible time, including subsequent activation, on reasonable terms and conditions, including charges, to any of its Subscribers who so request'.
- 3.48 Where CPs are offering services which are not provided over the Openreach 'managed' network (e.g. MPF), it is necessary for CPs to enter into bi-lateral porting agreements with each other in order to be able to provide number portability. Currently, where consumers switch between particular CPs they may not have the option of taking their number with them. This may either be due to an absence of porting arrangements or due to CPs not having undertaken the necessary systems changes required to support number portability.
- 3.49 We continue to monitor CPs' developments in this area and have highlighted that the requirements to provide number portability are clear, and that we will take enforcement action where appropriate.

WLT

- 3.50 Although not designed as a switching process, industry has also developed the WLT process for homemovers to manage the transfer of the active line from the outgoing user to the incoming user. We believe that homemovers are an important part of consumer switching and so we have analysed this process in this review. In this document we use the term GPL NoT to refer to the switching process used for migrations between CPs that are currently covered under the existing General Condition 24. GC 24 also covers situations when the consumer is moving home and switching CP at the same time.
- 3.51 The WLT process allows the incoming customer moving into the property ('inbound consumer or End-User') to request their services from their chosen CP (the GP), providing that this takes place at least ten working days before the home move date. At the same time, the consumer also needs to talk to their LP to inform them of the

⁵⁴ SIM Provide is a general functionality which allows CPs to link together a separate order of voice and broadband to be delivered to the customer.

move.⁵⁵ The process applies to consumers that are moving home and staying with the same CP and also when moving home and changing CP.

- 3.52 From an industry perspective this process is very similar to the GPL NoT process, in that it uses the same Openreach database to identify the target asset and the LP is notified of the transfer in the same way as in the GPL NoT process. Alternatively, if there is already a cease on the line, created by the CP of the outgoing consumer, the incoming user can request a WLT within ten working days of the homemove.

⁵⁵ The Customer moving out of that property is known as the “Incumbent End-User” and the Communications Provider that is providing Communications Services to the Incumbent End-User would be referred to as the “Incumbent Communications Provider”.

Section 4

Problems faced by consumers (Part 1)

- 4.1 In this section and Sections 5 and 6 we update our analysis of the problems we have identified with the current switching processes. All of these problems affect consumers in some way. In some cases, the impact on consumers is the result of interactions directly between a consumer and a CP (e.g. communications about the implications of switching). We have grouped these problems together in Section 4. In other cases, the consumer is affected by the actions of, and interactions between, LP and GP and sometimes Openreach (for example, ETs). We look at these problems in Section 5. Finally, having considered the direct impacts on consumers in this way, in Section 6 we turn to the indirect impacts of risks to competition created by problems with LPL switching processes.
- 4.2 For each of the identified problems, we summarise our analysis of the problem in the 2012 Consultation. We then summarise stakeholder responses, followed by details of any new evidence. As part of the process of taking into account the responses to the 2012 Consultation, we have revisited and extended our evidence, and have taken into account new evidence produced as part of the regular information-gathering exercises and surveys that Ofcom carries out. In the light of this, for each of the problems we set out a summary of the key new evidence that has had important implications for our analysis of the problems.
- 4.3 We then provide our final analysis and conclusions on each problem, in the light of all the available information.
- 4.4 This section considers the following problems:
- multiple processes for switching the same service/bundle of services;
 - consumer difficulty in switching and unnecessary switching costs; and
 - lack of consumer awareness of the implications of switching.
- 4.5 Section 5 considers the following problems:
- insufficient customer consent;
 - erroneous transfers;
 - loss of service; and
 - lack of platform neutrality.
- 4.6 Section 6 considers the problem of reactive save activity.

Multiple processes for switching the same service/bundle of services

Introduction

- 4.7 In this section we focus on the problems that arise from the current use of multiple processes for switching fixed voice and broadband services over the Openreach network. In some cases, different processes are used for switching the same type of service, depending on the way the service is provided. In certain circumstances multiple processes are needed to switch bundles of services. This is the result of developments in communications services over time, and the introduction of switching processes with new products at different times.
- 4.8 Based on our analysis of existing and new evidence and stakeholder responses we believe that multiple switching processes cause harm to consumers as their existence creates confusion and a lack of clarity for consumers about which process to follow and additional complexity and hassle for consumers when switching bundled services. Multiple switching processes also create challenges for a CP to give definite information to consumers on the correct advice to follow.
- 4.9 We believe that multiple processes increase costs for CPs, which are ultimately borne by consumers, and that this may lead to some CPs having a competition advantage or disadvantage relative to others. By contrast, a single switching process is likely to lead to lower consumer costs, be more efficient and address the lack of competitive neutrality that arises from multiple processes,

Summary of the 2012 Consultation

- 4.10 In the 2012 Consultation we identified a number of issues arising from the lack of a single harmonised switching process:
- a lack of clarity for consumers about what they need to do to switch when faced with multiple switching processes, which is likely to have an effect on perceptions about the level of difficulty and hassle involved in switching;
 - added complexity and difficulty for consumers switching bundles because multiple processes may have to be followed simultaneously;
 - in certain circumstances it may be challenging for CPs to correctly advise consumers of the correct switching process to follow;
 - CPs may not be able to correctly advise consumers of the appropriate switching process in the future as new technologies are rolled out;
 - inefficient industry costs are incurred by both GPs and LPs, costs which may ultimately be borne by consumers; and
 - lack of competitive neutrality across CPs depending on the proportion of customers switching to and from them using the different processes.

Lack of clarity and perceptions about the level of difficulty for consumers when switching

- 4.11 In the 2012 Consultation we noted there was a general lack of clarity for consumers on how to switch. This is because, as detailed in Section 3, there are several different switching processes which may apply to consumers switching fixed voice and/or broadband provider and which switching process should be used is dependent on factors which are not obvious to the consumer. For example where a consumer switches broadband services where both the GP and LP are using SMPF the LPL MAC process is used. However, if the consumer switches their broadband from or to a CP using MPF the GPL NoT process will be followed.
- 4.12 We argued that lack of clarity was less of a problem if, when a consumer wants to switch, they can easily find out what they need to do, but we observed that it was currently challenging for consumers to access clear and simple information about what they needed to do to switch. We explained that the confusion generated by the use of multiple processes could lead to a lower proportion of consumers actively considering a switch, or moving to their preferred CP and the service that best meets their needs.
- 4.13 We cited the following evidence in support of our concerns:
- Around one third (34%) of those who had not switched or had not considered switching provider in the last 12 months and felt switching providers was too much hassle raised concerns about knowing which steps they needed to take to switch provider.⁵⁶
 - Around one third of those who had considered switching but had not done so in the previous 12 months ('considerers') said they did not know what process they would need to go through to switch to another provider (38% fixed voice and 31% broadband).⁵⁷ Of these consumers, 6% for fixed voice and 1% for broadband said that not knowing what process they would need to go through to switch or that the process being daunting, messy or complicated were factors in them subsequently deciding not to switch.
 - 9% of broadband and 8% of fixed voice switchers stated they had difficulty in knowing what steps they needed to take to switch.⁵⁸
 - Our broadband consumer research 2011 identified that 8% of those considering switching broadband as a standalone service or as part of a bundle decided not to switch as they were 'worried about the process'.⁵⁹
 - As stated in our 2012 Consultation, two stakeholders said that they had come across a lack of clarity amongst customers regarding when, for their bundled service, they need to provide a MAC and when they don't. Our broadband consumer research 2011 found that:

⁵⁶ Consumer research 2010, Figure 22, page 30.

⁵⁷ Consumer research 2010, Figure 26, page 36.

⁵⁸ Consumer research 2010, Figure 14, page 23, and Figure 16, page 24.

⁵⁹ Fixed Broadband Switching Research, 2011, (referred to as 'broadband consumer research 2011'), Slide 46. Available at http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack.pdf

- 1% of broadband switchers said they had contacted the LP to get a MAC when they did not need one under the GPL NoT process; and
- 65% had spent time contacting the LP to cancel their contract when under the GPL NoT process this is carried out by the GP on behalf of the consumer.⁶⁰

Increased consumer costs for switching bundles

4.14 We raised concerns that multiple processes add complexity and increase switching costs⁶¹ (referred to as ‘hassle’ in the 2012 Consultation) for consumers switching bundles because these multiple processes may have to be followed simultaneously. Where a consumer switches their fixed voice and broadband bundle of services between two CPs both using WLR/SMPF, the consumer will be required to follow a GPL NoT process to migrate the voice element and the LPL MAC process to migrate the broadband.

Limitations in CPs’ ability to advise consumers of correct process

- 4.15 We recognised in the 2012 Consultation that in certain circumstances there were limitations in the LPs’ ability to advise consumers of the correct process. This is because, while they may know the way the services are currently delivered, they may lack the information about what wholesale service a GP will use to supply the new service. As a result LPs often advise broadband consumers to request a MAC and will issue one which the consumer may or may not use.⁶² We stated that this results in additional costs to consumers and CPs.
- 4.16 We argued that GPs should be able to provide the correct advice to consumers about the process to follow to switch, but that the different processes used meant it could be difficult for the prospective GP to give definite information to the consumer about next steps. While GPs use the CLI (i.e. telephone number and postcode/address) and the Obtain Installation Details (‘OID’) checker on the Openreach Dialogue Services (‘DS’)⁶³ to help ensure the correct customer and services are identified, this check may fail which results in the GP advising the consumer to use the wrong switching process. Where the GP’s agent does not have this information at the point of sale and provides the wrong information to the consumer this may result in additional costs for the consumer and the GP.

Limitations in CPs’ ability to advise consumers of the correct process may worsen as new technologies are rolled out

4.17 We expressed concern that it may become more difficult for GPs to advise consumers on the right processes as FTTC and FTTP technologies are rolled out and where other new technologies (or new combinations of existing technologies) are introduced. This is because the lack of a visible CLI in the Openreach database could

⁶⁰ Broadband consumer research 2011, Slide 14.

⁶¹ By switching costs we mean costs incurred by the consumer as a result of changing supplier that would not be incurred by remaining with the current provider. Unnecessary switching costs lead to a poor consumer experience of switching, as we explain in the following sub-section.

⁶² In response to a formal information request in March 2011 a few providers indicated that, as a LP, where they lack the information about what technology a GP will use to supply the customer’s service, they will usually advise broadband consumers to request a MAC and will issue one which the consumer may or may not use.

⁶³ Openreach DS is a unique set of Openreach services offered to support dialogues between CPs and their customers for order provisioning and service assurance. They allow CPs to read, write and update relevant data before either placing an order or raising a fault.

be due to the existing service being delivered over one of three different technologies (MPF, MPF+FTTC or FTTP) which each require different switching processes to be followed which the GP would not be able to determine. This lack of clarity among CPs over what advice to give to consumers is likely to lead to inefficiencies and extra switching-related costs for both consumers and industry.

Inefficient industry costs

- 4.18 We noted that the use of multiple switching processes can result in inefficiencies and increased costs for the industry which may ultimately be borne by consumers. Firstly, inefficiencies may arise from the costs of running multiple processes rather than a single harmonised process. Secondly, additional resources may be spent by CPs issuing MACs when they are not required, having to reverse incorrectly advised processes, or reverting to the C&R process to enable the switch to occur. We explained that we believed that it was likely to be more efficient for all CPs to run the same harmonised process for all switches.

Lack of competitive neutrality

- 4.19 In the 2012 Consultation, we expressed concerns that the presence of multiple switching processes could distort competition between CPs due to a lack of competitive neutrality, and hence lead to ‘winners’ and ‘losers’. Lack of competitive neutrality arises from the variation in relative ease or difficulty between switching processes in how firms gain or lose customers. For example, for a given amount of marketing spend, a particular firm would find it relatively hard to gain customers if they tend to use a LPL process to gain customers, while they would also find it hard to retain customers if their customers tend to switch away under a GPL process. We cited evidence from one CP which noted that much fewer initial orders were completed when the customer needed to provide a MAC in order to switch.⁶⁴ We considered that that this evidence was consistent with CPs having higher customer acquisition costs under the LPL MAC process.

Stakeholder responses

Lack of clarity and perceptions about the level of difficulty for consumers when switching

- 4.20 The majority of respondents (including BT, Consumer Focus, Everything Everywhere (‘EE’) and Which?) agreed with the consumer benefits outlined by us in moving to a single process, specifically improvements in customer experience and the perception of ease of switching. However, Sky and Telefonica claimed that intervention was unnecessary because most switchers regard the process as straightforward and easy. We cover these responses and our assessment of this point in detail in the ‘Consumer difficulty and unnecessary switching costs’ section below.
- 4.21 Virgin Media acknowledged that there may be a lack of clarity among consumers as to the exact process when switching fixed and broadband services, but argued that we have not demonstrated that this prevents them from switching in our consumer research or that multiple processes have led to a lower proportion of consumer

⁶⁴ A sample check of one provider on one week’s worth of sales in early April 2010 found that of 45 sales that were keyed in as requiring a MAC to switch, only 10 became customers – this implies a 78% cancellation rate.

switching.⁶⁵ A similar argument was made by Entanet. Furthermore, Virgin Media highlighted that Ofcom's 2012 decision making survey suggests the main reason inactive consumers do not switch was due to inertia rather than the actual switching process.⁶⁶

Increased consumer costs for switching bundles

- 4.22 Fourteen stakeholders made references to the consumer experience of switching a bundle of services using multiple processes. These stakeholders consisted of eight consumer groups and six CPs. All agreed that the need for consumers to navigate more than one process simultaneously when switching a bundle of fixed voice and broadband creates a poor customer experience. BT, for example, stated that any confusion associated with the current multiple processes is exacerbated if the customer wants to switch a bundle of services and this may ultimately deter a consumer from switching. Also, SSE agreed with our analysis that problems caused by switching one service using one process may have an impact on the other service (or services) that is being switched even though the process for switching that service (or those services) on a stand-alone basis would not present problems.
- 4.23 Several respondents noted that the increased hassle encountered by consumers is likely to get worse as take-up of bundled services increases and new combinations of bundled services are introduced. Telefonica welcomed our conclusion that the hassle associated with switching bundled services is likely to worsen as demand increases.

Limitations in CPs' ability to advise consumers of correct process

- 4.24 There was a mixture of responses on whether CPs were able to adequately advise the consumer on the correct switching process to employ based on the wholesale services used by CPs to provide these services, such as MPF, SMPF, WLR etc. Some respondents ([&], TalkTalk, Zen, Virgin Media) expressed confidence in their ability to give consumers the right information, although Zen stated this was dependent on the line information of existing services being accurate and up-to-date on Openreach's DS at the time. Entanet said that advising consumers was not particularly difficult, while Cable&Wireless ('C&W') highlighted that providing information could be challenging with regards to large businesses with multiple services.
- 4.25 EE, Magrathea Telecom, and SSE highlighted their own issues with trying to give the correct advice.⁶⁷ EE explained that the current process of assuming a customer is on MPF when the CLI is not present on Openreach's DS system is not foolproof. They argued that it cannot be assumed that, because the CLI is not in Openreach's system, the customer is on MPF as mismatches between the address provided by the customer and addresses on DS can occur. An instance where a prospective customer is with an MPF provider but is not necessarily on an MPF network is also cited as a problem by EE, although in this case the CLI should appear on the DS system.

⁶⁵ Consumer research 2010, Figure 24 page 33 – only a small proportion (1-2%) which considered any aspects of the switching process to be too much hassle mentioned lack of clarity as a significant problem.

⁶⁶ Consumer research 2010, Figure 23, page 32.

⁶⁷ Magrathea Telecom do not offer WLR3 and therefore do not have access to Openreach DS, while SSE argued it is more difficult for non-LLU CPs to find definitive information on unbundled customers in order to provide appropriate advice to these customers about switching back to their Openreach-based products.

- 4.26 Ombudsman Services stated it had seen, albeit currently still at a low level, cases where the GP had advised the customer of the wrong process.⁶⁸ Based on its caseload, Ombudsman Services explained that it believes that increases in the number of complaints about problems arising from the switching process are due to the growing number of service options and resultant increased complexity of migration, coupled with increased volume of migrations, and that this is likely to worsen.⁶⁹

Limitations in CPs' ability to advise consumers of the correct process may worsen as new technologies are rolled out

- 4.27 Several respondents (BT, Three UK, FCS, and TalkTalk) agreed with our assessment that the ability for operators to give the correct advice was likely to deteriorate given the future rollout of new technologies and services. EE stated the rollout of new technologies will add further complexity when advising customers as the number of scenarios will increase exponentially.⁷⁰ EE pointed to the introduction of Next Generation Access ('NGA') which it argued has already brought added confusion as it is 'virtually impossible for customers to move from fibre to ADSL with a different provider - because ADSL and fibre MAC keys are not 'interoperable''.⁷¹
- 4.28 Entanet, while recognising that complexity could increase, stated it did not believe it will become a significant issue, while Virgin Media disagreed that GPs will find it more difficult to advise consumers as a result of new technologies or combinations of technologies. Virgin Media noted that the processes for switching on FTTC have been built on current switching processes; it will therefore be as easy or difficult to inform customers of the correct switching process to switch as is currently the case. Furthermore, Virgin Media stated that it did not think that it would be any more difficult to advise customers on the process to switch from copper to FTTP as it is today to advise consumers on the process to switch from copper to cable.

Inefficient industry costs

- 4.29 Many respondents (Three UK, BT, [S&C], Internet Telephony Services Providers Association ('ITSPA'), SSE, Zen) agreed that a single process would create efficiencies. BT agreed that it is inefficient for CPs to have to support multiple processes instead of one process, while SSE argued that these inefficiencies are greater among smaller CPs as larger CPs are able to absorb the costs of supporting multiple processes through greater economies of scale.
- 4.30 Virgin Media was the only respondent that directly challenged our assessment of the inefficient industry costs of multiple processes, describing most as minimal when

⁶⁸ Ombudsman Services provides a 'typical' example where a customer asks for a MAC and gives it to a GP to provide an MPF service, the GP does not explain that the MAC is not necessary and that the LP service may not be ceased automatically – it may be several months therefore before the customer realises they are still being charged for the LP service even though they are not using it.

⁶⁹ Several CPs (Universal Utilities, Virgin Media, Zen Internet) suggested providers themselves are best placed to provide solutions to aid CPs in their ability to advise consumers, although they did not provide any comprehensive details on how they would address the specific problems we have outlined.

⁷⁰ EE points to the current industry best practice from the Office of the Telecoms Adjudicator ('OTA') which includes a table describing which process should be used to switch phone line and broadband between MPF, SMPF+WLR and cable providers. This has 98 rows to cover the differing scenarios.

⁷¹ EE Response to the 2012 Consultation, page 21. Available at: <http://stakeholders.ofcom.org.uk/consultations/switching-fixed-voice-broadband/?showResponses=true&pageNum=2#responses>

compared to the costs of introducing a hub and the GPL TPV process. It explained the costs of issuing MACs which are not used should not be regarded as significant additional wasted resource and these costs are most likely due to customers changing their mind. The remaining factors do not generate significant costs, except correct staff training to identify the right switching process, for which the cable operator did not provide costs.

Lack of competitive neutrality

- 4.31 Lack of competitive neutrality was cited by a significant number of stakeholders as a problem with multiple processes (Three UK, BT, Citizens Advice, Consumer Focus, EE, FCS, [3<], SSE). Entanet and TalkTalk made the point that multiple processes are acceptable where every CP is encountering the same processes and where there is a level playing field for all CPs and rules are enforced equally to ensure competition is unaffected.
- 4.32 BT pointed out that a customer switching voice and broadband services from a WLR+SMPF provider to another WLR+SMPF provider will have to follow two processes (GPL NoT and LPL MAC), which may not always happen smoothly and is more difficult for the customer. Conversely when switching to an MPF provider a consumer will only have to follow a single process (GPL NoT), which is easier and less costly both for the GP and the customer (in terms of time and effort). Similarly, [3<] argued that the more complicated the switching process is among similar products; the more likely it is to favour the provider whose products are the most complicated to switch away from.

New evidence

Lack of clarity and perceptions about the level of difficulty of switching

- 4.33 Recent evidence shows that, while not one of the most commonly stated issues deterring switching,⁷² lack of clarity about how to switch is an issue for many consumers. A significant minority of those who have not switched are deterred from switching at least to some extent due to confusion about the process.
- 4.34 46% of dual play 'considerers'⁷³ identified lack of clarity about the switching process as an issue which puts them off, with 14% saying it was a 'major issue'.⁷⁴ Lack of information about switching was cited as an issue by 62% of the same group and 18% identified it as a major problem that affected their decision while considering switching.
- 4.35 Even among those who have switched, our research shows there is still an element of confusion and a perception that the switching process is unclear and difficult.

⁷² Insufficient difference in price (21%) and provider persuading to stay (21%) were the 'main' issues noted among dual play 'considerers' for not switching.

⁷³ 'Considerers' are those customers who actively considered changing communications provider in the last 12 months but decided against it. Dual play 'considerers' are those customers who actively considered changing communications provider for one or more services within a current dual play bundle (including fixed line phone and fixed broadband) in the last 12 months but decided against it.

⁷⁴ Customer Retention and Interoperability Research 2012, 14 June 2013, (referred to as '2012 CRI research'), Figure 41, page 51. Available at

http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/customer-retention/CRI_Report_Final.pdf

Among dual play ‘switchers’,⁷⁵ lack of clarity about the switching process was identified by 44% as an issue, with 14% stating it was either the ‘main’ or a ‘major’ issue during the switching journey.⁷⁶

- 4.36 Where the correct process to follow depends on factors that are not easily accessible to the consumer, such as the underlying wholesale services used by the LP and GP, this is likely to reduce their perception that switching is easy. We recognise that lack of clarity may be potentially less of a problem if consumers can easily find out what they need to do to switch when they actually embark on the switching process. We have conducted desk research on CPs’ websites which found that information relating to switching fixed voice and fixed broadband services can often be complex, partial and in some cases incorrect (see Annex 5).⁷⁷
- 4.37 Our desk research found the following examples:
- advice given which states a consumer needs to get a MAC from their current provider when one may not be required;⁷⁸
 - details of different switching scenarios outlined are intended to allow the consumer to work out which switching process to follow, but they rely on the consumer having information which they may not have or easily understand e.g. non-BT line and BT line. In some examples the consumer is required to know whether their service is delivered over the provider’s own network e.g. Virgin Media’s cable network or non-cable “National” network;
 - the terminology used to describe the scenarios is not likely to be easily understood by consumers e.g. ‘non-BT compatible network e.g. TalkTalk’;
 - the advice is only partial and does not cover all scenarios such as where the consumer is not on the provider’s own network; and
 - the information given is in some cases ambiguous and may leave the consumer uncertain as to whether it applies to them. Or the provider explains the procedure to leave varies and advises the consumer contact them so that they can explain the process.
- 4.38 Our findings from our assessment of the largest CPs’ websites suggest that it is difficult to present simple and clear guidance to consumers on switching due to the existence of multiple switching processes. Where information is presented which is either incorrect or may be perceived by some consumers as complex or ambiguous, this is likely to increase perceptions about the level of difficulty and consumer costs involved in switching fixed voice and broadband services.
- 4.39 We also continue to receive complaints from customers who are unsure as to the process to follow to switch. This is reflected in the case study below.

⁷⁵ Two-thirds of the dual play switcher sample had switched provider for both their fixed line and fixed broadband in the last two years. The sample will include those who switched them at the same time as well as those who may have switched services at different times during the period.

⁷⁶ 2012 CRI research, Figure 45, page 55.

⁷⁷ It is also challenging for consumers to access clear and simple information about what they need to do to switch from independent sources such as price comparison sites.

⁷⁸ Further desk research on smaller provider’s’ websites found this advice stated on three additional websites.

Figure 4.1: Case study on lack of clarity

Case study 1 (lack of clarity about which switching process to follow)

Consumer agreed to a contract with Provider B, which she found more suitable than her current package with Provider A. Provider B advised her that it would cancel her existing contract. Provider A then billed her £90.00. On contacting them they have advised her she still has a service with them and needs to contact Provider B. On contacting Provider B she was advised they cancelled the service with Provider A on 27 November 2012, however Provider A advised the consumer should have cancelled the contract herself.

Source: Consumer Contact Team ('CCT') complaint

Increased consumer costs for switching bundles

- 4.40 Research undertaken at the end of 2012 suggests that when switching both fixed-line and another service (most commonly fixed broadband) at the same time, switchers experienced a higher level of difficulty (14%)⁷⁹ than when switching a standalone fixed line service (5%) (See chart 3.5 in Section 3).⁸⁰ There is also a higher perceived level of difficulty when switching amongst bundlers in the fixed line market (23%) compared to those who purchase it as a standalone service (18%).⁸¹
- 4.41 Our 2012 Customer Retention and Interoperability research ('2012 CRI research')⁸² found that 19% of LPL switchers⁸³ and 21% of C&R switchers said loss of service during the transfer was a main or major issue experienced during the switch, compared to 9% of GPL switchers.⁸⁴ This suggests that for switching bundles, loss of service was more likely to be a major/main issue where the LPL MAC process is used for broadband (and GPL NoT for voice element), compared to switches that only use a GPL process.

Limitations in CPs' ability to advise consumers of correct process

- 4.42 Since publication of the 2012 Consultation there have been two industry developments which have improved GPs' ability to advise consumers on the right process for new technologies.
- 4.43 Firstly, industry has adopted a GPL NoT process for MPF+GEA-FTTC switches (where previously we had understood this would follow a GPL NoT and LPL MAC process). This means that the introduction of GEA-FTTC will not worsen the ability of GPs to advise consumers of the process since migrations to MPF with or without GEA-FTTC will follow the same process.

⁷⁹ Includes those that stated it was "fairly difficult" or "very difficult" to switch.

⁸⁰ CER 2012, Figure 120, page 115.

⁸¹ Ofcom Switching/Decision Making Tracker data tables 2012, QL7B Table 30. Available at <http://stakeholders.ofcom.org.uk/binaries/research/statistics/switching-tracker.pdf>

⁸² 2012 CRI research was published in June 2013 with an overall objective of gaining insight into the impact of changes in the communications sector on consumers' propensity to switch services and/or devices, both now and in the future, and the barriers that might influence behaviour as communications markets evolve.

⁸³ Includes switches of bundles of services where GPL NoT is used to switch the fixed voice service and LPL MAC to switch the broadband service.

⁸⁴ 2012 CRI research, Figure 51, page 62.

- 4.44 Secondly, since the 2012 Consultation, Openreach has revised its FTTP rollout strategy from a target of 4 million premises by the end of 2012 to instead focus on 'FTTP on demand'.⁸⁵ The rollout of FTTP is therefore likely to be low in the near future as this will only be available where a customer has specifically requested it.⁸⁶ Therefore the issue for CPs to advise on the appropriate process to use when the switching involves an FTTP service is likely to be less of an issue in the near future.
- 4.45 Our concern that multiple processes limit CPs' ability to correctly advise consumers about which switching process to follow is consistent with the consumer complaints received by Ofcom. For illustrative purposes, an example of these complaints is set out below.

Figure 4.2: Case study on the limitation in CP ability to advise consumers of correct process

Case study 2 (lack of clarity among the CPs as to which switching process to follow)

Consumer has WLR and broadband with Provider A. Consumer contacted Provider B earlier today to arrange a transfer. Provider B advised consumer to obtain a MAC from Provider A. Consumer contacted Provider A to obtain this. However they advised he does not need this as he is on their LLU network. Provider B insists that they have to carry out the transfer on the Openreach network and insists that he obtains a MAC.

Source: CCT complaint. Note that in this document we use the term MPF for LLU.

Lack of competitive neutrality

- 4.46 We have two new sources of evidence which demonstrate the lack of competitive neutrality which arises as a result of having multiple switching processes.
- 4.47 First, our 2012 CRI research found that a higher proportion of switchers following LPL processes state there were 'main' and 'major' issues with aspects of the switching process compared to those following a GPL process.⁸⁷ This suggests an LPL process provides a poorer consumer experience.⁸⁸
- 4.48 Second, we have estimated for different CPs the proportion of customers who we would expect to use the LPL MAC process in order to switch. This is explained in Annex 6, and our calculation is based on the assumption that the customers who switch do so in proportion to the market share of each CP, and to the technologies used by each supplier.⁸⁹ For example, all customers switching to or from Virgin Media's cable operation can be expected to use the C&R process. Similarly, we assume that any customer switching broadband between SMPF providers will require

⁸⁵ Fibre on demand will allow businesses and homeowners not due to be upgraded to FTTP to pay to have fibre run to their premises, provided they fall within the Openreach's FTTC footprint.

⁸⁶ Fixed Access Market Reviews 2013. Available at:

<http://stakeholders.ofcom.org.uk/binaries/consultations/fixed-access-market-reviews/summary/fixed-access-markets.pdf>

⁸⁷ 2012 CRI research, Figure 50 page 61.

⁸⁸ To provide greater confidence that differences relate to the process and not the services being switched analysis was run amongst those switching both fixed-line and fixed broadband services to provide a direct comparison within type of process. 2012 CRI research, Figure 49 page 60.

⁸⁹ For example, in March 2012, BT had 30% of all broadband customers. We assume, therefore, that 30% of all switchers move to or from BT.

a MAC, but that no MAC is required for SMPF customers switching to an MPF provider.

Table 4.1: Estimated share of broadband switchers needing a MAC, by supplier

	Share of gained switchers expected to require a MAC
BT Retail	42%
Virgin Media	4%
TalkTalk	14%
Sky	16%
Other	57%

Sources: See Annex 6.

- 4.49 Table 4.1 above shows that the ‘other’ CPs, which include smaller providers in fixed voice and broadband such as EE and [3<] should expect to acquire more than half of their customers who switch from other providers through the LPL MAC process. By contrast, Virgin Media can each expect to acquire relatively few switching customers using the LPL MAC process.
- 4.50 As set out in more detail in the subsection on consumer ease/difficulty with switching processes, consumers find aspects of the LPL MAC process more difficult than the GPL NoT process which means that the fact that CPs might need to use these processes to varying extents leads to a lack of competitive neutrality.

Our assessment

Lack of clarity and perceptions about the level of difficulty of switching

- 4.51 We continue to believe that multiple processes lead to confusion and a lack of clarity. This conclusion is based on the consumer research evidence presented in the 2012 Consultation and corroborated by more recent research. Our evidence finds a significant minority of consumers are deterred from switching at least partly because of the ‘hassle’ associated with knowing about which steps are needed to take to switch provider; not knowing which process they should follow; a lack of clarity about the switching process and a lack of information about switching. Our consumer research also identified that even among some switchers there is the perception that the switching process is difficult.
- 4.52 Our desk research of CPs’ websites demonstrates that it can be difficult for consumers to access correct and straightforward advice on what switching process to follow. This is re-enforced by direct evidence from our consumer complaints which suggests that consumers are unsure of the process to follow.
- 4.53 Furthermore, evidence presented later in this section suggests a significant proportion of consumers have been impacted by problems related to the existence of multiple processes.⁹⁰ We believe this has contributed to a significant minority of fixed voice and broadband consumers either perceiving there will be difficulties or having experienced difficulties when they switched (as shown in Figures 3.5 and 3.6).

⁹⁰ There are also problems covered in Section 5 which may add to the perception that the consumer will experience difficulties when switching.

- 4.54 We believe this uncertainty about what steps to take to switch provider and the perception that the process to switch is difficult may deter a significant number of consumers from actively considering and switching to a preferred CP and service that best meets their needs.⁹¹ This is likely to reduce the competitiveness of the market and result in a poorer outcome for consumers. We consider these issues further in the context of our option development as set out in Section 7.

Increased consumer costs for switching bundles

- 4.55 Based on stakeholder responses to the 2012 Consultation and our own analysis we believe that the requirement to use more than one process to switch individual services within a bundle increases the complexity of the switching process. It also places an additional burden on consumers to manage multiple processes.
- 4.56 Furthermore, we stand by our viewpoint that it means any consumer or competition problems caused by one service using one process (such as loss of service which our consumer research suggests is more likely to occur under a LPL rather than GPL process), may have an impact on the other service that is being switched using the other process. We also believe it would be difficult and could lead to confusion among consumers if the GPL NoT and LPL MAC processes were presented as a single process to the consumer, given they would need to understand which parts of the process relate to the different services they are switching (e.g. the MAC for their broadband service and the NoT letter for only their fixed voice service).
- 4.57 There is a general consensus among stakeholders that the use of current multiple switching processes is unsatisfactory as it leads to consumer confusion and that a new harmonised process should be introduced. This is supported by new evidence which suggests that consumers perceive a higher degree of difficulty when switching a bundle of fixed telephony and broadband services than when switching a standalone fixed line service. It is likely to be the case that managing different processes for switching broadband and fixed telephony leads to higher perceived switching costs.
- 4.58 Given the trend towards bundling services (as highlighted in Section 3) we believe the lack of a single process to switch bundles of services is likely to become more of a problem for a larger proportion of consumers.

Limitations in CPs' ability to advise consumers of correct process

- 4.59 We believe that under the current processes it can be challenging for a provider to give consumers the correct advice on the process they need to follow to switch their service. This is supported by evidence from our consumer complaints and from some CPs. For example we cited evidence from a formal information request in 2011 which suggested that some LPs will advise that a MAC is issued where they lack the information about the technology the GP will use. Several stakeholders stated in their consultation responses that it can still be difficult for the GP to give definite information to consumers on the correct process. They agreed with our examples of where the OID checker on Openreach's DS may fail. A single process would eliminate the need for CPs to rely on Openreach's DS to identify the correct process from multiple process options.

⁹¹ We note that as shown in Figures 3.6 the perception that switching is difficult is higher across each service among those that have never switched, than those that have switched.

- 4.60 The evidence leads us to conclude that the existence of multiple processes means that GPs are not always able to provide definite information to the consumer about how to switch suppliers. Without this certainty the GP may advise the consumer to contact their existing provider to confirm which process they should follow. Multiple processes may also create additional costs to consumers and CPs from supporting multiple processes.⁹²

Limitations in CPs' ability to advise consumers of the correct process may worsen as new technologies are rolled out

- 4.61 A number of respondents were supportive of a single process to overcome any potential future problems. However, it is not certain how much more difficult it will be for GPs to advise consumers on the right process in the near future. The process for switching to FTTC is built on current switching processes so a switch to MPF or MPF+GEA-FTTC will follow the GPL NoT process (rather than GPL NoT and LPL MAC). As Virgin Media argued, switching to MPF on copper or GEA-FTTC will therefore be as easy or as difficult as it is currently.
- 4.62 We acknowledge that complexity may be added if broadband services are delivered using Openreach's FTTP technology, where currently a C&R process needs to be followed. However, since Openreach has revised its FTTP rollout strategy and target, it remains unclear whether significant take-up of FTTP by households will occur in the near future and whether this will therefore present significant problems for CPs when advising consumers on the correct process to follow. Similarly, we acknowledge there may be added complexity if a consumer chooses to switch their services from fibre to ADSL, however this is unlikely to be a significant issue in the near future as most migrations are likely to be from ADSL to fibre.
- 4.63 We conclude that at this stage there is not sufficient evidence to support the conclusion that it will become more difficult than currently for GPs to advise consumers on the correct switching process in the near future.

Inefficient industry costs

- 4.64 Given our analysis, the general consensus among almost all stakeholders who responded to this issue and the lack of evidence to challenge our view that multiple switching processes result in increased costs for CPs (which are ultimately borne by consumers), our conclusion is that a single process will be more efficient for all CPs to run.

Lack of competitive neutrality

- 4.65 Based on stakeholder responses and evidence cited in the 2012 Consultation and our updated analysis on how the use of different processes may lead to some firms having a competitive advantage or disadvantage relative to others, we continue to believe that there is a lack of competitive neutrality arising from the existence of multiple processes.
- 4.66 We consider that, as it is more difficult to acquire customers through the LPL MAC process than through the GPL NoT process, small CPs such as [] and EE, who tend to use separate wholesale services for voice and broadband are, all other things

⁹²2012 Consultation, page 42 - A few providers indicated in their responses to a formal information request in 2011 that, as an LP, they will usually advise broadband consumers to request a MAC and will issue one which the consumer may or may not use.

being equal, placed at a competitive disadvantage to larger CPs such as TalkTalk, Sky (both of which mainly use MPF) and, to a lesser extent, BT with regards to switching processes.⁹³

- 4.67 We note that some stakeholders argue that the market is already highly competitive; this point is addressed in Section 3.

Conclusion

- 4.68 We believe the existence of multiple switching processes causes competitive harm and costs to CPs and consumers. These problems are only likely to worsen as more consumers buy bundled products. By contrast, a single switching process is likely to result in lower levels of consumer detriment and be more efficient, as well as address the potential distortion to competition caused by multiple processes.

Consumer difficulty and unnecessary switching costs

Introduction

- 4.69 In this section we consider the consumer experience within specific switching processes. Consumer difficulty in switching and unnecessary switching costs was one of the problems we identified with the current switching processes in the 2012 Consultation.⁹⁴
- 4.70 We have updated our analysis following the responses to the 2012 Consultation and our view remains that switching costs and consumer difficulty, which lead to consumer detriment, as well as harm to competition, are higher under the LPL MAC process compared to the GPL NoT process.
- 4.71 We note that consumer difficulty in switching can arise in a number of ways, and that we have identified a number of these as distinct problems (such as multiple processes and loss of service). In this section, we focus on the remaining sources of consumer difficulty that give rise to unnecessary switching costs.

Summary of the 2012 Consultation

Overall ease/difficulty of switching

- 4.72 As we explained in the 2012 Consultation, switching costs arise when consumers face a cost in switching which would not be incurred if they were to remain with their current provider. We recognise that some switching costs will always arise, such as the costs incurred when searching for information about the offers available from different CPs. We also recognise that such switching costs will not be uniform amongst consumers. Those issues are outside the scope of this review.
- 4.73 We are interested in switching costs to the extent that they vary between the existing switching processes and are unnecessary. In the 2012 Consultation we presented a range of evidence showing that the GPL NoT process involves less consumer difficulty and hence lower switching costs than the LPL MAC and C&R processes, leading to a better customer experience.

⁹³ Obviously a number of other factors (such as economies of scale and scope, branding, relative efficiency) affect the competitiveness of different providers in these two markets. For evidence of the relative difficulty of acquiring customers under the LPL MAC process, see Section 6.

⁹⁴ Note that in the 2012 Consultation we referred to this as 'hassle'.

- 4.74 We consider that consumer difficulty in switching is a type of switching cost. The time spent, and anxiety and confusion experienced by a consumer is a burden which arises as a result of the switching process, in addition to any direct financial costs such as the cost of phone calls to various CPs. When we refer to ‘switching costs’ in this section we therefore mean the level of difficulty experienced by the consumer in addition to financial charges.
- 4.75 Our consumer research 2010 found that 8% of broadband switchers found the GPL NoT process to be difficult to navigate compared to 23% for the LPL MAC process and 16% for the C&R process.⁹⁵ The same research found that 39% of LPL MAC switchers thought that switching seemed like ‘too much hassle’ compared to 22% of GPL NoT switchers.⁹⁶ In addition, our broadband consumer qualitative research 2011 also found that consumers found the GPL NoT process to be smoother than the LPL MAC process.⁹⁷
- 4.76 In the 2012 Consultation we noted that additional unnecessary hassle can arise:
- under the LPL MAC process because it is not easy to walk into a shop and obtain a MAC ‘on the spot’ to initiate the switching process; and
 - under the C&R process because some consumers are switched using this process when they could have used the less cumbersome and costly GPL NoT process.
- 4.77 Our concern about switching costs is that they cause detriment to consumers, and may discourage switching and dampen competition. Our September 2010 Consultation found that switching processes with higher costs are, all else being equal, more likely to dampen competition and cause detriment to consumers than processes with lower switching costs.
- 4.78 This conclusion was supported by a review of the academic literature which concluded that, while the impact of switching costs on the level of consumer welfare and industry profits is complex, ‘on balance switching costs seem more likely to increase prices’⁹⁸ which would tend to reduce consumer welfare. In our 2012 Consultation we responded to a number of stakeholder comments on our analysis of the academic literature on switching costs, finding that the criticisms that had been made were unfounded, and that more recent work highlighted by respondents was consistent with our earlier finding that switching costs tend to dampen competition.⁹⁹
- 4.79 Our analysis on the sources of consumer difficulty in switching is explained below. We maintain that the evidence points to the LPL MAC process being associated with higher switching costs than the GPL NoT process. We therefore consider that there is evidence of varying and unnecessary switching costs and consumer difficulty under the current processes that can lead to poor consumer and competition outcomes.

⁹⁵ Consumer research 2010, Figure 11 page 21.

⁹⁶ Consumer research 2010, Figure 20 page 28.

⁹⁷ Broadband consumer research 2011, Slide 14.

⁹⁸ J. Farrel and P. Klemperer (2007), ‘Coordination and Lock-in: Competition with Switching Costs and Network Effects.’ In Armstrong, M. and R. Porter eds, *The Handbook of Industrial Organization*, Vol.3, Amsterdam: North-Holland. Available at the following [link](#).

⁹⁹ 2012 Consultation, Annex 6.

Multiple touch points

- 4.80 In the 2012 Consultation we explained our view that the level of engagement required by the consumer and the number of touch points varies between the existing processes and can form an unnecessary switching cost.
- 4.81 In particular the GPL NoT process requires only one touch point compared to two touch points for the LPL MAC and C&R processes. This is because GPL NoT does not require the customer to contact the LP. We believe the GPL NoT process is easier for switchers as it requires less engagement and fewer touch points.
- 4.82 These findings tally with the CSMG estimates of the time that consumers must spend on the phone with CPs in order to arrange switching through the formal processes which we used in the 2012 Consultation. CSMG estimated a total telesales time of 12 minutes for GPL NoT and 22 minutes for LPL MAC.¹⁰⁰ We noted that excessive time spent talking to CPs not only reflects a poor customer experience but also represents a cost to CPs which may ultimately be borne by consumers.

LP making the switching process difficult

- 4.83 In the 2012 Consultation we highlighted ways in which the LP is able to frustrate the existing switching processes. Our concerns were that:
- the LPL MAC switching process can be frustrated by the LP delaying or failing to provide a MAC; and
 - the GPL NoT switching process can be frustrated through the abuse of the Cancel Other¹⁰¹ system (which involves the LP cancelling a GPL NoT order to prevent the customer from leaving).
- 4.84 Our consumer research 2010 found that 13-14% of respondents reported having difficulty in getting their previous supplier to provide the information required to switch a service or a bundle of services.¹⁰²
- 4.85 In the 2012 Consultation we also explained that our view that the GPL NoT process provides a superior customer experience to the LPL MAC process was consistent with evidence on complaints to the Ofcom CCT. General Condition 22 allows LPs up to five working days to provide a MAC, but complaints suggest that some consumers still have difficulty obtaining a MAC from the LP despite Ofcom's ongoing enforcement programme for those regulations.
- 4.86 We also cited research from a price comparison website in 2010 which found that 4% of respondents gave up on switching due to problems getting a MAC,¹⁰³ and our

¹⁰⁰ See http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/csmg_cost_model.xls.

¹⁰¹ Cancel Other is a process which allows an LP to request the cancellation of a transfer where the customer thinks they have been slammed or where the GP has failed to cancel the transfer when requested by the customer.

¹⁰² Consumer research 2010, Figures 12 page 22, Figure 14 page 23, and Figure 16, page 24 - those switching a whole bundle or services within/to a bundle (13%), fixed broadband (14%) and fixed line voice (14%).

¹⁰³ Opinium Research carried out an online poll of 1,991 British adults between 2nd - 5th February 2010. Results have been weighted to nationally representative criteria. Available at: <http://www.moneysupermarket.com/c/press-releases/broadband-providers-still-failing-on-mac-codes/0009167/>.

broadband consumer research 2011 found that 6% of broadband ‘considerers’ who had dropped out of the process said they did so due to the difficulty of getting a MAC.¹⁰⁴ These figures have to be set in the context that, at that time, only around 15% of switchers on the Openreach network used the LPL MAC process.

Unwanted save activity

- 4.87 In the 2012 Consultation we noted important concerns about save activity, especially when it is unwanted by the consumer. This is more likely under the LPL MAC process, in which consumer contact with the current provider is integral to initiating a switch.
- 4.88 This gives the LP an opportunity for reactive save activity, which can result in additional consumer ‘hassle’ in the form of longer call time when the consumer is not interested in a counter-offer made by the LP, in addition to distress from aggressive save activity.

Stakeholder responses

Overall ease/difficulty of switching

- 4.89 Sky argued that switching is generally straightforward and that the existing switching processes are not ‘fundamentally broken’.¹⁰⁵ It noted that over two million UK households switch the supplier of their broadband and/or fixed line service each year. It also observed that our 2010-2011 Annual Report showed that complaints in relation to migrations had fallen by 32% relative to the previous year and that complaints regarding MACs had also fallen significantly.
- 4.90 Sky, Telefonica and Virgin Media noted that our consumer research 2010 showed that, amongst those that had switched in the previous 12 months, 68-76% of broadband switchers and 73-79% of fixed line switchers considered the process to be easy. Sky noted that this was supported by new evidence from its own Ipsos MORI consumer survey (jointly commissioned with Virgin Media and BT) which found that 76% of fixed voice and 73% of broadband switchers rated the switching processes at 7-10 (on a scale of 1-10) for ease of switching.
- 4.91 Telefonica cited our broadband consumer qualitative research 2011 which found that most switchers found the process to be simple, free from stress and difficulty and reasonably quick, with most respondents surprised at how easy the switching process was. It also agreed with us that some steps in the switching process that could be perceived as ‘hassle’ by consumers are in fact intended to protect them from harm later in the process, and should not be removed in a ‘misguided attempt to eradicate perceived hassle’.
- 4.92 In common with Sky, Telefonica cited our Consumer Experience Report 2011 which showed that complaints about MACs have been falling over time. Telefonica also considered evidence in our consumer research 2010 which shows that the main reason why non-switchers did not switch was due to satisfaction with their existing provider. It suggested that this provides an indication of the healthy competitive state of the market and that existing switching processes are currently generally effective.

¹⁰⁴ Broadband consumer research 2011, Slide 46.

¹⁰⁵ Sky Response to the 2012 Consultation, page 11. Available at <http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Sky.pdf>

- 4.93 On the other hand, Three UK, SSE and TalkTalk agreed with Ofcom's findings that the LPL MAC process leads to greater consumer difficulty and a higher level of switching costs than the GPL NoT process.
- 4.94 Only a small number of respondents (BT, Communications Consumer Panel ('CCP'), Entanet) commented on our assessment of the consumer difficulty associated with the C&R process. CCP argued that CPs using C&R unnecessarily in order to reduce their costs is unacceptable. BT pointed to the consumer difficulty associated with the C&R switching process as a reason why cable networks should be included in the scope of our review as quickly as possible.
- 4.95 Below we set out stakeholder responses in relation to each of the sources of consumer difficulty set out in paragraphs 4.80 - 4.88. In addition, we detail responses to two further sources of consumer difficulty identified in the 2012 Consultation – time taken to switch and Cancel Other – that are also presented below.

Multiple touch points

- 4.96 The Consumer Forum for Communications ('CFC') and Three UK agreed with our assessment that the GPL NoT process involves fewer touch points. By contrast, several stakeholders (Telefonica, BT, Sky, Virgin Media) argued that consumers under a GPL process are just as likely to have as many touch points as under an LPL process, and pointed to Ofcom research which shows that between 42% and 77% of consumers using the GPL process still contact their LP even though they are not required to as part of the formal switching process.¹⁰⁶
- 4.97 SSE commented that [~~3~~¹⁰⁷~~3~~]
- 4.98 Several stakeholders suggest that the required contact with the LP under the LPL MAC process should not be labelled as 'hassle'. BT points out that regardless of the switching process most consumers 'shop around' to ensure they get the best deal and therefore it seems 'unlikely to be true that [consumers] would be deterred from switching simply because the formal process itself involves two contact points instead of one'.¹⁰⁸
- 4.99 Contact with the LP ensures that customers are fully informed of the implications of switching and BT and Virgin Media point out that this leads to fewer cancellations and therefore less difficulty for consumers and CPs in this respect. Having to make two calls, one to the GP and one to the LP, according to BT, avoids the additional burden of having to cancel the order later, which can take much longer than ten minutes to sort out.¹⁰⁹ It also avoids any unnecessary difficulty if the customer loses their telephone number when deciding to cancel the order and remain with their current provider, which is particularly relevant to small business customers.

¹⁰⁶ Broadband consumer research 2011 (Slide 14) found that 77% of consumers who switched broadband (as a standalone service or as part of a bundle) using the GPLNoT process had contacted their previous provider. For fixed voice switchers going through the GPL NoT process our consumer research 2010 (Figure 32 page 42) found that under half (42%) had contacted the LP.

¹⁰⁷ SSE Response to the 2012 Consultation, Appendix 3.

¹⁰⁸ BT Response to the 2012 Consultation, paragraph 3.43. Available at <http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/BT.pdf>

¹⁰⁹ Particularly if the GP fails to cancel the order – BT notes that 31% of all the 'unfair trading reports' received by BT Retail relate to GPs failing to cancel orders.

LP making the switching process difficult

- 4.100 Three UK argued that the LPL MAC process creates a greater regulatory burden than GPL NoT because of the need to force LPs to allow their leaving customers to switch. Universal Utilities noted that the many delaying tactics employed by LPs are not easy for the regulator to enforce against, meaning that although they lead to difficulty for consumers there are no repercussions for those CPs who cause these problems.
- 4.101 BT, Sky and Telefonica pointed to the decline in consumer complaints to the CCT about consumer difficulties in getting a MAC as an indication that this is no longer a significant issue. Telefonica also highlighted findings in Ofcom's Consumer Experience Report 2011 which it argues show that virtually no consumers have difficulty obtaining a MAC. Stakeholders also suggested a number of improvements to the existing LPL MAC switching process, some of which would also be possible under the LPL Alternative process ('LPL ALT') considered in the 2012 Consultation. These are summarised in Annex 7.
- 4.102 Moving on to other ways in which the switching process might be frustrated, Three UK explained how LPs could delay switching by encouraging the customer to consider alternative service packages, while SSE provided anecdotal evidence of how LPs frustrate the switching process and cause unnecessary difficulty for the consumer including:¹¹⁰
- [✂]
- 4.103 Universal Utilities provided a similar explanation, arguing that LPs can use a variety of tools to create unnecessary difficulty and consumer switching costs including extended call queue times, obtrusive automated switchboards, poorly trained staff or 'accidentally' providing incorrect MACs.

Unwanted save activity

- 4.104 TalkTalk argued that it was 'very difficult to foresee any situation in which the requirement to obtain a MAC would not be perceived by the consumer as adding hassle to the switching process'.¹¹¹ It went on to argue that the need to gain such a code and the exposure to potentially unwanted reactive save activity that comes with it was difficult to imagine in any other industry.

Time taken

- 4.105 Several stakeholders (BT, EE, Telefonica, Sky, Virgin Media, CFC) identified the fact that it takes a longer time to complete a switch under the GPL NoT process than the LPL MAC process as 'hassle', and noted the potential effect of this on businesses in particular. Consumer research commissioned by BT, Sky and Virgin Media shows 86% of respondents rated on a scale of 1 to 10 the importance of the length of time it takes to switch highly at 7-10.¹¹² The same research showed that when asked about the length of time they thought would be reasonable to have to wait for their

¹¹⁰ SSE Response to the 2012 Consultation, Appendix 3.

¹¹¹ TalkTalk Response to the 2012 Consultation, page 10. Available at http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/TalkTalk_Group.pdf

¹¹² We understand from analysis of the survey results that respondents included switchers (21%) and non-switchers (78%).

broadband services to be switched the most common response for both services from respondents was 'three days' (28%), but similar numbers of responses were also recorded for both 'one day' (26%) and 'seven days' (27%). When combined, 82% of respondents answered 'seven days' or fewer and over 92% answered 'ten days' or fewer.¹¹³

- 4.106 CFC contrasted consumers' experiences of switching mobile services in only a day with ten days under the GPL NoT process, arguing that this appeared excessive and therefore amounted to 'hassle'. However, Three UK suggested that the time taken to switch a service is largely irrelevant because they believe the reduction in time to get a Porting Authorisation Code ('PAC') from five to two and then one working day for mobile switches has not had a significant impact on the number of mobile ports.

Cancel Other

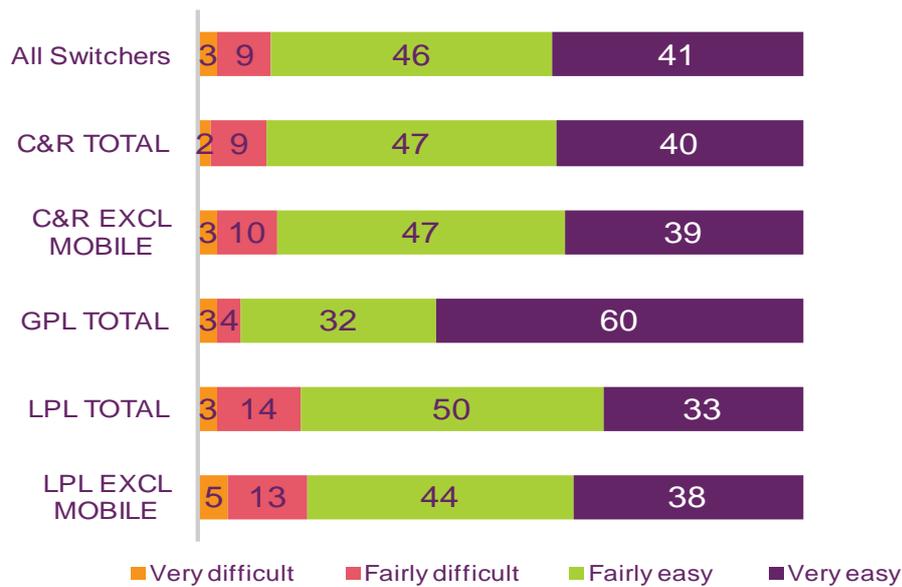
- 4.107 BT believed that the abuse of the Cancel Other process under GPL NoT is a significant issue which causes difficulty and costs for both consumers and CPs and should be included as a consideration. However, a number of stakeholders were keen to point out that Cancel Other has a legitimate purpose or is used by the LP because consumers changes their minds about switching or accept a better offer from their existing provider.

New evidence

- 4.108 Our recent 2012 CRI research indicates that although the majority of switchers found the switching process to be either 'very' or 'fairly' easy, there was a significant difference in experience between GPL and LPL switchers when comparing the proportion citing 'very easy'. 60% of GPL switchers found the process to be very easy compared with 42% of LPL switchers and 40% of those who used the C&R process.¹¹⁴ Analysis on 'ease of switching' among GPL and LPL switchers who switched both landline and fixed broadband services found that 92% of these GPL switchers found the process easy, compared to 79% among these LPL switchers. 7% of these GPL switchers found it difficult compared to 21% among these LPL switchers.

¹¹³ Responses to perceived reasonable length of time for landline services to be switched were: 1 day (25%), 3 days (29%), 7 days (28%), and 10 days (10%). When combined 82% of respondents answered 'seven days' or fewer and over 91% answered '10 days' or fewer. See Tables 32 and 33 of the IPSOS Mori research.

¹¹⁴ 2012 CRI research, Figure 34 page 44.

Figure 4.3: Ease of switching CP, by process

Source: Customer Retention & Interoperability Research 2012. QC23
 Base: All Switchers/C&R/C&R excluding mobile/GPL/All LPL/LPL excluding mobile
 n=1814/713/546/196/442/113

4.109 The same research also sought to understand further any issues or difficulties experienced by switchers. Figure 4.4 below illustrates seven issues related to the switching processes and highlights that for five of these issues switchers going through the LPL process were more likely to say these were a main/major issue. One further aspect (arranging for services to start and stop) was also experienced by more LPL than GPL users when taking into account those who stated it as a minor issue.¹¹⁵ Other aspects such as ‘the costs involved’, ‘being under contract’ and ‘comparing offerings’ also appeared in the top issues faced by switchers.¹¹⁶ This analysis also highlights the problem of multiple switching processes leading to a lack of clarity as to what actions are necessary to switch. Lack of clarity was noted as the main/major issue experienced by 14% of all switchers (see our analysis of multiple switching process in the previous sub-section).

¹¹⁵ 2012 CRI research, Figure 51, page 62

¹¹⁶ ‘Being without the service’, may be related to the higher proportion of fixed broadband switches in the LPL sample compared to the GPL sample. A comparison amongst those who switched both their fixed line and fixed broadband services within each process shows no significant differences in experience of this particular issue by process. 2012 CRI research, Figure 49.

Figure 4.4: Issues experienced during the switching process (prompted) – by type of switching process

Issue	Total (Base: Switched in last two years - 1814)			C&R excluding mobile (497)			GPL (196)			LPL excluding mobile (94*)		
	Main/ Major	Minor	Total	Main/ major	Minor	Total	Main/ Major	Minor	Total	Main /Major	Minor	Total
Being without service during switch	20	29	49	21	30	51	9	22	31	19	28	47
Arranging services to start/stop at right time	18	37	55	19	38	57	13	22	35	19	38	57
Paying for both services	18	26	44	19	28	47	11	20	31	14	21	35
Provider making it difficult to switch	15	19	34	18	22	40	6	16	22	18	23	41
Provider trying to persuade me to stay	14	36	50	17	41	58	9	29	38	20	46	66
Clarity of the switching process	14	36	50	16	37	53	8	26	34	16	39	55
Needing to contact more than one provider	12	12	44	14	30	44	5	17	22	15	43	57

Source: Summarised from Customer Retention and Interoperability Research 2012, QE1/2
 Base: All Switchers (past 2 years) * low base size treat as indicative only. Significance tests have been conducted on 95% confidence interval.

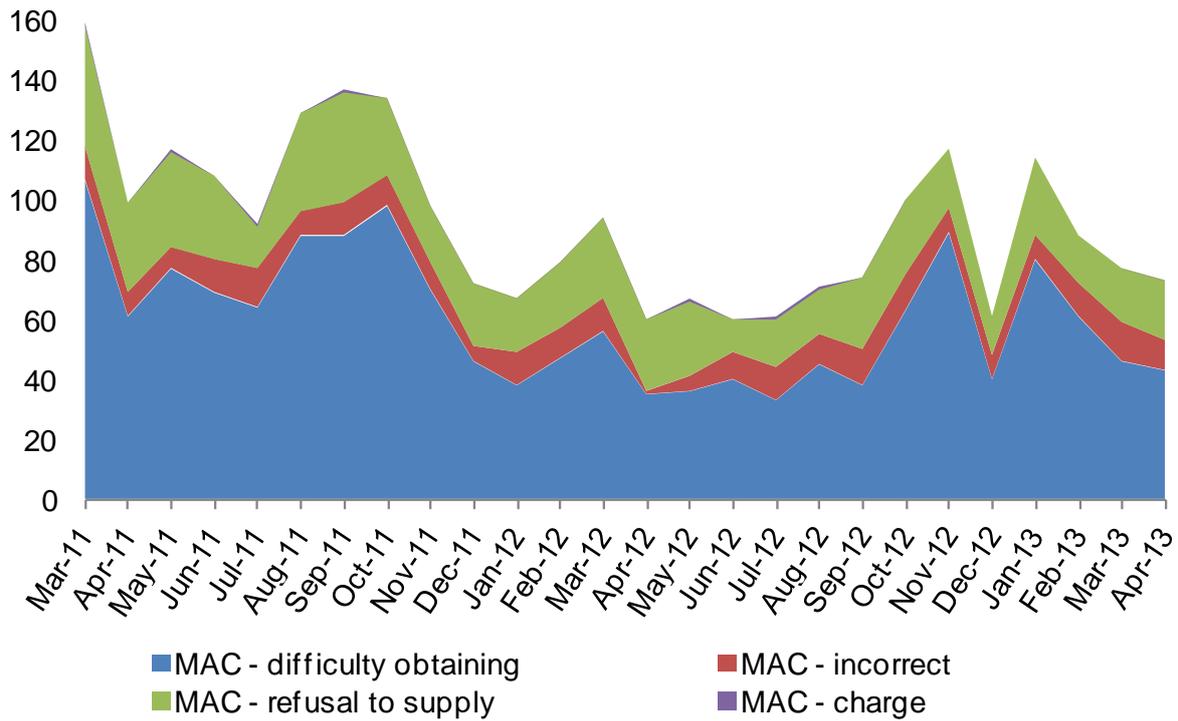
4.110 We have also obtained new evidence on the LPL MAC process:

- As reported in Annex 6, our analysis finds that substantially fewer actual switches occur through the LPL MAC process than would be expected. In 2012, only around 10% of switches (excluding C&R) over the Openreach network used the LPL MAC process, whereas based on the technology used by CPs and their market shares, we would have expected around 32% of switches to have used that process.
- According to the CRA reactive save report, many of the MACs issued by CPs are not used, suggesting a high drop-out rate, in particular:¹¹⁷
 - only around [30%] of the MACs issued by Sky are actually used;¹¹⁸
 - only [30%] of the MACs issued by BT are used;
 - [30%] of the MACs issued by Virgin Media's non-cable operations are used.
- Ofcom's CCT continues to receive a significant number of complaints regarding the LPL MAC process (see Figure 4.5 below). As can be seen from the graph below, CCT received on average around 80 MAC complaints per month in 2012. The most common complaint relates to difficulty in obtaining a MAC.

¹¹⁷ CRA reactive save report, paragraph 30.

¹¹⁸ CRA noted that [30%].

Figure 4.5: MAC complaints by type (per month)



Source: Ofcom CCT complaints

4.111 We continue to receive consumer complaints about various aspects of the switching process. In the period between the 2012 Consultation and this statement, Ofcom received a considerable number of consumer complaints related to the sources of consumer ‘hassle’ when switching fixed voice or broadband services. For representative purposes, below we include several examples of consumer complaints.

Figure 4.6 Case studies on LP frustrating the process

Case study 3 (lack of cooperation by the LP)

Consumer has WLR with Provider A, but decided to change to Provider B. Consumer said Provider B advised they cannot place an order as there is a cease on the line. Consumer said he contacted Provider A and they would not discuss the problem and terminated the call. Consumer said he has not placed a cancellation with Provider A.

Case study 4 (delay in providing a MAC)

'Had many issues with company over the past few years, have been trying to cancel for about 3 months and I either get told by email to contact the cancellations number which I cannot get an answer from, spending up to 2 hours on hold!! Asked several times for MAC number and still keep getting fobbed off. I have signed up with a new provider but I know it won't go smoothly as they have no intention of giving my MAC number or cancelling my rubbish services and excessive bills..'

Case study 5 (failure to provide a MAC)

'Despite spending over 2 and a half hours on the phone over 5 phone calls a MAC code has yet to be provided, this I feel is an attempt to either make me stay with Provider A or to obtain more money for an extended service..'

Case study 6 (failure to provide a MAC)

'Despite requests made by phone, e-mail and formal letter 14 days later I have not received my Migration Access Code nor any formal acknowledgement of my cancellation request. Telephone calls involve long periods on hold and no positive assistance.'

Source: CCT complaints

Figure 4.7: Time taken case study

Case study 7 (long time taken to switch due to delay in getting a MAC)

'For the past 3 weeks I have been attempting to get a MAC from Provider A. I have requested this over the phone, via e-mail and in writing to the address on their website. I know they have received the request as one of their staff confirmed receipt, but they are being obstructive in providing the MAC. I have been very persistent e.g. 18 minutes on hold today.'

Source: CCT complaint

Figure 4.8: Unwanted save activity case study

Case study 8 (unwanted save activity)

'Rang to disconnect service. Provider A used pressure selling tactics to try and get us to remain - had to repeatedly say that we wanted to disconnect our service which would be answered with a long diatribe of why we should continue with Provider A. Made complaint and received email stating that we renewed our contract with them, instead of disconnecting.'

Source: CCT complaint

Our assessment

Overall ease/difficulty of switching

- 4.112 In the light of the responses on ease of switching made by some CPs (see paragraphs 4.89 - 4.95), we agree that the available evidence shows that a majority of consumers who have switched find the existing switching processes easy to use. This is supported by consumer research detailed in Section 3, and the more recent 2012 CRI research (see Figure 4.3), which also shows that the majority of switchers said it was easy to switch.
- 4.113 We consider that this favourable overall picture is attributable to the fact that around 90% of switches (excluding C&R) use the GPL NoT process. When we analyse the figures by type of process, we find that both our consumer research 2010 and the 2012 CRI research found that the LPL MAC process is more difficult for consumers than the GPL NoT process.
- 4.114 The evidence we have on the use of MACs is also consistent with the LPL MAC process being more difficult for consumers to navigate. As noted in Annex 6, we find that only around 10% of switches (excluding C&R) use the LPL MAC process, compared to the 32% we would have expected given CPs' market shares. We also note that the CRA report shows that there is a high rate of drop-out among those who started the LPL MAC process. Both of these are consistent with the LPL MAC process being more difficult for consumers than the GPL NoT process (and/or with reactive save being effective).
- 4.115 Although we agree that the available evidence shows that consumers generally find it easy to switch, there is evidence to suggest that consumers are experiencing a number of issues which affect their switching experience. These issues merit attention and below we set out our analysis of the sources of consumer 'hassle' (see paragraphs 4.80 - 4.88) in the light of the new evidence presented in paragraphs 4.108 - 4.111.

Multiple touch points

- 4.116 Several stakeholders have noted that under the GPL NoT process, a large proportion of customers contact the LP even though this is not necessary (see paragraphs 4.96 - 4.97 above). As a result, it is argued these consumers will have two touch points, the same as the number required under the LPL MAC or C&R processes.
- 4.117 However, this observation does not affect our view that LPL switching processes require more touch points than GPL switching processes, and consequently that LPL

switching processes involve greater consumer difficulty and switching costs. This is supported by the 2012 CRI research evidence presented in Figure 4.4, where 5% of the switchers who used the GPL process listed 'needing to contact more than one provider' as a main/major issue experienced during the switching process compared to 15% for the LPL process and 14% for the C&R. This also illustrates that a significant minority of consumers do find multiple touch points to be a significant issue.

- 4.118 While many consumers do contact their LP under the GPL NoT process, for example to find out about Early Termination Charges, this is not a necessary step to complete a switch. From the point of view of an individual consumer's experience of switching, the GPL NoT process requires only one contact point to initiate a switch, whereas the LPL MAC process requires two. Other things being equal, this means that GPL processes will have lower consumer switching costs than LPL processes. Our key concern is protecting the consumer during a switching process, the fact that consumers may choose to contact the LP does not significantly affect a consideration of what it is appropriate to require consumers to do as part of the process.¹¹⁹
- 4.119 As noted by SSE (paragraph 4.97), one of the reasons for customers in the GPL NoT process to currently contact their LP is confusion regarding the process to follow. This is highlighted by our broadband consumer research which shows that two-thirds (65%) of fixed broadband switchers using GPL NoT process contacted their LP to cancel their service despite this not being a requirement under this process.¹²⁰ If consumers were better informed about the process that they needed to follow we believe that the proportion of switchers contacting the LP unnecessarily under a GPL process would be lower.

LP making the switching process difficult

- 4.120 The LPL MAC process places the LP as the 'gatekeeper' of the switching process, resulting in a loss of control over the process for the consumer. As the LP has an obvious incentive to deter switching, this gives the LP a unique ability to frustrate the switching process. The evidence which we have reviewed is consistent with LPs using their role to make it difficult for consumers to switch. Put simply, it is in the LP's interest for the consumer to remain with them, and so they have little incentive to make the process of obtaining a MAC as easy as possible.
- 4.121 According to our latest research presented in Figure 4.4, nearly a fifth (18%) of the switchers who used the LP process listed 'previous provider made it difficult for me' as one of the main/major issues experienced when switching (three times as many as the 6% who stated this as a main/major issue amongst GPL process users). We note that this has been a persistent issue. Our consumer research 2010 found that 13-14% of respondents reported having difficulty in getting their previous supplier to provide the information required to switch a service or a bundle of services.
- 4.122 As noted in paragraph 4.110 above, Ofcom's CCT received on average around 80 complaints per month in 2012 in relation of the LPL MAC process. The majority of these complaints relate to difficulty in obtaining a MAC,¹²¹ but other issues are delay

¹¹⁹ We note that by analogy, it could also be argued that LPL MAC process has three touch points rather than two, if consumers contact their GP first before being advised to get their MAC – but again, this would arise as a result of actions that are not required by the consumer in order to switch.

¹²⁰ Broadband consumer research 2011, Slide 14.

¹²¹ While this is lower than the levels seen in earlier years, lower complaint levels are to be expected given the falling use of the LPL MAC process (see paragraph 4.110).

in obtaining a MAC, an incorrect MAC being provided or even outright refusal to provide a MAC (see Figure 4.6 for examples).

- 4.123 Telefonica has argued that ‘99% of consumers did not have difficulty obtaining a MAC when trying to switch their broadband service in the previous six months during 2011’.¹²² However, this conclusion is based on a misinterpretation of the evidence. The graph cited by Telefonica shows that 1% of respondents had difficulty in obtaining a MAC, but the base of respondents is all those with internet access and not all those switching.¹²³ That is, 1% of all broadband users had difficulty in obtaining a MAC. Since our 2012 CER found that 9% of broadband users switch in a given year, then this is consistent with a relatively high level of difficulty among those switchers who need to obtain a MAC.
- 4.124 We consider this to be a persistent problem affecting a significant proportion of switches which is not easily resolved given the incentives that the LP has to retain customers.

Unwanted save activity

- 4.125 We remain of the view that unwanted save activity by the LP is one of the main sources of consumer difficulty during the switching, especially under the LPL MAC process. This is supported by the evidence presented in Figure 4.4, whereby 20% of the switchers who used the LPL MAC process listed ‘provider trying to persuade me to stay’ as one of the main/major difficulties experienced when switching, rising to 66% when including those LPL switchers who cited this as a minor issue. These figures are significantly lower for the GPL process (9% and 38%).
- 4.126 This research shows that save activity is often unwelcome by the consumer. In a GPL process, where a consumer is free to choose whether to contact the LP to try and obtain a save offer, under an LPL process where a consumer calls to obtain a MAC they are obliged to speak to the LP’s customer retention team. The LP has a strong incentive to try and persuade the customer to stay before agreeing to give them the MAC. This is supported by our 2012 CRI research which found that 17% of switchers who spoke to the LP felt they were put under pressure to stay with their current provider and 41% of switchers who contacted their LP were unhappy with their experience.¹²⁴ This is further supported by the consumer complaints received by Ofcom’s CCT (see Figure 4.8 for an example).

Time taken

- 4.127 In relation to the points made on the reasonableness of the lengths of time taken for the different switching processes, we note that consumer harm caused by time taken to switch is likely to be caused by a combination of factors identified in the 2012 CRI research such as arranging for services to start and stop, CP making it difficult or needing to contact more than one CP.

¹²² Telefonica Response to the 2012 Consultation, paragraph 89. Available at: http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Telefonica_O2.pdf

¹²³ Consumer Experience Report 2011, Figure 167 page 137 - the base of respondents is explained in the notes underneath Figure 167 in our report. However, this is omitted in Telefonica’s reproduction of it in its consultation response.

¹²⁴ 2012 CRI research, Figure 57 and 59.

4.128 We also consider that it is not clear that the time taken to switch varies significantly between the LPL MAC and GPL NoT switching processes over and above these issues:

- the LPL MAC process allows the LP up to five working days to provide a MAC to an end user, and sets a 'default migration date' of a further five working days after that MAC is received by the GP.¹²⁵ If it takes five working days for the consumer to receive a MAC, then even if the consumer acts immediately, then the switch will take at least ten working days for the process to complete; and
- the GPL NoT process includes a ten day transfer period (in order to allow sufficient time for the NoT letters to be sent out and for consumers and CPs to act on them before the switch goes ahead).

4.129 The ten day period for GPL NoT switches is a consumer protection mechanism and, while it does delay the switch, there is no strong evidence that it leads to higher consumer switching costs. It has also not been cited as a significant issue by consumers.

Cancel Other

4.130 Abuse of Cancel Other was raised by BT as an issue in relation to the consumer experience of the switching process. We note that there are two ways in which GC 24 can be breached through an incorrect use of the Cancel Other process:

- Use of Cancel Other by the LP to prevent legitimate switches from going ahead; and
- Use of Cancel Other by the LP to effect a genuine cancellation instead of requesting that the consumer ask the GP to cancel the order (i.e. Cancel Other is used instead of Cancel Own).

4.131 These two types of abuse of the Cancel Other process have differing impacts on a consumer's experience of the switching process. The first would negatively impact a consumer's experience as it would prevent a desired switch from proceeding. The second type, although also an incorrect use of the process, would not have such an impact as the consumer also wishes the switch not to proceed.

4.132 If the first type of abuse of Cancel Other were a significant problem under the GPL NoT process, then we would expect this to be reflected as an issue in the consumer research. As it is not, and consumers report that GPL raises fewer difficulties than the LPL process, then this is consistent with abuse of Cancel Other not significantly affecting the consumer experience of the switching process.

4.133 In relation to the issues raised about the higher cancellation rate under the GPL NoT process, we deal with this in paragraphs 4.172 below.

Conclusion

4.134 We consider that unnecessary switching costs are lower under the GPL NoT switching process, compared to the LPL MAC switching process. In particular, our research finds that, relative to consumers who use the GPL NoT switching process, LPL MAC switchers report greater difficulty in terms of:

¹²⁵ See <http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/general-conditions22nov12.pdf>.

- Having to contact multiple CPs;
- The LP making it difficult to switch; and
- Unwanted save activity.

4.135 This reinforces the general finding from the September 2010 Consultation that GPL switching processes lead to better consumer and competition outcomes than LPL switching processes as they are associated with lower consumer difficulty and lower switching costs.

Lack of consumer awareness of the implications of switching

Introduction

4.136 In the 2012 Consultation we argued that it is important for consumers to be informed about the financial and service implications of switching (including the impact on services not switched) before they switch their service. In particular, this is to ensure that consumers who are liable for an Early Termination Charge ('ETC')¹²⁶ are aware of this before they commit to switch. In this section we discuss the issue of lack of consumer awareness of the implications of switching, and present stakeholder responses as well as new evidence on this issue.

4.137 We acknowledge that an LPL solution is more likely to make consumers aware of the implications of switching, however we believe the GP is best placed to provide information on the benefits of switching. Based on responses to the 2012 Consultation, new evidence and the reassessment of existing evidence we believe that the current GPL NoT process is reasonably effective in ensuring that consumers are informed about the implications of switching before the actual transfer takes place. However, we recognise that there are weaknesses with the current NoT letter as it is often used as a prompt for consumers to find about the implications of switching rather than containing the required information.

Summary of the 2012 Consultation

4.138 We found that just under half of fixed and broadband consumers are in a Minimum Contract Period ('MCP') and may therefore be liable ETCs should they choose to switch.¹²⁷ We suggested that communicating ETC and other service implication information in a durable format¹²⁸ could potentially reduce complexity and harm to the consumer. It would also minimise the incentives for CPs to manipulate the information they present to consumers in verbal discussion or marketing material in order to dissuade consumers from switching.

4.139 We noted that under the GPL NoT process consumers are currently informed about the implications of switching through the letter from the LP.¹²⁹ This is a formal requirement under GC 24.7 and the letter must specify: the date of the letter and CLI

¹²⁶ ETCs are the charges that a consumer may be liable to where they cancel a contract before the contractual period is over.

¹²⁷ Data collected through a formal information request in 2011 suggested that on average 58% of fixed voice consumers and 54% of broadband consumers are not under a MCP.

¹²⁸ Means any instrument which enables the customer to store information addressed personally to the customer in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

¹²⁹ Unless the customer has explicitly agreed to receive correspondences electronically e.g. via email.

of all services which are to be affected, the services affected/unaffected by the switch, the proposed switchover date, relevant contact details and information about the right to terminate. This requirement does not at present require information on the specific level of ETC to be given to consumers.

- 4.140 Ofcom's Guidance on Unfair Terms in Contracts for Communications Services recommends that the NoT letter should explain the level of any ETC at the point at which a consumer is considering contract termination, the minimum notice period and any cease charges.¹³⁰ However, we stated that many NoT letters did not contain this specific information and instead many LPs used the NoT letters as a general prompt about the possibility that the consumer may be in a MCP and may be liable for an ETC.¹³¹ This could create confusion for consumers who are not in a MCP and therefore not liable for any ETC.
- 4.141 We recognised that LPL processes have an advantage over GPL processes in terms of the provision of information about consumers' contractual liabilities because when the customer contacts the LP they have the option of discussing ETCs and other service implications.¹³² However, we identified the risk that a LP may be incentivised to use this opportunity to encourage the consumer to stay with them, for example by providing vague or confusing information which puts the consumer off switching. We suggested that requiring LPs to provide specific information about the actual level of the ETC could help address this risk.
- 4.142 We considered that consumer harm could arise where consumers 'unwillingly' paid an ETC (i.e. where the consumer is required to pay a charge which they were not aware of before they switched and subsequently regretted the decision to switch). Our 2011 broadband consumer research found that only 14% of broadband switchers paid an ETC – 7% said they found out about the ETC before they signed up/placed an order with the GP and 6% after they had signed up for the service.¹³³ Consumers who switched using the LPL MAC process were less likely to pay an ETC (8%) than GPL NoT or C&R process users (15% and 16% respectively). The average ETC paid by a consumer was £38.
- 4.143 We calculated that very few switchers who paid an ETC of which they were unaware before committing to switch regretted their decision to switch. According to our 2011 broadband consumer research of the 14% of switchers that paid an ETC, 21% of this group were unaware of the charge before they had committed to switch. However, only 5% of these consumers were subsequently not happy with their decision to switch,¹³⁴ which is equivalent to an estimated 0.14% of all broadband and broadband/fixed voice bundle switchers.¹³⁵

¹³⁰ Ofcom's Guidance on Unfair Terms in Contracts for Communications Services, page 16. Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/addcharges/statement/Guidance.pdf>

¹³¹ Consumer Switching: Experimental economics research carried out by London Economics in June 2010 suggested that having more detailed information about the actual level of an ETC leads to better switching decisions than having a simple warning about the possibility of an ETC. Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/economics-research.pdf>.

¹³² Data collected through formal notification requests in 2010 found that amongst CPs that charged ETCs, all informed consumers requesting a MAC about possible ETCs and the vast majority were able to confirm the actual level of the ETC in real time.

¹³³ Broadband consumer research 2011, slide 34 – note that a further 1% of those 14% switchers that paid an ETC said they 'do not know when found out'.

¹³⁴ Bespoke calculations by Ofcom based on the data from the broadband consumer research 2011, Slide 32. 14% of switchers paid an ETC, 21% of these were estimated to be unaware of the charge

4.144 In the 2012 Consultation we concluded by estimating the level of harm associated with consumers unwillingly paying an ETC as £0.4m per year. This estimate did not reflect the harm associated with the lack of awareness about other implications of switching, nor did it reflect the CP and consumer costs associated with unwinding orders when a consumer finds out about ETCs/service implications and subsequently changes their mind.

Stakeholder responses

4.145 We received many responses from stakeholders on the issue of awareness of the implications of switching. There was consensus across respondents that it was important for consumers to be informed of the financial and service implications of switching.

4.146 In this section we set out stakeholders' views on how effective LPL and GPL processes are about communicating the implications of switching and the consumer harm we have identified with each process. We then provide stakeholders' comments on the format and content of the notification letters currently sent under the GPL process.

The effectiveness of the LPL MAC and GPL NoT processes to inform consumers of the implications of switching

4.147 Several stakeholders stated that LPL processes are preferable to GPL processes in communicating the implications of switching. Firstly, LPs are in the best position to provide specific details on the implications of switching as they have information which GPs do not.

4.148 Secondly, unless they pro-actively contact the LP, the GPL process results in consumers only becoming aware of the implications of their switching decision late in the decision-making process. This means that CPs (and ultimately consumers) face increased costs under a GPL process as consumers in some cases learn about the implications of their decision after they have contracted with the GP. This is likely to increase the incidence of cancellations (i.e. due to consumers finding out about ETCs and cancelling the order).

4.149 CRA argued that such cancellation costs need to be quantified and included in Ofcom's assessment of the different options. CRA referred to sample data provided by Openreach, BT, Virgin Media and Sky which estimated cancellation rates for different types of orders.

4.150 CRA estimated harmonised GPL processes would result in [\approx] orders being cancelled each year, compared to the [\approx] cancellations that occurred under the current multiple processes.¹³⁶ CRA estimated the additional cost to CPs of cancellation charges under the harmonised GPL processes would be £0.1m per year. This compares to a saving to CPs at £0.5m under the harmonised LPL

before they had committed to switch, and of these 5% were unhappy to switch as a result of the ETC e.g. $14\% \times 21\% \times 5\% = 0.14\%$. Note: Actual calculations based on analysis of raw data.

¹³⁵ Consumer Switching: a consultation on proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network, Three Points for Clarification. Available at: <http://stakeholders.ofcom.org.uk/consultations/switching-fixed-voice-broadband/amendment>

¹³⁶ CRA impact assessment report, Table 6 and paragraph 137.

processes as consumers are fully informed of the implications of switching prior to placing their new order.

- 4.151 BT, Sky and Virgin Media presented consumer research which showed that 88% of consumers wanted to 'have prior knowledge of the implications before placing an order rather than switching and then being informed a few days later of the consequences of the switch by their current provider'.¹³⁷ Telefonica submitted consumer research which found that 72% of consumers 'want to be able to understand what costs they'll incur before they place an order'. Other respondents put forward a more general view that they believe consumers prefer to receive information regarding the switch before they place the order.
- 4.152 The CFC argued that consumers need to know not only what they may lose by switching away from their LP, but how this compared with what they stand to gain from their potential GP. Therefore, overall, the CFC did not agree that an LPL process is preferable as consumers would still find it hard to compare offers. [X] made a similar point and highlighted that it is equally important for consumers to understand the implications of not switching.
- 4.153 EE stated that Ofcom's estimate of harm should include all consumers who were not aware of the ETC until after they switched, irrespective of whether they were happy or unhappy with their decision to switch as a result of the ETC. It compared our assessment of acceptable consumer harm to measuring the harm caused by unexpectedly high bills and limiting it only to those who are 'unwilling' to pay. EE also pointed to our position on non-geographic numbers and the aggregate value of harm caused by consumers paying more than they wish to but because of small increments believe it's not worthwhile complaining.
- 4.154 BT provided findings from research of consumers who either placed an order with BT under GPL NoT and subsequently cancelled, or came back to BT after following the GPL NoT process with another CP. BT found that 30% of cancellations were due to the LP making a better offer, 25% due to an ETC from the LP and 17% due to change of mind caused by 'other reasons'. (The remaining 28% were due to customers claiming they had been mis-sold, or not giving a reason, or orders placed in error).¹³⁸ In their view this evidence suggested that the main reasons customers change their minds and cancel an order under GPL NoT are ETCs and the offer of better deals.¹³⁹
- 4.155 Citizens Advice stated that it regularly has to advise clients who have been affected by unexpected ETCs they receive from the LP, and provided specific examples.¹⁴⁰ Similarly Ombudsmen Services submitted that a common problem in the complaints it observes is the lack of information about the implications of switching.
- 4.156 Several stakeholders supported Ofcom's concern that under a LPL MAC process the LP is incentivised to try and dissuade a customer from switching. One CP stated that reactive save activity could involve providing the consumer with vague or confusing

¹³⁷ Sky Response to the 2012 Consultation, page 15.

¹³⁸ BT Response to the 2012 Consultation, paragraph 3.33 page 16.

¹³⁹ Sample of 213 BT Retail Consumer orders placed under the GPL NoT and subsequently cancelled. Another piece of research by BT of 96 consumers requesting to come back to BT from a MPF provider but subsequently cancelling – 25% due to ETCs, 23% due to better offer, 18% change of mind. Of 67 consumers cancelling a request to come back from another WLR provider – 30% accepted save offer, 21% due to ETC, 15% due to change of mind for other reasons.

¹⁴⁰ Problems relating to cancelling or withdrawal of contracts accounted for 10% of fixed-line phone problems and 15% of broadband and internet problems reported to Citizens Advice.

information about ETCs verbally and provided practical examples of such practices. The same CP stated that under the GPL NoT process some CPs use the LP letter to actively encourage inbound calls from the consumer and provided an example of a letter to support this point.¹⁴¹

- 4.157 We also note a view put forward by CFC that customer service agents of the LP, if asked by a potential switcher for details of this kind, may feel tempted to move an information-based conversation into a reactive save discussion. Evidence was also presented which showed that consumers find a process with no interaction with the LP much more appealing than getting a switching code and, at the same time, having to listen to reactive save offers.

Format of the notification

- 4.158 Issues were raised by stakeholders (BT, Telefonica, Virgin Media, Sky) around the effectiveness of letters under the GPL NoT process noting problems such as the unreliability of delivery, customers not reading letters and the possibility of letters going to the wrong contact (especially for businesses). However, despite noting these concerns with letters, some of these stakeholders did agree that information on ETCs and other switching implications should be set out to consumers in writing.

Content of the NoT letter

- 4.159 There were diverse views on what information was necessary for consumers to be able to make an informed switching decision. Consumer Focus and the CCP, for example, cautioned against providing too much information to consumers. In comparison BT suggested that consumers need to be provided with all potential implications (service-related and financial) to be able to make a fully informed decision.¹⁴²
- 4.160 Citizens Advice, Telefonica and Consumer Focus submitted that LP letters should contain information specific to the consumer such as the actual level of ETC. Citizens Advice stated that the increased complexity in calculating ETCs (e.g. as brought about by more bundling of communication services) is not a sufficient reason for CPs not to provide customers with information about their likely charges. While TalkTalk argued that consumers did not need to know the absolute magnitude of an ETC and an approximate range would be sufficient.¹⁴³

New evidence

Consumer harm

- 4.161 We have undertaken further analysis of the available evidence from our broadband consumer research 2011 on the effectiveness of the process at informing consumers of the implications of switching. Our analysis found that of those who found they were liable for an ETC after they signed up for their service, half said they had received contact from their previous provider either via a letter or phone call. This equates to

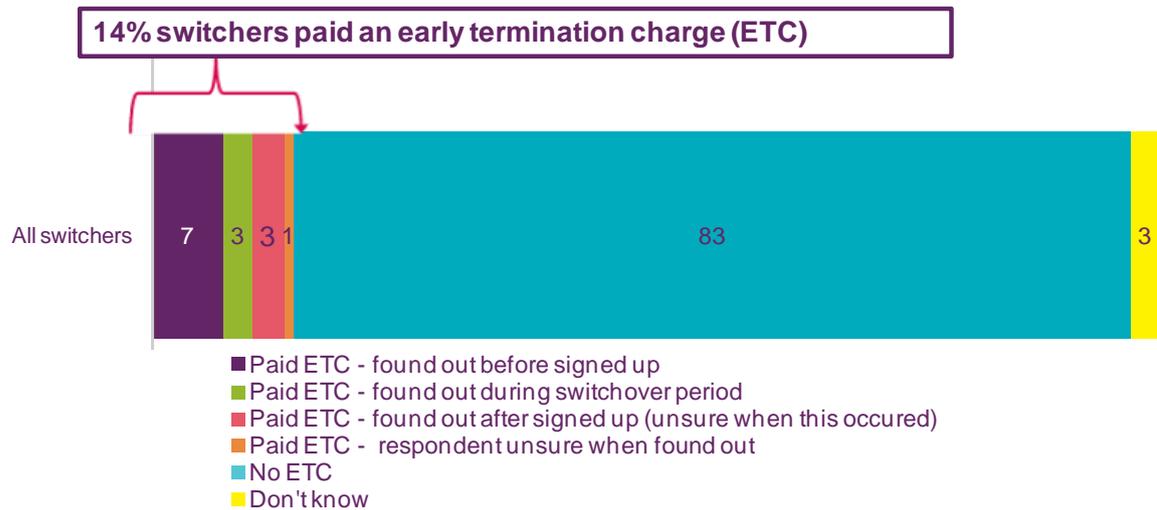
¹⁴¹ This letter included a general prompt that the consumer may be liable for an ETC rather than specific information as to whether an ETC is payable and the exact or an approximate amount. It also included non-specific information that some services that are retained with the existing provider might not work when the line is switched to the new provider, and if worried about this the consumer should get in touch with the LP.

¹⁴² BT Response to the 2012 Consultation, page 14.

¹⁴³ TalkTalk Response to the 2012 Consultation, page 9.

the 3% of broadband switchers who are likely to have ‘found out during the switchover period’. A further 3% of switchers said they experienced an ETC and found out after they had signed up but the data is unable to establish when this occurred.¹⁴⁴

Figure 4.9: Proportion of broadband switchers that paid an ETC and when they found out about their ETC



Source: Broadband consumer research, 2011

Content of the NoT letter

4.162 We found evidence in actual NoT letters that some LPs may include vague, confusing and sometimes subjective information to consumers which may encourage inbound calls from the consumer. These include:

- Non-specific information that some services that are retained with the existing provider might not work when the line is switched to the new provider, and if worried about this the consumer should get in touch with the LP.
- Repeat reference to services being ‘disconnected’ when they are being transferred.
- General prompt that the consumer may be liable for an ETC rather than specific information as to whether an ETC is payable and the exact or an approximate amount.

¹⁴⁴ Our analysis of GPL broadband switchers found that 83% did not pay an ETC. Of the 15% of GPL broadband switchers that paid an ETC, around one fifth (i.e. 3% of all broadband GPL switchers) said they found out about the ETC after they had signed up to a new provider. Seven percent said they found out before they had agreed to switch and a further 4% said they found out during the switchover period (as a result of contact with their previous provider, largely via a letter). The remaining 1% were unsure at what point they found out about these charges. This analysis is indicative only as it is based on responses from 73 GPL: NoT process switchers who paid an ETC.

Figure 4.10: Case study on lack of awareness of the implications of switching

Case study 9 (LPs abusing consumer's lack of knowledge about the implications of switching)

'I have been trying to transfer my talk and broadband service to Provider B for over a month. I am out of contract for both services and when I asked for a MAC code I was told that I would have to give a further 30 days notice or pay a fast [[?]] termination fee of around £40. I then chased this up with Provider B who told me this wasn't the case and I could transfer. I was advised by Provider A to wait 14 days and place a new order. To avoid this fee I cancelled with Provider B and waited 2 weeks then placed the new order, it now appears that because Provider A have put a cancellation order on the line with Provider B (who have not been able to progress the transfer), I have to re-order for a third time once the line is cancelled. This will leave me without talk or broadband for around two weeks. Therefore it would appear to be impossible to move your services away from Provider A smoothly without paying a fee to do so. I find these type of business practices incredible in this day and age.'

Source: CCT complaint

Other sources of information

- 4.163 There are a range of information sources available to consumers to understand the various implications of switching (their contracts, price comparison websites, Ofcom, CPs themselves, etc). According to our 2012 CRI research, a significant proportion of 'considerers' had looked into the process of switching (26% of those with dual play) or contacted their current provider to discuss possible cancellation (43% of those with dual play).¹⁴⁵
- 4.164 According to GC 24.6, at the point of sale the CPs are required to provide customers with all necessary information about the implications of switching, including the MCPs and any ETCs. However, the consumer complaints received by Ofcom suggest that this is not always the case.

Figure 4.11: Case study on lack of awareness of ETCs

Case study 10 (Lack of awareness of the MCP and the ETC)

Consumer was calling on behalf of their small business that had fixed line and broadband with Provider A. She was issued an ETC of £735 by Provider A, however the customer claims she was unaware she had ever entered into a contract: broadband for five years and fixed line for a year. Consumer said that a sales agent had called in person, however she was not told at the time of a minimum term and had no idea of a contract until she was issued the ETC.

Source: CCT complaints

¹⁴⁵ 2012 CRI research, Figure 31 page 41.

Our assessment

The effectiveness of the LPL MAC and GPL NoT processes to inform consumers of the implications of switching

- 4.165 We have assessed the effectiveness of the LPL MAC and GPL NoT processes at informing consumers of the implications of switching.¹⁴⁶ This assessment is based on the evidence in the 2012 Consultation, stakeholder responses and subsequent new evidence.
- 4.166 In relation to the LPL MAC process, we recognise that the LP is better placed than a GP to inform consumers of some implications of switching. Given the details already held by the LPs, most will know with reasonable certainty all the key details of the consumer's existing service (e.g. line speed, contract length, tariff, etc) and the financial implications arising (e.g. ETCs) if they choose to switch away to another CP.
- 4.167 However, we note that the LP may not be in a position to provide complete information to a consumer on the benefits if the consumer decides to switch away to a new provider. Instead the GP is best placed to provide this information. This means that under an LPL process a consumer will not be able to gather information on all of the implications (both costs and benefits) from simply interacting with their existing provider. We also identified the risk that a LP may be incentivised to encourage the consumer to stay with them, for example by providing vague or confusing information which puts the consumer off switching.
- 4.168 In relation to the GPL NoT process, we have reassessed the evidence on the effectiveness of the process at informing consumers of the implications of switching. In this analysis, we have focused on ETCs as these are one of the most cited implications of switching. In the analysis below we have used figures for GPL processes where they are available, and overall switchers where they are not. As the majority of actual switches are GPL, we consider that information on the effectiveness of GPL processes can be inferred from the overall figures.
- 4.169 Although we estimate that around 40% of broadband consumers are in a MCP and so potentially liable for ETCs,¹⁴⁷ should they choose to switch, only 14% of broadband switchers paid an ETC.¹⁴⁸ This is consistent with many consumers waiting until they are out of their MCP before switching.
- 4.170 Our research indicates that only a small minority of GPL NoT switchers (3%) find out that they are liable for ETCs after they have committed to a new provider. A further seven percent found out before they had agreed to switch and 4% found out during the switchover period. A remaining 1% were unsure at what point they found out about these charges. These findings are not significantly different to those presented above among the whole market. Those consumers (both among the total sample and the sample of GPL NoT switchers) allocated to 'finding out during the switchover period' said they had established these costs as a result of contact with their previous provider, mainly via a letter. This means that the vast majority of GPL broadband

¹⁴⁶ This assessment also covers switching that occurs under the WLT process.

¹⁴⁷ Data collected through a formal information request in 2011 suggested that on average 58% of fixed voice consumers and 54% of broadband consumers are not under a MCP. This is consistent with data from Ofcom's 2012 CRI research, which found 39% of dual play 'considerers' said 'being under contract' was a main/major consideration in their decision not to switch.

¹⁴⁸ Broadband consumer research 2011 indicates 15% of GPL broadband switchers paid an ETC.

switchers either did not have to pay an ETC or found out about the ETC before they had committed to switch.¹⁴⁹

- 4.171 This evidence suggests that the current GPL NoT process is relatively effective at ensuring that the vast majority of broadband switchers either do not pay an ETC or are prompted to find out whether they are liable for an ETC before they commit to switch. It also suggests that the NoT letter is reasonably effective at prompting consumers who have signed up to switch to find out about the ETC before they commit to switch.
- 4.172 CRA report that the cancellation rate is higher for GPL NoT orders [38] than for MAC orders [39].¹⁵⁰ Given that many consumers will find out about ETCs and other implications of switching at a later stage in the GPL NoT process, this higher cancellation rate is to be expected. We also note that this cancellation rate is consistent with the switchover period and NoT letter offering valuable protection to consumers.
- 4.173 CRA have estimated the costs of cancellations to CPs in their report. CRA suggest that a harmonised LPL process would reduce cancellation costs for CPs by £0.5m per year relative to a harmonised GPL process.¹⁵¹ We have not attempted to quantify the cost of cancellations but instead note that the average ETC paid by a consumer is approximately £38¹⁵² whereas the total cancellation charge incurred by a CP is approximately £11.73 per change (assuming it arises before the 'point of no return').¹⁵³ This suggests that the benefit to consumers of being able to cancel exceeds the cost to CPs. In Annex 6, we note that our conclusions on the option assessment would not materially change if we were to include higher cancellation costs for GPL processes.
- 4.174 We note EE's assessment that all of the 3% of broadband switchers who were not aware of the ETC, irrespective of whether they were happy or unhappy with their decision, should be considered to have been harmed. However, we believe that whilst 3% is the correct measure of the level of lack of awareness, it would overstate the incidence of consumer harm.¹⁵⁴ This is because some consumers may still benefit overall from switching, and so would still have proceeded regardless of the ETCs.¹⁵⁵
- 4.175 We therefore continue to believe that the appropriate measure for consumer harm is the consumers who paid an ETC and were unaware of the charge before they had committed to switch, and as a consequence regretted the decision to switch. We note that only 5% of the 3% of consumers who were unaware of their ETC were not happy with their subsequent switching decision.¹⁵⁶ This is equivalent to an estimated 0.14% of all broadband and broadband/fixed voice bundle switchers. We estimate that the

¹⁴⁹ 83% of GPL NoT process switchers did not pay an ETC, 11% paid an ETC and found out before or during the switchover period and 3% did not know whether they paid an ETC or not. Just 3% paid an ETC and found out after they had committed to switch.

¹⁵⁰ CRA impact assessment report, paragraph 129.

¹⁵¹ CRA impact assessment report, paragraph 138.

¹⁵² 2012 Consultation, page 70.

¹⁵³ CRA impact assessment report, Table 7 page 39.

¹⁵⁴ For this reason we have not amended our methodology in Annex 6 from that in the 2012 Consultation.

¹⁵⁵ This is supported by the fact that the majority of those who paid an ETC were aware of it and still chose to switch.

¹⁵⁶ 2012 Consultation, page 71.

level of harm associated with consumers unwillingly paying an ETC is £0.4m per year.

Format and content of the NoT letter

- 4.176 We believe there are some weaknesses and limitations to the provision of information on the implications of switching under the GPL NoT process in its current form. These weaknesses are primarily the lack of precise information on the implications of switching, including the actual level of ETCs and service implications.
- 4.177 The evidence suggests that some LPs provide vague and confusing information in the NoT letter. This means that, instead of providing the consumer with specific information on the implications of their switch, the letter prompts consumers to find out the information by, for example, contacting the LP, checking terms and conditions etc. This is likely to result in some consumers not being informed (as although they read the letter they don't contact the LP) or additional hassle for the consumer in contacting the LP/locating terms and conditions. We discuss the options for possible improvements to the NoT letter, including stakeholder suggestions in Annex 7.

Conclusion

- 4.178 We conclude that an LPL solution would be likely to make consumers more aware of some implications of switching, in particular ETCs, than GPL processes. However it is likely that the LPL is not in a position to be able to fully explain the potential benefits that a consumer may gain if the consumer switches to a new provider; a potential GP is best placed to provide this information.
- 4.179 The evidence suggests that the current GPL NoT process is reasonably effective in ensuring that consumers are informed of the implications of switching before the transfer of services takes place. This is reflected in the low proportion of consumers that paid an ETC but were unaware of the charge before they committed to switch.
- 4.180 We recognise that there are weaknesses with the current NoT letter. In particular, we consider that in many instances the letter acts as a 'prompt' for consumers to find out about ETCs, and other implications of switching, rather than containing the required information. This reduces the effectiveness of the letter and can result in additional hassle for the consumer.

Section 5

Problems faced by consumers (Part 2)

5.1 This section is the second of three sections where we update our analysis of the problems we have identified with the current switching processes. In this section we consider issues where the consumer is affected by the actions of, and interactions between LPs and GPs, and, in some case, Openreach. This section considers the following problems:

- Insufficient customer consent;
- Erroneous transfers;
- Loss of service; and
- Lack of platform neutrality.

Insufficient customer consent

Introduction

5.2 In this section we consider the issue of insufficient consumer consent and slamming. As noted in the 2012 Consultation, slamming occurs when consumers are switched to another provider without their explicit knowledge and/or consent.¹⁵⁷

5.3 Slamming takes many forms and can involve a switch being instigated without any contact with a consumer, or involve issues such as mis-representation (where a salesperson claims to be from a different provider), consumers being told they are merely signing up for information rather than entering into a new contract, or consumers being sold additional services over and above what they agreed to switch. A slam can also occur where a consumer withdraws consent to a switch and advises the GP but the GP fails to cancel the order.

5.4 It is important to note from the outset that in the 2012 Consultation we reported a high number of slamming incidents (520,000 per year) based on consumer survey evidence and analysis of our CCT data. Since this figure was strongly challenged by the stakeholders, we took a more detailed analysis of the updated evidence and came to a conclusion that the incidence of slamming is actually 84,300 per year. In the light of this, our views on the prevalence of slamming and the weight that we attach to this issue have changed.

5.5 We have considered the effectiveness of our enforcement activity and concluded that there are deficiencies in record keeping by CPs which impede our ability to investigate slamming and that the current framework for enforcement is not well suited to addressing slamming by the long tail of CPs.

5.6 Below we set out our assessment of this problem from the 2012 Consultation, followed by stakeholder responses and the new evidence on slamming and its impact on our new assessment.

¹⁵⁷ Slamming is an extreme form of mis-selling and is defined in GC 24.19. Available at: <http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/narrowband/statement.pdf>

Summary of the 2012 Consultation

- 5.7 In the 2012 Consultation we explained that slamming can occur if switching processes do not include appropriate measures to ensure that a customer has consented to the switch. We also observed that slamming was much more likely to occur under the GPL NoT switching process than with the LPL MAC switching process because the latter has a stronger consumer consent validation process (i.e. consumers wanting to switch must get a MAC and the LP carries out customer authentication checks before the MAC is given out).¹⁵⁸
- 5.8 We explained that under a GPL NoT process, slamming is covered by rules contained in GC 24, which we monitor and enforce. Further, that under the GPL NoT process where the consumer suspects they are being slammed, the process enables them to stop an attempted slam becoming an actual slam by contacting their existing provider when they receive the NoT letters, and requesting that the LP cancels the order which the GP has placed to switch the consumer. The use of this anti-slamming measure known as the Cancel Other process provides an important safeguard for consumers against slamming.
- 5.9 We noted however, that the Cancel Other process relies to some extent on consumers knowing that a slam is in progress and acting to stop it. As a result, they do not stop all attempted slams becoming actual slams. Consequently, there is a critical reliance on enforcement activity to tackle any slamming that occurs under the GPL NoT process.
- 5.10 As we set out in the 2012 Consultation, we estimated the incidence of slamming as affecting 520,000 consumers annually based on our 2011 consumer survey data.¹⁵⁹ We noted differences between trends in the consumer survey data and the complaints data and stated that we would carry out further detailed analysis.
- 5.11 We explained that slamming causes significant harm in three different ways:
- Harm to consumers directly affected by slamming through annoyance, time, distress and effort required resolving the situation and the financial harm if consumers are charged an ETC when they are slammed during their MCP. In so far as we were able to quantify these effects, we estimated this as between £1.8 - 4.9m per year.¹⁶⁰
 - Significant provider costs in dealing with slamming which ultimately had a negative impact on all consumers (even those not directly affected by slamming) through potentially higher prices. In so far as we were able to quantify these effects, we estimated this to be around £12.2m per year.¹⁶¹

¹⁵⁸ General Condition 22, Annex 1 paragraph A1.3. Available at:

<http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/general-conditions22nov12.pdf>

¹⁵⁹ Bespoke calculation based on slamming 2011 research and analysis of CCT complaints data. See paragraph A8.8 in 2012 Consultation. Consumer research 2010 found approximately 480,000 households experienced an actual slam over the previous 12 months. This estimate is based on analysis of raw data and 26 million total UK households.

¹⁶⁰ We estimated the indicative range for estimated financial loss due to slamming is £0-3.1 million per year, the time cost at around £1.6m per year and a further £0.2m to deal with attempted slams (i.e. using the Cancel Other process).

¹⁶¹ We estimated the costs to CPs to rectify slamming is £11.3m per year and costs of around £0.9m per year operating the Cancel Other process.

- Harm to competition (and ultimately consumers) if slammed consumers are not restored to their original provider. Our research indicated that between 28% and 60% of slammed consumers were not restored to the original provider. This implied that slamming could allow inefficient firms to unfairly win customers from more efficient firms and stay in the market.¹⁶²

5.12 We noted that formal investigations can be very effective in reducing harm generated by that provider and issuing of notifications and penalties will have some deterrent effect on industry. However, we noted that under the current framework, it is difficult to use enforcement to tackle the 'long tail' of approximately 250 CPs generating only a few slamming complaints each month.

5.13 We concluded that we remained concerned about an unacceptably high level of slams being reported and the significant harm (quantified and unquantified) that it generated.

Stakeholder responses

Overview of responses

5.14 Most stakeholders agreed with our assessment that slamming causes consumer detriment when it occurs and that an effective switching process should protect against slamming. Several stakeholders stated that a LPL process based on LPL MAC or LPL ALT was the most effective way to deal with slamming. Conversely, Three UK (in the context of mobile services) did not believe that a GPL process led to more slamming and argued that the issue was more to do with mis-selling than porting or switching.

Slamming incidence

5.15 Many respondents to the 2012 Consultation questioned our slamming data, considering our assessment of slamming volumes to be too high. Many CPs stated that their complaints data supported the downward trend of Ofcom's own complaints data. Nine stakeholders pointed to analysis of their own slamming cases which showed a significant proportion of apparent slams were due to a mixture of factors including buyer's remorse, mis-communication and in particular ETs, all of which could create a perception of slamming rather than an actual slam.

- SSE analysis of their 'no-contact' slamming cases in March 2010 showed half were due to data issues where the wrong assets are switched by mistake, rather than a deliberate slam.
- According to [3], only one of 169 ET or slamming complaints made against it between October 2011 and March 2012, was a deliberate slam, whereas 168 were ETs.

¹⁶² Slamming Research Survey Results, 1-6 September 2011, GfK, (referred to as 'slamming research 2011'), Q9 page 21. Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/slamming2011.pdf>

The slamming research 2011 indicated that an average of 44% of consumers who had been slammed were not restored to their original provider. Based on the sample sizes involved in the slamming research 2011, we can be 95% confident that the proportion of consumers affected is between 28% and 60%.

- Provider analysis of 465 potential slamming complaints made against [redacted] between May and October 2011 found that 299 (64%) were ETs and in another 98 cases (21%) there was no basis at all for the customer thinking that they had been slammed or erroneously transferred. Although not stated explicitly, we assume that the remaining 15% of complaints were found to be deliberate slams or cases that could not be categorised due to insufficient evidence.
 - C&W stated that it had been asked to look at nine complaints by Ofcom over a 12 month period and all were found to have been due to ETs rather than slamming.
- 5.16 CRA, acting for BT, Sky and Virgin Media, highlighted the survey data put forward by those stakeholders and suggested that the incidence of slamming was 0.6%,¹⁶³ rather than Ofcom's figure of 2.5%. This statistic measured consumers who stayed with the provider who switched them without their consent; the Ofcom figure measured consumers that were switched without their consent, irrespective of whether they stayed with the provider that switched them.¹⁶⁴
- 5.17 FCS reported that its own survey of CP members indicated much lower levels of slamming than suggested by our own research. Respondents to the survey estimated between 5% – 10% of the customers that switched away from them were due to slamming activity - this suggested a lower incidence of slamming at between 0.4% and 0.8% of households - around 105k to 210k slams per year.¹⁶⁵ This survey covered [redacted] CPs, who represented just under [redacted] switchers per annum.
- 5.18 BT Retail provided figures on the number of complaints it received about slams or attempted slams between 2008 and 2011 and noted that over 30% of the reports it received were due to customers changing their minds but with the GP failing to cancel the order as requested.¹⁶⁶ Its data showed declines in the number of complaints received about slams ranging from 15% to 45% each year.
- 5.19 Telefonica pointed to our analysis of CCT complaints data which showed that 33% of complainants which were logged as 'mis-selling/slamming' were actually subsequently identified as being ETs. Telefonica argued that from the customer's perspective there is no difference between a problem caused by the process (slamming) and one caused by the systems (ETs).¹⁶⁷
- 5.20 One stakeholder provided data showing a reduction in their Cancel Other records due to attempted slams while showing a rise in the proportion of Cancel Other which are due to a 'Change of mind not actioned'; they explained that these are usually the

¹⁶³ CRA highlighted the 0.6% figure in paragraph 102 of their impact assessment report and argues 'This gives further reason to question the quality of the (much higher) estimates that Ofcom is relying upon'.

¹⁶⁴ CRA also suggested Ofcom should have modelled ranges across the 2010 and 2011 research instead of point estimates.

¹⁶⁵ Based on the 2.1 million switches per year assumed in the 2012 Consultation.

¹⁶⁶ This would be categorised as a 'Change of mind not actioned' by Ofcom. BT also noted consumers who experience such a scenario may not describe it as 'slamming' when answering consumer research questions.

¹⁶⁷ SWG 1 meeting 18 November 2010. Available at:

<http://stakeholders.ofcom.org.uk/telecoms/groups/switching-working-group/meetings/18nov2010/>

Similar analysis of CCT complaints data was used in the 2012 Consultation to estimate the percentage of slams (20%) which could be process based ETs rather than deliberate slams.

result of a customer changing their mind about a transfer, rather than an unauthorised transfer.¹⁶⁸

- 5.21 CRA suggested that Ofcom should have applied a three-way split in its calculations of customer reports of slamming (instead of two): (1) ETs where there was some customer consent but the wrong line was switched in error; (2) slams without customer consent; and (3) erroneous reporting of slamming experiences. The latter category is based on analysis of potential slamming complaints against [X] where a significant proportion (21%) were deemed to be cases where the customer had no basis at all to think they had been slammed or erroneously transferred. Virgin Media suggested that consumers may be confusing incidents of mis-selling with slamming.
- 5.22 One stakeholder (Entanet) stated that they believed slamming is mainly due to one CP and that due to negative publicity and Ofcom enforcement, this problem has abated, while [X] suggested there is a long tail of CPs involved in incidents of slamming.
- 5.23 Of the consumer groups, CFC questioned why slamming is so high and pointed to analysis by Mott MacDonald of CCT complaints conducted in 2007.¹⁶⁹ They suggested a large proportion of perceived slams may be due to other errors and highlighted that a range of preventative measures, including third party validation, may be required to deal with different variants of supposed slamming. Citizens Advice provided case studies of slams while the Ombudsmen Services stated that it sees relatively few complaints of obvious slams and that most are actually the result of an error.

Costs to consumers and CPs and the competitive effects

- 5.24 There was relatively little comment from respondents on the costs incurred by CPs from slamming and the competitive effects as most focused their responses on our assessment of the level of incidence. Most respondents agreed with our assessment that slamming creates significant harm for those customers affected but did not comment on our estimate of the financial costs incurred by consumers when dealing with slamming.

Enforcement activity

- 5.25 Several stakeholders suggested that enforcement activity could be used to reduce the incidence of slamming. Many stakeholders, from industry, consumer groups and individuals, suggested additional improvements which could be made to the existing framework for dealing with slamming. Stakeholders also suggested improvements to upfront protection which would also help to address slamming. These suggestions are set out in Annex 7.
- 5.26 Virgin Media argued that we have not demonstrated that our current enforcement activity could not continue to drive slamming numbers down further. Some CPs (Three UK, Entanet, Zen, and Universal Utilities) advocated better use of existing powers (GCs 23 and 24) to tackle slamming. For example, Universal Utilities stated that given the downward trend in slamming as represented by the CCT data 'more

¹⁶⁸ They suggested the introduction of a 'change of mind' reason code to separate such incidences out from actual slamming and enable easier monitoring of slamming through Cancel Other data.

¹⁶⁹ The report shows 'Misrepresentation' and 'Customer change of mind' combined with 'GP failed to cancel' were the main drivers behind apparent slamming.
<http://stakeholders.ofcom.org.uk/binaries/consultations/missellingprotection/statement/report.pdf>

effective enforcement action could ensure this trend continues'¹⁷⁰ while Entanet argued that 'enforcement penalises the wrong-doer rather than penalizing the entire industry by introducing further upfront protection measures'.¹⁷¹

- 5.27 Conversely, one CP [X] explicitly stated that it does not think more enforcement would have a significant impact on the level of slamming. It explained that it does not have sufficient faith in the enforcement regime given the low number of prosecutions and sanctions.
- 5.28 The CFC suggested that because there are different types of slamming (as identified in Figure 17 of the 2012 Consultation) a suite of preventative measures are needed to tackle slamming. The CFC noted that 'success in preventing one kind of slam or other poor sales practice may have the side effect of channelling more energy into alternatives'.

Cancel Other process

- 5.29 As discussed in Section 4, stakeholder comments on the Cancel Other process mainly focussed on whether LPs use the process to frustrate switching or simply to reflect the fact that consumers change their minds about switching (e.g. accepts a better offer from their existing provider). Virgin Media commented that LPs may use the Cancel Other process for a variety of reasons including to prevent slamming, and not just to frustrate the process.

New evidence

- 5.30 In the 2012 Consultation document we indicated we were planning to carry out further analysis in 2012 (Mott MacDonald Analysis and Mis-selling consumer research) as part of our broader mis-selling work which may help to provide further insight into the incidence of slamming. We also conducted a further piece of consumer research in February 2013 ('Slamming Omnibus Survey 2013') to update our understanding of levels of incidences where services are switched without consent as reported by consumers. We believe it is also appropriate to update our understanding of the level of slamming given that many respondents have questioned our slamming data, considering our assessment of slamming volumes to be too high.
- 5.31 The results of our Slamming Omnibus Survey 2013 and detailed analysis of our CCT fixed line mis-selling and slamming complaints by Mott MacDonald are explained below, along with the latest complaints figures we have from our CCT on slams and ETs. We also detail new evidence on record keeping by CPs from the Mott MacDonald study and our own experience when investigating slamming complaints.

Slamming Omnibus Survey 2013

- 5.32 In February 2013 Ofcom ran an omnibus survey over two waves, achieving a total sample of 3896 UK adults, to update and provide a robust understanding of stated consumer experience of switches without consent. This research found that 1%

¹⁷⁰ Universal Utilities Response to the 2012 Consultation, Q10 page 5. Available at http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Universal_Utilities_Ltd.pdf

¹⁷¹ Entanet Response to the 2012 Consultation, Q10 page 3. Available at http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Entanet_International_Ltd.pdf

(0.59%-1.41%)¹⁷² of adults said they had either their fixed voice and/or fixed broadband switched without their consent in the previous 12 months.¹⁷³

- 5.33 When compared to the findings from Ofcom's consumer research in 2010 (1.84%) and 2011 research (2.5%) this latest research suggests the level of such incidences as reported by consumers is significantly lower than in 2011.
- 5.34 This research, conducted in February 2013, used the same methodology as the 2011 survey. We use this latest figure of 1% as the basis for our final analysis of the incidence of slamming and ETs in our assessment section below.

Mott MacDonald Analysis

- 5.35 As indicated in the 2012 Consultation, Ofcom subsequently conducted a detailed analysis of mis-selling complaints. Mott MacDonald ('MM') conducted a detailed analysis of one month's fixed-line mis-selling complaints data (584 cases) made to the CCT.¹⁷⁴ The main objective of the analysis relevant to our review was to determine the accuracy of Ofcom's fixed-line mis-selling complaints data in the context of the GC 24 enforcement programme.¹⁷⁵
- 5.36 This analysis was conducted as some parties questioned the accuracy of the complaints received by the CCT, which is used to produce monthly metrics on mis-selling (which Ofcom uses to monitor levels of allegations of mis-selling and slamming as part of the GC 24 enforcement programme). These stakeholders argued that complaint numbers contained ETs and cases of 'buyer's remorse' – factors they said were beyond the CP's control.¹⁷⁶
- 5.37 MM conducted its own analysis of the original data and verdicts produced by the CCT by reviewing the primary data from consumers in the form of call recordings and complaints submitted by web form. It then went on to use the outcome of this analysis and information from CPs to reach a final verdict on each case.
- 5.38 MM extracted 219 complaints which related to slamming from the 584 cases of fixed-line mis-selling complaints. Their analysis of these cases found that the original CCT data overstated the incidence of slamming and understated the incidence of ETs.¹⁷⁷

¹⁷² The range takes account of the associated error margins.

¹⁷³ Slamming Omnibus Survey 2013 measured and combined the level of actual and attempted slams over the previous 6 month period. The findings of this survey are therefore not directly comparable with our 2010 and 2011 research on slams and are not presented here but can be found via:

http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/Misselling_Billshock_W3_071.pdf

¹⁷⁴ Initially Ofcom provided data covering one month (November 2011) however in a few cases data provided by particular CPs was insufficient to support a proper analysis of the complaints. As a result, Ofcom made a further request for data relating to mis-selling complaints from April 2012 from three CPs. The complaints analysed were originally categorised by the CCT as mis-selling complaints which included complaints categorised as slams (No Contact, Contact; No Contract; Misrepresentation and Change of mind not auctioned), ETs, false information, lack of information, mis-leading advertising and other mis-selling or inappropriate sales cases.

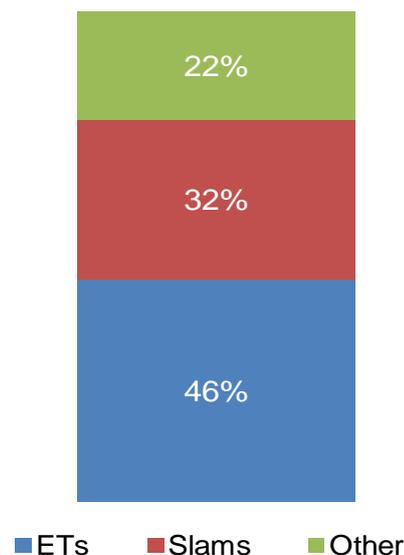
¹⁷⁵ Analysis of Fixed-Line Mis-selling Complaints, Mott MacDonald, August 2012, (referred to as 'MM report'). Available at: <http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/>

¹⁷⁶ Ofcom started collecting information that allowed us to track ETs over time in February 2010.

¹⁷⁷ MM report, page 32 – 34. With the benefit of CP data MM report found the original CCT data overstated the incidence of slamming by 55%. The analysis found that in particular there were fewer No Contact slams; a significant number were re-categorised as ETs. However, although there were fewer incidences, No Contact slams still remained the largest slamming complaint category and when combined with Contact, No Contract slams accounted for the majority of slamming complaints.

This is true whether MM analysed only actual switches or included attempted switches.¹⁷⁸ In total, MM found that of the complaints about switches without consent received by the CCT, 32% related to a slam, whereas 46% were an ET and the remaining 22% were, after investigation, neither a slam nor an ET. This latter category was caused by a range of different factors, the largest of these being buyer's remorse where there was a direct contradiction between the complaint by the consumer and the evidence reviewed suggesting the customer had in fact agreed to transfer. The other significant remaining factor was false or misleading information provided to the consumer.

Figure 5.1: Breakdown of CCT complaints originally classified as switches without consent



Source: Mott MacDonald

Note: The breakdown reflects the reclassification of 219 complaints by Mott MacDonald which were originally classified by the CCT as a switch without consent caused by either an actual slam or ET.

5.39 We use this estimate of breakdown of switches without consent together with the 1% figure from the consumer survey data to derive an estimate for the incidence of slamming described in a later section below. The rationale for this approach is that the consumer perception among those who responded to the survey and those who contacted Ofcom to complain are likely to be similar i.e. both *perceived* themselves to have been 'slammed'. Only further investigation of their issue, which could only be carried out by a third party, is able to distinguish between 'actual slams' and 'erroneous transfers'.

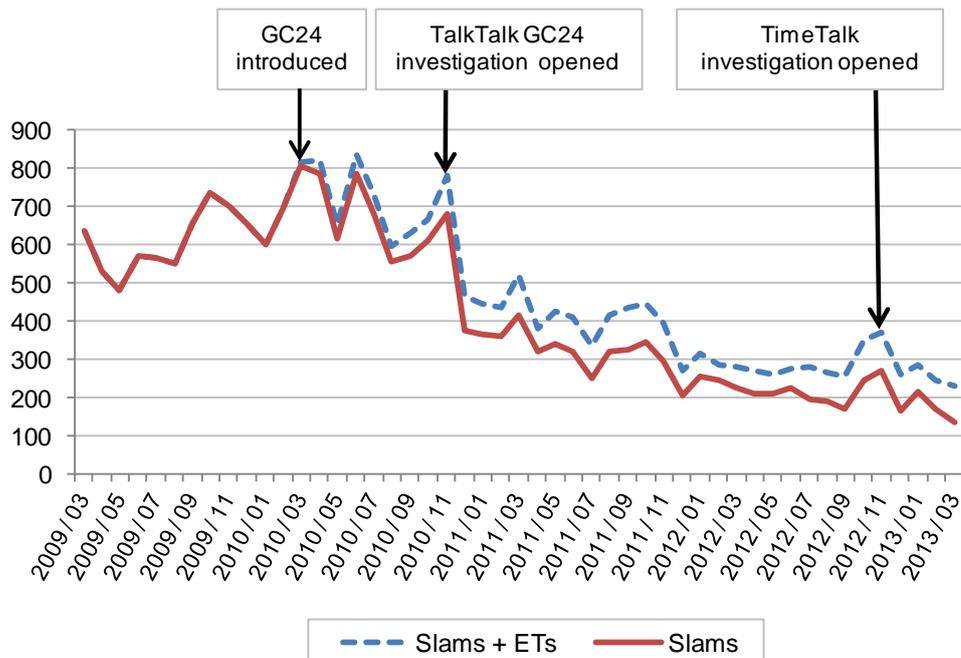
CCT data

5.40 Figure 5.2 below shows a breakdown in the slamming complaints we receive which we have categorised as either a slam or ET. We recognise, given the findings from the MM analysis, that it can be difficult for the CCT to distinguish between slams and ETs, however we believe the data is a useful indicator of the overall trend in these types of complaints. Our data suggests the number of slamming complaints has

¹⁷⁸ Bespoke analysis by Ofcom. This analysis of only ET and slamming complaints where the switch took place is not presented in the MM report (the report contains analysis of a combination of complaints where a switch occurred and attempted slams and ETs where the switch was stopped).

fallen over time to around 200 complaints per month. This fall in slamming complaints and incidence levels reported by the market research are consistent with Ofcom's enforcement powers being an effective deterrent against slamming. In this regard we notice that although slamming and ET complaints started to rise at the end of 2012, they have fallen since the launch of the Supatel investigation and informal action against another CP.

Figure 5.2: Slamming complaints as categorised by the CCT – March 2009 to March 2013



Source: CCT complaints.

Note: Includes a combination of incidences where the transfer took place as well as attempted switches which were stopped. Complaints about slams and ETs where a switch occurred mirror the trend in combined complaints. ETs began to be tracked as a separate complaints category in March 2010.

5.41 Figure 5.2 also shows that in 2009 and 2010, the number of complaints about slams was consistently above 500 per month, and in some months exceeded 800. We introduced GC 24, which gave us stronger enforcement powers against slamming in March 2010. In November 2010, we opened an investigation into TalkTalk, using these powers.¹⁷⁹ This investigation was closed with a finding against TalkTalk in May 2011. In November 2012, we opened an investigation into Supatel Limited (trading as TimeTalk) for alleged slamming.¹⁸⁰

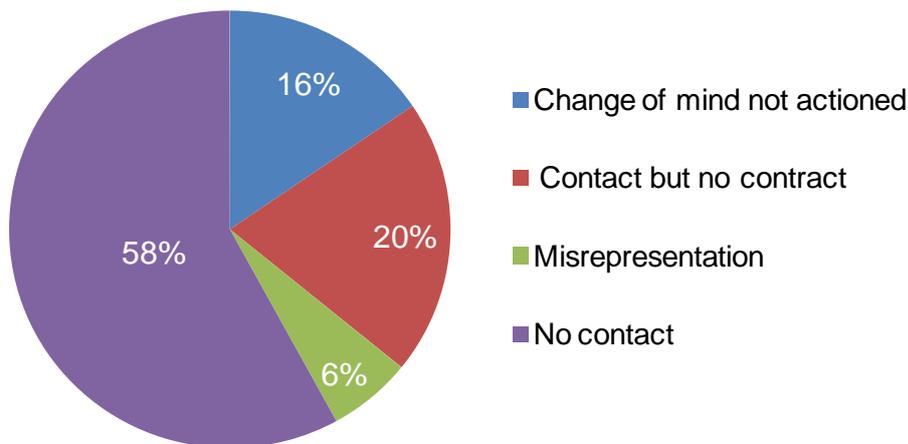
5.42 These figures on slamming complaints reinforce the finding from the research data explained above that the incidence of switches without consent (which includes slamming) has fallen in recent years. Furthermore, this evidence gives us greater confidence that our continued enforcement activities have had a positive effect in reducing the overall level of slamming.

¹⁷⁹ See http://stakeholders.ofcom.org.uk/enforcement/competition-bulletins/closed-cases/all-closed-cases/cw_01059-11-10/.

¹⁸⁰ At the same we also engaged with another CPs informally due to an upturn in complaints to the CCT.

- 5.43 As noted in paragraph 5.33, our consumer research for 2010 and 2011 suggested that the number of switches without consent were largely stable (as the difference was not statistically significant). The large fall in consumer complaints data occurred from the start of 2011 and therefore may not have been fully reflected in our 2011 consumer survey.
- 5.44 A breakdown of the types of slamming complaints we received over a 12 month period, as categorised by the CCT, is set out in Figure 5.3 below. This shows that a large proportion (58%) of slamming complaints are in relation to alleged 'No Contact' slams where the consumer had no contact with the provider.

Figure 5.3: Breakdown of slamming complaints – April 2012 to March 2013



Source: CCT complaints, (actual and attempted slamming complaints combined)

Notes: Excludes ET complaints. The slamming categories used are: (a) Change of mind not actioned: where the consumer changes their mind about switching to the GP and advises the GP of this but the GP fails to cancel the order. (b) Contact but no contract: where the consumer has had contact with the provider but did not agree a contract. (c) Misrepresentation: where the provider passes themselves off as a different provider. (d) No contact: where the consumer has had no contact with the provider.

- 5.45 Between April 2012 and March 2013, 39% of slamming complaints to the CCT were related to larger CPs, down from the 54% figure stated in the Consultation which covered the 12 month period up until the end of October 2011.¹⁸¹ Four small to medium size CPs who each generated more than ten complaints to the CCT per month over the same period accounted for a further 24% of complaints. The remaining proportion (37%) originates from a long tail of CPs who only generate a small number of complaints individually. This group of 169 CPs represent 96% of the CPs that consumers logged slamming complaints against. This illustrates that the majority (61%) of slamming complaints are now against smaller CPs or against the long tail of CPs generating only a few complaints a month.
- 5.46 For illustrative purposes, below we include several examples of consumer complaints in relation to slamming.

¹⁸¹ In the six month period to the end of March 2013 these same CPs accounted for 31% of slamming complaints to the CCT. Over the same period complaints against the majority of large providers have fallen to below 20 complaints per month on average.

Figure 5.4: Case studies on insufficient consumer consent*Case study 11 (change of mind not actioned)*

Consumer believes his line has been slammed. Consumer previously had services with Provider A. Provider A advised on 25/02/2013 consumer's line was taken by Provider B. Consumer was previously in contact with Provider B for services however on 13/02/2013 he decided to change his mind.

Case study 12 (contact but no contract)

Consumer had fixed line service with Provider A. Provider B contacted the consumer to offer a cheaper package which she turned down. She has now been issued with a bill from Provider B and an ETC from Provider A.

Case study 13 (misrepresentation)

Provider A called pretending to be Provider B (who I was with) and offered me cheaper rates (they're not). I asked several times to confirm if I was speaking to Provider B, on each occasion I was told I was and that they were merely making sure I was on the best tariff. As I had no wish to leave provider B, I would never have agreed, but as I was told I was dealing with Provider B I had no problem changing. Subsequently discovered that they are not provider B - I believe Provider A have acted fraudulently. I have gone back to Provider B - starting 12/4/13 but now Provider A want over £350 cancellation fee.

Case study 14 (no contact)

Consumer had fixed line service with Provider A who told them they had switched providers. Consumer had no prior contact with another provider. The consumer ascertained Provider B may have slammed the line which Provider B admitted. The consumer's number has been changed to [redacted] and it will take 72 hours for Provider A to assume their service again. This is all of particular concern to the consumer as he has lost four days of trade with his business.

Source: CCT complaints

New evidence on record keeping

- 5.47 Where poor record keeping occurs it can make it difficult for us to identify cases which may be the result of slams, or other causes such wider mis-selling issues, mis-communication or customer remorse.¹⁸² This can prolong the time taken to investigate the complaints and require additional resource to collate other forms of evidence. It can also make it challenging to establish the full extent of the breach and set penalties accordingly.
- 5.48 The impact of poor records on our ability to investigate complaints is considered below using the finding from the MM analysis on poor record keeping, along with our own analysis of previous investigations which included investigation of alleged slamming.

¹⁸² Process changes have been made to the way CCT identify ETs via the Unknown Service Provider ('USP') requests carried out by CCT in conjunction with Openreach and this should help us more accurately identify ETs as opposed to slams.

- 5.49 The MM analysis highlighted how the quality of information provided by a CP can assist in the full understanding of a case and how a final verdict is produced:

'In some cases CPs provided comprehensive information which was very helpful in understanding the facts of a case – whether that meant a verdict in favour of the CP or the consumer. In other cases CPs provided little or no evidence to set against the consumer's version of events'.¹⁸³

- 5.50 The analysis revealed a significant variation in the quality of data held by CPs. Overall, in 68% of cases, the data received from CPs was sufficient to aid an understanding of cases. In 17% of cases the data was insufficient and did not add anything to an understanding of the case and no records were provided in 15% of cases.¹⁸⁴ The quality of response varied widely by CP. While two of the largest CPs provided sufficient information in over 80% of cases, at the other end of the scale another large CP provided sufficient information in just over 30% of cases – and MM encountered a range of values in between these two extremes. As a result of these findings MM recommended changes to record keeping obligations as a means of aiding the effectiveness of enforcement.
- 5.51 More detailed analysis of the information provided by the CPs in this study shows the quality of data available varied according to the sub-category of the complaint.¹⁸⁵ Table 5.1 shows sufficient information was received from the CPs in a large proportion of complaints categorised as ETs (based on CCT and CP data). Conversely, adequate information was only received from the CP in one in every five 'No Contact' complaints; therefore a high number of 'No Contact' slam complaints had no provider records against them.

Table 5.1: Percentage of complaints where sufficient information was provided

No contact	Contact, No contract	Change of mind not actioned	ET
19%	48%	50%	85%

Includes both attempted and actual slam complaints

Where "No Contact" slams occur there are likely to be no records which the CP can provide. In such cases other forms of evidence are required to determine whether there is non-compliance.

Source: Mott MacDonald analysis/Ofcom

- 5.52 The findings from the MM analysis raises questions about the variation in the quality of records management held by CPs and whether there is full compliance with GC 24 rules on records retention or a need to tighten up the requirements in this area.
- 5.53 The findings from the MM study on CPs' record keeping mirror the challenges Ofcom faces when monitoring CP behaviour and compliance and investigating alleged

¹⁸³ Mott MacDonald Mis-selling complaints study, 2012, page 29. Available at:

<http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/>

¹⁸⁴ MM report. Sufficient information meant the evidence provided was pertinent and clear enough to enable add to an understanding of the case. Insufficient evidence did not always mean that the CP had provided little in evidence – in some cases CPs provided extensive documentary evidence and numerous call recordings which were still deemed 'insufficient' because they were not pertinent to the central issue. No records included where the CP provided information relating to the wrong complaint. Where there was an inadequate response or justification from the CP, the consumer's complaint was recorded as being valid.

¹⁸⁵ Ofcom conducted further analysis on the data specific to our work on switching. Information on the availability of CP data by sub-category is not stated specifically in the MM report.

breaches of provisions within GC 24. For example, during our investigation into Supatel Limited (trading as TimeTalk)¹⁸⁶ the evidence provided by the CP was of limited use. Instead we relied primarily on evidence from Openreach and customer questionnaires.¹⁸⁷ As part of its conclusions MM included the recommendation that Ofcom's ability to effectively monitor and enforce compliance could be aided by changes on the part of CPs, including improvements in the quality of evidence provided.

Our assessment

- 5.54 Along with most respondents to the 2012 Consultation, we continue to recognise that slamming creates significant harm for those consumers affected and that incidences of consumers being switched without their consent may occur where switching processes do not have appropriate customer consent measures.
- 5.55 Under the LPL MAC process it is unlikely a switch can take place without the express knowledge and/or consent of the consumer. The existing GPL NoT process carries a greater inherent risk of slamming, despite several existing safeguards in place intended to stop an attempted slam becoming an actual slam.¹⁸⁸

Consumer harm from slamming

Slamming incidence

- 5.56 We continue to believe that consumer survey evidence is the most appropriate methodology to begin to estimate incidence of consumers being switched without consent. This is the most representative information across all consumers and across the UK. Therefore, our starting point is the 1% figure from the 2013 consumer research, as the most recent figure for being switched without consent. This is significantly lower than the figure presented in the 2012 Consultation and demonstrates that incidence of switching without consent has fallen from 2010/11. This gives us greater confidence that overall slamming incidence has fallen significantly as a number of different sources indicated that switching without consent is significantly less prevalent than we had stated at the time of the 2012 Consultation.
- 5.57 However, as we noted above, the consumer research data alone is not able to determine the cause of an incident where a consumer claims to have been switched without consent. As the consumer experience of a slam and an ET are very similar

¹⁸⁶ See http://stakeholders.ofcom.org.uk/enforcement/competition-bulletins/cases-in-compliance/cw_01096/

¹⁸⁷ While our experience to date suggests that we have been successful in issuing notifications for contravention of GC 24 on the most part, in several investigations CPs have been unable to provide evidence that demonstrates whether a customer has consented to the switch. These include Platinum Telecom (2006) - the CP stated it did not routinely record calls and Ofcom only received adequate call records for a small proportion of the complaints investigated. The evidence used to find the CP in contravention for misrepresentation was obtained from Trading Standards and another CP who provided call recording facilities for Platinum.

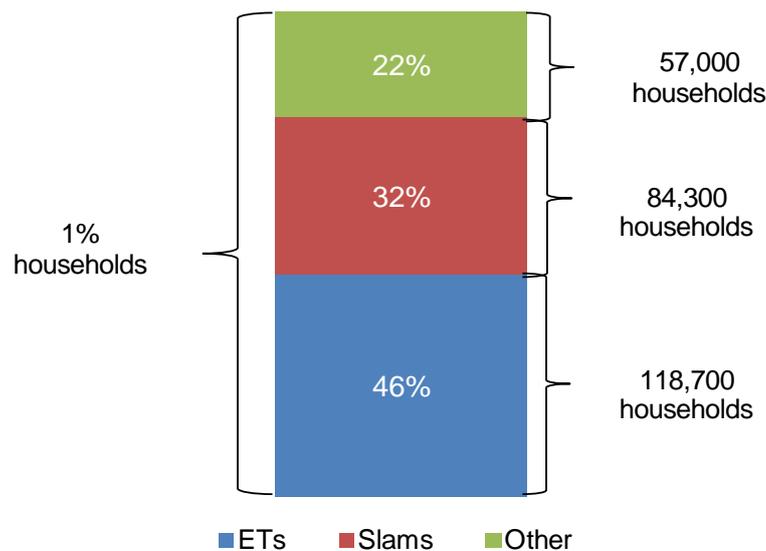
Telephonics investigation (2008 and 2009) was opened due to an increase in mis-selling complaints. While we were able to issue a notification, we were restricted by lack of records kept by the CP (only one month's worth of calls submitted), further the calls were not identifiable by customer name or CLI which made it considerably difficult to identify the customer being marketed. Instead we relied on witness statements in order to issue a notification for breach of GC1.2.

¹⁸⁸ The WLT process also carries an inherent risk of slamming as it relies on similar safeguards and providers could place a WLT order to 'takeover' and slam a line where the customer at the target address is not moving home.

(i.e. their service is switched without their express knowledge and/or consent), switched without consent incidences (whether reported as part of a consumer survey or as a complaint) will include ETs. In the 2012 Consultation we estimated the proportion of consumer claims of switching without consent that could be ETs (20%) based on a combination of 2011 consumer research and CCT complaints data.

- 5.58 In our opinion the most accurate way to adjust for these issues, based on the information we have available, is to split out the 2013 market research figure (1%) to reflect the findings from the MM study.¹⁸⁹ A breakdown of the market research figure can be found below.

Figure 5.5: Breakdown of stated actual slamming incidences, 2013 consumer research



Source: Ofcom consumer research and CCT data and Mott MacDonald findings

Notes: these figures are based on 26 million total UK households. The household data presented is based on raw data and not the rounded percentages as illustrated here.

- 5.59 The results of the adjustment suggest that of the 1% switched without consent incidences as reported in the Slamming Omnibus Survey 2013, 32% of households are likely to have experienced an actual slam, and 46% to have experienced an ET. A further 22% of households' reported slamming incidences are likely to have been caused by many different categories e.g. buyer's remorse, false or misleading information. These revised estimates and inclusion of a new category fit with CRA's suggestion that a third split should be applied to customer reports of slamming called 'erroneous reporting of slamming experiences'.

- 5.60 As noted above, in view of the new estimated slamming figures, we have revised our original estimate of the number of households affected by deliberate slams over a 12

¹⁸⁹ Ofcom recognises that there are issues with this methodology and that it only provides an estimation of the proportion of 'switches without consent' that are in fact either 'slams', 'ET's' or caused by another factor. However, given that the results are consistent with the feedback we had from providers we are comfortable with using this as a good proxy. We note that the consumer research data was undertaken in February 2013 and we are forced to make an assumption that the percentages recorded by MM based on November 2011 and April 2012 complaint data remain constant across time. However, we feel the methodology we have chosen provides the most accurate estimation.

month period to 84,300 households¹⁹⁰ (equivalent to 32% of the 1% of households). This new estimated figure is in line with stakeholders' responses to the 2012 Consultation which argued that many slams are the result of ETs and that our estimate of the incidence of slamming should be significantly lower.

- 5.61 Based on our revised estimate of the level of slamming we estimate the quantifiable costs from slamming are £2.1m to £2.6m per year (£0.3 - £0.8m per year for consumers and £1.8m per year for CPs (which may ultimately be borne by consumers) (see Annex 6).
- 5.62 Furthermore, we agree with Telefonica that, from a customer's perspective, there is little difference between a problem caused by a slam and an ET. Harm from ETs is also likely to give rise to greater provider cost since one ET may result in problems for two customers for every order gone wrong – the one they should have switched and the one switched in error. We therefore consider further the causes of ETs later in this section and consider how we intend to address ETs in Section 7.

Enforcement activity and record keeping

- 5.63 The new slamming figures have important implications for our conclusions on the effectiveness of enforcement activity. We believe the evidence is consistent with our enforcement powers being effective at reducing slamming particularly in relation to larger CPs. This decline in slamming observed in the consumer survey trend data is also supported by customer complaints data.
- 5.64 We note, however, that smaller CPs and the 'long tail' of CPs with low complaints per month now account for a larger proportion (61%) of slamming complaints and that in order to secure further reductions in slamming we need to be able target this group of CPs effectively. We remain of the view that the current framework of enforcement powers is not suited to tackling the long tail of CPs as these CPs may consider the threat of enforcement action to be too low.
- 5.65 Further, we note the new evidence from MM report on record keeping which found:
- poor and variable record keeping by CPs in relation to mis-selling and slamming complaints.
 - Variation across size of CP – with even large CPs (who have call recordings) being unable to provide adequate records.
 - Significant lack of records for 'no contact' slams category suggesting the difficulty of enforcing against these types of slams
- 5.66 We believe on the basis of these findings that there are deficiencies in the manner in which CPs keep records of sales and that this makes it difficult to quickly and effectively enforce against slamming.

Cancel Other process

- 5.67 Use of Cancel Other for WLTs and switching is not mandatory and therefore each individual CP is free to decide whether or not they wish to apply this consumer protection mechanism. Whilst it is in the interest of the LP to use the Cancel Other

¹⁹⁰ This figure is based on the same UK household data (26 million) used to calculate the number of households that had been deliberately slammed (520,000) identified by our slamming research 2011.

process to protect its customer from incorrect transfers, we are not confident that the process is being applied consistently across the industry. We consider the effectiveness of this safeguard to prevent slamming in Annex 8.

Conclusion

- 5.68 Our assessment of the problem of insufficient consumer consent has changed since the 2012 Consultation. Our estimate of the extent of deliberate slams is now 84,300 per year, significantly lower than the 520,000 we presented in the 2012 Consultation. This change has important implications for our assessment of the options in Section 7. However, we note that the analysis of slamming is complex and we will continue to monitor the incidence of slamming in the next phase of the project.
- 5.69 We believe that there are deficiencies in record keeping by CPs which impede our ability to investigate slamming. We also believe that the current framework for enforcement is not well suited to addressing slamming by the long tail of CPs.

Erroneous Transfers

Introduction

- 5.70 In the 2012 Consultation we explained that there are effectively two distinct sides to the switching process – a consumer facing element¹⁹¹ and a set of processes and systems used by CPs to support a good consumer experience of switching. The provider process and systems include issues such as reliably identifying the correct line to switch, ensuring consumers do not suffer loss of service when switching, ensuring that GP and LP co-ordinate the switch behind the scenes so that the consumers do not need to manage start and stop of services themselves. These issues are discussed in the next three sub-sections under Erroneous Transfers ('ETs'), Loss of Service, and Lack of Platform Neutrality.
- 5.71 In this sub-section we focus on ETs. These occur when a consumer's line is transferred in error. This arises because the CP's systems cannot reliably identify the correct line to switch and are caused by deficiencies in the underlying switching processes.
- 5.72 The result of an ET is that a third party, who has not requested a switch, has their line transferred instead of the consumer who has actually requested the switch. This can cause significant harm to the consumer whose line is targeted in error as their service is no longer being provided by the supplier of their choice, and as a result they may be liable for ETCs from their previous supplier and could lose their telephone number. It also causes harm to the person who intended to switch as there is a delay in them receiving their communication services. Both consumers are likely to spend time and effort in trying to resolve the situation and may suffer distress, anxiety and annoyance.
- 5.73 Analysis of the root causes of ET complaints, by the Office of the Telecoms Adjudicator ('OTA')¹⁹² and industry, suggests that ETs can happen in a switching context, but more commonly occur as part of the WLT process. The WLT process is often used when a consumer is moving home to a property that has a working line

¹⁹¹ This involves authenticating the consumer, validating their consent to switch, and informing them about the implications of switching.

¹⁹² The OTA is an independent organisation tasked by Ofcom to oversee co-operation between CPs and enable a competitive environment in the telecommunications sector.

and ensures that the consumer has working services on the day they move into their property.

- 5.74 Therefore, as part of our assessment we have considered ETs relating to switches/migrations and WLTs. We have also considered whether the problems are likely to get worse in the future.
- 5.75 Based on 2012/13 data, and following a similar methodology used to calculate slams, we have estimated that approximately 118,700 households were affected by ETs in the twelve months to February 2013. In the light of these estimates, we remain concerned about the prevalence of ETs. Stakeholders agreed that this was an issue and needed to be addressed. We note that some measures to address ETs, on their own, have not been sufficiently effective, while it is too early to assess the effectiveness of more recent industry improvements.

Summary of the 2012 Consultation

- 5.76 In the 2012 Consultation we discussed several problems with the reliability of the current switching processes and explained how these can lead to ETs. The current approach to identifying assets¹⁹³ and services under the existing GPL NoT process relies on the GP using the consumer's CLI and address to interrogate Openreach's systems to identify the correct asset/line. This is successful in the vast majority of instances.
- 5.77 However, the GPL NoT process sometimes gives rise to a number of problems which may lead to ETs. These are:
- Asset identification where CLIs are not available on the ordering gateway (Openreach DS) because the service is provided over MPF. In these circumstances the GP is required to identify the service using only address details which may be less reliable.
 - Where there are mismatches between CLIs held in the wholesalers' databases and the associated correct asset ID.
 - Where services/technologies do not have an associated CLI.
 - Where a customer may be using a different CLI to that listed in the database e.g. the consumer uses VoIP to make calls.
 - Where several services are provided over a shared asset/line making it difficult to identify precisely which service to switch.
 - Where the customer does not know the CLI for the address e.g. in a home move context.
- 5.78 In the 2012 Consultation, we estimated that around 130,000 households per year were affected by ETs.¹⁹⁴ Based on the number of households affected, consumer harm from ETs (comprising financial loss and time spent) was estimated to be between £0.6 and 1.4m per year, with the cost to CPs (in terms of time and wholesale fees) estimated at £3.7m per year.

¹⁹³ Asset refers to actual fixed line or broadband line that is to be switched.

¹⁹⁴ This was based on analysis of CCT complaints data and our slamming research 2011.

- 5.79 Although the causes of, and ways to reduce, switching ETs¹⁹⁵ and WLT ETs¹⁹⁶ are similar, we consider it appropriate to consider first the reliability of the switching processes and then consider how it can be used (or amended) to support the WLT process to deal with the problem of ETs in the context of a home move.
- 5.80 In the 2012 Consultation we estimated that the vast majority of ETs arose in a home move context, rather than as part of the migration process. This was based on an analysis of Ofcom complaints and work carried out by the OTA.
- 5.81 We also considered that the problems around asset identity and reliability are likely to get worse in the future for two reasons. The first was where more people switch from and between MPF providers. For MPF transfers the CLI associated with the line is not visible on the Openreach DS and therefore the asset identification is based on the address only.
- 5.82 The second reason was the anticipated growth of fibre-based services. In these circumstances, CLIs are either not visible or are not unique to a service. In the 2012 Consultation we based our assessment of the problems associated with future networks and services on the assumption that 25% of the Openreach NGA roll out would be for FTTP lines.¹⁹⁷
- 5.83 Fibre-based products could potentially support multiple services over a single asset. Under these circumstances the CLI becomes unreliable as a key for identifying the actual line or service to be switched. The greater reliance on identifying assets through address data for switching services means the process becomes similar to the WLT process in which the majority of ETs occur.

Stakeholder responses

- 5.84 Responses on the effectiveness of these processes were mainly from CPs. This was not unexpected because consumer groups would not have direct visibility of the processes involved. On the whole, stakeholders agreed that there was a problem with ETs and that it was an issue that needed to be addressed.
- 5.85 BT considered that Ofcom had underestimated the scale of the problem of ETs. In the 2012 Consultation we estimated that 20% of alleged slams were actually ETs. However BT stated that their data suggests that 60% of alleged slams were actually ETs.

ETs arising from switching CP

- 5.86 BT's response stated that, due to the way in which the UK copper network has developed over time, under the current GPL NoT process the CLIs for MPF lines are not visible on Openreach's system and therefore cannot be used to identify the

¹⁹⁵ Where we refer to a switching ET or a 'migration' we are referring to a switch in the context of a person changing CP. In the 2012 Consultation we felt that a minority of ETs stemmed from switches.

¹⁹⁶ Where we refer to a WLT or homemove, we mean a transfer in the context of a homemove, i.e. the consumer is moving house and wishes to have the service installed at the new address. In a homemover scenario, if a working line exists at the target address, the GP should be able to request to 'takeover' the existing service. This process enables the consumer to obtain their new services as soon as they move into the new premises and at minimum cost.

¹⁹⁷ BT Annual Report, 2010, page 32. Available at:

<http://www.btplc.com/Sharesandperformance/Annualreportandreview/pdf/BTGroupAnnualReport2010.pdf>

correct line to be switched. They explained that this led to problems, particularly where there are multiple MPF lines in use at a single location e.g. block of flats.

- 5.87 EE, Telefonica, TalkTalk, Consumer Focus and the CFC also considered that the current GPL NoT process cannot always reliably identify the line to be switched. They all agreed that reliance on CLI for asset validation leads to ETs in cases where the CLI does not exist or is unavailable as matching against the address does not always ensure the right asset is targeted.
- 5.88 EE suggested that the reliability and loss of service issues with today's switching processes were the result of commercial prioritisation rather than a fault with the process itself and the back end issues identified could be mitigated, and therefore did not require an entirely new process. They added that as the result of implementing some of these enhancements they have seen the number of ETs fall.
- 5.89 Zen believed that the GPL NoT process could lead to ETs and loss of service due to its reliance on CLI and that this was likely to get worse in future with the development of new technologies, as asset and service identification becomes more complex.
- 5.90 Telefonica's response to the consultation highlighted the effect that inaccurate address data can have on orders, particularly where orders are placed by consumers themselves. Telefonica stated that CPs can train customer service staff to be rigorous about choosing the correct address when placing an order, but it is not so simple to ensure a customer on a website chooses the exact address when they place their order. Telefonica explained that customers are used to selecting the address from an address file, which often is not as accurate as it should be or offers multiple choices for the same premises.
- 5.91 Virgin argued that relying on just the address to identify the line is problematic but by training staff to ask the correct questions, this potential problem can be largely overcome.

ETs arising from moving home

- 5.92 Stakeholders agreed that the main cause of ETs was WLTs rather than when the consumer is switching CPs at a given location. BT conducted its own review of [X] potential slamming complaints to Ofcom over the six month period from May to October 2011. BT found that [X] of the slamming complaints related to ETs in the context of WLTs and [X] were ETs unrelated to the WLT process.¹⁹⁸
- 5.93 Several stakeholders questioned whether the homemover process should be included in our assessment of switching processes. Virgin Media considered that the homemover issues relate to ensuring a smooth transition path from one home to another rather than the ease of switching from one CP to another. Therefore they believed it to be outside the scope of the 2012 Consultation.
- 5.94 EE also believed that the homemover scenario is not a switch as the customer is moving the asset (the line) rather than moving between CPs. However while they did not believe it should determine the switching process adopted, they acknowledged that switching processes¹⁹⁹ could be used to accommodate homemoves.

¹⁹⁸ CRA impact assessment report, paragraph 70.

¹⁹⁹ EE were specifically referring to the issuing of the TxC in the LPL TxC process.

- 5.95 Research carried out by CRA (jointly commissioned by BT, Sky and Virgin Media) considered the extent to which consumers change CPs when moving home. The research found that of the 2000 respondents during May 2012, 10% had moved home and of these, 34% also simultaneously switched their landline provider.²⁰⁰
- 5.96 CRA believes that even where the WLT process is used for a simultaneous home move and switch, these differ from traditional switches in that there is no risk of deliberate slamming or concerns around reactive save.²⁰¹
- 5.97 CRA explained that BT [§<].²⁰² However, in the CRA response Sky estimated that [§<].²⁰³

Future ETs

- 5.98 Respondents agreed that the problem was likely to get worse in the future. Whilst some respondents acknowledged the effect that growth in the use of MPF could have on ETs they tended to see fibre as the real issue in terms of future ETs.
- 5.99 With regard to fibre-driven ETs, BT explained that, as services move away from the Openreach-managed 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. This is because service identity information known to customers (e.g. telephone number, e-mail address, TV account number) may no longer be known to Openreach, and therefore will not be available via DS.
- 5.100 Virgin Media argued there is potential for the situation to become more complex in the case of FTTP where multiple CPs terminate on ports on the same fibre router. However, they questioned whether the current system of identifying the asset would change going forward. They believe that if a customer has multiple lines coming into a house, the only way to identify the line without any termination or line access details is the current method of using the CLI.
- 5.101 Magrathea Telecom argued that, when new technologies and services are introduced, existing switching processes struggle to cope adequately.
- 5.102 BT raised what they consider is an additional back-end system issue that could lead to further ETs in the future. They thought that the complexity of the supply chain could also lead to ETs as CPs at each level of the wholesale supply chain need to be able to verify the asset. Without this, they suggested that there would be a poor customer experience due to confusion, errors and service/switching failures.

New evidence

- 5.103 Since the 2012 Consultation, Ofcom has continued to work with industry and the OTA, and has commissioned further work in order to help assess the number of consumers affected by ETs, the root causes of the ETs and the impact of ETs on consumers. Below we set out the key new evidence that has an important implication for our analysis of the problems associated with ETs.

²⁰⁰ CRA impact assessment report, paragraph 71.

²⁰¹ We consider that there is a risk of deliberate slamming. It is possible for GPs to abuse the WLT process by placing a WLT order where the consumer is not moving home. This can be done to bypass certain consumer protection mechanisms e.g. the notification of transfer letter.

²⁰² CRA – impact assessment report, footnote 16 – ‘We understand that [§<].’

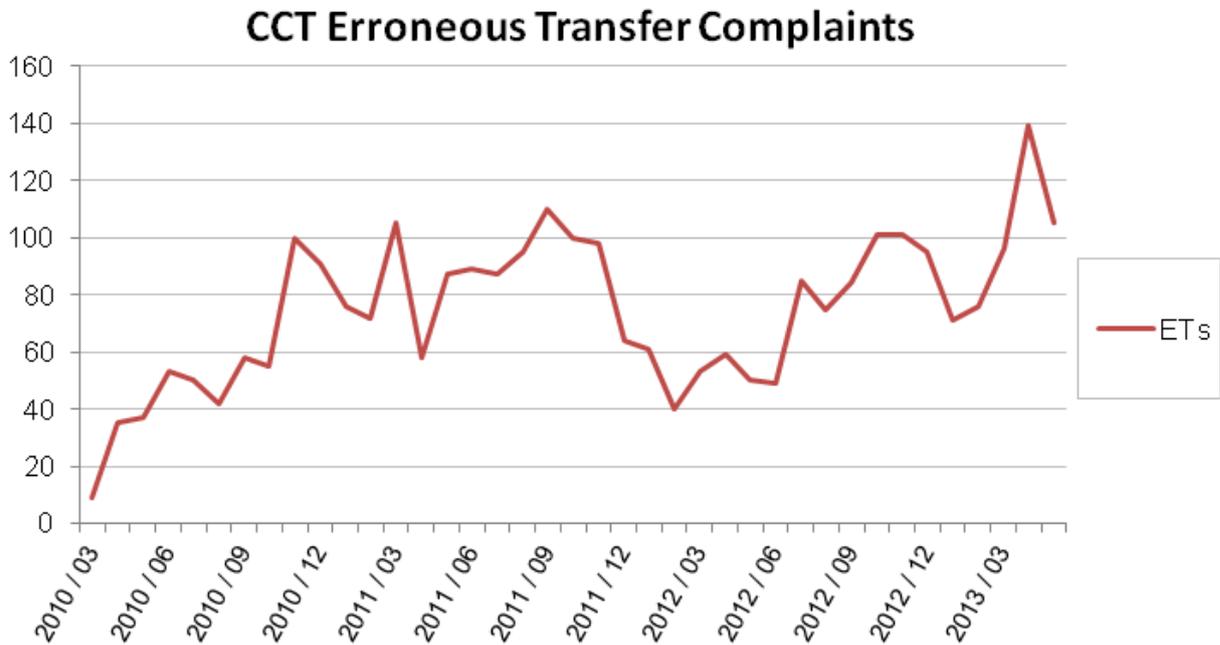
²⁰³ CRA impact assessment report, paragraph 71.

Incidence of ETs

5.104 Based on our Slamming Omnibus Survey 2013 and the MM study into slamming and mis-selling complaints cited in paragraphs 5.32 - 5.39, we estimate that approximately 118,700 households were affected by ETs in the twelve months to February 2013. This is similar to our estimate that approximately 130,000 households suffered an ET in 2010-2011.

5.105 The CCT data on the number of complaints received in relation to ETs (see Figure 5.6 below), shows that, since ETs began to be tracked as a separate complaint category in March 2010, Ofcom has received on average 100 complaints per month.

Figure 5.6: ET complaints as categorised by the CCT – March 2010 to May 2013



Source: CCT complaints.

Note: The ET complaints, on their own, are not a reliable indicator due to the difficulty in determining whether a complaint is a slam or an ET using just consumer information.

5.106 Below are two examples of customer complaints received by Ofcom’s CCT in relation to ETs.

Figure 5.7: Case studies of ETs

Case study 15 (ET due to address mismatch)

Consumer states that he has four ISDN lines with Provider A. He states that Provider A admitted to him that 14 days ago, they had erroneously given those four lines to a nearby building. He further states that Provider A was unable to re-provide the lines again in a timely manner, citing lack of necessary installation equipment. When he asked Provider A when he should expect to get the lines back, he keeps being given a 'next day' promise.

Case study 16 (ET due to address mismatch)

Consumer had a bundle with Provider A including phone, broadband and TV. On 7/3/13 his phone line was slammed by Provider B erroneously. Provider B have admitted this to him and also his neighbour, who had put an order in with Provider B. Provider A have taken part of the responsibility as they did not issue a 'sorry to see you go' letter and they said they will compensate consumer for this. Consumer was away on holiday anyway so this would not have stopped the switch. He has now lost his phone number. He has complained to Provider B but they are being unhelpful as he is not a customer.

Source: CCT complaints

Root causes of ETs

- 5.107 In order to determine whether the underlying causes of ETs remained the same or whether new issues have arisen, Ofcom invited the OTA to undertake a root cause analysis of a subset of the ETs that were identified in MM's review.
- 5.108 The OTA's review highlighted the fact that the previously identified issues remain root causes of ETs and that the sources remain similar for both switching and WLT ETs. However, it also identified issues with Openreach data as a significant new root cause for this review.²⁰⁴
- 5.109 Ofcom and CSMG considered the findings of the OTA's root cause analysis and evaluated what proportion of ETs were attributable to each root cause. This proved somewhat difficult as there were subtle differences between each case as well as some cases that had multiple causes.
- 5.110 Table 5.2 below is an extract from the CSMG report which drew on the OTA findings.²⁰⁵ This shows the complex nature of the causes of ETs. For each of the identified causes there are numerous reasons why the ET occurred and multiple causing parties. It shows that approximately 25% of ETs were caused due to incorrect Openreach data – which was identified as a new root cause.

²⁰⁴ The 2009 root cause analysis identified some Openreach issues which were being addressed as part of Openreach's data integrity programme. However the new root cause analysis has identified issues that will not be addressed by the data integrity programme.

²⁰⁵ See Annex 10 of this document.

Table 5.2: Causes of ETs

Cause	Description	% of ETs	Causing Parties
Wrong address selected	Miskeying, incorrect info input, multiple occupancy of buildings, similar addresses under same post code; can include WLT	53%	Gaining customer GP agent GP systems
Wrong CLI/line selected	Miskeying, incorrect info input, multiple lines at same address; can include WLT	21%	Gaining customer GP agent GP systems
Lack of visibility of MPF CLIs	Unable to use CLI to identify line/CLI as out of date, forces reliance on address-based match	Unknown (source for wrong address/CLI)	Openreach MPF Providers
WLT LP fails to contact EUo	LP fails to send letter to EUo to inform them of unsolicited cease	Unknown	WLT LP
WLT EUo ²⁰⁶ fails to see or act upon LP notification	Outgoing EU fails to take steps to stop the transfer going ahead.	Unknown	Losing customer (EUo)
Cancel Other	LP fails to use (correct) process, losing customer loses service despite having responded to GPL NoT	Unknown.	LP
Incorrect Openreach data (a)	Insufficiently granular data or near duplication of addresses can lead to selection of wrong address	25%	Openreach
Incorrect Openreach data (b)	Termination points can be incorrectly mapped following missed updates; ceased lines might not be reflected accurately		

Source: CSMG report (see Annex 10 of this document).

5.111 For GPL NoT switches, there are two main circumstances in which the CLI cannot be used to verify the asset and in these circumstances the asset identification is carried out using address information.

5.112 The first is where the line to be transferred is an MPF line. The standard approach that CPs use to validate the customer's existing line is to use the CLI on Openreach's systems. However, this approach will not work where the existing line is an MPF service as the CLI will not be recognised on Openreach's systems. Openreach systems do not hold complete information about services and assets once they are unbundled and managed by MPF providers. Therefore where the customer is moving from an MPF provider the GP must place the order using the address of the premises and use that to identify a match. Current best practice guidelines suggest that if no match is found, then a new line should be installed.

5.113 The second circumstance in which CLI data may not be available to be used to verify the asset is where a consumer is seeking to move home and transfer their services to the new address. The WLT process is used to transfer the service and the CP

²⁰⁶ This refers to the Outgoing End User who is the consumer at the property that is being targeted for a WLT.

must attempt to identify the working line at the address the consumer is moving to. Consumers may not know the CLI at the address they are moving to and therefore the order is again placed using just an address.

5.114 Where the CLI is unknown or not available, the address is used to identify the line. Matching solely on the address can be unreliable for four main reasons:

- Multiple occupancy of buildings;
- Multiple lines at the same address;
- GP systems and processes; and
- Openreach database inaccuracies

Multiple occupancy buildings

5.115 Multiple occupancy dwellings exist in blocks of flats or where a house has been converted into flats or rented rooms. In these circumstances, when entering in the address details the agent or consumer may be faced with multiple options. Without the CLI, it is difficult to determine which of the options under that address is correct.

Multiple lines at the same address

5.116 This is similar to the multiple occupancy buildings problem in that there can be multiple lines where a house has been converted, but this can also occur in a single family home that has two MPF lines running into it e.g. residential and business lines. The consumer may only intend to migrate one of those lines and if the GP is unable to use the CLI to verify the line for transfer, the wrong line may be targeted.²⁰⁷

GP systems and processes

5.117 GP systems and processes can also affect the likelihood of an ET. GPs' systems can differ in the manner in which the address information is displayed as part of the ordering process and also the steps taken to locate the correct line. In some systems, consumers and GP agents can be faced with a long list that may contain duplicate or very similar addresses. In such circumstances it is easy for an agent or consumer to select the wrong one.

5.118 Some CPs have informed Ofcom and the OTA of some of the steps that they have introduced to address these issues. Some CPs have told us they have introduced significant address matching and system process improvements over the last 12 to 18 months in an effort to reduce the number of ETs.

Openreach database inaccuracies

5.119 The Openreach Database inaccuracies were identified as an issue that had not been fully considered previously by the OTA. The way in which the address is stored on Openreach systems can create ETs. Openreach is required to ensure that their systems have up to date addresses, but for the installation of a line Openreach do not need the exact address, as Openreach engineers are told where to install the line by the occupant. This address may vary from the address given when the order was

²⁰⁷ The recently launched MPF helpline discussed at paragraph 5.129 should help to identify these types of lines in a switching context i.e. where the CLI of the line is known by the consumer.

placed and unless the address was modified on the system, the installation address listed in Openreach systems and the actual postal address will be different.

5.120 In addition, both addresses and post codes may change over time (e.g. if a house is converted into flats) without Openreach being informed. This can lead to duplication, or near duplication of addresses. As Openreach does not have a retail relationship with the consumer, there is no automatic system for it to be notified of changes in address.

5.121 Openreach has also identified some incorrect information on its systems. These errors appear to have been introduced by malpractices on the part of Openreach engineers at some point in the past. At the time of the installation, or at a later point when work was undertaken, the wrong Access Line ID ('ALID')²⁰⁸ has been tagged to the wrong address or ceased lines have not been reflected accurately.

WLTs

5.122 In the 2012 Consultation our analysis of the root causes of ET complaints by the OTA (working with industry stakeholders) suggested that although ETs can occur as a result of migrations (i.e. a consumer switching between CPs at their existing location) the vast majority of actual ETs are related to the WLT process when consumers are moving home. Our more recent analysis by the OTA showed that this remains the case as 77% of the ETs analysed were WLT orders.²⁰⁹

5.123 The WLT process is predominantly used by the large CPs and has become increasingly popular as it delivers the following benefits:

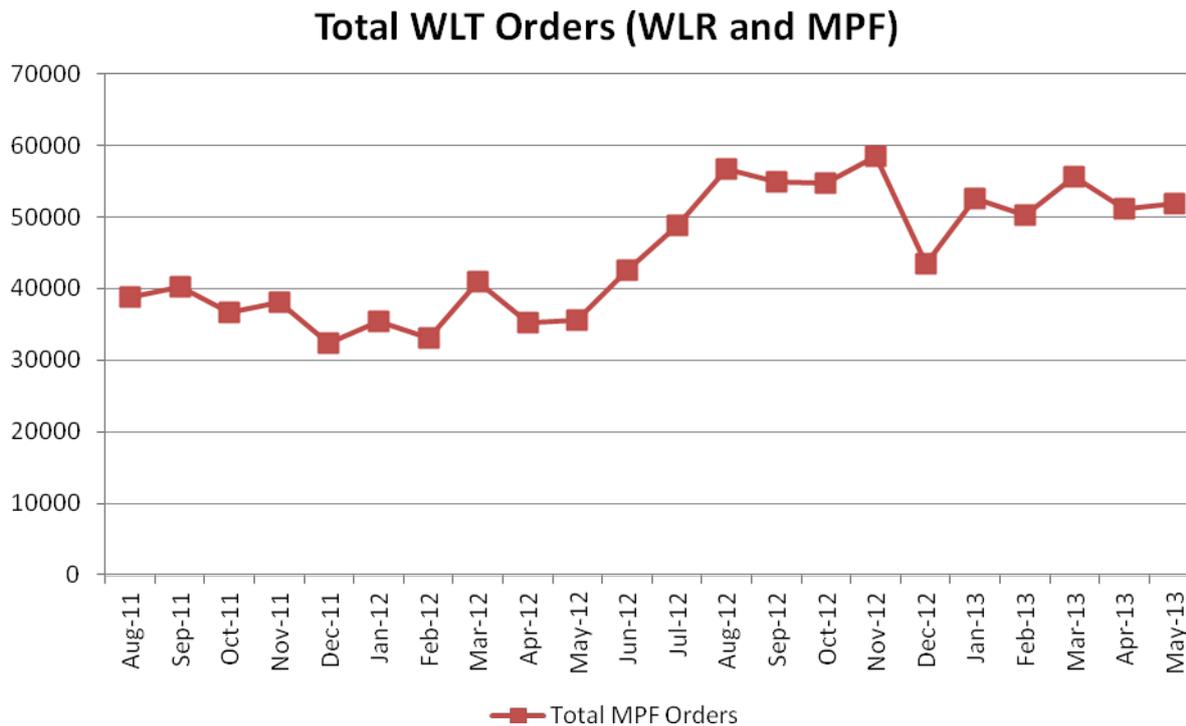
- It is less cumbersome for the consumer and the GP than the C&R process;
- It is less costly for consumers as they do not incur a connection charge; and
- It is more efficient for Openreach due to the efficient reuse of existing assets and the fact that Openreach does not have to send separate engineer visits for a Cease and then a Provide, it can just send one engineer to provision the takeover.

5.124 Figure 5.8 below shows that the total number of WLT orders has increased over time, with over 50,000 WLT orders now being placed each month.

²⁰⁸ The ALID is the unique reference number that identifies each copper pair on the Openreach network.

²⁰⁹ The OTA's review found that 71 of the 92 ETs analysed stemmed from WLT orders.

Figure 5.8: Total number of WLT orders placed by CPs each month



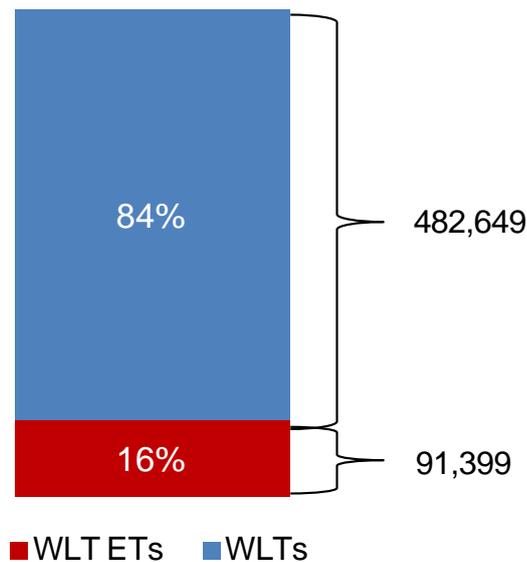
Source: Openreach monthly data on WLTs

- 5.125 The work by the OTA and CSMG²¹⁰ has enabled us to consider further the causes of ETs in a switching context. The OTA's 2012 review found that of the ETs studied, 77% resulted from WLTs, 22% from migrations with the remaining 1% stemming from new provisions.²¹¹
- 5.126 Given that the majority of ETs stem from the WLT process, rather than the switching process, this raises a question as to whether ETs, and more specifically issues associated with WLT ETs, should be considered as part of our review of the switching process.
- 5.127 Figure 5.9 below shows that based on our estimate that 118,700 ETs occurred in 2012/13 and 77% of these ETs were WLT orders, we estimate that 16% of all WLTs result in an ET.

²¹⁰ See Annex 10 of this document.

²¹¹ This is consistent with an earlier root cause analysis conducted by the OTA in 2009 where 81% of the ETs were the result of a WLT order.

Figure 5.9: WLT orders and percentage that are ETs (March 2012 to February 2013)



Source: Openreach WLT data, Ofcom consumer research and CCT data and Mott MacDonald findings²¹²

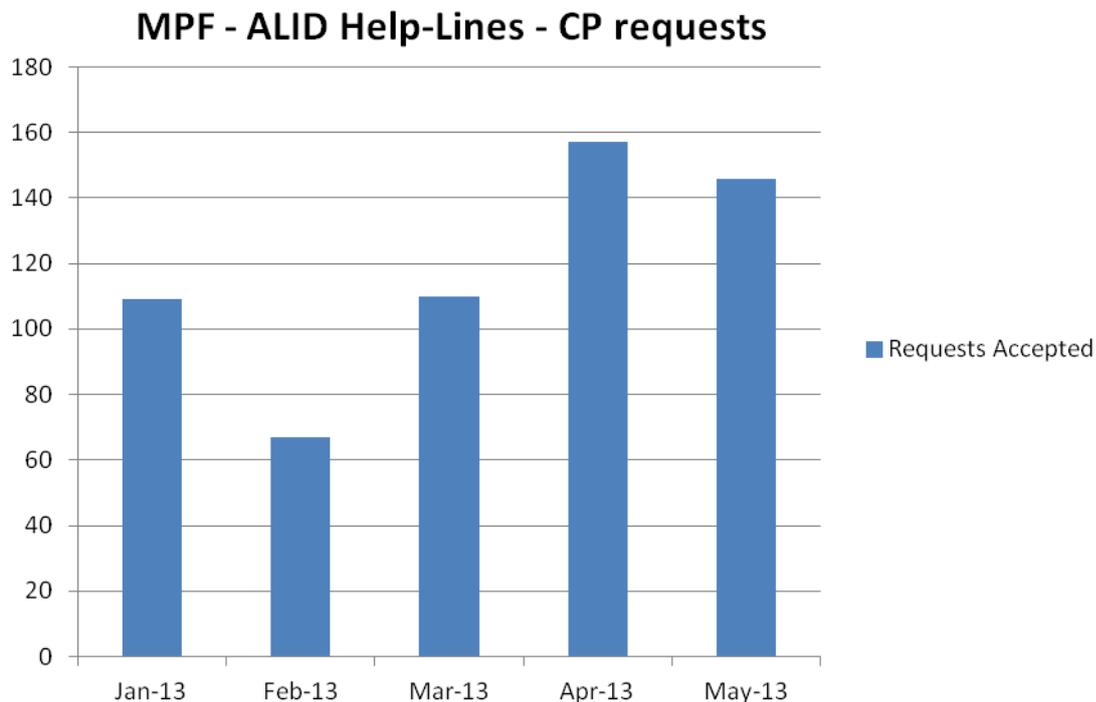
The MPF ALID helpline

- 5.128 As noted above, lack of MPF visibility continues to be one of the root causes of ETs. Having limited information about MPF lines on the Openreach systems means that CPs are forced to identify the line based on just the address.
- 5.129 To improve access to identifying information about MPF lines, the OTA has worked with the two largest MPF based suppliers, Sky and TalkTalk, to develop an MPF Access Line ID²¹³ helpline ('MPF helpline') facility. This process was launched on 5 November 2012, and is designed to enable all CPs (involved in fulfilling an end user request to migrate a service or move home) to positively identify a target MPF line at an address where multiple MPF lines are known to exist.
- 5.130 The process requires the GP to obtain the CLI associated with the target MPF line and send an e-mail request (quoting the CLI and postcode) to the 'owning' MPF CP. The MPF CP will confirm by e-mail (normally within 24 hours) that they own the line referenced in the e-mail and that the CLI and postcode matches their records. If both the CLI and post code are correct, the MPF CP will return the relevant ALID to the GP in an e-mail. If not, the GP will be notified of the 'rejection'.²¹⁴

²¹² These figures are based on 26 million total UK households. The household data presented is based on raw data and not the rounded percentages as illustrated.

²¹³ ALID is the unique reference number that identifies the line on the Openreach network.

²¹⁴ MPF 'Access Line Identifier' Help Line Tactical Process, OTA2, 24 October 2012. Available at: <http://www.offta.org.uk/MPFALIDHelpLineTactical%20Process.pdf>

Figure 5.10: MPF helpline Accepted Requests (January 2013 to May 2013)

Source: OTA Monthly Reports

5.131 Reporting on the MPF ALID began in January 2013. Between January and May 2013, there were 1099 MPF ALID requests. 589 (54%) were accepted and the MPF ALID issued.²¹⁵

Best Practice Guide

5.132 The OTA's root cause analysis showed that some ETs occur because CPs are failing to take all the steps they can to identify the correct line, notify consumers of orders and cancel orders that have been placed in error.

5.133 The OTA's Best Practice Guide for Migrations and Home Moves for Fixed Voice and Broadband Services (the 'Best Practice Guide')²¹⁶ sets out the specific responsibilities which CPs should exercise, to minimise incorrect orders being placed and also the steps that should be taken to ensure that even where an erroneous order is placed, measures are taken to prevent the transfer from actually taking place.

5.134 For migrations and WLTs the Best Practice Guide suggests CPs take actions such as:

²¹⁵ Requests are rejected where the information supplied does not match e.g. the wrong CLI has been given or the wrong MPF provider approached.

²¹⁶ Annex B, Homemovers, Working Line Takeover (WLT), OTA2, Best Practice Guide, 6 March 2013, page 8. Available at: <http://www.offta.org.uk/IndustryBes%20PracticeGuide-Migrations&HomemoversJan2011.pdf>

- Using Openreach DS to find out what types of copper lines are present at an MPF address or to carry out more detailed line characteristic information. Having this information may enable the CP to identify the correct line;
- Using the MPF ALID Helpline to positively identify the correct MPF line for takeover;
- For WLTs, checking to see if a line at the target address has an 'open cease' order against it, as this would indicate that the incumbent consumer has already instructed their CP to cease their service and is more likely to be the appropriate line to take over;
- Not submitting a migration or WLT order if no exact match for the target line/address has been identified; and
- Notifying the occupant of the target address of the WLT order and using the cancellation mechanism where they confirm that the move has fallen through or where the wrong address has been targeted.²¹⁷

- 5.135 The notification and cancellation process that has been built into the switching process and the WLT process is a consumer protection mechanism designed to stop ETs from taking place. For WLTs, the process enables either the 'incumbent' occupant to cancel via their current CP or the 'moving in' customer to cancel via their GP (for example, if the dates have changed or the move has fallen through).
- 5.136 The incumbent CP is notified of the order and is given time to make their customer aware of it (through sending them a letter) and the customer has the opportunity to cancel the switch if the order has been placed in error. However, the success of this cancellation process requires CPs to write to the incumbent and then action their request in cases where they advise that the order should be cancelled.
- 5.137 As discussed above in the 'Insufficient customer consent' section use of Cancel Other for WLTs and switching is not mandatory and while it is in the interest of the LP to use the Cancel Other process to protect its customer from incorrect transfers, we are not confident that the process is being applied consistently across the industry. We consider the effectiveness of the Cancel Other process in dealing with incorrect transfers in Annex 8.

Potential for future ETs - MPF and Fibre services

- 5.138 In the 2012 Consultation we said that the root causes identified could give rise to material increases in ETs in the future if there continued to be a growth in MPF services and if fibre services like FTTP were widely adopted.
- 5.139 We have seen that there are currently difficulties in validating transfers from MPF lines as the CLI is not visible in the Openreach database, and we believe that this problem could possibly occur under FTTP as well. The use of MPF to deliver fixed voice and broadband is continuing to grow steadily. As set out in Section 4, the number of MPF lines has continued to grow.
- 5.140 Further, as set out in Section 4, since the publication of the 2012 Consultation, there is now greater clarity over the development of SFBB services in the near future. We

²¹⁷ <http://www.offta.org.uk/IndustryBPGAnnexB.pdf>

therefore now expect FTTP to make up a very small proportion of the Openreach SFBB footprint.

Our assessment

Incidence of ETs

5.141 As discussed in paragraph 5.127, based on our latest evidence, we now estimate that there were approximately 118,700 ETs in 2012/13, affecting 0.46% of households. This is similar to our estimate of 130,000 ETs based on 2010/11 data, or 0.5% of households as set out in the 2012 Consultation.²¹⁸ In the light of these estimates, we remain concerned about the prevalence of the ETs. Stakeholders agreed that this was an issue and needed to be addressed.

Root causes of ETs

- 5.142 Since the 2012 Consultation, steps have been taken to help address the causes of ETs. For example, as explained in paragraph 5.129 - 5.130, the MPF helpline aims to address issues with the lack of visibility to MPF CLIs.
- 5.143 In theory the MPF helpline should be able to reduce ETs arising from switching CP, as consumers will know the name of their current provider and their CLI and therefore be able to provide the GP with the information they need (CLI and post code) to obtain the ALID.
- 5.144 For WLTs the MPF helpline is likely to be less effective. The consumer who is requesting a service at the target address is unlikely to know the CLI for the target address. If the consumer does not have the CLI, the GP will be unable to place a request to the helpline for the ALID.
- 5.145 Where the consumer is able to obtain the CLI for the target address, they are unlikely to know the name of the existing CP. In these circumstances the GP will have to issue the request to all MPF CPs participating in the MPF helpline in order to obtain the ALID. This is not particularly efficient as it requires MPF CPs to manually check lines that may not belong to them.
- 5.146 As the MPF helpline has been in operation for just over six months, CPs are still in the process of incorporating it into their ordering processes and therefore it is difficult to assess its success and scalability. In addition, as the MPF helpline is an industry initiative and use of it is not mandatory, it remains to be seen whether all CPs will decide to adopt this process and whether other MPF CPs will be willing to also provide visibility for their MPF lines.
- 5.147 There are incentives for industry to use the MPF helpline. Having access to the correct ALID for a targeted line ensures that the order placed is correct the first time around, and therefore avoids the costs of having orders cancelled.
- 5.148 Agent and customer errors also exist and improving the GP's ability to verify the address provided by the customer will help ensure these errors are addressed. Whilst we agree with Telefonica that training staff to follow the correct procedures will make a difference, this will not address cases where the order is placed online by the

²¹⁸ As noted in paragraph 5.102, this is a higher proportion of switches without consent than estimate in the 2012 Consultation. We now estimate that 46% of alleged slams are ETs. This is lower than the 60% estimated by BT, but is based on the MM independent analysis of data from several providers.

consumer. Orders placed online by consumers will still be wholly dependent on the accuracy of the GP's systems, unless some form of CP verification process is also carried out by the GP.

- 5.149 Incorrect Openreach data has also emerged as a significant root cause of ETs. There are a number of causes of the errors in the Openreach database. Given the importance of the database, and the requirements on all CPs to maintain accurate records we consider that Openreach should attach a high priority to improving the accuracy of its data, and in ensuring that procedures are in place for records to be updated accurately. We understand that the OTA is currently involved with Openreach with regard to these data issues.

Working Line Takeovers

- 5.150 Information collected from Openreach shows that the WLT process is becoming increasingly popular with over 50,000 WLT orders placed each month. However, the WLT process is responsible for 77% of all ETs.
- 5.151 A large majority of WLTs (84%) are successful and therefore consumers and CPs obtain benefits from the WLT process. As noted above, this enables consumers to have working services on the day they move into their new property and is more efficient for industry. In addition, consumers can make financial savings from using the WLT process (charges of around £30) as opposed to using the C&R process and having to get a new service installed after they move in (connection charge of £50).
- 5.152 Therefore, the higher cost of the C&R process and the advantages that the WLT process delivers in terms of network efficiency and reduced hassle (for consumers and CPs) in terms of provision mean that it is a process that we consider delivers significant benefits.
- 5.153 However, the fact that 16% of all WLTs result in ETs is a cause for concern and an issue that we believe needs to be addressed. In the light of this, we consider that WLTs should form part of our considerations for two reasons.²¹⁹ First, all ETs, whether as a result of the WLT process or a switching process have similar root causes – i.e. the inability to reliably identify the underlying assets to be switched. As addressing switching ETs will also impact on WLT ETs, we consider that when evaluating solutions for switching ETs, it is appropriate to consider the wider context of all ETs.
- 5.154 Second, as noted in stakeholder research, a significant percentage of homemovers switch CP at the same time as they move house. This means that issues arising in the WLT context are not isolated from those arising in the switching context.
- 5.155 Information gathered from Openreach showed that, in 2012, only six CPs appeared to have used the WLT process. We consider that, as use of WLTs increases over time, the incidence of WLT ETs may also grow if solutions are not put into place. We therefore consider both types of ETs (WLTs and others) in our assessment.

The Best Practice Guide

- 5.156 The Best Practice Guide also seeks to address ETs and sets out the process CPs should follow to try to ensure that the correct line or address is targeted. From the

²¹⁹ We note that WLTs may not suffer from all of the same problems as switching e.g. reactive save. However, their inclusion is justified for the reasons set out in this section.

MM study, it appears that some WLTs are proceeding when they do not have an 'exact match' for the target address. In these cases the Best Practice Guide states that the CP should not put through a WLT order and instead should request that a new line is installed at the property. If these guidelines were followed more strictly, then the incidence of ETs would also be likely to be reduced.

- 5.157 As well as providing guidance on targeting the correct line, the Best Practice Guide also provides advice on how to use the safety mechanisms that have been designed to identify attempted ETs and prevent these from becoming actual ETs. These are distinct from the root causes of ETs since they do not improve the ability to identify the correct asset. Rather, they identify the situation where there is a risk of an ET and allow for these risks to be mitigated by following additional processes.
- 5.158 In a switching context CPs use the Cancel Other process. GC 24 requires the LP to issue a letter to the consumer to inform them of the switch. If the order has been placed in error then Cancel Other enables the CP to cancel the order. This can apply to slams and switching ETs.
- 5.159 We acknowledge that some CPs, particularly the smaller ones, sometimes do not or cannot (owing to lack of automation) respond sufficiently quickly to Cancel Other requests. However, as the majority of CPs are using Cancel Other in a switching context, we feel that this safety feature is being applied and therefore potential switching ETs are being prevented.
- 5.160 For WLTs, the Best Practice Guide advises CPs to follow a similar process in terms of contacting the incumbent end user to make them aware of the WLT and cancelling the order if the occupant contacts them to say it is incorrect.
- 5.161 Due to the voluntary nature of the Best Practice Guide and the higher incidence of WLT ETs, we are less convinced that the letters are being issued to the incumbent end user and as a result ETs that could have been prevented are going through.
- 5.162 We note that if followed to the letter, the adoption of the Best Practice Guide, on its own, may lead to more customers using a C&R process than is currently the case. This removes the risk of an innocent third party being affected by an ET. We believe that it is important that third parties, who have no knowledge of the transfer, are protected. Although switching/moving home using C&R has a higher cost, the consumer is made aware of the process in advance and will have the service provisioned at their correct address. Further, this process incentivises CPs to get an exact match (and avoid the higher costs associated with C&R) and seek to develop systems which better identify the asset to begin with. We believe it is important to ensure that reliable systems are developed so that the correct line/address can be identified thus reducing the extent to which we need to rely on these process measures to deal with ETs.

Future ETs

- 5.163 At the time of the 2012 Consultation, we expressed concern that CLIs were likely to become much less reliable as a means of asset identification in the near future. We have discussed the current limitations of CLI information as an asset identifier (MPF Visibility and the fact the CLI is unknown when moving home).
- 5.164 CLIs as an asset identifier may become less effective where services are supplied that do not have associated CLIs (e.g. VOIP) and for services that deliver multiple services over a single asset. CLI as a form of asset identification can only really work

well under a single service to single asset relationship as a CLI would not be able to distinguish between multiple services on the asset.

5.165 Relative to the position in the 2012 Consultation, some of our concerns regarding the use of CLIs as an asset identifier in the short to medium term have reduced. This is for two reasons:

- First, the establishment by industry of the MPF helpline is helping to address the issue of the lack of visibility of MPF CLIs in Openreach's database. As mentioned above, we will continue to monitor the MPF helpline to see how effective this process is at enabling CPs to identify the correct line to be transferred.
- Second, we had forecast that multiple services would be delivered over shared assets with FTTP in the near future. Relative to the position in the 2012 Consultation, we do not expect FTTP to be widely consumed in the short term and we expect take up of multiple services on FTTP to be low (as we explain in paragraph 5.1405.139) due to Openreach rolling out FTTP on demand instead of on 25% of their NGA footprint. However, we will need to continue to monitor this situation. If FTTP were to become prevalent and if multiple services were delivered over the same asset, then this could be a source of ETs in the future.

Conclusion

5.166 We consider that issues with reliability and the resulting ETs are problems which need to be addressed. We estimate that 118,700 households were affected by an ET in 2012/13. The resulting costs to consumers under the status quo are between £0.5m and £1m per annum, while the corresponding costs to CPs are £2.6m.

5.167 Our analysis has identified a number of different root causes of ETs including that most ETs are a result of the WLT process, similar root causes apply to ETs arising in a switching and homemove context, and a new root cause relating to Openreach address data issues.

5.168 Industry and the OTA have developed processes, best practice procedures and internal system changes with the aim of reducing the number of ETs. Given the prevalence of ETs, these measures, on their own, have not been sufficiently effective – although we note that some improvements have only recently been introduced and therefore it may be too early to judge their effectiveness.

5.169 We consider that use of the Openreach DS (as required under the current processes) cannot sufficiently reliably identify the correct line to switch / takeover and therefore we believe that it is important to ensure that better quality of information is available to ensure greater reliability of the system. Recent industry improvements such as the MPF helpline may begin to help identify some CLIs for MPF lines, but it is too soon to assess whether this improvement is sufficient.

Loss of Service

Introduction

5.170 An efficient switching process is able to ensure that the transfer takes place without the consumer losing service for a significant period of time. Whilst we acknowledge that some downtime may be inevitable e.g. where some form of physical change to

the network is required,²²⁰ for cases where minimal or no network changes are required, any downtime should be limited to minutes, not hours or days. This is particularly relevant as consumers are becoming increasingly reliant on their communications services for important functions, such as banking and access to government healthcare and education services. The impact may be even greater for small businesses that depend on reliable communications services. The switching processes that we currently have in place can, in certain situations, result in a loss of service for a significant period of time.

5.171 In this section we present our assessment of this issue from the 2012 Consultation, in which we sought stakeholder views on the ability of the back-end processes to allow the switch to go through seamlessly. We also set out our revised assessment in the light of the new evidence and stakeholder responses. We conclude that loss of service remains a significant issue with the switching process, particularly when consumers switch bundles, and that the principle of switching processes, where consumers are able to transfer their fixed voice and broadband services without suffering a break in service, should also apply to the transfer of multiple services.

Summary of the 2012 Consultation

5.172 In the 2012 Consultation, we pointed to evidence from our broadband research 2011, for levels of loss of service. The broadband consumer research 2011 identified that around a fifth of broadband consumers that switched using the GPL NoT (21%) and LPL MAC (22%) processes suffered a loss of service when switching.²²¹

5.173 A loss of service for hours or days results in a poor consumer experience. Our broadband consumer research 2011 data found that the average loss of service was around a week (8 days for the GPL NoT switchers and 7 days for those using the LPL MAC process). Further, a significant minority who suffered a loss in service had a break lasting more than two weeks (19% of GPL NoT switchers and 10% of LPL MAC switchers).²²²

5.174 We also note that our broadband consumer research 2011 data identified that around 31% of all fixed broadband switchers (including home movers) experienced a loss of service.

5.175 In addition, to the consumer harm from loss of service experienced, we also noted that 8% of SMEs cited loss of service as the reason for not switching their internet/data services.²²³

Loss of service when switching bundles

5.176 The GPL NoT and LPL MAC switching processes were designed to enable consumers to seamlessly transfer their fixed voice and broadband service without suffering a break in service or incurring disconnection and re-connection fees. But each process was designed to be used individually: GPL NoT for fixed voice and LPL MAC for broadband.

²²⁰ For example, where a consumer is switching from DSL to an FTTC service. Switches of this nature require physical changes to the network and an engineer visit.

²²¹ Broadband consumer research 2011, Slide 19. The equivalent figure for those going through C&R is 21%. The data presented here seeks to exclude homemovers by removing those who cited 'moved house' as the reason for loss of service.

²²² Broadband consumer research 2011, Slide 22 – the data excludes those switchers who linked the break in service to moving house.

²²³ 2012 Consultation, paragraph 4.77.

5.177 We considered that the current switching processes (GPL NoT and LPL MAC) work fairly well in terms of continuity of service where the consumer is switching a single service. Continuity of service is largely maintained, although the risk of ETs still exists. However, as take-up of bundles has grown, consumers increasingly require fixed voice and broadband to be switched at the same time. To address this, a number of tactical fixes have been developed in an effort to facilitate the seamless switching of fixed voice and broadband services.

5.178 The two specific enhancements that we highlighted as important with respect to loss of service were:

- MPF migrate order types – this is a process which allows MPF providers to use the GPL NoT process to switch consumers. Once the voice is switched the broadband is provisioned by the MPF CP.
- LO (also known as SIM Provide) and PO (where the order is manually co-ordinated by the GP) – these processes were created to help CPs using GPL NoT/LPL MAC processes to switch a bundle of services together.

5.179 Use of the migration processes (GPL NoT and LPL MAC), in conjunction with the tactical fixes for bundles, has reduced loss of service issues on the Openreach copper network. On the other hand, if the C&R process is used to provision the service the consumer may incur a break in service as the start and stop of the service(s) is not co-ordinated by the CPs.

5.180 Table 5.3 below sets out common switching scenarios for bundles and the tactical fix required to enable the seamless transfer of services.

Table 5.3: Common switching scenarios for the seamless transfer of services

Switching from→to*	Processes followed	Tactical Solution	Continuity of voice and broadband service
MPF→MPF (i.e. switching between Telefonica/Sky/TalkTalk)	GPL NoT**	MPF Migrate	Risk of losing service if the wrong MPF line is switched
	C&R**	N/A	Risk of losing service for a longer period of time due to coordination problems
WLR+SMPF → MPF	GPL NoT	MPF Migrate	Yes
MPF → WLR+SMPF (i.e. from Sky/TalkTalk to most other providers***)	GPL NoT**	MPF to WLR Migrate Order with LO process	Loss of broadband service if GP doesn't support LO Risk of losing service if the wrong MPF line is switched or if problems with LO
	C&R**	N/A	Risk of losing service for a longer period of time due to coordination problems

Switching from→to*	Processes followed	Tactical Solution	Continuity of voice and broadband service
WLR+SMPF→WLR+SM PF (all CPs use these technologies***)	GPL NoT (for voice) and LPL MAC (for broadband)	PO process	Risk of losing service if problems with timing and sequencing of PO process

* MPF providers also use WLR+SMPF for some of their customers.

** Whether the consumer goes through GPL NoT or C&R depends on whether the GP supports the relevant technical process.

***Virgin Media provides services to the vast majority of its customers using its cable network.

- 5.181 Supporting the tactical fixes required for seamless transfers is considered best practice but as these tactical fixes are not mandatory, CPs are free to decide whether or not to adopt them. Adopting the tactical fixes can involve some costs to CPs. For example, in order to use SIM Provide, CPs need to upgrade their EMP interface.²²⁴ CPs also need to update their own internal processes and systems to ensure that they are compatible with the Openreach process. Therefore after Openreach have introduced new functionality, such as LO functionality, a CP can typically take up to 12 months to provide the service to end users after they decide to consume it.
- 5.182 Where CPs have decided not to support these tactical fixes, the services are transferred sequentially and the consumer suffers a loss in at least one of their services (normally broadband as it requires a working fixed line).
- 5.183 This approach has not delivered well for consumers. Take-up of these fixes remains relatively low in terms of the number of CPs who use the process. For the 2012 Consultation we collected data from Openreach on the use of the SIM Provide functionality. The information gathered showed that only seven CPs used the process between October 2010 and September 2011.
- 5.184 In the 2012 Consultation, we considered the extent to which these enhancements are effective in addressing loss of service. We expressed our view that the voluntary nature of the adoption of these enhancements means that many CPs have taken the commercial decision not to universally apply these processes. This has resulted in a poor outcome for consumers and many have suffered a loss of service.
- 5.185 As part of the consultation Ofcom sought additional information on the adoption of these tactical fixes, and industry views on the actual loss of service that currently exists.
- 5.186 Ofcom also noted that anticipated loss of service is likely to deter consumers from switching CPs. We expressed our view that consumers are potentially missing out on the financial savings that can be had by switching CPs.

²²⁴ Equivalence Management Platform ('EMP') is the gateway or interface used by CPs to order and service Openreach products.

Stakeholder responses

- 5.187 Our reported levels of loss of service were not challenged in any of the responses to the 2012 Consultation. Respondents generally agreed that there were issues around loss of service that needed to be addressed. The period with which consumers were deemed to be without service was also not challenged by respondents to the consultation, nor was additional information supplied to support these figures.
- 5.188 As part of the 2012 Consultation, we asked stakeholders whether they used the SIM Provide and PO processes, which are designed to minimise loss of services. Unfortunately, not all of the CPs who responded to the consultation answered this question. Of those that did answer this question, only BT and Virgin confirmed that they support the majority of the order types.²²⁵ EE, [S<] and Virgin Media all said they support SIM Provide. However, SSE (incorrectly)²²⁶ explained that it may not be possible for some CPs to link orders of voice and broadband services where they have wholesale relationships with different CPs for voice and broadband services.
- 5.189 We have collected updated information from Openreach to see whether the number of CPs using SIM Provide has increased since the 2012 Consultation. Openreach data shows that between January and December 2012 there were only six CPs regularly using the SIM Provide process.
- 5.190 The popularity of the SIM Provide process may have been hampered by the limitations of the service. According to Openreach,²²⁷ SIM Provide in its current form is not entirely suited to complex migration scenarios for the following reasons:
- It is limited to the provision of broadband onto a WLR transfer, WLT or new provide. Voice provision is prioritised over broadband and therefore if there is a delay to the broadband the fixed voice service would be delivered but the broadband would not, so some loss of service could still exist; and
 - It was not designed to support the combined migration of voice and broadband services where these were supplied using two different wholesale services e.g. WLR and SMPF. Customers wishing to transfer fixed voice and broadband needed to have the fixed line provisioned with the broadband added shortly after.
- 5.191 BT agreed that loss of service arose due to CPs choosing to not support the 'MPF migrate' order type or the SIM Provide and PO functionality. They thought this meant that services were being switched sequentially rather than simultaneously. They did not think this was anything to do with 'back end deficiencies' but rather this was due to the CPs' commercial decisions.

New evidence

- 5.192 Below we set out the key new evidence that has an important implication for our analysis of the loss of service problem.

²²⁵ Certain types would not be applicable e.g. MPF to MPF as BT does not provide services using MPF.

²²⁶ We understand that wholesale providers' systems can be configured to support linked orders.

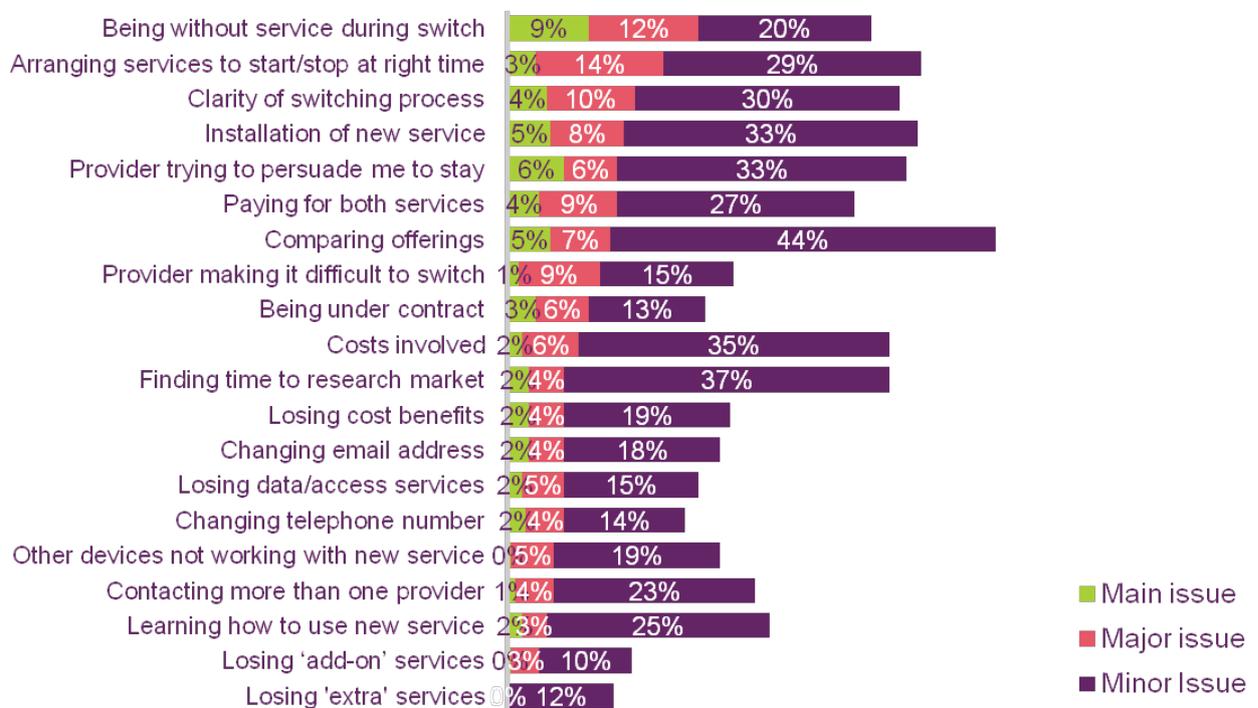
²²⁷ Openreach presentation to Ofcom dated 8 January 2013.

Consumer research

5.193 Issues around loss of service during the transition were considered in our recent Customer Retention and Interoperability Research 2012. This research was conducted amongst consumers who have actually switched CPs for at least one of their services in the last two years and those who have considered switching in the last twelve months. With regard to actual loss of service we have only considered those who have actually switched.

5.194 Figure 5.11 shows that being without service during a switch was a main or major issue experienced by 21% of dual play switchers.²²⁸ Being without service was a minor issue for a further 20% of switchers, making loss of service one of the most common issues suffered by switchers.²²⁹

Figure 5.11: Issues experienced during the switching journey, ranked in order of main plus major – Dual Play Switchers



Source: Customer Retention and Interoperability Research. QE1/2. Base: All Dual Play switchers in last 12 months n=248

5.195 For those who had considered switching but not actually gone ahead and done so, being without service during the switch was the main/major consideration in the decision not to switch for 44% of dual play considerers.²³⁰

5.196 Ofcom has also received complaints from consumers about loss of service. The complaints show that consumers expect to be able to transfer their services without suffering a significant loss of service.

²²⁸ Dual play switchers: 16% switched fixed broadband only, 19% switched fixed line only and 65% switched both services (switching both services may include services switched at different times during this period).

²²⁹ 2012 CRI research, Figure 45 page 55.

²³⁰ For 4% it was the main issue, for 40% it was a major issue and for 28% it was a minor issue.

- 5.197 This is consistent with the March 2011 data which reported 54% of switchers who experienced a loss in service had expected the switch to be seamless – this rises to 61% amongst non home-movers.

Figure 5.12: Loss of service case study

Case study 17 (loss of service due to lack of coordination between the CPs)

'I am trying to switch from Provider A to Provider B. Provider B have given me a date of 1st Feb to visit to put broadband on and suggested that the landline will move over two weeks after this. However Provider A have said they will cease my service on 28/01/2013 over two weeks before Provider B are taking over. Neither Provider A or Provider B are interested in solving this problem at all blaming the other and saying that NOTHING can be done at all. I have spent all day on the phone and internet trying to resolve this problem without success. This is NOT acceptable. I am also extremely worried that I shall lose my phone number [redacted] that I have had for over 25 years and it is also used for my home business. Being without a phone four three weeks is a disaster, losing my number would completely finish me off.'

Source: CCT complaint

Openreach's SIM2 development

- 5.198 Openreach has recently developed the SIM2 process. SIM2 for MPF (voice) + GEA-FTTC (broadband) went live in November 2012. It is planned to extend this to include scenarios where the GP is a GEA/WLR3 and SMPF/WLR3 provider in the Openreach system update due for delivery in Septemebr 2013.²³¹
- 5.199 SIM2 has a number of advantages over the original SIM Provide process. These include the following:
- SIM2 will support bundled migrations between GP and LP who both use two wholesale services (WLR and SMPF/IPStream) to provide the bundle of services. These 'Double Migrations' cannot currently be carried out as a single co-ordinated activity and CPs are only able to attempt to run the orders in parallel.
 - Voice is not prioritised over broadband. SIM2 would lock the orders together and therefore it should be more effective at ensuring both the voice and broadband services are delivered together.
 - The services are delivered on the same day with one field engineer visit, resulting in a smoother end user experience and a working service on the day that the CP has reserved an appointment.

Our assessment

- 5.200 Loss of service remains a significant issue with the switching process, particularly when consumers are switching bundles.
- 5.201 Our broadband consumer research 2011 data identified that around a fifth of broadband consumers that switched using the GPL NoT (21%) and LPL MAC (22%)

²³¹ http://www.openreach.co.uk/orpg/home/updates/eipcommunications/downloads/R2350_EI_P3.pdf

processes suffered a loss of service when switching. Consumers and small businesses should be able to switch seamlessly between CPs without suffering a break in service. Communications services are of growing importance and as such switching of services should result in co-ordination at the back end to ensure that any loss of service is as short as possible. We remain concerned that a fear of losing services may deter some consumers from switching.

- 5.202 We note that in order to deliver both voice and broadband services at the target address on the same day, CPs using the WLT process would need to make use of similar functionality to that used for switching processes e.g. SIM2. In the light of this and the evidence that around 31% of all fixed broadband switchers (including home movers) experienced a loss of service, we consider that loss of service is an important issue in the context of home moves. We therefore believe that it is important to consider the extent to which any solution to loss of service within the switching context could also help to address loss of service within the WLT process.
- 5.203 Industry developments, such as SIM2, will provide the functionality that will enable consumers to transfer bundles seamlessly. However, as with other tactical fixes, CPs are not obliged to adopt these services.

Conclusion

- 5.204 We consider that, given the high number of consumers currently taking a bundle that includes fixed voice and broadband, many consumers suffer harm through losing service for significant periods of time.
- 5.205 Ofcom considers that the principles of switching processes i.e. the ability to transfer service without suffering a break in service or incurring disconnection and re-connection fees, should also include the transfer of multiple services.

Lack of Platform Neutrality

Introduction

- 5.206 The processes consumers use to switch between CPs vary depending on the wholesale products and the networks that CPs use to provide retail services.
- 5.207 The multiple processes section (at the beginning of Section 4) discussed issues relating to the consumer switching process from the point of view of the customer. In that section, we discussed issues of competitive neutrality which might arise for the relative ease or difficulty of switching using different processes. This section relates to the back-end provider systems – across different wholesale services and networks – which are required to support good consumer switching experiences. We believe that the current system is not neutral across wholesale services; however we maintain our position that at this stage the current set of processes cannot be directly extended to include other networks and technologies but processes could be developed to enable switching across different networks.

Summary of the 2012 Consultation

- 5.208 In the 2012 Consultation, we noted that, due to the different ways retail voice and broadband services can be provided to consumers, the switching processes have been adapted over time, such that customers are currently able to follow the industry agreed GPL NoT and LPL MAC processes. This has required systems changes for Openreach and CPs. Whether or not these changes are adopted is a commercial

decision for CPs, which has resulted in a poor experience for some consumers in cases where the recommended changes have not been adopted by some CPs. Where these changes have not been adopted the consumer has to go through the more cumbersome and costly C&R process. In particular, we noted that the switching processes do not appear to have delivered well for consumers looking to switch between MPF providers, because not all MPF providers have chosen to support the relevant MPF migrate order type.

- 5.209 We also explained that patchy/low level adoption by CPs may be more of an issue in the future as services evolve which require further back end system upgrades.
- 5.210 In addition, we said that, whilst not specifically the focus of this consultation, the current GPL NoT and LPL MAC switching processes were not capable of being extended to include other technologies and infrastructures e.g. cable, FTTP.

Stakeholder responses

Adoption of switching improvements by CPs now and in the future

- 5.211 There were mixed views from stakeholders on whether the way the current processes operate reflects a deficiency in the systems. Entanet thought that the current processes were not necessarily deficient, but that they had been developed in a piecemeal fashion over many years.
- 5.212 However, Magrathea Telecom believed that when new services and technologies are introduced, existing switching processes struggle to cope adequately. They added that they have experienced a high degree of manual intervention with the current switching processes as the automated processes fail, which is leading to more misunderstanding and delays.

Extending current processes to other networks and services

- 5.213 BT, Consumer Focus and Zen agreed that the current processes were not capable of being extended to other network infrastructures such as cable and fibre.

New evidence

- 5.214 As part of the process of responding to the 2012 Consultation responses, we have clarified the issues and our terminology below.
- 5.215 We consider it is important to ensure that consumers have appropriate migration processes and, as far as it is possible, consistent consumer switching experiences regardless of the underlying wholesale service or network. We also consider it is important that there is a level playing field across different wholesale services and networks
- 5.216 In the 2012 Consultation, we used 'technological neutrality' to refer to two separate scenarios, both of which we are now calling 'Platform Neutrality':
- Consumers switching within the Openreach network between CPs who were using different Openreach wholesale services i.e. switching between CPs using MPF, SMPF, WLR, GEA-FTTC; and
 - Consumers switching across different networks i.e. DSL, cable and FTTP.

- 5.217 The differences in consumers' experience of switching under these two scenarios are still of concern but they relate to two different sources.
- 5.218 In the first case, the difficulties encountered during switching within the Openreach platform, relate to two issues:
- Whether functionality is developed by Openreach to allow CPs to use existing migration processes; and
 - the retail CPs' commercial decision to adopt specific functionalities to support the appropriate migration process.
- 5.219 Where a process is not available, or where CPs have not adopted the required functionality, consumers will not be able to switch between these wholesale services using agreed migration processes. Therefore their experience of switching varies depending on the upgrades that CPs have made with respect to the underlying wholesale service. This is the first source of the lack of platform neutrality.
- 5.220 Under the second scenario, when switching across different CP networks providing fixed voice and broadband services, there are no industry agreed migration processes. Consumers cease their services with their existing provider and need to separately contact their new provider to install a new service. As we explained in Section 4, consumers' experience of switching is affected by whether the services are provided across different CP networks and using wholesale services on Openreach's network.²³² This is the second source of the lack of platform neutrality.
- 5.221 Whilst this source of platform neutrality is not directly within the scope of this phase of the switching review, we continue to believe that these issues are important. We note the 2012 CRI research recently published by Ofcom which suggested that there may be concerns with the C&R process. Specifically:
- C&R (40%) and LPL switchers (41%) were twice as likely as GPL (22%) switchers to experience difficulties caused by the LP ('Previous provider made it difficult for me to leave') during their switch, while three times as many C&R and LPL switchers (18%) as GPL switchers (6%) claimed this was the main/major issue.
 - C&R switchers were also more likely to encounter problems related to: 'being without the service during the switch' (51% found this a major or minor issue); 'paying for both my new and old services at the same time' (47%); and 'arranging for the old and new services to start and stop at the right time' (57%) than switchers under GPL.
- 5.222 We present a few examples below of complaints we have received where difficulties have been encountered during switching within the Openreach platform.

²³² See Figure 4.3 in Section 4 of this document.

²³³ We acknowledge that in some switching scenarios the process to be followed by industry will be different as a result of the changes associated with different types of wholesale services and networks. For example, switching between two different MPF providers will require engineering work but switching between two retail CPs who both use a wholesale service from the same wholesale CP will not require physical engineering work.

Figure 5.13: Case studies on lack of platform neutrality

Case study 18 (lack of clarity about different networks used by the CPs)

Consumer has WLR and BB with Provider A. Consumer is not happy with their service and wants to transfer to Provider B. However as he is on Provider A's LLU network, and in order to transfer to Provider B he will incur reconnection/installation fees. Consumer feels this is unfair as it makes it difficult for consumers to switch.

Case study 19 (lack of platform neutrality making switching difficult)

Consumer was on a LLU line with Provider A, and has been wanting to transfer his line and broadband to another provider. He was having difficulty in doing so, as the new providers he approached were unable to take on customers who had a LLU line. As a result of this, he had Provider A recently convert his line over to PSTN to allow this transfer. He believes that LLU to PSTN transfers are restrictive processes, making it more difficult to transfer away from such providers. He believes that consumers should be given this information when they take out LLU services.

Source: CCT complaints

5.223 However, we note that issues of whether there is evidence of harm and assessment of any potential solution to switching across different networks are out of the scope of this phase of the review and will be considered in future phases.

Our assessment

5.224 We consider that it is important to ensure that, as far as it is possible, consumers experience consistent switching experiences regardless of the underlying wholesale service or network. Platform neutrality helps to ensure that CPs' systems are able to support good consumer switching experiences.

5.225 We also consider that it is important to have a level playing field across different wholesale services / networks. This ensures that differences in the ease of switching do not confer an advantage on any particular set of technologies or wholesale services. A level playing field ultimately benefits consumers through greater innovation, choice and lower prices.²³³

Adoption of switching improvements by CPs now and in the future

5.226 The current system is not inherently neutral with respect to new wholesale services, in that when they are introduced, consumers wishing to use services based on the new wholesale service may not be able to use the existing migration processes. If a process has not been agreed between CPs, consumers will need to cease their service with their existing provider and then provision a service with their new provider. New functionality and upgrades may need to be developed and adopted by CPs in order to enable the consumer to use existing switching processes. During this period, the consumer experience is not neutral with respect to services provided using existing and new wholesale services. We note Margratha Telecom's

²³³We acknowledge that in some switching scenarios the process to be followed by industry will be different as a result of the changes associated with different types of wholesale services and networks. For example, switching between two different MPF providers will require engineering work but switching between two retail CPs who both use a wholesale service from the same wholesale CP will not require physical engineering work.

comments in relation to the poor experience when new wholesale services are introduced. We agree with this point and agree that lack of platform neutrality when new technologies are introduced is of concern.

- 5.227 However, we acknowledge that for the current set of wholesale services, many back end systems have been modified and upgraded to largely support industry migration processes.
- 5.228 We acknowledge that some CPs have chosen not to implement certain improvements to the process as they do not see the commercial need to do so. In some cases, for example, where the CP does not gain customers from a particular type of wholesale service there may be little commercial benefit from investing in the development of the processes for a small number of customers. This can lead to patchy availability of migration processes for some consumers.

Extending current processes to other networks and services

- 5.229 In relation to switching between different networks, we continue to believe that these issues are important and note the recent research outlined above, which suggests that consumers experience difficulty when switching between networks.
- 5.230 Whilst this source of platform neutrality is not directly within the scope of this phase of the switching review, we continue to believe that it is appropriate for us to consider the feasibility of extending our proposed switching processes to other networks, as they may be required were we to consider extending the scope of switching processes in the future to present a common consumer facing process.²³⁴ However, we note that issues of whether there is evidence of harm and assessment of any potential solution to these platform neutrality issues are out of scope of this phase of the review and will be considered in a future phase.
- 5.231 We maintain the position set out in the 2012 Consultation that the current GPL NoT and LPL MAC switching processes cannot, at this stage, be directly extended to include other technologies and infrastructures e.g. cable, FTTP. We note that no provider disagreed with this.
- 5.232 However, we acknowledge that it may be possible to develop alternative back end provider systems which can allow co-ordination between a GP and LP across different networks. We consider these issues further in context of our option development as set out in Annex 7.

Conclusion

- 5.233 We believe that the current system is not inherently neutral across wholesale services – particularly as new wholesale services are introduced.
- 5.234 We maintain our position that the current set of processes cannot, at this stage, be directly extended to include other networks and technologies. However, the processes could be developed in such a way that, with alternative back end provider systems, there could be co-ordination between a GP and LP across different networks.

²³⁴ As noted above, there may be some limitations to the extent to which the switching process options are identical across different networks as different types of engineering work may be required to provide services to a customer and to terminate existing services.

Section 6

Problems faced by consumers (Part 3) and Risks to Competition – Reactive Save

Introduction

- 6.1 This is the third of three sections in which we update our analysis of the problems we have identified with the current switching processes. It considers the risks to competition from the problem of reactive save.
- 6.2 Reactive save was one of the problems with the switching process which we identified in the 2012 Consultation, and was one of the factors which led us to choose a GPL process over an LPL process as our preferred option. Under LPL processes, the LP is given an element of control over the consumer's desired switch because the LP must provide a code before the switch can proceed. Reactive save is one means by which an LP can exploit that element of control to prevent the switch proceeding.
- 6.3 Under the current GPL NoT and LPL MAC switching processes, reactive save only happens in a limited number of instances. This is because the vast majority of these migrations (around 90%) currently use the GPL NoT process, under which reactive save is banned by existing ex ante regulation. At present, therefore, reactive save can only occur under the remaining 10% of switches which use the LPL MAC process.²³⁵
- 6.4 In the 2012 Consultation we identified a number of concerns with reactive save which we argued were likely to lead to consumer harm. We received a range of consultation responses on these points, and address the key points made here. We also argued in the 2012 Consultation that moving to a harmonised LPL switching process would extend the currently limited opportunities for reactive save, and explained our view that it would be difficult to ban it effectively under an LPL process. Respondents have provided views on these issues, along with some new points which we also consider.
- 6.5 This section first explains the idea of reactive save, distinguishes it from other types of customer retention activity and outlines its prevalence. We consider the available evidence on the effectiveness of reactive save at present and stakeholders' submissions on this subject. We then set out our concerns that reactive save may lead to consumer harm, and address stakeholder responses on these issues. Finally, we explain why we believe that it is difficult to regulate against reactive save under LPL processes, and address some other issues raised in the 2012 Consultation responses.
- 6.6 As we discuss below, many of the arguments raised in response to the 2012 Consultation point to particular factors which suggest the impact of reactive save may be larger or smaller than we previously estimated. Our task here is to make a forward-looking regulatory judgement taking into account a broad range of factors. These factors include:

²³⁵ These figures are explained in Section 3, and exclude C&R because it is not captured in Openreach's data. While reactive save could also be a problem under the C&R process, in such cases our concern is more limited because it is possible to enter a new contract without speaking to the LP.

- Ofcom’s principal duty to ‘to further the interests of consumers in relevant markets, where appropriate by promoting competition’;
- The potential impact of reactive save on competition, and ultimately on consumers, including:
 - The prevalence of reactive save;
 - Whether reactive save is likely to lead to consumer harm;
 - The effectiveness of reactive save in persuading customers not to switch;
 - The impact of reactive save on barriers to entry and growth;
 - The ability of ex post regulation to deal with the potential adverse consequences of reactive save;
 - The existence of other switching processes which avoid the need for reactive save.

Overview of reactive save

Definition

- 6.7 Reactive save is a specific form of customer retention activity. It occurs when the LP is systematically able to identify, as a direct result of the formal switching process,²³⁶ all customers intending to switch away from them. The LP is then able to, if it wishes, target counteroffers to those specific customers in order to try and retain them.
- 6.8 Reactive save is, therefore, distinct from more general types of customer retention activity, such as proactive offers to existing customers who are approaching the end of their contract periods, or indeed the offers made to customers who contact their existing provider for a better offer, because it can be targeted precisely at those customers who are actually trying to switch. Our concerns in this context are specific to reactive save, but our discussion and analysis also refer to more general save activity in order to draw out these differences.
- 6.9 Since reactive save is linked to an opportunity for customer retention activity which arises specifically during the formal switching process it is a particular issue for the telecommunications sector. This is explained in the following sub-section.

Switching processes in the communications sector require coordination between the GP and LP

- 6.10 In the 2012 Consultation we noted that the provision of fixed voice and broadband over the Openreach copper network retains unique service and infrastructure features which require the LP to be involved in the switching process to some extent. LPs need to help identify the correct assets to be switched and (where relevant) to port customers’ numbers. These features provide the necessary conditions for reactive save to occur.

²³⁶ ‘Formal switching process’ refers to the current switching processes explained in Section 3 of the 2012 Consultation, and the requirements of the new switching processes explained in this document.

- 6.11 We also acknowledged that customers in other subscription markets (such as car insurance) may often contact their LP in order to cancel their service. However, in these cases it is not necessary for the LP to be contacted in order for the new services to be provided. Although the customer may need to contact the LP for the service to be discontinued, in some cases consumers may choose to simply cancel their direct debit rather than contact their LP.²³⁷ In broadband switches, this is generally not the case as a switch cannot take place without the involvement of the LP (as they are required to free the line for broadband customers and the service may not be correctly provided over fixed telephony without the LP correctly identifying the asset to be switched). This difference between fixed voice and most other sectors was recognised by the Competition Appeal Tribunal ('CAT') in the Carrier Pre-selection Save Activity case.²³⁸
- 6.12 LPs have an incentive to use their technical role in the switching process to their commercial advantage if they can act on this information in order to undertake reactive save. This incentive can either be explicitly mitigated or enhanced by the switching process. As we noted in the 2012 Consultation, the LP's role is mitigated under the current GPL NoT process by a regulatory ban on CPs using information received during the switching process for other purposes, such as customer retention.
- 6.13 Conversely, under the LPL MAC process the role of the LP is enhanced. In this case the LPs are in a position of authority and have a 'gate-keeper' role because the switching process requires the customer to contact the LP in order to receive a MAC. The customer is unable to switch until they have received the code. This gives the LP an opportunity to thwart the intended switch by making the customer a counteroffer when they call to obtain the MAC.

Reactive save raises greater concerns compared to general customer retention activity

- 6.14 We consider reactive save to be distinct from other types of customer retention activity because it identifies all customers who are in the process of switching and therefore allows a retention offer to be targeted solely at those customers who have revealed themselves to be highly likely to switch in the absence of an offer. We consider that it can be distinguished from proactive offers made to, for example, an existing customer approaching the end of their contract period, or indeed the offers made to customers who contact their existing provider for a better offer.
- 6.15 In subscription markets, CPs sometimes make proactive save offers to customers who are approaching the end of their contract term. Such customers may be considered to be more likely to switch as they will not have ETCs if they switch to a different provider, and so the provider may make a pre-emptive offer to those customers in order to retain them.
- 6.16 In making a proactive retention offer, CPs face uncertainty as to which customers intend to switch provider. Although some customers may switch at the end of their contract term, a significant proportion will not. By making a proactive offer to all

²³⁷ This could be the case if customers are out of contract. However, if customers are under a contract, they would need to contact their provider. See Cancelling Direct Debits, BACS – Direct Debit. Available at:

<http://www.bacs.co.uk/Bacs/Businesses/DirectDebit/PayingBy/Pages/Cancelling.aspx>,

²³⁸ British Telecommunications plc v Ofcom, 2004, Case 1025/3/3/04, Judgement of 4 December 2004, paragraph 226.

customers nearing the end of their contract term, the LP will not only reduce prices to some customers who would otherwise have switched, but also to customers who would otherwise have remained with the provider. In deciding to make this proactive offer, the provider thus faces a trade-off. The lower its price, the more customers the provider will retain. However, as many of those customers would not have switched, such reductions in price will reduce the profits on customers who would not have switched. We consider this uncertainty to be normal competitive pressure, requiring the provider to keep its prices competitive to a wide customer base.

- 6.17 In contrast, with reactive save, CPs do not face the same uncertainty as all (and only those) customers who want to make a switch can be precisely identified. The provider can thus restrict the counteroffer only to confirmed would-be switchers. The competitive pressure on the CP to keep its prices low across its customer base is significantly reduced as it can maintain high prices, and only lower them to the minority of customers who 'reveal' themselves to be in the process of switching.
- 6.18 We also note that by reducing the number of offers that need to be made in order to retain a given number of customers, each individual offer to potential switchers can be priced lower and hence be more attractive to the consumer and likely to successfully retain them.
- 6.19 We consider that reactive save can also be distinguished from offers made to customers who proactively contact their CP to seek a counteroffer. We note that even when there is no in-built opportunity for reactive save in a market, some customers may proactively contact their CP seeking a save offer. However, crucially, as such contact is not a requirement of switching; many customers will switch without contacting their provider for such a counteroffer. The CP will thus continue to face pressure to keep their prices competitive across a wide customer base, as they cannot be sure that they will have the opportunity to make a counteroffer to all of their customers.
- 6.20 We also note that there is evidence that both reactive save and general save activity are prevalent. According to BT, [3<] of its retail broadband customer base was on a discounted/save offer as at April 2013.²³⁹ This figure includes both reactive save and general retention activity. Although this figure shows that retention activity is widespread, it also indicates that save offers are received by a minority of customers.

The prevalence of reactive save

- 6.21 The current industry-agreed processes mean that switching of fixed voice and broadband services over the Openreach copper network should be achieved using either the GPL NoT or LPL MAC switching processes, depending on the circumstances. At present the vast majority of GPL NoT and LPL MAC switches (excluding C&R), around 90% use the GPL NoT process, under which reactive save is banned by regulation. Only the remaining 10% of current switches are processed using the LPL MAC process, under which reactive save activity is permitted. This therefore means that since the LPL MAC process is only used for some broadband switches, reactive save is only at present possible for a subset of actual broadband switches.²⁴⁰

²³⁹ BT response to Ofcom S135 request, dated 4 April 2013.

²⁴⁰ These figures are explained in Section 3. Note that where broadband and voice services are sold as a bundle, the use of the LPL MAC process to switch the broadband service may provide a reactive save opportunity for the voice service as well.

6.22 We explained in the 2012 Consultation that our preference was for a harmonised GPL process. One of the reasons behind this view was our assessment of the likelihood of consumer harm from reactive save under an LPL process, and the difficulty in enforcing against reactive save under an LPL process. Given the likelihood of consumer harm we did not think it appropriate to move from a primarily GPL switching process under which reactive save is banned, to a harmonised LPL system under which the opportunity for reactive save is built into the formal switching process. We review these arguments and address the 2012 Consultation responses to them in the following sub-sections.

Reactive save may lead to consumer harm

Summary of the 2012 Consultation

6.23 In the 2012 Consultation, we explained our concern that the necessity for the LP to be involved in the LPL MAC switching process, and the opportunity this provides for it to undertake reactive save activity, provides it with a competitive advantage over the GP. We explained that while a consumer who accepts a reactive save offer may benefit we are concerned that this may ultimately be detrimental to consumers because it has a negative impact on the level of competition in the retail broadband and fixed voice markets over time.

6.24 We identified a number of sources of potential consumer harm which occur as a result of reactive save, and which may reduce the overall competitiveness of the market.²⁴¹ We explained our view that reactive save places new entrants and providers seeking to expand their customer base²⁴² at a disadvantage to incumbents for the following reasons:

- In order to persuade customers to switch, new entrants must price competitively across the board, whereas incumbents can, to some extent, thwart this challenge by making selective offers to those customers who reveal their intention to switch away. This means that incumbents can (at least in part) compete by offering selective price cuts to a part of their customer base, while charging higher prices to the remainder.
- This ability of incumbents to make counteroffers raises the (unit) customer acquisition costs (such as advertising and marketing costs) of entrants for each customer that they manage to win.
- There may also be an adverse selection problem as switching customers might be disproportionately low value consumers who are 'let go' by the LP.
- We note that the potential disadvantage to entrants is greater, the more 'mature' the market and the smaller the number of new, 'unattached' customers. When the market is growing, entrants are at less of a disadvantage to incumbents as there are substantial numbers of unattached customers for which to compete. By contrast, in a mature market, entrants very often need to persuade customers to switch from their current provider in order to build a significant customer base. The fixed voice market is a mature market and therefore has very few customers which can be won without the need for switching from an existing CP. As the UK

²⁴¹ 2012 Consultation, paragraphs 5.19 to 5.24.

²⁴² Note that, as in the 2012 Consultation, we use the term 'new entrants' to include providers who are seeking to expand their customer base. We use the term 'incumbents' to refer to providers who already have a substantial customer base.

broadband market matures, entrants will increasingly need to be able to persuade customers to switch in order to build a customer base.²⁴³

- 6.25 We noted an additional source of harm in that the presence of reactive save activity may also weaken the incentives for existing providers to compete vigorously with each other, and not only new entrants. For example, the presence of reactive save may make CPs less likely to price competitively across their customer base because they know that they will have the opportunity to target discounts to those customers who intend to switch. While this type of price discrimination may be welcomed by those customers who receive a discount following an attempt to switch, for the remaining majority of customers, prices will generally be higher than if discounts had been applied more widely.
- 6.26 We provided empirical evidence to support our views, most notably in relation to the effectiveness of reactive save and its impact on customer acquisition costs for entrants.
- 6.27 In the 2012 Consultation we went on to explain that while general save activity can occur under the existing GPL NoT process (when a customer initiates contact with the LP and wishes to engage in 'save' discussions) reactive save under LPL MAC is likely to be more prevalent and effective because all switching customers using this process must contact the LP, and this must take place before the consumer has formally signed up with the GP.
- 6.28 We also explained that, while reactive save is currently banned under the GPL NoT process, enforcing such a ban under an LPL process would present a number of challenges and may be a more interventionist measure than the current ban on reactive save under GPL NoT.
- 6.29 Below, we provide an overview of the 2012 Consultation responses we received on reactive save activity. We then expand on the evidence on the effectiveness of reactive save, and its impact on competition, addressing comments and evidence on the specific arguments outlined above in the following sub-sections.

Stakeholder responses

- 6.30 We received sixteen responses to the 2012 Consultation from industry which discussed the issue of reactive save. Of the four main retail fixed voice and broadband providers (Virgin Media, BT, Sky and TalkTalk), only TalkTalk broadly agreed with our concerns about reactive save. TalkTalk stated that they believe it is to their commercial benefit if it is easy for consumers to switch to them rather than making it as difficult as possible for customers to move to other providers. BT, Sky and Virgin Media commissioned the CRA report which was critical of our views on reactive save, and we address these points in detail in the relevant sections below.
- 6.31 We received responses from smaller fixed voice and broadband providers (Telefonica, [3], SSE and EE). Both [3] and SSE agreed with our position on reactive save. However, the two large incumbent mobile operators (who are smaller players in the fixed voice and broadband markets) disagreed with our views on reactive save. EE argued that save is not a part of the switching process and that they are more concerned about the competitive implications of non-harmonisation.

²⁴³ As at Q1 2012, 72% of UK households had a fixed broadband connection. This had grown from 67% in Q1 2011 and 65% in Q1 2010. Ofcom Communications Market Report, 2012, available at: http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr12/CMR_UK_2012.pdf

Telefonica also disagreed with our stance as they believe that we should not place too much weight on reactive save as a concern when reforming the current switching processes.

- 6.32 Of the responses we received from industry players who provide services mainly to business customers, two providers (Universal Utilities and C&W) agreed with our stance on reactive save, whereas the other four providers ([S<], KCOM, Magrathea Telecom and Zen) did not.
- 6.33 Two further industry responses were provided. Entanet, a telecommunications wholesaler, disagreed with our views on reactive save on the basis that as save activity is widespread, they do not believe it has a negative impact on entrants and consumers are unlikely to see the detriment to them. Three UK, although a mobile service provider, also responded to the 2012 Consultation document in support of our view on reactive save. They argue that the need for consumers to contact their LP under LPL processes is perverse and inhibits competition. This is consistent with Three UK's long-held position on the regulation of mobile number portability.
- 6.34 In addition to individual stakeholder responses, we received responses from industry representatives ITSPA and the FCS. Both of these groups had mixed views on reactive save. ITSPA supported our view that reactive save allows incumbents to distort competition but were unconvinced that a prohibition would have a positive benefit on consumers. Similarly, FCS generally agreed that reactive save encourages large players to restrict offers to switching customers to the disadvantage of smaller providers. However, they also considered that, on a theoretical level, the ability to make a counteroffer actually increases the competition for a particular customer.
- 6.35 We received four responses from consumer groups on the issue of reactive save. Three of the four (CCP, CFC and Consumer Focus) supported our position on the matter. In contrast, Which? stated that it was unconcerned about reactive save in itself.
- 6.36 Professor Morten Hviid from the ESRC Centre for Competition Policy was in agreement with our views on reactive save. He considered that the 2012 Consultation provided consistent and well-argued reasons for why the LPL processes can be harmful to competition.²⁴⁴

The effectiveness of reactive save

Summary of the 2012 Consultation

- 6.37 In the 2012 Consultation we quoted evidence first presented in our September 2010 Consultation from one provider [S<] which suggested that the effectiveness of reactive save meant that the cost of acquiring customers using the LPL MAC process might be up to four times higher than non-LPL sales.
- 6.38 We also cited the following research on the effectiveness of reactive save activity:
- Our consumer research 2010 found that four out of five consumers who were looking to switch and received a save offer accepted it; and

²⁴⁴ We also received a number of responses from individual parties. Of these, only one responded to us on the matter of reactive save. This response was in agreement with our argument that reactive save activity is damaging to competition.

- Our broadband consumer research 2011 found that of those broadband customers who had started the switching process and then decided to remain with their existing provider, two-thirds (67%) had accepted a save offer.

6.39 Both of these figures indicate that save offers are effective tools in retaining customers who are looking to switch. This was consistent with our concern that reactive save made it significantly more difficult for entrants to win customers.

Stakeholder responses

6.40 EE argued that, although they accept that the existence of reactive save means that a proportion of customers who would otherwise switch to competing providers do not do so, our evidence significantly overstates the effectiveness of reactive save activity. They argued that, despite recognising the small sample and that the data were, therefore, indicative only, we present the findings as robust, and at the same time disregard evidence from other stakeholders which indicates significantly lower rates of save success. They suggested that we should assess the two imperfect pieces of evidence in a more balanced fashion.

6.41 The CRA reactive save report (and the response from EE) contained the main objections to this evidence. CRA stated that the evidence presented in the 2012 Consultation was ‘at best very limited, and at most suggestive’ and ‘did not go to the question of whether reactive save harms consumers’.²⁴⁵ CRA said that the provider evidence involved a low number of consumers and did not directly link to consumer harm.²⁴⁶ In relation to the consumer survey evidence, CRA considered that ‘while it is possible that reactive save activity under the LPL MAC process is on average more effective than at least some other forms of retention activity’, our evidence was not conclusive, and was not ‘informative as to the effects of reactive save activity on consumer welfare.’²⁴⁷

6.42 Before responding to these points we note that while the CRA reactive save report criticises our evidence on reactive save, it also contains additional evidence on the effectiveness of save offers. Specifically, the CRA reactive save report cites that:²⁴⁸

- [X] of Sky customers who call to downgrade or cease their broadband services are saved;
- [X] of BT broadband customers who speak to the customer retention team are saved;
- [X] of Virgin Media non-cable customers²⁴⁹ are saved.

6.43 These figures relate to *all* calls to the customer retention team, not just reactive save activity under the LPL MAC process. We understand that more granular data specific to the LPL MAC process is not available. However, we consider that this is unlikely to constitute a material difference. Customers may speak to the customer retention team for many reasons, including a wish to change due to price or non-price reasons (e.g. better broadband). We consider that customers calling to obtain a MAC are unlikely to be less susceptible to be saved than those calling to downgrade or cancel,

²⁴⁵ CRA reactive save report, paragraph 123.

²⁴⁶ CRA reactive save report, paragraph 125.

²⁴⁷ CRA reactive save report, paragraph 129.

²⁴⁸ CRA reactive save report, paragraph 132.

²⁴⁹ These are Virgin Media’s customers on the Openreach network, outside of their cable areas.

or indeed those looking to obtain a better offer. In fact, as we note later, the evidence provided by CRA is consistent with save being highly effective under the LPL MAC process.

- 6.44 The CRA reactive save report also contained the following new evidence on the share of switchers who used a MAC:²⁵⁰
- BT estimates that only about [X] of the customers that it loses to competitors require a MAC;
 - Sky estimates that [X] of the new broadband customers that it gains require a MAC; and
 - Virgin Media estimates that around [X] of new broadband customers it acquires on its non-cable network require a MAC, whereas up to 30% of leaving customers do so. They argued that this number is particularly low because of Virgin Media's unique position as primarily a cable operator.²⁵¹

Our assessment

- 6.45 Although the CRA reactive save report criticises our evidence on the effectiveness of reactive save, it concedes that 'save activity can be successful (why would it be undertaken otherwise?)'.²⁵² The evidence provided by CRA suggests that save activity under the LPL MAC process is highly effective. We note that CRA report between [X] and [X] of callers to the customer retention team (i.e. those who wish to switch broadband provider) are 'saved'. These figures include all callers, not just those who use the LPL MAC process.²⁵³ Nevertheless, this is powerful evidence that save activity is highly effective.
- 6.46 Since the rate of calls to the customer retention team is higher under LPL processes than under GPL processes (as all switching customers must contact the LP), by itself this evidence is consistent with reactive save activity leading to reduced switching and so higher customer acquisition costs under LPL processes, as explained below.
- 6.47 The other evidence provided by CRA is also consistent with save activity being particularly effective under the LPL MAC process. If reactive save activity were more effective under LPL processes, then we would expect to observe that fewer switches occur under the LPL MAC process than would be expected given the share of

²⁵⁰ The LPL MAC process is currently used for broadband switches in which both the GP and LP are using either IPStream or SMPF.

²⁵¹ They argued that the reason for this is partly because a significant proportion of new non-cable customers are home movers switching from Virgin Media's cable network. Conversely they also argued that a much higher proportion of consumers (perhaps as much as 30%) who leave Virgin Media's non-cable network do so under the LPL MAC process. This is because they are largely concentrated in rural areas where most, if not all, of broadband providers use SMPF technology, so a MAC is required to switch in most cases. The report argues that, as a result of this, Virgin Media's non-cable customers are not representative of UK broadband customers in general.

²⁵² CRA reactive save report, paragraph 133.

²⁵³ Note that this refers to save activity in general (some of which would continue to legitimately exist under a new process) rather than specifically reactive save. However, as we note above, we have reason to believe that reactive save is as effective as general save activity and we are particularly worried about the anti-competitive implications of reactive save.

existing customers who should follow that process.²⁵⁴ As set out below and explained fully in Annex 6, this is indeed the case.

- 6.48 As discussed in our 2012 Consultation document, whether a customer follows the LPL MAC process depends on both who they are switching from and where they are switching to. The LPL MAC process is used for all switches between SMPF/IPStream providers. We have used broadband market shares and other information to estimate the share of switches that would be expected to follow the LPL MAC process. These estimates can then be compared to information available on actual switches.
- 6.49 We find that across the Openreach network, we would expect at least 32% of broadband switches to use the LPL MAC process, compared to just 10% that we observe.²⁵⁵
- 6.50 The proportion of actual switches going through the LPL MAC process is lower than would be expected, given the share of broadband subscribers on SMPF. This lower level of switching is consistent with our concern that reactive save is highly effective in retaining customers (see evidence above and also the evidence on high drop-out rates under the LPL MAC process in Section 4) and so leads to lower switching levels. We discuss below the ways in which we believe lower switching levels are likely to lead to consumer harm.

The ability to make selective discounts only to those who intend to switch places entrants at a disadvantage to incumbents

Summary of the 2012 Consultation

- 6.51 The first key concern we set out in the 2012 Consultation was that reactive save is detrimental to competition because it favours incumbent operators over entrants. Each customer who wishes to leave their provider using the existing LPL MAC process is required to contact their LP before doing so. This gives the LP an opportunity to selectively make save offers to customers who are trying to switch (and who they wish to retain) before the customer can sign up with the GP.
- 6.52 We argued that this ability to delay the switching process in order to make a counter-offer means that the incumbent is able to target its discounts to only the minority of its customers who are looking to switch, whilst charging higher prices to the large proportion of inert customers. However, entrants with a small customer base are required to match these discounts for all customers they are trying to acquire, leaving them at a competitive disadvantage (in addition to the higher unit costs they may face because of their more limited economies of scale and scope).

Stakeholder responses

- 6.53 C&W agreed that the potential for reactive save under a LPL process allows incumbents to defend their customers at the expense of new entrants and competitors with more niche interests. Similarly, FCS stated their perception that the practice of reactive save encourages larger providers to restrict their best offers to 'at risk' customers. They agreed that this disadvantages smaller players and does not support competition.

²⁵⁴ Note that this evidence could also be consistent with higher overall switching costs under the LPL MAC process, not just the effectiveness of save activity.

²⁵⁵ See Annex 6 of this document for details of the calculations, which exclude C&R.

- 6.54 SSE stated that, as a new entrant, they have found it more time-consuming and costly to acquire customers through the LPL MAC process than GPL NoT. They implied that this comes as a direct result of reactive save activity, but also considered that other hassle factors involved in LPL processes (such as time taken to provide a MAC and agents giving the perception that switching is difficult) also contribute to this.
- 6.55 CRA do not directly address the point that the ability to make selective discounts places entrants at a disadvantage to incumbents. CRA note that 'a measure of price discrimination is inherent in save activities of all descriptions'.²⁵⁶ CRA consider that 'Ofcom does not show that this will be of overall harm to consumers' and refer to their model which they claim is consistent with price discrimination having a positive impact on consumer welfare.²⁵⁷ CRA dispute the analogy made between reactive save activity and the economic literature on price guarantees. CRA claim that the literature on price guarantees found negative effects 'under precise conditions which may not be met in this industry'.²⁵⁸ CRA also cite differences between reactive activity and formal price guarantees, which they claim mean that the two are not equivalent.

Our assessment

- 6.56 None of the 2012 Consultation respondents directly challenged the proposition that the ability to make selective discounts places entrants at a disadvantage relative to incumbents. CRA instead claim that we have not shown that it would cause consumer harm. Our view is that reactive save activity does place entrants at a disadvantage to incumbents and that this has the potential to harm competition and consumers.
- 6.57 Our point is demonstrated by the following simple example:
- In the absence of the certainty provided by an LPL system, which systematically identifies all customers who are in the process of switching, the LP is unsure which of its customers are about to switch. It must rely on forms of retention activity, developed under market conditions. Given a downward sloping demand curve, the LP would anticipate that a reduction in prices would lead to an increase in demand. However, this will lead to a lower margin per customer, and must be offered to all customers. In the context of customer retention the LP therefore faces a trade-off between saving customers and profit per customer, because reducing prices leads to cannibalisation of margins across its customer base.
 - This ability to identify which of the LP's customers are about to switch enables it to maintain its existing prices to inert customers, and to target discounts to those customers who are about to switch. Moreover it can offer, if it wishes to do so, aggressive price reductions to those attempting to switch without the risk of cannibalising revenue from those customers who are not about to switch.
- 6.58 The absence of this 'cannibalisation effect' when reactive save is possible means that for an entrant to win a customer from an incumbent which uses reactive save it must not only better the general price level in offers to all potential customers, it must also better the reactive save price that the incumbent offers to only a subset of its

²⁵⁶ CRA reactive save report, paragraph 72.

²⁵⁷ CRA reactive save report, paragraph 74.

²⁵⁸ CRA reactive save report, paragraph 81.

customers. In our view this places the entrant in a worse position than absent reactive save. We note that the cannibalisation effect is stronger with proactive retention offers, as the incumbent still faces uncertainty as to exactly which consumers will switch.

- 6.59 This point is well illustrated by the CRA model, which attempts to capture the idea of reactive save activity in a simple world in which two firms compete for customers on the basis of differentiated products. One firm sets an initial price for its existing customers, and then only 'reacts' to its rival's price in its offers to those customers who would otherwise switch.
- 6.60 CRA finds that this provides support for the idea that preventing reactive save doesn't unambiguously increase welfare and can reduce consumer surplus. However, as discussed further in paragraphs 6.150 and 6.153, CRA's model requires the entrant to price ever more aggressively lower in order to win customers. In our view, and given the presence of barriers to entry in the markets in question which CRA accepts, it is unrealistic to expect such behaviour to continue over time. Instead, we consider that entry would be deterred, creating a risk that competition would be reduced to the detriment of consumers.
- 6.61 In both our September 2010 and 2012 Consultations we considered that, from an analytical point of view, reactive save presents similarities to low price guarantees. Given this, we were able to draw on the economic literature on price guarantees to give an indication of the effects of reactive save on competition and hence on consumers. In particular a study by Professor Morten Hviid²⁵⁹ commissioned in the context of our September 2010 Consultation and a recent paper by the Office of Fair Trading ('OFT')²⁶⁰ both noted that, under certain conditions, price guarantees are likely to have the effect of dampening competition and restricting entry into a market.²⁶¹
- 6.62 In their response, CRA suggested that the literature on switching costs is more relevant to the issue of reactive save than the literature on price guarantees. They considered that differences in switching costs between consumers leads to a market where firms are able to price discriminate between locked-in customers (who would have to incur a switching cost to move supplier) and others. They contend that reactive save involves making an improved offer to these 'locked-in' customers so that they would not incur switching costs when accepting an attractive offer from a rival. They use a model based on this to show that under certain assumptions preventing reactive save could reduce consumer welfare.
- 6.63 We have reviewed the switching cost literature to which CRA refers, but continue to believe that the literature on price guarantees is more relevant, and that this supports our concern that there is a threat of distortion to competition from intervening to put in place a harmonised LPL system. In particular, while both low price guarantees and switching costs can, in theory, discourage switching, we note that reactive save is better described not as a switching cost but as a mechanism that allows LPs to deter switching altogether.

²⁵⁹ Professor Morten Hviid (2010), 'Applicability of the literature on price guarantees to the PAC and MAC processes'. Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/paper.pdf>.

²⁶⁰ Office of Fair Trading (2012), 'Can 'fair' prices be unfair? A review of price relationship agreements', Available at: http://www.offt.gov.uk/shared_offt/research/OFT1438.pdf.

²⁶¹ The OFT report also considers that there may be positive welfare effects of a price guarantee as it allows firms to signal low prices. However, as reactive save activity involves a number of prices and it is not openly advertised, this welfare effect would not apply to our analysis.

Reactive save activity increases customer acquisition costs for entrants

Summary of the 2012 Consultation

- 6.64 In the 2012 Consultation we argued that the presence of reactive save meant that entrants were likely to incur higher customer acquisition costs, on a per customer basis, than incumbents, hampering their ability to compete.
- 6.65 In support of this view we quoted data from one provider [X] which indicated that customer acquisition costs could be up to four times higher under the LPL MAC process than under other switching processes.

Stakeholder responses

- 6.66 Stakeholder responses on this issue were mixed. Two respondents (Three UK and SSE) agreed with our view, and while no stakeholders directly disagreed with our assessment that reactive save activity increases acquisition costs for entrants, Telefonica, CRA (on behalf of BT, Sky and Virgin Media) and EE criticised the evidence that we had presented.
- 6.67 Three UK agreed with the general point that reactive save activity has a direct impact on entrants' acquisition costs as a number of customers who would otherwise switch are saved by the LP. As a result of this, they argued that it is imperative to move away from a LPL process, where customer acquisition costs are high, to a GPL process which promotes transparency. SSE stated that they found it more time-consuming and expensive to gain customers via the LPL MAC process compared to the GPL NoT process, as explained in paragraph 6.54 above.²⁶²
- 6.68 CRA did not disagree with our view that reactive save might increase entrants' costs, but suggested that the impact of higher customer acquisition costs may be counterbalanced by the acquired customers having a higher lifetime value (as the customer lifetime is longer due to the reduced switching under the LPL MAC process). CRA consider that the argument in the 2012 Consultation that reactive save deters entry was 'unconvincing' and consider that the impact of reactive save on entry is ambiguous. This is because 'making markets ex post more competitive may have detrimental effects on incentives for further entry when entry costs are significant.'²⁶³ CRA also consider that 'further substantive facilities-based entry' is unlikely in these markets, and that the consumer benefits of such entry 'would probably be muted'.²⁶⁴
- 6.69 Turning to the evidence on increased customer acquisition costs, Telefonica stated three objections:
- Firstly, they (along with CRA and EE) argued that the sample size was too small and that a week's worth of observations are not sufficient to count as an accurate representation of sales;
 - Linked to the above they argued that other factors (such as poor sales flows and credit checking) could have negatively affected sales conversion over the sample

²⁶² We note that reactive save may not be the only reason for a lower sales conversion rate under the LPL MAC process. As set out in Section 4 of this document, the LPL MAC process is also associated with greater consumer difficulty.

²⁶³ CRA reactive save report, paragraph 70.

²⁶⁴ CRA reactive save report, paragraph 121.

period. Therefore, they argued that it cannot be concluded, with any certainty, that reactive save was a factor in these differences; and

- Our broadband consumer research 2011 showed that 51% of broadband customers who contacted their LP under the GPL NoT process were given a save offer. They compared this figure to 53% of consumers who used the LPL MAC process receiving an offer. They argued that the similarity between these two figures shows that the evidence from the new entrant cannot be relied on and does not support the claim that an LPL process is problematic for competition.

6.70 CRA's main objection to our evidence was that there is no clear link between reactive save and an effect on consumer harm. They argued that, as it compares switching processes, it appears to be linked to the separate argument that reactive save is more effective under a LPL process than GPL.

Our assessment

- 6.71 We maintain that the existence of reactive save leads entrants to acquire fewer customers than they otherwise would, and at a higher cost per consumer acquired than in a market without reactive save. We also note that no respondents disagreed with this reasoning, although other counter arguments were presented, as explained below.
- 6.72 As explained in this section, we consider that the evidence shows that reactive save is an effective customer retention mechanism and hence inhibits switching. This means that for a given amount of spending on marketing and customer acquisition, an entrant facing reactive save by incumbents will acquire fewer customers, and each customer that it does gain will come at a higher per customer acquisition cost. Although some stakeholders were critical of the evidence we presented in support of it this argument, none disagreed with it in principle. In fact, we note that CRA appear to concede that reactive save will lead to less switching and to less competition ex-post (i.e. once consumers are with a provider), although they counteract this by stating that the more competitive the market, the less attractive it is for entry.
- 6.73 We note CRA's point that higher customer acquisition costs may be counterbalanced by the acquired customers having a higher lifetime value (because it increases their 'stickiness'). Although it is likely that the average customer lifetime is longer in a world with reactive save, we are sceptical as to whether the higher customer lifetime is sufficient to counterbalance the higher upfront costs of acquiring the customer. Although the higher costs of customer acquisition may be partially recovered over a longer time horizon, this has the effect of shifting cost recovery further into the future. From the point of view of an entrant's cash flows, and for a given discount rate, this reduces the expected value of cash flows. This means that it would be harder for the entrant to justify its business case in seeking financing.
- 6.74 This timing effect is compounded by the fact that telecommunications markets are characterised by considerable fixed costs and, hence, economies of scale. The longer the time taken to acquire a large customer base, the longer the time before the entrant can benefit from the lower costs associated with economies of scale. Specifically, a move from WLR/SMPF provision to MPF provision is commercially desirable to entrants but it is only profitable once they have reached a critical mass of customers.
- 6.75 On the evidence of increased customer acquisition costs for entrants we acknowledged the limitations of the data presented in the 2012 Consultation, and

note that we were explicit about this at the time. We also note Telefonica's view that other variables may be the cause for the low sales conversion of LPL MAC customers. However, further information on the effectiveness of reactive save has been provided in the 2012 Consultation responses and supports our view. This new evidence is discussed above, and we believe that the evidence on the effectiveness of save offers is consistent with save offers being responsible for a material proportion of the difference in conversion rates. In addition, there is more likely to be contact between the customer and the LP under an LPL process relative to a GPL process, given its necessity under LPL.

- 6.76 In relation to Telefonica's point that similar proportions of LPL and GPL customers receive a save offer, we note that this statistic relates only to those customers who were in contact with the LP during the switching process. As contact with the LP is required under the LPL MAC process, but not under GPL, then a higher proportion of LPL customers receive a save offer. We recognise that many consumers may wish to seek a save offer under a GPL process before effecting a switch, but the issue of concern to Ofcom is whether it would be appropriate for the switching process to enable LPs always to make a save offer before a switch can proceed.

Adverse selection may favour incumbents over entrants

Summary of the 2012 Consultation

- 6.77 In the 2012 Consultation we argued that reactive save could lead to an adverse selection problem due to the fact that, under the LPL MAC process, LPs are made aware of those customers looking to switch and are also aware to some extent of the commercial value of those customers. As a result of this, LPs are (in some cases at least) able to distinguish low from high-value customers looking to switch and make counteroffers mainly to those who offer a high commercial value to them.
- 6.78 Our broadband consumer research 2011 shows that only around half of those customers who contacted their LP during the switching process were made a counteroffer. In the 2012 Consultation we noted a possible additional concern associated with reactive save that, if less valuable customers are made reactive save offers less frequently, the customers which new entrants would acquire most easily would (on average) be of lower value. If this is correct, this disproportionate acquisition of low value customers by entrants would result in a competitive advantage for incumbents over entrants.

Stakeholder responses

- 6.79 None of the respondents expressed explicit support for our view on adverse selection. The main stakeholder objections to the argument came from CRA and EE.
- 6.80 EE argued that consumers are socially mobile, and that low value customers may become higher value customers over time. They gave the example of university students who are initially low value customers but may become higher value customers as they increase their earnings after moving into the workforce. As a result it saw little merit in our adverse selection argument.
- 6.81 CRA offered four objections to the adverse selection argument:
- Firstly they argued that there is very little asymmetric information between providers over the commercial value of customers. They argued that customers should be aware of the details of their current plan and whether they exceed

usage limits. GPs will ask potential customers about these details and will, therefore, be able to calculate the value of the customer from this. CRA also argued that there is consumer data available to purchase (which include age, income and affluence indicators) which also helps to provide the GP with information on consumer value;

- Secondly, they argued that there is likely to be very little difference in value between high and low use customers. They argued that this was especially likely to be the case in the broadband market as differences in costs between customers are small (relative to other costs of provision) unless the customer regularly exceeds their usage limit.²⁶⁵ They argued that if a customer did regularly exceed their limit, they would generally be upgraded to a higher-usage package. They also argued that, even if there is a large difference in value between customers, information on usage is unlikely to affect the likelihood of a customer being saved as retention agents are not incentivised to make offers depending on the usage levels of customers;
- Thirdly, they argued that information on a customer's usage would not affect the counteroffers available to that consumer. For instance, CRA reported that there were not distinct offers available based on customer value and that, for instance, [3<]; and
- Finally, they argued that, even if some adverse selection is present, it should not lead to GPs incurring losses. This is because, as long as the GP does not incur any large variable costs in acquiring new customers, they will generally find acquiring a new customer to be profitable. They also noted that the broadband market is growing,²⁶⁶ meaning that new consumers are entering the market. The acquisition of these new subscribers should not suffer from the adverse selection problem.

6.82 Sky also argued that, as an operator looking to grow its subscriber base, it does not experience the adverse selection issue we describe. They argued that this does not have any impact on their incentives to win customers away from other incumbent operators.

Our assessment

6.83 In our view, the value of the customers which entrants are able to acquire is of secondary importance to their ability to acquire customers in the first place given the existence of economies of scale in the market. Nevertheless, we continue to be concerned that adverse selection issues could arise under reactive save and that this could lead to an additional negative impact on CPs who want to grow their share of subscribers.

6.84 It is true that some customers are socially mobile as suggested by EE and are, therefore, able to move between being a low and high value customer. However, we doubt whether new entrants, looking to expand their customer base will take much account of this as it seems somewhat speculative to claim that an entrant will have a

²⁶⁵ However, they did note that the situation is different for fixed line telephony as some customers are on packages which involve 'significant metering'. They accepted that a customer's value may be increased by high call usage outside of the inclusive elements of their package.

²⁶⁶ They quoted Enders Analysis who found year-on-year growth in the number of broadband subscribers to be around 6% and that there was around 200,000-300,000 net broadband additions per quarter in 2011.

business plan that assumes that a significant proportion of customers would stay with the same provider for the period of time it takes for them to change from being low to high value.

- 6.85 We also find that the argument that there is symmetric information between the LP and the GP is weak. CRA explains that customer retention agents have access to information on 'the customer's current package, contract, tenure and other basic information'.²⁶⁷ An LP who has been able to track the usage of a customer throughout their contract period will be in a better position to understand the value of that customer than a GP who can only rely on the customer volunteering certain usage information. Many customers will not know the details of their usage history or may be unwilling to divulge them to a GP.
- 6.86 The CRA reactive save report argues that there is little difference in value between customers on the same broadband package. However, we note that CRA's argument does not apply to fixed voice customers. Voice customers who make more calls outside of an inclusive call allowance should be more profitable to providers.²⁶⁸ As a high proportion of customers purchase fixed voice and broadband together, this means that customers on the same package will differ in value and that the LP, who has details of their call volume, will have an informational advantage over the GP.
- 6.87 We also remain concerned that higher value customers are more likely to find an acceptable save offer, leading to new entrants acquiring disproportionately low value customers. The CRA reactive save report argues that in practice the information on customer value does not affect the save offers available to retention agents. We understand that retention agents are provided with a menu of offers which they are permitted to make, and, as CRA itself notes, saving a customer does not necessarily require the lowest possible offer, only one that is sufficiently low to save them.²⁶⁹ Since a greater margin is earned on a high value customer, more of the available save offers would be applicable to a high value customer than a low value one. This should mean that higher value customers are more likely to receive an acceptable counteroffer than lower value ones (or even that there is no viable counteroffer available to make to a particularly low value customer).
- 6.88 CRA counters that entrants could still be profitable even if they acquire mainly low value customers. We remain concerned that they would still be at a considerable competitive disadvantage to incumbent firms who are able to retain the most profitable customers. This would limit their ability to invest in the content, infrastructure and marketing needed to grow their customer base further, impacting the future competitiveness of the market and hence consumers in the long run.

Likelihood and benefits of market entry

- 6.89 The previous three subsections have discussed the reasons why we think reactive save places entrants at a disadvantage to incumbents. Before coming to our additional argument that reactive save weakens incentives for existing providers to compete vigorously with each other it is necessary to address a number of comments from CRA on the likelihood and benefits of market entry.

²⁶⁷ CRA reactive save report, paragraph 34.

²⁶⁸ Note that, although inclusive call packages are available, these tend not to cover all types of calls from a fixed telephone. For example, calls to mobile numbers and to non-geographic numbers are often not covered.

²⁶⁹ CRA reactive save report, paragraph 38.

Stakeholder responses

- 6.90 CRA argued that our emphasis on market entry is misdirected because:²⁷⁰
- Banning reactive save would not necessarily increase entry incentives, not least because entrants care about acquiring consumers that they will be able to retain at a sufficient profit margin;
 - The likelihood of entry seems low in these markets; and
 - The benefits of further entry in these markets seem low at present.
- 6.91 Expanding these points in turn, CRA noted that when deciding on entry plans, providers consider both the profitability of acquiring and retaining potential customers. It argued that an entrant's ability to retain customers (once they have acquired them) will be lower if price competition is stronger.²⁷¹
- 6.92 On the likelihood of entry, CRA commented that the fixed voice market has been declining in usage and volume for some time. It also considered that, despite connections continuing to increase, fixed broadband revenues declined year-on-year in both 2009 and 2010. It noted that the necessary large investment in infrastructure to enter the market restricts the potential for profitable entry. In their individual submissions, Sky and BT built on this argument by stating that the prevention of reactive save would not lead to an increase in entry as other significant barriers to entry exist which would prevent entry to the market regardless of whether reactive save activity is present or not.
- 6.93 CRA considered that if entry were to occur the positive impact may be limited. They argued that the marginal gain from entry diminishes quickly as the number of entrants increases.²⁷² They also argued that further entry may even be costly to society if the societal costs of the resources required to enter dominate the consumer welfare benefits of entry. In the light of this, the report contended that, due to existing competition and the limited welfare benefits of further competition, the consumer benefits from further entry would be muted and, moreover, any further entry would be unlikely in any event.
- 6.94 In addition CRA argued that it is too simplistic to classify firms as either being incumbents or entrants. They explained that, for any existing consumer, the provider is the incumbent. Providers engaging in reactive save activity could be smaller providers with a larger provider trying to acquire the customer. Therefore, in their view any given supplier acts as both an incumbent and an entrant for different customers at the same time.

Our assessment

- 6.95 We continue to believe that our concerns about the impacts of reactive save on entrants are legitimate, and that the distinction between incumbents and entrants is analytically useful, as explained below.

²⁷⁰ CRA reactive save report, paragraph 112.

²⁷¹ CRA reactive save report, paragraph 105.

²⁷² They cite a paper by Xiao & Orazem (2011) who found that the fourth firm to enter local broadband markets in the US had little effect on competition.

- 6.96 The Act gives Ofcom the duty to further the interests of consumers in relevant markets, where appropriate by promoting competition. For us to take a decision which would raise barriers to entry and dampen competition may therefore not be consistent with this duty. We believe that allowing reactive save across the market risks dampening competition and therefore harming the interests of consumers. Even if new providers are unlikely to enter at this time (due to a mature market or intensive competition), the potential for entry has a positive effect on competition and, consequently, consumer welfare. CRA are acknowledging that entry is more difficult with reactive save as it is harder to acquire customers. We see pressure from entry as an important element of healthy competition. CRA have raised arguments as to why the negative effect that would be expected to flow may not occur. We are not in a position to prove the extent to which the negative impact will be limited and note that it introduces a risk to competition, which is not present under GPL systems.
- 6.97 We also consider that it is analytically useful to distinguish between incumbents and entrants. The consumer segments of the fixed voice and broadband markets, for example, are characterised by the presence of four large, established providers (BT, Virgin Media, TalkTalk and Sky) and numerous smaller providers. In March 2012, these four providers commanded over 85% of the consumer segment of the broadband market.²⁷³ We note however, that as explained above and in the 2012 Consultation, our use of the term 'new entrants' includes small providers who are seeking to expand their customer base. We see new entrants defined in this way as an important competitive force.
- 6.98 More generally, the level of competition should be considered over a continuum rather than as a binary variable. We accept that the fixed voice and broadband retail markets currently exhibit competition, as explained in Section 3 and as described in our most recent consultation on the Wholesale Broadband Access Markets, and that at present reactive save is only possible for the minority of broadband switches which use the LPL MAC process (see paragraph 6.21). However we believe that further barriers to entry for new providers may occur as a result of reactive save reducing competition in these markets, and that the prevention of reactive save would be of benefit to consumers.

Reactive save may weaken incentives for existing providers to compete

Summary of the 2012 Consultation

- 6.99 In the 2012 Consultation we considered that reactive save activity may weaken the incentives for existing providers to compete amongst themselves. This is because the ability for providers to target their best offers at those customers trying to switch away from them reduces the incentives for them to apply discounts across their customer base, and allows deeper discounts to be made to identified switchers, as explained in paragraphs 6.14 to 6.20. Any customers who are unhappy with their current offer and look to switch away as a result will be likely to receive a save offer from their provider and will be less likely to switch.

Stakeholder responses

- 6.100 Three UK agreed that the presence of a reactive save process is detrimental to competition between existing providers. They argued that, all else being equal, it

²⁷³ Ofcom's Review of the Wholesale Broadband Access Markets, 11 July 2013. Available at: http://stakeholders.ofcom.org.uk/binaries/consultations/review-wba-markets/summary/WBA_July_2013.pdf

provides an incentive for incumbents to focus on 'harvesting' their existing customer base rather than acquiring new customers. They agreed that under LPL processes incumbents have little incentive to put their best deal on the market as they only need to offer a more competitive tariff to those who are switching. They argued that this was a barrier to effective competition.

- 6.101 A number of stakeholders (KCOM, Sky and Telefonica) argued that they do not believe that the presence of reactive save weakens the incentives for existing providers to compete on the grounds that there is currently strong competition in the market. The CRA reactive save report also made the point that competition is strong but did not explicitly link it to the point that price discrimination by existing providers reduces competition between them.
- 6.102 Sky also argued that there is no evidence to suggest that reactive save leads to a dampening of competition between existing firms. They argued that our argument is based on 'ill-suited economic theory' and that the available evidence points to a case where competition is strong and benefits consumers. In addition to this, BT argued that there is no evidence that prices for non-switchers are held at an artificially high level and, due to the prevalence of advertising of prices, customers are aware of the low prices in the market.

Our assessment

- 6.103 We believe that the presence of reactive save in the market has the potential to dampen competition between existing providers as they find it relatively more costly to compete for customers from rivals than retaining their existing customer base. All else equal this incentivises them to concentrate on harvesting their customer base rather than actively competing in the market. We are also concerned that if all the operators know LPs will make discounted offers to consumers on the point of switching, there is less incentive for providers to price low to attract new customers in the first place.
- 6.104 In most competitive markets (e.g., supermarkets or restaurants), firms face uncertainty as to which customers will switch, and so are constrained to keep prices competitive to pre-empt switching. Reactive save reduces this uncertainty as it systematically identifies all consumers in the process of switching. We consider that this risks reducing the incentives on incumbents to offer competitive prices to consumers who do not initiate the switching process compared to a scenario where the switching process is GPL and reactive save is prohibited, as it is under the existing GPL NoT process.
- 6.105 Although those consumers who receive a reactive save offer may be better off, our market research suggests that such consumers constitute a minority of broadband customers.²⁷⁴ By contrast, inactive customers (who constitute the majority of consumers) will likely face higher prices.²⁷⁵ Which effect predominates at any point in time (e.g., from a static efficiency viewpoint) will depend upon the relative share of such customers, the level of discount given to active consumers and the level of product differentiation.
- 6.106 Critically, as explained above, our concerns with reactive save relate to the dynamic effects on competition. In the long run, we are concerned that reactive save may weaken dynamic competition by deterring entry and expansion.

²⁷⁴ BT Response to Ofcom S135 request, dated 4 April 2013.

²⁷⁵ See Section 2 of this document.

- 6.107 Under a GPL process, consumers are still free to contact their existing provider and negotiate a save offer. Providers are also still free to make proactive retention offers to consumers, for example, those who are coming to the end of their contract term.
- 6.108 CRA has argued that, if reactive save were to be banned, firms would find ways to identify those consumers that are likely to switch and proactively make offers to them. We acknowledge that firms use various methods of retention activity to compete in the market and strive to find good ways to do this. However, we consider that instituting a market-wide LPL process risks distorting competition because it materially changes the nature of retention activity.

Reactive save cannot be effectively dealt with under LPL processes

- 6.109 In our 2012 Consultation we argued that, although it could in principle occur under both GPL and LPL processes, reactive save is particularly harmful to competition under LPL switching processes. Furthermore, while it is currently banned under the GPL NoT switching process, we argued that it could not be dealt with in an effective manner under an LPL process.

Reactive save activity is more likely to be effective under LPL

Summary of the 2012 Consultation

- 6.110 In our 2012 Consultation, we noted that under the LPL MAC process, a consumer cannot switch without first obtaining a MAC from their LP. This has two important implications:
- All consumers switching over the LPL MAC process must contact their LP before they can complete the switch.
 - This contact with the LP is often made before the consumer enters into a contract with their GP.
- 6.111 In the 2012 Consultation we considered that reactive save under the LPL MAC process is more likely to be effective than under the GPL NoT process. This is because, under the GPL NoT process, a significant proportion of consumers do not contact their LP and, if they do, the contact often occurs after the consumer has contracted with their GP.
- 6.112 Conversely, under the LPL MAC process, the requirement for all switching consumers to contact their LP before they sign with their GP provides the LP with the unique opportunity to make selective save offers to all those consumers looking to switch that it wishes to retain. As consumers receive the save offer *before* they can sign up with a GP, they are more likely to accept it.
- 6.113 We noted that between 42% and 77% of consumers²⁷⁶ contact their LP under the GPL NoT process despite not being required to as part of the formal switching process. Our broadband consumer research 2011 explored the reasons behind this. The majority of respondents (79%) cited cancelling their current service, whilst 22% did so to discuss ETCs, and 6% to ask for a better deal.
- 6.114 Despite a substantial proportion of consumers contacting their LP under the GPL NoT process, we argued that this number was considerably lower than under the LPL

²⁷⁶ Between half (consumer research 2010) and three quarters (broadband consumer research 2011).

MAC process, in which it is a requirement. We also considered that there was likely to be confusion about which process to use amongst consumers, as explained in Section 4. Existing conditions may thus cause more customers to contact their LP under the GPL NoT process than if clearer information were provided.

- 6.115 In the 2012 Consultation we also stated our concern that save offers are likely to be more effective if they are received *before* a customer has entered into a contract with their GP. This is always the case under LPL processes but not always so under GPL. Under GPL processes, many consumers who contact their LP when switching do so after having committed to a switch to another provider. Under GPL processes, a substantial proportion of consumers who accept save offers would then need to contact their GP again to cancel the switch. Our broadband consumer research 2011 indicated that, under GPL processes, a majority (56%) of GPL NoT switchers, whose LP tried to persuade them to stay, contacted their LP *after* having signed up with their GP.
- 6.116 This research also indicated that save offers are more likely to be effective if they are received before a consumer signs up with a new provider. It found that, of those consumers that had considered switching but then decided to stay with their existing provider, 67% did so as a result of a save offer. Of that 67%, only 5% had signed a contract with their GP (a further 10% had contacted their GP but were unsure if they had signed with them or not).
- 6.117 We argued that this evidence is consistent with the behavioural economic concept of a 'default bias'. This suggests that once a consumer has signed up with a new provider and incurred switching costs in the process, it is less likely that they will cancel this contract and revert back to their old provider than if they had not yet signed a contract with their GP.
- 6.118 The behavioural economic argument is also consistent with our argument that the level of hassle involved in switching makes reactive save more effective when the consumer has not yet signed a contract with the GP. This is because a consumer who has signed up to a GP before receiving a favourable save offer (which they wish to accept) would then need to call their GP to cancel the switch. By contrast, under LPL processes (where this is not the practice), there is no further need to contact the GP if the consumer chooses to accept a save offer. This extra hassle of consumers having to contact their GP again to cancel their new contract is likely to make reactive save less effective in this circumstance.
- 6.119 Additionally, if a consumer did accept a save offer but needed to cancel a new deal with their GP, this would give the GP an opportunity to make a counteroffer. This is unlikely to be the case under a LPL process as consumers are unable to sign a contract with their GP before receiving a save offer so they would not need to contact the GP again on accepting a save offer in order to cancel a contract.²⁷⁷

²⁷⁷ In this case the GP may be aware that a consumer who initially showed an interest in switching to them has not done so. However, they would be less likely to offer effective competition to the LP in this situation as they would need to proactively contact the consumer to make them a counteroffer and they cannot be sure that the consumer did not follow through with their enquiry because they accepted a reactive save offer – they could have dropped out of the switching process due to the hassle of switching via a LPL process or have decided to sign up with a different provider.

Stakeholder responses

- 6.120 The main objection to the argument that reactive save is likely to be more effective under LPL was that reactive save is no different to save under other circumstances and that it also occurs under GPL processes.
- 6.121 CRA argued that reactive save is no different to other types of save activity as retention agents receive calls from all manner of individuals and do not tailor their offers depending on whether the customer is looking to switch via a LPL process or not. They considered that customers receive the same save offers even when they are not actively involved in any switching processes or are going through the GPL NoT process. They argued that customers talking to retention agents as part of the LPL MAC process are significantly outweighed by 'non-MAC' callers.
- 6.122 EE argued that save activity is a separate issue to the switching process and occurs equally in both GPL and LPL processes over the lifetime of a consumer's contract.
- 6.123 Similarly, Telefonica argued that 'banning reactive save will not prevent general save activity within a GPL process, so any effects are unlikely to be realised in practice'.²⁷⁸ They also considered that, unless specifically prohibited, retention activity could occur in all switching environments whether part of the switching process or not.

Our assessment

- 6.124 It is true that save activity is still present under the GPL NoT process. One key difference however is that, under the GPL NoT process, it is the consumer who decides whether they wish to seek such a save offer, at what time, and with what objectives. Under the LPL MAC process that control is taken away from the consumer, and handed to the LP. We also maintain that general save activity is different in degree to reactive save under the LPL MAC process. This is because, under the LPL MAC process, LPs are notified of and given an opportunity to save each and every customer who wishes to leave them. They are also given the opportunity to save these customers before they are allowed to sign up with their GP.
- 6.125 This is distinct from the GPL NoT process under which reactive save is banned. Moreover, under GPL processes, consumers are free to sign up to their GP at any point so they are far more likely to have committed to switching to their GP before they make contact with their LP.
- 6.126 We acknowledge that a significant proportion of consumers who currently switch through GPL processes do contact their LP at some point during the switching process. According to consumer survey evidence, this percentage ranges from 42%²⁷⁹ to 77%²⁸⁰. This level of contact is significant and has been used by some stakeholders to argue that there is little difference between reactive save under the LP process and save activity under the GP process.
- 6.127 We are not convinced by this argument as we consider there is a significant difference between a situation where a consumer decides to seek a save offer and one which gives the LP control over whether the consumer is made a save offer and

²⁷⁸ Telefonica Response to the 2012 Consultation, paragraph 92.

²⁷⁹ Consumer research 2010 found that 42% of fixed line switchers using GPL NoT contacted their LP.

²⁸⁰ Broadband consumer research 2011 found that 77% of broadband switchers using GPL NoT contacted their LP.

the LP has the ability to frustrate an intended switch. We also consider that this argument is contradicted by the market evidence. If there were no difference in reactive save activity under the LPL MAC process, and the save activity which occurs under GPL, then we would expect the share of switches which occur under the LPL MAC process to be much higher than they are in fact under the current arrangements. In paragraphs 6.47 to 6.50, we provided evidence that the share of successful switches which occur through the LPL MAC process is much lower than would be expected. We consider that this is consistent with a material difference between reactive save activity under the LPL MAC process and the save activity which occurs under GPL processes.

- 6.128 We also note that, although significant proportions of consumers may contact the LP under a GPL process (so providing the opportunity for save activity), this is still significantly different from the situation under LPL, where all switching consumers must do so. The consequence is that, relative to a GPL process, the barriers faced by entrants will be increased (as more customers will be saved) and that the uncertainty faced by incumbents is materially reduced.
- 6.129 As is discussed in Section 4, we consider that the high rate of calls to the LP under the GPL process, is partly due to the NoT letter not containing specific information about ETCs and other implications of switching. The NoT letter tends to act as a prompt to consumers to contact their LP to find out about whether they are liable for an ETC. If the NoT letter already contained the information on whether the consumer was liable for an ETC and, if so the value of the ETC, the need to contact the LP would be reduced.

Regulation against reactive save under LPL processes is difficult

Summary of the 2012 Consultation

- 6.130 In the 2012 Consultation we stated our concern that prohibition of reactive save under an LPL process is likely to be more difficult to enforce than the present ban under the GPL NoT process.
- 6.131 The inherent complication with an LPL process is that all consumers are required to contact their LP when switching. Therefore, regulation which only allows providers to save customers who contact them proactively would not be useful here (as all consumers must contact their LP). This means that, under the LPL MAC process it is very difficult to distinguish between consumers who are proactively seeking a save offer and those who contact their LP because the switching process requires them to.
- 6.132 As a result of this, a total ban on reactive save under LPL processes would involve LPs being unable to make counteroffers to any customer who contacted them because they were thinking of leaving. This would be likely to be disproportionate as it would ban customer retention activity which is initiated by the consumer and can be beneficial to competition. It would thus conflict with Ofcom's objective to operate with a bias against intervention. It would also cause the communications sector to become out of line with other sectors.
- 6.133 In the 2012 Consultation we considered that it may be possible to resolve this issue through modifying the LPL process. This would either involve an automated service which switching customers call to receive a MAC or a dedicated phone line for customers to call where LPs were prohibited from making save offers.
- 6.134 However, we noted a number of problems with these two options:

- LPs would have less incentive to comply with regulation as save activity is likely to be more effective before consumers have signed up with a GP (as is the case under LPL processes).
- it may be hard to identify and authenticate consumers under an automated process. This could mean that it is more likely for consumers to have to contact a customer service agent than deal with an automated system. This is likely to provide an opportunity for save activity.
- it may be hard to enforce a system where providers are not permitted to make save offers on one line but they are on a different one. Providers may even technically comply with the regulations but then call the customer on another line to make a save offer.

Stakeholder responses

- 6.135 The majority of stakeholder respondents²⁸¹ agreed with our view that it would be hard to prohibit reactive save activity under an LPL process. Only EE disagreed with our view. They argued that they had no reason to believe that providers would not comply with the regulation.²⁸²
- 6.136 [3<] argued that a ban on reactive save would be ineffective and would penalise reputable CPs as disreputable ones would continue to use reactive save tactics.
- 6.137 TalkTalk agreed that the incentives for providers to ‘cheat’ the system under an LPL process are high because the risk of detection is low. As a result of this, they argue that a ban would be ineffective. They considered that a ban would be easier to enforce under a harmonised GPL process.
- 6.138 SSE argued that a ban on reactive save in a LPL process would be ineffectual as providers would find ways to circumvent the rules. C&W also added that such a ban would be difficult to enforce unless customers complain or it somehow becomes clear to the GP that they have lost a sale.

Our assessment

- 6.139 We maintain (and the overwhelming majority of stakeholders agree) that a prohibition of reactive save under a harmonised LPL process would likely be ineffective. Furthermore, modifications to the LPL process appear unlikely to be effective, and a ban would be difficult to enforce. We also note that none of the respondents to the 2012 Consultation provided an alternative way in which a ban on reactive save under an LPL process would be effective.
- 6.140 We have considered an option under which consumers are given the option of receiving an offer or not, but consider that this would not mitigate the competition implications of reactive save under LPL processes. This is because consumers who would have been saved under the existing LPL MAC process are likely to choose the option of listening to a save offer.
- 6.141 We have also considered whether there are other technical solutions which would reduce the need for customers to speak to the LP. For example, we have considered

²⁸¹ [3<], Three UK, Universal Utilities, C&W, SSE, Entanet, TalkTalk, ITSPA and Telefonica all agreed with our views on the effectiveness of prohibition of reactive save under LPL processes.

²⁸² CRA reactive save report, footnote 34.

whether there could be a switching website which customers could use to obtain the MAC. Such technical solutions would require the consumer to input a piece of unique information in order to access the online portal. We consider that many consumers would not have the relevant unique information to hand when looking to switch via the online mechanism and would have to contact their LP in order to be reminded of it. This would be harmful from a competition point of view as it would create an opportunity for the provider to engage in reactive save activity. We also consider that the addition of an extra touch point would further increase hassle in this process.²⁸³

- 6.142 We also note that under an LPL system, if reactive save activity were prohibited, there may be ambiguity as to when save activity is or is not permissible (how will a LP know when a consumer has formed a firm intention to switch, or is simply threatening to switch in order to get a better deal, or have a complaint resolved). This may in fact undermine instances when a consumer is seeking to individually and proactively get a better deal by threatening to switch. By contrast, a GPL system identifies a point at which a customer has clearly decided to switch (i.e. the point at which the consumer concludes a contract with the GP), and therefore all parties can have certainty as to what they are and aren't allowed to do in terms of save activity at each stage in the customer relationship.

Additional issues raised by respondents

- 6.143 Some new points were raised in relation to reactive save in the 2012 Consultation responses, and we address these topics below.

The linkage between lower switching, harm to entrants and consumer harm

- 6.144 In their response to the 2012 Consultation, CRA claim that we failed to show the linkage between lower levels of switching, harm to entrants and consumer harm.
- 6.145 CRA's objection that lower switching and harm to entrants may, in some cases, not lead to overall consumer harm, is based on some models of price discrimination in which firms can charge different prices to customers who may switch to an entrant, and to those who may stay.
- 6.146 CRA quote a theoretical paper by Shaffer and Zhang²⁸⁴ which examines a case in which a firm can price discriminate between those customers who prefer its rival's product and those who do not. The authors find that, although in many circumstances it can be optimal to charge lower prices to their rival's customers, in others cases it can be optimal for a firm to charge lower prices to its own customers. Shaffer and Zhang also find that depending on the assumptions, price discrimination may lead to lower overall prices (although in other cases it does not).
- 6.147 CRA also develop their own theoretical model. The CRA model considers a market with an incumbent (Firm A) and a new entrant (Firm B). Customers differ in their preferences for the two firms. There are also some unattached customers. They consider two scenarios. First, where Firm A charges a single price to all customers and second, where it can charge different prices to those customers who are more

²⁸³ We also note that an automated option would mean that customers are not given information on the implications of switching, which has been cited as a strength of LPL processes.

²⁸⁴ Shaffer, G. and Z.J. Zhang (2000), 'Pay to Switch or Pay to Stay: Preference-Based Price Discrimination in Markets with Switching Costs', *Journal of Economics and Management Strategy*, pages 397 to 424.

likely to switch to firm B. They consider the latter to be akin to the situation under reactive save.²⁸⁵

6.148 The CRA model compares the impact on average consumer prices when the incumbent firm is able to price discriminate between those consumers likely to switch to a rival and those with no price discrimination and finds the following results:

- Those customers of Firm A who look to switch are charged lower prices when firm A is able to price discriminate;
- The entrant (Firm B) charges lower prices under price discrimination and wins fewer customers compared to a situation without price discrimination;
- Those customers of Firm A who do not look to switch are charged higher prices under price discrimination than under no price discrimination.

6.149 Overall, CRA's model finds that 'all consumers are better off in the equilibrium where reactive save activities are permitted except for consumers who stay with A and do not receive a save offer.'²⁸⁶ CRA also find that 'for the values of the parameter that [they] have tried, total consumer surplus is in fact higher when reactive save activity is allowed than when it is not'.²⁸⁷

Our assessment

6.150 We have reviewed the CRA model and its assumptions, but do not consider that the mechanism that it assumes is a realistic reflection of competition in the broadband market. Consequently we are not persuaded by CRA's conclusion that reactive save is likely to be welfare increasing.²⁸⁸

6.151 In our view, models such as the one presented by CRA are useful to the extent that they provide meaningful insights. We acknowledge that the CRA model does provide some insights as to how reactive save affects competition. We also note that the CRA model shows that reactive save activity has a significant effect on the competitive process. The CRA model shows that under reactive save (compared to no reactive save activity):

- The entrant (Firm B) has to charge much lower prices;
- However, the entrant also wins fewer customers;
- Those customers of the incumbent (Firm A) who seek to switch benefit from lower prices;
- But those customers of Firm A who do not seek to switch can face higher prices.

6.152 For some parameter values, at any point in time (e.g. from a static efficiency point of view) the CRA model can find that average prices are lower under reactive save

²⁸⁵ CRA's reactive save model assumes that Firm A knows which customers are about to switch. CRA consider that this is 'an extreme case as, in practice, we know that not all potential switchers would have or choose to contact the losing provider' (CRA reactive save report, paragraph 158). On the contrary, we find this assumption an accurate representation of the LPL process because under the LPL process all switchers have to contact the LP.

²⁸⁶ CRA reactive save report, paragraph 160.

²⁸⁷ CRA reactive save report, paragraph 160.

²⁸⁸ CRA reactive save report, paragraph 168.

activity. The reason for this is that in the CRA model, the entrant reacts to reactive save offers by competing much more aggressively, and charging lower prices, even as it wins fewer customers. We do not consider this to be a realistic assumption, not least because of the barriers to entry present in the fixed voice and broadband markets, which CRA acknowledges elsewhere. We instead consider that the potential entrant is more likely to react over time by either withdrawing (or not even entering the market in the first place).

- 6.153 As discussed in paragraph 6.51, we believe that the reactive save activities favour incumbents over entrants to the detriment of overall competition in the market. We continue to be concerned that reactive save activity raises customer acquisition costs for new entrants, resulting in lower switching levels and may lead to entrants acquiring disproportionately low value customers. As set out in the 2012 Consultation, all else being equal, entrants are likely to find it more difficult to expand and to successfully challenge incumbents when reactive save is permitted and prevalent under the switching process. Critically over time, this may weaken competition in the market and lead to consumer harm.

Counterfactual if reactive save were banned under a GPL system

- 6.154 CRA, along with Telefonica and Zen, argued that our analysis did not take into account the counterfactual. The argument is that we also need to consider what would happen in the absence of reactive save.
- 6.155 These operators argued that, if reactive save were banned, providers would look to use other methods to reduce churn. They considered that providers would look to increase the length of their MCPs, pro-actively target save offers to customers nearing the end of their MCP and/or encourage customers to contact them just prior to or during the switching process.
- 6.156 CRA also cited a NRA survey²⁸⁹ which identified contractual issues as being the single biggest obstacle to switching. They also considered that the report showed that no NRAs considered save and retention activity to be a major obstacle in the broadband market and only one NRA (Portugal) considered it as a major obstacle in the past, though it is no longer a concern.
- 6.157 The CRA reactive save report also argued that it is unlikely that money currently allocated to offering discounts through the reactive save process would be re-allocated to wider price cuts if reactive save was prohibited. They contended that this money would either be retained by providers or used to increase the budget for retaining customers who contact them outside of the formal switching process.
- 6.158 The CRA reactive save report also considered that, in the case where reactive save is banned, a large proportion of consumers will still contact their LP. They argued that this proportion of consumers would still call their LP in order to check on ETCs and on possible better deals rather than being confused about which switching process to follow.

²⁸⁹ BEREC Report on the Best Practices to Facilitate Consumer Switching, 18 October 2010. Available at: http://berec.europa.eu/eng/document_register/subject_matter/berec/reports/185-berec-report-on-best-practices-to-facilitate-consumer-switching.

Our assessment

- 6.159 It is possible that providers may react to a complete ban on reactive save by increasing general retention activity. Such retention activity is unlikely to be as effective as an LPL process in systematically identifying all customers in the process of switching and giving the opportunity for a save offer to be made. Such activity is therefore likely to be less effective and less problematic than reactive save activity. The extent of any such change would be expected to be limited given that only around 10% of completed switches currently go through a process where reactive save is allowed. Although the proportion of customers receiving proactive save offers may increase, this is likely to be a better position for the market/consumers than having a step change to an LPL system enabling reactive save activity to be possible for any would-be switches.
- 6.160 Moreover, if these methods of retaining customers are effective and beneficial to providers then providers are already incentivised to undertake them. We note that significant retention activity already occurs under the current system. The issue for Ofcom is whether to intervene in a way which distorts the current approach towards general save activity by putting in place a switching process which would radically alter CPs' ability to save customers intending to switch. Additionally, if we consider any of the measures outlined as part of the counterfactual to be potentially harmful to competition then we can deal with them outside of the switching process.
- 6.161 In relation to the BEREC study, this study of NRAs considered countries where the vast majority had GPL switching processes in place (as is primarily the case in the UK). Therefore, the fact that none of the NRAs saw save or retention activities as a major obstacle is unsurprising. However, the study cited that seven NRAs considered save and retention activity to be a concern when switching within the broadband sector and six expressed concerns in relation to switching bundles.²⁹⁰
- 6.162 We also consider that we are not concerned with general save or retention tactics as is discussed in this study, rather we are solely concerned with the consumer and competition implications of reactive save under LPL processes.

Conclusion

- 6.163 Reactive save is a specific form of customer retention activity. It occurs when the LP is systematically able to identify, as a direct result of the formal switching process, all customers intending to switch away from them. The LP is then able to, if it wishes, target counteroffers to those specific customers in order to try and retain them.
- 6.164 Reactive save is, therefore, distinct from more general types of customer retention activity such as proactive offers to existing customers who are approaching the end of their contract periods, because it can be targeted precisely at those customers who are actually trying to switch.
- 6.165 Currently reactive save is banned under the GPL NoT process, and is only possible under the minority of switches that use the LPL MAC process. LPs have an incentive to retain their customers, and the LPL MAC process puts them in a position of authority as a 'gate-keeper' from which they can act on this incentive to frustrate switching, including through reactive save.

²⁹⁰ BEREC Report on the Best Practices to Facilitate Consumer Switching, 18 October 2010, pages 55 - 56.

- 6.166 We consider that the presence of reactive save activity under the existing LPL MAC process risks dampening competition. We have noted that although currently the prevalence of reactive save activity is limited, it risks dampening competition where it is present. In particular, we have provided evidence that save activity in general is effective. We have also found that many fewer switches occur through the LPL MAC process than we would expect. Although there may be other factors affecting this, it is consistent with reactive save activity being associated with a reduced switching rate.
- 6.167 We consider that a system which systematically allowed reactive save for all switches would risk a dampening effect on competition. We have identified three potential risks:
- a reduction in competitive pressure from entrants and smaller players over time, because incumbents can make selective discounts only to customers in the process of switching;
 - a reduction in competitive pressure from entrants and smaller players over time, because customer acquisition costs would be higher; and
 - a reduction in the overall competitiveness of the voice and broadband markets over time, because there would be less pressure to keep headline prices competitive in order to pre-empt switching.
- 6.168 From the point of view of competition we find that there is nothing to be gained from allowing the possibilities for reactive save to be expanded from the current small minority of LPL MAC switches. This leaves only risks from allowing LPL and therefore systematic reactive save activity (which we do not consider could be effectively banned).²⁹¹
- 6.169 In contrast, these risks would be avoided by the introduction of a harmonised GPL switching option under which reactive save activity is banned, as it is at present under the GPL NoT process.

²⁹¹ See also our assessment of the effectiveness of the LPL options in addressing reactive save in Annex 8 of this document.

Section 7

Description of options

- 7.1 We have set out in Sections 4, 5 and 6 our assessment of the problems consumers face when switching. We must now consider the most appropriate means of addressing those problems.
- 7.2 In this Section 7 we set out a description of the individual options considered for addressing the identified problems; and then of how each individual option would, if implemented, address each of the identified problems. We then go on in Section 8 to assess by reference to the relative importance of each of the problems, which is the most appropriate and proportionate option, taking into account the relative benefits, costs and risks of those options. We conclude that we should require a harmonised GPL switching process and set out how we intend to give effect to our decision.

Option Description

- 7.3 We set out below a description of the individual options considered for addressing the individual switching problems identified. First, we describe two options which leave in place both GPL and LPL switching processes. Then, on the basis that we require a move to a harmonised process, we describe first GPL options and then LPL options.

Status quo and incremental enhancements to the current processes (unharmonised)

- 7.4 These options are based on the current unharmonised switching processes explained in Section 3.

Option 1a: Current GPL NoT and LPL MAC

- 7.5 Although we are not proposing any changes to this option, since the publication of the 2012 Consultation there have been industry-led developments which tackle elements of the problems previously identified. As explained in detail in Section 5, these are:
- the MPF helpline; and
 - Openreach's development of the SIM2 process.
- 7.6 The current GPL NoT and LPL MAC processes maintain the unharmonised approach to switching as described in Section 3. These processes are explained in more detail in Annex 7, which also includes process flow diagrams for the current switching processes.

Option 1b: Enhanced GPL NoT and LPL MAC (unharmonised)

- 7.7 The revised Enhanced GPL NoT process is set out under Option 2a below (in paragraphs 7.11 and 7.12).

7.8 There are no changes to the Enhanced LPL MAC process, which remains as described in Section 6 of the 2012 Consultation. In summary, CPs would be required to:

- at a minimum, accept MAC requests by telephone and, where requested, over the phone, to issue it either immediately over the phone or within two hours by e-mail or SMS (or by another reasonable method if the consumer asks, and the provider agrees e.g. a call back facility for those that are unable to use e-mail or SMS);²⁹² and
- set up a dedicated MAC provision facility, with call recording obligations and clear rules prohibiting reactive save activity when consumers contact their LPs to ask for the MAC. CPs would be required to collect performance management information (e.g. average time taken to provide the code).

7.9 For a more detailed explanation of the Enhanced GPL NoT and LPL MAC (unharmonised) option, including process flow diagrams, see Annex 7.

GPL harmonised options

7.10 Under each of the harmonised GPL options explained below, switching of all voice and broadband services on the Openreach copper network would be harmonised to a GPL process. Each of the options below set out the different ways in which the limitations of the current GPL NoT process can be addressed.

Option 2a: Enhanced GPL NoT

7.11 In the 2012 Consultation we explained that the Enhanced GPL NoT option would involve the following improvements to the existing GPL NoT process:

- mandate use of the Cancel Other process by all CPs offering fixed voice services. Extend and mandate the use of Cancel Other by all CPs offering broadband services. Mandating the use of Cancel Other would allow all consumers to stop the order going ahead in the event of slamming;
- mandate use of functionality that ensures consumers are able to seamlessly transfer their bundled voice and broadband services to help address some of the problems around loss of service when switching bundles;
- LP communications to provide specific information on Service Implications ('SIs')²⁹³ including ETCs;
- universal visibility of all Openreach CLIs (including MPF) either through enhancements to Openreach database/DS or requiring MPF CPs to establish their own DS; and
- a continuation of the existing NoT prohibition on marketing statements/representations in consumer communications to induce them to stay with the LP or cancel their contract with the GP.

²⁹² This would follow a similar process to that introduced for PACs in the mobile sector following changes to GC 18. Available at:

<http://stakeholders.ofcom.org.uk/binaries/consultations/mnp/statement/mnp.pdf>.

²⁹³ Service Implications ('SIs') are the consequences of making a switch. For example, there may be a period of time between end of service with one provider and the start of service with another provider in which the customer has no voice and/or broadband connectivity.

- 7.12 In addition to the changes above we have now improved the specification of Enhanced GPL NoT for consideration to also include the following features:
- require a record of consent for all successful sales, records to be stored for 12 months and retrievable on an individual basis;
 - address clean-up of Openreach database issues to provide accurate data;
 - mandating Best Practice process for identifying the correct line for switches;
 - mandating Best Practice process for identifying the correct line for WLTs; and
 - mandating WLT Best Practice for the incumbent CP to notify the incumbent end user through a letter or e-mail about a request to takeover their existing line.

7.13 Further details and a process flow diagram can be found in Annex 7.

Option 2b: GPL TxC

- 7.14 The GPL TxC process under consideration is largely unchanged from the option set out in the 2012 Consultation, which involved the following:
- the GPL TxC model has a database which stores information for each customer regarding their account reference, current provider, name, address, CLI, postcode, the services supplied, and the access technology for these services.
 - during the sales process, the customer would provide the GP with a range of customer data such as: their name, address, postcode, CLI, current provider, which services they wish to switch, and their account reference with their current provider (if available). If the customer does not have their account reference to hand, the GP sales agent would be able to query the central database in order to retrieve the account reference (lookup using name, address, CLI, current CP and postcode).
 - LP communications to provide specific information on SIs, including ETCs; and
 - require a customer cancel system to replace the existing Cancel Other process. This would allow consumers to cancel their switches directly, during the transfer period, without the need to rely on CPs (who may not have adopted necessary systems or may not act on the cancel request within the transfer period).
- 7.15 However, we have modified the specification to now include some of the new improvements also introduced under the Enhanced GPL NoT option above:
- mandatory record of consent for all successful sales, records to be stored for 12 months and retrievable on an individual basis; and
 - mandating WLT Best Practice for the incumbent CP to notify the incumbent end user through a letter or e-mail about a request to takeover their existing line.
- 7.16 We have also considered two different ways in which the hub and database functions can be implemented,²⁹⁴ either with a centralised database (GPL TxC) or with CPs

²⁹⁴ In addition to the databases considered by CSMG, SSE and TalkTalk proposed an alternative version which is enclosed at Annex 10. We consider that the performance of this option against the

maintaining separate 'distributed' databases of their own customer data (GPL TxC-V). These two alternatives are explained further in Annex 7, along with the process flow diagrams.

Option 2c: GPL USN

7.17 The process design for the GPL USN option is unchanged from the specifications in the 2012 Consultation and is summarised below:

- the USN would be a non-structured simple code, e.g. 12 alpha-numeric characters which is contained on a customer's bill;
- the GPL USN model would use an inter-CP hub which would hold a relatively simple, lightweight, centralised database which would be used only for this consumer switching process;
- during the sales process, the consumer would provide the GP with the USN contained on their bill – this protects against slamming;
- the USN is specific to a particular service, e.g. a dual play customer would have a different USN for broadband and telephony – so consumers would need to provide multiple USNs when switching multiple services;
- the USN would enable the GP to look up the customer LP, service type and access technology to help identify the correct asset;
- LP communications to provide specific information on SIs including ETCs; and
- require a customer cancel system to replace the existing Cancel Other process. This would allow consumers to cancel their switches directly, during the transfer period, without the need to rely on CPs (who may not have adopted necessary systems or may not act on the cancel request within the transfer period).

7.18 For homemoves, the process would continue to be the WLT process as used for homemoves today.

7.19 Further details on the GPL USN option and a process flow diagram can be found in Annex 7.

Option 2d: GPL TPV

7.20 The GPL TPV option also remains as it was described in the 2012 Consultation. Its key features are as follows:

- the GP would follow the GPL TxC process to identify the asset to be switched. This process is set out in paragraph 7.14 above;
- once the customer account had been identified, the GP would transfer the customer to a TPV. The TPV would elicit a statement of consent from the customer, for example 'do you wish to switch service(s) X from CP Y to CP Z?';

problems will be similar to GPL TxC. CSMG have indicated that the costs of this option are likely to be similar to GPL TxC.

- this statement of consent would be recorded by the TPV and stored, and would be able to be retrieved in the case of a slamming allegation;
- the GPL TPV process would be handled by phone call for telesales, retail shop and door to door. Customers using an online sales channel would be presented with a TPV web form to collect a record of consent; and
- require a customer cancel system to replace the existing Cancel Other process. This would allow consumers to cancel their switches directly, during the transfer period, without the need to rely on CPs (who may not have adopted necessary systems or may not act on the cancel request within the transfer period).

7.21 Further details on the GPL TPV option and a process flow diagram can be found in Annex 7.

LPL harmonised options

7.22 In the 2012 Consultation we also considered two process options where the switching process is harmonised to a process led by the LP. Under this approach, the customer first speaks to their current provider (the LP) to request a code, which they then provide to the GP. This code identifies the asset which the customer wants to switch. If the consumer contacts the GP first, they will be advised to obtain the code from their LP.

7.23 Under an LPL process, as the consumer has to speak to their current provider first it is not possible to switch or slam the customer without their prior knowledge. During the initial conversation with the LP, the customer can be informed of the implications of switching and any additional charges at the beginning of the process before they decide to switch.

Option 3a: LPL TxC

7.24 The LPL TxC option remains as it was described in the 2012 Consultation and involves the following:

- a consumer wishing to switch services would contact their current provider, the LP, to request a TxC. For telephone communications, this would be via a dedicated facility where reactive save would be prohibited;
- the LP would authenticate the customer using existing methods;
- once the services to be switched have been identified, the LP would inform the customer of the SIs including ETCs that will result from the switch;
- the LPs would record the customer's request for the TxC and will perform asset validation, which needs to occur while the customer is on-line (either by phone or web) and within a reasonable period of time. Once this is done, the LP will provide the consumer with their TxC, which they receive via the TxC Issuing Authority ('TxCIA');
- The consumer would subsequently contact their GP to provide the TxC. The GP uses the TxC to place the order to switch the relevant services; and

- Customers would be made aware of the SIs including ETCs through written durable communications after agreeing to the switch but before the switchover happens.

7.25 For homemoves, the process would continue to be the WLT process as used for homemoves today.

7.26 Further details on the LPL TxC option and a process flow diagram can be found in Annex 7.

Option 3b: LPL ALT

7.27 The LPL ALT process is based on the LPL TxC process with some limited differences (the changes under the LPL ALT option compared to the LPL TxC option above are in *italics*):

- A consumer wishing to switch services would contact their current provider, the LP, to request a TxC. For telephone communications, this would be done via a dedicated facility;
- CPs would be allowed to make save offers to those consumers who wish to hear such save offers – although the customer can opt out of receiving save offers;
- The LP would authenticate the customer using existing methods;
- Once the services to be switched had been identified, the LP(s) would inform the customer of the implications of switching, including ETCs and SIs that will result from the switch. The LP would record the customer's request for the TxC *and would provide the code within 2 hours by SMS or e-mail. The LP could also invite the customer to call back or the LP could offer to call the customer back with the TxC or provide the code by e-mail or SMS to a friend or neighbour;*
- *The consumer would subsequently contact their GP to provide the TxC. The GP would use the TxC to place the order to switch the relevant services; and*
- There would be no requirement on LPs to inform customers of the implications of the switch through written durable communications.

7.28 For homemoves, the process would continue to be the WLT process as used for homemoves today.

7.29 Further details on the LPL ALT option can be found in Annex 7.

Description of how the options would address the problems identified

7.30 In this section we describe how each option would, if implemented, address each of the problems identified in Sections 4, 5 and 6. This section summarises a more detailed description of the performance of each option in Annex 8.

7.31 In each case, we describe here how effectively each option would, if implemented, address the problems by reference to whether they do so on a 'largely' or 'partly' basis, a more detailed description is set out in Annex 8. We recognise that these are broad categories and that to fully understand the differences between the

performances of the various options, the following section must be read in conjunction with the more detailed descriptions contained in Annex 8.

- 7.32 We note that in their responses stakeholders raised a number of further issues in relation to the governance and implementation of any new switching system. We consider these responses in this section, and in further detail the appropriate parts of Annex 8. We explain our revised approach to the quantification of costs and benefits in Annex 6.
- 7.33 We also note that in the 2012 Consultation our assessment of the options took account of the extent to which each of them would address each of the problems, and also took account, in relation to the assessment of the status quo, the extent of the problems. We note that in reassessing the options we focus purely on the extent to which each would address the problems, and not on the extent of the problems themselves (some of which have changed as explained in Sections 4, 5 and 6). This modification to our approach has implications for our assessment of the status quo, as explained below.

Multiple switching processes

- 7.34 In Section 4 we noted that having multiple switching processes creates a lack of clarity and increases confusion for consumers about which switching process they need to follow and what steps they need to undertake when switching. This in turn increases switching costs and contributes to a poor consumer experience. These multiple processes also create an uneven playing field for CPs.
- 7.35 Our description of the performance of the options against this problem is unchanged from that in the 2012 Consultation, and is summarised below.

Options which largely deal with the problem

- 7.36 We continue to consider that Options 2a-d (Enhanced GPL NoT (harmonised), GPL TxC, GPL USN and GPL TPV) and 3a-b (LPL TxC and LPL ALT) all deal with this problem. Each of these options have a harmonised switching process and thus would deal with the problems around consumer/provider confusion and competitive neutrality which are associated with multiple switching processes.²⁹⁵
- 7.37 The benefits of having a harmonised switching process are: reduced potential for consumer confusion (with associated lower levels of consumer difficulty and switching costs), reduced provider confusion and costs in running multiple processes and a more competitively neutral switching process.

Options which do not deal with the problem

- 7.38 We continue to consider that Options 1a (status quo) and 1b (Enhanced GPL NoT and LPL MAC (unharmonised)) do not deal with this problem. Both these options retain multiple switching processes i.e. the GPL NoT and LPL MAC processes.²⁹⁶ For the reasons explained in Section 8 we have decided to move to a harmonised system, accordingly we do not consider that either the status quo or the Enhanced

²⁹⁵ The impact on competition due to reactive save under each option is discussed later in this section, as are the ways in which these harmonised options might be adapted in future to incorporate new services and technologies.

²⁹⁶ We have described in Section 4 of this document the problems associated with multiple switching processes.

GPL NoT and LPL MAC (unharmonised) option are appropriate remedies. However, for the sake of completeness we include in this section a description of the performance of those options against each of the problems.

Consumer difficulty and unnecessary switching costs

- 7.39 We concluded in Section 4 that switching costs dampen competition and that processes that reduce consumer difficulty and unnecessary switching costs will deliver a better consumer experience and competition outcome. We also explained in Section 4 that there is evidence that the LPL MAC process delivers a worse consumer experience than the GPL NoT process.
- 7.40 Our description of the performance of the options against this problem has changed from that in the 2012 Consultation for the unharmonised options and the LPL options, as explained below.

Options which largely deal with the problem

- 7.41 We continue to consider that Options 2a (Enhanced GPL NoT (harmonised)), 2b (GPL TxC) and 2d (GPL TPV) largely deal with the problem for the following reasons:
- There is a single harmonised process and the steps a customer needs to make to switch are clear;²⁹⁷
 - These options only require consumers to contact their GP in order to switch, and our consumer research suggests that GPL processes are easier for consumers to navigate (see Section 4);
 - GPL processes have fewer touch points than LPL processes, and address the issue under LPL processes that the LP has an incentive to make the process more difficult;
 - The ability for the LP to frustrate the process is limited because there is no requirement for the consumer to make contact with the LP; and
 - We expect the processes to work well across all sales channels.

Options which partly deal with the problem

- 7.42 We continue to consider that Option 2c (GPL USN) partly deals with the problem of consumer difficulty, as explained below.
- 7.43 Although GPL USN doesn't require the customer to contact the LP in order to switch, we had other concerns about consumer difficulty under the GPL USN in the 2012 Consultation.
- 7.44 The GPL USN process requires the consumer to provide the GP with a service-specific USN found on their bill. We explained that we anticipated this to cause more difficulty for consumers than the existing GPL NoT process as all consumers will need to locate their bill and USN. In addition it may cause greater difficulty for those

²⁹⁷ We anticipate that the clear provision of information about the necessary steps to switch would also reduce the number of consumers unnecessarily contacting their LP from the level seen under the existing GPL NoT process. This benefit to consumers would also be seen to some extent under the Enhanced GPL NoT and LPL MAC (unharmonised) option below.

consumers who are unable to locate their bill at the point at which they want to switch (such as in a retail shop).

- 7.45 We also noted that many consumers cannot readily locate their bill. They may therefore need to contact the LP to obtain the USN. For those consumers, the experience of the GPL USN process would be similar to the existing LPL MAC process. Taking this analysis into account we continue to consider that the GPL USN option would only partly address our concerns about consumer difficulty.

Options which do not deal with the problem

- 7.46 In the 2012 Consultation we found that Options 1a (status quo), 1b (Enhanced GPL NoT and LPL MAC (unharmonised)) and 3a (LPL TxC) and 3b (LPL ALT) would partly address the problem of consumer difficulty. We have reconsidered this analysis, as explained below.
- 7.47 In the 2012 Consultation we found that the status quo did not provide a good consumer experience of switching. As explained in Section 4 the LPL MAC process suffers from having multiple touch points, the opportunity for LPs to frustrate switching, and unwanted save activity.
- 7.48 Although we find that the existing GPL NoT process is superior to the existing LPL MAC process, the status quo would not address the problem that exists at present, so we consider that it would not deal with the problem of consumer difficulty and unnecessary switching costs. This represents a change from our description in the 2012 Consultation.
- 7.49 While the enhancements we propose to the LPL MAC process under Option 1b (Enhanced GPL NoT and LPL MAC (unharmonised)) would go some way to resolving our concerns about consumer difficulty under the current processes, it would not address them all. In particular, Enhanced LPL MAC would still require more touch points than the GPL NoT process, and would not address in a significant way the LPs' ability to frustrate switching.
- 7.50 Based on this analysis we now consider that the Enhanced GPL NoT and LPL MAC (unharmonised) option would not deal with the current problem of consumer difficulty and unnecessary switching costs either.
- 7.51 Under LPL TxC and LPL ALT, the consumer is required to get a code from the LP and provide it to the GP. These multiple touch points create a scope for the LP to frustrate the process and potential for unwanted save activity. These options would employ the same safeguards as Option 1b (Enhanced GPL NoT and LPL MAC (unharmonised)) above to try and tackle frustration in code provision (i.e. codes must be provided over a dedicated, recorded line where performance information must be provided), but we consider it may be difficult and costly to ensure that CPs follow these rules.
- 7.52 We note that a further source of difficulty for consumers under the LPL options is that switchers who are moving multiple services from different providers to a bundle would need to contact each LP to obtain a code. This would also increase the time taken to switch and the difficulty and switching costs experienced by consumers.
- 7.53 Having reviewed this evidence we have reconsidered our position in the 2012 Consultation. Whilst we acknowledge that harmonised LPL options do improve, to some extent, the consumer's experience under the existing LPL MAC process, we

believe that they would significantly worsen the experience for consumers relative to the existing GPL NoT process. Given that the vast majority of consumers currently go through the GPL NoT process, we believe that on balance the harmonised LPL options would not reduce consumer difficulty relative to the status quo. As a result we now find that the LPL options would fail to address the problem of consumer difficulty and unnecessary switching costs.

Lack of awareness of the implications of switching

- 7.54 In Section 4 we noted that it is important that consumers are aware of the implications of switching before committing to a switch. A lack of awareness may mean the consumer unexpectedly incurs ETCs, loses secondary services (e.g. alarms or voicemail) or faces a higher price for some services which were previously included at a discount within a bundle.
- 7.55 If a consumer does not learn about the implications of switching until they have placed an order, and subsequently decides not to go ahead, they will incur costs (time and hassle) cancelling the order. Providers also incur costs (which are ultimately borne by consumers) unwinding such orders including wasted time and effort making the sale and then having to place the cancellation. This problem is more likely to arise at present under the GPL NoT process than the LPL MAC process.

Options which largely deal with the problem

- 7.56 We consider that Options 1b (Enhanced GPL NoT and LPL MAC (unharmonised)), 2a-d (Enhanced GPL NoT (harmonised), GPL TxC, GPL USN and GPL TPV) and 3a-b (LPL TxC and LPL ALT) all largely deal with this problem. This is a change from the 2012 Consultation where we found that only the LPL options would largely deal with the problem.
- 7.57 We have re-evaluated our description of the performance of the harmonised GPL options (and by implication also the unharmonised option) based on the evidence on the implications of switching in Section 4. Under all of these options, consumers would be informed of the potential implications of switching through a letter.
- 7.58 In Section 4, we explain that the current NoT letter appears relatively effective in prompting consumers to find out about the implications of switching. We note that 3% of all fixed broadband switchers pay an ETC of which they were unaware before they were able to cancel, and that just 0.14% of fixed broadband switchers paid an ETC which they were unaware of before committing to switch and regretted the decision to switch.
- 7.59 As explained above, Options 1b (Enhanced GPL NoT and LPL MAC (unharmonised)) and 2a-d (Enhanced GPL NoT (harmonised), GPL TxC, GPL USN and GPL TPV) would improve on the existing NoT letters by requiring specific information on ETCs to be provided and we anticipate that this would largely address the problem of a lack of awareness of the implications of switching. It would also reduce the need for consumers to contact their LP, and hence also reduce consumer difficulty and unnecessary switching costs.
- 7.60 We also explain in Section 4 that respondents to the 2012 Consultation commented that a greater share of orders are cancelled under the GPL NoT process than the LPL MAC process, and that this should be taken into account in our assessment.

- 7.61 We recognise that a greater share of orders may be cancelled as a result of consumers finding out about the implications of switching under GPL process compared to LPL processes. However, we interpret this as evidence that the existing notification letters perform their function well, and moreover note that CRA's estimate of additional costs of cancellation under GPL compared to LPL is not material in the context of the costs and benefits of the proposed switching options.
- 7.62 In the light of this we now consider that all of these GPL options would largely deal with the problem of lack of awareness of the implications of switching. This represents a change from our description in the 2012 Consultation, and is explained further in Annex 8.
- 7.63 Our description of the LPL options would also deal with this problem is unchanged from the 2012 Consultation, although we note that LPL TxC would provide more objective and straightforward information for consumers through durable communication letters/e-mail as compared to the LPL ALT option.

Options which partly deal with the problem

- 7.64 In the 2012 Consultation, we found that Option 1a (status quo) would only partly address the problem of lack of awareness of the implications of switching.
- 7.65 In Section 4 we find that the existing NoT letters are reasonably effective at prompting consumers to find out about implications of switching, with only 3% of broadband switchers paying an ETC which they only found out about after they had committed to switch. However the existing NoT letters are not effective in providing precise information on ETCs and implications of switching.
- 7.66 As a result we continue to believe that the status quo would only partly addresses the problem of a lack of awareness of the implications of switching.

Insufficient customer consent

- 7.67 As explained in Section 5, slamming is a key area in which we have new evidence. Our latest consumer research on the prevalence of slamming indicates that around 84,300 households were slammed between February 2012 and February 2013 compared to the estimate of 520,000 in the 2012 Consultation for the period August 2010 and August 2011.
- 7.68 Although the current GPL NoT process does not contain further safeguards against this problem, we have modified the specifications of the Enhanced GPL NoT and LPL MAC (unharmonised), Enhanced GPL NoT (harmonised) and GPL TxC options to improve their performance against this problem.
- 7.69 Our description of the performance of the options against this problem has changed from that in the 2012 Consultation with respect to Options 1a (status quo), 1b (Enhanced GPL NoT and LPL MAC (unharmonised)), 2a (Enhanced GPL NoT (harmonised)), and 2b (GPL TxC). In the light of the amendments we have made to the specifications of these options we believe that they would also deal with slamming.

Options which largely deal with the problem

- 7.70 In the 2012 Consultation we found that only Options 2d (GPL TPV) and 3a-b (LPL TxC and LPL ALT) would largely address slamming. We now consider that options

1b (Enhanced GPL NoT and LPL MAC (unharmonised)), 2a (Enhanced GPL NoT (harmonised)), and 2b (GPL TxC) would also largely deal with this problem. This change in our description is explained below.

- 7.71 As we explain in Section 5 we have reconsidered our view of call recording and record keeping in the light of stakeholder views. We have also taken account of findings from the MM review and more recent investigations, and in the light of this have amended the specifications of the Enhanced GPL NoT (harmonised) and GPL TxC options.
- 7.72 Under Option 1b (Enhanced GPL NoT and LPL MAC (unharmonised)) slamming would now be addressed in Enhanced GPL NoT through the record of consent and the use of the Cancel Other process would reduce the problem of 'change of mind not actioned' explained in Section 4. Slamming would not arise under Enhanced LPL MAC, so we now consider that in combination with Enhanced GPL NoT this option would largely address the problem of insufficient customer consent.
- 7.73 Turning to Option 2a (Enhanced GPL NoT harmonised), we explained in the 2012 Consultation that this option might raise the possibility of an increase in slamming for those switches that currently use the LPL MAC process. However, we consider that the amendments to the specification of Enhanced GPL NoT provide sufficient consumer protection safeguards against this.
- 7.74 We therefore now consider that Enhanced GPL NoT would largely address the problem of insufficient customer consent. This represents a change relative to our analysis in the 2012 Consultation, and is driven by our amendments to the specification of Enhanced GPL NoT.
- 7.75 Like Enhanced GPL NoT, Option 2b (GPL TxC) would now require GPs to retain a record of consent. In addition the hub and database would allow monitoring of switches and provide an audit trail which could be used to investigate alleged instances of slamming. The GPL TxC model would also have an automated Customer Cancel service so that Cancel Other would not be required. This would enable consumers to cancel orders themselves and would improve the current lack of clarity about whether to approach the new provider or existing provider to cancel orders. In addition, a direct cancellation opportunity would be likely to mean that fewer requests for cancellation fall outside of the switchover period and therefore enable a more effective cancellation process.
- 7.76 Taking these changes into account, we now also consider that GPL TxC would largely address our concerns about insufficient customer consent. This represents a change relative to our analysis in the 2012 Consultation.
- 7.77 We continue to consider that Option 2d (GPL TPV) would largely address the problem of slamming, and would be superior to Enhanced GPL NoT or GPL TxC in this respect. The GPL TPV option is similar to the GPL TxC option but with the requirement that the consumer confirms with the independent TPV agent that they consent to switching the services specified rather than a record of consent being held by the GP. The TxC would only be issued by the TPV to the GP once the customer's consent had been obtained.
- 7.78 We continue to consider that slamming would largely be addressed under the LPL Options (3a-b), which are inherently superior to GPL processes in this respect. Under LPL ALT and LPL TxC, switching can only take place where the consumer has provided the GP with a code supplied by the LP. The fact that the consumer would

obtain a switching code and provide it to the GP would indicate their intention to switch.

Options which partly deal with the problem

- 7.79 We continue to consider that Option 2c (GPL USN) would partly address the problem of insufficient customer consent, and now also consider that the status quo would partly address it too.
- 7.80 Although provision of the USN seeks to address insufficient consumer consent, we feel that slamming would not be effectively addressed as:
- consumers may not understand the significance of the USN and provide it when they are not ready to switch;
 - consumers might provide the USN for the wrong service;
 - use of the USN with door-to-door sales could lead to ‘contact but no contract’ slamming; and
 - use of the USN could not address the issue of slamming by misrepresentation.
- 7.81 As explained in Annex 7, we have not chosen to make further improvements to this option. Our view remains that the problem of insufficient customer consent would only partly be addressed under the GPL USN option.
- 7.82 Turning to the status quo, we remain of the view that insufficient customer consent is a problem with the GPL NoT element under the status quo, but we have new evidence consistent with our enforcement activity having some impact in reducing the level of slamming. In a change from the 2012 Consultation we therefore now find that the problem of insufficient customer consent would be partly addressed under the status quo

Erroneous transfers

- 7.83 In the 2012 Consultation we found ETs to be a problem under the current switching processes, and found that the status quo failed to address this problem.
- 7.84 The problems and causes of ETs under the status quo are documented in Section 5, and our description of the performance of the options against the problem of ETs is unchanged, as summarised below.

Options which largely deal with the problem

- 7.85 We consider that Options 2b (GPL TxC) and 2d (GPL TPV) would largely deal with this problem. This is because both options contain a database which would contain up to date information which can be used for asset identification, both for switching ETs and during the WLT process.
- 7.86 The database means that additional information could be captured and used to verify the customer and the asset. This process would allow for better identification of the asset (even where there may not be a telephone number to identify the asset) and therefore there should be few instances where the wrong asset is targeted.

- 7.87 The database used under the GPL TxC and GPL TPV options would be populated using data from retail CPs. Since these CPs bill their customers we anticipate that the address they hold would be more up to date than the addresses held by Openreach and therefore matching problems seen at present would be addressed by this. It would also address ETs caused by incorrect or incomplete data in the Openreach database, and could also be updated on an ongoing basis.
- 7.88 MPF CLIs would be visible on the database, meaning that MPF lines would be able to be identified through the CLI. Moreover, if the database is extended to include additional assets and services in future, it would be possible to easily include other networks and services, including those services that do not have a CLI.
- 7.89 The database and hub would ensure that CPs are using a common system and interface which further enables correct asset identification across all GPs. It would also allow CPs to maintain the address data to ensure that it is accurate. The hub would also ensure that TxCs are only given out where exact matches are returned thereby ensuring that ETs are extremely unlikely to occur. Once the asset had been identified, the TxC would work in conjunction with the database to tag the correct asset and thereby would also address the other root cause ETs.
- 7.90 The hub would also allow Ofcom to monitor developments at an industry level (for both switching orders and cancellations) and would provide useful data for enforcement purposes.
- 7.91 In relation to WLT ETs, we note that the improvements listed above in relation to address data, additional information fields to capture homemoves (MPF CLIs and account name), consistent GP systems and interfaces would significantly improve the performance of the existing WLT process in relation to ETs. However, we recognise that due to the limitations of what consumers may know about the property they are moving into, there may still be some instances where it is not possible to positively identify the exact line in all homemove scenarios. Therefore, we have modified the specification of the GPL TxC option to mandate Incumbent CPs to notify their end user through a letter or e-mail about a request to takeover their existing line. We consider that this would provide additional protection against WLT ETs under GPL TxC.
- 7.92 As a result of this analysis we continue to consider that the GPL TxC and GPL TPV options would largely address the problem of ETs, including switching, WLT and future ETs.

Options which partly deal with the problem

- 7.93 We consider that Options 1b (Enhanced GPL NoT and LPL MAC (unharmonised)), 2a (Enhanced GPL NoT (harmonised)), 2c (GPL USN) and 3a-b (LPL TxC and LPL ALT) would each partly deal with this problem. This is summarised below and explained further in Annex 8.
- 7.94 We consider that Options 1b and 2a would largely address current switching ETs. This problem would not arise under Enhanced LPL MAC and the specification of the Enhanced GPL NoT option includes cleaning up the Openreach address database to provide better quality address data – which is a key weakness under the existing system. Enhanced GPL NoT also includes the universal visibility of MPF CLIs. This removes the need to identify an MPF line using the manual MPF helpline process, or using only address based matching, which is less reliable. This would improve the ability for a GP to identify the correct asset, although it does not contain additional

information such as account references and the name of the current provider, both of which would be available under the GPL TxC option. We also note that it may be difficult to enforce the best practice fixes (unlike in database models where orders are prevented from being placed where multiple matches exist) within the Enhanced GPL NoT model.

- 7.95 Turning to WLT ETs under these options, we note that provision of better address data through clean up of the Openreach database is likely to improve the identification of the correct line. However, it is likely to be difficult to ensure that all CPs systems are sufficiently improved to allow for good address matching in order to minimise the numbers of ETs – this is particularly important as greater numbers of CPs begin to use the WLT process. However, we note that whilst this would improve the ability of the GP to identify the correct asset it will not contain additional information such as account name which would be available under the GPL(TxC) option. Nor would it contain requirements to improve GP systems – whereas in the GPL (TxC) option, all CPs would need to develop consistent and standardised systems to interface with the hub and database.
- 7.96 Mandating use of WLT only where there is an exact match under Enhanced GPL NoT would help to reduce ETs and provide incentives to providers to use all tools available on Openreach DS to identify the correct asset. Requiring GPs to take reasonable steps to identify the correct line will also help to address WLT ETs. However, as noted for switching ETs above, it is likely to be difficult to enforce the ‘exact match’ requirement given the level of evidence that is likely to be available. We believe that mandating that the Incumbent CP sends a letter to its customer to inform them the line is being taken over will help consumers to cancel a erroneous takeover and thereby avoid an ET.
- 7.97 Overall, we consider that Options 1b and 2a (Enhanced GPL NoT and LPL MAC (unharmonised) and Enhanced GPL NoT (harmonised)) would partly address WLT ETs. As there is greater reliance on address data compared to switches, there is more likelihood that requirement for C&R would be needed to prevent WLT ETs.
- 7.98 We anticipate that future ETs (arising from non-CLI services or from multiple services associated with one CLI on FTTP technology) may be difficult to address under Options 1b and 2a.
- 7.99 In the light of the further analysis explained above we continue to consider that the Enhanced GPL NoT and LPL MAC (unharmonised) and Enhanced GPL NoT (harmonised) options would still only partly address the problem of ETs overall.
- 7.100 We consider that Options 2c (GPL USN) and 3a-b (LPL TxC and LPL ALT) would each address the issue of switching ETs. The USN database relies on all transferable services having a USN. Therefore, where the USN is provided the asset would be identified and then tagged with a transfer code to ensure the right asset is switched. We consider that this would also resolve the problem of future ETs as a result of not being solely reliant on address matching.
- 7.101 LPL TxC and LPL ALT would address most switching ETs through the provision of a TxC code to ensure that the correct asset to be switched is identified, and we anticipate that this protection would be superior to that provided by a hub and database solution. These options would also address the problem of future ETs, which could also be identified using the TxC.

- 7.102 However, we consider that the GPL USN and LPL options would not address the larger issue of WLT ETs. The incoming customer would not have a code to give their GP to identify the correct asset and the GP will place the order using address information alone. However, there is no up to date database of addresses in these options and therefore there is a risk of address mismatch which may result in an ET. Even if we were to put in place some of the best practice fixes considered under Enhanced GPL NoT for WLT ETs (exact match and notification letter from incumbent CP), this would still not address the significant root cause of quality of address information available to identify the correct line.
- 7.103 Reflecting this analysis we continue to consider that overall these options would partly address the problem of ETs.

Options which do not deal with the problem

- 7.104 We remain of the view that Option 1a (status quo) would not deal with this problem. Although the introduction of the MPF ALID helpline is a positive step, it remains to be seen how effective it will be in reducing switching ETs. We also note that this process does not deal with WLT ETs which account for the majority of ETs. Further, we note that potential for future ETs are not addressed by this option.

Loss of service

- 7.105 In the 2012 Consultation we explained that where CPs do not support processes to enable seamless switching this can lead to loss of service, and that this was a problem under the current GPL NoT and LPL MAC processes.
- 7.106 Section 5 explains that this remains our view, and that loss of service is also an issue under the WLT process.
- 7.107 Our description of the performance of the options against this problem is unchanged from that in the 2012 Consultation, with the exceptions of the status quo, the Enhanced GPL NoT (harmonised) option and the Enhanced GPL NoT and LPL MAC (unharmonised) option.

Options which largely deal with the problem

- 7.108 We consider that Options 1b (Enhanced GPL NoT and LPL MAC (unharmonised)), 2a (Enhanced GPL NoT (harmonised)), 2b (GPL TxC), 2c (GPL USN), 2d (GPL TPV) and 3a-b (LPL TxC and LPL ALT) each largely deal with this problem.
- 7.109 As explained in paragraph 7.5 and Section 5, since the 2012 Consultation Openreach has developed the SIM2 process to address loss of service. SIM2 for MPF (voice) + GEA-FTTC (broadband) went live in November 2012, and Openreach is due to introduce a similar process for switches to WLR+SMPF/GEA-FTTC. SIM2 will support bundled migrations between GP and LP who both use two wholesale services (WLR and SMPF/IPStream) to provide the bundle of services. These 'Double Migrations' cannot currently be carried out as a single co-ordinated activity and CPs are only able to attempt to run the orders in parallel. SIM2 would lock the orders together and therefore it should be more effective at ensuring both the voice and broadband services are delivered together.
- 7.110 We consider that mandating such functionality under Options 1b (Enhanced GPL NoT and LPL MAC (unharmonised)) and 2a (Enhanced GPL NoT (harmonised)) should lead to significant improvement compared to existing situation and availability

of SIM2 improves the performance of these options relative to their performance at the time of the 2012 Consultation.

- 7.111 We consider that the TxC system would allow the GPL TxC option, GPL USN, GPL TPV and the LPL options to effectively deal with the problem of loss of service.
- 7.112 The TxC would allow orders to be locked together so the GP can arrange for multiple services to start at the same time and the process should be supported by all providers. In the light of this we should see limited use of sequential switching of fixed voice and broadband bundles because a co-ordinated switching process is available to all CPs.

Options which partly deal with the problem

- 7.113 We find that with the development of the SIM2 process across all the key wholesale services the status quo would improve the existing situation with respect to loss of service issues,²⁹⁸ although we are still concerned about whether such processes would be widely adopted by CPs if not mandated. In particular, we note the limited adoption and use of the existing LO and PO processes, and note that stakeholders generally agreed with this. Nevertheless we now consider that the status quo would partly address this problem, which represents a change from the 2012 Consultation.

Lack of platform neutrality

- 7.114 In the 2012 Consultation we explained that under the status quo there is a problem of a lack of technological neutrality. In Section 5, we explained we now refer to this problem in terms of 'lack of platform neutrality' and clarified that it covers two issues: the difficulty a consumer encounters switching between different providers within the Openreach network (who are using different wholesale services) and the difficulty a consumer encounters switching between providers using different networks.
- 7.115 We consider it is important to ensure that consumers have appropriate migration processes and, as far as possible, consistent consumer switching experiences regardless of the underlying wholesale service or network. Platform neutrality helps to ensure that CPs' systems are able to support good consumer switching experiences.
- 7.116 We also consider that it is important to have a level playing field across different wholesale services and networks. This ensures that competition does not advantage any particular set of technologies or wholesale services and this ultimately benefits consumers through greater innovation, choice and lower prices. However we also noted that due to the necessary engineering work in some switching scenarios these processes will not be identical across all types of switching.
- 7.117 Our description of the options against this problem is unchanged compared to that in the 2012 Consultation with the exception of Enhanced GPL NoT, as explained below.

Options which largely deal with the problem

- 7.118 In the 2012 Consultation we found that Options 2b (GPL TxC), 2c (GPL USN), 2d (GPL TPV) and 3a-b (LPL TxC and LPL ALT) would each largely deal with this problem.

²⁹⁸ We note in particular that we would expect SIM2 to be widely adopted given that it has been requested from Openreach.

7.119 Our analysis of these options in terms of platform neutrality is unchanged, and we consider that each of these processes would involve a consistent back end provider process to co-ordinate LP and GP interactions which could work over different types of wholesale services and networks.

Options which partly deal with the problem

7.120 In the 2012 Consultation we did not think that Option 2a (Enhanced GPL NoT (harmonised)) would address this problem, as CPs have not chosen to support the improvements which were already available to improve the switching experience for customers under today's process. We also thought that the process could not be extended to other networks and future technologies as its design was focused on the Openreach infrastructure. However this view was taken by considering whether the back end provider systems under the Enhanced GPL NoT process could be uniformly extended to other wholesale services and networks.

7.121 It is important to distinguish between the customer-facing element and back-end processes (which do not take place in front of consumers) of any end to end switching process. In this context, Option 2a could partly deal with this problem as it would be possible to develop a common consumer facing process supported by a number of different industry agreed processes for supporting switching across different networks as part of the solution. Under the Enhanced GPL NoT option, a harmonised consumer facing process will provide industry stakeholders with guidance about the nature of the switching process for new services and networks. This will make the implementation of processes for new services and networks more straightforward than under an unharmonised approach. We set this out in more detail in Annex 8.

7.122 We also note that whilst Enhanced GPL NoT is not completely neutral with respect to new technologies (as it still involves Openreach and CPs upgrading their systems as new networks become in scope), it is likely to be easier to incorporate new technologies as there will be clarity about the consumer facing process that the back end provider systems need to align to.

Options which do not deal with the problem

7.123 Our analysis in the 2012 Consultation found that the status quo and the Enhanced GPL NoT and LPL MAC (unharmonised) options suffer from a lack of platform neutrality. This was because some CPs have not adopted available functionality (MPF migrate) to be able to support migration experiences for consumers – requiring them to use a C&R process. We also explained that patchy/low level adoption by providers may be more of an issue in the future as services evolve which require further back end system upgrades.

7.124 We continue to consider that each of Options 1a and 1b would not deal with this problem. The use of multiple processes leads to a lack of platform neutrality for the reasons explained in Section 5, even with enhancements to these processes under Option 1b. Furthermore, if new technologies and wholesale services become available in future then the use of multiple consumer facing processes would make the process of agreeing developing and adopting back end provider systems process more burdensome for CPs than under a harmonised process, and if they require different back-end processes may lead to uneven consumer experiences.

7.125 We therefore continue to consider that the current GPL NoT and LPL MAC and Enhanced GPL NoT and LPL MAC (unharmonised) options would fail to address the problem of platform neutrality.

Reactive save

7.126 In Section 6, we noted that LPL processes (and the current LPL MAC process) risk dampening competition because the LP has an incentive and opportunity to engage in 'reactive save' activity. Our description of the performance of the options against this problem is the same as that in the 2012 Consultation with the exception of the status quo and LPL TxC, as explained below.

Options which largely deal with the problem

7.127 We consider that Options 2a-d (Enhanced GPL NoT (harmonised), GPL TxC, GPL USN and GPL TPV) deal with the problem of reactive save because the existing ban under the GPL NoT process would also apply under all of these GPL options.

Options which partly deal with the problem

7.128 We consider that Option 1b (Enhanced GPL NoT and LPL MAC (unharmonised)) would partially deal with the problem of reactive save. For switches using Enhanced GPL NoT reactive save would continue to be prohibited as it is today.

7.129 For broadband switches via Enhanced LPL MAC, requests for MACs would be made through a dedicated communications channel with clear rules prohibiting reactive save and call recording obligations. However, we have concerns over the effectiveness of such measures. The LP has an incentive to retain the customer and it may be difficult to monitor and enforce against reactive save.

Options which do not deal with the problem

7.130 We continue to consider that Option 3b (LPL ALT) option would not deal with the problem of reactive save, and now find that the Options 1a (current GPL NoT and LPL MAC) and 3a LPL TxC option would not deal with the problem either.

7.131 Under LPL ALT consumers are directed to contact the LP before they can switch. Although consumers would verbally be given the option of receiving their TxC without listening to reactive save offers, save offers would not be banned. As a result we maintain our view from the 2012 Consultation that LPL ALT would fail to address the problem of reactive save.

7.132 In the 2012 Consultation we found that LPL TxC would partly address the problem of reactive save because the TxC would be provided on a dedicated recorded line and save offers would not be allowed. Although we found that this would mitigate our concerns about reactive save, we remained concerned that the LP has an incentive to retain its customers and that it would be difficult to monitor and enforce against CPs not complying with this obligation. Specifically we found it unlikely that consumers who were saved would complain to Ofcom, or that GPs could identify customers saved in this way.

7.133 Having reflected on our analysis and the responses to the 2012 Consultation we now consider that although reactive save would be banned under LPL TxC, we continue to have concerns about whether this would be effective. We note the overwhelming majority of responses on this issue from industry stakeholders agreed that it would be

difficult to have an effective ban on reactive save within LPL TxC option (only one industry stakeholder – EE - disagreed). We have reconsidered this in the light of these views and believe that in the light of these issues the problem of reactive save would, in practice, not be adequately addressed by LPL TxC.²⁹⁹

7.134 In relation to the status quo, we find that this would do nothing to address the existing problem, and so would fail to address this problem.

Other considerations

7.135 In addition to comments on the performance of the options against the problems we identified in the 2012 Consultation, we received responses on a number of additional topics, in particular in relation to the options including a database. Our views on these are summarised below, and explained fully in the relevant parts of Annex 8.

7.136 A number of the options, in particular GPL TxC and GPL TPV, would require the establishment of a governance process. We recognise that the implementation of these options, along with that of the LPL options, would require concerted industry cooperation, and have taken this into consideration in our decision in Section 8. Although we recognise that such cooperation carries risk, we consider that it could be achieved (see Gemserv's report in Annex 12).

7.137 In relation to the time it might take to implement the options we acknowledge that this might vary, and in particular the GPL TPV option might take a longer time to implement than some of the other options.

7.138 The 2012 Consultation sought stakeholder views on the topic of data protection, and we recognise that there are valid concerns as to how best to protect consumer data and comply with data protection legislation if a hub and database are to be constructed. These are issues which would need to be addressed as part of the development of the technical systems and processes underpinning the hub and database, and have a bearing on the nature of our decision in Section 8.

7.139 We also recognise that data collection and maintenance are legitimate concerns when considering other options, including Enhanced GPL NoT. Again, this has a bearing on the nature of our decision in Section 8.

Cost of each option

7.140 We have commissioned CSMG to:

- respond to stakeholder comments on the cost estimates it produced as an input into the 2012 Consultation; and
- in the light of this, update its estimates of the costs of a number of the options.

7.141 CSMG's analysis of stakeholder comments focuses in particular on the response from PricewaterhouseCoopers ('PwC'), working on behalf of BT, Sky and Virgin Media, which focussed on the costs of the GPL TPV option. This analysis can be found in Annex 9.

²⁹⁹ We note that in common with the rest of our assessment, this is a nuanced judgement and is explained further in Annex 8. In any event we also note that our assessment of the performance of the LPL options against the problem of reactive save does not affect our overall decision in Section 8.

7.142 In addition CSMG has updated its estimates of a number of the options, taking into account the implications of its review of the stakeholder comments. It has produced revised estimates of the costs of the GPL TxC and LPL TxC options, and has added estimates for GPL TxC-V (distributed database, see paragraph 7.16 above), Enhanced GPL NoT and LPL MAC (unharmonised) and Enhanced GPL NoT (harmonised). The details of this analysis can be found in Annex 10.

7.143 The main results of this work are reproduced for convenience in Table 7.2 below. We note that CSMG was not able to quantify all of the costs involved in the switching ET enhancements to the Enhanced GPL NoT and LPL MAC (unharmonised) and Enhanced GPL NoT (harmonised) options. These unknown costs are indicated by the letter 'A' in Table 7.2. It has also not produced revised estimates of the costs of the GPL USN and GPL TPV options, which were the most costly options considered in the 2012 Consultation.³⁰⁰

Table 7.2: CSMG cost estimates (10 year NPC)

	Enhanced GPL NoT and LPL MAC (unharmonised)	Enhanced GPL NoT (harmonised)	GPL TxC	GPL TxC-V	LPL TxC
Basic Switching Model Option	£18m	£19m	£40m	£43m	£75m
Record of Consent	£9m	£9m	£9m	£9m	n/a
Enhancements for Switching ETs	£3m + A	£3m + A	£0m	£0m	£0m
Enhancements for WLT ETs	£7m	£7m	£3m	£3m	n/a
Total Cost	£37m + A	£38m + A	£52m	£55m	£75m

Source: CSMG, Figure 1. Note that these results are not directly comparable to those previously calculated by CSMG because the total number of switches has been revised, as explained in Section 3.

³⁰⁰ In the 2012 Consultation the cost of the USN option was estimated to be £81m, and the TPV option £98m, both as 10 year NPCs.

Section 8

Decision on Harmonised GPL

Introduction

- 8.1 In this Section 8 we assess by reference to the relative importance of each of the problems, which is the most appropriate and proportionate option, taking into account the relative benefits, costs and risks of those options. We conclude that we should require a harmonised GPL switching process and how we intend to give effect to our decision.
- 8.2 We first consider the problems associated with multiple processes and conclude that we should harmonise to a single switching process. We then consider whether this should be on a GPL or LPL basis.

Legal Framework

- 8.3 Ofcom must make an overall judgment as to:
- the nature of the problems identified in Sections 4, 5 and 6 taking into account the regulatory duties those engage;
 - the extent to which the options identified in Section 7 are able to address the different problems, taking into account the impact of those options on relevant considerations such as risks to competition;
 - the costs associated with the options for reform; and
 - the other risks associated with the options, taking into account implementation risks and the objective of providing regulatory certainty.
- 8.4 Ofcom's principal duty, in carrying out our functions, is to further the interests of citizens in communications matters; and to further the interests of consumers in relevant markets, where appropriate by promoting competition. In the current context, our primary objective is to further the interests of consumers by protecting their interests as end-users of voice and broadband services delivered over the Openreach copper network.
- 8.5 As set out in detail in Section 2, our powers to act in the present context stem from the European Framework, the Universal Services Directive and the Act, and are framed around the protection of consumers. Pursuant to Sections 51 and 52 of the Act, we may set conditions for the protection of consumers, in particular:
- i) to ensure that the procedures for contract termination do not act as a disincentive against changing service provider;
 - ii) to require the provision, free of charge, of specified information, or information of a specified kind, to end-users; and
 - iii) to give effect to Community obligations to provide protection for consumers in relation to the supply, provision or making available of public electronic communications services. Such obligations include those contained in Article 30

of the Universal Services Directive (as amended), which require Member States to:

- a) protect consumers throughout the switching process; and
- b) ensure that consumers are not switched to another CP against their will.

- 8.6 Section 3(3) of the Act requires Ofcom, when performing its duties, to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and any other principles appearing to Ofcom to represent best regulatory practice.³⁰¹
- 8.7 Section 3(4) of the Act states that, in performing its duties, Ofcom must also have regard to a number of matters as appears to be relevant in the circumstances. In the current context this includes, in particular, the desirability of promoting competition in relevant markets, of promoting and facilitating the development and use of effective forms of self-regulation and of encouraging the availability and use of high speed data transfer services throughout the United Kingdom. Section 3 (4) also requires us to have regard to the opinions of consumers in relevant markets and the extent to which, in the circumstances of the case, the furthering of consumer interests is reasonably practicable. As explained in Sections 4 and 5, the issues experienced by consumers are often communicated to Ofcom directly through complaints, and we have also sought to gather survey evidence to better understand the views of consumers on their experiences. It is also important to consider as part of our assessment the need for regulatory certainty and the length of time changes will take to implement.

Multiple switching processes - Harmonisation

- 8.8 We set out in Section 4 a number of issues associated with the existence of multiple processes. We consider that this problem is a serious and significant one which is directly relevant to our principal duty and to the need to promote the interest of citizens in relation to communications matters by protecting consumers in their dealings with suppliers under Section 4(5) of the Act. Consumers' interests are best served when they have the confidence to switch between providers, without fearing that doing so will result in undue effort, disruption and anxiety. Once a consumer has established what services he/she wishes to purchase, the switching process should work in the consumer's interest to ensure that decision can be put into effect. An important starting point for this must be that a consumer is able to easily understand what process will apply to the intended switch, i.e. *how* to switch.
- 8.9 The existing confusion and difficulty associated with the existence of multiple processes hinders consumers' ability to switch, and causes consumer harm. Where the consumer is unable to access the information required to understand which process they need to follow this may lead to unnecessary contact with the LP. The LP may not be able to provide the correct information to assist the consumer, and in any event the LP does not have an incentive to assist the consumer in putting a decision to switch into effect, directly affecting the consumer's control of the process.³⁰²

³⁰¹ Ofcom Statutory Duties and Regulatory Principles. Available at: <http://www.ofcom.org.uk/about/what-is-ofcom/statutory-duties-and-regulatory-principles/>.

³⁰² We note in this respect Recital 47 to the 2009 Amending Universal Service Directive, which states that: 'In order to take full advantage of the competitive environment, consumers should be able to

- 8.10 Some consumers are dissuaded from switching by the complexity and difficulty of the process. If consumers elect not to switch as a result of a lack of confidence in the switching process, the competitive process itself will be dampened. In this respect, we note that we are required by Article 30 of the Universal Service Directive to ensure that ‘conditions and procedures for contract termination do not act as a disincentive against changing service provider’.
- 8.11 Current switching processes have evolved mainly through cooperation between industry stakeholders. Although the existence of multiple processes leads to a number of problems we do not consider that the maintenance of separate processes in itself generates material benefits for consumers.
- 8.12 We therefore consider that there is a need to act to improve switching processes, to further the interests of consumers and to protect consumers from the harm caused by the existence of multiple switching processes. We also consider that we need to act to prevent consumers being disincentivised from switching by the lack of clarity about the process involved. As noted above, we attach significant weight to this problem, which appears to be central to the problems associated with switching, from a consumer point of view.
- 8.13 In light of this we consider that we should harmonise to a single switching process for switches over the Openreach copper network. We therefore consider which of the different harmonised options, both GPL and LPL, is the most appropriate and proportionate way of addressing the other problems we have identified.

Consumer difficulty and unnecessary costs of switching

- 8.14 In Section 4 we explain the problems that consumers are experiencing associated with:
- the level of engagement required by the consumer based on the number of required touch/contact points;
 - the ability of the LP to frustrate the process; and
 - unwanted save activity.
- 8.15 We also note the important high-level point that the GP has an incentive to make the switching process smooth and free from consumer difficulty, whereas the LP has an incentive to retain its customers.
- 8.16 As we explain in Section 7:
- In relation to the GPL options, Enhanced GPL NoT (harmonised), GPL TxC and GPL TPV options would largely deal with the problems associated with consumer difficulty and unnecessary costs associated with switching by only requiring the GP to be contacted. GPL USN option only partly addresses the issue.
 - Adopting any of the harmonised LPL options (LPL TxC or LPL ALT) would mean choosing a type of system with higher switching costs (more touch points and opportunities for the LP to frustrate the process) and which gives less control to

make informed choices and to change providers when it is in their interests. It is essential to ensure that they can do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges and so on’.

the consumer. Although the LPL options would address in part concerns over the provision of codes, overall we consider that harmonisation to an LPL solution is likely to significantly worsen the consumer experience of switching processes, taking into account the fact that the vast majority of switches currently go through the GPL NoT process.

- 8.17 In line with our duty under Section 3(1) of the Act to further the interests of consumers in communications markets, we consider that consumers should not face unnecessary costs and difficulty when switching. Consumers should be able to efficiently put decisions to switch into effect. Article 30 of the Universal Services Directive requires Member States to ensure that consumers are protected throughout the switching process, and to ensure that the conditions and procedures for contract termination do not act as a disincentive to changing service provider. Recital 47 to the Universal Services Directive states ‘Member States should be able to impose such minimum proportionate measures regarding the switching process.. to ensure that consumers are protected throughout the switching process without making the switching process less attractive for them’. We note our specific power under Section 51(1)(h) to set GCs which ‘ensure that conditions and procedures for the termination of a contract do not act as a disincentive to an end user changing communications provider.’
- 8.18 The difficulties experienced directly by consumers in relation to current switching processes must be central to our assessment. These are problems which are regularly communicated directly to us by consumers. We have found that there are significant problems associated with the experience of consumers within the current LPL process. This is consistent with the fact that a LP does not have an incentive to assist the consumer in putting a decision to switch into effect. We consider that a shift to a harmonised LPL process, transforming the current environment in which the majority of switches go through a GPL process, would be likely to substantially worsen the experience of consumers when switching. We are concerned that the additional cost and difficulty associated with LPL processes may also therefore dissuade consumers from switching.
- 8.19 In our assessment of which option to choose, taking into account our duties, we attach significant weight to the need to ensure that the process should aim to ensure that consumers are protected throughout the process and are not disincentivised from switching as a result of facing unnecessary switching costs and difficulty. In this respect, we also note the outcome of the BEREC report, which recommended the minimisation of unnecessary switching costs and barriers, so that there should be minimal effort on the part of the consumer in order to switch. Our assessment of this issue therefore strongly supports a need to harmonise to a single GPL switching process, for switches over the Openreach copper network.

Issues with existing competition and current switching processes / the impact on competition of the various options

- 8.20 We explained in Section 3 that recent Openreach data shows that around 90% of migrations (excluding C&R) go through the GPL NoT process and around 10% go through the LPL MAC process. This gives rise to two important points.
- 8.21 First, it highlights that the current state of competition reflects a market in which the vast majority of switches already use a GPL process. Existing competition may well therefore be supported by the existing primarily-GPL system, but clearly this is not in itself a reason not to move to a fully harmonised GPL system of switching.

- 8.22 Second, since the existing switching landscape overwhelmingly uses the GPL process, it is a smaller and less interventionist step to harmonise to a GPL switching process than to harmonise to an LPL switching process.
- 8.23 In analysing the implications of either a harmonised GPL or a harmonised LPL switching process on competition we consider both consumer switching costs and reactive save.
- 8.24 As explained in our analysis of the consumer experience of switching in Section 4, LPL processes involve greater switching costs than GPL processes. Given the finding that processes with higher costs are, all else being equal, likely to dampen competition, we continue to believe that implementation of a harmonised LPL process would be likely to dampen competition. In contrast, the removal of the minority of existing LPL switches by harmonising to a GPL switching process is likely to further enhance the existing level of competition.
- 8.25 As we explain in Section 6, reactive save is a distinct form of save activity raising specific concerns. At present reactive save is only possible for a small minority of switches under the LPL MAC switching process, because it is prohibited under the GPL NoT switching process. Harmonisation to an LPL system would therefore involve a step-change in CPs' ability to make save offers. We have identified three factors likely to dampen competition under harmonised LPL:
- a reduction in competitive pressure from entrants and smaller players over time, because incumbents can make selective discounts only to customers in the process of switching;
 - a reduction in competitive pressure from entrants and smaller players over time, because customer acquisition costs would be higher; and
 - a reduction in the overall competitiveness of the voice and broadband markets over time, because there would be less pressure to keep headline prices competitive in order to pre-empt switching.
- 8.26 We therefore consider that a harmonised LPL switching process risks having a dampening effect on competition as a result of reactive save. This means that from the point of view of competition there is nothing to be gained from allowing the possibilities for reactive save to be expanded from the current small minority of LPL MAC switches. This leaves only risks from allowing LPL and therefore systematic reactive save activity. These risks would be avoided by the introduction of a harmonised GPL switching option under which reactive save activity is banned, as it is at present under the GPL NoT process.
- 8.27 Switching processes enable competition between CPs for customers. As well as considering switching processes from the perspective of consumers we must also therefore consider more directly their impact on the process of competition. As set out in Section 2, in performing our duties, Ofcom must have regard to the desirability of promoting competition in the relevant markets. We therefore place significant weight on the impact on competition which any intervention would have, whether that is in promoting competition, or in the risks that are posed to the current level of competition. In the light of the findings explained above our view is that harmonising to a GPL system has the potential to promote competition to an extent, whereas harmonising to a LPL system poses a significant risk of dampening competition. We place significant weight on this factor as we consider Ofcom's regulatory interventions should be supportive of competition.

Insufficient customer consent

- 8.28 In Section 5 we explain our concerns in relation to slamming. Although we remain concerned about slamming, our assessment of the problem has changed in important respects since the 2012 Consultation:
- we consider insufficient customer consent/slamming to be a less extensive problem than was the case at the time of the 2012 Consultation;
 - we have new evidence on deficiencies in record keeping; and
 - we have amended the specifications of some of the options such that slamming could now be addressed to a certain extent under the Enhanced GPL NoT and GPL TxC options, and not just the GPL TPV and LPL options.
- 8.29 As explained in Section 5, the evidence on slamming is consistent with our active engagement with CPs (and in particular with larger CPs who have thus far generated the majority of the complaints) to ensure compliance. We have, however, found that our investigations can be hampered where the CPs' sales records are poor. We consider that requiring CPs to keep good records can enhance our enforcement capabilities by improving our ability to enforce against operators engaged in slamming and also help identify when a case is not a slam but rather should be more properly classified as mis-selling, an ET, or consumer error. Requiring CPs to keep records may also act as an additional incentive for CPs to comply with the rules on slamming. We therefore think that the requirement to keep a record of consent would make enforcement more efficient and effective and reduce slamming.
- 8.30 We note our obligation under Article 30 USD to 'take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not switched to another provider against their will'. We remain concerned about the levels of slamming, which is a clear source of consumer harm. While our estimate of the incidence of slamming has reduced, we still consider that it is important for any new switching process or change to the process to be able to reduce the level of slams further, in order to address that consumer harm.
- 8.31 Section 5 also explains that slamming is currently more likely to occur under the GPL NoT switching process than under the LPL MAC switching process. The reason for this is that LPL processes allow for authentication of the customer's identity before the necessary steps are taken to implement a switch. Accordingly, in our analysis of the performance of each of the LPL options against the problem of slamming in Section 7 we found that each of the LPL options would provide strong upfront protection against slamming (as we found was the case in the 2012 Consultation) and largely deal with the issue. This would help significantly in addressing our concerns around slamming.
- 8.32 As we explain in Section 7, in response to the new evidence on slamming and CP record-keeping we have amended the specifications of the Enhanced GPL NoT and GPL TxC options to include a record of consent mechanism, whereby CPs would be required to keep records of consent for 12 months. While our option assessment notes that this means that these options would 'largely deal' with the problem, this would be true to a lesser extent than in the LPL options, or the GPL TPV option, which provide significant upfront protection.
- 8.33 The best way to fully address slamming therefore points to choosing either an LPL option, or to the GPL TPV option. However, as noted above, as the incidence of

slamming is much reduced from our original estimate, we consider that the need to intervene to solve this problem is reduced, and this affects our assessment of what it is necessary for Ofcom to do at this stage. In that context we also take into account that the Enhanced GPL NoT and GPL TxC options could largely address the remaining problem of insufficient customer consent, with continued enforcement activity by Ofcom being an additional factor.

Erroneous transfers

- 8.34 As explained in Section 5, we are concerned about the situations where consumers are switched to another provider without their consent, as is the case with ETs. We therefore consider that any intervention must seek to reduce ETs.
- 8.35 Our analysis in Section 7 and Annex 8 finds that the use of the database, hub and TxC mechanism under the GPL TxC and GPL TPV options would largely address both WLT and switching ETs. This is because these options contain a database, which would contain accurate address information populated by the retail CP, and which can be used for asset identification, both for switching ETs and during the WLT process (though we recognise that there would be challenges to maintain the accuracy of data). In addition, the GPL TxC option mandates WLT Best Practice for CPs by notifying their end user through a letter or email about a request to takeover their existing line. We consider that this would provide additional protection against WLT ETs under GPL TxC.
- 8.36 We consider that Enhanced GPL NoT option would largely address current switching ETs. Under the Enhanced GPL NoT option we would work with Openreach to facilitate the cleanup of its database and ensure better quality address data – which is a key weakness under the existing system. Better address information would mean that GPs can easily identify the correct line based on information provided by the consumer. Enhanced GPL NoT also includes the universal visibility of MPF CLIs. In addition, CPs would be required to comply with existing best practice to identify target lines and send notification letters to the consumer at the target address so that they are able to stop an ET going through. We anticipate that the changes we propose to the specification of Enhanced GPL NoT would also help to reduce WLT ETs. The solutions proposed to address switching ETs (e.g. improving quality of Openreach address data), would also help with WLT ETs. Mandating CPs to use all of the tools available on Openreach DS to identify the correct asset or service to be switched, and only using the WLT process where an exact match is found would help to reduce the number of WLTs placed on the wrong asset. Further, requiring notification letters would keep consumers informed and allow them an opportunity to cancel if their lines have been targeted in error.
- 8.37 Although we consider that these enhancements would deal with ETs to a certain extent, some concerns remain. In particular we note that potential future ETs – arising from non CLI services or from multiple services associated with one CLI on FTTP technology – are not addressed under this option. We also note that it is difficult to enforce against best practice fixes (unlike in database models where orders are prevented from being placed where multiple matches exist) and to ensure improvements to GP systems and interfaces to help with accurate identification of the correct line within the Enhanced GPL NoT model. We therefore consider that the Enhanced GPL NoT option would, overall, still only partly address the problem of ETs. We consider the GPL USN option would largely address switching ETs, but only partly address the problem of WLT ETs.

- 8.38 As set out in Section 7, we consider that the LPL options would each largely address the issue of switching ETs, as the provision of a TxC code in these options means that the correct asset to be switched is identified.
- 8.39 However, we consider that the LPL options would not address the larger issue of WLT ETs. This is because the WLT process would remain largely as it is today. Whilst we consider that it may be possible to include the WLT Best Practice fixes within the LPL model (as in the Enhanced GPL NoT model), which should improve its performance in relation to these types of ETs, we note that these would be less effective than under Enhanced GPL NoT as it would not be underpinned by Openreach database clean up or MPF CLI visibility to ensure better quality data was available to allow more accurate matches. We explain these issues further in Annex 8.
- 8.40 As with slamming, we take into account the need to protect consumers from being switched against their will. Due to the consumer harm caused by ETs, and the level of ETs, we attach a significant degree of weight to this problem, and consider that any intervention must seek to reduce the number of ETs. We note that our updated analysis supports the view that the GPL options have the potential to address the problem of ETs more completely than the LPL options, most notably in relation to WLT ETs.

Loss of service

- 8.41 Loss of service can occur in the switching process when CPs do not support the appropriate processes to enable seamless switching. As we explain in Section 5, a loss of service for hours or days can cause harm to consumers and those trying to contact them, and can be a particular issue for small businesses. New evidence from consumer research reinforces these views.
- 8.42 We note our duty under Section 3(1) of the Act to further the interests of consumers in communications markets and under Section 3(4) to take into account the opinion of consumers in relevant markets. We therefore consider that in order to avoid the consumer harm caused by significant loss of service, any switching process mandated by Ofcom should seek to limit, as far as possible, loss of service to consumers.
- 8.43 As explained in Section 7, Enhanced GPL NoT (harmonised) option can largely address this problem by mandating the use of functionality for simultaneous transfer. Similarly, we consider that the TxC system would allow the simultaneous provision of services under the GPL TxC, GPL USN, GPL TPV and LPL options to effectively deal with the problem of loss of service.
- 8.44 As a result the problem of loss of service could be addressed under Enhanced GPL NoT (harmonised), GPL TxC, GPL USN, GPL TPV, LPL TxC and LPL ALT options, and is a reason to prefer any of these options over the status quo. We do not consider that there are material differences between the ability of the different LPL and GPL options to address the problems, such that this would affect our choice of the appropriate option to progress. We do however conclude that the extent of the consumer harm resulting from loss of service merits intervention.

Lack of Platform neutrality

- 8.45 As set out in Section 5, we consider that consumers ought to have appropriate migration processes and, as far as possible, consistent consumer switching

experiences regardless of the underlying wholesale service/network. Platform neutrality helps to ensure that CPs' systems are able to support good consumer switching experiences.

- 8.46 In Section 7 we concluded that the GPL options based on a database (GPL TxC, GPL TPV and GPL USN) and the LPL options (LPL TxC and LPL ALT) would largely address this issue as they would involve a consistent process to co-ordinate LP and GP interactions which could work over different types of wholesale services and networks.
- 8.47 We are principally concerned in this assessment with the consumer experience. In considering the ability of the Enhanced GPL NoT process to address this problem we have noted that it may be feasible to have a common consumer facing process which is supported by a number of different industry agreed processes for switching across different wholesale services / networks. We also considered that, under Enhanced GPL NoT a harmonised consumer facing process will make the design of different back end provider processes for new services or networks more straightforward than under a non-harmonised approach. We also note that whilst Enhanced GPL NoT is not completely neutral with respect to new technologies (as it would still require Openreach and CPs to upgrade their systems), compared to the status quo, it is likely to be easier to incorporate new technologies as there will be clarity about the consumer facing process that the back end provider systems need to align to.
- 8.48 Taking these factors into account we are conscious of the indirect impact which concerns over platform neutrality may have on consumers. These are concerns which can be addressed under either a harmonised LPL or a harmonised GPL approach. The more limited ability of the Enhanced GPL NoT process to address this issue is a factor which is more relevant to the longer term.

Lack of awareness of the implications of switching

- 8.49 In Section 4 we explain that it is important for consumers to be aware of the financial and service implications of switching in order to make informed decisions. As we explain in Section 7, the need for consumers to contact their LP prior to switching under the LPL options means that LPL processes, and both LPL options are well suited to making consumers aware of the implications of switching. In addition to having this opportunity, LPs have a strong incentive to act on it and ensure that consumers are aware of the implications.
- 8.50 However, this opportunity and incentive also have a disadvantage, because the LP is not a neutral source of information. The LP has a commercial incentive to use its contact with existing customers that are considering a switch to persuade them not to, and may act on this by exaggerating or being unclear about the negative implications of switching in order to deter it. In addition, we note that the LP may not be in a position to fully explain the potential benefits that a consumer may gain by switching to a new provider; the GP is best placed to provide this service. As a result, while we consider that LPL processes can effectively inform consumers of the implications of switching, there remains a concern as to whether information will be presented in a way which is most effective for consumers.
- 8.51 Turning to the GPL options, as we explain in Section 7 our assessment shows that the existing NoT letter and switchover period are reasonably effective in prompting consumers to obtain information on the implications of switching to consumers, although this could be improved.

- 8.52 As noted in Section 4, we have found that there is a comparatively low level of consumer harm arising from a ‘lack of awareness of the implications of switching’ (e.g. we have found that only 3% of fixed broadband switches resulted in consumers paying an ETC which they were unaware of until they had committed to switch and overall only 0.14% of broadband switchers regretted their decision to switch due to an ETC which they were unaware of until they had committed to switch). While consumer protection is one of our key duties, we consider that this, and the analysis set out in Section 4 demonstrates that consumers are reasonably well protected by the current systems.
- 8.53 We therefore do not consider that this represents an issue which justifies a significant intervention on its own. In addition, our analysis in Section 7 does not point overwhelmingly to a particular solution, as Enhanced GPL NoT (harmonised), GPL TxC, GPL USN, GPL TPV, LPL TxC and LPL ALT options would all largely deal with the issue. We therefore do not attach as much weight to the need to reduce this problem as to some of the other problems and we do not consider that the need to address this problem strongly indicates we should adopt either an LPL or GPL solution.

Costs of the options

- 8.54 In making our assessment, we have taken account of the estimated costs of the different options. We again set out here a summary of CSMG’s updated cost estimates, as explained in Section 7 above (see paragraphs 7.140 to 7.143).³⁰³ The costs relate to the different harmonised switching options included in the 2012 Consultation.³⁰⁴

Table 8.1: CSMG cost estimates (10 year Net Present Cost (‘NPC’))

	Enhanced GPL NoT (harmonised)	GPL TxC	GPL TxC-V	LPL TxC
Basic Switching Model Option	£19m	£40m	£43m	£75m
Record of Consent	£9m	£9m	£9m	n/a
Enhancements for Switching ETs	£3m + A	£0m	£0m	£0m
Enhancements for WLT ETs	£7m	£3m	£3m	n/a
Total Cost	£38m + A	£52m	£55m	£75m

Source: CSMG, Figure 1. Note that these results are not directly comparable to those previously calculated by CSMG because the total number of switches has been revised, as explained in Section 3.

- 8.55 The table shows the high level result that, to the extent that it has been possible to estimate the costs of the switching processes under consideration, the results are

³⁰³ Note that we no longer consider the TPV or USN options for the reasons explained below. As explained in the CSMG report the costs of the LPL Alt option are estimated to be similar to those of the LPL TxC option.

³⁰⁴ As explained in Section 7 and Annex 10 of this document, CSMG was unable to estimate some of the costs associated with the clean-up of the Openreach database. These costs are indicated as ‘A’ in Table 8.1 and mean that the quantified costs of the Enhanced GPL NoT and LPL MAC (unharmonised) and Enhanced GPL NoT (harmonised) options will understate the true costs of these options.

broadly similar (with the possible exception of LPL TxC).³⁰⁵ On the face of the CSMG results it therefore appears that cost is not in itself a reason to prefer one of the above processes over another. The analysis does not provide a reason to prefer a harmonised LPL solution over a harmonised GPL one.

- 8.56 Of the harmonised options, the Enhanced GPL NoT option appears to be the least costly, although, as noted, there are unknown costs associated with efforts to improve the quality of the Openreach database which could be significant.
- 8.57 In addition, the complexity of some of the options (such as the database under GPL TxC and GPL TxC-V) may have further implications for cost and implementation risk. We would take such considerations into account in any future decision on such an option and we consider further below concerns relating to implementation.

Other considerations - implementation and data protection issues

- 8.58 In Section 7 we noted that in response to the 2012 Consultation, a number of stakeholders raised issues around the establishment of the database required for the GPL TxC, GPL USN and GPL TPV options. We discussed these views in Section 7 and Annex 8. While we consider that it should be possible for industry to coordinate to set up such a database, database solutions involve design and implementation of complex systems, and we recognise that fundamental changes to pre-existing and complex sets of processes involving multiple players create significant implementation risk. This is particularly the case given the current absence of an industry consensus on the appropriate way forward. We also note in that context that, to a lesser extent, implementation of LPL options would be reliant on industry cooperation.
- 8.59 We also discuss in Section 7 and Annex 8 concerns relating to data protection obligations and data security. We consider that the problems we have set out in Sections 4 to 6 provide a basis to justify an element of interference with an individual's right to privacy (i.e. their right not to have their personal information shared on the database without their express consent). However, we also recognise that further detailed design work would need to be done with respect to each of these options to ensure that any database would provide adequate data protection safeguards and satisfy the applicable data protection obligations. We consider it is important that data protection and security issues are properly explored and addressed with industry, and this means there is an element of uncertainty at present in relation to the efficacy of the database solutions and, to a lesser extent MPF CLI visibility under Enhanced GPL NoT.
- 8.60 It is clear from our work on switching, from stakeholder responses and Gemserv's report (Annex 12), that setting up a database under the GPL TxC, GPL USN and GPL TPV options would require significant engagement from industry, and would take a longer time to implement than the LPL options and Enhanced GPL NoT, even on the basis that all CPs cooperated fully.
- 8.61 It is also clear however, that at present there is no such industry consensus, and that significant further work is required to establish how industry would cooperate to set up such a database. We do not consider that it would be appropriate for Ofcom to set up, run and manage the database itself. As a result, we consider that there is

³⁰⁵ Notably, CSMG explains that the magnitude of the LPL TxC costs is largely driven by the 'LPL harmonisation effect', meaning the additional costs associated with having to make calls to the LP under an LPL switching process compared to the largely GPL status quo.

significant implementation risk associated with the GPL TxC, GPL USN and GPL TPV options, and this could affect the implementation costs. This, then, affects regulatory certainty, and should be an important consideration in our overall assessment.

Decision

- 8.62 We have considered whether and how Ofcom ought to intervene in the various switching systems operated by CPs, taking into account the different problems those create, the ability of different options to address those problems to varying extents, and the costs and implementation risks associated with those options. In doing so we have taken account of consultation responses from all stakeholders, the outputs of the switching working group, and analysis undertaken since the 2012 Consultation. For the reasons set out in this section we have decided to harmonise to a GPL system.
- 8.63 This process has taken longer than expected. As outlined above, an industry consensus as to the appropriate way forward has not emerged. We are, however, conscious of the need to act promptly in order to address harm and deliver benefits to consumers, and we attach significant weight to this consideration. In combination we judge that the lack of industry consensus and the extent of the harm currently being experienced by consumers means Ofcom should not seek at this stage to impose a GPL solution based on a database. As set out in detail in Section 7 and Annex 8, following the 2012 Consultation, there are implementation issues with the database which mean we are unlikely to be able to put in place a solution based on these options for some time.
- 8.64 Taking into account the need to act to minimise the consumer harm arising from the problems set out in Sections 4, 5 and 6, we have therefore focussed on what we can achieve in the near term. In doing so we are also conscious that we should only intervene in existing arrangements to the extent necessary, suggesting an incremental approach may be preferable.

GPL and LPL – Key issues of consumer difficulty and risks to competition

- 8.65 As explained above, we have concluded that we should harmonise to a single switching process. We have therefore considered whether it would be appropriate to harmonise to a GPL or LPL system. We note our conclusions that the LPL systems and the LPL options considered create higher switching costs and difficulty for consumers. Harmonising to an LPL system would be likely to significantly worsen consumers' current experience of switching processes. Consumers' ability to put a switch into effect would be subject to a requirement for the consumer to go through a process with the LP, which the LP has little incentive to support. The evidence from consumers relating to the LPL MAC process shows that this leads to a less positive experience compared to the GPL NoT process.
- 8.66 We attach significant weight to our conclusion that switching costs and difficulty should be minimised for consumers, and therefore we consider that a GPL system should be preferred. We also attach significant weight to our concerns with regards to the impact on competition which harmonisation to an LPL system could have (while a GPL system would support competition). We therefore consider that it would be proportionate to adopt a GPL system. We also note that since the existing switching landscape overwhelmingly uses the GPL process, it is a smaller and less interventionist step to harmonise to a GPL switching process than to harmonise to an LPL switching process.

- 8.67 However, taking into account the assessments above, we do not consider that the GPL USN option should be considered further given the relative disadvantages it creates in relation to the consumer experience as well the absence of any significant cost advantage.

Consideration of GPL and LPL in relation to other problems

- 8.68 We have considered the impact that harmonisation to a GPL system would have with respect to the other problems identified in our consultation, and how the options identified would deal with these problems. In this respect, we note that the remaining issues considered were slamming, ETs, loss of service, awareness of switching implications and platform neutrality.³⁰⁶
- 8.69 We note that our estimate of the incidence of slamming is much lower than the estimate in the 2012 Consultation. In general, LPL systems provide better consumer protection against slamming than GPL systems. However, as the problem is not as prevalent as we initially thought, and we now understand that improvements to providers' records will help reduce this problem, we place less weight on the need for an intrusive intervention to address this issue.
- 8.70 We consider that the enhancements to the record of consent and cancel other/customer cancel set out in the GPL options of Enhanced GPL NoT and GPL TxC should reduce the problem to a material extent. We also consider that, with continued enforcement action by Ofcom, this is an issue which can be adequately addressed under Enhanced GPL NoT and GPL TxC. While the GPL TPV option would address this problem, we consider that given that we now attach less weight to the issue, in this respect the costs and difficulties associated with the GPL TPV mean that this level of intervention is not required given the number of slams which actually occur. We have therefore ruled out the GPL TPV option on this basis.
- 8.71 With respect to ETs, we consider that our updated analysis supports the view that all remaining GPL options have the potential to address the problem of WLT ETs more completely than LPL options. In relation to switching ETs we find that the remaining GPL options perform similarly (although not as well as the LPL options). We therefore consider that one of the remaining harmonised GPL options should be chosen such as Enhanced GPL NoT or GPL TxC.
- 8.72 With respect to loss of service, we consider that all options currently have the ability to deal with the problems associated with loss of service, and so this particular issue does not affect the choice of option.
- 8.73 Turning to lack of awareness of the implications of switching, we note our conclusion that the current LP letter issued under the existing GPL NoT process appears to be working relatively well in prompting consumers to check for any ETCs. We note that all LPL options would result in consumers being fully informed of the implications of switching, although this information may not be presented in a neutral way. The remaining GPL options would involve the LP sending an NoT letter/email providing specific information on switching implications, which would allow consumers to be informed. This would further enhance the existing GPL NoT approach. On this basis we do not consider the addressing of this, more limited, issue points to a need to prefer an LPL solution.

³⁰⁶ We note that the GPL TxC option has a variant involving a virtual database. It is also the case that SEE/TTG proposal is worthy of further consideration by industry.

- 8.74 We also do not consider that the problem of platform neutrality points to a need for an LPL solution. We note however that the ability for the Enhanced GPL NoT solution to address this problem in the longer term is less clear than if the GPL TxC option were taken forward.
- 8.75 In light of the above we consider that we should pursue harmonisation to a GPL process. If it were the case that a GPL solution was significantly more costly to implement than an LPL solution this would require a further balancing of the advantages gained from a GPL solution against the additional costs associated with it. However, our estimates indicate that the LPL solutions are not less costly than the remaining GPL options. We have therefore decided to harmonise to a GPL system. Harmonisation to a GPL system based on NoT means we will bring to an end the use of the existing LPL MAC process, and prevent the use of any LPL process in the future.

How to implement harmonisation to GPL

- 8.76 We have decided to harmonise to a GPL system, and specifically to either Enhanced GPL NoT, or GPL TxC. We therefore now consider implementation of these options. We take into account the advantage of delivering improvements to consumers quickly and the importance of providing certainty to industry. In relation to Enhanced GPL NoT, we can see in particular concerns around the implementation of improvements to CLI visibility and Openreach data, which will require detailed engagement by CPs with Openreach to progress, and attention to data protection concerns. In relation to GPL TxC we have noted above that there are implementation and cost issues with the database which mean we are unlikely to be able to put in place a solution based on these options for some time.
- 8.77 We consider the most appropriate way to progress is therefore to proceed with those elements of the Enhanced GPL NoT process which it is proportionate to proceed with in the short term. We will then progress to a further stage of work under which we will consider what additional elements of the Enhanced GPL NoT option it may be proportionate to mandate, or whether it would be proportionate to proceed to the GPL TxC solution.³⁰⁷ We consider there are significant advantages to this approach in that improvements for consumers can be achieved more quickly, the degree of intervention is minimised, and regulatory certainty is provided for industry.
- 8.78 We set out below the elements of Enhanced GPL NoT that we have decided it is appropriate to proceed with at this stage through amendments to the GCs, taking into account the potential for wasted costs in the event that, over the long term, we progressed to a GPL TxC solution. In the next section we then consult on the specifics of the proposals entailed by each element of Enhanced GPL NoT that we are taking forward in this initial phase, and the corresponding proposals for amendments to the GCs.

Impact assessment

- 8.79 The background to this review is set out in detail in Sections 2 and 3 of this document and the 2012 Consultation. We have proposed changes to the GCs to facilitate consumer switching. In carrying out this assessment we have consulted widely in order to understand the likely impact on all our stakeholders. We have taken into account the burden on CPs in implementing all the proposed changes. We have

³⁰⁷ We note that the GPL TxC option has a variant involving a virtual database. It is also the case that SEE/TalkTalk proposal is worthy of further consideration by industry.

weighed this against the benefits of our proposed changes. The analysis set out in Sections 3 to 9 and the Annexes of this document contains an impact assessment relating to our proposals.

- 8.80 In advance of the 2012 Consultation we carried out an Equality Impact Assessment in accordance with our duties under the Equality Act 2010 to determine whether our proposals have any particular impact in relation to the defined Equality Groups.³⁰⁸ We did not consider that any of these Equality Groups would be negatively impacted by our proposals as a result of being a member of that group. We have updated our assessment and remain of this view. Our objective is to make switching easier for all consumers. Our proposals would apply to all consumers of the relevant services equally. Process obstacles could potentially affect consumers with disabilities and older consumers and we consider that our proposal could benefit these groups.

Elements from the Enhanced GPL NoT option for implementation

- 8.81 In this Section we consider the different elements of the Enhanced GPL NoT process. In Section 7 (and Annex 7 and 8) we explained the development of the specification for Enhanced GPL NoT. We assess in the following paragraphs which of the elements of the Enhanced GPL NoT should be taken forward in the short term, taking into account the nature of the problem each element seeks to address and the potential for a wasted cost impact to industry should a database solution be adopted in a subsequent stage. The more detailed wasted cost analysis has been conducted by CSMG using its existing work on the costs associated with the Enhanced GPL NoT option (see Annex 10).³⁰⁹ In order to distinguish the conclusion of this assessment from Enhanced GPL NoT we refer to the short term enhancements as 'GPL NoT+'.
- 8.82 As explained above, harmonisation to a GPL system based on NoT also involves bringing to an end the use of the existing LPL MAC process, and preventing the use of any LPL process in the future. The result of this harmonisation is that broadband switches will become subject to the provisions of GC 24, which apply to the GPL NoT process. Some of the existing provisions of GC 24 will therefore be extended to cover broadband. This is explained further in Section 9 and Annex 11, where we consult on the drafting of the changes to the GCs required to achieve harmonisation. We note that there is a possibility of wasted costs arising in relation to the harmonisation to GPL through the dismantling of the LPL MAC process in the event that there is a subsequent move to a database solution. CSMG have estimated that this could involve up to 20% of the total costs associated with the dismantling of LPL MAC. We do not consider that this is a sufficiently material factor in our assessment given the benefits associated with moving to a harmonised GPL system.
- 8.83 The specification for Enhanced GPL NoT also includes addressing with Openreach issues relating to the quality of its database. We will continue to work with Openreach

³⁰⁸ The Equality Groups are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, religious belief/political opinion (Northern Ireland only) and Dependent (Northern Ireland only).

³⁰⁹ To inform our assessment of which elements should be included in NoT+ we commissioned CSMG to provide a detailed specification of the Enhanced GPL NoT process and a cost analysis for individual elements of the process. For each of the enhancements, CSMG provided an assessment of whether the costs involved in the setup and maintenance of the element would be reused in a subsequent transition from a harmonised GPL NoT model to a database model. Where costs were found to be wasted, CSMG provided an assessment of what costs might be incurred by CPs in the interim period, over two and three years. We believe this is the minimum time an interim solution would operate if industry were to subsequently implement a database solution.

and industry on this issue, but we do not propose to take any action on that issue, at this stage, by way of amendments to the GCs.

8.84 In summary our approach is as follows:

Table 8.2: Approach to enhancement of NoT elements

Element of Enhanced GPL NoT specification	Consult now on implementation	Address in next phase
Mandate use of the Cancel Other process	X	✓
Mandatory use of functionality to ensure seamless transfer of bundled services (Sim Provide)	✓	X
Provision of better information on the implications of switching	✓	X
Visibility of all Openreach CLIs	X	✓
Record of Consent to protect against slamming	✓	X
Mandating exact match for line identification in switches consistent with Best Practice guidelines	X	✓
Mandating exact match for line identification in WLT process consistent with Best Practice	✓	X
Mandating WLT Best Practice on notification letters by Incumbent CP	✓	X

Mandate use of the Cancel Other process

8.85 This element of the specification involves mandating use of the Cancel Other process by all CPs offering fixed voice services. Mandating the use of Cancel Other will allow all CPs to stop the order going ahead in the event that a consumer informs them of slamming.

8.86 Cancel Other is a consumer protection mechanism that ensures that CPs are able to cancel orders where their customer has been slammed. However, as shown in Section 5, new evidence suggests that slamming is not as extensive a problem as we thought at the time of the 2012 Consultation. Furthermore, we consider strengthened provisions on record of consent (none of these costs would be wasted with a subsequent move to a database solution) would deter slamming against both voice and broadband services and help us to enforce more effectively.

8.87 The Cancel Other process for voice is currently not mandated but our understanding is that most large CPs already have the functionality for voice. A significant proportion of consumers are therefore already protected against slams on voice only services and bundles of voice and broadband.

- 8.88 In relation to broadband services, we note that by harmonising to GPL NoT the existing cancel other provisions for voice can be mirrored in relation to broadband. Therefore, in a similar fashion to voice, CPs will be able to protect their customers against broadband slamming through the use of the Cancel Other functionality. The costs for Openreach to develop Cancel Other for broadband are included in the costs for harmonising to GPL NoT+ and will be incurred by Openreach if CPs choose to adopt Cancel Other. Similar to Cancel Other for voice, we believe it is likely that larger CPs will voluntarily adopt Cancel Other for broadband. We will keep that position under review.
- 8.89 CSMG estimates the costs of mandating Cancel Other for voice is £0.5m and £4.8m for broadband over a ten year period.³¹⁰ In the event of a transition from a harmonised GPL NoT model to a database model, the Cancel Other process would be replaced by the Customer Cancel Other functionality. The cost analysis shows that if these enhancements are adopted and then replaced by the new process 100% of the Cancel Other costs would be wasted over a 2-3 year period. This represents between £2.5m and £2.8m in cost for broadband and a further £0.3m for voice.³¹¹
- 8.90 We do not believe that it is appropriate to consider mandating Cancel Other for voice and broadband services at this stage in the light of the following:
- the 100% potentially wasted costs were there to be a subsequent move to a database solution,
 - the fact that CPs have the capability and incentive to protect their consumers from slams and the vast majority of voice consumers are already protected against slams in voice services and will have similar capability for broadband services,
 - the evidence that slamming is less of a problem than previously thought and that we are considering measures outlined below (via strengthening record of consent) to enable us to reduce that still further by improving our ability to enforce more effectively.
- 8.91 However, we will continue to monitor the level of slamming and will consider additional protections, including mandating Cancel Other, in the future if we believe that further protections may be required.

Mandatory use of functionality to ensure seamless transfer of bundled services

- 8.92 This enhancement involves mandating the use of the SIM Provide process to help address some of the problems around loss of service when switching bundles of fixed voice and broadband services.
- 8.93 It has been estimated by CSMG that around 20% of the costs of mandating the use of SIM Provide might be wasted in the event of a move to a GPL TxC solution. This equates to a Net Present Cost ('NPC') over 3 years of £0.4m.³¹² We consider, taking into account the benefits associated with this improvement, that this is nevertheless an enhancement which should be taken forward for implementation in order to address the consumer harm currently being experienced in relation to loss of service.

³¹⁰ CSMG report, Annex 10 Figure 24.

³¹¹ CSMG report, Annex 10 Figure 25.

³¹² CSMG report, Annex 10 Figure 25.

Provision of better information on the implications of switching

- 8.94 This enhancement is principally concerned with ensuring that communications from LPs set out more specific information on the impact of terminating a service, including on ETCs. We do not consider that implementation of this improvement is likely to lead to any wasted costs.³¹³ This is therefore an enhancement which should be taken forward for implementation in order to address the current deficiencies identified and discussed above in relation to the implications of switching.

Visibility of all Openreach CLIs

- 8.95 This enhancement would ensure universal visibility of all Openreach CLIs (including MPF CLIs), either through enhancements to the Openreach database/DS or by requiring MPF CPs to establish their own DS.
- 8.96 As noted in Section 5, many switching ETs result from MPF lines not being visible in the Openreach database. Industry introduced an MPF helpline in November 2012 to improve access to identifying information about MPF lines. It is currently too early to assess the impact of this functionality on the number of ETs but if it works effectively then this would affect the extent to which intervention is required to ensure MPF CLI visibility. Furthermore, we noted in Annex 8, that there are some potential data protection concerns to address in mandating the visibility of MPF CLIs. Given these uncertainties, combined with the fact that 100% of these costs (or £2.4m as a three year NPC) may be wasted were there to be a subsequent change to a database solution,³¹⁴ we do not consider that it is appropriate to take forward this enhancement at this stage.

Record of Consent to protect against slamming

- 8.97 Under this enhancement a record of consent would be kept for all sales, records would be stored for 12 months and be retrievable on an individual basis. We do not consider that implementation of this improvement is likely to lead to any material wasted costs.³¹⁵ This is therefore an enhancement which should be taken forward for implementation in order to promptly address the consumer harm identified in relation to slamming.

Mandating Exact Match for line identification in switches

- 8.98 Under this enhancement CPs would be required to follow the industry best practice process and only place a NoT order where they have an exact match for the line being identified. CPs would also be encouraged to use all available tools to identify the correct line, having regard to industry Best Practice Guidelines.
- 8.99 We noted in Section 5, that some ETs result from providers not following the best practice guidelines. In essence, this best practice is aimed at ensuring that the GP is able to identify the CLI (or telephone number) of the line to be switched and accurately associate that with an access line that Openreach systems can recognise. In the vast majority of switching scenarios we would expect consumers already know the CLI (or telephone number) of the line they wished to be switched. However, with MPF lines, it can be difficult for the GP to associate that with the correct access line

³¹³ CSMG report, Annex 10 Figure 24.

³¹⁴ CSMG report, Annex 10 Figure 25.

³¹⁵ CSMG report, Annex 10 Figure 25.

on Openreach systems. As noted above, the MPF helpline introduced in November 2012 will, if effective, further help with this source of ETs.

- 8.100 We also take into account that the risk of significant ETs arising from rollout of FTTP technology is low over this initial period given the revised FTTP rollout estimates. The cost wastage analysis of only placing a NoT order where there is an exact match (and having regard to industry best practice guidelines to identify the correct line) were assessed to be 100% by CSMG, resulting in £1.9m in estimated wasted costs if a database were subsequently introduced within 3 years.³¹⁶ In the light of these developments, and given the potential for 100% wasted costs were there to be a subsequent move to a database solution, we do not consider that it is appropriate to include this element within GPL NoT+ at this stage.

Mandating WLT Best Practices on exact match and notifications

- 8.101 These enhancements relate to (a) mandating CPs to only placing a WLT order where there is an exact match (including having regard to industry best practice guidelines to identify the correct line); and (b) mandating WLT Best Practice for Incumbent CPs to notify their end user through a letter or email about a request to takeover their existing line.
- 8.102 As discussed in Section 5, a significant majority of ETs occur as part of the WLT process (used in the homemove process) rather than the GPL NoT switching process. In a homemove process, the consumer may not know the CLI (or telephone number) of the property they are moving to and therefore the GP is reliant on using address data to identify the correct line to be taken over. This sometimes leads to GPs using the WLT process without being certain of having an exact address match. It is a problem which creates significant consumer harm given the number of ETs it is estimated to generate. We expect this problem to improve as the quality of the Openreach database improves, but we expect consumers are likely to continue to suffer harm from ETs resulting from the WLT process until significant progress is made on that issue.
- 8.103 We note that CSMG has estimated mandating these two elements of best practice could lead to wasted costs of around £1.9m (on a 3 year NPC basis) in the event that a decision is subsequently taken to move to a GPL database solution.³¹⁷ However, we believe it is necessary to take action at this stage to address the significant number of ETs associated with the homemove process. Whilst the use of best practice will admittedly not remove the root cause of this type of ET, it can mitigate the consumer harm from potential ETs and is therefore a proportionate step to take in concert with the other elements discussed as part of Ofcom's approach. We therefore include consideration of this element within our detailed analysis of GPL NoT+ elements considered in Section 9 below.

³¹⁶ CSMG report, Annex 10 Figure 25.

³¹⁷ CSMG report, Annex 10 Figure 24.

Section 9

Consultation on GPL NoT+ elements

Introduction

- 9.1 In Section 8 we set out our policy decision that we would, in the short term, address consumer harm in relation to the current processes for switching fixed voice and broadband services on the Openreach copper network by harmonising to the GPL NoT transfer process³¹⁸, and that we would seek to enhance that process with five specific improvements. The five elements are a sub-set of those included for the Enhanced GPL NoT specification, and for ease of reference we refer to them in this section as GPL NoT+.
- 9.2 In this section we therefore detail and assess the proposed enhancements which are part of our decision to progress with GPL NoT+. We consider the effectiveness of each enhancement in addressing the problems outlined in Sections 4, 5 and 6. We also consider the costs of each proposed enhancement and the proportionality of each enhancement. We outline the expected timescales for implementing GPL NoT+ and set out an explanation of how the proposed changes translate into modifications of the GCs.
- 9.3 We are consulting on changes to the GCs to require:
- that a record of customer consent to switch a fixed voice or broadband service be obtained and stored;
 - the provision of better information on the implications of switching;
 - that GPs order the simultaneous transfer with minimal loss of service, of bundled voice and broadband services;
 - that no WLT order shall be placed unless an exact address match has been identified; and
 - that a notification shall be sent by Incumbent CPs to incumbent end users under the WLT process - via post or use of e-mail with consumer consent.
- 9.4 These last two improvements (exact match requirement and Incumbent CP notification) are assessed together as they aim to address the same problem.
- 9.5 The impact assessment for the proposals contained in this section consists of:
- the evaluations made in the previous sections of this document; and
 - in relation to each specific proposal, the additional detailed assessments presented within this section.
- 9.6 Our detailed assessment of each improvement includes the following:

³¹⁸ We use the term GPL NoT to refer to the switching process used for migrations between CPs that are currently covered under the existing GC 24. We note that GC 24 also covers situations when the consumer is moving home and switching CP at the same time.

- description of existing relevant requirements;
- the nature and scale of the problem as outlined in Sections 4, 5 and 6 that the improvement will address;
- details of the new proposed requirement, taking into account consultation responses;
- the costs of this improvement over a ten year period should industry retain this solution, and the wasted costs should a database solution be subsequently implemented; and
- whether the improvement is proportionate.

9.7 To inform our assessment of these elements we commissioned CSMG to further its work on the Enhanced GPL NoT process and provide a cost analysis for individual elements of the process (building on the existing work on costs). For each of the improvements, CSMG provided an assessment of whether the costs involved in the setup and maintenance of the element would be reused in a subsequent transition from a harmonised GPL NoT model to a database model.³¹⁹

9.8 In order to allow comparison of the estimated costs of the GPL NoT+ option to those of the other options presented in Section 8, Table 9.1 below provides a summary of the costs of the GPL NoT+ improvements we are consulting on. Full details of the CSMG cost analysis of each component can be found in Annex 10.³²⁰

Table 9.1: Summary of costs of GPL NoT+ elements

	10 Year NPC
Harmonisation of GPL by removing the LPL MAC switching process	£3.7m
Record of Consent to protect against slamming	£9.2m
Provision of better information on the implications of switching	£1.8m
Mandatory use of functionality to ensure seamless transfer of bundled services	£3.7m
Mandate CPs only place a WLT order where there is an exact match	£3.2m
Notification of end users under WLT process - via post or e-mail with consumer consent	£3.5m
Total GPL NoT+ Enhancements	£25.1m

Source: CSMG Updated Costs Assessment of Options, Figure 29.

³¹⁹ As noted above, CSMG provided an assessment of what costs might be wasted if a database solution were to be implemented in future. It also calculated the costs of the enhancements over an interim period of two and three years. We believe this is the minimum time an interim solution would operate if a database solution were subsequently implemented, see Annex 10.

³²⁰ Note that as explained in Annex 6, the NPCs of the elements of the NoT+ option calculated by CSMG show some differences to those used in Annex 6. This is due to slight differences in the assumed timing of cashflows.

- 9.9 We explain at paragraphs 9.129 - 9.135 below the proposed changes which flow from the specific GPL NoT+ enhancements discussed in this section and from the decision taken in Section 8 to harmonise to the GPL NoT process. As explained in Section 8, the decision to harmonise to GPL NoT means that all broadband switches will become subject to the provisions of GC 24. Pursuant to that decision, we are consulting on the drafting of the changes to the GCs which extend all the requirements set out in GC 24 to transfers of broadband services. This refers in particular to the following provisions:
- prohibition of mis-selling (in current GC 24.3);
 - provision of information at point of sale (in current GC 24.6);
 - provision of post-sales information (in current GC 24.7);
 - customer's termination rights (GC 24.9 – 24.10);
 - general requirement of records retention (GC 24.11);
 - requirements regarding the use of Cancel Other (in current GC 24.14 – 24.17); and
 - prohibition of reactive save (in current GC 24.18).
- 9.10 At Annex 11 we set out a notification of our proposed changes to the GCs under Section 48A of the Act.
- 9.11 For each proposal in this section we take into account our duties as described in Sections 2 and 8. Section 47(2) of the Act sets out a test requiring Ofcom to be satisfied that any proposed modifications to the GCs are:
- (a) objectively justifiable;
 - (b) not unduly discriminatory;
 - (c) proportionate to what they are intended to achieve; and
 - (d) transparent in relation to what they are intended to achieve.
- 9.12 We consider that the detailed analysis in Sections 4 to 8 demonstrates how these obligations have been met, and how the proposals satisfy these tests.

Require that a record of customer consent to switch a fixed voice and/or broadband service is obtained and stored

Current requirement

- 9.13 GC 24 sets out the obligation on CPs to 'use reasonable endeavours to create and keep all records regarding the sale of its Fixed-Line Telecommunications Service, for a period of not less than six months' (GC 24.11).
- 9.14 Under this obligation CPs are only required to use reasonable endeavours to create and keep these records and are not specifically required to maintain a direct record of the consumer's consent to switch. The GC specifies that such records must include the date and approximate time of the contact, the means through which the

contract was entered into, the place where the contract was entered into where relevant, and to be such as to identify the sales person(s) involved and to assist in dealing with any complaint or query.

9.15 Ofcom's Guidelines in respect of GC 24³²¹ set out the following:

'Ofcom considers examples of records in this respect to include (but not be limited to) signed copies of contracts, either in electronic or paper form, check lists intended to confirm that the consumer agrees, and understands, what they are signing up to, copies of emails and correspondence, notes of a conversation with the Customer or the Customer's internet confirmation to buy a certain service and, where telesales are used, voice recordings.

By 'the means through which the contract was entered into', we mean retail outlets, telesales or websales. In the event a Contract was entered into at a retail outlet, the records should contain sufficient information to be able to identify the outlet, for instance by providing the address of the outlet.

Ofcom considers that records should be such as to provide sufficient information to validate that the Customer provided positive consent for the purpose of the transaction and all its terms, as well as information about the type of Contract, the date the Contract was entered into or amended and the sales representative involved in case the Customer questions having entered into a Contract, or has complaints or queries regarding their Contract.'

Extent of the problem being addressed

- 9.16 In Section 5 we explained how new evidence suggested that the level of slamming is lower than we thought at the time of the 2012 Consultation. We also explained that the proportion of incidents where a consumer claims to have been switched without consent and which are likely to be caused by ETs and factors other than deliberate slams is higher than what we estimated in the 2012 Consultation.
- 9.17 Based on this new figure on the level of slamming we estimate the existing costs of slamming to be between £2.1m to £2.6m per year (£0.3 - £0.8m per year for consumers and £1.8m per year for CPs, which may ultimately be borne by consumers).
- 9.18 Despite the lower estimated level of incidence and costs, however, we recognise slamming still creates significant harm for those affected and imposes significant costs on both consumers and the industry. We also take into account that much of the harm associated with slamming may not be capable of quantification.
- 9.19 We noted in Section 5 that the biggest decline in slamming complaints to the CCT is in complaints against larger providers. We explained that we thought our active engagement with these CPs to ensure compliance has been consistent with this downward trend. While we have engaged with other CPs and this engagement has had some success, we detailed how the majority of slamming complaints are now

³²¹ GC 24, paragraphs A6.29 to A6.31. Available at: <http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/narrowband/statement.pdf>

against smaller CPs, or against a long tail of CPs who each generate only a few slamming complaints a month.

- 9.20 We detailed evidence from the MM study which showed that there was significant variation in the quality of record keeping by CPs, ranging from sufficient information provided in over 80% of cases from one CP to sufficient information provided in only 30% of cases from another CP, with other CPs in between these two extremes. In Section 5 we also showed that there was wide variation in the quality of data provided by CPs across different categories of complaints; while adequate information was provided by CPs in a large proportion of complaints categorised as ETs, sufficient information was received in only one in every five 'No contact' complaints.
- 9.21 As we explained in Section 5, different standards of record keeping can impact our ability to enforce against slamming. We explained that these findings combined with the MM analysis had caused us to re-assess the impact of CPs' record keeping on our ability to quickly and effectively enforce against slamming. We now consider that better record keeping obligations would enhance our enforcement activities and that a requirement may act as an incentive, particularly in the long tail, to comply with the rules on slamming.

Proposed new requirement

- 9.22 In the 2012 Consultation we consulted on the need for additional action on record keeping in the context of the Enhanced GPL NoT option. We have taken into account consultation responses on this issue (see Annex 7 on Option development). Our proposed enhancement places a new requirement on CPs to obtain and store a clear 'record of consent' to switch from a consumer (see Annex 11 for proposed amendment to GC).
- 9.23 To ensure this obligation is met, CPs will have to amend their processes to ensure a direct record of the consumer's consent, as given by the consumer, is kept for each of their sales channels. Each of the following could constitute a record of consent:
- call recordings for all successful telesales of the customers' consent to the transfer. This consent could either be recorded as an individual element of the telesales process i.e. a verification stage, or the consumer could be put through to a separate person (e.g. internal verifier) who records the record of consent;
 - a written record of consent signed by the customer to transfer for all successful retail/shop and doorstep sales; or
 - for online sales, screen shots of order systems or account interactions relating to the sale in question. For example, by clicking the 'Agree' button at the bottom of a Record of Consent page, the consumer would be giving their consent to switch.
- 9.24 Specifically the record would contain the following information to ensure a clear record of consent is recorded:
- a direct record of consent, as provided by the customer;
 - an explanation from the CP that they are required to create a record of the customer's consent;
 - the name and address of the customer;

- the time, date and means by which the consent was given;
- where appropriate, the place where consent was given and the salesperson(s) involved;
- the address where the target line is situated; and
- where appropriate, the CLI of the target line.

- 9.25 A record of consent would be required for each contract entered into by a GP with an end user for the provision of broadband and/or voice services. Each record would be retrievable on an individual basis.
- 9.26 The record of consent would be required to be retained for a 12 month period even when the transfer is subsequently cancelled or terminated by the customer.
- 9.27 The recording of consent from a consumer to switch their services is intended to deter, and enhance our ability to investigate, slamming. There is also the potential for consumers to be misled during the initial sales calls. In order to continue to enforce against mis-selling more generally, we will retain the requirement (currently in GC 24.11) to use reasonable endeavours to create and keep all records regarding the sale of its communications services.

Cost of the new requirement

- 9.28 As shown in Table 9.1 above, CSMG estimates the costs of our proposed record of consent mechanism at £9.2m over a ten year period based on 12 months storage. See Annex 10 for CSMG's cost analysis of the record of consent requirement.
- 9.29 The requirement to obtain and retain a record of consent is a feature that is common to the Enhanced GPL NoT and GPL (TxC) options we have considered. There would therefore be no wasted costs incurred by industry in the event of a transition from a harmonised GPL NoT model to a database model such as GPL TxC.

Impact of the new requirement

- 9.30 It is likely that this new obligation will impact a range of different sized providers. The MM analysis showed that a range of different sized providers were unable to provide adequate records where required.
- 9.31 CSMG believes additional costs will be incurred by CPs even where CPs already have existing call recordings systems in place. This is because of the need to configure systems to log and organise call recordings so that they are easily retrievable. In addition, costs will be incurred from the hardware required to store these recordings for the required time period.
- 9.32 The greatest impact is likely to be felt by smaller providers who do not tend to already have call recordings in place and who will be required to adopt the functionality to record, retain and retrieve the records.
- 9.33 As highlighted by CSMG, all CPs will incur additional costs for storing a written record of consent for face to face sales and recording and storing consent when sales are through web ordering systems.

Whether this improvement is proportionate

9.34 We believe a specific requirement to record a consumer's consent to switch is needed which is separate and distinct from the current GC 24.11 (that covers records regarding the sale of fixed-line telecommunications). We understand that many CPs already have processes in place to confirm consent, either in the form of call recordings or written notes, and this requirement will build on these systems to ensure that the quality of records retained is consistent across CPs.

9.35 We believe a record of consent will deliver the following benefits:

- The requirement will act as a deterrent against slamming because if sales agents are aware that e.g. all sales calls are recorded, and that a record of consent is required for each sale, then this by itself may make them less likely to slam a customer.
- It should benefit consumers directly in dealing with their provider as it will enable a CP to assist a consumer when they have a problem with their switch by checking whether consent was given for any particular sale. It will also help in any investigations as part of a dispute resolution because the Alternative Dispute Resolution ('ADR') service can request this information from a CP when adjudicating cases where slamming has allegedly taken place.
- The record of consent requirement would enhance our enforcement capabilities by improving the ease with which we can identify cases which may be the result of slams or other causes. For example where records are provided this may allow us to focus our investigation on whether the complaints are largely driven by other forms of mis-selling or even buyer's remorse. This will ensure that our resources are more targeted at incidences of non-compliance and enable prompt enforcement against CPs.
- Where a CP states they are unable to provide any records such as call recordings we have to identify other forms of evidence to determine whether there is non-compliance. These forms of evidence, while useful, either require significant resources to collect or are not sufficient on their own to prove that non-compliance has occurred. For example:
 - Witness statements - these rely on a consumer's memory of what happened in the past and require significant resources to collect. We require a substantial number of complaints to Ofcom in order to be able to collect a robust enough sample that is sufficient to take enforcement action.
 - Questionnaires – these are similar to witness statements but do not constitute in themselves robust enough evidence of contravention. Before taking any enforcement action, we would require additional evidence such as specific transfer information obtained from Openreach.
 - Call scripts and call notes - these in themselves are not direct proof of whether a consumer has consented to switch. They only include details of the package the consumer has purportedly agreed to rather than proof of the consumer's consent.
 - BT Openreach data – provides details about the transfer that has occurred on a specific CLI. It also provides high level information about the volume of transfer orders being placed by a CP and the portion of these orders that are

being cancelled by a losing CP using a slamming Cancel Other reason code. Where we have received a complaint from a consumer and the Openreach information appears to corroborate this complaint, we still require further evidence in the form of a witness statement, or a questionnaire, before taking enforcement action.

- Reducing our reliance on evidence that requires significant resources to collect would free up resources to focus on other providers that generate slamming complaints.
- We believe that the requirement will aid in our investigations of complaints which are alleged to be 'No contact', 'Contact, no contract' or misrepresentation slams as these type of slams involve a lack of consent from the consumer to switch. As shown in Section 5 these slamming categories account for the vast majority of slamming complaints (84%) made to the CCT in the 12 months to end of March 2013.
- We recognise that this measure does not strengthen our ability to act against 'Change of mind not actioned' slams, where consent is initially given by the consumer and then withdrawn. In such cases we will continue to rely on other forms of evidence to investigate whether there has been non-compliance.
- Where we believe there are reasonable grounds to investigate a CP for contravening GC 24 we will be able to compare transfer requests from Openreach with CPs records of consent. This will enable us to more effectively establish the full extent of non-compliance under GC 24.3(d) and/or the new record of consent requirement, rather than basing it only on complaints received by the CCT.

9.36 We believe a retention period of at least 12 months is necessary because:

- There is likely to be a time delay between the date of the alleged slam and the date the consumer reports the incident to us. This may be relatively short if the consumer that has been slammed reports the incident to us relatively quickly after the initial transfer has taken place. However, the consumer may attempt to rectify the apparent slam with the corresponding CP first. This may add several weeks or even months between when the first slam occurred and when the consumer eventually reports the incident to us. This may especially be the case where a consumer is subject to repeated transfer requests without consent which are successfully cancelled over a period of several months.
- Where analysis of our complaints data alerts us to an increase in complaints about a specific CP we monitor the complaints data to establish whether there is sufficient evidence to justify opening an investigation. This monitoring period will vary according to the level of complaints and these may last several months if there are relatively few complaints each month, but amount to a significant number over an extended period.
- During our investigation, evidence may come to light which suggests non-compliance over a longer period than our initial complaints data indicates.

9.37 The record of consent would be required to be retained for the 12 month period even when the transfer is subsequently cancelled or terminated by the customer. This would ensure that we are able to investigate alleged slamming cases where the

consumer has transferred back to their original CP or where there is a complaint regarding an attempted slam.

- 9.38 Where a CP is unable to provide a record of consent we will act against 'failure to keep a record of consent' under the new requirement. Where multiple attempts have been made to switch a service on a single line, a clear record of consent for each request to switch made by a CP will be required. This obligation can be enforced irrespective of whether we are able to collect other evidence that the CP has also breached the mis-selling prohibitions.
- 9.39 We consider that the requirement of a record of consent is likely to result in a material decrease in the extent of slamming, and that the qualitative benefits explained above, in combination with the estimated quantitative benefits explained in Annex 6, mean that it would do so in a proportionate manner when weighed against its costs.
- 9.40 We consider that the changes proposed to the GCs meet the test at Section 47(2) of the Act, taking into account in particular the estimated costs of implementation and the fact that this measure is part of a wider solution to the problems associated with switching processes.

Q1: Do you agree with our assessment of the Record of Consent Requirement?

Require provision of better information on the implications of switching

Current requirement

- 9.41 Under the current GPL system consumers receive a letter from the LP and GP. This letter is a formal requirement under GC 24.7 and is limited to narrowband call and/or line rental customers only. The letter must be sent to the consumer after their order has been placed but before switchover takes place.
- 9.42 Pursuant to GCs 24.9 and 24.19(m), consumers have a ten day transfer period from the point at which they placed their order. In this period they may contact their GP and cancel their order without incurring any cancellation charges.
- 9.43 Under GC 24.7, the letters must specify that the customer is transferring their 'Fixed-line Telecommunications Service' and set out, as appropriate:
- the date of the letter;
 - the CLI of all Electronic Communications Services which are affected;
 - the list of services affected/unaffected;
 - the proposed switchover date;
 - relevant contact details; and
 - the right to terminate the contract, the means by which the right to terminate from the point of sale to the completion of the Transfer Period can be exercised and the date by which the right to terminate must be exercised.

- 9.44 The letter must be sent by normal post, unless the customer has explicitly agreed to receive correspondence electronically, such as through verbal consent in a call or through electronic confirmation when ordering online.
- 9.45 In Ofcom's Guidance on Unfair Terms in Contracts for Communications Services we set out our view that as a matter of Best Practice providers should:
- make it very clear to consumers the level of the ETC at the point at which the consumer is considering terminating their contract;
 - make it very clear to consumers what the minimum notice period is not only at the point of sale but also at the point at which the consumer is considering terminating the contract; and
 - make very clear to consumers the level of any cease charge not only at the point of sale but also at the point at which the consumer is considering terminating their contract.³²²
- 9.46 The standard industry template letter of the 'Losing Notification letter'³²³ developed by the OTA is part of the Best Practice Guide on Migrations and Home Moves for Fixed Line and Broadband Services. GC 24.18 also states that:

'Where the Losing [CP] communicates with the Customer in order to comply with this General Condition, it must not make any marketing statements or representations in the communication which may induce the Customer to terminate their contract with the Gaining [CP] and/or remain in a contract with the Losing [CP]'.

Extent of the problem being addressed

- 9.47 In Section 4 we noted that under a GPL process whereas the GP may inform consumers of the benefits of switching, the GP may not be in a position to inform the consumer of all the implications of switching, particularly whether the consumer is liable for an ETC. We explained that in order to address the risk that the consumer switches without knowing that they are liable for an ETC, consumers should be informed about some of the implications of switching through the NoT letter.
- 9.48 We highlighted evidence that suggests that the GPL NoT system is relatively effective in ensuring consumers are prompted to find out about ETCs before they commit to switch.³²⁴ We recognised however, that there are some weaknesses and limitations with the current NoT letter but that a number of these could be overcome, or at the very least mitigated. As in the 2012 Consultation we estimate that ETCs of £0.4m annum are unwillingly paid each year by consumers.
- 9.49 We explained that under the current GPL NoT process LPs tend to use the NoT letter as a general prompt about the possibility that the consumer may be liable for an ETC as opposed to providing specific information about the level of the charge; we pointed

³²² Guidance on Unfair Terms in Contracts for Communications Services. Available at:

<http://stakeholders.ofcom.org.uk/binaries/consultations/addcharges/statement/Guidance.pdf>

³²³ Industry Best Practice Guide: Migrations & Home Moves, for Fixed Line Voice & Broadband Services, Appendix D. Available at:

<http://www.offta.org.uk/IndustryBPGAppendixDStandardTemplateLosing.pdf>

³²⁴ We noted that 3% of all fixed broadband switchers paid an ETC of which they were unaware before they were able to cancel, and that just 0.14% of switchers paid an ETC which they were made aware of after committing to switch and were not happy with their decision to switch.

out that this did not comply with the Best Practice Guide and could create confusion of consumers that are no longer in a MCP and are therefore not liable for any ETC.

- 9.50 Furthermore the LPs could use the letter to provide vague and confusing information. For example, instead of providing the consumer with specific information on the implications of their switch, the letter may prompt the consumer to contact the LP to find this out. This is likely to result in some consumers not being fully informed or having to go through the additional hassle of contacting the LP.
- 9.51 Our research found that despite it not being a requirement of the GPL NoT process 77% of all fixed broadband switchers using this process had spoken to their previous provider at some point before or after their decision to switch, and the main reason (stated by 65% of fixed broadband customers) for contact was also to cancel their service.³²⁵ This evidence suggests that many consumers are not made aware during the process that they do not need to contact their LP to cancel their services, but instead make contact with their existing provider when it is not required.

Proposed new requirement

- 9.52 Taking into account consultation responses on this aspect of the Enhanced GPL NoT option, we propose requiring the LP to provide better information in the NoT letter (or electronically, if agreed to by the consumer) on the implications of switching (see Annex 11 for the proposed amendment to the GC).
- 9.53 We propose enhancing the NoT letter (or e-mail) sent by the LP so that it must contain the following information:
- precise information on any applicable ETCs, including the means by which the ETC must be paid. The ETC should be based on the expected switchover date;
 - information about the impact of the transfer on the prices of all continuing services;
 - it should be made clear that the consumer is not required to contact the LP to cancel the contract for the fixed voice and/or fixed broadband service being switched but that this will happen automatically when the transfer is completed and a final bill will be sent accordingly; and
- 9.54 The letter should set out the relevant information in clear, intelligible and neutral terms. Consumers must be given the option of receiving the information in a durable format (to the exclusion of SMS).
- 9.55 This information would be set out in addition to the information currently required under GC 24.7, notably, the proposed switchover date, a list of all communications services that will be transferred, all communications services that will be directly or indirectly affected by the transfer and all communications services that the CP reasonably expects to remain unaffected by the transfer.
- 9.56 It is important that consumers are provided with clear and precise information on the services that will be impacted by the switch away from their current provider and therefore the notification needs to clearly identify the direct and indirect impacts of the switching decision. This refers in particular to the following:

³²⁵ Broadband consumer research 2011, Slide 14.

- Direct impacts - information must be provided on which services are to be switched (i.e. broadband and/or fixed line), when disconnection will occur (date and time of day) and any applicable ETCs. Information on ETCs must be specific and calculated on the basis on the planned transfer date to ensure that consumers have full visibility of the financial implications of their decision. The use of estimates or ranges would not be appropriate as they may overstate the true level of costs that a consumer would be liable for, thereby discouraging them from switching.
- Indirect impacts - these will refer to ancillary services which are tied to the service that is being transferred. We recognise that it may not be possible for LPs to provide consumers with information on all the applicable indirect effects as they may not have sufficient information. We therefore believe that this part of the notification should be limited to services and products that the LP could be reasonably aware of. At a minimum, consumers should be advised as to the impact on related services as a result of the service termination; this may include changes to the price of related products if the consumer breaks up a bundle of services or loss of services such as pay TV, e-mail accounts, household alarms and medical alert systems. The information provided should clearly identify individual products and services that may be affected.

Cost of the new requirement

- 9.57 As shown in Table 9.1 above, CSMG estimates the costs of the provision of specific information on the service implications of switching, including ETCs, within the NoT letter to be £1.8m over a ten year period. See Annex 10 for CSMG's cost analysis of this requirement.
- 9.58 Since this improvement is common across the GPL options there would be no wasted costs to industry should there be a subsequent transition to Enhanced GPL NoT or GPL (TxC).

Impact of the new requirement

- 9.59 The provision of specific information on service implications is, as explained above, an enhancement to the existing LP letter as required under GC 24.7. All CPs will therefore need to update their systems and processes to implement this requirement.

Whether this improvement is proportionate

- 9.60 We believe that the requirement to provide better information on the implications of switching within the LP letter will be beneficial to consumers.
- 9.61 The provision of precise information on any applicable charges incurred (ETCs) and other information on implications at the point of switching will ensure that the consumer is better informed before making the decision to commit to switch.
- 9.62 As raised by various stakeholders, the switching decision can be quite difficult for consumers as there are now a wide range of factors that they may wish to consider – price discounts, associated services (e.g. e-mail accounts, alarms), non-financial benefits (e.g. free minutes, WIFI access) and so on.
- 9.63 Our 2012 CRI research identified a number of issues that affect a consumer's decision to switch and that the LP would be aware of as being affected by the

transfer. These could therefore be covered in the NoT letter from the LP. These include:

- Changing e-mail address – a main or major issue for 42% of dual play considerers and 6% of dual play switchers;
- Losing bundle discounts – identified as a main or major issue by 33% of dual play considerers and 6% of dual play switchers;
- Other devices not working with new services – 22% of dual play considerers and 5% of dual play switchers identified this as a major issue;³²⁶ and
- Loss of data/access services – 14% of dual play considerers said this was a major issue and 7% of dual play switchers identified this as a main or major issue.

- 9.64 At the same time, providers are increasingly offering products as bundles rather than individual services, further increasing the number of variables for consumers to be aware of. As highlighted in Section 3, bundles are a growing feature of the market.
- 9.65 We believe that given the number of factors that consumers take into consideration in their decision to switch it is reasonable to require LPs to inform the consumer of the services that the LP would reasonably expect to be directly and/or indirectly affected by the switching.
- 9.66 Clear and precise information on the services that will be impacted will also prevent the letter being used as a general prompt about the possibility of liabilities or loss of services. With regard to ETCs this general prompt can create confusion for those consumers outside their MCP and result in an unnecessary call to their LP. It will reduce the consumer cost of finding out the full implications as the information is sent at the time of switching and the consumer will not need to spend time contacting their LP to clarify the implications or search for and review their terms and conditions to identify the implications of switching.
- 9.67 We acknowledge that in some cases consumers may be able to adequately understand the direct and indirect implications of switching without needing it in a written format. This may be the case where the service is a single standalone service with no additional features or special discounts. However, faced with such prevalent and increasing complexity in the market we believe that it is essential that consumers are provided with better information on the implications of switching in a durable format. For the reasons set out in Annex 7, we also consider that provision of this information by means of an SMS would not be appropriate for all types of consumers.
- 9.68 For the majority of consumers, being in possession of a written record of the direct and indirect impacts will make it easier to comprehend and understand the trade-offs, and they will therefore be more capable of reaching an informed and reasoned decision. Alternatively, for consumers that are able to understand the switching implications via a telephone call, the written notification would serve to confirm their understanding.
- 9.69 A written record of the LP's statement on the implications of switching will also mitigate against any improper or unclear advice a consumer may have been provided. A written notification, setting out the key implications of switching, provides

³²⁶ No considerers or switchers cited this as the main issue.

a definitive audit trail, as well as greater clarity for all interested parties (the consumer, provider and Ofcom) on the issues that have been identified to consumers and the way in which that communication is phrased. We therefore believe that mandating improvements to the NoT letter, as outlined above, would ensure a more robust and enforceable process for the benefit of all stakeholders.

- 9.70 We believe informing the consumer that the contract for the service being transferred will be cancelled automatically will also ensure that consumers do not contact their LP unnecessarily.
- 9.71 We consider that the requirement for better information on the implications of switching is likely to result in a material decrease in unwillingly paid ETCs, and that the qualitative benefits explained above, in combination with the estimated quantitative benefits explained in Annex 6, mean that it would do so in a proportionate manner.
- 9.72 We consider that the changes proposed to the GCs meet the test at Section 47(2) of the Act, taking into account in particular the estimated costs of implementation and the fact that this measure is part of a wider solution to the problems associated with switching processes.

Q 2: Do you agree with our assessment of the requirement for better information on the implications of switching?

Mandate use of functionality to ensure seamless transfer of bundled voice and broadband services

Current requirement

- 9.73 In Section 5 we explained that loss of service can arise where consumers are seeking to transfer a bundle or where the underlying wholesale services do not inherently support migrations (e.g. WLR + SMPF to WLR + SMPF). Section 5 details the specific improvements which are important in the provision of seamless migration³²⁷ of fixed voice and broadband services together and explained that loss of service can occur because CPs choose not to use the improvements that are available.
- 9.74 These improvements are:³²⁸
- SIM Provide - where the two separate fixed voice and broadband orders are linked on the order gateway. This ensures activation and switching of voice and broadband services. Currently SIM Provide (which is also called a LO process) is used to link separate orders of voice and broadband when migrating away from an MPF provider. Recently, SIM2 has been introduced for switches where the GP is using MPF with GEA-FTTC.
 - PO process - the two orders are not linked but the CP manually manages the sequencing and timing of the separate fixed voice and broadband orders to

³²⁷ We acknowledge that necessary engineering works during the switching process will mean that seamless switching cannot occur in some switching scenarios. In such cases, CPs should minimise the loss of service during the switching process.

³²⁸ Further detail on which of these processes are used in common switching scenarios for bundles can be found in Section 3.

switch a bundle of services together. However, under this process loss of service can occur where the provider does not get the sequencing and timing of the two orders right.

- 9.75 The current SIM Provide process is not suited to all migration scenarios. It does not support combined migrations of fixed voice and broadband services between certain technologies e.g. WLR+SMPF to WLR +SMPF. In addition, there is only a loose linkage between the delivery of the fixed voice and broadband services. Voice provision is prioritised over the broadband; where there is a problem with the delivery of the broadband element, the order for voice will still progress to delivery with a loss of the broadband service.
- 9.76 PO process requires CPs to manually manage each individual fixed voice and broadband order. Whilst this may be possible in a few individual circumstances, it is not suitable where there are a high number of transfers.
- 9.77 Openreach has released, and will soon be expanding upon, a new SIM Provide process called SIM2 in order to deal with the above problems. Under this process:
- Fixed-voice and broadband orders are locked together, ensuring a coordinated end user experience where both services are delivered at the same time and without loss of service.
 - Transfers of bundled services are automated and therefore the co-ordination is done at the back end. This means that a higher proportion of SIM Provides will be successful and a high volume of orders can be placed.
 - There will be support for all migration types. MPF is currently available and WLR and SMPF or FTTC is scheduled to be released by Openreach in September 2013.
- 9.78 Where CPs do not support SIM Provide/PO process to help minimise loss of service when switching bundles, services are switched sequentially rather than simultaneously and the consumer will suffer a loss in at least one of their services (normally broadband as it requires a working fixed-line).
- 9.79 Supporting the tactical fixes required for transfers without loss of service is considered best practice. However, these tactical fixes are not mandatory and providers are free to decide whether or not to adopt these processes which can incur costs to adopt.

Extent of the problem being addressed

- 9.80 The current GPL NoT process was designed for migrating fixed voice services and line rental only. Whilst certain tactical fixes have been developed with the aim of enabling bundles to be transferred, these have not delivered well for consumers. Where the tactical fixes have not been adopted or are unable to be used, consumers suffer a loss of service for a significant period of time, resulting in significant harm.
- 9.81 Our analysis of this problem is contained in section 5, and we note that most of the respondents to the 2012 Consultation agreed that there was an issue with loss of service that needed to be addressed.

Proposed new requirement³²⁹

- 9.82 Taking into account consultation responses on this aspect of the Enhanced GPL NoT option, we believe that the principles of switching processes i.e. the ability to seamlessly transfer services without suffering a lengthy break in service or incurring disconnection and re-connection fees, should now include, as far as possible, the seamless transfer of bundled fixed voice and broadband services over the Openreach copper network.
- 9.83 This proposed improvement would mandate the use of the functionality that ensures consumers are able to transfer their bundled voice and broadband services minimising loss of service.³³⁰ Specifically it would require that fixed voice and broadband services are switched together where a consumer has requested a transfer to broadband and fixed voice services provided by the same CP, over the same line.
- 9.84 This functionality will be required for any type of migration from and to services that are offered over the Openreach copper network.

Cost of the new requirement

- 9.85 As shown in Table 9.1 above, CSMG estimates the costs of mandating functionality to ensure seamless transfer of bundled services to be £3.7m as a 10 year NPC. We note that it also estimates that 20% of these costs might be wasted should there be a subsequent transition to a database solution, meaning that there could be £0.4m in wasted costs over a 2 and 3 year period.

Impact of the new requirement

- 9.86 As highlighted in Section 5 from the limited responses on this issue it would appear that only some providers support the relevant processes currently available and therefore this requirement is likely to impact a range of different CPs that will need to update systems and processes to be able to consume the functionality.

Whether this improvement is proportionate

- 9.87 Loss of service when switching fixed voice and broadband bundles is a significant issue under the current switching processes and we believe that there are substantial consumer benefits that can be realised by addressing this problem. However, as in the 2012 Consultation it has not been possible for us to quantify the benefits.
- 9.88 The ability to access communication services is of growing importance to many consumers and loss of these services for a few hours, days or even weeks can cause significant consumer harm. In addition to fixed voice, broadband services are now regarded as an essential service by many households and consumers are increasingly reliant on their broadband connection to access key services as discussed above.³³¹ This is particularly the case for businesses that are reliant on

³²⁹ See annex 11 for proposed amendment to GC.

³³⁰ We acknowledge that in some cases where engineering work is required, e.g. re-jumpering for switches between two MPF providers, there will be some necessary loss of service.

³³¹ For example at least once a week 80% of internet users send and receive e-mails, 39% use online banking and pay bills, 13% make or receive calls over the internet and 8% complete government processes online. Source: Ofcom's Adult Media Literacy Research, 2012.

fixed voice and broadband services to function (such as online tools and communication channels over the internet).

- 9.89 Loss of service affects a significant proportion of consumers that switch bundles using the current switching processes. In many cases the loss of service can last between one and two weeks without service. Given that a large and growing proportion of households now consume their communication services as part of a bundle and are increasingly switching between and to bundles of services (Section 3) we consider that it is reasonable that consumers should not suffer the harm of being without a service.
- 9.90 The implementation, and adoption by CPs, of a functionality to deliver transfer of bundles minimising the loss of service across all wholesale services (WLR, SMPF and FTTC), should help reduce loss of service issues. We believe that, in view of the latest developments in simultaneous provision, the proposed requirement on CPs to order the simultaneous transfer of bundles with minimal loss of service, will deliver significant benefits to a significant number of consumers.
- 9.91 Based on the consumer benefits that we have identified and the costs to industry from adopting this new improvement, we believe that mandating the functionality where orders are 'locked together' to ensure consumers are able to transfer their bundled voice and broadband services simultaneously meets the test at Section 47(2) of the Act in addressing the problem of loss of service within the GPL NoT process. We take into account the fact that this measure is part of a wider solution to the problems associated with switching processes.

Q3: Do you agree with our assessment of mandating use of functionality to ensure seamless transfer of bundled voice and broadband services?

Requirements that reduce the occurrence of ETs under the WLT process

- 9.92 As discussed above, the following enhancements are assessed together below as they aim to address the same problem.
- Require that no WLT order shall be placed unless an exact match has been identified.
 - Require notification to end users under the WLT process by the LP - via post or use of e-mail with consumer consent.

Current requirement

- 9.93 As referred to in Section 5 the OTA has produced and maintains a Best Practice Guide aimed at providing industry stakeholders with definitive and up to date guidance on the Best Practice Processes for migrations and home moves.
- 9.94 This Best Practice Guide includes recommendations for home moves using the WLT process to ensure the correct line is switched.³³² This guidance is not mandatory and therefore CPs are free to determine which aspects, if any, they follow.

³³² See <http://www.offta.org.uk/IndustryBPGAnnexB.pdf>

Extent of the problem being addressed

- 9.95 In Section 5 we explained that ETs are the result of a CP taking over the wrong line by mistake. They occur due to deficiencies in the underlying switching and WLT processes where the provider is unable to reliably identify the correct address and associated assets to take over and provide services to.
- 9.96 An ET causes harm to the third party consumer whose line is incorrectly identified and taken over. From their perspective this appears to them as a slam and sometimes their telephone number can also be changed.
- 9.97 Harm is also suffered by the consumer who requests the change. Where the wrong line is targeted, the consumer moving home will find that they do not have service at their destination address.
- 9.98 CPs also incur additional costs from ETs in dealing with both the consumer who is subject to the incorrect line transfer and resolving the transfer for the original consumer whom they were trying to switch.
- 9.99 Where an attempted ET occurs (the transfer is stopped because the consumer wrongly targeted is notified of the planned transfer), the CP of the consumer requesting the change will incur cost because they will need to gather additional information from their customer to target the correct line or set up a new installation.
- 9.100 In Annex 6 we estimate quantifiable costs³³³ to consumers of WLT ETs of between £0.5m and £1.0m per annum, with corresponding costs to CPs of £2.6m per annum.
- 9.101 As discussed in Section 5, analysis of the root causes of ET complaints by the OTA suggests the majority of actual ETs occur as part of the WLT process. In addition to root causes, the OTA also identified areas where the Best Practice Processes had not been followed. These were in relation to the GP failing to follow Best Practice by placing a WLT order even though they did not have an exact address match.
- 9.102 The second area where Best Practice did not appear to have been followed was in relation to the cancellation process that was designed to prevent ETs from actually taking place. The OTA found that in some cases the Incumbent CP failed to contact the end user upon notification of the order as a result of which the end user was not informed about the WLT and had no opportunity to cancel it.

Proposed new requirements

- 9.103 We propose mandating two elements of the Best Practice Guide to the WLT process.³³⁴ These improvements are:
- GPs shall not submit the WLT order if no exact match for the target line has been identified. GPs would also be required to take all reasonable steps to identify the details of the target line, having regard to industry best practice.
 - Where a WLT order is placed, the incumbent CP upon receipt of the order must send a notification to its end user advising them of the order. The notification is to be sent via post or by e-mail (if so agreed by the consumer).

³³³ We note that there are also unquantifiable costs to consumers of WLT ETs, such as consumer distress.

³³⁴ See <http://www.offta.org.uk/IndustryBPGAnnexB.pdf>

Requirement to identify correct line to switch during a WLT

- 9.104 GPs would be prohibited from submitting a WLT order on Openreach unless an exact match for the target line is identified. They would be required to take all reasonable steps to identify such exact match, having regard to industry best practice. The Best Practice Guide on the WLT process instructs CPs to use a range of tools on DS to identify the correct line. This includes use of information from DS to identify the correct line/address to be taken over or whether the target address has an open cease order on the line which indicates that there is an outgoing customer.
- 9.105 Where the target line is a MPF line and the CLI is known then the agent is instructed to use the MPF ALID helpline to attempt to positively identify the correct line to takeover.
- 9.106 Where an exact match cannot be identified then the Best Practice Guide states that a WLT order should not be submitted.

Requirement that the LP sends a notification letter³³⁵

- 9.107 Under the second improvement we propose mandating that the Incumbent CP informs the incumbent end user at the target address that their line has been targeted to be taken over.
- 9.108 We propose that the notification is sent by letter via normal post, unless the customer has explicitly agreed to receive correspondence electronically, such as through verbal consent in a call or through electronic notification when ordering online.
- 9.109 This requirement is similar to the provisions of the WLT Best Practice Guide in that the Incumbent CP should generate and dispatch a letter to the incumbent end user (although we note that in the Best Practice Guide, this is a confirmation rather than notification letter). The letter would notify the incumbent end user that their line is to be transferred to another person. The communication should contain details on a quick and simple method which the incumbent end user can use to cancel the WLT when it has been requested in error.

Cost of the new requirements

- 9.110 The cost to implement the exact match requirement and the WLT letter is estimated by CSMG to be £3.2m and £3.5m respectively over a ten year period. See Annex 10 for the cost analysis of this requirement.
- 9.111 Under a hub and database model following the exact address match process would no longer be necessary as the database contains all the relevant information and this functionality is effectively embedded in the database and hub which would not accept an order without an exact match. Therefore CSMG estimates the cost incurred in the setup and maintenance of this requirement (between £1.6m and £1.9m) would be wasted. The requirement for the Incumbent CP to send the notification is common to all GPL options, including the database model and therefore there are no wasted costs.

³³⁵ See annex 11 for proposed amendment to GC.

Impact of the new requirement

9.112 Both of these enhancements will require all CPs to update their front-end customer facing processes to ensure compliance.

Whether these improvements are proportionate

9.113 Given our estimate on the level of WLT ETs, and that we are not tackling the root causes of ETs at this stage³³⁶, it is important to implement measures that mitigate the risk of these types of ETs. Our recent root cause analysis highlighted instances where ETs would have been avoided if the Best Practice Guide on address matching during a WLT had been followed. Furthermore, evidence (referred to in Section 3) from the MM analysis also appears to show that some transfers are occurring based on 'best match' rather than exact match.

9.114 We consider it is proportionate to require GPs to make to take all reasonable steps, having regard to industry best practice, to identify the correct line to takeover as this would result in lower incidences of ETs. The Best Practice Guide for WLTs, for example, requires GPs to make use of all available information to secure a match and enable the transfer to take place. For example, there are tools (DS and the MPF helpline) available to the CP agent to help identify the line at the target address.

9.115 Where the target line cannot be identified the CP shall not be allowed to submit the WLT order. Instead a new line should be provisioned at the new address. The C&R process is effective at removing the risk of ETs by provisioning a new line at the property.

9.116 We acknowledge that the C&R process has deficiencies as it is likely to cause additional hassle and costs for the inbound consumer (e.g. connection/cease charges, and potential loss of telephone number/service). However, the C&R process only affects the consumer who is moving and who should be fully aware that this process is being used. Conversely, as explained above where an ET occurs two consumers are likely to be affected by the error, and CPs are also likely to incur considerable expense resolving it. We therefore believe that the cost of using the C&R process is less to both the consumer and industry than would occur if the wrong line is transferred.

9.117 However, we do not view the use of the C&R process as a viable long term solution to resolving these ETs but as a measure to limit the extent of consumer harm caused by inaccurate address data. We believe that the WLT process should be designed to enable more accurate asset identification and thus restrict the capacity for ETs to occur in the first place.

9.118 Mandating that the Incumbent CP should notify the end user of a planned takeover of their services is a means of addressing WLT ETs. The failure of the Incumbent CP to follow this process under the Best Practice Guide was identified by the root cause analysis as a reason why some ETs occur. We believe this requirement should be effective in the event that a WLT order were incorrectly placed by a GP.

9.119 We believe it is appropriate that this notification is sent by post or by e-mail if the consumer consents. Similar to our analysis on the provision of better information on

³³⁶ As explained in Section 8, we do not propose at this stage to introduce new requirements to improve the quality of the information available to identify the right line which will address the root causes of ETs e.g. by addressing Openreach data issues and the universal visibility of MPF CLIs.

the implications of switching, we believe that the notification should be sent in a durable format (excluding SMS) to ensure that all types of consumers are able to receive a notification that best suits their needs. We believe that a letter sent to the target address from the Incumbent CP has the greatest chance of being read by the intended recipient. Furthermore our findings on the effectiveness of the LP letter under the NoT system to prompt consumers to find out about ETCs suggests that this format will be reasonably effective in alerting the end user to the planned takeover.

- 9.120 A written format also ensures a definite audit trail which can be used to monitor compliance either internally or by Ofcom. It can also be used to provide clarity to all interested parties (customers, CPs, ADR, Ofcom) where there is a dispute over a transfer.
- 9.121 The requirement for Incumbent CPs under the WLT process is similar to the GPL NoT process which requires the LP to notify their customer of the planned switch and provide details on how to cancel the transfer. It should therefore be relatively straightforward to implement for CPs.
- 9.122 We consider that the qualitative benefits explained above, in combination with the estimated quantitative benefits explained in Annex 6, meant that the improvements proposed are proportionate when weighed against their costs.³³⁷
- 9.123 We consider that the changes proposed to the GCs meet the test at Section 47(2) of the Act, taking into account in particular the estimated costs of implementation and the fact that this measure is part of a wider solution to the problems associated with switching processes.

Q4: Do you agree with our assessment of requirements to reduce the occurrence of ETs under the WLT process?

Implementation timescales

- 9.124 In this section we consider the implementation timescales for the GPL NoT+. As our proposal requires improvements to the existing GPL NoT process we expect the timescale for implementation will be relatively short.
- 9.125 This is consistent with analysis by Gemserv (see Annex 12) on the implementation timescales of Enhanced GPL NoT which they estimated would take approximately 12 months from the project start date to implement the various components. The table below details the implementation roadmap for Enhanced GPL NoT which we believe is broadly applicable to the roll-out of GPL NoT+. In the table we set out the date by which we consider the changes should be implemented by reference to the period following Ofcom's decision to amend the GCs.

³³⁷ We note that there are also unquantifiable benefits to consumers as a result of the proposed improvements. For example, reducing consumer distress caused by ETs when lines are switched in error.

Table 9.2: GPL NoT+ Implementation timescale

	Factors relevant to timing of delivery	Proposed implementation date (over a calendar year)
Harmonisation of GPL by removing the LPL MAC switching process	<p>Up-front and back-end changes required by CPs, TPIs and Openreach to decommission the LPL MAC process.</p> <p>Openreach to implement Cancel Other process for broadband.</p> <p>Customer service representatives to be provided with updated training.</p>	9-12 months
Record of Consent to protect against slamming	<p>Back-end changes by CPs to systems to capture and store records across all sales channels and to ensure they are easily retrievable.</p> <p>Modification of customer interface systems across all channels to capture record of consent.</p> <p>Customer service representatives to be provided with updated training</p>	6-9 months
Provision of better information on the implications of switching	Update to CP systems to enable provision of ETC and other implication information.	4-6 months
Mandatory use of functionality to ensure seamless transfer of bundled services	<p>Openreach provision of latest functionality.</p> <p>Back-end changes by CPs to enable functionality.</p> <p>Modification of customer interface systems.</p> <p>Customer service representatives to be provided with updated training</p>	4-9 months
Mandate CPs only place a WLT order where there is an exact match	<p>Changes to customer facing processes.</p> <p>Customer service representatives to be provided with updated training.</p>	4-9 months
Notification of end users under WLT process - via post or use of e-mail with consumer consent)	<p>Changes to customer facing processes.</p> <p>Customer service representatives to be provided with updated training.</p>	3-6 months

9.126 We recognise that successful implementation within the 12 month period rests on completion of the steps outlined above which are dependent on one another.

Q5: Do you agree with the estimated implementation timescales of GPL NoT+ we have outlined?

Q6: Are there any other key issues that need to be taken into consideration?

Conclusion

9.127 As set out above, we believe that it is proportionate to require the implementation of GPL NoT+ by harmonising to GPL NoT and making enhancements at this stage. We consider that implementing GPL NoT+ will promote the interests of consumers by:

- ending the confusion and difficulties associated with multiple processes;
- ensuring the switching process works in the consumer's interest to ensure that their decision to switch can be easily put into effect by ending the LPL system;
- protecting consumers from being switched against their will by improving Ofcom's ability to enforce against providers who deliberately switch consumers without consent;
- addressing the loss of service suffered during switching, particularly for bundles of fixed voice and broadband;
- improving the information provided to consumers about the implications of their intended switch; and
- reducing incidence of ETs.

9.128 We are consulting on changes to the GCs to put these measures into effect and on their implementation timescales. We aim to conclude on this stage by early 2014. We are consulting on changes to the GCs to put these measures into effect and on their implementation with the changes being implemented during 2014.

Summary of our proposed modifications to the General Conditions of Entitlement

9.129 Pursuant to our decision to harmonise all switches on the Openreach copper network to the GPL NoT Process, we are proposing to transfer the applicable provisions of GC24 into GC 22, which will be amended to cover all matters relating to migrations of voice and broadband services. GC 24 would accordingly be revoked. GC 22 as amended would cover all matters in relation to migrations and WLTs of voice and broadband services. Annex 11 of this document includes a detailed overview of our proposals and a notification under Section 48A of the Act containing the draft modifications to the GCs.

9.130 Pursuant to our proposed modifications, the following requirements would apply in all cases where an end-user transfers from voice or broadband services supplied by one CP to voice or broadband services supplied by another CP on the Openreach copper network:

- i) prohibition of mis-selling;
- ii) a requirement on GPs to take all reasonable steps to ensure that before entering into a contract for a Communications Service, the customer is provided with certain information and is authorized and intends to enter into the contract;
- iii) right of the customer to terminate the contract during the transfer period (i.e. a period of 10 working days from the date in which the customer enters into a

contract, unless otherwise agreed by the relevant industry forum and approved by Ofcom), without charge or any other form of compensation being required;

- iv) requirement to use reasonable endeavours to create and keep all records regarding the sale of the communications service;
- v) requirement to keep individually retrievable records of consent, containing the information specified in the GC, for a period of not less than twelve months, for each contract entered into by the GP with the end-user for the provision of broadband and/or voice services (even where such order has been subsequently cancelled);
- vi) obligation on both the GP and LP to each send the customer a notification letter with information on the implications of the switch;
- vii) requirement to place an order for the simultaneous transfer to broadband and fixed voice services provided by the same CP over the same line, as specified in the GC;
- viii) a prohibition of reactive save by the LP.

9.131 In addition to the above obligations, CPs would be required to comply with the provisions of the Notification of Transfer Process set out at Annex 1 to the GC in each instance where a GP elects to carry out a migration on behalf of a customer. This obligation would apply to both voice and broadband services and only where the transfer does not involve a change of location where the services are provided. The Notification of Transfer Process would include the following provisions:

- i) a requirement to ensure that a Transfer Order is placed on the Openreach network within a reasonable time, unless the migration does not involve a transfer of the target WLR, MPF or SMPF line;
- ii) a prohibition upon LPs to require any contact with them by the end-user in order for a transfer to take effect;
- iii) requirements regarding the use of Cancel Other;

9.132 In addition to the obligations under paragraph 9.134 as applicable, CPs would also be required to comply with the provisions of the WLT Process set out at Annex 2 to the GC, in each instance where a GP elects to carry out a WLT pursuant to a home-move request by a customer. These obligations would include:

- i) a requirement to ensure that a WLT order is placed on the Openreach network, within a reasonable time;
- ii) a requirement on GPs to take all reasonable steps, having regard to industry best practice, to identify the correct target line, as well as a prohibition on placing a WLT order where no exact match has been identified;
- iii) an obligation on the incumbent CP to send the incumbent end-user a letter with information on the implications of the switch.

9.133 In addition to the above obligations, as applicable, CPs would also be required to comply with a number of high-level requirements with respect to all types of migrations of broadband services. These requirements are set out in current GC 22.2

and would apply to transfers between services of the same CP as well as transfers between services of different CPs. Specifically, both GPs and LPs would be required to facilitate the migration (and where applicable, connection) of services in a manner that is fair and reasonable and to ensure that it is carried out within a reasonable period and with a minimal loss of service.

- 9.134 All CPs would have an obligation to ensure that their representatives and agents comply with the requirements of the GC and are appropriately trained to do so. CPs would also be required to monitor compliance and to publish, or provide upon request, a copy of the GC.
- 9.135 Our proposed modifications would take effect from the date specified in the amended GC.

Section 10

Next Steps

- 10.1 This section discusses the content of future work Ofcom intends to conduct in this area.
- 10.2 As set out in Section 8, Ofcom has decided to adopt a two stage approach to changing the process for switching fixed voice and broadband services. In this stage:
- we have made a policy decision to move all switches on the Openreach copper network to a harmonised GPL solution; and
 - we are consulting on specific improvements that we are proposing to put in place to improve the existing GPL NoT process (GPL NoT+).
- 10.3 Ofcom is consulting on changes to the GCs to put these measures into effect and on their implementation timescales. Therefore, our focus of further work in the short term is the completion of the GPL NoT+ consultation.
- 10.4 We aim to publish a final Statement on this early in 2014. We are providing an 8 week period for responses to the consultation described in Section 9 of this document. Responses are required by 5pm on **4th October 2013**. In setting this period we have taken into account our Consultation guidelines. Although the consultation is limited to the specific issues explained in Section 9 we recognise that the background content is complex and therefore a period longer than the statutory minimum may be justified. We have also taken into account that this document is being published in the holiday period.
- 10.5 The second stage of work is focused on addressing two of the remaining problems:
- i) ETs; and
 - ii) feasibility of extending provider systems and processes to include other technologies and networks.
- 10.6 In this second stage, we will consider whether it is appropriate to make further changes to address these key issues.
- 10.7 With respect to the first issue, there are three specific areas that we intend to consider further with industry stakeholders:
- a) options to address the poor quality address data, which is a major root cause of ETs;
 - b) assess whether recent industry developments, such as the MPF helpline, are sufficient to address the lack of visibility of key data in identifying the correct line to switch or whether further changes are required; and
 - c) assess, in the light of future industry developments, whether the risk to consumers of ETs due to future technologies e.g. FTTP, continues to remain low or whether changes are required.

- 10.8 With respect to issue ii) above, we intend to consider in the context of the Enhanced GPL NoT option, whether consumers can be supported with a harmonised consumer facing process which is comprised of different co-ordination systems for switching between different networks or wholesale services to ensure that consumers have similar end-to-end experience of switching regardless of the underlying technology or wholesale service.
- 10.9 We will also consider whether further improvements to the Enhanced GPL NoT option, or to a hub and database solution, may be proportionate. We note that an assessment of a hub and database solution would include consideration of a GPL TxC system ('centralised hub') and a GPL TxC-V ('virtual hub') as set out in Section 7 of this document, system, and consideration of an option submitted to us by SSE, TalkTalk and FCS in June 2013 (see Annex 14).
- 10.10 All these solutions would include consideration of appropriate governance arrangements and the other implementation issues (e.g. data protection, data security, implementation timescales etc) highlighted by stakeholders and/or outlined in the Gemserv report (see Annexes 7 and 12).
- 10.11 This second stage of work will allow us to identify whether further development of the GPL process on the Openreach copper network is necessary. We will set out further details about how we propose to carry out this work and in particular, how we propose to engage with industry stakeholders in developing our views in this area. Our aim is to publish these details in conjunction with our final Statement on the first stage.
- 10.12 As highlighted in the 2012 Consultation, we are also considering switching processes beyond the Openreach copper network, as we are conscious that some of the issues identified in Section 4, 5 and 6 may apply to other areas. We propose to provide clarity on timelines for our consideration of these issues in the final statement on this phase.
- 10.13 Our consideration will include the following issues:
- Switching processes for fixed voice and broadband services across different networks. In particular, we note Ofcom's 2012 CRI research, published in 2013 highlighted potential consumer experience issues with the processes for switching these services across different networks. Our consideration would include cable, FTTP, and Kingston Communications networks.
 - Switching processes for other services e.g. pay TV services and mobile services. With respect to pay TV services, this would include consideration of the effect of bundling on the switching of such services, including in particular how consumers' interests would best be protected in relation to switches involving triple play bundles.

In relation to both these points, we note the position of the UK Government, as set out in DCMS's paper 'Connectivity, Content and Consumers: Britain's digital platform for growth', published in July 2013. In particular, we note the objectives to move to

GPL processes for switching 'across the board', and to ensure consistent and effective experiences for consumers switching between bundles.³³⁸

³³⁸ Connectivity, Content and Consumers: Britain's digital platform for growth, DCSM, July 2013, page 40. Available at: <https://www.gov.uk/government/publications/connectivity-content-and-consumers-britains-digital-platform-for-growth>

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 4th October 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/consumer-switching-review/howtorespond/> as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email Liz.Hall@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Liz Hall
Floor 2
Consumer Affairs Department
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3149
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Liz Hall on 020 7981 3149.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your

response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in early 2014.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation questions

Consultation on GPL NOT+ Elements

A4.1 In section 9 of this document, we detailed and assessed specific elements of the GPL NOT transfer process, which we referred to as GPL NOT+. We consulted on our assessment of each element in the following questions:

Question 1: *Do you agree with our assessment of the Record of Consent Requirement?*

Question 2: *Do you agree with our assessment of the requirement for better information on the implications of switching?*

Question 3: *Do you agree with our assessment of mandating use of functionality to ensure seamless transfer of bundled voice and broadband services?*

Question 4: *Do you agree with our assessment of requirements to reduce the occurrence of ETs under the WLT process?*

Question 5: *Do you agree with the estimated implementation timescales of GPL NoT+ we have outlined?*

Question 6: *Are there any other key issues that need to be taken into consideration?*

Annex 5

Summary of consumer switching information on provider's websites

Introduction

- A5.1 This annex provides a summary of Ofcom research into the consumer switching information provided on the websites of four CPs (BT, EE³³⁹, Sky, TalkTalk, Virgin Media)³⁴⁰ that offer fixed voice and broadband services over the Openreach copper network.
- A5.2 Each website was considered as to how easy it might be for customers to find out how to switch services to and from CPs. It explored the availability of information relating to switching fixed voice and fixed broadband services and whether the availability varied between 'joiners' and 'leavers'. The research also sought to understand what advice was given depending on the customer's existing provider and assessed this information in terms of clarity, accuracy, complexity and certainty.

³³⁹ EE's content was relatively new at the time of this research and it appears the provider was in the middle of a transition of content from the Orange and T-Mobile websites.

³⁴⁰ These are the top five broadband providers by market share.

Key findings

Summary

Table A5.1

	BT	EE	Sky	TalkTalk	Virgin Media
Information on switching away fixed voice services	Difficult to locate on main site.	Not available.	Easy to locate on main site.	Difficult to locate on main site.	Difficult to locate on main site.
Information on switching away broadband services	Easy to locate on main site.	Not available.	Easy to locate on main site	Difficult to locate on main site.	Difficult to locate on main site.
Information on termination charges	Detailed information given.	Not available.	Detailed information given.	Detailed information given.	Brief information is given. Customer advised to call VM.
Information on switching fixed voice services to CP	Clearly sign-posted on main site.	Clearly sign-posted on main site.	Clearly sign-posted on main site.	Clearly sign-posted on main site.	Relatively easy to locate, although not on homepage.
Information on switching broadband services to CP	Clearly sign-posted on main site.	Clearly sign-posted on main site.	Clearly sign-posted on main site.	Clearly sign-posted on main site.	Clearly sign-posted on main site.
Information on the actual switching process for fixed voice	Guidance provided on process of switching to BT.	Not available.	Guidance provided on process of switching to Sky.	Short explanation given on the process to switch to TalkTalk	Guidance provided on process of switching to VM.
Information on the	Guidance provided.	Only advice given to	Guidance provided	Short explanation	Guidance provided

actual switching process for broadband	on process of switching to BT.	get a MAC from existing provider.	on process of switching to Sky.	given on the process to switch to TalkTalk.	on process of switching to VM (but does not differentiate between cabled and non-cabled areas).
Information on how to get a MAC from CP (to switch away)	Easy to locate and clearly outlined, detailed information given.	Not available.	Easy to locate and clearly outlined.	Information provided on how to request a MAC.	Information provided but difficult to locate, found via search box.
Assessment of information provided on the switching process required. (Based on Clarity/accuracy/complexity/certainty)	3 different scenarios presented which while accurate requires the consumer to know how their service is supplied.	Information is clear but advice on getting a MAC is inaccurate if consumer is switching from an MPF Provider or Cable.	Some of the terminology used to explain if a MAC may be required is likely to not be considered consumer friendly.	Information is not given on the switching process required. Instead consumer is advised to contact TalkTalk.	Information is largely clear and accurate if the consumer is switching to a cabled area but there is little information if the consumer is switching to the 'National' non-cable service. The website does not make clear the difference between cable and the national fixed line service provided over BT's network.

Source: Ofcom consumer research 2010.

BT

- Difficult to locate information on the main site about leaving or cancelling a fixed voice service. Search box within the help section provided some relevant links (Figure A5.1 and A5.3).
- Information under the heading 'What happens if I leave BT broadband' gave the advice that *'You will lose your Wi-Fi access to BT Wi-fi hotspots, and not be a member of the BT Wi-fi community through BT anymore'* (Figure A5.3).
- Information clearly signposted on how to switch a fixed voice service and broadband service to BT (Figure A5.9, A5.10, A5.12).
- Detailed contract termination and notice information if switching services away from BT given, including guidance on the breakdown of charges which are determined by the time left on the existing contract (Figure A5.2 and A5.7).
- Clear, bullet point guidance on what to do when switching your phone service to BT given, and how long it will take (Figure A5.10).
- Guidance given on how to request a MAC from BT, how long it will take to receive one and the reasons for why a MAC might not be issued (Figure A5.5).
- Guidance provided on whether a MAC is required by outlining three different scenarios – whether the consumer is on cable, a non-BT line or a BT phone line. In the case of a non-BT line, once the order is placed BT will let the consumer know whether a MAC is required (Figure A5.12 and A5.13).
- On a different page the guidance given was that in *'most cases'* a MAC would be required but *'in a very small number of cases for certain types of (non-BT) broadband connection you might follow a slightly different process'* (Figure A5.4).
- Information on how to get a MAC from your existing provider was easy to locate and clearly outlined (Figure A5.14).

EE

- Information on how to switch to fixed voice and broadband services to EE easily located (Figure A5.16).
- Information on how to get a MAC from your existing provider was easy to locate and clearly outlined (Figure A5.18).
- Advice given suggests a MAC is required to switch your broadband (but no further information is given if this varies by provider or technology), although the order can be placed before the broadband is requested from the existing provider (Figure A5.17, A5.18 and A5.19).

Sky

- Fairly easy to locate information on the Sky website on how to leave any of Sky's services either via a simple search in the main search box or going to the 'change your subscription' page (Figure A5.20).
- Contract termination and notice information provided on several pages if switching services away from Sky, including a guide on the breakdown of charges which are determined by the time left on the existing contract and service used (Figure A5.21).
- Information on switching fixed voice and broadband services to Sky clearly signposted on the main pages (Figure A5.24, A5.25 and A5.26).
- Guidance provided as what the consumer can expect from the broadband switching process e.g. how long it will take and how to deal with the current provider (Figure A5.25).
- Advice on whether a MAC is required to switch away from Sky uses terminology such as '*non-BT compatible network e.g. TalkTalk*' (Figure A5.22).
- Guidance given that in '*a small number of cases, you may need a MAC code from your current provider to bring your Broadband service over – we'll let you know if this applies to you*' (Figure A5.25).

TalkTalk

- Relatively difficult to locate information about leaving TalkTalk. Relevant links provided when searching via the help menu (Figure A5.28).
- Detailed contract termination provided if switching services away from TalkTalk, including guide on the breakdown of charges which are determined by the time left on the existing contract and the services used (Figure A5.29 and A5.30).
- Advice on cancelling TalkTalk plan notes '*the procedure for leaving TalkTalk varies depending on the services you subscribe to, so we ask that you contact us by phone so we can explain the process*' (Figure A5.29).
- Information clearly signposted on how to switch a fixed voice service and broadband service to TalkTalk (Figure A5.31).
- Short explanation given as to how to switch to TalkTalk if with another provider. Includes advice that consumer '*doesn't need to do anything, not even contact BT*' and that TalkTalk will let the consumer know if a MAC is needed (Figure A5.32).
- Short explanation given as to what the consumer can expect during the switch (Figure A5.35).

Virgin Media

- Difficult to locate information about leaving Virgin Media. Relevant links provided when searching via the help menu (Figure A5.36 and A5.37).

- Brief prompt is given that customer may be subject to termination fees. Customer is directed to terms and conditions link (relevant links not working at the time) (Figure A5.37).
- Information clearly signposted on how to switch broadband to Virgin Media (Figure A5.42 and A5.43). The same information was slightly harder to locate as not on homepage (Figure A5.41)
- MAC information only located via search box (Figure A5.38 and Figure A5.39)
- General advice given is that the consumer does not need a MAC to switch to Virgin Media (it does not highlight that this advice would not apply if the consumer is on the “National” non-cable network) (Figure A5.43). The website does not provide clear information about the difference between cable and the “National” non-cable network.

BT

A5.3 Date research conducted: 18/03/2013,

A5.4 Home page: <http://www.bt.com/>

Switching Away from BT

Fixed voice

Figure A5.1

You searched for: 'leaving BT' in Phone

Answers
Results 1 - 10 of 23

Recommended:

What happens to my Direct Debit now I'm leaving BT?
We're sorry to hear you are **leaving** us. We'll take payment for your final bill by Direct Debit. It will say on your final bill how much we'll take and when. You don't need to do anything. Once we've...

I want to stop my phone line. How much notice do you need?
To stop your phone service you'll need to give us a minimum 30 days' notice. If you want to stop the service before the 30-day period ends, you'll be charged for the remaining days. Examples if...

What's this cancellation charge for?
There's a minimum term for all new lines. If you cancel within this time you'll have to pay an early termination charge. What you're charged depends on how long is left to run on your contract...

From the forum
Showing 5 of 9462 forum topics found
[View more](#)

Email question regarding leaving BT
By uikfrogman Rating: ☆☆☆☆

Thinking of leaving BT
By dombullon Rating: ☆☆☆☆

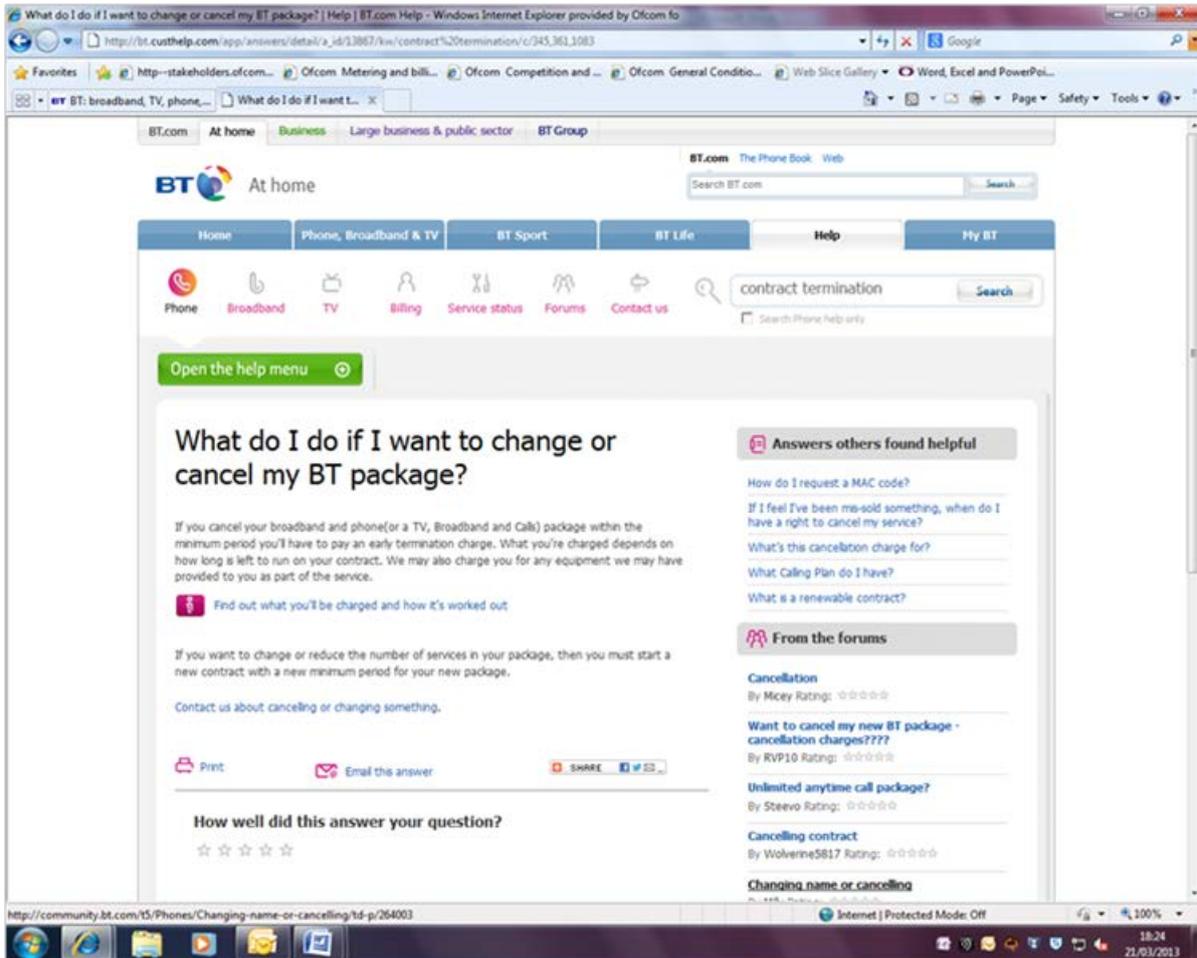
Leaving Vision
By MP34Life Rating: ☆☆☆☆

Leaving BT BB - want to keep @btinternet.com mail addresses
By KenWik1461 Rating: ☆☆☆☆

leaving bt, but what about final bill?
By lgrenter Rating: ☆☆☆☆

[Show more forum results](#)

Figure A5.2



Broadband

Figure A5.3

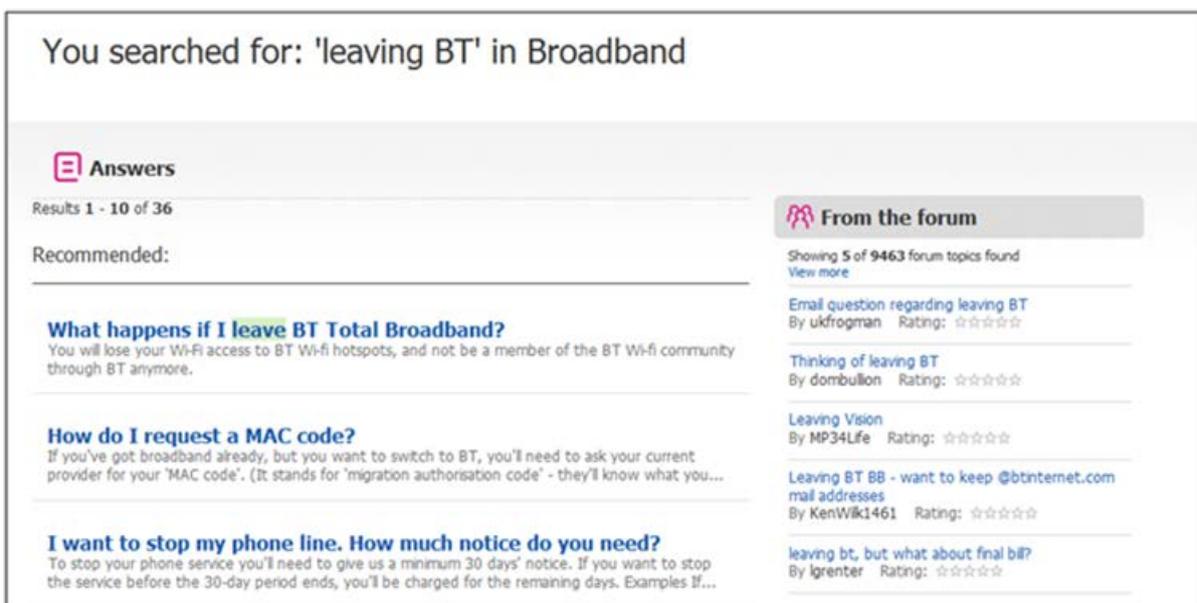


Figure A5.4

How do I request a MAC code?

If you've got broadband already, but you want to switch to BT, you'll need to ask your current provider for your 'MAC code'. (It stands for 'migration authorisation code' - they'll know what you mean.) Then give it to us, and we'll take care of the rest.

Your MAC code will be valid and available for use for 30 days.

In most cases you'll need a MAC to move from one broadband service provider to another. However, in a very small number of cases for certain types of (non-BT) broadband connection you follow a slightly different process. Your current provider can confirm this for you.

Figure A5.5

Moving to another service provider from BT

If you need to ask for a MAC from BT, the quickest way is to contact us on 0800 328 6738. Or you can [submit your request online](#) and we'll respond within five working days.

You'll have to pay any outstanding charges if you switch to another provider within your initial contract period.

Occasionally we may be unable to issue a MAC. This will be due to one of the following reasons:

- We've been unable to validate your details
- Your broadband has already been terminated
- A MAC which is still within its MAC validity period has already been requested and issued
- The closing of your broadband service with BT is already underway
- We are unable to obtain a MAC code from our supplier, BT Wholesale.

Once a MAC has been issued to you and you've given it to the new provider, migration to your new provider should take place within five working days of the new order being placed.

If we can't issue a MAC for one of the reasons above, you can still stop your broadband service by calling us on 0800 800 030 before moving to another supplier. However, you will get a break in service.

Figure A5.6

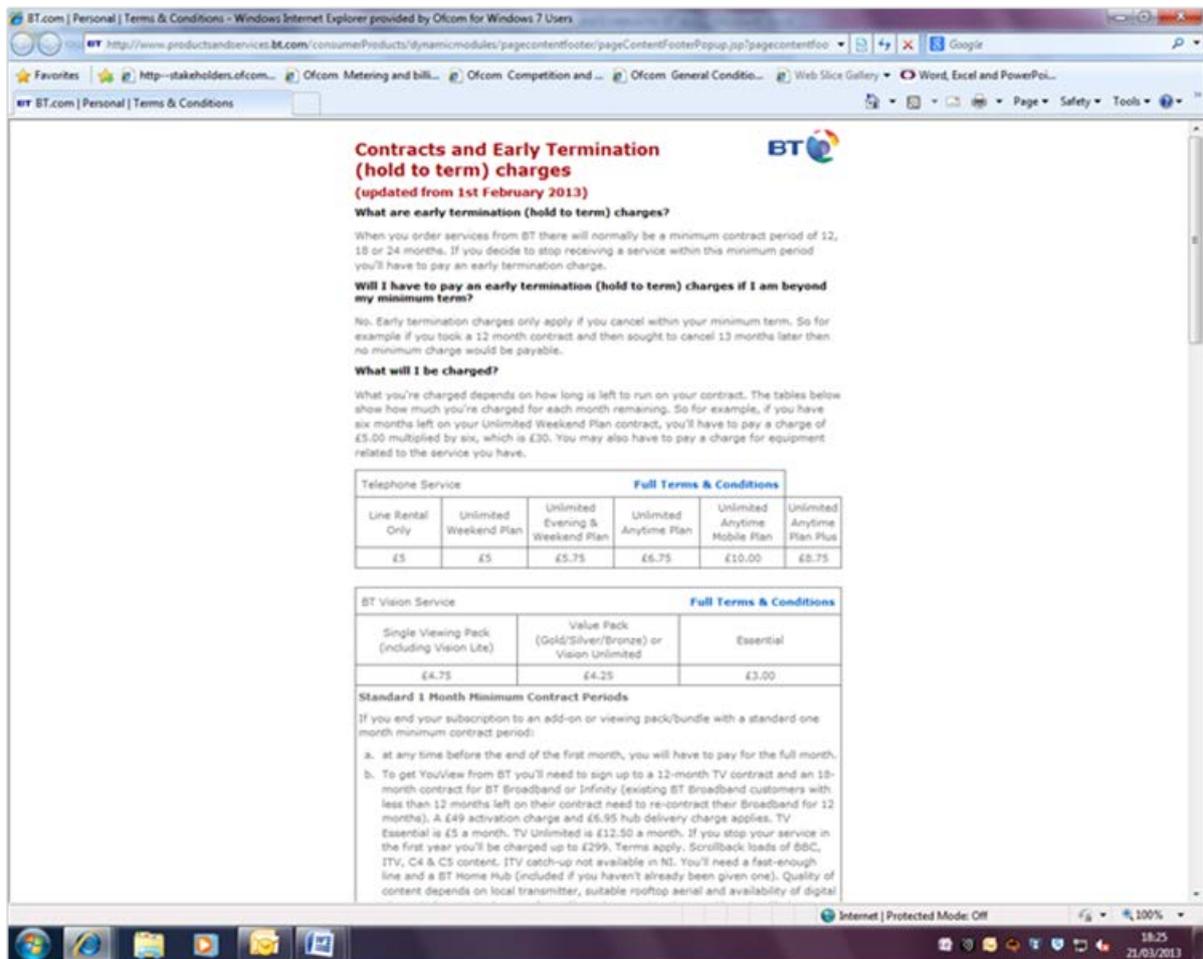
What's this cancellation charge for?

There's a minimum term for all new lines. If you cancel within this time you'll have to pay an early termination charge. What you're charged depends on how long is left to run on your contract.

Alternatively, if you had signed up to a special offer, you have to pay the outstanding term charges.

For more information please visit www.bt.com/contracts.

Figure A5.7



Bundles of Fixed Line and Broadband

Figure A5.8

If you want to change or reduce the number of services in your package, then you must start a new contract with a new minimum period for your new package.

Contact us about cancelling or changing something.

Switching To BT

Fixed voice

Figure A5.9

The screenshot shows the BT.com website interface. At the top, there is a navigation bar with the BT logo and 'At home' text. Below this is a search bar and a menu with categories like 'Home', 'Phone, Broadband & TV', 'BT Sport', 'BT Life', 'Help', and 'My BT'. The 'Phone, Broadband & TV' category is expanded to show sub-categories: 'Packages', 'Phone', 'Broadband', and 'TV'. A secondary navigation bar includes links for 'Why BT?', 'How to order online', 'Switching to BT', 'FAQs', 'Claim an offer', and a 'Buy a BT package' button.

The main content area is titled 'Switching to BT' and features a large heading 'Switch in 3 easy steps' with the subtext 'You choose your BT service, we do the rest'. A vertical sidebar on the left lists the three steps: 'Switch in 3 easy steps', 'Switch your line or calls >', 'Switch your broadband >', and 'Switch your digital TV >'. The main text states 'We'll do our best to make your switch as easy as possible' and lists three benefits with green checkmarks: 'We'll help you keep your existing phone number', 'We'll deal with your current provider, so you don't have to', and 'We'll aim for a smooth changeover, so you don't lose your connection at any time'. An image of a blue Ethernet cable plugged into a wall outlet is shown on the right.

Figure A5.10

Switching to BT
>

Switch in 3 easy steps
>

Switch your line or calls
>

Switch your broadband
>

Switch your digital TV
>

Switch your phone service

Its quick and easy to switch your phone service to us online

What happens when you switch your phone service to us?

- ✓ Just choose a [Calling Plan](#) or a [Broadband & Calls](#) package online
- ✓ You can normally keep your current phone number – we'll let you know when you order
- ✓ You don't need to contact your current provider – we'll do this
- ✓ We'll switch your service at the earliest date possible – if you'd rather switch at a later date, you can choose this when you order
- ✓ It will take from 11 working days to switch depending on whether you're switching your phone line, broadband or TV as well



Just want to switch your calls back?

If you already have a phone line with us and just want to switch your calls back it will take around 11 working days.

If you just want to switch your calls, choose a [Calling Plan](#) when you order, or add broadband and get a [Broadband & Calls](#) package. We'll do the rest for you!

Switching from cable?

Just tell us your phone number when you order and we'll let you know if you can keep it. If it's not possible, we'll give you a new phone number in your confirmation letter. If you don't already have a suitable BT line we'll arrange for an engineer to install one when you order.

If you're ordering broadband and TV with us as well, you'll need to tell your current provider directly once you have ordered that you're ceasing your current broadband and TV services.

[Learn more about getting a new line >](#)

Figure A5.11

∨
If I switch to BT whilst in contract with another provider will they charge me?

Contact your current supplier to find out if they will charge you.

Broadband

Figure A5.12

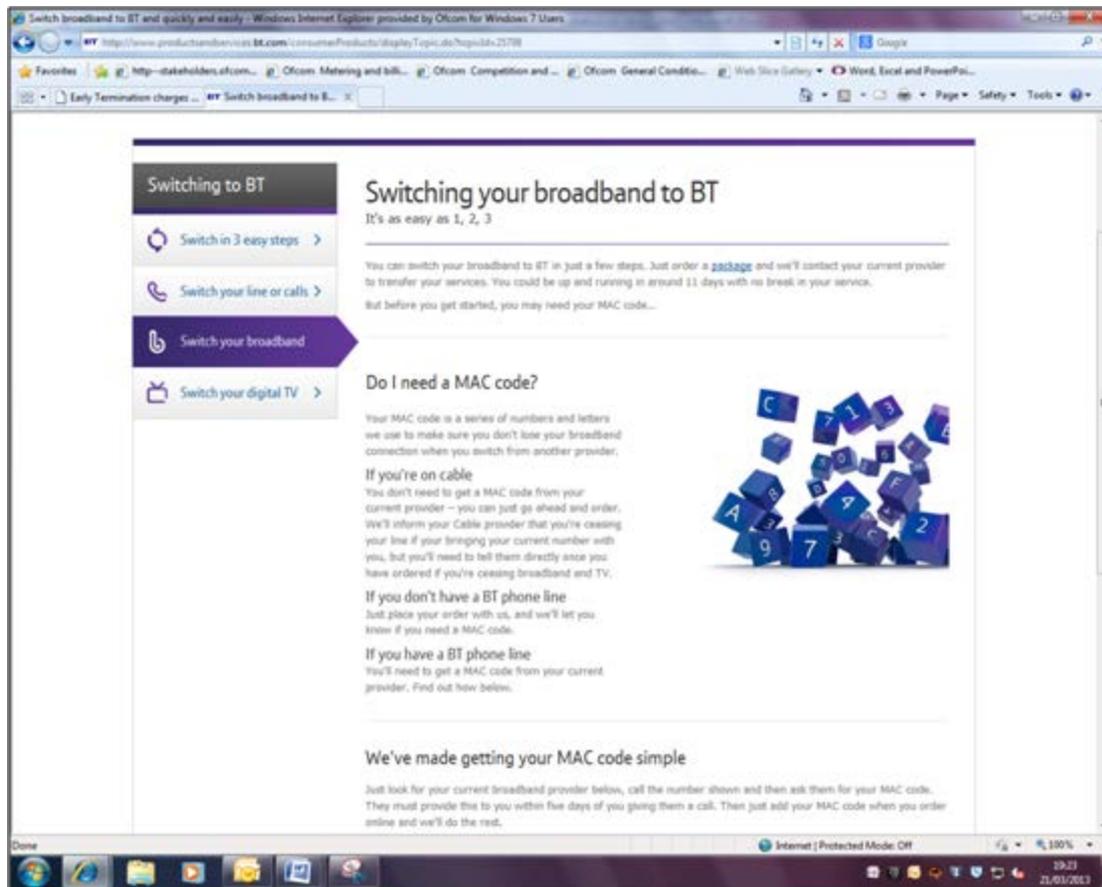


Figure A5.13

Do I need a MAC code?

Your MAC code is a series of numbers and letters we use to make sure you don't lose your broadband connection when you switch from another provider.

If you're on cable

You don't need to get a MAC code from your current provider – you can just go ahead and order. We'll inform your Cable provider that you're ceasing your line if your bringing your current number with you, but you'll need to tell them directly once you have ordered if you're ceasing broadband and TV.

If you don't have a BT phone line

Just place your order with us, and we'll let you know if you need a MAC code.

If you have a BT phone line

You'll need to get a MAC code from your current provider. Find out how below.

Figure A5.14

We've made getting your MAC code simple

Just look for your current broadband provider below, call the number shown and then ask them for your MAC code. They must provide this to you within five days of you giving them a call. Then just add your MAC code when you order online and we'll do the rest.

Provider	Give them a call
O2 (Telefonica UK)	0800 230 0202
Sky Broadband	08442 410 515
Talk Talk	0870 444 1820
Tiscali (VNL)	0845 077 4488
Virgin media (virgin.net)	0845 454 1111

Figure A5.15

▼	If I switch to BT whilst in contract with another provider will they charge me?
Contact your current supplier to find out if they will charge you.	

EE

A5.5 Research conducted 27/03/2013,

A5.6 Homepage <http://ee.co.uk/>

Switching Away from EE

Bundles of Fixed voice and Broadband

A5.7 No information found – presumed to be a reflection that EE's service is relatively new and the transition of content from the Orange and T-Mobile websites.

Switching to EE

Bundles of Fixed Voice and Broadband

Figure A5.16

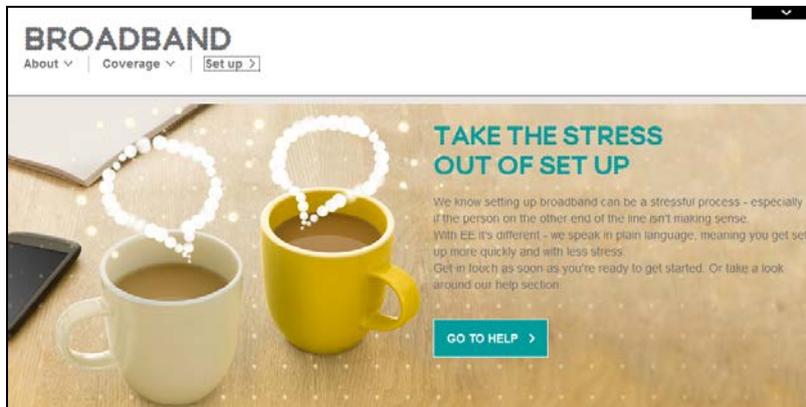


Figure A5.17



Figure A5.18

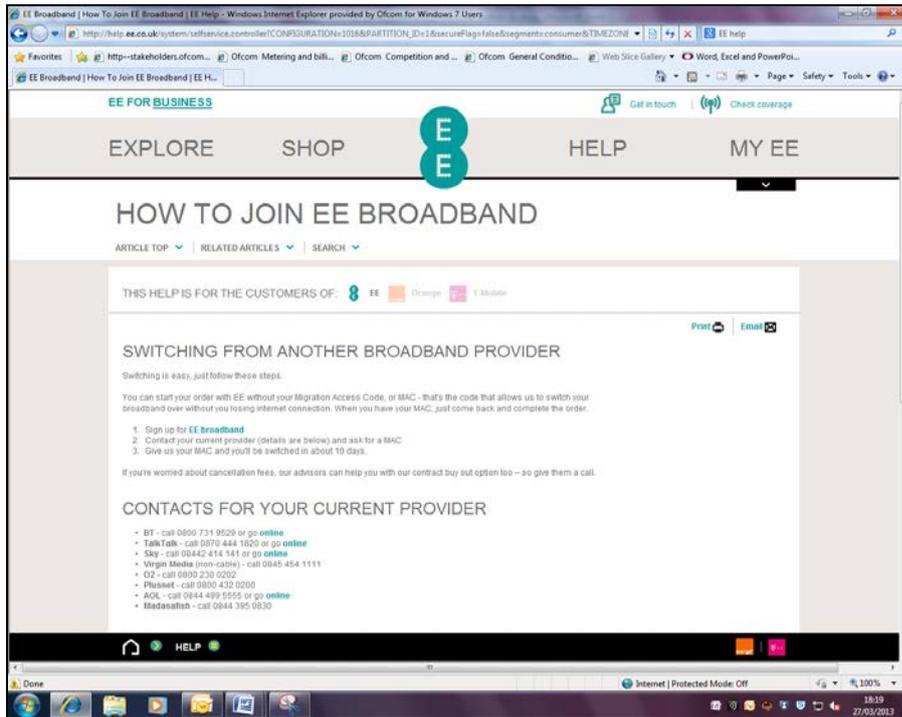


Figure A5.19

SWITCHING FROM ANOTHER BROADBAND PROVIDER

Switching is easy, just follow these steps.

You can start your order with EE without your Migration Access Code, or MAC - that's the code that allows us to switch your broadband over without you losing internet connection. When you have your MAC, just come back and complete the order.

1. Sign up for **EE broadband**
2. Contact your current provider (details are below) and ask for a MAC
3. Give us your MAC and you'll be switched in about 10 days.

If you're worried about cancellation fees, our advisors can help you with our contract buy out option too – so give them a call.

Sky

A5.8 Research conducted 18/03/2013,

A5.9 Homepage <http://www.sky.com/>

Switching Away from Sky

Fixed Line

Figure A5.20

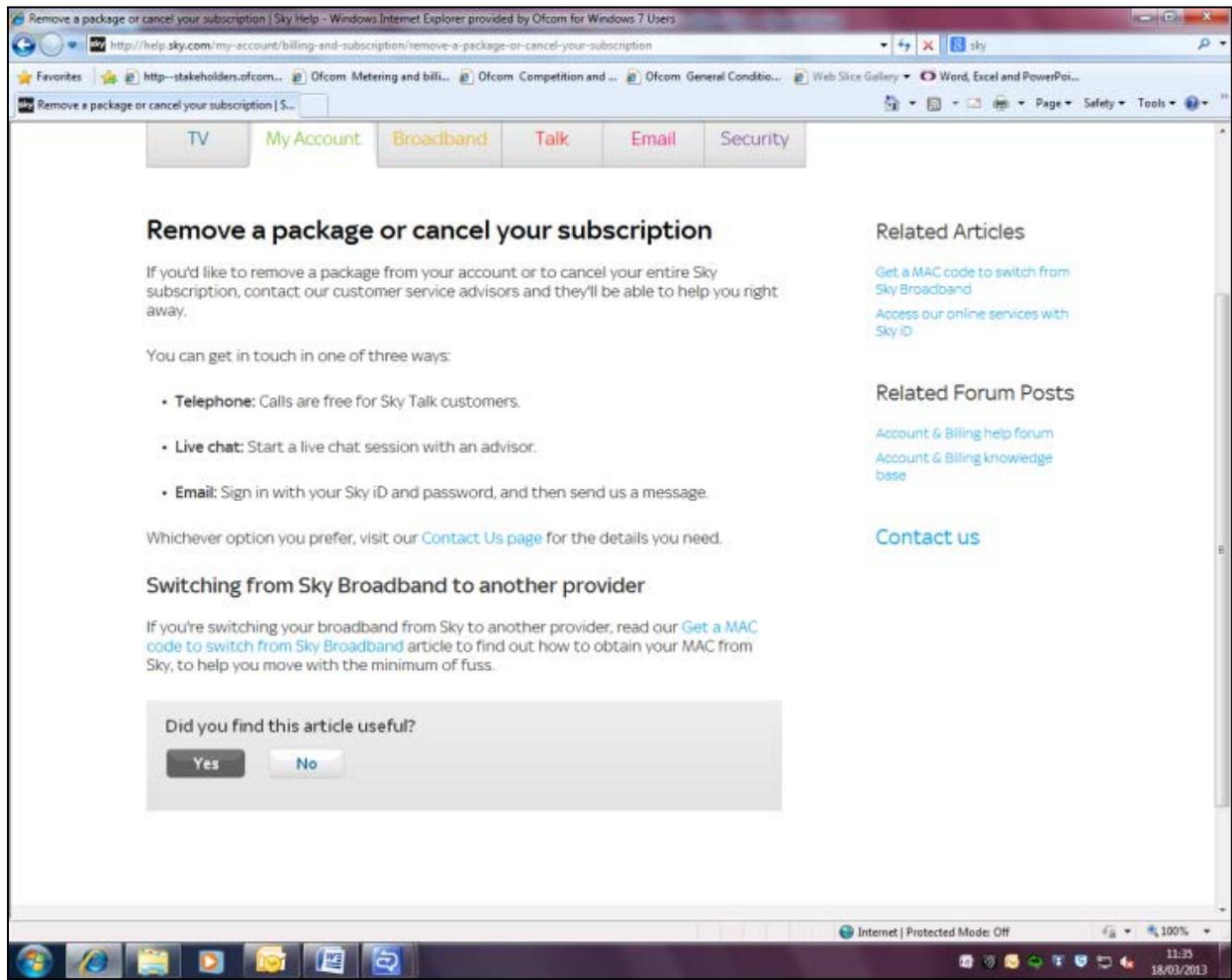


Figure A5.21

Package Type	Monthly Early termination charge (£)
Sky TV customer	
Your Sky TV package	15.31
HD pack	7.44
Multiroom	8.21
Sky Broadband Unlimited/Lite customer (with TV)	
Broadband Unlimited, Talk (either Freetime/Weekend/Anytime) and Line rental	8.75
Broadband Lite, Talk (either Freetime/Weekend/Anytime) and Line rental	2.50
Sky Broadband Unlimited customer (without TV)	
Broadband Unlimited, Talk (either Freetime/Weekend/Anytime) and Line rental	11.00
Sky Broadband Connect/Fibre Unlimited customer (with or without TV)	
Broadband Connect, Talk (either Freetime/Weekend/Anytime) and Line rental	6.00
Fibre Unlimited, Talk (either Freetime/Weekend/Anytime) and Line rental	16.00
Sky Talk Customer (with or without TV)	
Talk (either Freetime/Weekend/Anytime) and Line rental	3.50

*The early termination charge will not be more than the charges you would have paid for your products for the remainder of the minimum term less any costs we save, including the cost of no longer providing you with the relevant products.

Broadband

Figure A5.22

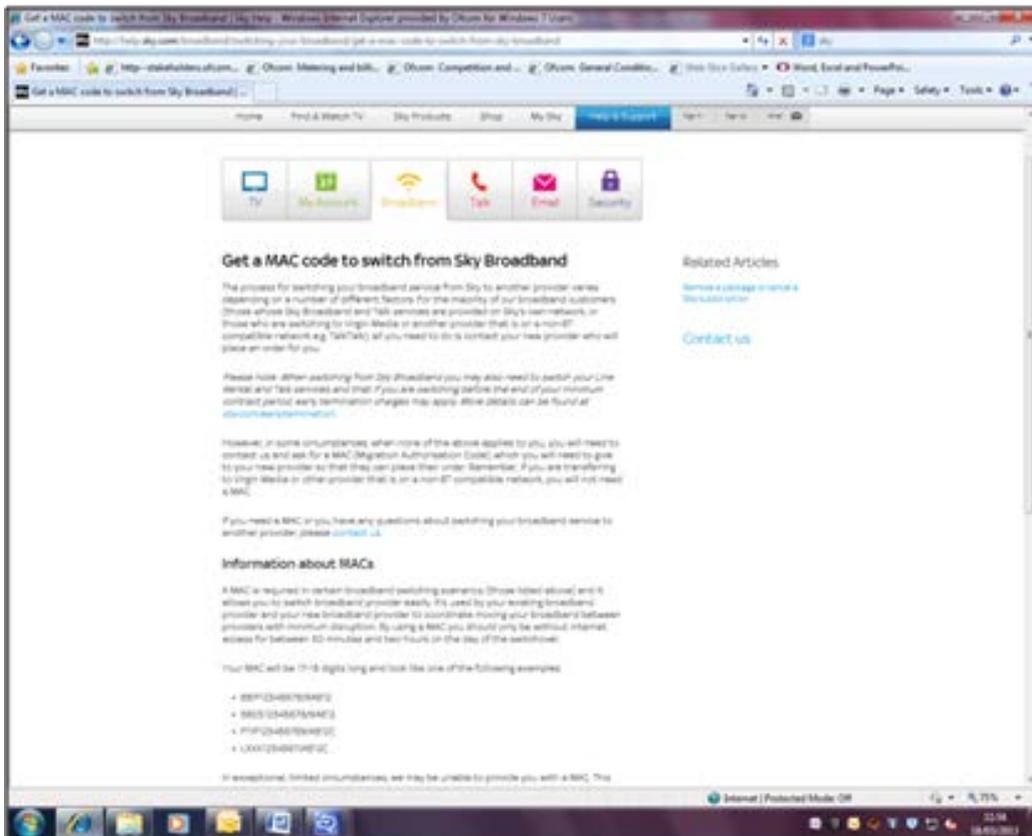


Figure A5.23

Get a MAC code to switch from Sky Broadband

The process for switching your broadband service from Sky to another provider varies depending on a number of different factors. For the majority of our broadband customers (those whose Sky Broadband and Talk services are provided on Sky's own network, or those who are switching to Virgin Media or another provider that is on a non-BT compatible network e.g. TalkTalk), all you need to do is contact your new provider who will place an order for you.

Please note: When switching from Sky Broadband you may also need to switch your Line Rental and Talk services and that if you are switching before the end of your minimum contract period, early termination charges may apply. More details can be found at [sky.com/earlytermination](https://www.sky.com/earlytermination).

However, in some circumstances, when none of the above applies to you, you will need to contact us and ask for a MAC (Migration Authorisation Code), which you will need to give to your new provider so that they can place their order. Remember, if you are transferring to Virgin Media or other provider that is on a non-BT compatible network, you will not need a MAC.

If you need a MAC or you have any questions about switching your broadband service to another provider, please [contact us](#).

Switching To Sky

Fixed line

Figure A5.24

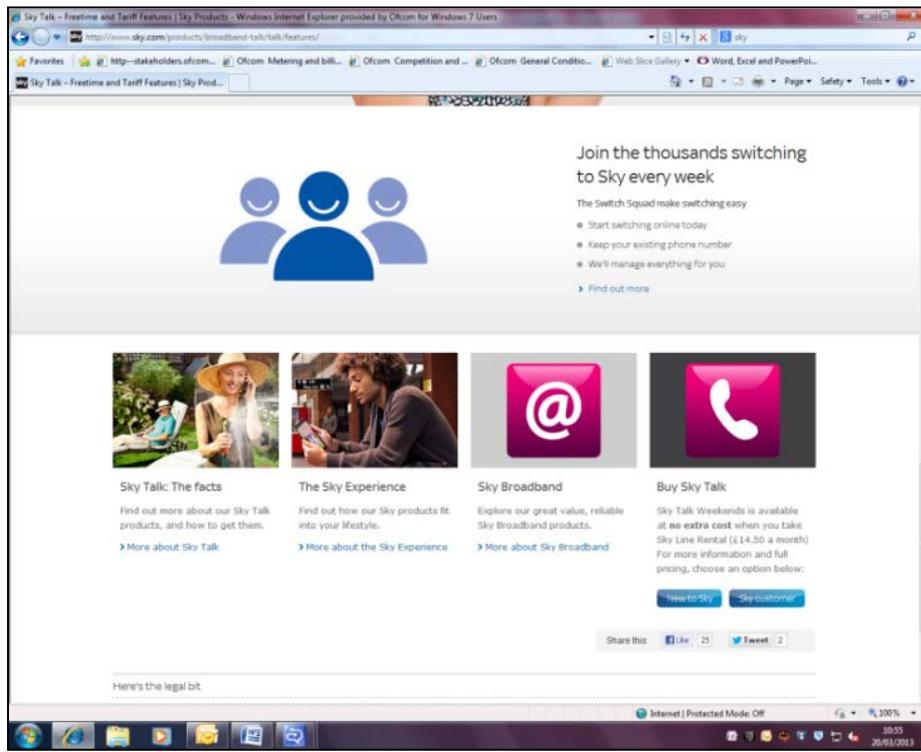


Figure A5.25

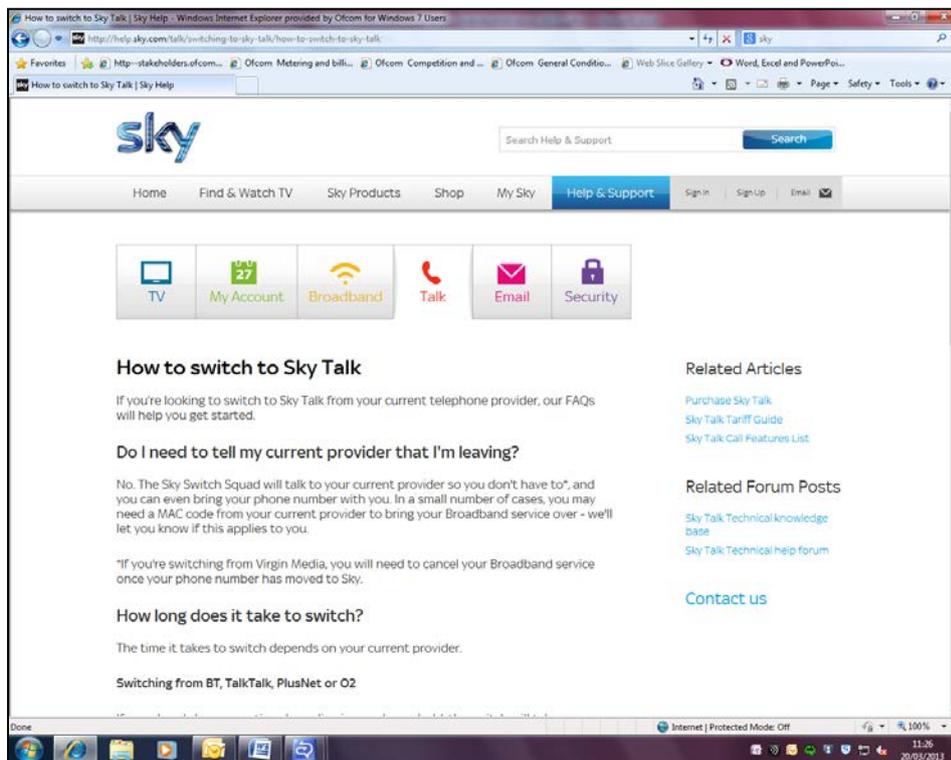


Figure A5.26

How to switch to Sky Talk

If you're looking to switch to Sky Talk from your current telephone provider, our FAQs will help you get started.

Do I need to tell my current provider that I'm leaving?

No. The Sky Switch Squad will talk to your current provider so you don't have to*, and you can even bring your phone number with you. In a small number of cases, you may need a MAC code from your current provider to bring your Broadband service over - we'll let you know if this applies to you.

*If you're switching from Virgin Media, you will need to cancel your Broadband service once your phone number has moved to Sky.

How long does it take to switch?

The time it takes to switch depends on your current provider.

Switching from BT, TalkTalk, PlusNet or O2

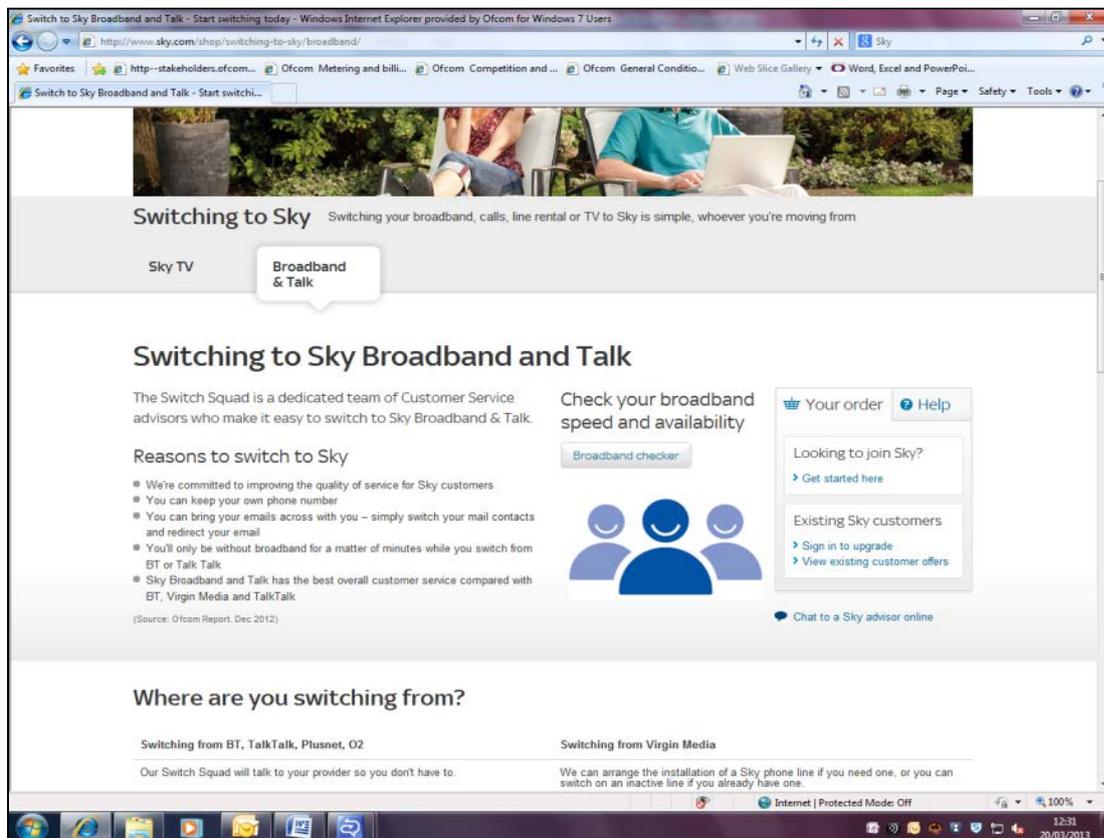
If you already have an active phone line in your household, the switch will take approximately two weeks from when you placed your order with us. On the day of the switch, there will be a short loss of service while the switch takes place - you should expect to have no dial tone for around five minutes, followed by 20 minutes of not being able to receive any incoming calls.

Switching from Virgin Media or no working phone line

If you are switching from Virgin Media or don't currently have an active phone line, we'll try and switch on your line remotely. If this isn't possible, we'll book an engineer appointment for a time that suits you, and text and call you to remind you of the appointment closer to the date. Your wait time will depend on the availability of your engineer.

Broadband

Figure A5.27



TalkTalk

A5.10 Research conducted 22/03/2013,

A5.11 Homepage <http://sales.talktalk.co.uk/>

Switching away

Bundles of Fixed Line and Broadband

Figure A5.28

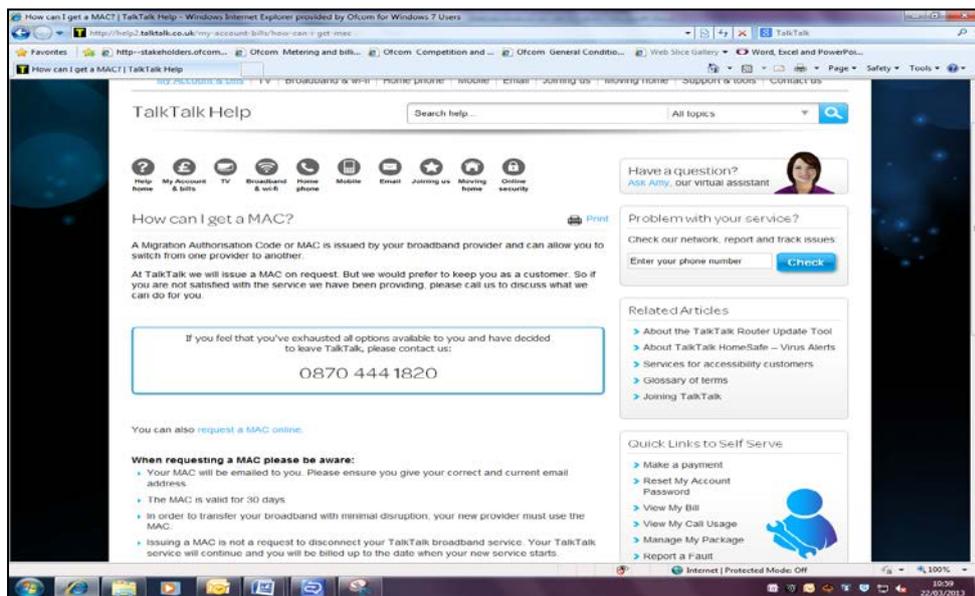


Figure A5.29

How can I cancel my TalkTalk plan?  [Print](#)

If you are thinking about leaving TalkTalk, we hope you will reconsider. We think there are many reasons why you should stay with TalkTalk.

So, if you're having problems with your broadband or landline service, or your bill or account, please contact us on **0870 444 1820** (free from your TalkTalk phone).

The procedure for leaving TalkTalk varies depending on the services you subscribe to, so we ask that you contact us by phone so that we can explain the process in full and discuss any termination fees that may apply.

[What happens if I am in contract?](#)

If you decide to cancel your services with TalkTalk while you are in contract early termination charges will apply.

- ▶ If you are a phone only customer you will be charged £3 for every month left on your contract.
- ▶ If you are a phone and broadband customer on the Plus package you will be charged £15.50 for every month left on your contract.
- ▶ If you are a phone and broadband customer on any other package you will be charged £9.50 for every month left on your contract.

All TalkTalk early termination charges are compliant with Ofcom regulations.

Figure A5.30

TalkTalk Help












[Help home](#)
[My Account & bills](#)
[TV](#)
[Broadband & wi-fi](#)
[Home phone](#)
[Mobile](#)
[Email](#)
[Joining us](#)
[Moving home](#)
[Online security](#)

Is there a charge for terminating my contract early?  [Print](#)

If you decide to cancel your services with TalkTalk while you are in contract early termination charges will apply.

[Phone and Broadband](#)

- ▶ If you are a **phone only** customer you will be charged £3 for every month left on your contract.
- ▶ If you are a phone and broadband customer on the **Lite package** you will be charged £6.00 for every month left on your contract.
- ▶ If you are a phone and broadband customer on the **Plus or Plus TV package** you will be charged £15.50 for every month left on your contract.
- ▶ If you are a phone and broadband customer on **any other package** you will be charged £9.50 for every month left on your contract.

[Fibre](#)

- ▶ If you are a Fibre customer taking the **Fibre Medium** service you will be charged £10 per month for every month left on your contract, in addition to the phone and broadband early termination charges.
- ▶ If you are a Fibre customer taking the **Fibre Large** service you will be charged £15 per month for every month left on your contract, in addition to the phone and broadband early termination charges.

Figure A5.31

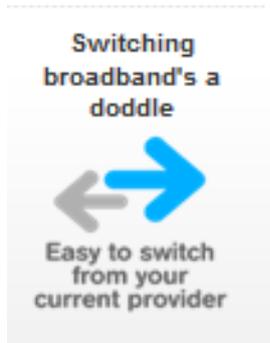


Figure A5.32

A screenshot of a webpage with a white background and a black border. In the top right corner, there is a small red 'X' icon. The main heading is "How to switch if you're with another provider" in a black, sans-serif font. Below the heading are several sections, each with a blue sub-heading: "Order", "The big day", "Going live", "One bill and one great service", and "Don't have a phone line? Moving house? With Virgin Media?". Each section contains a short paragraph of text. At the bottom, there is a line of text: "We can quickly and easily set up a new line for you. [See more](#)".

Figure A5.33

A rectangular text box with a thin black border. It contains a bullet point followed by a question: "• What happens if I'm switching from another broadband provider?". Below the question is a paragraph of text: "Switching to TalkTalk couldn't be easier. All you need to do is choose the package you want and we take care of the rest. Your old service will be cancelled as soon as your TalkTalk service starts so there won't be any overlap and you won't be double-charged. Your previous provider will credit you for any unused line rental."

Figure A5.34

What happens once I've signed up?

Once you have signed up we will do all the work for you to transfer your services. You'll receive a welcome pack and email confirmation of your order, along with other documentation as your order progresses. Keep these documents safe for future reference.

In these documents you'll find your go-live dates for your landline and broadband services - these may be the same date depending on the services available in your area. We do recommend that you contact your old provider, just to make sure they have stopped billing you.

Figure A5.35

What happens when I switch from another broadband supplier?

This will depend on whether you need a new telephone line installed or not. If you are simply switching your broadband provider we will handle everything:

- ▶ Your old service will be cancelled just as ours starts
- ▶ There won't be any service overlap: you won't be charged double
- ▶ You will receive one more bill from your existing provider to pay for any calls made
- ▶ You'll be credited by your previous line provider for any unused rental

If your address does not have a line that TalkTalk can use, a Virgin line for example, then we will have to install a new telephone line at that address. In this case you will need to cancel your existing contract once your TalkTalk service is live.

Annex 6

Supporting Calculations

Introduction

A6.1 This annex explains the calculations we have made to support our findings elsewhere in this document. These supporting calculations underlie our analysis:

- in Section 3 on the total number of completed switches on Openreach's infrastructure per year;
- in Section 4 on the consumer experience under the LPL MAC switching process, and in Section 6 on the effectiveness of reactive save.
- in Section 9 of the consultation on specific elements of improvements to the GPL NoT process; and

A6.2 The calculations we have made are explained in the following sub-sections, and for the latter two pieces of analysis can be found in the accompanying spreadsheet.³⁴¹

Switching levels

A6.3 As noted in Section 3 we have updated our estimate of the total number of switches over Openreach infrastructure per year. In the 2012 Consultation CSMG estimated a figure of 2.1m switches per year, but drawing on Openreach information presented by CRA we now use a figure of 2.8m completed switches per year.

A6.4 CRA shows data on migration orders for WLR and MPF (which use the GPL NoT process) and SMPF to SMPF orders (which use the LPL MAC process) for the period April 2011 to March 2012.³⁴² In combination with information on order cancellations this enables us to calculate the total numbers of switches over Openreach infrastructure completed during this period, which total 2.3m.³⁴³

A6.5 Our consumer research 2010 suggested in addition to migrations using the NoT and MAC processes, a further 18% of total switches used C&R.³⁴⁴ It follows that we estimate the total number of completed switches per year as 2.8m.³⁴⁵

Evidence of hassle and the effectiveness of reactive save under the LPL MAC switching process

A6.6 In Section 4 we presented the results of new analysis in support of our concerns that consumer difficulty in the LPL MAC process leads to high rates of drop out compared to the GPL NoT process, and in Section 6 we presented the same results

³⁴¹ See 'Consumer Switching Supporting Calculations.xlsm'.

³⁴² CRA impact assessment report, Table 4.

³⁴³ Comprising completed GPL NoT switches = $[(1,449,913 + 859,406) * 0.87] = 2.0\text{m}$ and the total completed LPL MAC switches = $[336,237 * 0.92] = 0.3\text{m}$.

³⁴⁴ Note that despite relating to an earlier period than the data presented by CRA we consider that our consumer research 2010 is the most reliable source available for this information. As explained in footnote 365 of the 2012 Consultation, these figures exclude switches to/from Virgin Media, and are based on a bespoke Ofcom calculation.

³⁴⁵ This is because $2.3\text{m} / 0.82 = 2.8\text{m}$.

in support of our concern that reactive save activity leads to lower levels of switching under LPL MAC than would be expected. The details of the new evidence we have collected and the calculations we have made are explained below.

- A6.7 In the 2012 Consultation we explained our concerns about reactive save and provided some empirical evidence.³⁴⁶ Since then new evidence has been provided to us in the CRA reactive save report,³⁴⁷ and we followed up on this by requesting information under our formal powers from BT and from Sky.³⁴⁸ Our methodology, the sources of new data and the calculations we have made are explained in the following sub-sections.
- A6.8 We also note that the new data highlight the fact that it is only a small minority of switches that presently use the LPL MAC process, and that this proportion is in decline.

Calculation sources and methodology

- A6.9 As explained in the 2012 Consultation, we are concerned about the potential for reactive save and for unnecessary switching costs and consumer hassle under the LPL MAC process. If these concerns are justified we would expect to see lower levels of switching under the LPL MAC process than would otherwise be the case and a lower level of switching relative to GPL NoT than would otherwise be the case.
- A6.10 In order to test this hypothesis we have made a series of calculations of the share of switches that we would expect to be made via the LPL MAC process, and have compared the results to evidence on actual switches. These calculations show that the actual proportion of switches on the Openreach network which use the LPL MAC process is much lower than we would expect, given the market shares of different providers and the wholesale services which they use.
- A6.11 The sources of information and the methodology we have used in this analysis are explained in the following sub-sections.

Sources

- A6.12 The starting point for the calculations presented in this section of the annex is evidence on the broadband market from March 2012. We use total broadband customer numbers from Ofcom's Telecommunications Market Updates³⁴⁹ and market share information from Ofcom's latest Communications Market Report shown in Figure A6.1 below.³⁵⁰

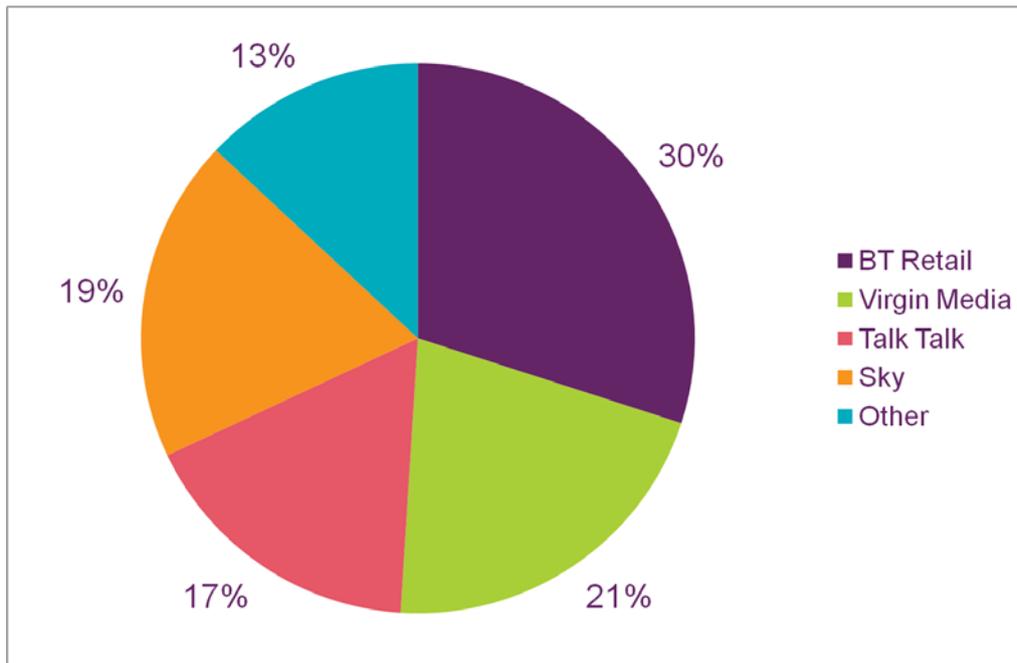
³⁴⁶ 2012 Consultation, paragraphs 5.25 to 5.28.

³⁴⁷ CRA reactive save report, Section 2.1.

³⁴⁸ See Ofcom's Notices under Section 135 of the Communications Act of 4 April 2013.

³⁴⁹ Telecommunications Market Data Update Q4 2012, 29 April 2013. Available at: <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/tables/q4-2012/>. The Q1 2012 figure is 20,923,000 total broadband customers.

³⁵⁰ Communications Market Report 2013, summarised from Figure 5.34. Available at: <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/>.

Figure A6.1: Fixed broadband market share (March 2012)

Source: Ofcom Communications Market Report 2013.

- A6.13 Since the LPL MAC process is only used for broadband switches in which both the LP and GP use either SMPF or IPStream wholesale services, we also require information on the share of each CP's broadband customers that are served using SMPF/IPStream. This information is provided in the CRA reactive save report,³⁵¹ and can be used to calculate the pool of customers who could potentially switch using the LPL MAC process.
- A6.14 CRA's Reactive Save report provides figures on the share of each CP's broadband customers served using the SMPF/IPStream wholesale services that we are interested in. This information is shown in Table A6.1 below, along with broadband subscriber numbers calculated using the information explained above.

³⁵¹ CRA reactive save report, footnote 6, which discusses SMPF/WLR wholesale services. In the context of broadband services this relates to the SMPF/IPStream that we are interested in. CRA's report was provided to us in May 2012 and suggests that the figures it contains relate to the period in which it was written. Broadband market shares are relatively stable over time (see Ofcom's Telecommunication Market Data Tables) so we consider that CRA's figures relate to a sufficiently similar point in time to our market share data to be used in our calculations.

Table A6.1: Broadband subscribers and SMPF/IPStream subscribers

	Total broadband subscribers	SMPF/IPStream share	Subscribers on SMPF/IPStream
BT Retail	6,267,000	100%	6,267,000
Virgin Media	4,386,900	5% ³⁵²	215, 448
Talk Talk	3,551,300	18% ³⁵³	651,623
Sky	3,969,100	20.87% ³⁵⁴	828,351
Other	2,715,700	100%	2,715,700
Total	20,890,000		10,678,122

Sources: Ofcom Telecommunications Market Data Tables, Figure A6.1, CRA.

A6.15 Overall we find that 64% of total non-cable UK broadband customers are served using SMPF/IPStream wholesale services.³⁵⁵ In order to use the LPL MAC process both the customer's LP and GP must use SMPF/IPStream wholesale service. Below, we explain how we have calculated the expected proportion of switches that should use the LPL MAC process.

Methodology

A6.16 Our approach is set out below, using 'Provider X' as an illustrative example:

- The LPL MAC process is only used for switches in which both the LP and the GP use SMPF/IPStream.
- We first derive the share of total non-'Provider X' non-cable broadband subscribers that are served using SMPF/IPStream. This is done by calculating total non-'Provider X' non-cable broadband customers, and the number of these that are served using SMPF/IPStream. We assume that the wholesale service distribution of switching customers is proportional to that in this pool of potential switchers.
- For example, if CPs other than 'Provider X' provided non-cable broadband services to 10m UK households, and 3m of these households were served using SMPF/IPStream, then we would expect 30% of potential Openreach copper network switchers to 'Provider X' to be served using SMPF/IPStream with their existing provider.

³⁵² Virgin's non-cable customers are assumed to be 5% of its total customers (based on publicly available information from <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTgxNTE2fENoaWxkSUQ9LTF8VHlwZT0z&t=1>) and to use SMPF/IPStream.

³⁵³ Based on publicly available information from Talk Talk's 2012 Annual Report, see <http://www.talktalkgroup.com/~media/Files/T/TalkTalk/pdfs/reports/2012/talktalk-ar12-web-ready-v2.pdf>.

³⁵⁴ This figure has been provided to us by Sky in response to a formal information request and represents the share of Sky's broadband customer acquisitions that used SMPF/IPStream in the period May to October 2012. This is lower than the share of its total subscribers using SMPF/IPStream reported by CRA (37%). A lower share of subscribers assumed to use SMPF/IPStream reduces expectations of switches using the LPL MAC process, so for conservatism we use the lower figure throughout this annex.

³⁵⁵ We exclude cable subscribers to leave only customers served using the Openreach copper network. This fits with the focus of our current phase of work and avoids complications caused by switches to cable, the provision of new services and homemoves.

- Then we require an estimate of the share of switchers to 'Provider X' who will be served using SMPF/IPStream wholesale services. In our simple example we assume that two thirds of 'Provider X's' existing broadband customers are served using SMPF/IPStream, and further that any new subscribers acquired will be served in proportion to this.
- Multiplying these figures together we find that in this example it might be expected that 20% of switches to or from 'Provider X' might use the LPL MAC process.³⁵⁶
- This estimate of expected switches to or from 'Provider X' using the LPL MAC process can then be compared with the available evidence on its actual switches. This comparison tests our hypothesis that fewer switches are actually processed using the LPL MAC process than might reasonably be expected to be the case.

A6.17 The key assumption in this methodology is that the split of wholesale services (SMPF/IPStream and otherwise) for switching customers is proportional to:

- At the LP end of the switch, the existing distribution amongst the pool of potential switchers; and
- At the GP end, the existing distribution amongst the customers of the GP.³⁵⁷

A6.18 In the calculations explained in the following sub-sections we compare actual switches against our theoretical estimates of switches using the LPL MAC process.

Total Market Calculation

Actual switches using LPL MAC

A6.19 Data provided to us by Openreach³⁵⁸ indicate that in 2012 only around 10% of total GPL NoT and LPL MAC migrations over the Openreach copper network used the LPL MAC process.³⁵⁹

A6.20 In addition to serving as an input to our calculations, we note that this figure highlights how small a minority of switches presently use the LPL MAC switching process.

Theoretical switches using LPL MAC

A6.21 To derive the theoretical share of LPL MAC switches in the total non-cable broadband market we calculate the share of switches for each provider which can be expected to use the LPL MAC process, using the methodology described above.

A6.22 We weight the expected LPL MAC switching shares for each CP together using the Openreach copper network broadband market shares to produce an overall market figure for the share of expected LPL MAC switches. This requires the additional assumption that each CP's share of such switches is proportional to its Openreach

³⁵⁶ 30% x 66.6% = 20%.

³⁵⁷ With the exception of Sky for reasons of conservatism, see footnote 354 above.

³⁵⁸ In response to our Notice under Section 135 of the Communications Act of 4 April 2013.

³⁵⁹ The derivation of this figure (which excludes C&R) is explained in Section 3.

copper network broadband market share.³⁶⁰ The information used to do this is summarised in Table A6.2 below.

Table A6.2: Theoretical Openreach copper network LPL MAC switches, and market shares

	Expected MAC switchers	Openreach copper network broadband market share
BT Retail	41%	37%
Virgin Media	4%	1%
Talk Talk	14%	21%
Sky	16%	24%
Other	57%	16%
Total		100%

Source: Figure A6.1 and Ofcom calculations based on Ofcom and CRA data.

A6.23 The sum product of the expected MAC Openreach copper network LPL MAC switches and market shares is 32%. This means that we would expect 32% of switches between services on the Openreach copper network to use the LPL MAC switching process.³⁶¹

Comparison of actual and theoretical switches

A6.24 Comparing the results in paragraphs A6.19 and A6.23 it is apparent that our estimate of theoretical switches using the LPL MAC switching process (32%) is considerably in excess of the actual figure (around 10%).

A6.25 This result is consistent with our hypothesis that the LPL MAC switching process is associated with lower levels of switching that we would expect to be the case. It is consistent with our concerns that reactive save activity is highly effective in retaining customers, and that hassle involved in the LPL MAC process leads to high rates of drop out compared to the GPL NoT process.

Updated option assessment

A6.26 As explained in Section 7, our 2012 Consultation contained estimates of the net benefits of each of the shortlisted options.³⁶² This involved comparison of the costs of the options, which were estimated by CSMG, against the benefits of the options, which were estimated by Ofcom.

A6.27 We found that the nature of many of the benefits meant that it was not possible for us to quantify them. As a result, our assessment of the options in the 2012 Consultation drew on both our quantitative and our qualitative analysis. Having identified GPL TPV as the leading GPL option and LPL TxC as the leading LPL

³⁶⁰ This is calculated using the data shown in Table A6.1, using the estimate of cable customers from footnote 352.

³⁶¹ We note that this result is conservative for the reason explained in footnote 354. Were we to assume that 37% of Sky's broadband customer acquisitions were served using SMPF/IPStream (in line with its existing customer base), the result would be an expectation of 38% of switches between services on the Openreach copper network to use the LPL MAC switching process.

³⁶² 2012 Consultation, Figure 38 and the supporting calculations in Annex 8.

option, we found that they had similar quantified net benefits but that GPL TPV had greater additional qualitative benefits than LPL TxC. Consequently we identified GPL TPV as our preferred option.

A6.28 In updating our quantitative option analysis below we begin by explaining the approach we took in the 2012 Consultation, and noting the stakeholder responses we received on it. We then explain the new evidence we have on the extent of the problems (from Sections 4, 5 and 6), respond to the stakeholder comments and explain how we have revised our quantitative analysis. This revised analysis serves as an input into our considerations in Section 9.

Changes from analysis in 2012 Consultation

Our approach in the 2012 Consultation

A6.29 In the 2012 Consultation our starting point for estimating the benefits of each of the options was to quantify, as far as was possible, the existing costs incurred by consumers and CPs as a result of the problems we had identified. To the extent that these existing problems would be reduced by each of the switching options, these savings in existing costs could be thought of as benefits resulting from the new switching options.³⁶³

A6.30 We produced these illustrative estimates of benefits for each of the viable options considered in the 2012 Consultation and compared them to the estimates of the costs of each of the options produced by CSMG. We projected these costs and benefits over a period of 10 years and calculated the net present value of each option.³⁶⁴

A6.31 We attempted to quantify the benefits of the different switching options related to.³⁶⁵

- consumer consent, in terms of the extent to which each option might reduce slamming, and the reduced need for the Cancel Other process;
- back end system deficiencies related to some current ETs, meaning the extent to which the existing consumer and CP harm from ETs might be reduced;
- the implications of switching, consisting of reductions in consumer costs due to better information about ETCs; and
- varying and unnecessary switching costs, in terms of changes in consumer time spent and savings for consumers and CPs through avoiding the use of Cancel Other.

A6.32 This meant that we did not attempt to quantify the benefits associated with.³⁶⁶

- harmonisation to a single switching process;
- consumer difficulty in switching and the GP's incentive to make the switch free of difficulty for consumers;

³⁶³ 2012 Consultation, paragraph 7.148.

³⁶⁴ As explained in footnote 275 and paragraph A8.84 of the 2012 Consultation, we discounted the costs and benefits using the social rate of time preference of 3.5%.

³⁶⁵ 2012 Consultation, Figure 42.

³⁶⁶ 2012 Consultation, paragraphs 7.163 to 7.170 and 7.130.

- reactive save activity;
- back end system deficiencies related to switching:
 - services without a CLI, with multiple CLIs, or with CLIs not currently visible to the GP on Openreach DS;
 - when there is a mismatch between the CLI and the correct asset ID; and
 - services provided over a shared asset;
- loss of service;
- lack of platform neutrality, including the possibility of expanding to other infrastructures (such as cable).

Stakeholder views

- A6.33 In their responses to the 2012 Consultation a number of stakeholders were critical of our approach and the results we drew from it.
- A6.34 CRA, EE, Sky and Virgin Media commented on the incomplete nature of our analysis, as explained in the previous sub-section. CRA recognised that ‘not all impacts are capable of quantification’³⁶⁷, but also argued that the calculations were unduly sensitive to changes in certain parameter values, undermining the reliability of our analysis.
- A6.35 EE observed that the quantified benefits of the LPL options were higher than those of GPL TPV, and CRA argued that the quantified benefits of GPL TPV were ‘extremely small - both in absolute terms, and relative to total spending by consumers on fixed voice and broadband’, and were ‘entirely dominated’ by the estimated benefits of addressing slamming.³⁶⁸
- A6.36 CRA also made a series of specific criticisms as follows:
- the use of annuitised results obscures the timing of the estimated cash flows for each option, which could be a consideration in determining the preferred option;
 - the impact assessment doesn’t take into account differences in the implementation timeframes between the different options, which could affect the timing of costs and benefits;
 - the chosen time period for modelling is not explained in the 2012 Consultation;
 - the use of mid-points for assumptions on the incidence of slamming, rather than the ranges (which it claimed were not shown in the 2012 Consultation) is inappropriate;
 - the discount rate of 3.5% might not be the most relevant rate, and that no alternative rates were used;

³⁶⁷ CRA impact assessment report, paragraph 26.

³⁶⁸ CRA impact assessment report, paragraph 6.

- the use of costs and benefits that remain constant in real terms over time is unrealistic; and
- the calculations contained a minor error in relation to GPL TxC consumer benefits.

New evidence of the extent of problems which we have quantified

A6.37 As explained in Section 5, we have new and more recent evidence on the extent of a number of the problems with the existing switching processes. Most notably, we have recent evidence on the prevalence of slamming and ETs, which has implications for the extent of these problems. The new estimates are shown in Table A6.3 below, and compared to those from the 2012 Consultation.

Table A6.3: New estimates of the prevalence of slamming and ETs³⁶⁹ (households³⁷⁰ 2012-13)

	2012 Consultation	2013 evidence
Slamming	520,000	84,300
ETs	130,000	118,700

Sources: 2012 Consultation and Section 5.

A6.38 This new evidence is an important input into our quantitative assessment of the options because it affects the existing costs to consumers and CPs associated with the problems. We consider reductions in these existing costs as the benefits of the new switching options, as explained in paragraph A6.29. Since the extent of the problems is now known to be lower this means that the potential quantifiable benefits of some of the proposed options are reduced.

Our assessment and revised approach

A6.39 We have carefully considered stakeholders' comments that the quantification of benefits was incomplete and sensitive to changes in parameter values. Although we acknowledged the issue of the inability to quantify all benefits in the 2012 Consultation, the presentation of a 'partial' quantitative analysis may still have caused undue focus on those benefits which can be quantified, at least in part, and relatively less emphasis on benefits which, although potentially equally significant, are less amenable to quantification. We recognise in particular the qualitative benefits associated with addressing slamming and ETs.

A6.40 We also acknowledge that, for those benefits which can be quantified, the magnitude of the benefit can be sensitive to changes in key parameters. The impact of this margin for error becomes magnified when different benefits are aggregated. This means that the margin for error in calculating the total benefits of an option can be significant.

³⁶⁹ We note that the split of ETs between those arising as a result of the WLT process and those arising due to migrations remains at 77% and 23% respectively. This has been estimated by the OTA, see Section 5 of this document.

³⁷⁰ As noted in Section 5 of this document we maintain the total number of households (26m) used in this calculation in order to be consistent with the 2012 Consultation. More recent data indicate that this will marginally understate the prevalence of these problems, but not to an extent that would affect our conclusions.

- A6.41 In the light of these considerations, we no longer perform a quantitative assessment of the benefits of each of the different options under consideration. Instead, in Section 7 and Annex 8, we undertake a qualitative assessment as to how each option deals with each problem. We consider that this qualitative assessment allows a more balanced assessment of benefits.
- A6.42 We note that fewer issues arise with the quantification of costs (as costs are usually monetary whereas benefits can be non-monetary). We therefore continue to estimate the costs of each option. CSMG has provided its updated estimates of the costs of each option in Annexes 9 and 10.
- A6.43 However, we consider that it can still be useful to quantify potential benefits when considering the proportionality of individual enhancements. Although there may be unquantified benefits, if the cost of an enhancement is less than its quantifiable potential benefits, then this provides a useful indication that the enhancement is likely to be proportionate. In this annex, we provide an indicative quantification of the individual enhancements which collectively form the GPL NoT+ solution.
- A6.44 Our calculations for the individual enhancements are based on those used in the 2012 Consultation. We use the same methodology, but have updated the calculations to take account of new information, and the disaggregated costs of the Enhanced GPL NoT switching option provided by CSMG. In order to remain consistent with our previous calculations we have sought not to update other inputs and assumptions, although we have updated the assumed timing of cash flows to reflect the passage of time since the 2012 Consultation.³⁷¹
- A6.45 We note that many of the stakeholder comments on our quantitative analysis in the 2012 Consultation related to our assessment of the GPL TPV option, and in particular on its performance relative to the LPL options. As a consequence of our revised approach we note that these stakeholder comments are no longer relevant to our analysis. We respond to CRA's more detailed points in paragraph A6.36 in turn below:
- On the argument that annuitised costs obscure cash flows, we note that the details of the cash flows were shown in the calculations published alongside the 2012 Consultation, and are in revised supporting calculations provided now.³⁷²
 - We acknowledge that there may be differences in implementation timeframes between options, but the very nature of this issue makes it difficult to model and the difficulty in taking it into account is another reason why we are not comparing quantified benefits across options.
 - On the subject of the time period for modelling, this was explained in footnote 418 of the 2012 Consultation. We note that this has been slightly modified in our revised calculations to take account of the passage of time since the 2012 Consultation (see footnote 371).
 - Contrary to CRA's argument that we had not performed sensitivity analysis by using ranges for key parameter inputs, we note that the results of ranges are shown in Figure 38 of the 2012 Consultation (which is replicated in Table 2 of

³⁷¹ We now assume capex being incurred in 2014, with opex and benefits arising for ten years from 2015.

³⁷² In any case this was not the determining factor in our finding that TPV was our preferred option, and is not a determining factor in our revised analysis.

CRA's own report). We continue to perform sensitivity analysis, where appropriate, in our revised analysis below.

- The discount rate of 3.5% used in the 2012 Consultation is the social rate of time preference, as explained in paragraph 7.139 of the 2012 Consultation. We note that we also used the alternative Spackman approach as part of our sensitivity analysis, and continue to do this below.
- CRA's observation that our analysis in the 2012 Consultation relied on costs and benefits that remain constant in real terms over time is correct. However, we note that CRA does not explain how it believes they would evolve over time, and we consider that trying to take account of this would be unduly speculative.
- Finally we acknowledge the minor error identified by CRA.

Use of a record of consent to reduce harm from slamming

A6.46 As explained in Section 5, while slamming remains a concern, its extent is considerably lower than was thought at the time of the 2012 Consultation. In Section 9 we explain the record of consent mechanism³⁷³, which we consider would help to address the problem of slamming.

Costs

A6.47 CSMG has estimated the costs of introducing the record of consent mechanism consisting of upfront capital expenditure of £4.1m, plus ongoing operating expenses of £0.6m per annum.³⁷⁴

A6.48 Using the methodology and inputs from in the 2012 Consultation, but updating the timing of cash flows as explained in footnote 371, this amounts to a net present cost of implementation over a 10 year period of £8.9m.^{375 376}

Quantifiable Benefits

A6.49 As shown in Table A6.3, our most recent research estimates that 84,300 households were slammed in the year preceding the analysis.³⁷⁷ Using the methodology from the 2012 Consultation we estimate a resulting quantifiable cost of slamming to consumers under the existing switching processes of between £0.3m

³⁷³ The specification of the record of consent mechanism is explained in detail in Annex 7.

³⁷⁴ CSMG report, Annex 10, Figure 12.

³⁷⁵ See the 'NoT+ Controls and results' worksheet of the 'Consumer Switching Supporting Calculations.xlsm' spreadsheet.

³⁷⁶ Note that this result (and the other costs presented in this annex) differs slightly from the figure calculated by CSMG. This is due to differences in the timing of cash flows assumed. For consistency we maintain the timing used in the 2012 Consultation, albeit with the change explained in footnote 371.

³⁷⁷ For the purposes of our quantification we use this as an annual figure.

and £0.8m per annum.³⁷⁸ In addition to this we estimate a cost of slamming of £1.8m per annum to CPs.³⁷⁹

A6.50 Using the midpoint of the consumer cost estimates this results in total costs of £2.3m per annum, which over a 10 year period amounts to a present value of £18.7m.³⁸⁰ Since these are the costs of the existing problem, they are equivalent to the quantifiable potential benefits that could be achieved as a result of eliminating the problem.

Comparison of costs and benefits

A6.51 Comparison of the estimates of costs and quantifiable benefits of the record of consent mechanism shows that the potential benefits are in excess of the costs of implementation, and if the record of consent reduced the prevalence of slamming by 48% then the net present value of this enhancement would be zero.³⁸¹ If the reduction in the prevalence of slamming were greater than this then the quantified benefits would exceed the costs of implementation.

A6.52 We note that although we have attempted to quantify the cost to consumers in terms of time, many consumers experience significant distress as a result of slams, which we have not quantified. Further consumers suffer from attempted slamming, and we have not quantified the benefits of reducing this either. To the extent that these benefits are omitted from our calculations our results will conservatively understate the benefits of the record of consent.

A6.53 Furthermore, we note that CSMG's analysis shows that the implementation of the record of consent mechanism would not lead to any wasted costs in the event that transition to a GPL option using a hub and database occurs in the future.

Sensitivity analysis

A6.54 We have performed sensitivity analysis on this result as follows:

- Using the range around the slamming estimate explained in Section 5,³⁸² the low estimate of the prevalence of slamming would suggest that if the record of

³⁷⁸ As in the 2012 Consultation we calculate the consumer costs of slamming as the sum of consumer time and financial costs. We assume that it takes 30 minutes for a consumer to rectify a slam, and use a value of non-working time of £5.97 per hour, giving $84,300 \times 0.5 \times £5.97 = £0.3m$. We calculate a financial loss to consumers ranging between zero and £6 per slam, which adds $83,400 \times £6$ to the previous figure to produce the upper bound of £0.8m.

³⁷⁹ As in the 2012 Consultation, this is based on a CP cost of rectifying a slam of £38.66 (as explained in paragraph A8.15 of the 2012 Consultation), and the assumption that an average of 44% of consumers who experience a slam or ET do not have their service restored to their original provider. $84,300 \times £38.66 \times (1 - 44\%) = £1.8m$.

³⁸⁰ See the 'NoT+ Controls and results' worksheet of the 'Consumer Switching Supporting Calculations.xlsm' spreadsheet.

³⁸¹ We note that this does not include any benefits arising from the removal of the cancel other process, which we included in our analysis in the 2012 Consultation. To the extent that this is excluded from our analysis our results conservatively understate the benefits of the record of consent mechanism. Our analysis is also conservative as a result of taking no account of the consumer benefits of reducing attempted slams, which also cause consumer harm under the status quo and we anticipate would be reduced by the record of consent.

³⁸² Our Slamming Omnibus Survey 2013 found that 0.59% to 1.41% of adults said they had either their fixed voice and/or fixed broadband switched without their consent in the last 12 months. The low estimate (0.59%) equates to 49,700 households, and the high estimate (1.41%) equates to 118,900 households.

consent reduced the level of slamming by 81% the net present value of this enhancement would be zero. The corresponding high estimate would suggest a threshold of a 34% reduction to produce a net present value of the enhancement of zero.

- Using our lower bound estimate of the consumer cost of slamming suggests a 53% reduction to produce a net present value of the enhancement of zero, and using our high estimate of the consumer cost of slamming suggests a 43% reduction would be necessary.
- Consistent with the results shown in the 2012 Consultation, the calculation explained in paragraph A6.48 does not use the Spackman approach.³⁸³ Under the Spackman approach the threshold to yield a present value of the enhancement of zero is a 51% reduction in slamming.

Enhancements to WLT process to reduce ET harm

A6.55 As explained in Section 5, our reassessment of the extent of the problem of ETs is closely related to our assessment of the extent of slamming. In respect of WLT ETs, which comprise 77% of total ETs (see Section 5), we propose two enhancements to the WLT process:

- Mandating that CPs only place WLT orders where there is an 'exact match'; and
- Mandating that the Incumbent LP sends a notification letter to the incumbent End User so that they are aware that the line is being taken over and are able to cancel the order if it is incorrect.

A6.56 The changes that this entails are explained in Section 9.

Costs

A6.57 CSMG has estimated the costs of these two enhancements to the WLT process as involving upfront capital expenditure of £1.2m and £0.4m respectively, and corresponding ongoing operating expenses of £0.2m and £0.4m.³⁸⁴

A6.58 Using the methodology and inputs from in the 2012 Consultation, but updating the timing of cash flows as explained in footnote 371, this amounts to a net present cost of implementation over a 10 year period of £6.4m.³⁸⁵

Quantifiable Benefits

A6.59 As shown in Table A6.3, we now estimate that 118,700 households suffered an ET in the year preceding our most recent analysis, of which 77%, or 91,400 are associated with WLTs.³⁸⁶

³⁸³ The Spackman approach attempts to overcome problems associated with quantifying the benefits of private investment by CPs that results in benefits that accrue (mainly) to consumers. However, since the bulk of the benefits accrue to the CPs, so it is not clear to us that the use of the Spackman approach is appropriate in this case.

³⁸⁴ See Annex 10 of this document.

³⁸⁵ See the 'NoT+ Controls and results' worksheet of the 'Consumer Switching Supporting Calculations.xlsm' spreadsheet.

³⁸⁶ For the purposes of our quantification we assume that these are annual figures.

- A6.60 The resulting quantifiable costs to consumers under the status quo are between £0.5m and £1.0m per annum.³⁸⁷ The corresponding costs to CPs are £2.6m.³⁸⁸
- A6.61 These costs associated with WLT ETs are equivalent to the potential quantifiable benefits that could be achieved as a result of eliminating the problem, and using the midpoint of the consumer benefits results in total potential benefits of £3.3m per annum, which over a 10 year period amounts to a present value of £26.6m.³⁸⁹

Comparison of costs and benefits

- A6.62 Comparison of the estimated costs and benefits of the enhancements to address WLT ETs suggests that the potential benefits are in excess of the costs of implementation, if the enhancement reduced the prevalence of WLT ETs by 24% then the net present value of its costs would be equal to that of the quantified benefits. A reduction in excess of this would mean that the estimated costs of implementation were exceeded by the quantified benefits.
- A6.63 We note that many ETs occur because CPs are not following the best practice guidelines and so are proceeding when they do not have an exact address match. We also note that although we have attempted to quantify the cost to consumers in terms of time, many consumers experience a loss of their telephone number and significant distress as a result of ETs, which we have not quantified. To the extent that these benefits are omitted from our calculations our results will conservatively understate the benefits of these enhancements.

Sensitivity analysis

- A6.64 We have performed sensitivity analysis on this result as follows:
- Using the low estimate of WLT ETs as a share of total ETs (50%) would require a 68% reduction in ETs for the net present value of the costs of the enhancement to be equal to the quantified benefits. Using the high estimate (85%) would require a 40% reduction.
 - Using our lower bound estimate of the consumer cost of ETs requires a 48% reduction in WLT ETs in order to yield a net present value of its costs equal that of the quantified benefits, and the equivalent threshold using our high estimate of the consumer cost of ETs is a 41% reduction in WLT ETs.

³⁸⁷ As in the 2012 Consultation we calculate the consumer costs of ETs as the sum of consumer time and financial costs, but we adjust to capture only the costs of WLT ETs, using the OTA's estimate of 77%. As in the 2012 Consultation we assume that it takes 30 minutes for the consumer to rectify the ET, and a further 20 minutes for the consumer expecting to get a new service to reorganise the takeover, and use a value of non-working time of £5.97 per hour. $118,700 \times 77\% \times (0.5 + 0.33) \times £5.97 = £0.5m$. As in the case of slamming, we calculate a financial loss to consumers ranging between zero and £6 per slam, which adds $118,700 \times 77\% \times £6$ to this to produce the upper bound of £1.0m.

³⁸⁸ As in the 2012 Consultation, this is based on a CP cost of rectifying the slam component of £38.66 (as explained in paragraph A8.43 of the 2012 Consultation), and a CP cost of rectifying the ET component of £6.60 (as explained in paragraph A8.44 of the 2012 Consultation). We also continue to assume that an average of 44% of consumers who experience an ET do not have their service restored to their original provider (paragraph A8.43 of the 2012 Consultation). $118,700 \times 77\% \times (£6.60 + £38.66 * (1 - 44\%)) = £2.6m$.

³⁸⁹ See the 'NoT+ Controls and results' worksheet of the 'Consumer Switching Supporting Calculations.xlsm' spreadsheet.

- Consistent with the results shown in the 2012 Consultation, the calculation of costs in paragraph A6.58 does not use the Spackman approach.³⁹⁰ Under the Spackman approach a reduction in the prevalence of WLT ETs by 46% would be required to justify these enhancements, and we do not consider that this affects our conclusion.

Wasted costs analysis

- A6.65 We note that CSMG has estimated that the costs of mandating exact match for WLTs would be wasted in the event that a hub and database solution were implemented in the future. In order to indicate whether the enhancement might nevertheless be proportionate during the intervening period we have compared the quantified costs and quantifiable benefits over a two and three year period.
- A6.66 Doing this results in a present value of implementation over a two and three year periods of £1.6m and £1.8m respectively, which would be wasted under a move to a hub and database solution. Over the same periods the corresponding existing harm from WLT ETs is estimated as £6.1m and £9.0m respectively.³⁹¹
- A6.67 This means that mandating exact match would yield a net present value of costs equal to that of the quantified benefits in a two year period if it reduced WLT ETs by 26%, or over a three year period if it reduced WLT ETs by 20%. Reductions in excess of these thresholds would yield quantified benefits greater than the costs of implementation. We note that these figures relate to the effect of mandating exact match only, and do not take into account any impact of requiring notification letters.

Improvements to LP letters to reduce ETC harm

- A6.68 As explained in Section 9, we propose to revise the NoT letter to contain details of the specific implications of switching for the relevant consumer.

Costs

- A6.69 CSMG has estimated the costs of the improvements to LP letters as involving upfront capital expenditure of £0.7m, and corresponding ongoing operating expenses of £0.1m per annum.
- A6.70 This results in a present value of implementation over a 10 year period of £1.8m.³⁹²

Quantifiable Benefits

- A6.71 In the 2012 Consultation we used confidential CP data to estimate that ETCs of £0.4m are unwillingly paid per annum by consumers.³⁹³ In the absence of alternative information and in order to remain consistent with the remainder of the

³⁹⁰ For the same reasons as those explained in footnote 383 it is not clear to us that its use is appropriate in this case.

³⁹¹ See the 'NoT+ Controls and results' worksheet of the 'Consumer Switching Supporting Calculations.xlsm' spreadsheet.

³⁹² See the 'NoT+ Controls and results' worksheet of the 'Consumer Switching Supporting Calculations.xlsm' spreadsheet.

³⁹³ This figure is based on total ETC revenues of £35.2m per annum (see paragraphs A8.52 to A8.54 of the 2012 Consultation), 21% of switchers being unaware of ETCs when the switch was made, and 5% of these switchers being unhappy with their switch as a result (paragraph A.8.51 of the 2012 Consultation). $£35.2m \times 21\% \times 5\% = £0.4m$.

cost calculations we retain this estimate, which results in a present value of the enhancements of £3.0m over a 10 year period.³⁹⁴

Comparison of costs and benefits

- A6.72 Comparison of the estimated costs and quantifiable benefits of the enhancement to address lack of awareness of the implications of switching indicates that the potential benefits exceed the costs, and suggests that if the enhancement led to a reduction in the prevalence of unwillingly paid ETCs by 60% the net present value of its costs would be equal that of the quantified benefits. A greater reduction would mean that the costs of implementation would be exceeded by the quantified benefits.
- A6.73 We consider that more specific information in the NoT letter would reduce the number of consumers who unwillingly pay ETCs. As noted in Section 4, currently many NoT letters just contain a general prompt for consumers to find out about ETCs and no information on whether they would be liable. We also note that there are other unquantified benefits of such information, including specific information on other service implications and saving consumers time in contacting the LP to find out about ETCs. We also note the relatively small annual cost estimate by CSMG.
- A6.74 We also note that CSMG's analysis indicates that the implementation of this enhancement would not lead to any costs being wasted in the event that a hub and database option were to be implemented in future.

Sensitivity analysis

- A6.75 We note that in the case of the ETC enhancements the Spackman approach may be more relevant than for the other enhancements because the benefits accrue to consumers and not to CPs. For the purposes of consistency with the other calculations explained above we do not use the Spackman approach in paragraph A6.70, but we note that it results in an implementation cost of £1.9m (compared to £1.8m above), so the result is little changed.

Summary

- A6.76 The results explained in the preceding sub-sections are summarised in Table A6.4 below.

³⁹⁴ See the 'NoT+ Controls and results' worksheet of the 'Consumer Switching Supporting Calculations.xlsm' spreadsheet. As noted in Section 4, we have not adopted the alternative methodology to calculating the consumer harm resulting from ETCs suggested by EE. While we consider that EE's calculation is instructive when measuring consumer awareness of the implications of switching, we consider that our existing calculation of harm is more appropriate because consumers may still benefit overall from switching, and so would still have proceeded regardless of the ETCs.

Table A6.4: Estimated costs and benefits of enhancements

	Present value over 10 years (£m)		Reduction in prevalence of problem required to yield net present value of zero
	Costs	Quantifiable Benefits	
Record of consent	8.9	18.7	48%
WLT ET enhancements	6.4	26.6	24%
ETC enhancement	1.8	3.0	60%

Sources: See explanation in text above.

Annex 7

Option description

- A7.1 In the 2012 Consultation we presented a number of different GPL and LPL switching options and assessed them against the problems we had identified. In this annex we explain how the options have been developed since the 2012 Consultation, responding to stakeholder responses and new evidence.
- A7.2 The options under consideration in the 2012 Consultation were as follows:
- Status quo and incremental enhancements to today's processes (unharmonised)
 - Option 1a: Current GPL NoT and LPL MAC processes
 - Option 1b: Enhanced GPL NoT and LPL MAC
 - GPL options (harmonised)
 - Option 2a: Enhanced GPL NoT
 - Option 2b: GPL TxC
 - Option 2c: GPL USN
 - Option 2d: GPL TPV
 - LPL options (harmonised)
 - Option 3a: LPL TxC
 - Option 3b: LPL ALT
- A7.3 In the light of the responses to the 2012 Consultation along with new evidence, additional research and industry developments, we have made some amendments to the specifications of the options. We explain this development of the options below.
- A7.4 In Annex 8, we describe the performance of each of the options against the problems, based on our updated analysis of the problems.

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

- A7.5 These options are based on the current unharmonised switching processes explained in Section 3. Services which currently use a GPL process, such as switches to and from an MPF provider and voice only switches, would continue to be co-ordinated by the GP. Services which currently follow an LPL process, such as broadband only switches or broadband switches between SMPF providers, would still require the customer to contact the LP first.

Option 1a: Current NoT and MAC

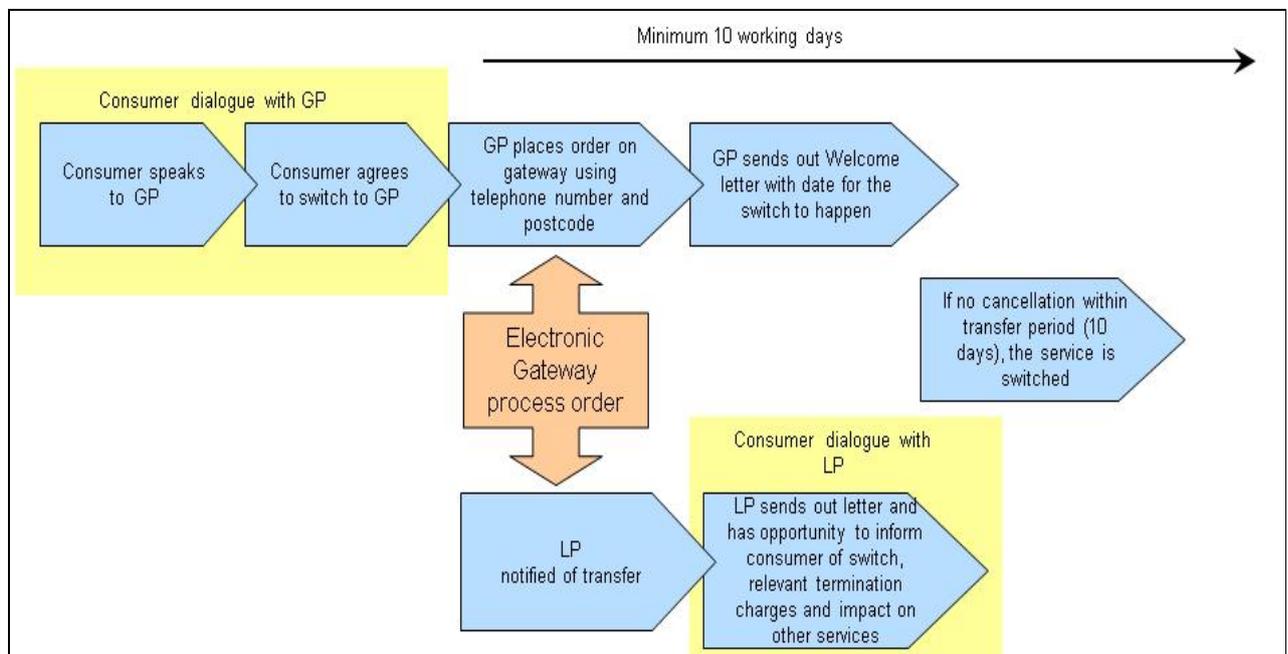
Description of the option as proposed in 2012 Consultation

- A7.6 The current GPL NoT and LPL MAC processes are described in Section 3 of our 2012 Consultation.³⁹⁵ In the GPL NoT process the customer talks to the GP who will identify the correct line to be switched based on the information provided by the consumer. In the LPL MAC process the customer needs to contact the LP to request a code before the GP can progress the switch using the code.
- A7.7 Under this option, the existing GPL NoT and LPL MAC switching processes would remain in place.

Description of revised option

- A7.8 Although we are not proposing any changes to this option, since the publication of the 2012 Consultation there have been industry-led developments which tackle elements of the problems previously identified. These are the MPF helpline and Openreach’s development of SIM2, which are both described in detail in Section 5. The improvements will help to improve the visibility of CLIs for MPF lines which are not currently listed in the Openreach database, and makes available functionality which locks together orders of voice and broadband to ensure that these bundles are delivered at the same time.
- A7.9 The current GPL NoT and LPL MAC processes maintain the unharmonised approach to switching as described above. An overview of the GPL NoT process is shown in the figure below.

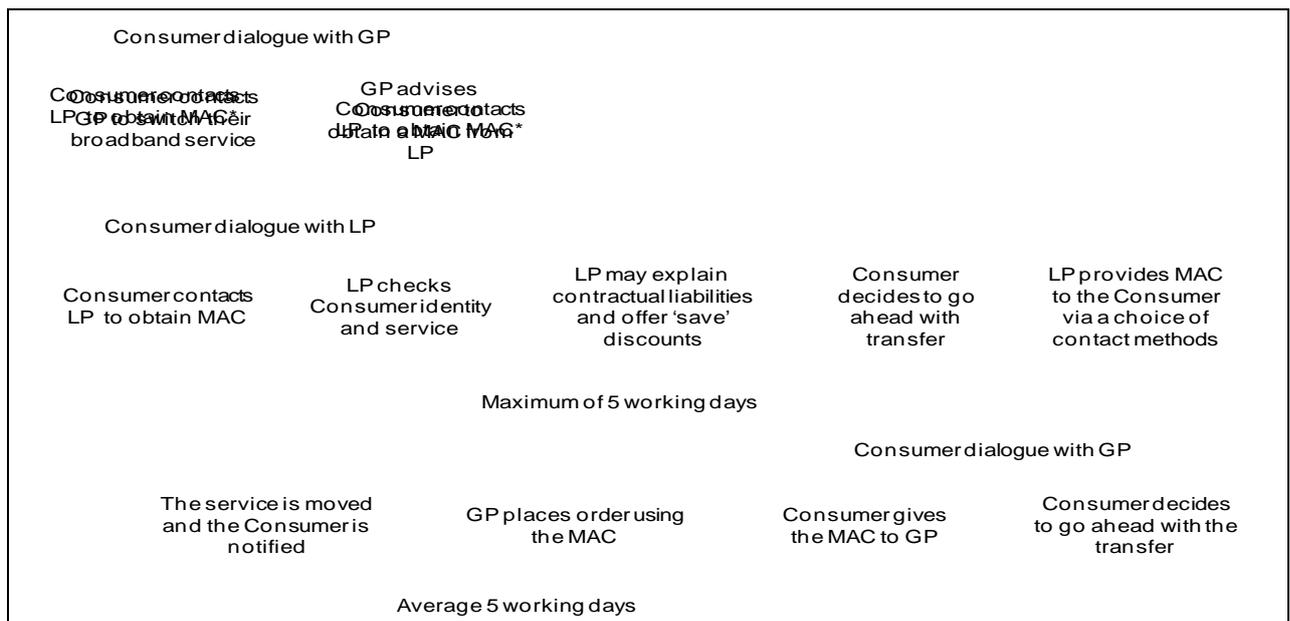
Figure A7.1: The GPL NoT process



- A7.10 The LPL MAC process remains the same as described in the 2012 Consultation. An outline of the process is described in the figure below.

³⁹⁵ 2012 Consultation, Section 3.

Figure A7.2: The LPL MAC process



Option 1b: Enhanced GPL NoT and LPL MAC (unharmonised)

Description of the option as proposed in 2012 Consultation

- A7.11 Under this option, both the GPL NoT and LPL MAC processes would be amended to tackle some of the harm identified in the 2012 Consultation. The improvements to the Enhanced GPL NoT process are described later in Option 2a, under the description of the harmonised Enhanced GPL NoT process.
- A7.12 Enhancements to the LPL MAC process, which is used for broadband switches between SMPF/IPStream providers, either as a standalone product or as a part of a bundle, will require CPs issuing the MAC to accept MAC requests via a telephone call and to issue the code immediately over the phone or within two hours by e-mail or SMS (or another reasonable method if the consumer asks, such as a call back facility for those without access to email or SMS). CPs would be required to set up a dedicated facility to respond to these MAC requests, with clear rules prohibiting reactive save, and call recording obligations. We would also require CPs issuing MACs to collect performance management information in order to facilitate enforcement.

Stakeholder responses

- A7.13 Stakeholders’ suggestions for the further improvements to the Enhanced GPL NoT process are discussed under the Enhanced GPL NoT (Option 2a) below from paragraph A7.24.
- A7.14 Only one response contained improvements specific to the LPL MAC process. EE agreed with the suggestion that the time taken to issue a MAC should be reduced to two hours or, if requested in a telephone call, to be issued immediately. It also suggested that these changes should be implemented within the next six months to bring the current GPL NoT and LPL MAC processes closer together.

A7.15 As an interim measure EE proposed that the LPL MAC process should be extended to all switches that involve broadband to ensure that consumers have the same experience of switching regardless of the underlying wholesale products used to deliver the services. Its suggestion would mean that migrations to MPF for example would use GPL NoT process for voice and LPL MAC process for broadband. Although the MAC would not be required for the actual provision of the service, it could be taken as proof of the customer's intent to switch broadband supplier.

Our response

A7.16 The changes to the Enhanced GPL NoT element of the process are discussed under the harmonised Enhanced GPL NoT option from paragraph A7.52 below.

A7.17 EE's suggestion of an interim measure that all switches involving broadband go through the LPL MAC process has not been incorporated into this option. We disagree that this would improve the consumer's experience of switching. Firstly, as set out in Section 3, the evidence suggests that consumers find the LPL MAC process more difficult than the existing GPL NoT process. Secondly we note that this would adversely impact on consumers' experience of switching bundles as they would need to always follow multiple processes in order to switch voice (using GPL NoT process) and broadband (using LPL MAC process). At present they only face this inconvenience when switching between services provided on certain types of wholesale services.

Description of revised option

A7.18 The revised Enhanced GPL NoT process is set out under Option 2a below, in paragraphs A7.22 - A7.24.

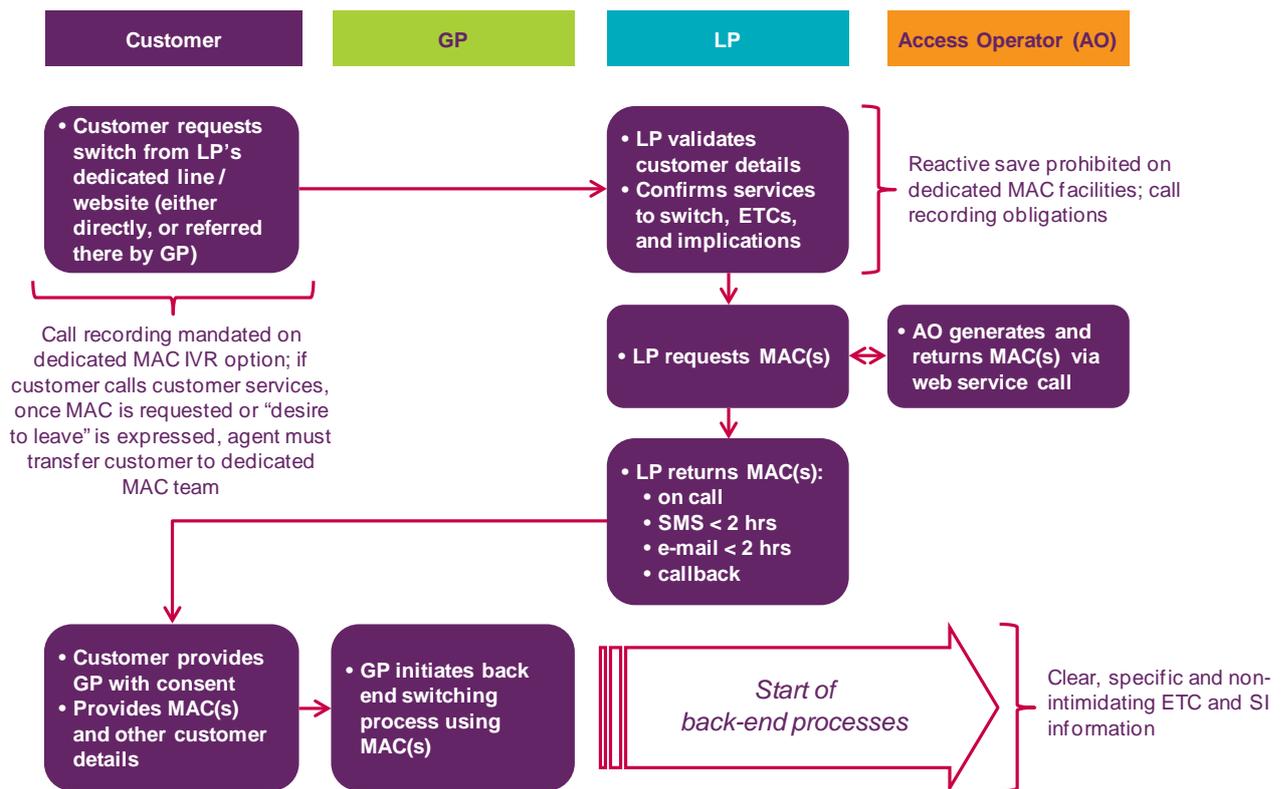
A7.19 There are no changes to the Enhanced LPL MAC process, which remains as described in Section 6 of the 2012 Consultation. In summary, CPs would be required to:

- at a minimum, accept MAC requests by telephone and, where requested over the phone, to issue either immediately over the phone or within two hours by e-mail or SMS (or by another reasonable method if the consumer asks, and the CP agrees e.g. a call back facility for those that are unable to use email or SMS); and³⁹⁶
- set up a dedicated MAC provision facility, with call recording obligations and clear rules prohibiting reactive save activity when consumers contact their LPs to ask for the MAC. CPs would be required to collect performance management information (e.g. average time taken to provide the code).

A7.20 The Enhanced LPL MAC element of the Enhanced GPL NoT and LPL MAC (unharmonised) process is shown in Figure A7.3 below. For the Enhanced GPL NoT element of the Enhanced GPL NoT and LPL MAC (unharmonised) process, please refer to Figure A7.4 below.

³⁹⁶ This would follow a similar process to that introduced for PACs in the mobile sector following changes to GC 18. Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/mnp/statement/mnp.pdf>.

Figure A7.3: The Enhanced LPL MAC element of the process



GPL options (harmonised)

A7.21 Under the harmonised GPL options explained below, switching of all voice and broadband services on the Openreach copper network would be harmonised to a GPL process. Each of the options below set out the different ways in which the limitations of the current NoT process can be addressed.

Option 2a: Enhanced GPL NoT

Description of the option as proposed in 2012 Consultation

A7.22 In the 2012 Consultation, we explained that under this option we would seek to put in place a harmonised NoT option for switching fixed-line voice and broadband, as single services or as a bundle, over the Openreach footprint.

A7.23 The improvements we proposed in the 2012 Consultation were:

- LP communications to provide specific information on SI, including ETCs;
- mandate use of the LO process (SIM Provide) process to help address some of the problems around loss of service when switching bundles of fixed voice and broadband services;
- universal visibility of all Openreach CLIs (including MPF) either through enhancements to Openreach database/DS or requiring MPF providers to establish their own DS;

- mandate use of the Cancel Other process by all CPs offering fixed voice services. Extend and mandate the use of Cancel Other by all CPs offering broadband services. Mandating the use of Cancel Other will allow all consumers to stop the order going ahead in the event of slamming;
- maintain current approach to enforcement against slamming; and
- continued prohibition on marketing statements/ representations in consumer communications to induce them to stay with the LP or cancel their contract with the GP.

Stakeholder responses

A7.24 In their response to the 2012 Consultation, stakeholders came up with a number of suggestions to tackle the problems that were identified.

Loss of service

A7.25 We did not receive any comments disagreeing with the view that the Enhanced GPL NoT option should mandate the use of LO process to help reduce the problems around loss of service. SSE explained that it is not possible for some CPs to use SIM Provide as they have wholesale relationships with different CPs and will need to use different portals to order voice and broadband services. They thought that it was possible for the wholesale provider to link the different portals together, but acknowledged that this may be expensive. Therefore under the current processes, they thought that it may be difficult for some CPs to ensure that there is no loss of service when switching bundles of services.

Record keeping and Enforcement

A7.26 In response to the 2012 Consultation question on strengthening record keeping obligations for consent validation, some CPs thought that this requirement under Enhanced GPL NoT would not help to increase protection against slamming. Operators such as BT, EE, Entanet and SSE thought the requirement to keep a record of all sales would be extremely costly, and that there would be additional costs in retrieving records of particular sales for Ofcom's enforcement activities. EE added that this requirement would not enhance consent validation but would instead aid Ofcom enforcement. The CP noted that the vast majority of recordings would not be used and therefore the investment in recording all calls would be wasted. Magrathea Telecom thought that without a full call recording it would be hard to establish definitively whether a customer has been mis-sold a service.

A7.27 One CP [redacted] explicitly stated that it does not think more enforcement would have a significant impact on the level of slamming. It explained that it does not have sufficient faith in the enforcement regime given the low number of prosecutions and sanctions. Another stakeholder [redacted] argued that requiring a record of consent will not have a significant positive effect on slamming levels. It did not explain why it holds this view but pointed to the fact that it already retains records of consent through signed receipts. [redacted] and ESRC suggested that the burden of proof on CPs should rest with the GP for explicit consent.

A7.28 However, other stakeholders supported better call recording and record keeping requirements, including C&W, Zen, CCP, CFC, Universal Utilities. A number of stakeholders agreed that enforcement activity could be used to reduce the incidence of slamming. Many responses, from industry, consumer groups and

individuals, suggested additional improvements which could aid enforcement against slamming. These include:

- clear financial penalties which act as a disincentive to the companies involved (CCP, Universal Utilities, CFC, ESRC, [X]). The CFC provided an example of the Belgian regulator which is permitted to issue a fixed penalty notice of €750 to the guilty provider in a case of mis-selling/slamming.
- compensation to those slammed (Universal Utilities, CFC, ESRC, Which?) and compensation to the losing CP (ESRC). Again the CFC mentioned how consumers in Belgium are entitled to a full refund as a means of compensating them for the harm caused.
- TalkTalk suggested consideration of an internal third party validation step within the current GPL NoT process where the GP must be able to provide a call recording of the customer confirming to a third party (i.e. a person that is independent of the sales agent and who does not receive any commission or other incentive from the sale being made) that they consent to the sale. They suggested that record keeping activity could be monitored by a requirement to carry out sample tests of call recordings as part of an internal audit. Universal Utilities suggested better enforcement on non-compliance of GC 24.11 (records retention) and a lengthening of retention from six months to whatever period the duration of the contract is.
- a better audit trail of transfer data to back up more rapid and targeted enforcement (FCS).
- amend incentive structures amongst agents, which currently incentivise them to sell aggressively and retain customers, as this can increase the risk of mis-selling (Which?).
- publish Cancel Other data as % of total acquisitions (provided misuse by the LP is prevented) as a way of tackling the long tail (BT).
- use of criminal law (ESRC).
- CFC, Consumer Focus, Universal Utilities and Which? suggested that there should be prompt redress for those consumers whose services have been switched in error. SSE added that arrangements to protect the customer from the costs of returning to their original CP could be established through the rules of the consumer switching process, overseen by an industry body.

A7.29 Some other stakeholders thought that our current enforcement powers were sufficient. Virgin Media argued that we have not demonstrated that our current enforcement activity could not continue to drive slamming numbers down further. Some CPs (Three UK, Entanet, Zen, Universal Utilities) advocated better use of existing powers (GCs 23 and 24) to tackle slamming. For example, Universal Utilities stated that given the downward trend in slamming as represented by the CCT data 'more effective enforcement action could ensure this trend continues'³⁹⁷

³⁹⁷ Universal Utilities Response to the 2012 Consultation, Q10 page 5. Available at: http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Universal_Utilities_Ltd.pdf

while Entanet argued that ‘enforcement penalises the wrong-doer rather than penalizing the entire industry by introducing further upfront protection measures’.³⁹⁸

- A7.30 The CFC suggested that because there are different types of slamming (as identified in Figure 17 of the 2012 Consultation) a suite of preventative measures were needed to tackle slamming. The CFC noted that ‘success in preventing one kind of slam or other poor sales practice may have the side effect of channelling more energy into alternatives’.

Call recording for Cancel Other

- A7.31 In the 2012 Consultation we sought stakeholder views on our proposal not to mandate call recording for Cancel Other requests. The majority of CPs agreed with this proposal. However, TalkTalk added that if this were to be mandated, the costs to introduce the recordings would be low, since they mistakenly thought that CPs were required to record sales calls already.³⁹⁹ C&W thought that the cost of mandatory call recording would be the largest burden, however it was still preferable to the costs of the other options. In addition, Universal Utilities suggested that a new code should be introduced for ‘Change of mind’ so that it will be easier to monitor the use of Cancel Other as requests will be placed with the correct code.
- A7.32 Zen and BT disagreed and thought that there should be call recording with the use of Cancel Other. BT suggested that the call recording will act as an audit trail and can act as a disincentive to use Cancel Other for other purposes. They thought that this would also help reputable companies to review staff performance and take appropriate action.

Implications of switching

- A7.33 In response to the 2012 Consultation, there were mixed views from stakeholders on not including information on ETCs and MCPs in bills within the Enhanced GPL NoT option. A significant number of stakeholders submitted that there was a need to improve the information that consumers have available to them when they are considering a switch. They believed that our initial assessment was unduly focussed on issues that arise during the switching process and we needed to consider broader changes.
- A7.34 Some stakeholders, particularly those representing consumers such as Citizens Advice, Communication Management Association (‘CMA’), Consumer Focus, CFC, CCP, [3], Which? and two individuals, were in support of further transparency and making more information available on a regular basis in an easily accessible format. C&W, Entanet, Zen and Three UK also supported this. [3] also suggested that this information should be made available via telephone for those consumers who are not online.
- A7.35 Consumer Focus and SSE added that annual renewal notices should be sent to customers. Similarly, TalkTalk argued it was possible to improve consumer awareness of ETCs outside the actual switching process and that should also be Ofcom’s objective from the consultation. Citizens Advice and SSE both thought the

³⁹⁸Entanet Response to the 2012 Consultation, Q10 page 3. Available at http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Entanet_International_Ltd.pdf

³⁹⁹The requirement under GC 24.11 is for CPs to keep all records regarding the sale of its Fixed-Line Telecommunications Service rather than call recordings specifically. However, we note that many larger CPs do record their telesales calls.

GP was incentivised to remind the consumer to check for contractual implications of switching to avoid having to unwind a sale that the customer may subsequently wish to cancel.

- A7.36 C&W added that it would be useful for the GP and the customer to have the details of ETCs and other implications of switching before the GP begins the processing of the potential order. However, it suggested this was best achieved by requiring operators to display standard ETC information clearly on their websites. Alternatively, TalkTalk proposed that there should be a limited number of ETC price points. It thought this would make it easier for a customer to understand their contractual commitments and also simpler for the GP to advise the customer. CFC also supported standardised presentation of offers so consumers are able to easily compare different CPs' offerings and understand the implications of switching.
- A7.37 CFC queried why it would be incrementally costly and/or difficult for CPs to provide further service-related information in bills or via online accounts. In its opinion CPs already have such information available on internal databases as evidenced by the fact that they often refer to it during sales discussions (e.g. to advise a consumer what services are available on their line).
- A7.38 Zen, while acknowledging the addition of information to a customer's bills is the right thing to do for the customer, believed that it would incur significant costs. Alternatively, two other CPs believed that the costs would not be significantly large (Entanet, TalkTalk) and one stated that it would enhance awareness of ETCs to a considerable extent.
- A7.39 Stakeholders also suggested the following improvements to the consumer awareness of the implications of switching:
- much clearer contract information (Three UK), especially having further detail on the consequences of switching (Which?); and
 - further improve the advertising of offers (Which?).
- A7.40 [X] thought there would be no benefit to including ETCs and MCPs in bills as this information is already in the customer's terms and conditions and a significant number of customers do not read their bills or elect to receive bills. Universal Utilities also thought that specific information on bills about ETCs and MCPs would be of little or no benefit to the industry. It argued that customers should have some responsibility of being aware of their own contractual obligations and should not rely on their CP to constantly update them.
- A7.41 Telefonica and Three UK suggested that modern, faster methods of communication such as email and SMS would provide a better customer experience, or at a minimum could be used to supplement a notification letter. EE argued that the GCs anticipate many acceptable ways in which this important information can be effectively conveyed to customers without it having to be given in writing.
- A7.42 In relation to notification letters, Universal Utilities thought that the current LP letter was effective in providing information about the implications of switching. [X] suggested that the LP's letter should be worded in a clear and neutral manner, and should include the identity and details of the GP, and instructions on how to cancel the proposed transfer. It suggested that the customer would then be in receipt of all the information needed to continue with the proposed transfer or to report a 'slam' and to cancel the proposed transfer. Meanwhile Virgin Media suggested that this

information would be better shared with consumers over the phone with a follow up letter or e-mail on request. EE and KCOM also challenged whether consumers need to have information on the implications of switching in writing rather than over the phone.

- A7.43 The CCP drew upon findings from behavioural economics to highlight that consumers have limits on their ability to take in information and care more about losses than gains. They suggested a mandatory list of information which switching consumers should be provided.⁴⁰⁰
- A7.44 However, BT argued that it was impossible to make the consumer read notification letters, which meant that customers may not be aware of the content of the letters and furthermore there was a risk that consumers do not receive the letter, due to postal delays or wrongly delivered post. Two stakeholders challenged Ofcom's research findings which found that a significant proportion of customers do not receive or look at their bill. SSE believed that this should be a point of concern only if it reflects reality rather than customers' perceptions. Another stakeholder argued that if the majority of consumers look at their bill then they should not be deprived of valuable information because a minority do not.
- A7.45 Several stakeholders ([S&C], Universal Utilities, BT and Virgin Media) did not support the inclusion of more information to consumers outside the switching process. Their reasons included the following:
- adding this data to bills would be costly, and the effort would not be worthwhile (BT, Universal Utilities); and
 - giving consumers ETC/MCPs on their bills would give them the false impression that these were the only implications (Virgin Media, BT).
- A7.46 The CMA, CFC and Consumer Focus suggested that there should be an opportunity for customers to revert back to the previous supplier without penalty.
- A7.47 The CMA noted that although GPL processes have longer lead times for a switch, this could be reduced over time as experience with a harmonised GPL process is gained. However, both Consumer Focus and the CFC proposed that the ten day cooling-off period be extended so that consumers have sufficient time to consider the information received (from either LP and/or GP). They considered that such a change would also allow consumers time to test their new service and confirm that it met their expectations.⁴⁰¹
- A7.48 We asked respondents to suggest other enhancements which could be included as a part of this process. TalkTalk suggested that the GP could be required to automatically call all new customers to remind them they are switching or to include internal third party validation as a part of the sales process for this option.

Content of the notification

- A7.49 Telefonica and Consumer Focus submitted that LP letters should contain information specific to the consumer and their particular circumstances. For example, they considered that generic language relating to ETCs such as 'you may incur an early termination charge' was not acceptable as it was open to

⁴⁰⁰ CCP Response to the 2012 Consultation, page 4.

⁴⁰¹ SSE Response to the 2012 Consultation, page 6.

interpretation. Entanet also supported the proposal to require LPs to include the actual level of the ETCs in their letters. In comparison TalkTalk argued that consumers did not need to know the absolute magnitude of an ETC and an approximate range would be sufficient.⁴⁰²

A7.50 Several stakeholders argued that consumers want to know a high level of detail, and LPs are in the best position to provide it. Examples of the type of implications consumers want to query include:

- the impact on the price and availability of other services within a bundle;
- the loss of associated services, for example CPS;
- interaction with services that utilise the switched services, such as social/care alarms;
- whether e-mail addresses can be maintained;
- associated benefits within a product bundle that may be forgone, such as mobile WIFI access; and
- the loss of value added services, such as caller display and voicemail.

A7.51 In their responses, stakeholders suggested other improvements that could be made within a GPL process to improve the consumer's awareness of the implications of switching, such as:

- require GPs to include a prominent statement to the customer on a porting form (which they are required to complete) stating that they may face continuing liabilities to their old suppliers (Three UK);
- require GPs to inform customers expressly at the point of porting that they may face continuing liabilities and should contact the LP if they are in doubt, as is applied in Ireland, Australia, the Channel Islands and the Isle of Man (Three UK); and
- consumers would value being provided with an opportunity to later cancel the switch (e.g. within a cooling-off period) at no cost.

Our response (including new evidence)

Mandate Cancel Other

A7.52 The Cancel Other process is an existing consumer protection mechanism that allows LPs to cancel a switch where the customer alleges to have been slammed and gives permission for the LP to cancel the order. In some of these cases, the customer will have been switched without their knowledge and therefore may not know the identity of the GP who has taken control of their services, particularly where the slamming GP also fails to send a notification or where the customer ignores this notification. As the consumer will have a relationship with the LP, it is likely that they may contact this CP to restore their services, or read the notification sent by the LP.

⁴⁰² TalkTalk Response to the 2012 Consultation, page 9.

- A7.53 However, as we noted in the 2012 Consultation, some CPs abuse this process in order to frustrate the switching process and prevent customers from switching away. Abuse of this process can lead to further customer frustration as they are prevented from moving to the CP of their choice and suffer through not being able to make the savings they could have made had they switched or being forced to stay with a service they no longer desire.
- A7.54 Although most large CPs already use the Cancel Other process to protect consumers from being slammed, it is our understanding that some smaller CPs do not use it. Therefore under this option we would mandate Cancel Other across all CPs, so that customers have the ability to prevent their services from being switched, where they have been slammed, by contacting their LP.
- A7.55 We do not intend to introduce a new code for 'Change of mind' for Cancel Other in this option. The Cancel Other process is designed for where the customer has been slammed. Where the consumer has agreed to a switch and simply changes their mind, they should contact the GP to request the termination of the switch, using the Cancel Own process.
- A7.56 In this option, we do not plan to mandate call recording for Cancel Other as our analysis suggests that the harm generated through abuse of Cancel Other, where legitimate orders are prevented from going through, is not sufficient to justify the costs of introducing such a requirement. We note that where the Cancel Other process is repeatedly abused, the Cancel Other expedite process can be used by the GP to overcome the cancellation requests.

Publish cancel other data as % of total acquisitions as a way of tackling the long tail

- A7.57 Several stakeholders suggested the use of the Cancel Other system as a mean to measure the level of slams committed by CPs. We believe that Cancel Other figures can be used as an indicator of where potential slams are originating but that this presents only a partial picture of switches made without consent and should be used alongside consumer complaints data and consumer survey data.
- A7.58 We also believe there are limitations in using Cancel Other data to identify deliberate slamming attempts. This is because Cancel Other is used to prevent both slamming and ETs and it would be incorrect to use it to identify just slams.
- A7.59 Comments by BT, SSE, Virgin Media and one other stakeholder to this Consultation suggest the use of this function is often when the customer 'changes their mind' about a new contract without contacting the GP. BT and SSE suggested, that this indicates that Cancel Other is not necessarily always an indicator that a particular CP is engaged in slamming activity.
- A7.60 As Cancel Other does not provide an accurate picture on slamming attempts, we do not think there will be any significant benefit in reporting on the use of this process. Therefore we do not plan to publish data about the use of Cancel Other under this option.

Use of SIM provide (or another similar process) to co-ordinate delivery of bundled services

- A7.61 The LO, or SIM Provide, process was designed to allow the GP to co-ordinate the provisioning of bundled services and therefore minimise the disruption experienced by consumers. This is an Openreach process which links orders of voice and broadband to ensure the activation and switching of voice and broadband services

are delivered around the same time(usually on the same day). In Section 5 we explain how Openreach has recently developed the SIM2 process. SIM2 for MPF (voice) + GEA-FTTC (broadband) went live in November 2012, and Openreach is due to introduce a similar process for switches to WLR + SMPF/GEA-FTTC. SIM2 will support bundled migrations between GP and LP who both use two wholesale services (WLR and SMPF/IPStream) to provide the bundle of services. These 'Double Migrations' cannot currently be carried out as a single co-ordinated activity and CPs are only able to attempt to run the orders in parallel. SIM2 would lock the orders together on the EMP and therefore it should be more effective at ensuring both the voice and broadband services are delivered together. This should lead to significant improvement compared to existing situation.

- A7.62 No CPs disagreed with our proposal to mandate LO functionality within the Enhanced GPL NoT option. Given the subsequent industry led developments on SIM2, we are updating the specification of this option to reflect this latest functionality.
- A7.63 Wholesale providers already provide the functionality to their downstream customers to link together orders for voice and broadband. In this option, we expect this functionality to be maintained and extended to incorporate the latest industry developments.
- A7.64 In order to avoid tags⁴⁰³ CPs should follow the recommended SIM Provide process which will co-ordinate the required switch. Otherwise the tag will prevent the GP from placing a migration order on that line.

LP communications to provide specific information on SIs including ETCs

- A7.65 We believe that it is important consumers have access to relevant information on switching implications at an appropriate time during the switching process. The information provided during the switching process, in the form of the GP and LP notification letters (or email), is an important way to inform the consumer of the implications of switching at the time when it is most important and relevant to them.
- A7.66 We disagree with BT about the effectiveness of the NoT letters. Based on the evidence set out in Section 4, we believe that letters are effective at informing consumers about implications of switching. As we state in Section 4, we also disagree with Virgin Media, EE and KCOM's comment that consumers can be best informed via a telephone conversation with the LP.
- A7.67 We therefore continue to propose that, under an Enhanced GPL NoT option, we would require LPs to provide information about SIs and ETCs in a formal notification (via letter or an email) to be sent to the customer when the LP is informed of the customer's intention to switch.
- A7.68 The notification letter should include the amount of the ETC due at the expected termination date, changes to the prices of continuing services and specific information about the services that may be affected (e.g. loss of voice service, broadband service, telephone number, e-mail address). This would provide consumers with the information they need to understand the implications of

⁴⁰³ A line may be 'tagged' on the Openreach DS where the LP has placed a cancellation order on the line and this prevents a GP using the GPL NoT or LPL MAC process to switch that line. It is particularly common on MPF lines if separate orders are used for the WLR and SMPF parts of the service, but the tags can be avoided through the use of the LO process.

switching, and the opportunity to cancel the transfer via the GP if they change their mind.

- A7.69 LPs currently issue letters as part of the GPL NoT process and therefore this does not constitute a significant change to the existing process. However the information currently contained within the LP letter is largely generic in that it simply states that charges may apply. Therefore under our proposal for this option, consumer specific information will be required in the LP notification letters and some system changes will be required to ensure CPs are able to meet this requirement.
- A7.70 Some stakeholders have suggested other more general ways in which ETC information could be provided e.g. ETC information on bills. We note that such information would not be targeted at the time when it is most relevant to the consumer i.e. during the switching process. Further, as noted in the 2012 Consultation, a minority of consumers say they do not receive a bill and/or notification of charges⁴⁰⁴ and amongst broadband consumers who do receive a bill, a fifth (21%) say they never or rarely check their bills.⁴⁰⁵ Whilst we are supportive of industry providing useful information to consumers, it does not appear proportionate, at this stage, to additionally require information on SIs and ETCs in regular bills given our proposal to include it as part of the NoT letters/emails.

Format of the notification

- A7.71 Consumers need to be made aware of the implications of switching so that they have the opportunity to include this information in their decision-making before a switch is finalised. We believe that a durable form of notification is necessary to facilitate this.
- A7.72 We acknowledge that in some cases consumers may be able to adequately understand the implications of switching without needing to have it in a written format. This could occur if the implications of switching were relatively simple and the consumer were informed through other means e.g. directly contacted their current provider to discuss their decision to switch.
- A7.73 However, there are a number of limitations to the alternative option of relying on phone conversations between the consumer and LP. For example, not all phone conversations are recorded and so it would be practically difficult for us to monitor and/or undertake enforcement action in the event of alleged misconduct by CPs in telephone discussions (e.g. providing misleading information). There is currently no requirement to record customer information/general enquiries calls.
- A7.74 In contrast, a written record provides a definitive audit trail, as well as greater clarity for all interested parties (the consumer, CP and Ofcom) on the issues that have been identified to consumers and the way in which that communication is phrased. We therefore believe that mandating a written record would ensure a more robust and enforceable process for the benefit of all stakeholders.
- A7.75 We also consider that it is likely to be difficult for many consumers to comprehend complex information in a verbal conversation. As raised by various stakeholders, the switching decision can be quite difficult for consumers as there are now a wide

⁴⁰⁴ Our research suggests that 15% fixed broadband customers said they did not receive a bill with a further 12% saying they didn't know. This suggests that 27% of consumers do not look at bills even if they receive them. For fixed lines 4% consumers said they did not receive a bill and 6% didn't know. Figures for bundles were similar to fixed at 7% saying no and 4% didn't know.

⁴⁰⁵ 2012 Consultation, paragraph 6.18.

range of factors that they may wish to consider – price discounts, associated services (e.g. email accounts, alarms), other benefits (e.g. free minutes, WIFI access) and so on. At the same time CPs are increasingly offering products as bundles rather than individual services, further increasing the number of variables for consumers to be aware of.

- A7.76 Faced with such prevalent and increasing complexity in the market we believe that it is essential that consumers are provided with clear written information. For the majority of consumers, it is easier to understand the trade-offs when they are in a written format, and therefore they will be more capable of reaching an informed and reasoned decision. Alternatively, for consumers that are able to understand the switching implications via a telephone call, the written notification would serve to confirm their understanding as well as mitigate against any improper or unclear advice they may have been provided with.
- A7.77 For a number of consumers email is considered a preferential form of communication. Compared to physical letters, email would provide some consumers with a much more accessible and convenient means of receiving information. However, with that acknowledgement, we do not feel that it would be appropriate for email to be used as a complete substitute for physical letters.
- A7.78 Although modern communications are increasingly moving towards electronic systems, we believe that vulnerable consumers and those with low digital literacy could be significantly disadvantaged if the notification was solely email based. Ofcom's consumer market research in 2012 suggests that 19% of UK adults do not use the internet at home or elsewhere and with older users and low income consumers less likely to have ever used the internet. There are both accessibility and usability issues for us to consider.⁴⁰⁶ Moreover, consumer's email addresses change and many consumers do not use the email address provided by their broadband operator. A letter sent to the address where the services are provided should have the greatest chance of going to the correct recipient.
- A7.79 We also note the potential benefits of SMS communication but, for different reasons, also do not consider this to be appropriate. SMS has a technical limitation of only being able to contain a maximum of 160 characters. Given that a message to a consumer advising of the implications of switching is likely to exceed this limit, an SMS notification would likely to require multiple messages to be sent (and then read).⁴⁰⁷ It therefore likely that some consumers, particularly the vulnerable, would find SMS-based notifications confusing and unhelpful.
- A7.80 Overall we consider that, as per the current GPL NoT process, consumers should continue to be provided with the option of receiving notifications via letter or email formats. This would help to ensure that all types of consumers are able to receive a notification message in a form which best suits their needs.

⁴⁰⁶ 81% of UK adults aged 16+ use the internet either at home or elsewhere. 76% of adults aged between 55-64 and 61% of adults aged between 65-74 use the internet at home or elsewhere. Only 56% of low income adults use the internet at home or elsewhere. Data from Ofcom metrics bulletin on Internet use and attitudes 2012. Available at:

http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr12/2012_metrics_bulletin.pdf

⁴⁰⁷ How this is perceived by the consumer could differ depending on the handset of the receiver, For some handset models even when an SMS communication extends beyond the 160 character limit a single message is received (i.e. the messages are automatically purged).

Improve the visibility of CLI for fully unbundled lines

- A7.81 Visibility of the CLI for all lines within the Openreach footprint will provide better information to help CPs to place an order against the correct line, reducing ETs.
- A7.82 We note that there have been industry developments with respect to the MPF helpline. If, as described in Section 5, the existing MPF helpline is effective at ensuring that consumers do not suffer ETs as a result of lack of MPF CLI visibility, then we do not anticipate that further changes would necessarily be required. If further improvements are required, under this option we would work with industry to improve the existing MPF helpline process, so that all MPF CLIs are available on request. However, we note that the effectiveness of the MPF helpline depends on both the CPs actually using the process and on the process being able to deal with the volumes of requests that will be made (bearing in mind that it is not an automated process).
- A7.83 Alternatively, this objective could also be achieved by other means, such as CPs providing up to date information to Openreach or a parallel system containing identifying information about unbundled lines. In the light of the current uncertainty about how effective the MPF helpline process will be, in this option, we propose to retain mandating visibility of MPF CLIs within the Enhanced GPL NoT specification.

Openreach database clean up

- A7.84 One significant cause of ETs is errors in the Openreach database used to target the correct line for the switch. Over time, errors have built up within the database, for example where the address has changed (such as the case where a single home has been divided into multiple flats) or where there is not sufficient granularity to allow the GP to target the correct line. In the complaints analysed by the OTA, 25% of ETs complaints were identified as due to incorrect Openreach data.
- A7.85 To reduce the number of ETs caused by this issue, in this option, we would work with Openreach and stakeholders to clean up the data that is made available to CPs, to improve the accuracy of the addresses displayed. This would also include improvements to the processes to update the address data so that correct and up to date information is maintained by Openreach on an ongoing basis. These changes would mean that accurate information is available about the lines which will help CPs to target the right asset for a switch or WLT.

Mandate exact match for identifying the correct line to switch

- A7.86 The improvements to the Openreach address database and the visibility of MPF CLI will help to correctly identify MPF lines.
- A7.87 However, as noted in the CSMG report there may still be situations where it could be difficult to identify the correct line. Under this option we would mandate that the CP only place a NoT order if there is an exact match against the line.
- A7.88 In addition, under this option, we would require GPs to take all reasonable steps necessary to correctly identify the correct line, having regard to the Best Practice Guide for WLT.⁴⁰⁸ These guidelines set out different processes to be followed for different types of services (i.e. PSTN, WLR, SMPF and MPF) in order to identify the correct line and are as follows:

⁴⁰⁸ See <http://www.offta.org.uk/IndustryBes%20PracticeGuide-Migrations&HomemoversJan2011.pdf>

- enter the customer's address to see if it will return a Gold Access Level Key ('ALK'), which indicates a matching address on the Openreach DS;
- if there is a Gold ALK, the CP should look up the DS to see what copper lines are present and the associated ALID for each;
- the order should be placed only where the CP is sure that the ALID identified is the correct target of the switch; and
- where the correct ALID cannot be identified, the GP should use C&R.

A7.89 These improvements will help GPs to avoid the risk of targeting the wrong line in a switch.

Mandate exact match and notification letters for WLT

A7.90 In the same Best Practice Guide there are recommendations for the WLT process⁴⁰⁹, the process used to ensure that services are switched efficiently between different users during a home move. Under this option, we intend to mandate two elements of the best practice guide: only placing a WLT order where there is an exact match and Incumbent CP sending a notification letter to the Incumbent End User at the Target Address. In addition, under this option, we would require GPs to take all reasonable steps necessary to correctly identify the correct line, having regard to the Best Practice Guide for WLT.

A7.91 As we conclude in Section 5, under the problem of ETs, the WLT process delivers significant benefits to consumers in the reduced hassle for consumers and the efficient use of assets, with an estimated 84% of orders being placed successfully. Therefore, there needs to be a process to ensure that continued use of the homemover process is not significantly damaged through changes we make in relation to switching.

A7.92 However, evidence in Section 5 also showed that a significant proportion of reported slams result from the WLT process, when the wrong line is identified. Therefore only using the WLT process where there is an exact match would reduce the number of lines that are targeted erroneously. Where the GP is unable to identify an exact match, the new services should be provided under a new Provide. We would expect CPs to use all the information that is made available to them to identify the correct line for the transfer.

A7.93 We also note that the root cause analysis found that the cancellation process was ineffective at protecting consumers who were subject to an ET. By mandating the notification letter to the target address, the incumbent end user can inform the incumbent CP if the incorrect address has been targeted. Therefore, in this option, we would mandate the parts of the Best Practice Guide which will help to reduce the risk of ETs.

A7.94 We do not intend to mandate the other parts of the Best Practice Guide for WLT in this option, but would encourage CPs to adopt these processes to reduce the potential harm caused by the homemover process, for example where the date of the move has changed.

Mandatory record of consent

⁴⁰⁹ See <http://www.offta.org.uk/IndustryBPGAnnexB.pdf>

- A7.95 Several stakeholders suggested introducing better record keeping obligations and call recording requirements to increase protection against slamming. The focus of this review is confined to problems that occur as a result of the switching process; in this context we are focussed on ensuring consent is given by a consumer to switch. We believe mandating that all CPs maintain call recordings for full sales calls as some stakeholders suggested (irrespective of whether or not they end in a successful sale) may be disproportionate, especially in the light of our revised lower estimate on the level of slamming incidences.
- A7.96 In the 2012 Consultation we were of the view that strengthening record keeping obligations would be unlikely to deliver sufficient reductions in instances of slamming to justify the costs of imposing such a requirement on all CPs. This was based on our understanding that the majority of the larger CPs kept adequate sales records and that lack of call recordings for sales amongst smaller CPs has not impacted our ability to tackle slamming through effective enforcement action.
- A7.97 However, the findings from the MM study indicating poor record keeping by some CPs (large and small) and our experience with recent investigations into slamming complaints have led us to re-evaluate this viewpoint. Requiring CPs to keep a record of consent can enhance our enforcement capabilities by improving the ease with which we can enforce against slammers; and enable us to identify cases which are not slams but are due to other causes such as mis-selling.
- A7.98 We have also re-considered whether such a requirement may act as an incentive to CPs, particularly in the long tail (which account for a significant proportion of complaints) to comply with the rules on slamming. That is, if sales agents are aware that a record of consent is required for each sale, then this by itself may make them less likely to 'slam' a customer.
- A7.99 Furthermore, record of consent will enable a CP to assist a consumer when they have a problem with their switch. Therefore, under this option, record of consent will have to be held for all successful sales – we would expect that a call recording would be stored for all successfully telesales calls, a written record of consent/ call recording for all successful retail/shop and doorstep sales and for online sales, outputs from order systems or from online interactions relating to the sale.
- A7.100 We note TalkTalk's suggestion that the consumer's consent could be validated at third party validation step. We agree that further independent validation would help to demonstrate whether a consumer has agreed to the switch. However, in the light of our revised evidence on slamming and the new requirements on CPs to keep records of sales in this option, we do not think it is proportionate to further require a record of consent from a third party.

Compensation to those slammed and to the LP

- A7.101 Where we determine that there are reasonable grounds to believe that a CP is breaching a GC (including GC 24), we already have the power to give that CP a notification. This notification can require a CP to take certain steps in order comply with the condition and remedy the consequences of the contravention. Therefore we already have the power to require CPs to:
- allow customers who have been slammed, to cease their contract with that CP, regardless of the length of contract served, with no requirement to pay an ETC or disconnection fee and no requirement to pay any charges for services other than those the customer has used. Where the customer chooses to return to their

previous CP, this could include compensation for any charges the Customer may incur in the process of returning to their previous CP; and

- compensate customers, where they may otherwise have fallen into the above category but who have already returned to their previous CP, and have incurred charges in doing so.

A7.102 Furthermore, Section 151(7) of the Act states that references to ‘remedying the consequences of a contravention’ include references to paying an amount to a person:

- by way of compensation for loss or damage suffered by that person; or
- in respect of annoyance, inconvenience or anxiety to which he has been put.

A7.103 This means that we can already set out the steps which we think should be taken to compensate consumers in a Notification, and then require any such steps to be taken in any final Confirmation Decision. The basis on which we should require such compensation to be paid has to be worked out in a reasonable and proportionate way, but in principle, the Act is clear that we can require compensation payments for both (i) loss or damage and (ii) annoyance, inconvenience and anxiety as a result of a breach of the GCs.

A7.104 Additionally, the Act requires Ofcom to approve codes of practice which contain minimum standards for complaints handling and dispute resolution between public CPs and consumers (see sections 51 and 52 of the Act). We have approved two schemes, which CPs are signed up to. There is provision in s54 which states that Ofcom can include provision in those schemes conferring a power (on the arbitrator) to make awards of compensation.

A7.105 As we already has powers to require CPs to offer compensation and to approve codes of practice for complaints handling and dispute resolution, we do not intend to include any further changes regarding this matter in this option.

Amend incentive structures amongst sales agents

A7.106 How sales agents are rewarded in terms of performance is ultimately for CPs to determine. However, where we receive reports of a problem with a particular CP, and it is clear there is an issue with the sales process, we will seek to raise this informally with the CP first with the risk of a formal investigation being opened if the issue is not adequately resolved. Therefore there are no changes to this option to tackle this matter.

Use of criminal law

A7.107 We do not believe that at this point it is necessary for slamming itself to be made a criminal offence. As noted above, our engagement with industry through both informal and formal actions has led to a noticeable reduction in the number of complaints we receive on slamming and we continue to work with CPs using our existing powers to lower this level.

Other suggestions

A7.108 Our assessment of GPL TPV will be considered later in this section, under the GPL TPV option in paragraph A7.175. We do not plan to include TalkTalk’s other

suggestion for requiring CPs to call new customers to remind them of their upcoming switch as this requirement would be very costly for operators to implement and would not bring about significant additional benefits over and above the notification letter that both GP and LP are required to send under this option.

Conclusion

A7.109 In the light of stakeholder comments and the new evidence gathered we are not removing any of the improvements suggested in the 2012 Consultation under the Enhanced GPL NoT option.

A7.110 We have added some new elements to the Enhanced GPL NoT spec:

- mandate that CPs keep a record of consent for successful sales; and
- clean up of Openreach's address database.
- Mandate that CPs only place a GPL NoT order and a WLT order where they have an exact match. GPs should take all reasonable steps necessary to identify the correct line.
- Mandate that Incumbent CPs send a notification letter to the incumbent end user within the WLT process so that the consumer is able to inform them of an incorrect order being placed against their line.

Description of revised option

A7.111 In the 2012 Consultation we explained that the Enhanced GPL NoT option would involve the following improvements to the existing GPL NoT process:

- mandate use of the Cancel Other process by all CPs offering fixed voice services. Extend and mandate the use of Cancel Other by all CPs offering broadband services. Mandating the use of Cancel Other will allow all consumers to stop the order going ahead in the event of slamming;
- mandate use of functionality that ensures consumers are able to seamlessly transfer their bundled voice and broadband services to help address some of the problems around loss of service when switching bundles;
- LP communications to provide specific information on SIs including ETCs;
- universal visibility of all Openreach CLIs⁴¹⁰ (including MPF) either through enhancements to Openreach database/DS or requiring MPF CPs to establish their own DS; and
- a continuation of the existing NoT prohibition on marketing statements/representations in consumer communications to induce them to stay with the LP or cancel their contract with the GP.

A7.112 In addition to the changes above we have improved the specification of Enhanced GPL NoT to also include the following:

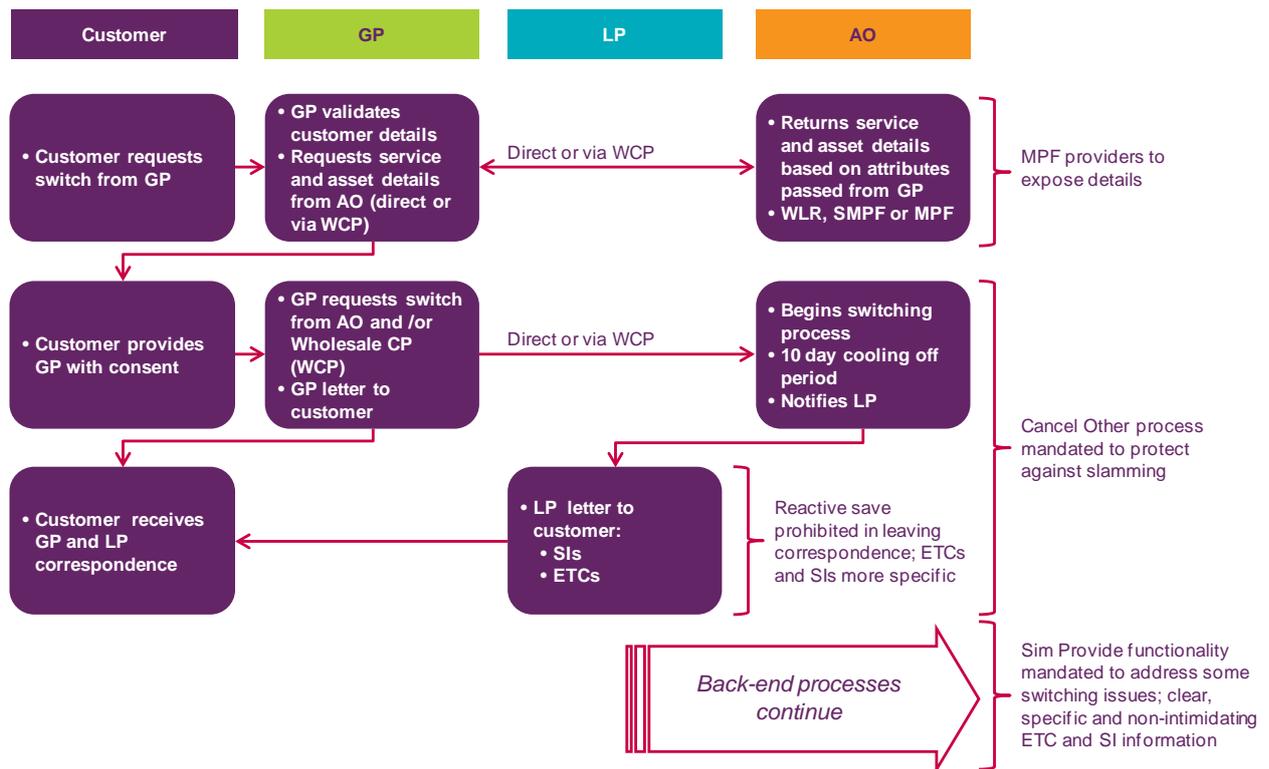
⁴¹⁰ Customer Line Identification is the unique reference of a communications endpoint (normally a telephone number).

- require a record of consent for all successful sales, records to be stored for 12 months and retrievable on an individual basis;
- address clean-up of Openreach database issues to provide accurate data;
- mandating exact match for placing NoT orders and GP to take all reasonable steps necessary to identify the correct line for switches;
- mandating exact match for for placing WLT orders and GPs to take all reasonable steps necessary to identify the correct line for WLTs; and
- mandating incumbent CP to notify the incumbent end user through a letter or email about a request to takeover their existing line.

A7.113 For homemoves, the process will be similar to the WLT process as used for homemoves today, with the improvements on exact match and notification of incumbent end user as noted above. In addition, record of consent will be required for those switches where a consumer moves home and switches provider at the same time.

A7.114 A high level overview of the Enhanced GPL NoT process is shown in Figure A7.4 below:

Figure A7.4: The Enhanced GPL NoT process



Option 2b: GPL TxC

Description of the option as proposed in 2012 Consultation

A7.115 In the 2012 Consultation we explained that under this process the consumer is only required to talk to the GP, who will co-ordinate the switching process. During this

conversation, the consumer would provide information to help the GP target the right line, such as their name, address, CLI, account reference and current provider.

- A7.116 Information about all lines and services within the scope of the switching process would be stored in a database, which can be accessed by all retail CPs via a hub. The GP would use the information provided by the consumer to identify the relevant customer account. Once this has been identified, the GP would send a request for a TxC to the LP via the hub. The LP would verify the customer's details and request a TxC from their wholesale supply chain, up to their Access Operator. This TxC would allow all CPs within the supply chain to tag the relevant asset in the switch back up to the LP and is then forwarded to the GP. The GP would then place the order using this code to ensure that the correct assets are targeted in the switching process. The TxC would also allow CPs to link together switches of bundled services to minimise the loss of service experienced by a consumer.
- A7.117 Since the GPL TxC option includes a central hub managing the exchange of information between CPs, in place of the Cancel Other process, customers could cancel their switches during the transfer period by calling an automated Customer Cancel system which directly interfaces with the central hub.

Stakeholder responses

Hub and database

- A7.118 We asked stakeholders for views on the issues which should be considered in establishing a hub and database under a GPL process. Some operators including BT and Entanet thought that the database would be very costly to implement and that the estimates presented in the Consultation underestimated the actual costs. BT added that since the hub and database are critical elements of this switching process the highest service levels would be required to ensure that current contractual SLAs between Openreach and its CP customers could be maintained. BT and Zen both also noted that complex interfaces and processes would be needed.
- A7.119 There were also some concerns about the database itself, in relation to how CP data can be uploaded into the database and the accuracy maintained and on whether Ofcom can ensure compliance against the requirements. Magrathea Telecom noted that this was a particularly onerous requirement on smaller CPs, with previous experience from number porting suggesting that some small CPs may not comply with the requirements at all. EE noted that processes will need to be developed to ensure the information contained within the centralised databases are up to date. BT estimated that there would be around 11.7k changes per day in the database, merely to ensure the database remains up to date, not including broadband acquisitions and losses and any other customer changes.
- A7.120 Virgin Media doubted whether some CPs would provide accurate data to the hub. They warned that the hub would become inaccurate quickly, which they thought would then undermine the reasons for transitioning to a harmonised process. They also suggested that the issues around the maintenance of accurate address data, which occurred under the current GPL NoT process, may remain with the hub. They thought that search for a customer by address in the hub may not always return the correct line, particularly where the customer's postal address and the address logged in the hub are different.

A7.121 C&W suggested that it should be the responsibility of the CP with the customer relationship to maintain the data rather than an obligation on the wholesale provider. BT noted that CPs would have little incentive to update the data in the centralised database. The CCP suggested that there should be a commercial incentive for CPs to provide and maintain their data to a high quality standard to ensure that the database remains robust.

A7.122 A number of stakeholders gave suggestions for alternative models to improve this process:

- Virgin Media thought that unless the proposed hub also contains the line identifier, it may be difficult to identify the particular line to be switched where there are multiple lines into the same property.
- SSE and FCS suggested that a unique identifier for each service was needed to guarantee the accuracy of the transfer.
- Gemserv proposed that each line is tagged with a Header ID, instead of the TxC. The Header ID would contain the unique property identifier and an indication of the services that the property is capable of taking. It explained that in this way each line and service would be identified with a specific property and CPs would be able to validate the records before switching to ensure that the right customer is switched.
- TalkTalk thought that it was unnecessary for a TxC to be generated at the point of transfer, and that asset validation could be implemented in a different way. Their revised approach is described under the 'Revised GPL option' in paragraph A7.214.

A7.123 Stakeholders also provided further input on how this option would perform against some of the problems identified with the current processes. FCS and SSE suggested that the database should provide a better audit trail to identify the responsible party where customers have been slammed and to monitor the use of Cancel Other. SSE proposed that every CP and agent with access to the central hub should be issued with a unique identifier, so that there is a system which provides auditable information on individual market participant behaviour. By keeping a log of when consumer records are accessed, they suggested that information would be available for audit if there were significant levels of complaints or cancellations to identify the agent who has placed these orders.

A7.124 In order to improve the customer experience where the customer has had their services erroneously transferred, SSE gave an example from the energy sector, where a market body (the MRA Service Company) oversees the 'erroneous transfer customer charter'. They explained that the presence of central registration data is a key enabler for the bilateral billing settlement between the CPs without charging the consumer twice for the same services. Under this model, they noted that the consumer continued to deal with the company they consider to be their CP throughout this period. Consumer Focus also suggested that the central hub could be used to help with rapid restoration of the lines which were transferred erroneously. They noted that the register of CP data would help to identify the suppliers involved in the ET.

A7.125 However, Virgin Media thought that Ofcom had not considered the cost of monitoring for this process in its analysis.

- A7.126 Universal Utilities were concerned about the impact of removing Cancel Other from this option. Instead, they proposed that Cancel Other should be retained and expanded to include a 'Change of mind' option. They also noted that under the Customer Cancel function, customers may wish to discuss the content of the letter with the central body. They thought that it was likely that the customer would be instructed to contact the LP directly, or have to deal with the automated CSS body which may lead to further confusion.
- A7.127 EE and BT raised concerns about the need for unprecedented and potentially understated costs of industry cooperation, and although these arguments were made in the context of GPL TPV they also apply to GPL TxC. These points were countered by comments from Gemserv, which explained how governance process might be put in place, and has expanded on this in its report in Annex 12. A number of CPs, including BT, Sky and Virgin Media jointly submitted a report from PWC which challenged our assessment of the cost of this option.⁴¹¹
- A7.128 In addition, SSE and TalkTalk provided views about how a governance structure might be established (albeit in the context of the revised GPL option, which we assess below).

WLT

- A7.129 Zen thought this process would be capable of dealing with homemove ETs, although it noted that this would only be successful if enforced and CPs are held accountable for failures.
- A7.130 BT, Sky, Virgin Media and Zen jointly submitted an assessment of the WLT process under this option. They agreed that the incumbent occupant's account should not be used as a reference when the inbound occupant places an order on the line, however they noted that in the absence of an account reference and the name on the account, this process would function on the same level of detail as in the WLT today. They acknowledged that in some cases the inbound occupant may know the name of the incumbent occupant, which may help with service identification.
- A7.131 They thought that the WLT process should not proceed without the incumbent occupant's active consent, unless the inbound occupant can provide the name of the incumbent occupant which matches the name held by the incumbent CP. Otherwise they thought that ETs would be just as likely as today. Alternatively, they suggested that if the incumbent CP can verify that the customer has already left then a TxC could be issued to the incoming CP so that an order of new services can be placed on it. They also noted that it does not seem efficient to require the incumbent CP to contact their incumbent occupant in every case, and this could cause delays. However, they thought that without this contact and consent from the customer the process would be less reliable than the WLT process today.
- A7.132 CRA also agreed with these views, that given the limited information an inbound occupant is able to provide (that the user is unlikely to be able to provide the account reference or name of the account holder) the WLT process is unlikely to overcome the problems with ETs. They added that the WLT process may become worse under this option, since CPs who currently use the WLT process today acknowledge that they do not have explicit consent from the user of the line when a WLT is placed. However they thought that the use of WLT under a GPL TxC

⁴¹¹ See <http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/PwC.pdf> .

process may be taken as signal of consent that the correct line has been identified and switched. They thought that the only scenarios where ETs could be improved is where the inbound occupant has the name or account reference of the outgoing customer or where the inbound occupant can provide the CLI to the current services, which are currently provided over MPF. They did not think that this would result in an 80% reduction in ETs as set out in the 2012 Consultation.

Our response

- A7.133 SSE, FCS and Gemserv made similar suggestions to improving this option by including a reference which identifies the asset. These suggestions are similar to an option submitted by SSE and TalkTalk. This is explained in further detail in A7.214 below.
- A7.134 On the matter of monitoring CPs' use of the hub and database, we welcome stakeholders' suggestions on the ways in which use of the database can be audited and their concerns about the cost of monitoring. However this is a matter for implementation rather in the process design.
- A7.135 In the 2012 Consultation, this option was designed with a central database in mind, which would be updated on a regular basis by all CPs to provide accurate information for the switch. We note stakeholders' comments about the implementation issues associated with such a database approach, including the requirement for CP co-operation to upload data into the database and to ensure that the information stored remains up to date. In addition stakeholders also commented on the critical function this database would perform and therefore the necessity for the highest level of availability to support switching.
- A7.136 In order to ensure that there is access to up to date data, we note that CPs would be required to maintain the accuracy of this data by providing regular updates, including any changes made outside of the switching process which affect the information stored on the database (such as a change of CLI or account reference). This could be audited and monitored to ensure that the data is accurate. There would be explicit obligations on CPs to ensure appropriate processes are in place to ensure that the database contains accurate and up to date data.
- A7.137 As acknowledged in the 2012 Consultation, a centralised model, where all information including consumer data is held on a single database, carries with it some data protection and security risks. We believe that appropriate protection and security measures will need to be in place but do not see why, in principle, these would not be possible to identify. However, we note that these aspects require further work during the design and implementation phase to specifically identify how these issues would be dealt with.
- A7.138 In addition, we note that this database could also be managed individually by each CP, in a distributed form. A distributed database would mean that CPs could maintain separate databases of their own customer data, and verify this information on a case by case basis, on the request of the GP. In this approach, the central hub will not contain any data about customers and their CPs, but will only direct requests to the relevant LP. The GP will be able to target the correct LP using information provided by the consumer or there could be an algorithm which will prioritise the order in which LPs are contacted to verify the customer's details (for example this order could be based on the CP's market share).

A7.139 A distributed form of the database would mitigate against some of the data protection risks identified on requiring CPs to upload all the relevant customer information into a central database at the start of the process. Under this approach, the information about a specific customer would only be shared when the customer has contacted their GP to request a switch and therefore their consent could be requested before the personal information is shared with the GP. However, there are other implementation risks with the distributed model, as this would require CPs to ensure that the required information is available to other CPs at the time of the request. It could potentially provide a way for an LP to frustrate the switching process by not providing the customer information in a timely manner. If a real time response is required for this verification step, then the links between the LP and the hub will need to have high availability and be resilient and the complexity in this respect would be multiplied. Therefore this would need to be explored in more detail during implementation if this option was selected.

Cancel Other

A7.140 We are not persuaded to retain the Cancel Other function under this option, as there is an alternative way to manage these cancellations which deliver a clear and simple process for the consumer to cancel their order. In addition, they would not be reliant on their providers to cancel it on their behalf which can sometimes lead to cancellations not being actioned. Therefore the customer cancel functionality remains a part of this option as described in the 2012 Consultation option.

Governance

A7.141 In the light of the detailed work completed by Gemserv, in Annex 12, we consider that governance process and industry cooperation is possible under the GPL TxC option, and is worthy of further exploration. In their report, Gemserv considered a number of governance models for the implementation of this option. These were:

- Memorandum of Understanding – a non-binding, non-contractual agreement which would oblige CPs to use best or reasonable endeavours to operate the agreements overseeing the switching process.
- Market Agent Agreement – an independent market agreement which would oblige CPs to be parties to the agreement as a part of a GC. This agreement would be managed and developed by CPs.
- Independent CP Agreement – an approach which would require CPs to comply with switching processes through contractual means, e.g. a set of Codes of Practice or a formal agreement would co-ordinate the switching process but sanction for non-compliance would be through the courts.
- Regulation by License – a way to operate the governance model through specific license obligations and implement a new form of license for CPs. This is the model which is currently used in the energy sector.

A7.142 Gemserv recommended the Market Agent Agreement approach, where a Market Agent manages the governance of the Market Agreement, which is developed between CPs and other market operators. These stakeholders could be jointly responsible for delivery of this switching process through a contractual agreement. We anticipate that such a governance process would have benefits in future as a result of providing a framework for industry cooperation, for example in adapting to future changes in the market.

Cost of this option

A7.143 We note the report submitted by PWC with support from a number of CPs. We asked CSMG to consider the comments made and to make revisions where appropriate. The revised costs of this option are included in CSMG's latest report published alongside this document.

WLT

A7.144 We note stakeholders' comments about the performance of WLT under this option. While we agree that it is unlikely that all inbound end users will know the name of the incumbent end user or their CLI, other improvements under this process should also help to reduce the number of ETs.

A7.145 The improvements to the availability of accurate address information in particular will mean that the GP is more likely to identify the correct line to take over. We note that currently incorrect Openreach data accounts for 25% of all ETs.

A7.146 We also note that many ETs today are caused due to deficiencies in GPs' systems and processes. In this model, we note that all CPs would have a common system and interface which would help to address a source of current ETs.

A7.147 Like the improvements under Enhanced GPL NoT explained in paragraph A7.90 under this option we will also require CPs to send a notification to the incumbent end user prior to taking over the line, which will mean that the incumbent end user has an opportunity to cancel the transfer where the incorrect line has been targeted.

Other suggestions

A7.148 We also welcome suggestions made by SSE and Consumer Focus on further uses of the central hub to help settle billing matters and to aid rapid restoration of services where the wrong line has been transferred. These could be explored further by industry during implementation if this option was selected.

A7.149 Some of the improvements under the GPL TxC option would also provide additional protection for consumers, in the form of notification of ETCs and SIs in letters from their LP and in the GP retaining a record of their consent. These improvements are discussed under the Enhanced GPL NoT option in paragraphs A7.65 and A7.95

Description of revised option

A7.150 Stakeholders did not make any suggestions which would change the process itself. The suggestions that have been made can be considered during the implementation of this process, if selected. The GPL TxC process under consideration is largely unchanged from the option set out in the 2012 Consultation, which involved the following.

- the GPL TxC model has a database which stores information for each customer regarding their account reference, current provider, name, address, CLI, postcode, the services supplied, and the access technology for these services;
- during the sales process, the customer will provide the GP with a range of customer data such as: their name, address, postcode, CLI, current provider,

which services they wish to switch, and their account reference with their current provider (if available). If the customer does not have their account reference to hand, the GP sales agent will be able to query the central database in order to retrieve the account reference (lookup using name, address, CLI, and postcode);

- LP communications to provide specific information on SIs and ETCs; and
- require a customer cancel system to replace the existing Cancel Other process. This allows consumers to cancel their switches directly, during the transfer period, without the need to rely on CPs (who may not have adopted necessary systems or may not act on the cancel request within the transfer period).

A7.151 For homemoves, the consumer facing process will be similar to WLT process as used for homemoves today with the improvements on notification of incumbent end user as noted above. In addition, record of consent will be required for those switches where a consumer moves home and switches provider at the same time. GPs will use the hub and database to identify the correct line.

A7.152 However, we have modified the specification to now include some of the new improvements also introduced under the Enhanced GPL NoT option above:

- mandatory record of consent for all successful sales, records to be stored for 12 months and retrievable on an individual basis; and
- mandating Best Practice for WLT for the incumbent CP to notify the incumbent end user through a letter or email about a request to takeover their existing line.

A7.153 As discussed above, we have considered two different ways in which the hub and database functions can be implemented⁴¹², either with a centralised database or with CPs maintaining separate databases of their own customer data (see Annex 10 for more details). The process flows for these two alternatives are shown in Figure A7.5 and A7.6 below.

⁴¹² In addition to the databases considered by CSMG, SSE and TalkTalk proposed an alternative version which is enclosed at annex 5. We consider that the performance of this option against the problems will be similar to GPL TxC and CSMG have indicated that the costs of this option are likely to be similar to GPL TxC.

Figure A7.5: The GPL TxC (centralised) process

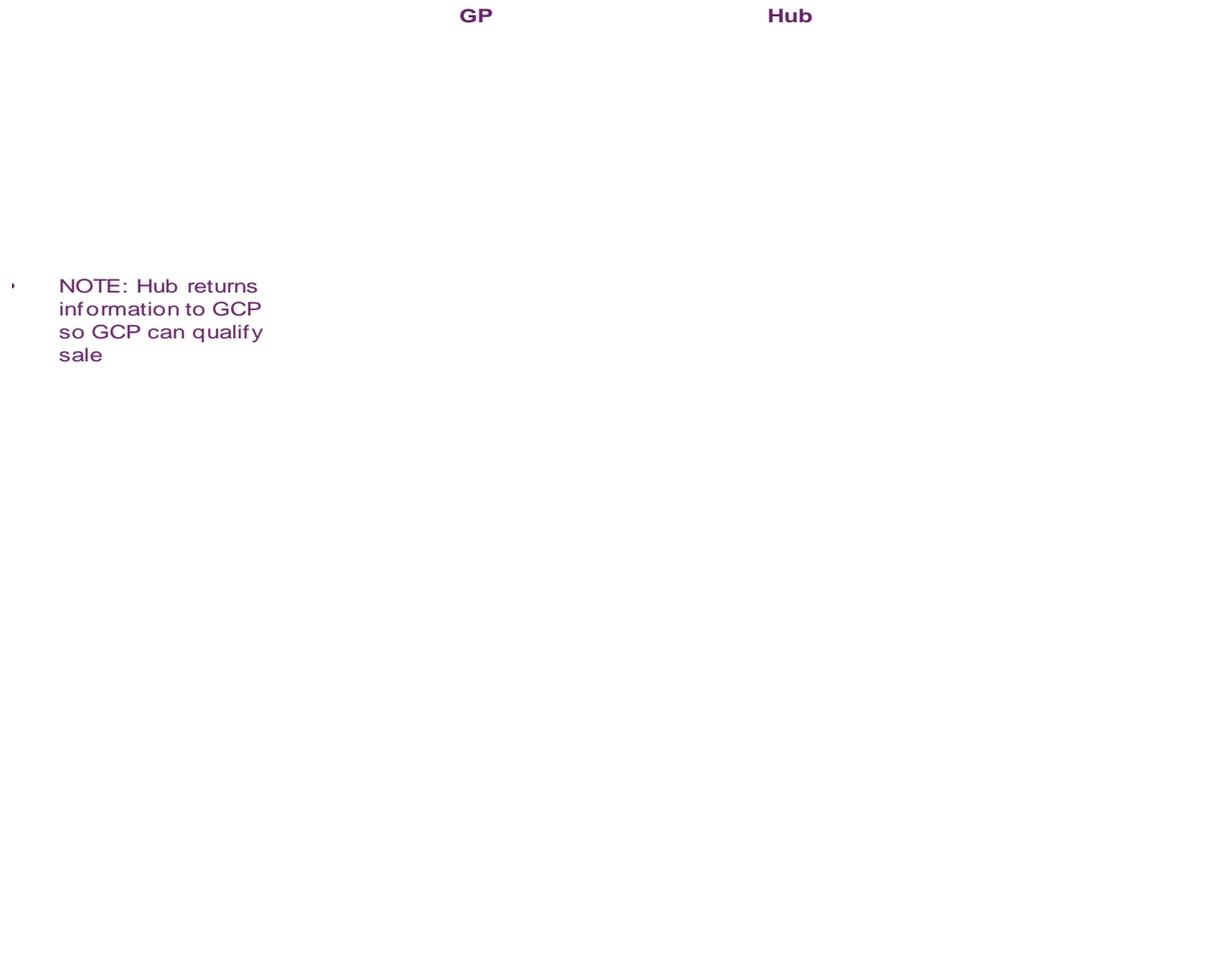
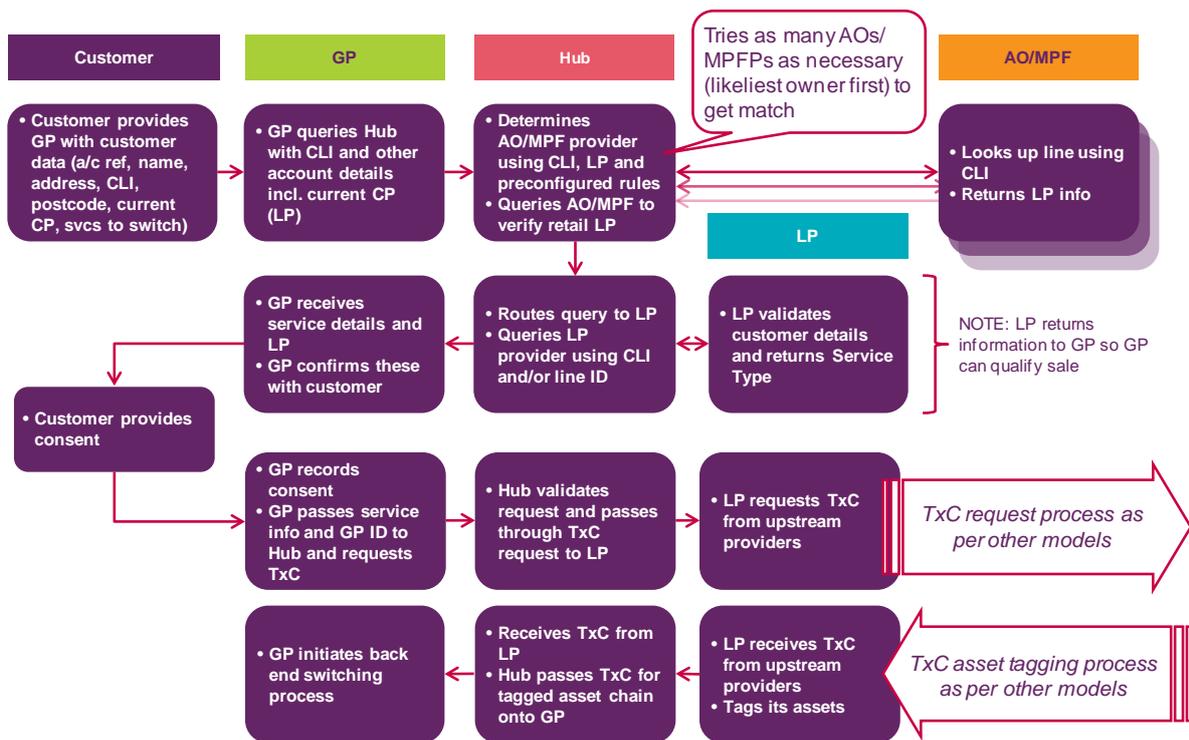


Figure A7.6: The GPL TxC-V (distributed) process



Option 2c: GPL USN

Description of the option as proposed in 2012 Consultation

- A7.154 In this GPL model, each service within the scope of the switching process would be issued with a USN. This number would be communicated to customers by their current provider and printed on their bill. When switching, the customer would provide the GP with the relevant USN, who would enter the code into a central hub to identify the correct services to be switched. Alongside the USN, the central hub would also store information about the service type (e.g. broadband, line rental, calls) and technology type (e.g. MPF, WLR). The LP would be notified of the transfer via a notification from the hub.
- A7.155 Like GPL TxC, this option requires a central database, however the database under this option would not contain the address or CLI of customers' services. The GPL USN would uniquely identify the services being switched. As this option still requires a single, central database it carries some implementation risks.
- A7.156 As in the GPL TxC option above, instead of a Cancel Other process, customers could cancel a transfer by contacting the hub directly via an automated Customer Cancel system.

Stakeholder responses

- A7.157 There was relatively little support from stakeholders on the overall benefits of the GPL USN option, although Consumer Focus suggested that we 'give serious consideration' to the benefits of this model. SSE supported an approach which would provide a unique reference for each premises. Their option is discussed under the 'Revised GPL database option' below.
- A7.158 Zen did not agree that the use of the USN would limit retail sales in a face to face scenario, such as shopping centres. They suggested that retail sales people could provide potential customers with access to the Internet or phone access so they could access their code if they do not have it to hand.
- A7.159 The high cost of the option was highlighted by those stakeholders that commissioned the CRA impact assessment report while Virgin Media noted the CRA conclusions that the benefits in relation to the GPL USN model are negative to zero.

Our response

- A7.160 We note Zen's suggestion for ways that retail customers could access their USN at the point of sale. However, this is not specifically a part of the switching process and it is difficult to require all points of sale to provide such access to consumers, particularly in an in-store context where not all consumers will have access to their account information online. Therefore this cannot be incorporated into the process design for this option.

Homemoves

- A7.161 We continue to consider that a mechanism which requires the inbound occupant to provide a code is unlikely to work in practice because the person vacating the property lacks an incentive to cooperate. We discuss this further in the context on the LPL options, which would require a similar mechanism. Further, in context of the

GPL USN model, a potentially confusing message would need to be given to the consumer – in order to prevent slamming we are saying that a USN should only be given to a CP that a customer intends to switch to but in the context of a homemove we would have to also ask them to provide it to another customer who will provide it to a GP of their choice.

A7.162 Therefore, under this option the homemover process would be the WLT process as discussed in the Enhanced GPL NoT option. The inbound occupant can place the order with the CP without the need for a USN.

Description of revised option

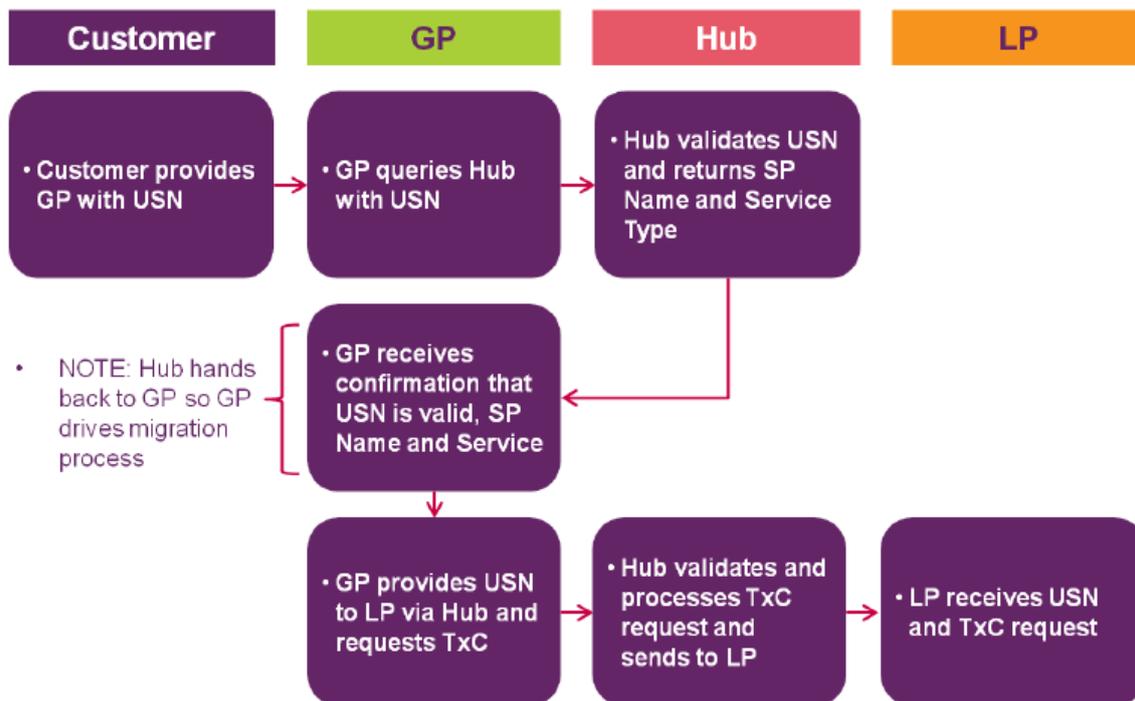
A7.163 The process design for this option is unchanged from the specifications in the 2012 Consultation and is summarised below.

- The USN would be a non-structured simple code, e.g. 12 alpha-numeric characters which is contained on a customer's bill
- The GPL USN model would use an inter-CP hub which would hold a relatively simple, lightweight, centralised database which would be used only for this consumer switching process.
- During the sales process, the consumer would provide the GP with the USN contained on their bill – this protects against slamming.
- The USN is specific to a particular service, e.g. a dual play customer will have a different USN for broadband and telephony – so consumers will need to provide multiple USNs when switching multiple services
- The USN enables the GP to look up the customer LP, service type and access technology to help identify the correct asset
- LP communications to provide specific information on SIs including ETCs;
- Require a customer cancel system to replace the existing Cancel Other process. This allows consumers to cancel their switches directly, during the transfer period, without the need to rely on CPs (who may not have adopted necessary systems or may not act on the cancel request within the transfer period).

A7.164 For homemoves, the process will continue to be the WLT process as used for homemoves today.

A7.165 An overview of the GPL USN process is shown in Figure A7.7 below.

Figure A7.7: The GPL USN process



Option 2d: GPL TPV

Description of the option as proposed in 2012 Consultation

A7.166 As described in the 2012 Consultation, the GPL TPV option contains the same database, hub, TxC process and Customer Cancel system as in the GPL TxC option and in addition has an independent body recording the customer's consent to a switch. The database, hub, TxC process and Customer Cancel system which is part of this process is discussed in more detail under Option 2b. Under the TPV element of this option, the GP would pass the customer to a third party to confirm that the customer has agreed to the switch. The GP would not be required to stay on the line during this validation process, but could choose to do so.

A7.167 If the request to switch is taking place during a sales call, once the customer has confirmed their consent to the TPV, the TPV would notify the GP that the consent has been validated and the GP can then continue with the request for the TxC as in the GPL TxC process. The TPV would also 'unlock' the service(s) in the hub, to allow the services to be switched. If the TPV did not have a record of the consent (either via the call, or via an online confirmation for web based sales) then the relevant services would not be unlocked and the TxC could not be requested.

Stakeholder response

A7.168 As the GPL TPV process shares the same approach to asset validation as the GPL TxC option, most of the stakeholder comments under that option are also applicable to this option. These are discussed in A7.118.

A7.169 In addition to those comments, stakeholders also made comments relating to the TPV function. CFC suggested that in addition to the proposed approach to verify the customer's desire to switch, a callback to the number to be switched could be

considered if the initial call was not made from that number, or where there are suspicions of slamming or mis-selling, to ensure that the consumer requesting the transfer is the customer of that particular line.

- A7.170 SSE also noted that under this approach the central hub did not need to contain more information than under the other options, as we had suggested in the 2012 Consultation.⁴¹³ They suggested that the verification process only needed to confirm that the customer has agreed to transfer one or more specific services away from their current provider, that they were aware of the identity of the CP they were transferring to and that a tangible record of consent is collected and stored. On the other hand, BT argued that the TPV agent might need more details about the sale, for example by sharing the GP's ordering system with the TPV, in order to be able to confirm that the customer understands the full implication of the switch, beyond the transfer of a voice/broadband service. The CCP also argued that there needs to be a 'warm transfer' so that the consumer will not have to repeat the details they have already provided to the GP.
- A7.171 In the responses to the consultation, there were divided views about whether it should be mandatory that the GP remains on the TPV call while the customer is going through the verification process. Some CPs, such as Zen, thought that it was essential that the GP is on the call in case the consumer has any additional questions during the verification process and to close the call with the consumer after the verification step. Universal Utilities also thought that the practicalities of the situation would require the GP to stay on the line anyway and therefore would incur the costs that Ofcom has stated as not justifiable. Other CPs, such as, SSE, TalkTalk and members of the FSC, thought that while it was beneficial that the GP remains on the call, it should not be a mandatory part of the process.
- A7.172 BT noted that in the use of GPL TPV in Ireland the GP was forbidden from remaining on the call because of the risk that they would apply pressure to the customer to give their consent to the switch. C&W added that the experience in Ireland found that the scheme was not as effective as initially hoped because consumers needed the GP on the call to answer questions about the services they are taking and also needed the LP on the call to answer questions about their current services.
- A7.173 BT, Sky, Virgin Media and Zen thought that the process would not deal effectively with homemoves and requiring the incoming user to talk to the TPV would add no value to the process as the consumer is not switching supplier and there is nothing for the TPV body to verify. The CRA also agreed with this view. These stakeholders also made comments regarding the asset identification process which fall under the TxC process (but also apply in this option) and these are summarised in paragraph A7.129.
- A7.174 In their responses, stakeholders also suggested questions that should be considered if this option were to be implemented. This includes practical issues associated with the operation of the TPV and its governance, as well as how its performance could be monitored and the availability of the service. SSE and C&W also noted that the GPL TPV model considered in the 2012 Consultation was largely for telephone sales, and they suggested that there could be alternative validation methods for other sales channels. EE thought that it would not be a good

⁴¹³ In paragraph 7.145 of the 2012 Consultation, we noted that the TPV option requires a larger amount of customer information in the database, and therefore might involve a greater amount of standardisation across CPs.

customer experience to require a customer in store to have a conversation with a third party on the telephone. Instead, they suggested that third party confirmation of in store sales should be carried out via an online form.

Our response

- A7.175 We note Consumer Focus's suggestion of a call back functionality as a further way in which the consumer's identity could be verified. However, this is unlikely to be practical in all cases, for example a consumer may use their mobile phone to make a call to request a switch for their fixed line services and therefore use a different CLI from the line they are trying to switch. The addition of this option in a switching process may lead to further customer confusion. As a result, it is not appropriate to require this in the specification of this process.
- A7.176 Although it may not be a smooth customer experience for a sales agent in a face to face environment to pass the consumer to a TPV on the telephone, the alternative would involve a validation via an online form. A record of confirmation via a telephone call would be better as it will provide some evidence that it was the customer who has agreed to the sale.
- A7.177 Some stakeholders suggested that the TPV agent would need more information about the sale and the consumer in order to guide the consumer through the validation process, for example where the consumer may have questions arising from the validation process. We note that the notification letters from the LP and GP are still an important part of this process, therefore additional information is not necessary during the TPV call. As we explained, under the Enhanced GPL NoT option in paragraph A7.71, a durable form of notification is necessary to ensure that consumers are made aware of the implications of switching and that the information is presented in a clear and neutral way. Therefore, consumers could be advised to check the notification letters for information about the ETCs and other implications of switching.
- A7.178 There were mixed views from stakeholders as to whether the GP should remain on the call during the GPL TPV process. Therefore we are minded to not amend our position in the 2012 Consultation, which gives GPs the choice to remain on the call but it is not mandatory. This gives GPs the greatest flexibility to decide whether they wish to remain on the call.
- A7.179 For homemoves, the consumer facing process will be similar to the WLT process as used for homemoves today with the additional step of consent validation by the TPV. As in GPL TxC, GPs will use the hub and database to identify the correct line.

Conclusion

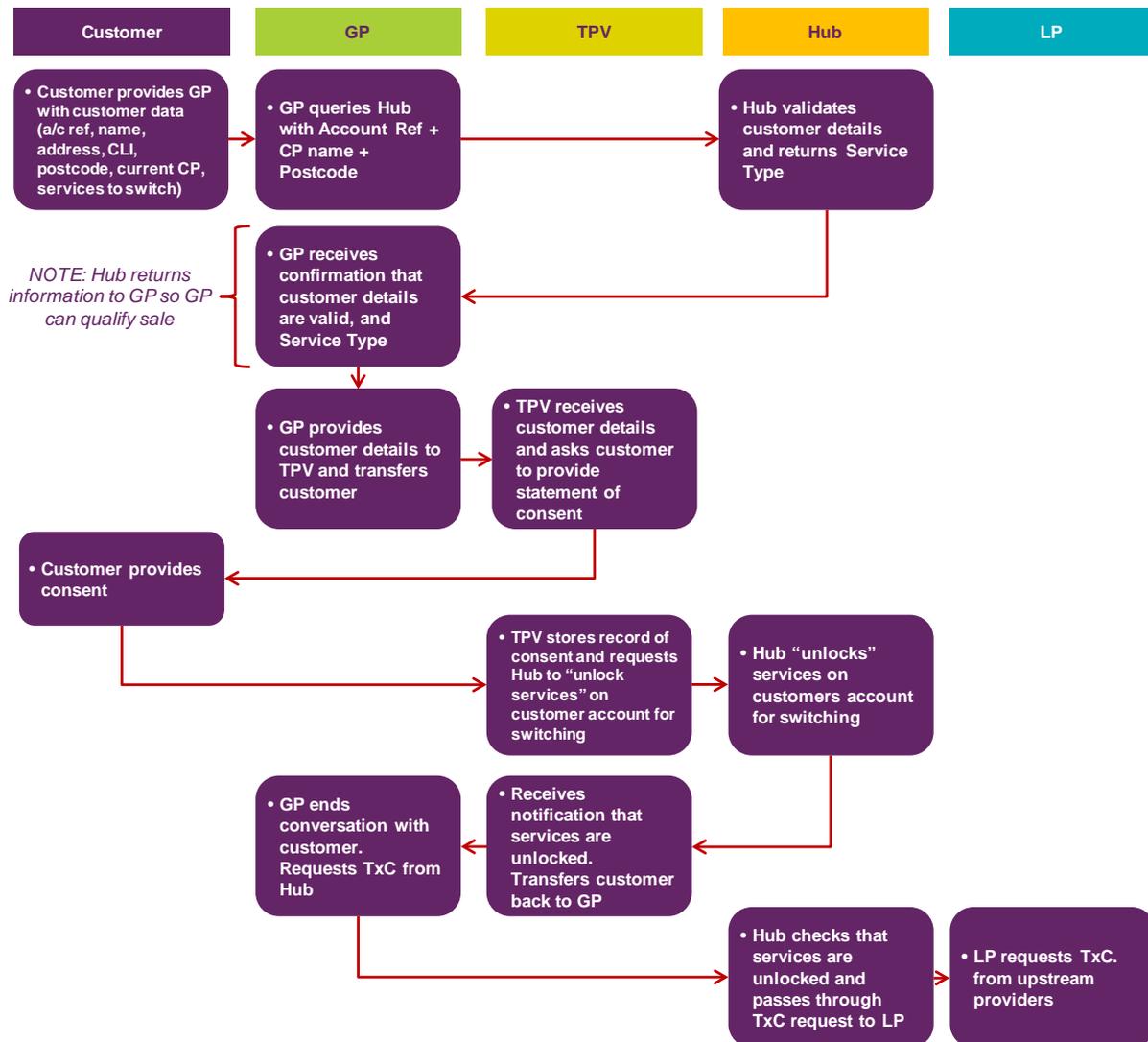
- A7.180 Based on the arguments provided in stakeholders' responses we do not see the justification to change this option. This option also remains as it was described in the 2012 Consultation. Its key features are as follows:
- The GP will follow the GPL TxC process to identify the asset to be switched. This process is set out in paragraphs A7.150 - A7.151;
 - Once the customer account has been identified, the GP will transfer the customer to a TPV. The TPV would elicit a statement of consent from the customer, for example, 'do you wish to switch service(s) X from CP Y to CP Z?';

- This statement of consent would be recorded by the TPV and stored, and would be able to be retrieved in the case of a slamming allegation;
- The GPL TPV process would be handled by phone call for telesales, retail shop and door to door. Customers using an online sales channel would be presented with a TPV web form to collect a record of consent; and
- Require a customer cancel system to replace the existing Cancel Other process. This allows consumers to cancel their switches directly, during the transfer period, without the need to rely on CPs (who may not have adopted necessary systems or may not act on the cancel request within the transfer period).

A7.181 For homemoves, the process will continue to be the WLT process as used for homemoves today.

A7.182 A high level view of this process is included in Figure A7.8 below.

Figure A7.8: The GPL TPV process



LPL Options (harmonised)

- A7.183 In the 2012 Consultation we also considered two process options where the switching process is harmonised to a process led by the LP. Under this approach, the customer first speaks to their current provider to request a code, which they then provide to the GP. If the consumer contacts the GP first, they will be advised to obtain the code from their LP.
- A7.184 Under an LPL process, as the consumer has to speak to their current provider first it is not possible to switch or slam the customer without their prior knowledge. During the initial conversation with the LP, the customer can be informed of the implications of switching and any additional charges at the beginning of the process before they decide to switch.

Option 3a: LPL TxC and Option 3b LPL ALT

Description of the option as proposed in 2012 Consultation

- A7.185 In the 2012 Consultation we considered a LPL TxC process which shares a common TxC process, as set out above under the GPL TxC option, and is used to identify the asset involved in the switch along its supply chain. However, instead of the TxC being requested by the GP, the customer will contact the LP to request it, via a dedicated provisioning facility. As the customer contacts their LP directly, the centralised hub is not needed in this option.⁴¹⁴ There would be clear rules in place for this facility prohibiting save activity and obligations for call recording.
- A7.186 The LP uses information they already hold to authenticate the customer and can provide information at this point about the implications of the switching process, including any impacts on existing services and charges. The LP is also required to provide this information in a durable format (such as a letter or an email) during the switching process.
- A7.187 Having confirmed the customer's desire to switch the LP will generate a TxC via their wholesale supply chain, which is issued by the TxCIA⁴¹⁵ to the LP's access operator. Each CP along the supply chain tags the relevant asset with the code before it is returned to the customer. The LP will be required to provide the code to the customer at the time of the call or online request. These requirements are intended to mitigate the harm the LP from making it difficult for the consumer to switch.
- A7.188 The GP can then place the order for the switch using the code provided by the customer.
- A7.189 The LPL ALT process is a variant of the LPL TxC process proposed by BT, Sky, Virgin Media and Zen which was submitted prior to the 2012 Consultation and published alongside that document. It is based on the LPL TxC option, but proposed that there is no ban on reactive save. Instead, CPs could choose whether there is a separate phone number or IVR option for customers to notify their existing provider of their wish to leave. The customer would also be given the option to request a TxC without listening to any save offers. The proposal includes:

⁴¹⁴ The hub is only required in the GPL option to minimise the number of interfaces a CP will need to communicate with other CPs.

⁴¹⁵ The role of the TxCIA is to ensure that unique codes are issued for transfers, so that services and assets can be identified accurately.

- a dedicated line or IVR option with all calls recorded;
- a Service Level Agreement on response to calls to the dedicated line or IVR option to be agreed, reported and auditable
- the consumer to have the opportunity to opt out of listening to any save offers before receiving the TxC
- providing the TxC to the customer while they are on the phone or, where this isn't possible, within 2 hours by SMS or email. The CP could also invite the customer to call back or the CP could offer to call the customer back with the TxC or provide the code by email or SMS to a friend or neighbour.
- service implications and ETCs to be provided to the customer verbally in the call and also in an SMS or e-mail. A letter containing this information would not be a formal part of the process.

Stakeholder response

The TxC

- A7.190 There was some disagreement between stakeholders over whether additional industry work was required to specify the interfaces, with one CP suggesting that the current interfaces for the LPL process could be reused. However, some other CPs, such as SSE, [X] and TalkTalk, noted that there would be some difficulties with this system. [X] noted that there would be additional costs to consumers and hassle.
- A7.191 Virgin Media thought that the 2012 Consultation mischaracterised the TxCIA in the LPL context. It noted that under this approach, there was no need for a database of every service and instead the TxCIA was a piece of software which would issue the TxC when a request is made. TalkTalk argued that the TxCIA would become a bottleneck as CPs do not have the incentive to provide the TxC in a timely or efficient basis.
- A7.192 Sky suggested that there was no need for a TxCIA to co-ordinate the issuing of codes for the LPL ALT process. Instead, it suggested that within the current scope of the switching processes Openreach should be the body responsible for issuing the code. If the process was to be extended to other networks and services they suggested that Openreach could also issue the codes for these CPs or an alternative system could be developed for the other access providers.

Information about the implications of switching

- A7.193 EE argued that it is in the LP's interest to provide clear information regarding the customer's contractual liabilities. They suggested that if there were concerns about the information an LP may provide, Ofcom could set out guidelines regarding the information which must be provided in an online/digital environment. It also proposed that once the customer has received their TxC, the customer is empowered to shop around with full awareness of their contractual obligations.
- A7.194 Virgin Media questioned the requirement for the LP to send a letter to the consumer with the implications of switching, noting that in other sectors no letters are sent, and instead the implications are provided orally. It suggested that, as under the LPL ALT process, the LP letter could be optional. They added that having ETCs or

MCPs on a bill may give the customer a false impression that these are the implications to consider, when there may be other factors, such as the loss of bundling discount or email.

Homemoves

- A7.195 A number of CPs, including Entanet, EE, BT, Sky, Virgin Media and Zen thought that the LPL TxC process could accommodate the homemovers' process by including a requirement for the LP to record whether the transfer was a home move, which would then ensure a TxC is sent to the new occupier. EE suggested that it was in the incumbent provider's interest to ensure that the inbound end user has the TxC, as there is the possibility that the inbound end user may wish to use the same CP.
- A7.196 BT, Sky, Virgin Media and Zen thought that since the incumbent end user is likely to contact their existing provider anyway, it would not be any additional hassle for these users to request a TxC to provide to the incoming end user. They added that this could be done on a reactive basis, so that the TxC is generated when they are informed of a homemove, and the code can be stored to be provided to the inbound end user or a letting agent, on request. Since the TxC will identify the correct asset to target, they thought there would be no need for the ten day window.
- A7.197 Where a code cannot be obtained by the incoming customer, they suggested that there could be a fallback option with co-operation between the respective CPs. This would involve the GP identifying the incumbent CP via the Openreach DS and requesting a TxC from this CP. The incumbent CP would then check with their customer that they are moving, or verify whether they have already received a notice about the move, before issuing a TxC. If no contact can be made further information for verification is required from the bound end user, e.g. the name of the incumbent end user, to confirm that the correct line has been identified. Alternatively the LP could also issue a TxC where they can verify that the consumer has already left.
- A7.198 BT suggested that the inbound end user should be given the choice to either request the code from the outgoing end user or to request their GP to co-ordinate with the LP for the delivery of the new services. Virgin Media added that the only way to significantly reduce the risk of an ET was to require significant cooperation from the incumbent end user.
- A7.199 [✗], TalkTalk and Universal Utilities disagreed with a WLT process based around a code obtained from the incumbent end user, suggesting that this process would cause even more problems than today, because they were unsure whether the incumbent end user would co-operate with the inbound end user to support the process.

Our response

The TxC

- A7.200 The LPL TxC process set out in the 2012 Consultation does not require the TxCIA to maintain a database containing customer details. Instead, its role⁴¹⁶ is to ensure

⁴¹⁶ Described in the Use Cases document

http://stakeholders.ofcom.org.uk/binaries/telecoms/groups/swg/processed/SWG_Switching_Process_Use2.pdf

that a unique code is issued when the access operator requests a new TxC. It also validates the TxC presented by the GP to verify that the code it has been given by the customer is a code which it had issued. In the LPL context, the TxCIA does not need any information about the customer's networks or services.

A7.201 We note Sky's suggestion that the role of the TxCIA could be performed by the access operator or co-ordinated by Openreach, at least initially. As the scope of this process is currently limited to services provided on Openreach's copper network, it is possible that it can perform the role of the TxCIA, although some co-ordination will be required so that if the process is extended to other networks that the same code is not used to identify assets on different networks. This could be considered during the implementation phase. Sky's comments suggest that among the proponents of this option there remain different views on how the option could be implemented.

Information about the implications of switching

A7.202 As we explained in paragraphs A7.65 and A7.68 we believe that a durable form of notification is necessary to ensure that consumers are made aware of the implications of switching, allows an audit trail and greater clarity on the issues that have been identified to consumers and the way in which that communication is presented. We also consider that it is likely to be difficult for many consumers to comprehend complex information in a verbal conversation. As raised by various stakeholders, the switching decision can be quite difficult for consumers as there are now a wide range of factors that they may wish to consider. Therefore we do not accept the proposal in the LPL ALT option that it is sufficient that the LP informs their customer of the implications of switching orally. We welcome EE's suggestion that we could introduce guidelines for the information that can be provided to a customer in an online environment.

Homemoves

A7.203 We note stakeholders' suggestions for the homemover process, which involved different methods for ensuring the GP gets the TxC which accurately identifies the correct asset and thereby prevents an ET when it is used to place the order:

- the incumbent end user requests/receives the TxC from their CP and provides it to the inbound end user;
- the incumbent end user provides to the code to a third party such as the letting agent who then passes it on to the inbound end user;
- the Incumbent CP provides it to the inbound end user after they have received confirmation from the incumbent end user that they are moving; and
- the GP requests a TxC from the Incumbent CP who provides it only after it is received confirmation from the incumbent end user that they are moving.

A7.204 However, as noted by Virgin Media, all these methods rely on significant cooperation from the incumbent end user. The incumbent end user would have to do one of the following in each of the above scenarios:

- Request a TxC from their CP and pass it on to the inbound end user in a timely fashion. This cannot be done too far in advance given the code is only valid for a short period but needs to be sufficiently in advance of the move date such that

the inbound end user is able to it to place a WLT order to ensure services are available on the day they move into the property.

- Make the TxC available in a timely fashion to the letting agent (note that the code is only valid for 30 days, so it would need to be accessed and used by incoming end user before this period ended).
- Needs to respond to the incumbent CP's request for confirmation that they are moving home in a timely manner.

A7.205 As set out in the 2012 Consultation, we believe that it is unrealistic to rely on co-operation from the outgoing end user given that the outgoing end user does not have any incentives to make the process work effectively for the inbound end user. We therefore believe that these processes would be unlikely to work in practice and would lead to inbound end user having to use a C&R process which would not allow them to have delivery of services on the day they move into their property.

A7.206 We believe that such an approach would result in a significant risk that the numbers of WLT orders that can be placed will decline considerably. This would put at risk the current benefits that are enjoyed by consumers through the existing WLT process. As noted in Section 5 and above, a good WLT process minimises the hassle for consumers and allows for efficient reuse of assets.

A7.207 In addition to the concerns expressed above, we note that there are other difficulties with the approaches suggested:

- Some of the options place an additional burden on inbound end user to get a code from another party who has no incentive to help them e.g. incumbent end user, letting agent, incumbent CP.
- Requiring the inbound end user to contact the incumbent CP would give the latter an unfair advantage over the GP. This conversation with the inbound end user would be a necessary first point of contact, giving the incumbent CP the opportunity to sell to this customer. It is likely therefore to disincentivise GPs from using the WLT process.
- Requiring the inbound end user to contact the incumbent CP may be confusing to the inbound end user as to why they have to contact a CP with whom they have no business relationship prior to ordering new services. Further, if the wrong line has been targeted then the inbound end user may need to contact multiple incumbent end users which adds to the hassle and inconvenience of the process.
- In the options requiring confirmation from the incumbent end user, if this wrong line is targeted first time, then the delay in identifying the correct line can lead to delays such that there is not sufficient time remaining to place the WLT order to ensure delivery of service on the day the inbound end user moves into the property.
- In the option where the Incumbent CP places a line flag to identify the situation where the incumbent end user has already informed them that they are moving, it would require that all incumbent end users contact their CP before the inbound end user requests a homemove from their GP. This would require co-ordination between inbound and incumbent end users which is unrealistic.

A7.208 For the reasons set out above, we disagree with stakeholder comments which suggest that an alternative approach to WLT process should be adopted for the LPL TxC and LPL ALT models. We retain the specification for the WLT process as set out in the 2012 Consultation.

Conclusion

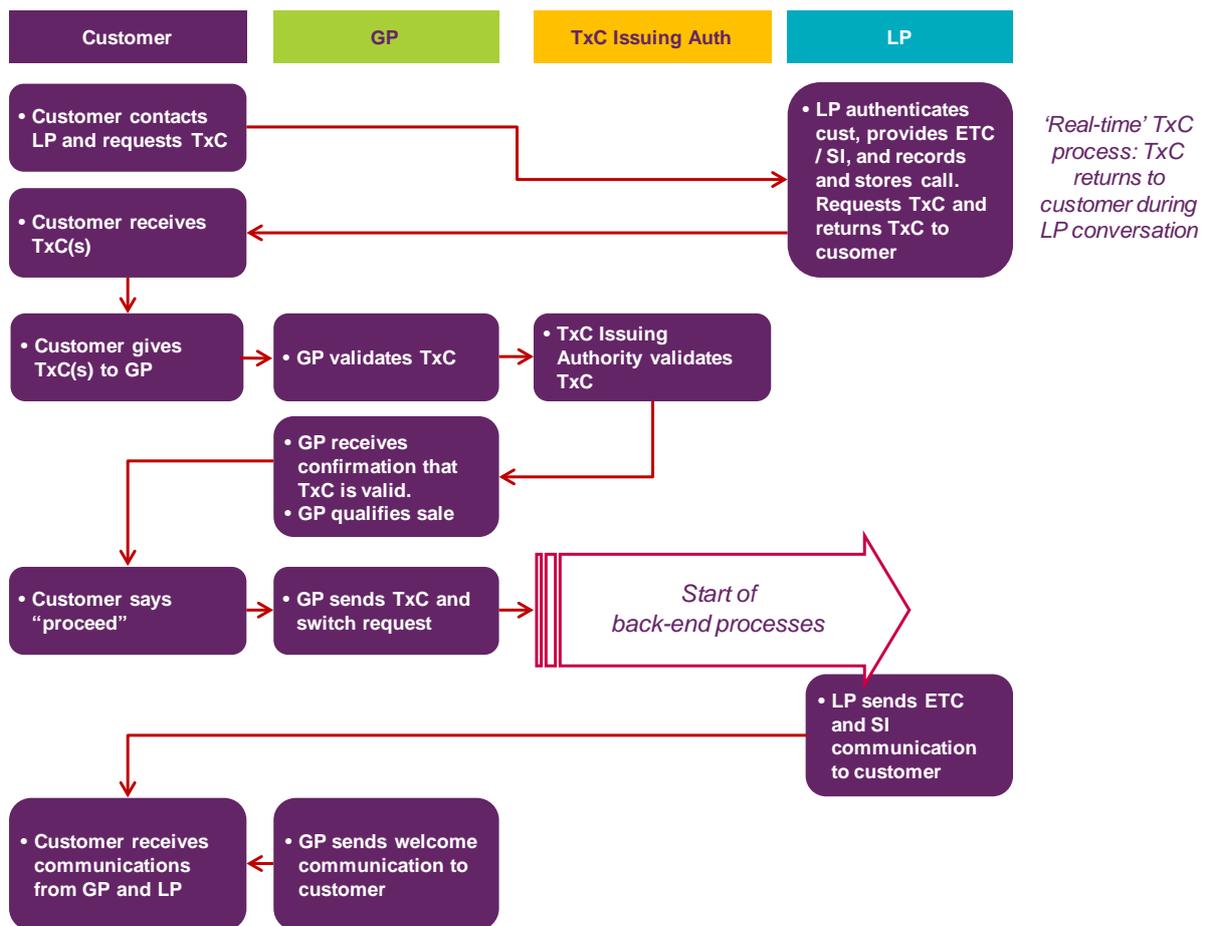
A7.209 The LPL TxC option remains as it was described in the 2012 Consultation and involves the following:

- a consumer wishing to switch services would contact their current provider, the LP, to request a TxC. For telephone communications, this would be via a dedicated facility where reactive save would be prohibited;
- the LP will authenticate the customer using existing methods;
- once the services to be switched have been identified, the LP will inform the customer of the SIs including ETCs that will result from the switch;
- the LPs will record the customer's request for the TxC and will perform asset validation, which needs to occur while the customer is on-line (either by phone or web) and within a reasonable period of time. Once this is done, the LP will provide the consumer with their TxC, which they receive via the TxCIA;
- the consumer would subsequently contact their GP to provide the TxC. The GP uses the TxC to place the order to switch the relevant services; and
- customers are made aware of the implications of the SIs including ETCs through written durable communications after agreeing to the switch but before the switchover happens.

A7.210 For homemoves, the process will continue to be the WLT process as used for homemoves today.

A7.211 Figure A7.9 below shows a high level view of the LPL TxC process.

Figure A7.9: The LPL TxC process



A7.212 The LPL ALT process is based on the LPL TxC process as is as follows (the changes under the LPL ALT option compared to the LPL TxC option above are in italics):

- A consumer wishing to switch services would contact their current provider, the LP, to request a TxC. For telephone communications this is done via a dedicated facility;
- CPs are allowed to make save offers to those consumers who wish to hear such save offers– although the customer can opt out of receiving save offers;
- The LP will authenticate the customer using existing methods;
- Once the services to be switched have been identified, the LP(s) will inform the customer of the implications of switching, including ETCs and SIs that will result from the switch;
- The LPs will record the customer's request for the TxC and will provide the code within 2 hours by SMS or email. The LP could also invite the customer to call back or the LP could offer to call the customer back with the TxC or provide the code by email or SMS to a friend or neighbour;
- The consumer would subsequently contact their GP to provide the TxC. The GP uses the TxC to place the order to switch the relevant services; and

- There is no requirement on LPs to inform customers of the implications of the switch through written durable communications.

A7.213 For homemoves, the process will continue to be the WLT process as used for homemoves today.

SSE/TalkTalk Proposal

A7.214 In their responses to the consultation, TalkTalk and SSE both proposed a variant of the GPL approach, based on the functionality of a central hub and database.

A7.215 However, subsequent to the 2012 Consultation, these two CPs jointly submitted a new variant of their processes which reflects their updated views. An original version was presented at the end of 2012 but this has been subsequently been updated with the latest version submitted to Ofcom in June 2013 (see Annex 14). The latest version of this process is as follows:

- An independently governed central database stores customers' registration details against the Communications Point Reference Number ('CPRN'), which in the case of services on the Openreach network is the same as the ALID. The database also contains information about the role of the CP, the service type, the name of the CP who current provides that service and the relevant address information.
- In order to switch, the consumer can provide details about their address and services to allow the GP to look up the relevant CPRN on the database. Consumers can also switch by providing their CPRN directly to the GP (the CPRN is printed on their bills by their current CP)
- With the customer's permission, a GP can view all the lines and services offered to a particular premise, including the technical capabilities of the line to determine whether they can provide services on that line.
- When the GP agent has confirmation from the customer that they wish to switch, they can place a 'service gain' request through the ordering process with the CPRN.
- The database records the pending date of the transfer and other relevant information, and once the switch is completed it will receive a confirmation from the access operator. The hub can update its database with the new services and participants against that CPRN.
- Password access to this hub would mean that access to the hub would be logged and could be audited to identify the CP and an individual agent.

A7.216 They suggested that this process could be extended to incorporate a GPL TPV function, by handing the customer to an independent TPV body, just as in the GPL TPV process.

A7.217 TalkTalk also argued that since the asset identifier would be contained in the database, there would be no need to request it from the LP during the switching process. Therefore, they believed that this approach would reduce the ability of the LP to frustrate the switching process.

Home movers

A7.218 TalkTalk thought this process would be able to support homemovers, as the hub would contain information about the line. This information would help the GP to identify the correct line to where the customer is moving.

Our response

A7.219 We welcome this suggestion from TalkTalk and SSE and note that it has some similarities with our hub and database options, and therefore some of our analysis for those options would also apply here.

A7.220 We note that a key difference between this model and our hub and database models is the manner in which asset validation is carried out. In this model, there is no generation of a TxC which is passed up and down the wholesale supply chain for the set of services that are being switched. Instead, a unique identifier is generated for all services and held in the database to be used when the consumer wishes to switch.

A7.221 We requested CSMG to consider, at a high level, the costs associated with such a database. Their high level assessment was that the costs associated with this hub and database model would be similar in cost to the hub, database and TxC elements in our other database models.

Conclusion

A7.222 This is an option submitted during the consultation process and there are no changes to the option design. Therefore the process is as set out in paragraph A7.215.

Annex 8

Description of how the options would address the problems identified

Introduction

- A8.1 In this annex we explain the details of how each option seeks to address the problems identified in Sections 4, 5 and 6. We then describe the performance of the options against the problems.
- A8.2 This annex is summarised in Section 7 and drawn on in Section 8, where we make a decision to move from the existing processes for switching fixed voice and broadband services over the Openreach copper network to a harmonised GPL system.
- A8.3 For each of the options under consideration we summarise the position reached in the 2012 Consultation and review stakeholder comments.⁴¹⁷ We take these views into account when updating our description of the performance of each of the options against the problems, alongside consideration of the updated specifications of some of the options explained in Annex 7.
- A8.4 In each case, we determine which options ‘largely’, ‘partly’ or ‘do not’ address the problems. This terminology acts only as shorthand for the more detailed descriptions and must therefore be read in conjunction with them.

2012 Consultation

- A8.5 In the 2012 Consultation we set out our description of the performance of the options with the objective of establishing the options which most proportionately dealt with the problems identified. We made our assessment taking into consideration the effectiveness of the options at addressing the problems faced by consumers, the impact each option would have on CPs, and the available qualitative and quantitative information on costs and benefits.
- A8.6 When considering the extent to which each option dealt with the problems identified, we assessed whether we thought each would ‘largely’, ‘partly’ or ‘do not’ address the problems. Our findings from the 2012 Consultation are summarised in Table A8.1 below.

Table A8.1: Summary of the extent to which each option addresses identified problems (2012 Consultation)

Problem	Option 1a- Current GPL NoT and LPL MAC	Option 1b- Enhanced GPL NoT and LPL MAC (unharmoni sed)	Option 2a- Enhanced GPL NoT (harmonised)	Option 2b- GPL TxC	Option 2c- GPL USN	Option 2d- GPL GPL TPV	Option 3a- LPL TxC	Option 3b- LPL ALT

⁴¹⁷ Note that we address to stakeholder responses on our quantitative analysis in Annex 6.

Multiple switching processes	Does not	Does not	Largely	Largely	Largely	Largely	Largely	Largely
Consumer difficulty	Partly	Partly	Largely	Largely	Partly	Largely	Partly	Partly
Implications of switching	Partly	Partly	Partly	Partly	Partly	Partly	Largely	Largely
Customer consent	Does not	Does not	Does not	Does not	Partly	Largely	Largely	Largely
ETs	Does not	Partly	Partly	Largely	Partly	Largely	Partly	Partly
Loss of service	Does not	Partly	Partly	Largely	Largely	Largely	Largely	Largely
Platform neutrality	Does not	Does not	Does not	Largely	Largely	Largely	Largely	Largely
Reactive save activity	Partly	Partly	Largely	Largely	Largely	Largely	Partly	Does not

Source: 2012 Consultation, Figure 36, note that the labelling and order of the problems reflects that in Sections 4, 5 and 6.

A8.7 Based on the effectiveness of the options at dealing with the problems identified, we shortlisted a number of options and for each attempted to estimate the quantitative costs and benefits. The results of this analysis are summarised in Table A8.2 below. Since many benefits could not be quantified due to their nature, we explained that the results of our quantitative analysis should be considered as indicative only.

Table A8.2: Summary of quantitative costs and benefits for each option (£m per year)

Option	2b – GPL TxC	2c - GPL USN	2d - GPL TPV	3a-b - LPL TxC & ALT
Consumer benefits	0.8-1.6	0.7-3.1	1.7-5.1	0.7-3.7
CP benefits	3.0	9.4	14.0	11.6
Total benefits	3.8-4.6	10.1-12.5	15.7-19.1	12.4-15.3
Implementation costs (annuitised)	4.8	8.4-9.4	11.4	7.6-7.7
Annuitised NPV⁴¹⁸	-1.2- -0.3	0.3-3.6	3.8-7.1	4.2-7.2

Source: 2012 Consultation, Figure 38.

A8.8 When drawing our conclusions about the most appropriate and proportionate option to deal with the identified problems, we explained that it had not been possible for us to quantify the benefits associated with:

- having a single harmonised switching process;

⁴¹⁸ As explained in the 2012 Consultation, the NPV is calculated by discounting the estimated costs and benefits at the social rate of time preference of 3.5%. We assumed that 10 years of ongoing costs and benefits are accrued. The 10 year NPV was annuitised to calculate an equivalent constant annual payment (assuming a discount rate of 3.5% and a time period of 10 years). Further details are provided in paragraph A8.84 of the 2012 Consultation.

- consumer difficulty and unnecessary switching costs;
- loss of service;
- lack of competitive neutrality;
- some aspects of lack of awareness of the implications of switching; and
- reactive save.

A8.9 As a result we found it necessary to take account of both our qualitative and quantitative analysis when identifying our preferred option. We found that GPL TPV was the leading GPL option, and LPL TxC was the leading LPL option. Although these two options had similar levels of quantified net benefits (see Table A8.2), we found that GPL TPV had more additional qualitative benefits than LPL TxC, most notably in relation to reactive save and the consumer experience of switching.

A8.10 This was a complex judgement, and involved balancing the relative effectiveness of the options in dealing with the problems against the relevant costs to consumers and to CPs. Our view was that the evidence supported the adoption of the GPL TPV option, but we invited stakeholder views on this.

Stakeholders' preferred options

A8.11 Stakeholders' preferred options are summarised below. We address specific comments on the details of our qualitative assessment of the options further below, and comments on the quantitative assessment in Annex 6.

A8.12 In response to our 2012 Consultation, we received submissions from industry stakeholders, consumer groups, other interested parties and self-representing individuals.⁴¹⁹ The majority of respondents supported GPL processes over LPL processes, particularly amongst consumer groups and other non-industry respondents, while most industry stakeholders stated that they either preferred LPL process over GPL process in general, or that they had a specific LPL option preference (in particular, LPL ALT was favoured by a number of stakeholders).

A8.13 Of the industry stakeholders TalkTalk supported Ofcom's preferred option of GPL TPV, but it raised concerns about its high cost, the time involved in implementing it and trying to resolve too many issues with a single process. SSE also supported GPL TPV, on the condition that the evidence pointed to slamming being malicious, but shared TalkTalk's concerns about its cost. As explained in Annex 14, since the consultation FCS, TalkTalk and SSE also developed an alternative to the GPL TPV option which they explain has been designed in a more cost-effective manner whilst still meeting Ofcom's objectives.

A8.14 A further five CPs supported GPL processes other than GPL TPV, or expressed a preference for GPL in general. [X] preferred the Enhanced GPL NoT option, while C&W said that due to the implementation costs involved it could only support the Enhanced GPL NoT process or at the most the GPL TxC option. SSE favoured GPL USN with a possibility of an additional verification step. Universal Utilities preferred GPL TxC, although it had some reservations over whether it is necessary to change the current switching processes at all based on the implementation costs.

⁴¹⁹ Five responses were received from self-representing individuals, but no one expressed a preferred option.

Three UK expressed a general preference for GPL processes without specifying a preferred option and urged Ofcom to extend consideration of switching to the mobile sector.

- A8.15 The consultation responses from consumer groups generally favoured GPL options. The CFC, Consumer Focus and CCP stated a general preference for GPL options, and, in particular, noted the advantages of GPL TPV. Citizens Advice explicitly supported GPL TPV, while Which? preferred GPL options but was not convinced of the need for GPL TPV due to the high implementation costs relative to the scale of the problems, such as slamming. ITSPA and Ombudsman Services did not state a preferred option.
- A8.16 Further responses were received from GemServ and CMA, which both supported GPL TPV. The CFC preferred GPL processes over LPL; in particular, it supported the GPL TxC and GPL USN options, and was sceptical about the effectiveness of the GPL TPV option. In addition, Prof. Hviid at the ESRC supported GPL processes in general but considered that the GPL TPV should only be introduced if other GPL processes are not possible.
- A8.17 LPL ALT was the favoured option of the four operators that had jointly proposed it at SWG, namely BT, Sky, Virgin Media and Zen. However, Virgin Media also noted that it is committed to resolving the issues associated with the current switching processes by either improving existing processes or by adopting the LPL TxC process. In addition, Telefonica and KCOM preferred the LPL ALT option. Among the common reasons for favouring the LPL ALT process, operators noted that this option would be an efficient and cost effective solution as it would avoid excessive costs for the industry and the likelihood of these being passed onto consumers.
- A8.18 EE set out its preferred option as a variant of the LPL ALT, which would be an evolution of the Enhanced LPL MAC process, with an interim use of the current LPL MAC process for all broadband switches. Similarly, Entanet, Magrathea Telecom and [redacted] supported LPL processes more generally, without specifying a preference between LPL ALT and LPL TxC. While many other operators did not consider reactive save to be a key issue in the industry, [redacted] noted that it preferred the LPL process with regulation around reactive save.

Description of how the options would address the problems identified

- A8.19 We have considered the performance of the options from the 2012 Consultation against the problems identified. For each of the options explained in Annex 7 (and including the changes to the specifications we have made) we analyse in turn the extent to which they would address the problems set out in Sections 4, 5 and 6.
- A8.20 In the 2012 Consultation our consideration of the options took account of the extent to which each of them would address each of the problems, and also took account, in relation to the assessment of the status quo, the extent of the problems. We note that in reassessing the options we focus purely on the extent to which each would address the problems, and not on the extent of the problems themselves (some of which have changed as explained in Sections 4, 5 and 6). This modification to our approach has implications for our description of the status quo, as explained below.

Option 1a: Current GPL NoT and LPL MAC processes

- A8.21 Our finding in the 2012 Consultation was that the status quo performed poorly against the problems we had identified. Sections 4, 5 and 6 contain our updated analysis of a number of problems we have identified with the current GPL NoT and LPL MAC switching processes.
- A8.22 Many stakeholder responses (BT, TalkTalk, SSE, EE, Telefonica, Ombudsman Services, FCS, ESRC) agreed with us that the status quo should be discarded as an option. As a result of this we received relatively few comments on the status quo in the 2012 Consultation.
- A8.23 Since the 2012 Consultation there have been two developments affecting all options including the current GPL NoT and LPL MAC processes, as explained in Annex 7. These are:
- the introduction of the MPF helpline, which is relevant to switching ETs and WLT ETs; and
 - the development of the SIM2 process by Openreach, which is relevant to loss of service.
- A8.24 We have reassessed the current GPL NoT and LPL MAC process against each of the problems below, along with consideration of specific stakeholder responses and the implications of the new evidence on the problems and industry developments from Sections 4, 5 and 6.
- A8.25 Our conclusion on the current GPL NoT and LPL MAC switching processes is fundamentally unchanged. The combination of GPL NoT and LPL MAC does not perform well, and, in particular, we find significant problems with the current LPL MAC process. Although we find the GPL NoT switching process to be preferable to the LPL MAC switching process, it also is not without problems.

Multiple switching processes

- A8.26 This option involves multiple processes, so in the 2012 Consultation it was found to perform poorly against the issues with multiple processes.
- A8.27 The new consumer research evidence explained in Section 4, along with analysis of complaints made to Ofcom, reinforces our view that there is a lack of clarity and a perception that it is difficult to switch among consumers which could be reduced by harmonising to a single switching process. The lack of clarity, which is at the very least impacted by the existence of multiple switching processes, is likely to be heightened when consumers attempt to switch bundled services, and may worsen as new technologies are rolled out in future.
- A8.28 As explained in Section 4 there was a consensus amongst stakeholders that a single switching process is preferable to multiple processes. Our new analysis also suggests that it is relatively more difficult to acquire customers through the LPL MAC process than the GPL NoT process, reinforcing our previous argument that small CPs are, all other things being equal, at a competitive disadvantage to larger CPs with regards to switching processes.⁴²⁰

⁴²⁰ See Annex 6 for further details.

- A8.29 Based on this analysis we maintain our view that the current GPL NoT and LPL MAC switching processes do not address the problems associated with multiple switching processes.

Consumer difficulty and unnecessary switching costs

- A8.30 In the 2012 Consultation we found that the status quo did not provide a good consumer experience of switching.
- A8.31 As we explain in Section 4, we find that there are a number of sources of consumer difficulty and unnecessary switching costs not covered under other problems (such as multiple processes and loss of service). We find that the current LPL MAC process has a worse consumer experience than the current GPL NoT process.
- A8.32 On the number of touch points involved in the GPL NoT and LPL MAC processes, we continue to consider the GPL NoT process to be superior to LPL MAC for the reasons explained in Section 4. Stakeholder views on this topic differed, but our research shows that this is a concern for consumers. One in ten (12%) switchers in our research said 'needing to contact more than one provider' was the main/a major issue experienced during their switch. This is an issue experienced by three times as many LPL MAC switchers (15%) as GPL NoT switchers (5%). We also continue to view the LP's ability to frustrate the switching process under the MAC process as a problem. Although stakeholder opinions on this subject varied, this view is consistent with both the consumer research and complaints as set out in Section 4.
- A8.33 As we explain in Section 4, unwanted save activity by the LP is a key source of consumer difficulty, and occurs at present under the LPL MAC process (and to a lesser extent under the GPL NoT process). We explain this further in paragraphs A8.69 to A8.73 below.
- A8.34 Based on this analysis we maintain our view that the status quo does not provide consumers with a good experience of switching. Although we find that the existing GPL NoT process is superior to the existing LPL MAC process, the status quo would not address the problem that exists at present, so we consider that it would not deal with the problem of consumer difficulty and unnecessary switching costs.
- A8.35 This represents a change from our finding in the 2012 Consultation, and is a result of our focus solely on the extent to which each option addresses the problems, as explained in paragraph A8.20 above.

Lack of awareness of the implications of switching

- A8.36 Our analysis in the 2012 Consultation found that the status quo only partly addressed the problem of lack of awareness of the implications of switching.
- A8.37 We found that under the current GPL NoT and LPL MAC processes consumers are made aware of the implications of switching and have adequate time to act on this information before the switch is completed. However, we noted that under the LPL MAC process consumers are better informed because they have the option to discuss all of the implications of switching with their LP when they obtain their MAC. On the other hand, under the GPL NoT process consumers are informed of potential implications of switching through a letter from their LP after the order has been placed and so have to rely on reading and understanding the letter.

- A8.38 Stakeholder views on this topic varied considerably. Some respondents argued that only LPL processes such as MAC could protect consumers in this respect, but others noted that the chance to inform consumers also provided an opportunity to frustrate the switching process and facilitated reactive save.
- A8.39 We have reassessed the evidence on consumer awareness of the implications of switching in Section 4. We note that whilst, under the LPL MAC process, consumers are informed about ETCs before switching, the LP is not a neutral, objective source of information. This is particularly important given that under the existing LPL MAC process the LP has an opportunity to talk to the consumer before switching is initiated or they have committed to switch.
- A8.40 Under the GPL NoT process, consumers are informed of the potential implications of switching through a letter. This letter appears to be relatively effective in prompting consumers to find out about the implications of switching. As explained in Section 4, only 3% of all fixed broadband switchers pay an ETC of which they were unaware before they were too late to cancel, and that just 0.14% of fixed broadband switchers paid an ETC which they were unaware of before committing to switch and then regretted the decision to switch. However, we also explain in Section 4 that the existing NoT letter fails to provide specific information on the implications of switching, including the actual level of ETCs and service implications.
- A8.41 In terms of the status quo we therefore continue to consider that there are issues in relation to awareness of the implications of switching under both the existing GPL NoT and LPL MAC processes, and that it only partly addresses the problem of lack of awareness of the implications of switching.

Insufficient customer consent

- A8.42 As we explained in the 2012 Consultation, a lack of customer consent can lead to slamming. We noted that slamming is not a concern under the LPL MAC process, but was a significant issue under the GPL NoT process.
- A8.43 While most respondents agreed that slamming creates significant harm for those consumers affected by it, many questioned the extent of it. As explained in Section 5 we have new evidence on the extent of slamming and have revised our estimate down. The new estimate tallies with the arguments and evidence provided by respondents.
- A8.44 In terms of the performance of this option against slamming, in Section 5 we also note that the lower level of slamming is consistent with enforcement activity reducing the incidence of slamming. However, the current GPL NoT process does not contain further safeguards against this problem, nor against the related problem of 'Change of mind not actioned'.
- A8.45 We remain of the view that insufficient customer consent is a problem with GPL NoT under the status quo. There is however new evidence consistent with our enforcement activity having some impact in reducing the level of slamming, so in a change from our finding in the 2012 Consultation we now find that the problem of insufficient customer consent is partly addressed under the status quo.

ETs

- A8.46 In the 2012 Consultation we found ETs to be a problem under the current switching processes, and that the status quo failed to address this problem.

A8.47 The problems and causes of ETs under the status quo are documented in Section 5.

Switching ETs

A8.48 As noted in Section 5, a number of stakeholders highlighted ET problems arising from the lack of visibility of CLIs for MPF lines, and since the 2012 Consultation there have been industry-led developments to address this. The MPF helpline aims to improve access to identifying information about MPF lines by enabling CPs to use the CLI data they have to obtain the ALID. This may be particularly useful in addressing switching ETs where the consumer is likely to be aware of the relevant CLI.

A8.49 We consider that the MPF helpline facility should reduce the incidence of switching ETs, but it remains to be seen how well this will work under the status quo, particularly since it is not mandatory.

WLT ETs

A8.50 Stakeholders agreed with our view that the majority of ETs are caused by problems with the WLT process rather than migrations, and evidence from the OTA suggests that 77% of ETs are due to the WLT process.

A8.51 We consider it appropriate to include WLT ETs as part of our description. This is for two reasons. First, the underlying causes of WLT ETs and switching ETs are similar. Second, many consumers switch supplier at the same time as moving home. We consider that both switching and WLT ETs are problems under the status quo.

A8.52 As explained in Section 5, the vast majority⁴²¹ of WLT ETs are processed successfully and offer a seamless and easy consumer experience, and give rise to lower CP costs than C&R. As a result we consider it important that any new switching option does not significantly damage the benefits that the WLT process currently delivers.

A8.53 It is unclear the extent to which WLT ETs would be addressed under the status quo. To the extent that Openreach data issues (which is a new root cause identified by our recent evidence) were addressed by industry stakeholders this could have some positive impact on WLT ETs.

Future ETs

A8.54 Turning to potential future sources of ETs, respondents agreed with our finding from the 2012 Consultation that, if the status quo were maintained, the problem of ETs is likely to become worse in future as a result of the addition of new technologies, most notably fibre.

A8.55 It therefore remains our view that the status quo is not able to address these issues.

Summary

A8.56 We therefore remain of the view that the current GPL NoT and LPL MAC switching processes can only partly address some of the current sources of ETs. We view the

⁴²¹ We estimate that around 84% of WLTs are successful.

introduction of the MPF helpline as a positive step, but it remains to be seen how effective this is at addressing switching ETs. It is not clear that WLT ETs would be addressed under the status quo. Similarly, while less extensive deployment of FTTP is likely to reduce the problem of future ETs, the status quo would not address this problem.

- A8.57 In summary the reliability of the processes under the status quo to accurately identify the correct line would be somewhat improved but there are no improvements to the safety net to prevent switches from going ahead where they have been identified incorrectly. Overall we consider that this option does not address the problems identified in Section 5.

Loss of service

- A8.58 In the 2012 Consultation we explained that where CPs do not support processes to enable seamless switching this can lead to loss of service, and that this is a problem under the current GPL NoT and LPL MAC processes.
- A8.59 In Section 5 we explain that stakeholders generally agreed with our conclusion on this problem and the need to address it. New consumer research evidence shows that being without a service is an important issue for dual play switchers and considerers, and we estimate that around 31% of all fixed broadband switchers (including home movers) suffer a loss of service of more than a few hours during the switching process (see Section 5). Given the increasing prevalence of bundling this problem may get worse in future.
- A8.60 We also explain in Section 5 how Openreach has recently developed the SIM2 process. SIM2 for MPF (voice) + GEA-FTTC (broadband) went live in November 2012, and Openreach is due to introduce a similar process for switches to WLR+SMPF/FTTC. SIM2 will support bundled migrations between GP and LP who both use two wholesale services (WLR and SMPF/IPStream) to provide the bundle of services. These 'Double Migrations' cannot currently be carried out as a single co-ordinated activity and CPs are only able to attempt to run the orders in parallel. SIM2 would lock the orders together and therefore it should be more effective at ensuring both the voice and broadband services are delivered together. This should lead to significant improvement compared to the existing situation.
- A8.61 However, as with the existing LO process, adoption of these processes under this option would be voluntary. Some CPs have made commercial decisions not to adopt the currently available processes, and, under the status quo approach, may do the same in future, undermining the effectiveness of this solution.
- A8.62 We find general agreement on the problem of loss of service under the current switching processes. Our latest research confirms that it is one of the highest stated issues experienced by dual-play switchers (21% cited as main/major issue) and was a main/major issue affecting the switching decision for 44% of dual play considerers.
- A8.63 We consider that recent industry-led developments indicate that SIM2 is likely to be adopted by at least some CPs. Therefore, the current GPL NoT and LPL MAC switching processes would partly address the problem of loss of service. This is a change from our analysis in the 2012 Consultation, and is the result of industry-led developments.

Lack of platform neutrality

- A8.64 Our analysis in the 2012 Consultation found that the current GPL NoT and LPL MAC system suffers from a lack of platform neutrality, and would be difficult to extend to accommodate future technologies. We found particular issues with:
- Consumers switching on the Openreach network between CPs using different Openreach wholesale services (i.e. switching between CPs using MPF, SMPF, WLR, GEA-FTTC); and
 - Consumers switching across different networks (i.e. DSL, cable and FTTP).
- A8.65 BT, Consumer Focus and Zen agreed that it would not be possible to extend the existing switching processes to new technologies, Magrathea Telecom highlighted problems it sees at present and Entanet noted that the existing processes had developed in a piecemeal manner over many years.
- A8.66 As explained in Section 5, we continue to consider that the current switching processes are not neutral with respect to new wholesale services and technologies. They involve multiple processes, and industry would be required to agree, develop and adopt tactical fixes when new technologies and wholesale services become available. This can lead to an uneven consumer experience.
- A8.67 As there are multiple processes, it would remain difficult for CPs to agree how to extend the current range of processes to new services and networks.
- A8.68 We therefore continue to consider that the status quo fails to address platform neutrality issues.

Reactive save

- A8.69 In the 2012 Consultation we considered that the status quo only partly addressed the problem of reactive save.
- A8.70 As explained in Section 6, reactive save is banned under the existing GPL NoT process, and we continue to consider reactive save to be a problem with the LPL MAC process.
- A8.71 As discussed in Section 6, we received a large number of stakeholder responses on the subject of reactive save, and also have new evidence. A number of respondents questioned our analysis of the effectiveness of reactive save, and Section 6 sets out new analysis which supports our concern that the LPL MAC process is associated with lower than expected switching levels. This lower than expected level of switching is consistent with our concern that reactive save is highly effective in retaining customers, and consistent with other evidence.
- A8.72 We also maintain our analysis that a switching process that allows reactive save, as is the case under the existing LPL MAC process, carries a risk of dampening competition. This risk is not present under the existing GPL NoT process.
- A8.73 Having taken into account the views of stakeholders and the new evidence on the subject of reactive save we consider that the status quo fails to address the existing problem of slamming. This change to our finding in the 2012 Consultation reflects the more narrow focus of our analysis explained in paragraph A8.20 above.

Conclusion on current GPL NoT and LPL MAC processes

- A8.74 The status quo is a combination of the GPL NoT and MAC switching processes, and the problems we have identified with it in Sections 4, 5 and 6 mean that it comes as no surprise that it does not perform well. As noted in paragraph A8.22, those stakeholders that commented on our assessment of the current GPL NoT and LPL MAC processes agreed that they fail to address the problems we have identified.
- A8.75 Since it is an unharmonised process the problems associated with multiple processes would remain, and the poor consumer experience under the present system is in part related to this. Although we note that new evidence indicates that the prevalence of slamming is lower than was previously thought, the status quo would not address this problem, and neither the existing GPL NoT nor LPL MAC elements can address our concerns surrounding ETs.
- A8.76 Our focus solely on the extent to which the problems would be addressed under each of the options leads us to find that consumer difficulty and unnecessary switching costs, lack of awareness of the implications of switching and reactive save would not be addressed under the status quo. However, we now find that the problem of loss of service would be partly addressed under the status quo as a result of the industry-led development of the SIM 2 process.
- A8.77 As a result of this analysis our views on the performance of the current GPL NoT and LPL MAC processes against the problems we have identified remains poor. However, there are a number of possible ways in which these processes might be improved, as we explain in the following sub-section.

Table A8.3: Summary of the extent to which Option 1a addresses identified problems

	Multiple switching processes	Consumer difficulty	Implications of switching	Customer consent	ETs	Loss of service	Platform neutrality	Reactive save activity
Option 1a – Current GPL NoT and LPL MAC	Does not	Does not	Partly	Partly, enforcement is effective	Does not	Partly, due to SIM2	Does not	Does not

Option 1b: Enhanced GPL NoT and LPL MAC (unharmonised)

- A8.78 In the 2012 Consultation we sought to address some of the problems with the existing GPL NoT and LPL MAC systems by maintaining both processes but making enhancements to them.
- A8.79 As explained in Annex 7, we have made some further modifications to the specification of the Enhanced GPL NoT and LPL MAC (unharmonised) option, and these are taken into account in our revised conclusions below.
- A8.80 As the elements of the Enhanced GPL NoT process are the same as those for the harmonised Enhanced GPL NoT option described in Option 2a, to avoid duplication, the explanation of how the process addresses each problem can be found under the Enhanced GPL NoT description. In this section we assess both aspects but only set out the process changes for Enhanced LPL MAC.

- A8.81 Before coming to the details of our description, we note that BT, TalkTalk, EE, Telefonica, Ombudsman Services, FCS, ESRC agreed with our view in the 2012 Consultation that the Enhanced GPL NoT and LPL MAC (unharmonised) option should be dismissed. While SSE also agreed with this, it and EE argued that the enhanced options might have a role in the implementation of one of the other options as a transitional step.
- A8.82 Magrathea Telecom also argued that the existing processes could be made to work and Virgin Media indicated that it might be possible and proportionate to address issues with the existing system by improving the current processes. Overall however, relatively few comments were received on this option.
- A8.83 We reassess the Enhanced GPL NoT and LPL MAC (unharmonised) option against each of the problems below, along with consideration of specific stakeholder responses and the implications of the new evidence on the problems and industry developments from Section 3. We find that our description is largely unchanged.

Multiple switching processes

- A8.84 In the 2012 Consultation we found that the Enhanced GPL NoT and LPL MAC (unharmonised) option would not address the problem of multiple switching processes.
- A8.85 Although the use of the SIM2 process would mean that a single switching process would be used when switching bundles of services, this would not address the problem that for broadband only switches a MAC process would still need to be followed. This means that the lack of clarity for consumers as to which switching process to follow would continue to exist.
- A8.86 For these reasons we maintain our view that this option does not address the problems associated with multiple switching processes.

Consumer difficulty and unnecessary switching costs

- A8.87 In the 2012 Consultation we found that the Enhanced GPL NoT and LPL MAC (unharmonised) option partly addressed our concerns about the consumer experience in terms of consumer difficulty in switching and unnecessary switching costs.
- A8.88 As we explain in the context of the current GPL NoT and LPL MAC option in paragraph A8.36 to A8.41 above, while consumer difficulty would vary between the Enhanced GPL NoT and Enhanced LPL MAC processes, stakeholder responses and our research and complaints suggest that the very existence of multiple processes would still create a lack of clarity for consumers as to which process to follow. Furthermore, the continued use of the LPL MAC process would still lead to more touch points being used than under a harmonised GPL NoT approach, and consequently a poorer consumer experience than GPL NoT.
- A8.89 For broadband transfers the enhancements to the LPL MAC process would require CPs to accept MAC requests over the phone and issue the code in real time on a dedicated, recorded line or within two hours by email or SMS (or another reasonable method). In addition, to address unwanted save activity this option would include a dedicated facility to respond to MAC requests with clear rules prohibiting reactive save and call recording obligations.

- A8.90 While the enhancements to the LPL MAC process would address some of our concerns about the consumer experience, it would not address them all. In particular it would still require more touch points than the GPL NoT process and would leave the problem that the LP would have an incentive to try and frustrate the process.
- A8.91 Overall we do not consider that the enhancements to the LPL MAC process tackle in a substantive way the fundamental problems associated with the consumer experience under an LPL process. As a result we now consider that the Enhanced GPL NoT and LPL MAC (unharmonised) option would not address the problems associated with the consumer experience of switching, matching our revised description of the status quo explained above.

Lack of awareness of the implications of switching

- A8.92 In the 2012 Consultation we argued that the problem of a lack of awareness of the implications of switching would persist under the Enhanced GPL NoT and LPL MAC (unharmonised) option.
- A8.93 As explained in Section 4, LPL processes such as Enhanced LPL MAC are inherently better able to deal with the problem of a lack of awareness of the implications of switching well, whereas GPL switching processes can give rise to problems.
- A8.94 Telefonica commented that the existing problem of lack of awareness of the implications of switching would persist under the Enhanced GPL NoT and LPL MAC (unharmonised) option, but a number of stakeholders suggested ways in which the current GPL NoT process might be improved. As noted in paragraph A8.40 in the context of the status quo, we have also reconsidered the evidence and find that the existing NoT letter is relatively effective at prompting consumers to find out about the implications of switching, but not effective at providing specific information.
- A8.95 In combination with the ability of the Enhanced LPL MAC process to overcome this problem, our view is now that the Enhanced GPL NoT and LPL MAC (unharmonised) option would largely address the current lack of awareness of the implications of switching.
- A8.96 The revised specification of the Enhanced GPL NoT option includes the provision of specific information on the implications of switching and should largely address the current issue under the GPL NoT process. Enhanced GPL NoT would require CPs to provide specific information to consumers about the implications of switching, including details on all services directly and/or indirectly affected by the switch that the LP could be reasonably aware of and precise information on any applicable charges that will be incurred (e.g. ETCs and cancellation charges).
- A8.97 This represents a change from our finding on the Enhanced GPL NoT and LPL MAC (unharmonised) option in the 2012 Consultation

Insufficient customer consent

- A8.98 In the 2012 Consultation we argued that the Enhanced GPL NoT and LPL MAC (unharmonised) option would fail to address the problem of insufficient customer consent. In common with the current LPL MAC process (see Section 5) this is not a concern under the Enhanced LPL MAC element of the Enhanced GPL NoT and

LPL MAC (unharmonised) option, but is a concern for those switches that would use Enhanced GPL NoT.

- A8.99 As explained in Annex 8, we have revised the specification for Enhanced GPL NoT to include a record of consent mechanism to protect against slamming, and to mandate the availability of the Cancel Other facility for voice and broadband in order to reduce the problem of 'Change of mind not actioned'. This is explained further in our analysis of the Enhanced GPL NoT option below.
- A8.100 Taking this into account we consider that the Enhanced GPL NoT and LPL MAC (unharmonised) option would now largely address our concerns about insufficient customer consent. This represents a change relative to our analysis in the 2012 Consultation, which is driven by the changes to the specification of the Enhanced GPL NoT option.

ETs

- A8.101 In the 2012 Consultation we found that the Enhanced GPL NoT and LPL MAC (unharmonised) option would partly address the problem of ETs that arises under the current processes.
- A8.102 As we explain in Section 5 we have identified a number of new root causes of ETs, and as a result have made the changes to the specification of this option, as described in Annex 7.

Switching ETs

- A8.103 Switching ETs are not currently a problem under the LPL MAC process, and would not be under Enhanced LPL MAC. As explained in the context of the Enhanced GPL NoT option below (see paragraphs A8.161 and A8.162) we consider that the changes we propose to the Enhanced GPL NoT option would largely address the current problem of switching ETs.

WLT ETs

- A8.104 Turning to WLT ETs, we anticipate that the changes we propose to the specification of Enhanced GPL NoT would also help to reduce WLT ETs, as improvements to the quality of data on the database will help CPs to target the right line. However, as explained further in the context of Enhanced GPL NoT below (see paragraph A8.163), we do not find that this would fully address WLT ETs and we consider that the Enhanced GPL NoT and LPL MAC option would partly address the issue of WLT ETs.

Future ETs

- A8.105 We anticipate that future ETs (those arising from non-CLI services or from multiple services associated with one CLI on FTTP technology) may be partly addressed under the Enhanced GPL NoT and LPL MAC (unharmonised) option. The changes under Enhanced GPL NoT and LPL MAC will not provide any further information which could clearly identify a single line or service where there are multiple matches onto one CLI and/or where CLI cannot be used.

All ETs

- A8.106 In addition to the issues discussed above, for all three types of ETs the Incumbent CP will be required to send a letter to the customer or the incumbent end user to inform them about the transfer. Where the incorrect line has been identified the affected customer will receive a notification about the potential transfer and will have an opportunity to cancel the switch / transfer before it takes place.
- A8.107 However, we note that it may be difficult to enforce the exact match fixes within the Enhanced GPL NoT element (unlike in database models where orders are prevented from being placed where multiple matches exist).

Summary

- A8.108 The changes to the specification of this option mean that it now performs somewhat better against the problem of ETs than was the case in our conclusion in the 2012 Consultation due to additional obligations such as 'exact match' and notification letters. Overall however, we continue to believe that the Enhanced GPL NoT and LPL MAC (unharmonised) option would only partly address ETs and it would not fully address the issues relating to reliable identification of the correct line. Moreover, we note that it has not been possible to quantify all of the costs of these enhancements, see paragraphs A8.122 to A8.123 below.

Loss of service

- A8.109 In the 2012 Consultation we explained that where CPs do not support processes to enable seamless switching this can lead to loss of service. We found that this would only partly be addressed under the Enhanced GPL NoT and LPL MAC (unharmonised) option. Section 5 explains that stakeholders generally agreed with our assessment of this problem at present and the need to address it. Our description of the performance of this option against loss of service has changed since the 2012 Consultation, as explained below.
- A8.110 As explained in Section 5, loss of service is a particular problem when switching bundles of services. We also explained the development of SIM2 functionality which is intended to be able to be used across all Openreach wholesale services – contrary to the existing LO functionality which only applies when switching from MPF. This industry development has significantly improved the extent to which loss of service issues can now be addressed under the Enhanced GPL NoT and LPL MAC (unharmonised) option.
- A8.111 Under the Enhanced GPL NoT and LPL MAC (unharmonised) option the switching of bundles would now be addressed through placing an obligation on CPs to ensure that they effectively support SIM2 functionality (or the latest functionality available to enable switches of bundles without loss of service). This would enable orders of bundles to be locked together, and would mean that CPs would use the GPL NoT process to switch fixed voice and broadband services. We consider that this would help to avoid loss of service for bundle switches under the Enhanced GPL NoT and LPL MAC (unharmonised) option.
- A8.112 In order to mitigate the problem of ETs some switches over the Openreach copper network would need to go through a C&R process (i.e. where an 'exact match' was not available). The approach to fixing loss of service issues described here would not address loss of service issues for services following these C&R processes.
- A8.113 We believe that mandating the use of SIM 2 functionality would mitigate many of our concerns about loss of service although we note that some smaller issues may

remain. Nevertheless, as a result of the industry developments described above we have revised our description and now believe that that the Enhanced GPL NoT and LPL MAC (unharmonised) option would largely address the problem of loss of service.

Lack of platform neutrality

A8.114 Our analysis in the 2012 Consultation found that the Enhanced GPL NoT and LPL MAC (unharmonised) system would suffer from a lack of platform neutrality for the reasons explained in the context of the status quo in paragraph A8.64 above. We consider lack of platform neutrality to be a problem, and the consultation responses noted in the context of the status quo (see paragraph A8.65 above) are also relevant here.

A8.115 There are no specific fixes under Enhanced GPL NoT and LPL MAC (unharmonised) options to address the issues identified in the status quo. The unharmonised approach would mean that there remain different processes for switching different types of services which extends to switches across different networks. Furthermore, if new technologies and wholesale services become available in future then the use of multiple processes would make the process of agreeing, developing and adopting further enhancements more burdensome for CPs than under a harmonised process. As there are multiple processes, it will remain difficult for CPs to agree which of the processes should be extended to new services and networks.

A8.116 We therefore continue to consider that the Enhanced GPL NoT and LPL MAC (unharmonised) option would fail to address the problem of platform neutrality.

Reactive save

A8.117 In the 2012 Consultation we also considered that the problem of reactive save would continue to arise under the Enhanced GPL NoT and LPL MAC (unharmonised) option.

A8.118 For switches using Enhanced GPL NoT reactive save would continue to be prohibited as it is today. For broadband switches via Enhanced LPL MAC, requests for MACs would be made through a dedicated communications channel with clear rules prohibiting reactive save and call recording obligations. CPs would be also required to collect performance management information.

A8.119 Despite these improvements we continue to consider reactive save to be a problem with the Enhanced LPL MAC element of the Enhanced GPL NoT and LPL MAC (unharmonised) option. The LP has an incentive to retain the customer and it may be difficult to monitor and enforce against reactive save.

A8.120 As explained in paragraphs A8.69 to A8.73 in the context of the current GPL NoT and LPL MAC option, we have considered stakeholder responses and the new evidence we have on reactive save and we remain of the view that our concerns cannot be addressed under an LPL switching process such as Enhanced LPL MAC.

A8.121 As a result we consider that the Enhanced GPL NoT and LPL MAC (unharmonised) option only partly addresses the problem of reactive save, matching our finding from the 2012 Consultation.

Costs

- A8.122 In the 2012 Consultation we did not present an estimate of the costs of the Enhanced GPL NoT and LPL MAC (unharmonised) option. Since then we have asked CSMG to estimate the costs of this option, but this analysis has been hampered by the fact that some costs remain unknown. Specifically the costs of improving the quality of data on the Openreach database remain unknown to us.⁴²²
- A8.123 CSMG's estimate of the costs of the Enhanced GPL NoT and LPL MAC (unharmonised) option which it is able to quantify is £37m, calculated as a 10 year NPC. This estimate will understate the true costs due to the unknown costs, as noted above.

Conclusion on Enhanced GPL NoT and LPL MAC (unharmonised) processes

- A8.124 On the basis of the analysis presented above, we consider that the changes to the specifications and new evidence mean that the Enhanced GPL NoT and LPL MAC (unharmonised) option performs better than it did in the 2012 Consultation. However, important problems remain.
- A8.125 Since it is a combination of the Enhanced GPL NoT and the Enhanced LPL MAC switching processes the problems we have identified with multiple processes in Section 4 are not addressed by this option. In terms of consumer difficulty in switching and unnecessary switching costs we have changed our description and now find that, as for the status quo above, the Enhanced GPL NoT and LPL MAC (unharmonised) option would not address this problem.
- A8.126 Mandating cancel other and the record of consent enhancement to GPL NoT means that our concerns about insufficient customer consent are addressed by Enhanced GPL NoT and LPL MAC (unharmonised) option. However, while the improvements to WLT and switching ETs would mitigate those problems they would not address all sources of ETs, and it has not been possible for CSMG to estimate all of the costs of the enhancements to address switching ETs.
- A8.127 Mandating the use of simultaneous provision (which includes LO, SIM 2 and or the latest functionality available to enable switches of bundles without loss of service) would alleviate most of our concerns around loss of service and we now find that this problem would be largely addressed. Concerning awareness of the implications of switching we consider that the enhancement to the GPL NoT process would also largely address this problem. Our description of the performance against reactive save is unchanged.
- A8.128 As a result, our description of the performance of the Enhanced GPL NoT and LPL MAC (unharmonised) option is somewhat better than in the 2012 Consultation. However, a number of problems remain, in particular with the Enhanced LPL MAC element of this option.

⁴²² For further explanation of the unknown costs and details of the calculations that have been made, see CSMG's report at Annex 10.

Table A8.4: Summary of the extent to which Option 1b addresses identified problems

	Multiple switching processes	Consumer difficulty	Implications of switching	Customer consent	ETs	Loss of service	Platform neutrality	Reactive save activity
Option 1b – Enhanced GPL NoT and LPL MAC (unharmonised)	Does not	Does not	Largely	Largely	Partly – not all root causes of ETs are addressed	Largely	Does not	Partly – reactive save remains a problem under Enhanced LPL MAC

Option 2a: Enhanced GPL NoT (harmonised)

A8.129 Enhanced GPL NoT is a harmonised switching option based on the existing GPL NoT process. In the 2012 Consultation we found that this option was outperformed in our assessment by other options, and consulted on dismissing it. Respondents including BT, TalkTalk, Telefonica, EE, and FCS suggested that it should be dismissed as an option going forwards.

A8.130 However, [S&C] and C&W supported Enhanced GPL NoT as their preferred option, and Universal Utilities and ESRC suggested that it might be a feasible solution with further improvements. SSE suggested that Enhanced GPL NoT might serve as a transitional step to another option, and Which? made a similar suggestion.⁴²³

A8.131 Following the 2012 Consultation we have amended the specification of Enhanced GPL NoT in a number of ways, as explained in Annex 7. Our description of this option is set out below, drawing on our analysis of the problems and stakeholder views on this from Sections 4, 5 and 6.

Multiple switching processes

A8.132 As explained in the 2012 Consultation, Enhanced GPL NoT would involve harmonising to the existing GPL NoT⁴²⁴ process and therefore consumers would use a single process regardless of whether they are switching fixed voice, broadband or both services on Openreach's copper network.

A8.133 As we explain in Section 4, most stakeholders agreed with our analysis that a single switching process would be preferable to the multiple processes used at present.

A8.134 We find that all of the existing problems of multiple processes would be addressed through the decommissioning of the LPL MAC process and harmonisation to a GPL system under Enhanced GPL NoT.

⁴²³ Which? favoured a GPL option and suggested that some measures to address the problems we had identified could be taken quickly, leaving open the possibility of more significant changes if the problems persist in future.

⁴²⁴ We use the term GPL NoT to refer to the switching process used for migrations between CPs that are currently covered under the existing General Condition 24. We note that GC24 also covers situations when the consumer is moving home and switching CP at the same time.

A8.135 We therefore consider that Enhanced GPL NoT would largely address our concerns about multiple processes. This matches our finding from the 2012 Consultation.

Consumer difficulty and unnecessary switching costs

A8.136 The 2012 Consultation explained our view that, since it is a harmonised GPL process, Enhanced GPL NoT addresses this problem. We explained that GPL processes generally have lower switching costs than LPL processes, the ability of the LP to frustrate the process is limited, and we expect that the process would work well across sales channels.

A8.137 As a harmonised process the Enhanced GPL NoT option would minimise the number of touch points necessary to arrange a switch, and hence avoid much of the possibility of the LP frustrating the process.

A8.138 Under the present GPL NoT system it is possible for the LP to frustrate switching through the abuse of the Cancel Other system (which although designed to prevent slamming, and can also be used to prevent customers who do intend to switch from leaving).

A8.139 As explained in Annex 7, under Enhanced GPL NoT, when a consumer considers that they have been slammed, the use of Cancel Other would be mandated and the rules around how and when it should be used are clearly set out.

A8.140 Under Enhanced GPL NoT the obligations set out in GC 24.14 would remain and Ofcom would rely on enforcement action to prevent abuse of the Cancel Other process. As a result we anticipate that Enhanced GPL NoT would effectively prevent LPs frustrating switches in this way. Moreover, as a GPL process the consumer would not need to have any interaction with the LP and therefore can avoid unwanted save activity. This need to contact the LP is further minimised in the light of better information provided in the notification letters (see 'lack of awareness of implications of switching' below) which in itself improves the consumer difficulty associated with the switching process.

A8.141 Section 4 also explains that a number of stakeholders (BT, EE, Telefonica, Sky, Virgin, CFC) argued that it takes a longer time to complete a switch under the current GPL NoT process than the current LPL MAC process, and that this entails 'hassle' for consumers.

A8.142 However, as we respond in Section 4, it is not clear to us that switches under the current GPL NoT process take longer than those under the current LPL MAC process. In any case, we consider the time taken to switch under the current and Enhanced GPL NoT processes as a key consumer protection mechanism, and in the manner noted by Telefonica and EE, do not consider that this should be removed in a misguided attempt to reduce 'hassle'.

A8.143 CRA (on behalf of BT, Sky and Virgin Media) argued that it is not clear that the harmonised GPL processes would lead to lower switching costs and consumer difficulty than the harmonised LPL processes.⁴²⁵ CRA makes three points in the context of the GPL TPV option, one of which is relevant here.⁴²⁶ CRA argues that in

⁴²⁵ CRA impact assessment report, paragraph 64 and Section 10.2.

⁴²⁶ CRA's further arguments are specific to analysis of the TPV option, and are dealt with separately in the relevant section below.

the majority of cases, customers call their LP even under a GPL switching process.⁴²⁷

A8.144 In Section 4 we recognise that this is correct, but explain that such calls are voluntary acts and are not required as part of the switching process. Our key concern is protecting the consumer during a switching process, the fact that consumers may choose to contact the LP does not significantly affect a consideration of what it is appropriate to require consumers to do as part of the process. In this regard we note that we also do not take account of unnecessary calls to the GP (i.e. those in advance of contacting the LP for MAC) under the LPL switching processes.

A8.145 Although stakeholder responses on the subject of the consumer experience of switching displayed a range of views, we maintain our view from the 2012 Consultation that the Enhanced GPL NoT option largely addresses the problems associated with the consumer experience of switching.

Lack of awareness of the implications of switching

A8.146 In the 2012 Consultation we found that the Enhanced GPL NoT option would partly address the problem of lack of awareness of the implications of switching as a result of requiring the LP to provide specific ETC information and more detailed information on the implications of switching.

A8.147 Telefonica agreed with this assessment but Virgin Media (along with CRA, KCOM, Sky and BT⁴²⁸) argued that the problem arises as a result of customers receiving information on the implications of switching too late in the switching process. EE also agreed and thought this problem should be given greater emphasis in our analysis, and BT in particular pointed to the potential for more order cancellations under GPL switching processes than LPL ones.

A8.148 We have reassessed the evidence on the implications of switching in Section 4. We recognise that the GP is naturally less well placed than the LP to be able to inform customers of implications of switching. However, we have reconsidered the evidence and find that the existing NoT letter is relatively effective at prompting consumers to find out about the implications of switching.

A8.149 We find that this, in combination with modifications to the specification of the Enhanced GPL NoT option to include the provision of specific information on the implications of switching, should largely address the current issue under the GPL NoT process. Enhanced GPL NoT would require CPs to provide specific information to consumers about the implications of switching, including details on all services directly and/or indirectly affected by the switch that the LP could be reasonably aware of and precise information on any applicable charges that will be incurred (e.g. ETCs and cancellation charges).

⁴²⁷ CRA makes a related point about time spent reading written communications which is aimed at the quantification of costs and benefits from the 2012 Consultation. However, given the number of important benefits that it was not possible to quantify in that analysis and the modest impact of CRA's adjustment we do not consider this point to be material. Note that the focus and nature of our quantitative analysis is different in this report from that in our 2012 Consultation, as explained in Annex 6.

⁴²⁸ These respondents made their arguments in the context of the TPV option, but they are equally applicable here.

- A8.150 On the subject of cancellation costs we explain in Section 4 that we consider that the benefits to consumers of being able to cancel an order (before the point of no return) exceed the costs to CPs. We note that CRA has quantified the costs of cancellations under a harmonised GPL process (compared to a harmonised LPL process) as £1m per annum, and that in any case this would not materially affect our conclusions.
- A8.151 As a result our view is that the Enhanced GPL NoT option would largely address the problem of lack of awareness of the implications of switching. This represents a change from our position in the 2012 Consultation.

Insufficient customer consent

- A8.152 The problem of slamming was a key concern in the 2012 Consultation, and was a weakness of the proposed Enhanced GPL NoT option. BT, Telefonica and [redacted] agreed with this assessment in their consultation responses.
- A8.153 As explained in Section 5, slamming is a key area in which we have new evidence, and we consider that the lower estimate of slamming is consistent with enforcement being more effective than we originally thought.
- A8.154 In addition we have reconsidered our view of call recording and record keeping in the light of stakeholder views, and findings from the MM review and more recent investigations into slamming complaints, both of which found that these processes were not as good as we had thought and could be improved. In the light of this, a second important change since the 2012 Consultation is that we have amended the specification of the Enhanced GPL NoT option.
- A8.155 Under this option slamming would now be addressed through strengthening our ability to enforce by requiring the GP to obtain and keep a retrievable record of consent. The records of consent would be held for twelve months and retrievable on an individual basis. Requiring CPs to collect and maintain a record of consent should incentivise CPs to ensure they have a record of consent for every sale and therefore slams would be prevented before they take place.
- A8.156 As an additional anti-slamming measure, under Enhanced GPL NoT CPs would be required to take further reasonable steps to protect their consumers from slamming. This can be done in a number of ways, and the use of Cancel Other is one such consumer protection mechanism against the problem of 'Change of mind not actioned'. Cancel Other is widely used for voice transfers and we expect a similar process could be used to protect broadband only customers as well. Therefore, where a consumer is notified of a transfer and confirms to their provider that they did not intend to switch, CPs will be expected to use Cancel Other to prevent the consumer being transferred.
- A8.157 This conclusion is important because as we explained in the 2012 Consultation, harmonisation to Enhanced GPL NoT carries a risk that slamming could increase as a result of switches under the LPL MAC process no longer enjoying the protection that the LPL MAC process offers. We consider that this risk would not be material as a result of the modifications we have made to the specification of this option. Furthermore, we note that broadband-only slamming would be more easily detected by consumers than slamming of voice services because it would result in immediate loss of service. We also take into account that a relatively small number of switches currently go through the LPL MAC process in considering the extent of the risk of additional slamming occurring.

A8.158 Despite some small remaining concerns, we therefore now consider that Enhanced GPL NoT could largely address the problem of insufficient customer consent. This represents a change relative to our analysis in the 2012 Consultation, and is driven by the amendments to the specification of Enhanced GPL NoT.

ETs

A8.159 In the 2012 Consultation our view was that the Enhanced GPL NoT option would partly address the problem of ETs. By virtue of the extension of the Openreach DS service to include CLIs for all fixed network assets including MPF lines we considered that it would address the problem of switching ETs. However, we anticipated problems where there was a mismatch between the CLI and the correct asset ID and where services did not have an associated CLI (as may be the case for some fibre services).

A8.160 Telefonica agreed with this assessment.

Switching ETs

A8.161 To address switching ETs under this option three enhancements are included, as explained in Annex 7.

- The first enhancement would require CPs to only place an NoT order where an exact match has been identified and to use C&R process if they are unable to find an exact match.
- The second enhancement is the universal visibility of MPF CLIs. Through this enhancement the GP would be able to 'see' the CLI of a customer where the LP is an MPF provider. This removes the need to identify an MPF line using only address based matching, which is less reliable.
- The final enhancement is improving the quality of data on the Openreach database. This would seek to provide more granular level data to allow for accurate address matching and resolve issues around duplicate/near duplicate addresses.

A8.162 We anticipate that these changes would largely address the current problem of switching ETs. We note however that achieving visibility of MPF CLIs would not be straightforward. It would require data held by MPF providers to be made available prior to, or as part of, the switching process, possibly via Openreach. CPs would need to be satisfied not only that the technical means to achieve this can be implemented effectively in a way which supports a smooth process, but also that the systems used observe customers' data protection rights and properly protect the security of that data. We expect that the correct approach to take will require substantive engagement from CPs to develop the most appropriate solution.

WLT ETs

A8.163 We anticipate that the changes we propose to the specification of Enhanced GPL NoT would also help to reduce WLT ETs, as improvements to the quality of data on the database will help CPs to target the right line. Mandating CPs to only use the WLT process where an exact match is found will help to address some WLT ETs, although we note that some requirement for C&R may remain to mitigate against the risk of ETs.

A8.164 However, we note that it is difficult to ensure that GP systems make sufficient improvements and it is difficult to enforce against CPs to ensure that exact match processes are being followed. As a result we consider that the Enhanced GPL NoT option would partly address WLT ETs.

Future ETs

A8.165 ETs stemming from the lack of visibility of MPF CLI and an increase in the number of MPF ETs would be addressed under Enhanced GPL NoT through universal visibility of MPF CLIs. Having access to the MPF CLI will enable the GP to use the CLI to identify the line to be transferred. As we explained in Section 5, the CLI is a unique number and therefore, where it is available, is very effective at identifying the line to be transferred.

A8.166 However the current proposal for improvements to the data available about lines on the Openreach network would not help to deduce the correct line from multiple matches, where there is no CLI or where there are multiple services on the asset (e.g. FTTP services). As explained in Section 5, we do not think that Openreach FTTP roll-out will be as significant as we thought in the 2012 Consultation, but this would remain an issue.

A8.167 As a result we consider that the Enhanced GPL NoT option would partly address future ETs.

All ETs

A8.168 In addition, for all three types of ETs the notification letter from the LP will provide a further consumer protection mechanism where the incorrect line is identified. As the LP will be required to send a letter to the customer or the incumbent occupant to inform them about the transfer, where the incorrect line has been identified the affected customer will receive a notification about the potential transfer and will have an opportunity to cancel the switch before it takes place. Where a customer is attempting to switch one of multiple services on FTTP, the notification letter may also be able to inform the customer where the wrong service has been targeted.

Summary

A8.169 Although we anticipate that the enhancements we have made to the specification of this option would improve its performance against ETs, some concerns remain, primarily in relation to future sources of ETs and implementation risks associated with achieving MPF visibility and to a limited extent on WLT ETs.

A8.170 In the light of the further analysis explained above, we consider that the Enhanced GPL NoT option would still only partly address the problem of ETs.

Loss of service

A8.171 In the 2012 Consultation we found that the Enhanced GPL NoT option would partly address the problem of loss of service as a result of the mandated use of the LO process.

A8.172 In Section 5 we explain that stakeholders generally agreed with our assessment of this problem at present and the need to address it. Our new consumer research highlights loss of service as a key concern for dual play switchers and considerers and may get worse in future with increased bundling.

- A8.173 As explained in Section 5 and above, SIM2 functionality is intended to be able to be used across all Openreach wholesale services – this is contrary to the existing LO functionality which only applies when switching from MPF. This industry development has significantly improved the extent to which loss of service issues can now be addressed under the Enhanced GPL NoT option since switches between WLR+SMPF and WLR+SMPF providers can now also use a simultaneous provide process rather than having to rely on PO process. Loss of service would therefore be addressed by requiring CPs to have in place the functionality that enables them to provide seamless transfers for bundles of voice and broadband services. Openreach's SIM2 product is an example of the type of functionality we would expect.
- A8.174 As this process has been designed to support the switching of bundles from multiple wholesale services with minimal loss of service we anticipate it would largely improve the switching of bundles. As a result of this analysis we now take the view that the Enhanced GPL NoT option would largely address the problem of loss of service.

Lack of platform neutrality

- A8.175 In the 2012 Consultation, we found that Option 2a (Enhanced GPL NoT (harmonised)) would fail to address the problem of platform neutrality for the reasons explained in paragraph A8.64 above. We have revised our view in the light of further thinking in this area.
- A8.176 We consider it important to ensure that consumers have consistent consumer switching experiences regardless of the underlying wholesale service/ network. Platform neutrality helps to ensure that CPs' systems are able to support good consumer switching experiences and ensures a level playing field across different wholesale services / networks.
- A8.177 As stated above, the system is inherently not neutral with respect to new technologies/wholesale services in that industry needs to agree, develop and adopt new tactical fixes to ensure that new technologies can be followed in the harmonised Enhanced GPL NoT process. However, under this option there will be strategic direction for operators that all switching on the Openreach network has to take place using the Enhanced GPL NoT process. For new wholesale services delivered over the Openreach network, where most CPs would already have to use the existing process for current services, we consider it would be possible to develop new back end processes which would support a GPL NoT process. However, the development of the processes for these services may take some time.
- A8.178 With respect to new network technologies, such as cable and FTTP etc, we have revised our description. In the 2012 Consultation we considered that it was not feasible to extend the existing GPL NoT process to other networks because the back end systems are tied to the services provided by Openreach on the copper network. We considered that it was not possible to use that system to co-ordinate GP and LP interaction across networks. However this was within the context of extending the GPL NoT process in a completely uniform manner to other networks.
- A8.179 It is important to distinguish between the consumer facing element and the back end processes (which do not take place in front of consumers) of any switching process. In this context, this option could partly deal with this problem as it is entirely feasible that there could be a common consumer facing process supported by a number of industry processes for different switching scenarios or, indeed a

more manual method for low volume switching scenarios. The decision to harmonise to a GPL NoT consumer facing process would provide direction to industry, which would improve the ability of industry to agree the back end industry processes required as compared to the unharmonised approach. However further work would need to be done to consider how the CPs' processes could be adapted to other networks, if we were to extend the scope of the switching review to other networks.

A8.180 We now believe that it may be possible to develop supporting back end systems (different to Openreach systems) to support consistent consumer experience and outcomes for switching services across networks. We have therefore revised our view and consider that Enhanced GPL NoT may partly address platform neutrality issues, but will review this further in the light of additional work in this area.

Reactive save

A8.181 Reactive save is banned under the existing GPL NoT process, and this ban would also be applied under the Enhanced GPL NoT option. Consequently our view in the 2012 Consultation was that Enhanced GPL NoT would address the problem of reactive save.

A8.182 In the 2012 Consultation reactive save was one of the factors that led us to prefer GPL TPV over an LPL option. Respondents in favour of the LPL options, in particular BT, KCOM, Sky, Telefonica, Virgin Media and Zen, were critical of this analysis, and we note that Which? was also not convinced by our arguments on reactive save.

A8.183 We respond to the stakeholder comments on reactive save in Section 6, and in particular respond to the report submitted by CRA (on behalf of BT, Sky and Virgin Media) on the subject of reactive save. In relation to our assessment of the options in the 2012 Consultation CRA argued that it was appropriate to consider that options that allow and ban reactive save might be considered as having the same impact on consumer welfare and hence be judged to have the same effect in addressing this problem.⁴²⁹

A8.184 In Section 6 we explain in detail how we have considered stakeholder responses on this subject, and have also conducted further research and analysis, including detailed analysis of the arguments made by CRA. In summary, we remain of the view that our concerns about reactive save under the existing LPL MAC process are legitimate. Such concerns do not arise under GPL options, where reactive save activity is already banned, so we continue to find that Enhanced GPL NoT would largely address this problem.

Costs

A8.185 In the 2012 Consultation we did not present an estimate of the costs of the Enhanced GPL NoT option. Since that time, we have asked CSMG to estimate the costs of Enhanced GPL NoT.

A8.186 In making this estimate, CSMG has addressed the criticisms of its estimate of the costs of the GPL TPV option made in the 2012 Consultation made by PwC (on behalf of BT, Sky and Virgin Media). To the extent that any adjustments to its

⁴²⁹ CRA impact assessment report, paragraph 64 and its accompanying reactive save report.

estimate of the costs of GPL TPV would be necessary it has taken them into account in estimating the costs of Enhanced GPL NoT.

A8.187 CSMG's estimate of the costs of the Enhanced GPL NoT option is £38m, calculated as a 10 year NPC.⁴³⁰ However, as in the case of Enhanced GPL NoT and LPL MAC (unharmonised) option above, this estimate does not include some unknown costs associated with the switching ET enhancements.

Conclusion on Enhanced GPL NoT

A8.188 Based on the analysis above, the changes to the specifications and new evidence mean that the Enhanced GPL NoT option performs better than it did in the 2012 Consultation.

A8.189 The Enhanced GPL NoT option addresses the problem of multiple processes, and the record of consent enhancement to GPL NoT means that our concerns about insufficient customer consent are now largely addressed by Enhanced GPL NoT. Concerning awareness of the implications of switching we consider that the enhancements to the GPL NoT process would mean that this problem would now also be largely addressed. The use of the latest simultaneous provide functionality, such as SIM 2, process would largely address our concerns around loss of service. Our description of the performance against reactive save is unchanged.

A8.190 However, while there are improvements to WLT and switching ETs the changes may not address all sources of ETs, and it has not been possible for CSMG to estimate the costs of some aspects of these enhancements. In addition, we believe that issues of platform neutrality are only partly addressed.

Table A8.5: Summary of the extent to which Option 2a addresses identified problems

	Multiple switching processes	Consumer difficulty	Implications of switching	Customer consent	ETs	Loss of service	Platform neutrality	Reactive save activity
Option 2a – Enhanced GPL NoT (harmonised)	Largely	Largely	Largely	Largely	Partly - not all root causes of ETs are addressed	Largely	Partly – issues of expanding to other technologies in the future remain	Largely

Option 2b: GPL TxC

A8.191 From the point of view of the consumer, switching using the GPL TxC option would be the same as under Enhanced GPL NoT. However, GPL TxC includes a number of additional changes, in particular to the back-end processes. In the 2012 Consultation we found that GPL TxC performed relatively well against the problems identified, and as noted above, it was the preferred option of Universal Utilities and FCS.

A8.192 Since that time, and in the light of the responses received, we have made a number of changes to the specification of GPL TxC, which are explained further in Annex

⁴³⁰ The details of CSMG's calculations are explained in its report at Annex 10.

7.⁴³¹ Our findings on this option are set out below, drawing on our analysis of the problems, and stakeholder views from Sections 4, 5 and 6.⁴³²

Multiple switching processes

A8.193 In the 2012 Consultation we explained that GPL TxC would address the issue of multiple processes. No respondents commented directly on this conclusion.

A8.194 We consider that the issues around multiple processes are addressed under all of the harmonised options. Therefore GPL TxC addresses lack of clarity, increased cost for bundles, advising on correct processes and inefficient industry costs in the same way as Enhanced GPL NoT explained above. For these reasons our view is that GPL TxC would largely address the problem of multiple switching processes.

Consumer difficulty and unnecessary switching costs

A8.195 As noted above, the consumer experience of the GPL TxC process would be the same as under Enhanced GPL NoT. In the 2012 Consultation we found that it would largely address our concerns about the consumer experience of switching. No respondents commented directly on this conclusion.

A8.196 As we explain in Section 4, our view is that GPL switching processes (such as GPL TxC) lead to better consumer and competition outcomes than LPL processes such as the current LPL MAC process. GPL TxC addresses the issues around the consumer experience of the switching process in much the same way as Enhanced GPL NoT, so the explanation of stakeholder comments on the time taken to switch in paragraphs A8.141 to A8.144 are also applicable here. Under GPL TxC the consumer contacts just the GP and provides the information necessary to identify the asset and then confirms their intention to switch, with no requirement to contact their LP.

A8.197 In addition, GPL TxC would reduce the ability of the LP to frustrate switching because it replaces the Cancel Other process with the Customer Cancel system. We anticipate that this would eliminate the possibility of the abuse of Cancel Other under GPL TxC. Furthermore, we note that requirements to provide better information in LP letters on the implications of switching (see below) will mean that consumers will not need to spend time seeking this information from elsewhere thereby further reducing consumer difficulty and switching costs.

A8.198 In the light of this analysis we maintain our view from the 2012 Consultation that the GPL TxC option would largely address the problems associated with consumer difficulty.

Lack of awareness of the implications of switching

A8.199 In the 2012 Consultation we found that the GPL TxC option would partly address the problem of lack of awareness of the implications of switching as a result of

⁴³¹ One change to the specification of GPL TxC that we have considered is to use a 'virtual' database. The arguments presented in this section apply equally to that variation on the GPL TxC option, but we do not consider it in detail as an option for the reasons explained in Annex 7.

⁴³² In addition to the databases considered by CSMG, SSE and TalkTalk proposed an alternative version which is explained further in Annex 14. We consider that the performance of this option against the problems would be similar to GPL TxC. CSMG have indicated that the costs of this option are likely to be similar to GPL TxC for elements performing similar functions.

requiring the LP to provide specific ETC information and more detailed information on the implications of switching.

- A8.200 As in the case of Enhanced GPL NoT, Telefonica agreed with this assessment and Virgin Media (along with CRA, KCOM, Sky, Telefonica and BT⁴³³) argued that the problem arises as a result of customers receiving information on the implications of switching too late in the switching process. EE also agreed and thought this problem should be given greater emphasis in our analysis.
- A8.201 The GPL TxC process, in regard to awareness of the implications of switching, matches what we now propose for Enhanced GPL NoT, and would require CPs to provide better information to consumers about the implications of switching. As a result the analysis in paragraphs A8.147 to A8.150 is also applicable here. Under GPL TxC information could be provided by email and would contain certain key facts relevant to the switch.
- A8.202 This aspect of the specification of GPL TxC, in combination with our revised finding that the existing NoT letters are effective at prompting consumers to find out about the implications of switching, lead us to find that GPL TxC would largely address this problem. This represents a change from our analysis in the 2012 Consultation.

Insufficient customer consent

- A8.203 In the 2012 Consultation we found that the GPL TxC option would be unable to address the problem of slamming and may even lead to an increase in its incidence. In their consultation responses [3<], Telefonica and BT agreed with this, but Universal Utilities disagreed.
- A8.204 We have reassessed this view in the light of the changes we have made to the specification of GPL TxC. Like Enhanced GPL NoT, GPL TxC would require GPs to retain a record of consent. In addition, the hub and database would allow monitoring of switches and provide an audit trail which could be used to investigate alleged instances of slamming.
- A8.205 As noted above, in the GPL TxC model the Cancel Other function would be removed and replaced with an automated Customer Cancel service which would protect against the issue of 'Change of mind not actioned'. This would enable consumers to cancel orders themselves instead of having to rely on their existing provider to cancel on their behalf where there has been a slam. It would also ensure greater clarity for consumers in how to cancel rather than at present where it can sometimes be confusing as to whether they should be going to the LP or the GP to cancel. Cancel Own would remain as an alternative cancellation method.
- A8.206 Taking these changes into account in our description we now consider that GPL TxC would largely address our concerns about insufficient customer consent. This represents a change relative to our analysis in the 2012 Consultation.

ETs

- A8.207 In the 2012 Consultation we considered that GPL TxC would largely address the problem of ETs because its database would include both accurate address and customer account information. This would allow it to deal effectively with switching

⁴³³ These operators made their arguments in the context of the TPV option, but they are equally applicable here.

ETs, WLT ETs as well as future ETs, although we noted that this would depend on accurate data and a robust database.

A8.208 In their consultation responses, Zen and C&W agreed with this position, with the proviso that it was dependent on ensuring that the database held the necessary information. A number of further respondents disagreed however, as noted below. We also consider responses relevant to the hub and database in the 'Other considerations' sub-section below.

Switching ETs

A8.209 The use of a database means that additional information can be captured and used to verify the customer and the asset. It would also allow CPs to maintain the data to ensure it is accurate. During the sales process the customer would provide the GP with a range of customer data such as their name, address, postcode, CLI, current provider and the service(s) they wish to switch. As all of this information would be made available by the current CP it is more likely to be up to date and therefore should be largely consistent with the information provided by the consumer.

A8.210 This process would allow for more reliable identification of the asset (even where there may not be a CLI to identify the asset) and therefore there should be few instances where the wrong asset is targeted. Once the asset has been identified, the TxC works in conjunction with the database to tag the correct asset and thereby also addresses the problem of ETs.

A8.211 In addition, the common interface with the hub and database means that all GPs have a standardised interface which presents clear, consistent and accurate data to enable identification of the correct asset.

A8.212 In the light of these enhancements, we consider that:

- the hub and database would address the issue of poor quality Openreach address data by using the more accurate and up-to-date retail CP data, which can be maintained by the CP;
- the database would contain the relevant details of all customers including telephone numbers of MPF lines which cause a significant proportion of ETs today;
- the database would allow a number of fields against which customer details can be checked allowing for better identification of the asset (even where there may not be a CLI to identify the asset);
- the common interface with the hub and database means that all GPs would have a standardised interface presenting clear, consistent and accurate data to enable correct identification of the appropriate asset; and
- the TxC would work in conjunction with the database to tag the correct asset and thereby also help to address the problem of ETs.

A8.213 As a result we find that the GPL TxC option would largely address the problem of switching ETs.

WLT ETs

- A8.214 In the 2012 Consultation we found that the Hub would also address WLT ETs, and would allow for effective monitoring.
- A8.215 FCS, Entanet, SSE, EE, TalkTalk, CRA, BT, Sky and Virgin Media were not convinced that the hub and database used under the GPL TxC option would resolve the problem of WLTs used in conjunction with a homemove.
- A8.216 A particular concern for FCS, TalkTalk, BT, Sky, Virgin Media and CRA⁴³⁴ was that the homemove process would rely on address matching in the same way that the existing WLT process does. As a result these respondents could not see that there would be any improvement in relation to the problem of homemove ETs under the GPL TxC option, as compared to the status quo.
- A8.217 However, as we explain above, the hub and database used under the GPL TxC option would be populated using data from retail CPs. Since these CPs bill their customers we anticipate that the current poor quality Openreach address data would be largely addressed by this, thus improving the ability of CPs to identify on address data alone. We also note that the lack of CLI from the incoming user where there are multiple lines to the same address (such as in a block of flats) would be improved where the consumer had the name of the account holder.
- A8.218 Further, all CPs would have consistent systems and interfaces with the Hub and database thus reducing the difficulties associated with current GP systems.
- A8.219 In addition, protection against WLT ETs would be provided by the hub which would not allow a WLT order to be placed where it had returned multiple matches. We consider this would be effective at removing ETs especially given the commercial incentives to place WLT orders and making the process more reliable.
- A8.220 As a result we maintain that GPL TxC would address WLT ETs.

Future ETs

- A8.221 In the 2012 Consultation we found that the database could be extended in future to encompass new services and technologies, and hence would also address future sources of ETs.
- A8.222 We maintain this view because as explained above the database would store CP data and therefore MPF CLIs would be fully visible. Therefore even MPF lines could be identified through the CLI.
- A8.223 To address future ETs related to other networks and services, the database could be extended to include additional assets and services in future. Therefore services such as FTTP could be added to the list of services provided at a property. This means that once the address had been verified, the GP would have access to all services supplied at that address. Therefore services that do not have a CLI could still be identified and a TxC could be generated against it to ensure the correct asset or service is transferred.⁴³⁵

⁴³⁴ CRA impact assessment report, paragraph 64 and Section 6.1.

⁴³⁵ Note that whilst the sources of future ETs identified in section 5 would be addressable, there is an additional case where there are multiple identical services associated with the same CLI, e.g. one household having two separate broadband services. In this scenario, the GPL TxC would be able to distinguish between these two services where different CPs supplied these services or where the same CP supplied these services with two different account references. However, where the same

All ETs

A8.224 For all three types of ETs the notification letter from the LP would provide a further consumer protection mechanism where the incorrect line is identified. As the LP will be required to send a letter to the customer or the incumbent occupant to inform them about the transfer, where the incorrect line has been identified the affected customer would receive a notification about the potential transfer and would have an opportunity to cancel the switch before it takes place.

Summary

A8.225 Having reconsidered the performance of the GPL TxC option against the problem of ETs, in the light of the consultation responses we received and the further enhancements we have made to the GPL TxC option, we continue to consider that it would largely address the problem of ETs.

Loss of service

A8.226 In the 2012 Consultation we argued that the TxC system would allow the GPL TxC option to effectively deal with the problem of loss of service. It would allow orders to be linked and the timing for services to stop and start to be coordinated. As a result we anticipate that it would remove the need to rely on the C&R process or PO process.

A8.227 The GPL TxC option also includes within its design the ability to enable other services and networks to be added by having an independent central database and registering TxCs against the service(s) where a request to switch is received. Once the information is stored, the underlying network would not matter. Work however would still need to be done at the back end to enable the switch to take place.

A8.228 Our description of the performance of GPL TxC against the problem of loss of service is unchanged from that in the 2012 Consultation.

Lack of platform neutrality

A8.229 Our position in the 2012 Consultation was that GPL TxC would largely address the problem of a lack of platform neutrality seen at present. GPL TxC would involve a single switching process regardless of the underlying technology, and a system which could be extended to accommodate future technologies and other infrastructures.

A8.230 The TxC function of the process means that services on different networks and wholesale supply chains can be included by appropriate tagging along the supply chain. Therefore the switching process would remain, as far as possible, the same when new technologies are added and use of C&R should be minimal.⁴³⁶

A8.231 Again, few stakeholders commented directly on this conclusion, but amongst those that did there was general agreement and our assessment of GPL TxC against the problem of platform neutrality is unchanged.

CP supplied both services under the same account reference, the existing specification of the GPL TxC may not easily be able to identify which line to switch.

⁴³⁶ Different types of necessary engineering work between certain switching scenarios will mean that the end to end switching experience cannot be identical across all types of switching.

Reactive save

- A8.232 Reactive save would be banned under the GPL TxC option, as it is under the current GPL NoT process. As a result, our position in the 2012 Consultation was that it would address this problem.
- A8.233 As explained in the context of Enhanced GPL NoT above (see paragraphs A8.182 to A8.184 above), we received a large number of detailed responses on this subject. We respond to the stakeholder comments on reactive save extensively in Section 6, including responses to the report submitted by CRA (on behalf of BT, Sky and Virgin Media) on the subject of reactive save.
- A8.234 We have considered stakeholder responses on this subject, and have also conducted further research and analysis, including detailed analysis of the arguments made by CRA. In summary we remain of the view that our concerns about reactive save under the existing LPL MAC process are legitimate, and since it would be banned under GPL TxC (as it is at present under GPL NoT) consider that this problem would be largely addressed.

Costs

- A8.235 In the 2012 Consultation we explained that CSMG had estimated the costs of the GPL TxC option at an annuitised NPC of £4.8m, or £41m as a 10 year NPC.⁴³⁷ Telefonica commented directly on the cost of the GPL TxC option, and raised concerns that the cost of the hub and database would ultimately be passed on to consumers.
- A8.236 Since that time CSMG has updated this estimate of the costs of GPL TxC, and has taken into account the consultation response from PwC (on behalf of BT, Sky and Virgin Media).⁴³⁸ Its revised estimate of the costs of the GPL TxC option is £52m as a 10 year NPC.⁴³⁹

Other considerations⁴⁴⁰

- A8.237 As set out in the sub-sections above, GPL TxC addresses all of the problems identified in Sections 4, 5 and 6 well, and it performs better than it did in the 2012 Consultation. There are however a number of other issues, including some raised by respondents to the 2012 Consultation, which require additional consideration.

Governance process

- A8.238 The implementation of GPL TxC would require the establishment of a governance process. EE and BT raised concerns about the need for unprecedented and

⁴³⁷ See Figure 37 of the 2012 Consultation and the accompanying CSMG model.

⁴³⁸ PwC estimated that the costs of TPV were 42% higher than those calculated by CSMG and presented in the 2012 Consultation. It calculated a cost of TPV of £139m as a 10 year NPC compared to CSMG's estimate of £98m.

⁴³⁹ See CSMG's report at annex 10. The corresponding cost for GPL TxC-V is £55m.

⁴⁴⁰ We also note that some respondents considered that small businesses should not be included within a new switching system. We continue to believe that it would be possible to include small businesses as part of a new GPL system, but we acknowledge that adjustments might be required to enable them to be dealt with appropriately. This is an issue which would need to be considered as part of the development of a future GPL option. Small businesses are currently within the scope of GC 24.

potentially understated costs of industry cooperation, and although these arguments were made in the context of GPL TPV they also apply to GPL TxC.

- A8.239 These points were countered by comments from Gemserv, which explained how governance process might be put in place, and has expanded on this in its report in Annex 12. In addition, SSE and TalkTalk provided views about how a governance structure might be established (albeit in the context of their new proposal, which we consider in Annex 7).
- A8.240 We recognise that the implementation of GPL TxC would require concerted industry cooperation, including in relation to the construction of an effective governance process. As outlined by Gemserv, we believe there are models through which such cooperation could in principle deliver the GPL TxC option. However, we acknowledge that there are significant risks involved in reliance on this cooperation, not least in the light of the fact that there is no industry consensus supporting a GPL model. Further work would be required to establish the feasibility of delivering a GPL TxC solution, including in relation to agreement on the appropriate governance arrangements that would underpin this solution.
- A8.241 In the light of the detailed work completed by Gemserv and summarised in Annex 7, we consider that governance process and industry cooperation could be achieved under the GPL TxC option. We anticipate that such a governance process would have benefits in future as a result of providing a framework for industry cooperation, for example in adapting switching processes to include additional services and technologies in future.

Implementation time

- A8.242 We anticipate that GPL TxC would take more time to implement than some of the other options. Concerns about the time taken to implement options were raised by a number of respondents, in particular in relation to the GPL TPV option, but the arguments are also applicable here.
- A8.243 EE, C&W, Sky, BT and CFC commented on the time it would take to implement some of the GPL options.⁴⁴¹ EE advocated 'an evolutionary rather than a revolutionary approach' and stressed the need for immediate changes to the current switching system. Sky and BT stressed the burden that implementation would place on CPs (in particular in comparison with their preferred LPL option).

Data protection

- A8.244 In the 2012 Consultation we sought stakeholders' views on potential data protection issues under the GPL TxC and GPL TPV options. Specific concerns on this topic were received from [redacted], KCOM, EE, Consumer Focus and C&W.
- A8.245 BT, Sky and Virgin Media commissioned research which indicated that 57% of people surveyed would not be happy for their details to be stored on a centralised database, and issues were raised around the role of the TPV as a 'data processor', obtaining customers' consent and the implications of a new Data Protection Act in 2014.

⁴⁴¹ CRA also commented on implementation timescales in the context of the supporting calculations to the 2012 Consultation. We address this topic in Annex 6.

A8.246 We also asked stakeholders for their views on data security in the 2012 Consultation. BT, along with other respondents, noted concerns about the need to obtain the necessary guarantee that customer data would be held securely.

A8.247 We recognise that there are valid concerns as to how best to protect consumer data, and comply with data protection legislation, if a hub and database are constructed as part of a GPL TxC solution. The arrangements ensuring security of data are directly relevant to data protection obligations and reflect a genuine need to proceed with caution where large scale transfers of data are concerned. These are issues which would need to be addressed as part of the development of the technical systems and processes underpinning the hub and database. The most appropriate solution is likely to require a balancing of risk in the light of what the relevant systems are capable of achieving, as well as a balancing of views from different CPs on what appropriate protections should be in place.

A8.248 Key issues in that context would be:

- the extent to which consent is required from customers for the creation of a database, or for a switching process to operate through a database;
- how such consent would be appropriately verified; and
- what rights consumers should have so as not to allow their data to be part of the arrangements.

Data collection and maintenance

A8.249 In addition to the concerns about the hub and database explained above, EE, Magrathea, C&W, Entanet, Zen, BT, Sky, Virgin Media, Consumer Focus, CCP, Telefonica and Which? commented on the anticipated difficulties in populating and maintaining a database. Some respondents were concerned about the potential inefficiency of keeping a large database purely for the purposes of switching, and concerns were also raised about the incentives of CPs to provide accurate data and the potential difficulty involved in monitoring this.

A8.250 We recognise that there are challenges in maintaining the integrity of any database, and that there could be particular difficulties associated with keeping a central database and individual CP databases accurately aligned.

Conclusion on GPL TxC

A8.251 On the basis of the analysis presented above, the changes to the specifications and new evidence mean that the GPL TxC option performs better than it did in the 2012 Consultation.

A8.252 GPL TxC addresses the problem of multiple processes, and the record of consent enhancement and the Customer Cancel process mean that our concerns about insufficient customer consent are also now addressed. In addition the use of the TxC mechanism means that it would also deal with our concerns about ETs and loss of service.

A8.253 Turning to awareness of the implications of switching we have reconsidered our position on this and now find that this problem would be largely addressed by GPL TxC. Our conclusion that it would deal with the problem of reactive save remains unchanged.

A8.254 As a result of this our view is that the GPL TxC option performs better than we thought was the case in the 2012 Consultation. However, as we explain above it also raises a number of further issues including questions of governance, the implementation timeframe and concerns about the data requirements, protection and security. These concerns have an important bearing on the nature of our decision in Section 8, and are discussed further there.

Table A8.6: Summary of the extent to which Option 2b addresses identified problems

	Multiple switching processes	Consumer difficulty	Implications of switching	Customer consent	ETs	Loss of service	Platform neutrality	Reactive save activity
Option 2b – GPL TxC	Largely	Largely	Largely	Largely	Largely	Largely	Largely	Largely

Option 2c: GPL USN

A8.255 The GPL USN option would work in much the same way as the GPL TxC model. Like GPL TxC, it is a harmonised GPL option that has a database and utilises the TxC process. Where this option differs from GPL TxC is that it uses a unique service number which would be provided to customers on their bills, to identify the service or asset to be switched and used as evidence of their consent to switch. This has implications for the problems of insufficient customer consent and ETs.

A8.256 In the 2012 Consultation we found that this option was outperformed by the GPL TPV option, and as explained in Annex 7, we have made no changes to the specification since that time. GPL USN was the preferred option of SSE, which has experience of a similar mechanism in energy markets.

Multiple switching processes

A8.257 In the 2012 Consultation we explained that as a harmonised switching process, GPL USN would address the issue of multiple processes. For the reasons explained in the context of the other harmonised GPL options above, this remains our view.

Consumer difficulty and unnecessary switching costs

A8.258 In the 2012 Consultation we explained that although the GPL USN process would not require the customer to contact the LP in order to switch, we had concerns about the consumer experience of switching using the process.

A8.259 The GPL USN process requires the consumer to provide the GP with a service-specific code found on their bill. We explained in the 2012 Consultation that we anticipated this to cause more difficulty for all consumers than the existing GPL NoT process, since they would all need to locate their bill to access the relevant USN to switch. In particular, greater difficulty would be incurred by consumers if the USN could not be located at the point at which they want to switch (such as a retail shop). Telefonica in particular agreed with this conclusion.

A8.260 Furthermore we explained that an inability to find the USN would require a call to the LP, which might allow the switch to be frustrated or allow the opportunity for reactive save. C&W responded in agreement with this. In addition to these concerns

an attempt to switch multiple services might require the consumer to quote multiple codes, which could give rise to additional difficulty.

- A8.261 However, SSE and TalkTalk suggested that the consumer experience under the GPL USN option could be improved. We address these comments in Annex 7.
- A8.262 Taking this analysis into account we continue to consider that the GPL USN option would only partly address our concerns about the consumer experience of switching.

Lack of awareness of the implications of switching

- A8.263 In the 2012 Consultation we found that the GPL USN option would partly address the problem of lack of awareness of the implications of switching as a result of requiring the LP to provide specific ETC information and more detailed information on the implications of switching.
- A8.264 As explained as part of our analysis of the Enhanced GPL NoT (harmonised) option above (paragraphs A8.147 to A8.151), stakeholder views varied on the ability of the GPL options to address the lack of awareness of the implications of switching.
- A8.265 We have revisited our description of the performance of all of the GPL options in terms of lack of awareness of the implications of switching (as explained further in the context of Enhanced GPL NoT (harmonised) option above) and find that it would now largely be addressed under GPL USN. This represents a change from the 2012 Consultation.

Insufficient customer consent

- A8.266 In the 2012 Consultation we explained our view that the GPL USN option would partly deal with the problem of slamming. Under the GPL USN option, the consumer is required to provide the USN (which is labelled as a switching code on the consumer's bill) to the GP. Provision of the USN seeks to address insufficient customer consent as it implies that the person has authority over the services and that they actually intend to switch.
- A8.267 Although we consider provision of the USN as a fairly good indicator of authority and intention to switch, under the GPL USN option we found in the 2012 Consultation that slamming would not entirely be addressed as:
- consumers may not understand the significance of the USN and provide it when they are not ready to switch, or provide it for the wrong service;
 - consumers might provide a USN for the wrong service;
 - use of a USN with door-to-door sales could lead to 'Contact but no contract' slamming; and
 - use of a USN could not address the issue of slamming by misrepresentation.
- A8.268 In response to this analysis a number of operators agreed with our assessment, with BT and KCOM in particular concerned about an increase in slamming by 'rogue' CPs. EE argued that GPL USN would not address the problem of insufficient customer consent because it would be too easy to acquire customer information. The CCP's view was that GPL USN would not provide as good protection against

slamming as GPL TPV. However, Consumer Focus and SSE explained that the problem of slamming could be further addressed under GPL USN, making it a viable option.

- A8.269 As noted above, we have not chosen to make further improvements to this option, and address the points raised by SSE in relation to its new proposal explained in Annex 7. However, we note that the use of the Customer Cancel system would mean that the issue of 'Change of mind not actioned' would be reduced by this option.
- A8.270 Our view remains that the problem of insufficient customer consent could partly be addressed under the GPL USN option, but the concerns noted above would remain.

ETs

- A8.271 In the 2012 Consultation we considered that GPL USN would partly address the problem of ETs. Although its use of a TxC would allow it to address switching ETs resulting from a lack of CLI, multiple services being provided using the same asset and mismatches between the CLI and correct asset ID, we did not consider it could effectively address the issue of WLT ETs.
- A8.272 In their consultation responses Universal Utilities, [redacted], TalkTalk and BT agreed with our assessment that GPL USN would not resolve the problem of ETs.

Switching ETs

- A8.273 The USN database would not contain information such as address and customer account information but instead would rely on all transferable services having a USN. Therefore, where the USN is provided, the asset would be identified and then tagged with a transfer code to ensure the right asset is switched.
- A8.274 We consider that this would resolve the problem of switching ETs as a result of not being solely reliant on the address.

WLT ETs

- A8.275 Our proposed approach for WLTs, as set out in Annex 7, allows the incoming user to request a transfer without input from the incumbent end user. This is the same process as in the Enhanced GPL NoT WLT process. However, we do not consider that this would work well under the GPL USN option because the USN database would not contain up to date address information. Therefore, since orders are placed on address information alone, there is a high possibility that the wrong line is identified, so WLT ETs would not be addressed by this option.
- A8.276 We note that it would be possible to include two Best Practice Guide improvements which have been added to the Enhanced GPL NoT specification (but are not currently included in the GPL USN specification): requiring WLT orders only placed for exact matches and requiring the LP to notify the customer that their line has been targeted so that consumers are made aware of the potential transfer.
- A8.277 However, even if these improvements were to be included in the GPL USN model, we consider that this would only partly resolve the problem of WLT ETs. Whilst consumers would be informed where the wrong line has been targeted and are given the opportunity to cancel the transfer, we note that this option does not

improve the quality of the address data to identify the line and is likely to mean a greater reliance on C&R in order to mitigate the risk of ETs.

Future ETs

A8.278 The GPL USN process has a centralised switching function which could be used for other services and networks and therefore it would deal with future switching ETs by allocating a USN to new services.

Summary

A8.279 In the light of the above we remain of the view that the GPL USN option would only partly address the problem of ETs.

Loss of service

A8.280 In the 2012 Consultation we argued that the TxC system would allow the GPL USN option to effectively deal with the problem of loss of service. For the same reasons as those explained in the case of GPL TxC in paragraphs A8.226 and A8.227 above, we maintain this view.

A8.281 Like GPL TxC, the GPL USN option would allow orders to be linked so the GP can arrange for multiple services to start at the same time and the process should be supported by all CPs.

Lack of platform neutrality

A8.282 Our conclusion in the 2012 Consultation was that GPL USN would largely address the problem of a lack of platform neutrality seen at present. It would involve a single switching process which would work over any underlying service or network technology, and a system which could be extended to accommodate future technologies and other infrastructures. It could provide a similar experience of switching across different types of switches, depending on the engineering work required in the switching process.

A8.283 Few stakeholders commented directly on this conclusion, but amongst those that did there was general agreement and our description of the performance of GPL USN option against this problem is unchanged.

Reactive save

A8.284 Reactive save would be banned under the GPL USN option, as it is under the current GPL NoT process. As a result our conclusion in the 2012 Consultation was that it would address this problem.

A8.285 As explained in the context of Enhanced GPL NoT above (see paragraphs A8.182 to A8.184 above), we received a large number of detailed responses on this subject. We respond to the stakeholder comments on reactive save extensively in Section 6, including responses to the report submitted by CRA (on behalf of BT, Sky and Virgin Media) on the subject of reactive save.

A8.286 We have considered stakeholder responses on this subject, and have also conducted further research and analysis, including detailed analysis of the arguments made by CRA. In summary we remain of the view that our concerns

about reactive save under the existing LPL MAC process are legitimate, and would not arise under GPL USN.

Costs

A8.287 In the 2012 Consultation we explained that based on the CSMG estimates the costs of the GPL USN option as an annuitised NPC were £8.4m to £9.4m, or £70m to £79m as a 10 year NPC.⁴⁴² This was one of the most costly options considered in the 2012 Consultation, and we did not ask CSMG to update its cost estimates.

Other considerations

A8.288 As a GPL option involving the hub and database and the use of the TxC system, the stakeholder responses explained in paragraphs A8.237 to A8.250 are equally applicable here, and we have taken them into account.

Conclusion on GPL USN

A8.289 On the basis of the analysis presented above, the changes to the specifications and new evidence mean that the GPL USN option performs a little better than it did in the 2012 Consultation.

A8.290 The GPL USN option would address the problem of multiple processes, and our concerns about insufficient customer consent are partly addressed. It would partly deal with our concerns about ETs and would largely address loss of service, and our description of how it would deal with the problem of reactive save remains unchanged.

A8.291 Turning to awareness of the implications of switching, we now consider that this problem would be largely addressed by GPL USN.

A8.292 However, we consider that consumer experience under the GPL USN option would be worse than under GPL NoT, GPL TxC and GPL TPV processes. This is because if consumers are unable to find the USN they would be required to contact their LP, which would constitute additional hassle. It may also give the LP the opportunity to frustrate the switching process.

A8.293 As a result of this our view is that the GPL USN option performs somewhat better than we thought was the case in the 2012 Consultation. However, in common with the GPL TxC option explained above, GPL USN raises a number of other considerations, and we take these into account in making our decision in Section 8.

Table A8.7: Summary of the extent to which Option 2c addresses identified problems

	Multiple switching processes	Consumer difficulty	Implications of switching	Customer consent	ETs	Loss of service	Platform neutrality	Reactive save activity
Option 2b – GPL USN	Largely	Partly – problems with inability to find the USN remain	Largely	Partly	Partly – WLT ETs are not addressed	Largely	Largely	Largely

⁴⁴² See Figure 37 of the 2012 Consultation and the accompanying CSMG model. The estimates varied depending on whether the ‘independent’ or ‘industry’ methods were used, see CSMG’s report.

Option 2d: GPL TPV

- A8.294 As we set out in the 2012 Consultation, this option is a GPL process which shares an asset validation process with GPL TxC and includes a TPV element to perform consent validation. GPL TPV was our preferred option in 2012 Consultation, and we found that it largely addressed the problem of the implications of switching, and addressed all of the remaining problems.
- A8.295 We explained that we preferred it over other GPL options by virtue of its better ability to deal with slamming. GPL TPV was then preferred over the LPL options primarily on the basis of reactive save and consumer experience. As noted in paragraph A8.10 this was a complex and finely balanced judgement; although GPL TPV was estimated to be the most expensive option to implement we considered it to be proportionate as a result of its superior performance in addressing existing harm to consumers.
- A8.296 This analysis attracted a large volume of stakeholder responses. TalkTalk was the only CP to agree with us that GPL TPV should be the preferred option and SSE gave it qualified support. It also received support from Citizens Advice, Gemserv and CMA. All other stakeholders were opposed to the GPL TPV option.
- A8.297 We have reassessed our views of the GPL TPV option in the light of these responses and the new evidence on the problems explained in Sections 4, 5 and 6. This is explained below and has an important bearing on our decision on options in Section 8.

Multiple switching processes

- A8.298 In the 2012 Consultation we explained that as a harmonised switching process, GPL TPV would address the issue of multiple processes. For the reasons explained in the context of the other harmonised GPL options above, this remains our view.

Consumer difficulty and unnecessary switching costs

- A8.299 In the 2012 Consultation we explained that the GPL TPV option addressed our concerns about the consumer experience of switching. We explained our views that GPL processes generally have lower switching costs than LPL processes, the ability of the LP to frustrate the process is limited, and we expect that process to work well across sales channels.
- A8.300 EE, Telefonica, Sky and BT argued that using a TPV involved an additional touch point, and that as a result it would provide a cumbersome customer experience. In response we note that in the 2012 Consultation we took this into account and did not view it as an additional touch point. We also considered that it was justified by the peace of mind provided by a robust consent validation mechanism given the evidence at the time on the incidence of slamming. EE also argued that TPV would be awkward in a retail environment, and highlighted concerns about its brand.
- A8.301 Related to this, a number of respondents argued that the GPL TPV process would frustrate and slow down switches compared to the current switching processes (see the responses of Universal Utilities, Entanet, [X], ITSPA, EE, Sky, Telefonica, [X], BT and Virgin Media).

- A8.302 Based on the estimates used by CSMG we recognise that it would take longer for consumers to arrange a switch under the GPL TPV option (18 minutes) than the status quo (14 minutes), but note that this is still less than under the LPL options (21 minutes). We also acknowledge the point that it is necessary to take into account time spent reading written communications, and have considered this in our assessment.
- A8.303 Further responses were received on the amount of time taken to complete a switch once an order has been placed under the GPL TPV option. This criticism was also made in the case of the Enhanced GPL NoT option, and since the GPL TPV process would involve the same timescales to complete a switch as Enhanced GPL NoT our counterarguments presented in Section 4 and paragraph A8.142 also applies here.
- A8.304 CRA (on behalf of BT, Sky and Virgin Media), along with others anticipated that many consumers would call their LP under the GPL TPV option. However, for the reasons explained in Section 4 and paragraph A8.144 we disagree with this analysis.
- A8.305 Taking this analysis into account we continue to consider that the GPL TPV option would largely address our concerns about the consumer experience of switching.

Lack of awareness of the implications of switching

- A8.306 In the 2012 Consultation we found that GPL TPV would partly address the problem of lack of awareness of the implications of switching as a result of requiring the LP to provide specific ETC information and more detailed information on the implications of switching.
- A8.307 BT, Sky and Virgin Media pointed to their research showing the value that consumers place on understanding the implications of switching before doing so. Telefonica had similar concerns and KCOM argued that GPL TPV would fail to address this issue. However, Talk Talk argued that awareness of the implications of switching could be improved under GPL TPV through setting a limited number of ETC price points. It also argued that it would be sufficient for consumers to have an indication of the level of ETC rather than a precise amount in order to inform their decision to switch.
- A8.308 As explained as part of our analysis of the Enhanced GPL NoT option above (paragraphs A8.147 to A8.151), stakeholder views on the ability of the GPL options to address the problem of lack of awareness of the implications of switching varied.
- A8.309 However, as explained in the context of the other harmonised GPL options we have re-evaluated the evidence on lack of awareness of the implications of switching. As we set out in Section 4, the current NoT letter appears relatively effective in prompting consumers to find out about the implications of switching. The GPL TPV option would improve on this by ensuring that specific information on ETCs be provided by LPs, and consequently we consider that GPL TPV would largely address our concerns about lack of awareness of the implications of switching.

Insufficient customer consent

- A8.310 In the 2012 Consultation we explained our view that GPL TPV would largely deal with the problem of slamming as a result of the use of the TPV mechanism.

- A8.311 The GPL TPV option requires the consumer to confirm with the TPV agent that they consent to switching the services specified. The TxC will only be issued once the customer's consent has been obtained. The GPL TPV model also seeks to address misrepresentation as the TPV agent is able to confirm the identity of the CP who is requesting consent validation and check with the consumer that this is the CP they expect to switch to.
- A8.312 In their responses Talk Talk, Citizens Advice, CMA, Gemserv, Ombudsmen Services and the Consumer Panel suggested that TPV was required for stronger upfront protection, but others expressed doubts as to the ability of TPV to reduce slamming. Telefonica argued that it 'does not support upfront validation of the customer's intent to switch', and similar arguments were made by Virgin Media, Universal Utilities and CFC. BT and KCOM also raised particular concerns about rogue CPs, as noted in the context of GPL USN above.
- A8.313 On this point of customer authentication we note that we had not identified this as one of the key problems with the existing switching processes. We do not have any evidence of this being a prevalent issue, and note that any switches made in this way would be fraudulent and potentially subject to criminal law.
- A8.314 The issue of 'change of mind not actioned' under the GPL TPV option would be reduced using the same Customer Cancel solution as discussed under GPL TxC. We consider that this process is effective at ensuring that the customer is not transferred without consent as they have the ability to cancel the service themselves.
- A8.315 We therefore continue to consider that the GPL TPV option would be effective in dealing with the problem of slamming.

ETs

- A8.316 In the 2012 Consultation we considered that GPL TPV would largely address the problem of ETs. We found that the use of the hub and database to identify the correct service, and the TxC to 'tag' the correct asset, would address current and future sources of ETs.
- A8.317 Our description of the performance of GPL TPV against ETs is essentially unchanged. As explained in paragraphs A8.208 and A8.216 in the context of GPL TxC, a number of stakeholders raised concerns about whether the hub, database and TxC would reduce switching ETs to the extent we claimed. For the reasons explained in paragraph A8.217 we do not agree with this reasoning.
- A8.318 As also explained in the context of the GPL TxC option, having a central database with a comprehensive set of information would allow CPs to more accurately identify the service to be switched, addressing switching and WLT ETs. Use of best practice and WLT notifications would also aid in addressing the problem of WLT ETs. Moreover, this database could be extended to address future ETs for the reasons explained in the context of GPL TxC. Consequently we consider that all sources of ETs would be dealt with by GPL TPV, and that it would largely address this problem.

Loss of service

- A8.319 In the 2012 Consultation we argued that the TxC system would allow GPL TPV to effectively deal with the problem of loss of service. For the same reasons as those

explained in the case of GPL TxC in paragraphs A8.226 and A8.227 above, we maintain this view.

Lack of platform neutrality

- A8.320 Our assessment in the 2012 Consultation was that GPL TPV would largely address the problem of a lack of platform neutrality seen at present. It would involve a single switching process which would work over any underlying wholesale service or network technology, and a system which could be extended to accommodate future technologies and other infrastructures. It could provide a similar experience of switching across different types of switches, depending on the engineering work required in the switching process.
- A8.321 Few stakeholders commented directly on this conclusion, but amongst those that did there was general agreement and our description of the performance of GPL TPV against this problem is unchanged.

Reactive save

- A8.322 Reactive save would be banned under the GPL TPV option, and in the 2012 Consultation this was a key reason why GPL TPV was our preferred option.
- A8.323 As explained in the context of Enhanced GPL NoT (unharmonised) option above (see paragraphs A8.182 to A8.184 above), we received a large number of detailed responses on this subject. We respond to the stakeholder comments on reactive save extensively in Section 6, including responses to the report submitted by CRA (on behalf of BT, Sky and Virgin Media) on the subject of reactive save.
- A8.324 We have considered stakeholder responses on this subject, and have also conducted further research and analysis, including detailed analysis of the arguments made by CRA. In summary we remain of the view that our concerns about reactive save under the existing MAC process are legitimate. Consequently our concerns about reactive save would be addressed under the GPL TPV option.

Costs

- A8.325 In the 2012 Consultation we explained that based on the CSMG estimates the costs of the GPL TPV option as an annuitised NPC were £11.4m, or £98m as a 10 year NPC.⁴⁴³
- A8.326 In stakeholder responses the perceived high cost of the GPL TPV option was a common view, and concerns about the cost of GPL TPV were raised by all CPs except [3<] and Three UK, as well as by the FCS. Even TalkTalk, which supported GPL TPV as its preferred option, had concerns about the level of cost it might entail.
- A8.327 As noted in paragraph A8.236 above, PwC (on behalf of BT, Sky and Virgin Media) estimated that the costs of GPL TPV were 42% higher than those calculated by CSMG. It calculated a cost of GPL TPV of £139m as a 10 year NPC. Magrathea Telecom and Zen also argued that they thought the costs of GPL TPV had been understated by CSMG. However, SSE argued that verification could be achieved at lower cost. In the light of the new evidence on the reduced prevalence of slamming we did not ask CSMG to revise its estimates of the costs of the GPL TPV option.

⁴⁴³ See Figure 37 of the 2012 Consultation and the accompanying CSMG report.

However, we have considered stakeholders views and asked CSMG to ensure that these are reflected as appropriate in the context of the other options for which they were updating costs.

Other considerations

- A8.328 As a GPL option involving the hub and database and the use of the TxC system, the stakeholder responses explained in paragraphs A8.237 to A8.251 are equally applicable here, and we have taken them into account in our consideration of this option.
- A8.329 Some stakeholders noted that a GPL TPV system had been implemented in Ireland. C&W, Zen, Entanet, and BT drew on this experience to highlight problems that had been encountered with the system there.
- A8.330 CRA highlighted the risk of failed TPV calls, which it argued may cause greater costs and 'hassle' to consumers. We recognise that there is some risk of this, but as noted above we have not asked CSMG to update the costs of the GPL TPV option.

Conclusion on GPL TPV

- A8.331 On the basis of the analysis presented above, our description of the performance of the GPL TPV option against the problems is broadly unchanged from that in the 2012 Consultation.
- A8.332 However, as we discuss in our decision in Section 8, we have re-evaluated the proportionality of GPL TPV against the other options in the light of the new evidence on the prevalence of slamming, along with changes to the specifications of the other options and analysis of the extent to which they might address the problems. Specifically, since we now consider that GPL options other than GPL TPV could largely address the problem of slamming, this has implications for its proportionality given that it had the highest costs of any option in the 2012 Consultation. We also note that the GPL TPV option faces very similar implementation issues to those discussed above in relation to GPL TxC.

Table A8.8: Summary of the extent to which Option 2d addresses identified problems

	Multiple switching processes	Consumer difficulty	Implications of switching	Customer consent	ETs	Loss of service	Platform neutrality	Reactive save activity
Option 2b – GPL TPV	Largely	Largely	Largely	Largely	Largely	Largely	Largely	Largely

Option 3(a): LPL TxC and 3(b): LPL ALT

- A8.333 In the 2012 Consultation we identified two harmonised LPL options (LPL TxC and LPL ALT). Given the similarities between these options we assessed them together, highlighting where their performance against the problems would differ.
- A8.334 As explained in Annex 8, the main difference between these two options is that LPL TxC attempts to restrict reactive save activity whereas LPL ALT allows reactive save activity if the consumer chooses to hear an offer. On the basis that LPL TxC

attempts to prevent reactive save we prefer this option to LPL ALT and consider it here (however, the analysis also largely applies to the LPL ALT).⁴⁴⁴

A8.335 In their consultation responses LPL ALT was the favoured option of the four operators that had jointly proposed it at SWG, namely BT, Sky, Virgin Media and ZEN, as well as being the preferred option of Telefonica and KCOM. EE, Entanet, Magrathea Telecom and [X] supported LPL processes more generally, without specifying a preference between LPL ALT and LPL TxC.

Multiple switching processes

A8.336 In the 2012 Consultation we explained that as a harmonised switching process, LPL ALT and LPL TxC would address the issue of multiple processes.

A8.337 Like the harmonised GPL processes, moving to a single switching option would resolve the issues associated with multiple processes. Therefore under these processes issues around lack of clarity, cost of switching bundles, advising on the correct process (now and in the future), inefficient industry costs and competitive neutrality would be addressed by having a single switching process that applies to all switches.

Consumer difficulty and unnecessary switching costs

A8.338 In the 2012 Consultation we explained our view that the LPL options would only partly address the present issues with the consumer experience of switching. Although these options include a number of enhancements designed to make the process easier for the consumer, we found that the need to request a code from the LP could lead to frustration of the process, even with the provision of a dedicated line.

A8.339 We added that the switch would involve two points of contact and additional time compared to other options, and may not be suited to retail environments or where multiple services are switched. Finally we noted that abuse of the Cancel Other process would not be a concern under the LPL options because this is not a feature of these options.

A8.340 In their responses, stakeholder views on this analysis varied. [X], Universal Utilities and Three UK agreed with us, but Entanet, EE, [X], BT, Sky, Virgin Media and Telefonica disagreed. Many of these respondents focussed on comparing the LPL options to GPL TPV. Entanet and Telefonica argued that since the LPL options would use a dedicated line or IVR option they would avoid any difficulty for consumers in obtaining their TxC.

A8.341 On the number of touch points involved in the LPL options, some stakeholders (BT, EE) built on their arguments in the context of GPL TPV to argue that LPL does not involve an additional touch point compared to GPL TPV. BT also argued that discussion with the LP is beneficial and leads to consumers being better informed, and pointed to research evidence that consumers preferred the LPL options to GPL TPV.

⁴⁴⁴ Note that CSMG has also estimated the costs of an Enhanced LPL MAC (harmonised) option. However, we consider that this suffers from a number of problems with the existing switching processes, and in addition much of our analysis of the LPL TxC and LPL ALT options can also be applied to it. As a result we do not consider this further.

- A8.342 A number of the stakeholders argued that switches could be completed more quickly under the LPL options than under the GPL options. In particular, BT, Sky and Virgin Media backed up this argument with research evidence that consumers value fast switches. These respondents also drew on our evidence that the majority of consumers call their LP under a GPL switching process to argue that this time should be included in our analysis of the customer experience of switching under LPL compared to GPL.
- A8.343 Reassessing the performance of the LPL options against the problem of the consumer experience, we consider that as set out in Section 6, the use of an IVR may help avoid the potential for the LP to frustrate the process and to engage in reactive save activity, but it may be difficult to ensure that CPs follow these rules.
- A8.344 In addition we maintain that LPL processes require more touch points than GPL processes, and that although the LP is best placed to inform consumers of the implications of switching, it does not do so from a neutral position and hence this may limit the benefit to consumers (as explained in Section 4).
- A8.345 We have reviewed the Ipsos MORI survey evidence commissioned by BT, Sky and Virgin Media and cited in support of an LPL switching process instead of the GPL TPV option and have a number of concerns about its design and consequent doubt about the validity of its results. In particular:
- the online nature of the survey means the fixed line switcher sample is skewed towards those with internet access;
 - the survey data is not representative of the GB population and as such findings reported amongst the total sample are skewed towards the views of those switchers included;
 - the definition of broadband customers is unclear, the study may include mobile broadband switchers;
 - we consider some of the questions to be too long and complex for inclusion on an online survey; and
 - in seeking information on attitudes towards LPL and GPL TPV processes we consider that the methodology is not appropriate. It does not allow consumers to fully consider each option. Furthermore, the question phrasing has the potential to skew results.⁴⁴⁵
- A8.346 As a result we do not consider this to be persuasive evidence in support of the consumer experience under the LPL options.
- A8.347 On the subject of the speed of switches, we maintain our argument about the time taken to arrange a switch, based on information from CSMG. Turning to the time taken to complete a switch we note that, as explained in Section 5, it is not clear that the LPL process would in fact result in switches being completed more quickly, and that in any case we view the time taken to switch under the GPL options as an essential consumer protection mechanism.

⁴⁴⁵ One question highlights the need for 'personal data to be stored on a database' under the TPV option. Without a full a proper explanation of why and how the data would be used/treated the mention of 'personal data' is likely to skew results away from this option as this is a known area of concern for consumers.

- A8.348 Overall on consumer difficulty under the LPL options we consider that they still involve multiple touch points and that scope for the LP to frustrate the process and engage in unwanted save activity may persist. We also note that a further source of difficulty for consumers under the LPL options is that switchers who are moving multiple services from different CPs to a bundle would need to contact each LP to obtain a code. This would also increase the time taken to switch and the difficulty and switching costs experienced by consumers.
- A8.349 As a result we now find that the LPL options would fail to address the problem of consumer difficulty and unnecessary switching costs.

Lack of awareness of the implications of switching

- A8.350 In the 2012 Consultation we explained our view that the nature of the LPL processes means that they are well able to address our concerns about the implications of switching under the status quo.
- A8.351 For LPL TxC and LPL ALT, the customer would be provided with information on the implication of the switch when obtaining their transfer code. This would enable the consumer to be fully informed of the switch before they place an order. However, under the LPL ALT process LPs would not be required to send this information to customers after the call. As we think that it is important customers receive this information in a durable format, the LPL ALT process performs less well in this respect.
- A8.352 We noted that the LP has a strong incentive to make the consumer aware of the implications of switching, but also warned of the risk that the LP might exaggerate the negative implications of switching in order to deter switching.
- A8.353 Stakeholder responses (Entanet, Telefonica, EE, BT) to this assessment tended to agree with our analysis. However, ESRC was concerned that we might have understated the risks of the LP misinforming consumers in order to deter switching.
- A8.354 Taking these views into consideration we maintain our view that the LPL options would largely address this problem, but note that there are also potential disadvantages to requiring contact with the LP during the switching process and concerns over the manner in which information would be presented.

Insufficient customer consent

- A8.355 As for the current LPL MAC and Enhanced LPL MAC options explained above, protection of consumers against slamming was a key area of strength for LPL in the 2012 Consultation.
- A8.356 Under the LPL options the process follows a similar approach to that of the LPL MAC process as switching can only take place where the consumer has provided the GP with a code supplied by the LP.
- A8.357 There was general agreement in stakeholder responses that the LPL options would provide strong upfront protection against slamming (see the responses of Virgin Media, EE, KCOM, Entanet, Telefonica, [3], BT and Magrathea Telecom).
- A8.358 Under the LPL options CPs and consumers do not have to rely on a cancellation process. A safety net feature is not required as switches will only take place with the

express consent of the consumer. As a result we still consider that the LPL options would largely address the problems of insufficient customer consent.

ETs

A8.359 In the 2012 Consultation we explained our view that the LPL options would only partly address the problem of ETs, and in particular would be unable to address the issue of homemove ETs.

Switching ETs

A8.360 Under LPL options the asset identification is carried out by the LP who is able to accurately verify their customer as they hold a range of personal data including name, address and account number. Once identified the LP is able to 'tag' the asset to be switched through the TxC process.

A8.361 As a result our view is that the LPL options would effectively deal with the problem of switching ETs.

WLT ETs

A8.362 In the 2012 Consultation, we explained that the LPL options would require the cooperation of the incumbent end user, and that since that person would lack any incentive to help we did not consider this would be an effective solution to the problem of WLT ETs.

A8.363 Universal Utilities, TalkTalk and [§<] agreed with this analysis, but Entanet, SSE, Sky, Telefonica, BT and Virgin Media disagreed with us. CRA argued that the LPL options could address WLT ETs to the same extent as the GPL TxC and GPL TPV options. However we do not consider that a process which requires input from the incumbent end user before it can proceed would work reliably in practice.

A8.364 Therefore our proposed approach for WLTs under the LPL options, as set out in Annex 7, allows the inbound end user to request a transfer without input from the incumbent end user. This is the same process as in the 2012 Consultation. However, this would not work as well under the LPL options as there is no up to date database of address information, so we continue to consider that these options would not address WLT ETs.

A8.365 Since orders would be placed on the basis of address information alone, there is a high risk of a wrong line being identified. However, it would be possible to include two improvements which have been added to the Enhanced GPL NoT specification (but are not currently included in the LPL specifications): requiring WLT orders only placed for exact matches and requiring the LP to notify the customer that their line has been targeted so that consumers are made aware of the potential transfer. Where the wrong line has been identified, this notification would give the consumer the opportunity to cancel the transfer before it takes place.

A8.366 Even if these improvements were to be included in the LPL TxC and LPL ALT models, we consider that this would only partly resolve the problem of WLT ETs. Whilst consumers would be informed where the wrong line has been targeted and are given the opportunity to cancel the transfer, we note that this option would not improve the quality of the address data to identify the line and is likely to mean a greater reliance on C&R in order to mitigate the risk of ETs. Further, as there is no

central database, it is difficult to enforce against the requirement that WLT orders should only be placed where there is an exact match.

Future ETs

A8.367 As the LP would be responsible for issuing the code which identifies the asset to be switched, it is well placed to identify the correct asset which is being targeted by a switching request. Therefore this process could easily be extended to other networks and services and we consider that future ETs would be addressed by the LPL options.

Summary

A8.368 Based on the above we remain of the view that the LPL options would fail to adequately address WLT ETs. Overall we continue to consider that the LPL options would only partly address the problem of ETs.

Loss of service

A8.369 In the 2012 Consultation we explained that the LPL options would largely deal with the problem of loss of service, for both bundles and underlying wholesale services, as a result of employing the TxC mechanism and harmonisation.

A8.370 This analysis did not attract specific comments in stakeholder responses, and for the same reasons as those explained in the case of GPL TxC in paragraphs A8.226 and A8.227 above, we maintain this view.

Lack of platform neutrality

A8.371 Our analysis in the 2012 Consultation found that the LPL options would address the problem of a lack of platform neutrality seen under the current switching processes. We explained that the LPL options would involve a single switching process which would work over any underlying wholesale service or network technology, and that it could be expended to accommodate future technologies. It could provide a similar experience of switching across different types of switches, depending on the engineering work required in the switching process.

A8.372 Again, this conclusion did not attract detailed comment in the stakeholder responses, and we maintain our view.

Reactive save

A8.373 In the 2012 Consultation we found that the LPL ALT option would not deal with the problem of reactive save, and that the LPL TxC option would only partly address our concerns.

A8.374 As explained in the context of Enhanced GPL NoT above (see paragraphs A8.182 to A8.184 above), we received a large number of detailed responses on the subject of reactive save, most notably the CRA report submitted on behalf of BT, Sky and Virgin Media. This response and a number of the others focussed in particular on our conclusion on reactive save under LPL because it was a key disadvantage of the LPL options in our 2012 Consultation.

- A8.375 CRA argued that the same assessment should be made for options that allow and ban reactive save as it explains that reactive save may be detrimental to consumer welfare. We address this issue in Section 6 and disagree with CRA's conclusion.
- A8.376 EE said it was unclear why LPL TxC should be found to partly address the problem of reactive save while GPL TPV could largely address it given that 'contact with the LP is likely to occur under either approach'.⁴⁴⁶ As explained in Section 6, we distinguish between reactive save and save activity resulting from the consumer voluntarily (and unnecessarily from the point of view of the switching process) contacting their LP, and hence reject this argument.
- A8.377 In contrast, SSE proposed that LPL TxC should be assessed as not dealing with the problem of reactive save, because any LPL option 'allows the LP an unfair opportunity to frustrate the switching process'.⁴⁴⁷ While we consider this argument to be correct we note that we take it into account in our assessment of the consumer experience of switching above.
- A8.378 As explained in the context of GPL TPV above, we remain of the view that our concerns about reactive save under the existing MAC process are legitimate, and maintain our conclusion on the LPL ALT option from the 2012 Consultation. However, we have reconsidered the performance of the LPL TxC option, as explained below.
- A8.379 In the 2012 Consultation we found that LPL TxC would partly address the problem of reactive save because the TxC would be provided on a dedicated recorded line and save offers would not be allowed. Although we found that this would mitigate our concerns about reactive save, we remained concerned that the LP has an incentive to retain its customers and that it would be difficult to monitor and enforce against CPs not complying with this obligation. Specifically we found it unlikely that consumers who were saved would complain to Ofcom, or that GPs could identify customers saved in this way.
- A8.380 Having reflected on our analysis and the responses to the 2012 Consultation we now consider that although reactive save would be banned under LPL TxC, we have concerns about whether this could be effective. We note that as explained in Section 6, the majority of comments received on this subject from respondents agreed with our view. As a result we now consider that the LPL TxC option would fail to address this problem, matching our description of the LPL ALT option.

Costs

- A8.381 In the 2012 Consultation we explained that based on the CSMG estimates the costs of the LPL options as an annuitised NPC were £7.6m to £7.7m, or £65m as a 10 year NPC.⁴⁴⁸
- A8.382 Since the 2012 Consultation CSMG has reviewed its estimate of the costs of the LPL options. In doing so it has taken into account the submission of PwC on the costs of the GPL TPV option. This has led to an increase in the costs of the LPL options at £75m. We note that much of this cost is caused by what CSMG terms the

⁴⁴⁶ EE Response to the 2012 Consultation, page 10.

⁴⁴⁷ SSE Response to the 2012 Consultation, Q37.

⁴⁴⁸ See Figure 37 of the 2012 Consultation and the accompanying CSMG report. We explained in the 2012 Consultation that we expected the costs of the LPL TxC and LPL ALT options to be similar (paragraph 7.136). This remains our view.

'LPL harmonisation effect', meaning costs that arise as a result of harmonising to an LPL option when the majority of existing switches use a GPL process (see Section 3).

Other

A8.383 Stakeholders made a number of additional points in relation to our position on the LPL options. BT, EE and Sky argued that it could be implemented quickly compared to some other options, and EE made the related point that the LPL options had the advantage of not requiring a governance process to be developed. However, we note that, in the context of the absence of an industry consensus on the appropriate way forward, implementation of LPL options would be reliant to a certain extent on industry cooperation.

A8.384 BT argued that the LPL TxC option could be used as an interim step to another option using the TxC system. However, as we note in paragraph A8.382 above, since the majority of switches at present use the GPL NoT process, this would represent a significant and costly change which we do not consider to be incremental to the status quo.

Conclusions on LPL options

A8.385 In the 2012 Consultation we recognised a number of strengths of the LPL options. They are harmonised options which would address our concerns about loss of service and platform neutrality. These options would also provide strong upfront validation of a customer's intention to switch, so would address the problem of slamming (although it is less prevalent than previously thought).

A8.386 While the LPL options also have clear benefits in terms of ensuring that the implications of switching are well understood, we continue to consider that the nature of LPL processes is also a disadvantage as a result of the ability of the LP to frustrate the process and damage the customer experience, as well as providing an opportunity for reactive save. We also continue to have concerns about the ability of the LPL options to address the problem of ETs in the WLT process.

Table A8.9: Summary of the extent to which Options 3a and 3b addresses identified problems

	Multiple switching processes	Consumer difficulty	Implications of switching	Customer consent	ETs	Loss of service	Platform neutrality	Reactive save activity
Option 3a – LPL TxC	Largely	Does not - multiple touch points, frustration and bundle issues	Largely	Largely	Partly – issue of WLT ETs remains	Largely	Largely	Does not, ban would not be effective
Option 3b – LPL ALT	Largely	Does not - multiple touch points, frustration and bundle issues	Largely	Largely	Partly - issue of WLT ETs remains	Largely	Largely	Does not

Annex 9

CSMG Report 1– Switching Options: Assessment of Stakeholder Responses to Costs

- A9.1 Please see the PDF document published alongside this document entitled Switching Options: Assessment of Stakeholder Responses to Costs, Draft report. This is available on the landing page of the review via the following link:

http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/annexes/Annex_9.pdf

Annex 10

CSMG Report 2– Switching Models: An Updated Cost Assessment of Options

A10.1 Please see the PDF document published alongside this document entitled Switching Models: An Updated Cost Assessment of Options, Final report. This is available on the landing page of the review via the following link:

<http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/annexes/annex10.pdf>

Annex 11

Proposed modifications to the General Conditions of Entitlement

A11.1 In order to give effect to our proposals set out in this document, Ofcom proposes to modify GC 22 and revoke GC 24 of the General Conditions of Entitlement. The first part of this Annex gives an overview of the proposed modifications. The second part of this Annex contains a notification of our proposals under section 48A CA03, including the draft modifications to the GCs.

General

A11.2 GC 24, as in force, applies where a Customer is transferring a Fixed-Line Telecommunications Service between Communications Providers and sets out a number of provisions which apply to the GPL NoT process.⁴⁴⁹ Pursuant to our policy decision to harmonise all switches on the Openreach copper network to the GPL NoT Process, we are proposing to transfer these provisions into GC 22, which will be amended to cover all matters relating to migrations of voice and broadband services. GC 24 would accordingly be revoked.

Scope

A11.3 As currently in force, GC 22 only covers broadband services, while GC 24 only covers Fixed-Line Telecommunications services (i.e. narrowband call and/or line rental services). Pursuant to our proposed modifications, GC 22 would cover both types of services (referred to in the draft GC as “*Communications Services*”). As a part of harmonisation, the obligations set out in current GC 24 would therefore be extended to migrations of broadband services currently subject to GC 22.

A11.4 The high-level requirements in current GC 22.2 would continue to apply to broadband services. Some specific obligations would also be imposed with respect to bundles of Communications Services.

Subject matter

Migrations

A11.5 On the basis of our proposed modifications, all requirements regarding Migrations, from selling and marketing to the provision of post-sales information and the termination or cancellation of a transfer, will be set out in GC 22.

A11.6 Our proposed definition of “Migrations” would replicate the existing definition in GC 22.3(b), extending it to all Communications Services. It would include the following types of processes:

- the Communications Provider transfers from one Communications Service to another Communications Service;

⁴⁴⁹ We use the term GPL NoT to refer to the switching process used for migrations between CPs that are currently covered under the existing GC 24. We note that GC 24 also covers situations when the consumer is moving home and switching CP at the same time.

- an End-User transfers from one Communications Service to another Communications Service;
- an End-User or Customer transfers from Communications Services supplied by one Communications Provider to Communications Services supplied by another Communications Provider (referred to in our proposed modifications as “*Communications Provider Migrations*”); and
- an End-User or Customer transfers from Communications Services supplied by a Communications Provider at one location to Communications Services supplied by the same Communications Provider at a different location.

A11.7 Although GC 22 as a whole would deal with all types of Migrations, distinct requirements would apply to different specified categories of Migrations (see paragraph A11.17 below).

Working Line Takeovers

A11.8 The existing requirements in GC 22 and 24, as in force, do not apply to home-moves that do not involve a switch of the CP of the consumer moving into the property (the “*Inbound Customer or End-User*”).

A11.9 Pursuant to our proposed modifications, GC 22 would contain specific obligations on Communications Providers regarding WLTs (whether they involve a switch of CP by the Inbound Customer or not). A WLT would be defined as a process by which a Communications Provider takes over a WLR or MPF line in order to provide Communications Services to the Inbound Customer or End-User, where that line is being used by that same or a different Communications Provider to supply Communications Services to the Customer moving out of that property (“*Incumbent End-User*”). The Communications Provider from which the Inbound Customer or End-User has requested to acquire the Communications Services would be referred to as the “*Gaining Provider*”, while the Communications Provider that is providing Communications Services to the Incumbent End-User would be referred to as the “*Incumbent Communications Provider*”.

Definitions

A11.10 Pursuant to our proposed modifications, GC 22.25 would set out the definitions of the terms used throughout the Condition and its Annexes.

A11.11 We are proposing to introduce a definition of “*Communications Services*” as including both Broadband and Fixed-line Telecommunications services. We are also proposing to introduce an updated definition of “*Broadband Services*”, explicitly including FTTC services. The term “*Communications Provider*” would be defined as a person providing Communications Services.

A11.12 Our proposals maintain the current definitions of “*Customer*” and “*End-User*” in the existing GC 22.3 (h) and (k) with some minor modifications. Similarly, the definition of “*Slamming*” would also broadly remain unchanged (see current GC 24.19 (m)) with some minor modifications aimed at extending the scope of the provision to Broadband Services and providing further clarity. The definition of a “*Durable Medium*” in current GC 24.19 (f) would remain unchanged but SMS would be explicitly excluded from its scope.

- A11.13 We are proposing to leave the definitions of “*Cable Network*”, “*CPS*”, “*Fixed-line telecommunications services*”, “*MAC*”, “*Narrowband*”, “*Transfer Order*” and “*Working Day*” as set out in GCs 22.3 and 24.19 unchanged. We are only proposing minor modifications in the current definition of the term “*Cancel Other*”, “*DSL*”, “*Failure to Cancel*” and “*WLR*”.
- A11.14 We are proposing to modify the current definition of “*Migration Date*” in GC 22.3 (p) so as to include home-moves.
- A11.15 We are proposing to introduce definitions of the words/terms “*Notification of Transfer*”, “*Access Network*”, “*Address*”, “*BT*”, “*Calling Line Identification*”, “*Early Termination Charge*”, “*Effective Date*”, “*FTTC*”, “*Home-Move Request*”, “*Openreach*”, “*MDF*”, “*MPF*”, “*SMPF*” and “*SMS*”. We are also proposing to define the term “*Target Line*” as the working WLR, MPF or SMPF line to which a Customer request for a Service Migration, or a Home-Move Request refers. In addition, we propose to define “*Target Address*” as the address where the Target Line is situated.
- A11.16 We are also proposing to introduce definitions of the terms “*Working Line Takeover*”, “*Incumbent End-User*”, “*Inbound End-User or Customer*”, “*Incumbent Communications Provider*”, “*Migration*”, “*Losing Provider*”, “*Gaining Provider*”, “*Transfer Order*” and “*Working Line Takeover Order*”, as set out in the remaining paragraphs of this part.

Obligations applying to Migrations and Home-moves

A11.17 Our proposed amendments in GCs 22.1 to 22.19 set out the obligations that apply to four categories of migrations, namely:

- All types of Migrations of Broadband Services (see paragraph A11.6 above);
- Communications Provider Migrations (of Broadband and/or Fixed-line Telecommunications Services), including where this is combined with a change of location where the Communications Service is provided;
- Communications Provider Migrations of Broadband and/or Fixed-Line Telecommunications Services, without a change of location where the services are provided;
- Home-moves (whether involving a Communications Provider Migration or not).

A11.18 These four categories are not mutually exclusive; one and the same Migration might fall within the scope of more than one category at the same time, in which case the requirements for each category will apply cumulatively.

Obligations relating to Migrations of Broadband Services

A11.19 GC 22.1 would, based on our modification proposals, replicate the current requirements in GC 22.2. These requirements would apply to all types of Migrations of Broadband Services and would require both Gaining and Losing Providers to facilitate the migration (or where applicable, connection) of services in a manner that is fair and reasonable. Communications Providers would also be required to ensure that the migration (or where applicable, connection) of Communications Services is carried out within a reasonable period and with a minimal loss of service.

Obligations relating to Communications Provider Migrations

A11.20 The proposed amendments in GCs 22.2 to 22.14 set out a number of provisions that apply to all types of Communications Provider Migrations. These include:

- A prohibition on mis-selling as set out in current GC 24.3 (now extended to broadband services);
- A requirement to provide information at point of sale as set out in current GC 24.6 (now extended to broadband services);⁴⁵⁰
- The customers' termination rights as set out in current GC 24.9 – 24.10 (now extended to broadband services);
- A requirement on Gaining Providers to use all reasonable endeavours to create and keep all records regarding the sale of Communications Services as set out in current GC 24.11 (now extended to broadband services);
- Our proposed modifications in GC 22.8-22.9 would introduce an additional obligation to the above general requirement of records retention. This would require Gaining Providers to maintain, for a period of 12 months, individually retrievable records of the Customer's consent for the migration of the Communications Service. The records should include the information set out in the GC and be kept for each contract entered into with a Customer for the provision of Communications Services, even where the transfer was subsequently cancelled or terminated. This record of consent obligation is discussed in detail in Section 9;
- A requirement on the Gaining Provider, when entering into a contract for the provision of Communications Services with a Customer, to send that Customer a letter setting out, in clear and intelligible terms, the information listed in the GC. The information required for this letter would replicate the current requirements in GC 24.7, with some minor modifications intended to provide further clarity;
- A requirement on the Losing Provider to send the End-User a letter in accordance with the industry agreed process, setting out the information listed in the GC. Our proposed modifications in relation to this letter would replicate the existing requirements in GC 24.7 (again with some minor modifications) but would also introduce additional obligations, including an obligation to set out any applicable Early Termination Fee and the effect of the transfer on the prices of any continuing services as well as an explanation that the transfer will automatically take effect (and no contact is required with the Losing Provider). Losing Providers would be required to set out this information in clear, intelligible and neutral terms. The obligations additional to those already contained in GC 24.7 are discussed in detail in Section 9;
- Our proposed modifications would also impose a requirement on Gaining Providers that elect to co-ordinate on behalf of Customers, a transfer to Broadband and Fixed-Line Telecommunications Services provided by them over the same line. In these cases, Gaining Providers would be required to submit to Openreach an order for the simultaneous transfer with minimal loss of service of both Communications Services; and

⁴⁵⁰ Ofcom has proposed some modifications to this requirement:
<http://stakeholders.ofcom.org.uk/consultations/simplifying-non-geo-no/>

- A prohibition on reactive save currently set out in GC 24.18 (now extended to broadband services).

Obligations relating to Communications Provider Migrations without change of location

A11.21 Our proposed modifications in GCs 22.15 to 22.18 would require Communications Providers to comply with the requirements set out at Annex 1, in each instance where a Gaining Provider elects to co-ordinate a transfer on behalf of a Customer. These requirements would include:

- an obligation to ensure that a Transfer Order is placed on Openreach, i.e. an order, requesting for the Target Line to be transferred from the Losing Provider to the Gaining Provider; and
- the requirements set out in current GC 24.14 to 24.18, regarding the use of “Cancel Other” (now extended to broadband).⁴⁵¹

A11.22 Pursuant to our proposed modifications, current GCs 22.1 and 22.3 as well as Annex 1 to GC 22 would be revoked. Losing Providers would therefore be prohibited from requiring, in order for a migration to be put into effect, any contact to be made with them by the End-User, including for the purposes of providing him or her with any information (such as a MAC).

Obligations relating to Working Line Takeovers

A11.23 Pursuant to our proposed modifications in GC 22.17, where a Gaining Provider elects to carry out a WLT, Communications Providers shall comply with a number of obligations, as set out at Annex 2. These obligations would include:

- a requirement upon Gaining Providers who elect to carry out a WLT to ensure that an order requesting the Working Line Takeover of the Target Line is placed on Openreach;
- before placing a Working Line Takeover Order, the Gaining Provider shall take all reasonable steps to validate the details of the Target Line, having regard to industry best practice. A Gaining Provider may only place an order if it has identified an exact match for the Target Line; and
- the Incumbent Communications Provider would be required to send the Incumbent End User a notification letter containing the information listed in the GC.

General Provisions

A11.24 On the basis of our proposed modifications in GCs 22.20 to 22.23, Communications Providers would have an obligation to ensure that their representatives and agents comply with the requirements of GC 22 and are appropriately trained to do so. Communications Providers would also be required to monitor compliance with the GC and take appropriate steps to prevent the recurrence of any problems identified.

⁴⁵¹ For the avoidance of doubt, this provision would refer to the use of Cancel Other in the context of Communications Provider Migrations and would not prevent, require, or impose any restrictions on the use of Cancel Other in the context of WLTs.

These requirements currently only apply with respect to the sales and marketing of Fixed-line Telecommunications Services (see current GCs 24.4, 24.12 and 24.13).

- A11.25 Our proposed amendments would also transfer to GC 22 the publication requirements set out in the existing GC 24.5 (as amended).
- A11.26 Our proposed amendments would take effect from (and including) the date specified in the GC (as amended).

Drafting modifications

- A11.27 In addition to the modifications set out above, Ofcom is proposing a number of minor drafting modifications to the wording of the existing provisions in GCs 22 and 24, to the extent that these would be maintained in GC 22 as amended.

Notification of proposed modifications to the General Conditions under section 48A(3) of the Act

Proposal to modify General Conditions 22 and 24

1. Ofcom proposes to modify General Condition 22 and revoke General Condition 24 of the General Conditions of Entitlement. The draft modifications are set out in Schedules 1 to 3 of this Notification.
2. Ofcom's reasons for making these proposals, and the effect of the proposed modifications, are set out in the accompanying document.
3. Ofcom considers that the proposals comply with the requirements of sections 45 to 49C of the Act, insofar as they are applicable. Ofcom considers that the proposals are not of EU significance pursuant to section 150A(2) of the Act.
4. In making these proposals, Ofcom has considered and acted in accordance with its general duties under section 3 of the Act, the six Community requirements set out in section 4 of the Act and its duty to take account of European Commission recommendations for harmonisation under section 4A of the Act.
5. Any representations about the proposals should be made to Ofcom by **5pm on 4th October 2013**.
6. If implemented, the modifications shall enter into force on a date to be specified in Ofcom's final statement in relation to these proposals.
7. A copy of this Notification is being sent to the Secretary of State.
8. In this Notification:
 - a. "the Act" means the Communications Act 2003;
 - b. "General Conditions of Entitlement" means the general conditions set under section 45 of the Act by the Director General of Telecommunications on 22 July 2003, as amended from time to time;
 - c. "Ofcom" means the Office of Communications.
9. Words or expressions shall have the meaning assigned to them in this Notification, and otherwise any word or expression shall have the same meaning as it has in the Act.
10. For the purposes of interpreting this Notification: (i) headings and titles shall be disregarded; and (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
11. The Schedules to this Notification shall form part of this Notification.

A handwritten signature in black ink, appearing to read 'C Taylor'. The 'C' is a simple loop, and 'Taylor' is written in a cursive style with a large 'T' and a long horizontal stroke at the end.

Chris Taylor

8 August 2013

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002.

SCHEDULE 1

The following text sets out our proposed modifications to GC 22.

22. SERVICE MIGRATIONS AND HOME-MOVES⁴⁵²

Migrations of Broadband Services

- 22.1 Communications Providers shall:
- (a) facilitate the migration (or where applicable, connection) of the Broadband Service in a manner that is fair and reasonable;
 - (b) ensure that the migration (or where applicable, connection) of the Broadband Service is carried out within a reasonable period; and
 - (c) ensure that the migration (or where applicable, connection) of the Broadband Service is carried out with minimal loss of the Broadband Service.

Communications Provider Migrations

- 22.2 Communications Providers shall in relation to Communications Provider Migrations comply with Conditions 22.3 to 22.14.

Mis-selling Prohibition

- 22.3 When selling or marketing Communications Services, the Gaining Provider must not:
- (a) engage in dishonest, misleading or deceptive conduct;
 - (b) engage in aggressive conduct;
 - (c) contact the Customer in an inappropriate manner; or
 - (d) engage in Slamming.

Information at point of sale

- 22.4 The Gaining Provider must take all reasonable steps to ensure that before entering into a contract for the provision of Communications Services, the Customer who is requesting a Communications Provider Migration:
- (a) is authorised to do so;
 - (b) intends to enter into the contract; and
 - (c) is provided with the information set out below in a clear, comprehensible, prominent and accurate manner, in paper or another Durable Medium which is available or accessible to the Customer or, where the Customer enters into the contract during a sales call, by telephone:

⁴⁵²[Reference to the final Statement].

- i. the identity of the legal entity the Customer is contracting with and its telephone, website and/or e-mail contact details;
- ii. a description of the Communications Service requested; the key charges, including minimum contract charges, and any early termination charges, if applicable; payment terms; the existence of any termination right, termination procedures and the Customer's right to cancel at no cost from the point of sale to the completion of the Transfer Period; the arrangements for provision of the service, including the order process and, as accurately as possible, the likely date of provision of the service and any minimum period of contract.

Customer's termination rights

- 22.5 When the Customer enters into a contract for the provision of Communications Services, the Gaining Provider must allow the Customer to terminate the contract from the point of sale to the completion of the Transfer Period without charge or any other form of compensation being required to be given by the Customer to the Gaining Provider.
- 22.6 The Gaining Provider must have procedures in place to enable the Customer to exercise their right to terminate their contract pursuant to Condition 22.5 without unreasonable effort. These procedures must include the ability to contact the Gaining Provider to terminate the contract by any of the following contact methods:
- (a) telephone
 - (b) e-mail;
 - (c) post.

Records Retention

- 22.7 The Gaining Provider must use reasonable endeavours to create and keep all records regarding the sale of its Communications Services, for a period of not less than six months. Such records must include the date and approximate time of the contact with the Customer, the means through which the Contract was entered into, the place where the contract was entered into, where relevant, and be such as to allow subsequent identification of the salesperson(s) involved and to assist in dealing with any complaint or query.

Record of consent

- 22.8 For each contract entered into with a Customer for the provision of Communications Services, the Gaining Provider must create and keep individually retrievable records of the following, for a period of not less than twelve months:
- (a) a direct record of consent, as provided by the Customer, to:

- i. migrate from the Communications Services supplied by the Losing Provider to the Communications Services supplied by the Gaining Provider; or, as relevant,
 - ii. begin acquiring Communications Services over the Target Line;
- (b) an explanation from the Communications Provider that they are required to create a record of the Customer's consent;
- (c) the name and address of the Customer;
- (d) the time, date and means by which the consent in sub-section (a) above was given;
- (e) where appropriate, the place where the consent in sub-section (a) above was given and the salesperson(s) involved;
- (f) the Target Address; and
- (g) where appropriate, the Calling Line Identification of the Target Line.

22.9 The Gaining Provider shall keep the records required in paragraph 22.8 irrespective of whether the contract for the provision of the Communications Services is cancelled or terminated.

Notification Letters

- 22.10 When a Customer enters into a contract for the provision of Communications Services, the Gaining Provider must send that Customer a letter, in paper or another Durable Medium. The letter shall set out in clear and intelligible terms:
- (a) the date of the letter;
 - (b) that the Customer is transferring their Communications Service;
 - (c) all Communications Services that will be transferred;
 - (d) where relevant, the Calling Line Identification of all Communications Services that will be transferred;
 - (e) a reasonable estimate of the Migration Date (including date and time of the day);
 - (f) the right of the Customer to terminate the contract as set out in Condition 22.5, the means by which the right to terminate can be exercised and the date by which the right to terminate must be exercised; and
 - (g) relevant contact details.

22.11 The Losing Provider must, in accordance with the industry agreed process, send the End-User a letter, in paper or another Durable Medium. The letter shall set out in clear, intelligible and neutral terms:

- (a) the date of the letter;
- (b) that the End-User is transferring their Communications Service;
- (c) all Communications Services that will be transferred;
- (d) where relevant, the Calling Line Identification of all Communications Services that will be transferred;
- (e) all Communications Services or other types of services that the Losing Provider reasonably expects to be directly or indirectly affected by the transfer;
- (f) all Communications Services that the Losing Provider reasonably expects to remain unaffected by the transfer;
- (g) a reasonable estimate of the Migration Date (including date and time of the day);
- (h) an explanation that the transfer will automatically take effect on the Migration Date and that no contact is required with the Losing Provider to cancel their existing service;
- (i) an explanation that after the transfer, the Customer will receive a final bill including any Early Termination Charge that is due;
- (j) an explanation of the applicable Early Termination Charge as set out in the contract;
- (k) the means by which the Early Termination Charge must be paid;
- (l) the amount of the Early Termination Charge due at the expected Migration Date;
- (m) where applicable, the impact of the transfer on the prices of all continuing Communications Services; and
- (n) relevant contact details.

22.12 The letters under Conditions 22.10 and 22.11 must be sent by normal post, unless the Customer has explicitly agreed to receive correspondence electronically, such as through verbal consent in a call or through electronic confirmation when ordering online.

Simultaneous transfers

- 22.13 Where a Gaining Provider elects to co-ordinate a Communications Provider Migration on behalf of a Customer who has requested to transfer to Broadband and Fixed-line Telecommunications Services provided by it over the same line, it shall submit to Openreach an order for the simultaneous transfer with minimal loss of service of both Communications Services.

Reactive save

- 22.14 Where the Losing Provider communicates with the Customer in order to comply with this Condition, it must not make any marketing statements or representations in the communication which may induce the Customer to terminate their contract with the Gaining Provider and/or remain in a contract with the Losing Provider.

Communications Provider Migrations without change of location

- 22.15 In addition to Conditions 22.1 to 22.14, each Communications Provider shall comply with the provisions of Annex 1 to this Condition in each instance where it is a Gaining Provider which elects to co-ordinate a Communications Provider Migration on behalf of a Customer.
- 22.16 Each Communications Provider shall ensure that the End-User is not required by the Losing Provider to make contact with it in order for a Communications Provider Migration falling within Condition 22.15 to be put into effect.
- 22.17 Without prejudice to the generality of paragraph 22.16, a Losing Provider shall not require, in particular, the granting of consent by it, nor the provision of any information (such as a MAC) by it to the End-User, in order for a Communications Provider Migration falling within Condition 22.15 to be put into effect.
- 22.18 Conditions 22.15 – 22.17 only apply where the Communications Provider Migration does not involve a change of the location where the Communications Services are supplied.

Home-moves

- 22.19 In addition to Conditions 22.1 to 22.14, each Communications Provider shall comply with the provisions Annex 2 to this Condition, in each instance where it is a Gaining Provider which elects to carry out a Working Line Takeover pursuant to a Home-Move Request.

General requirements

Responsibility

- 22.20 Where Communications Providers engage representatives or agents, they shall procure that such representatives or agents comply with the requirements of this Condition.

Training

- 22.21 Communications Providers must ensure that their staff or any representatives of any agency engaged by them, are appropriately trained to comply with this Condition.

Monitoring

- 22.22 Communications Providers must monitor, including conducting regular audits, their compliance with this Condition, including compliance on their behalf by any representatives or agency engaged by them, and take appropriate steps to prevent the recurrence of any problem(s) identified.

Publication of Information

- 22.23 Communications Providers must:
- (a) publish a copy of this Condition, or a link to a copy of this Condition, published on Ofcom's website, in an easily accessible and reasonably prominent manner on their website or, where there is no such website, by making it available in their registered office during normal office hours for inspection free of charge by members of the general public; and
 - (b) provide a copy of this Condition to the Customer free of charge upon reasonable request.

Effect

- 22.24 The obligations set out in this Condition shall apply from (and including) the Effective Date.

Definitions

- 22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:
- (a) **“Access Network”** means the Electronic Communications Network which runs from a Local Access Node to a network termination point on an End-User's premises and which supports the provision of copper-based access services and fibre-based access services to End-Users;
 - (b) **“Address”** means a UK postal address;
 - (c) **“BT”** means the BT Group plc;
 - (d) **“Broadband Services”** means all DSL (including FTTC) services which are capable of supporting always-on services that provide the End-User with high data transfer speeds, excluding services provided over a Cable Network;
 - (e) **“Cable Network”** means a hybrid fibre-coax Electronic Communications Network that uses a combination of optical fibres and coaxial cable;
 - (f) **“Calling Line Identification”** means a facility that enables identification of the number from which a call is being made or to which a return call could be made;

- (g) “**Cancel Other**” means the industry term for a functionality that enables the Losing Provider to cancel, during the Transfer Period, a Transfer Order placed by the Gaining Provider;
- (h) “**Communications Provider**” means a person who provides Communications Services;
- (i) “**Communications Provider Migration**” means a process by which an End-User or Customer transfers from Communications Services supplied by one Communications Provider to Communications Services provided by another Communications Provider;
- (j) “**Communications Service**” means a Broadband Service and/or a Fixed-line Telecommunications Service;
- (k) “**CPS (Carrier Pre-Selection)**” means a facility which allows a customer of a Publicly Available Telephone Service to select a provider designated in advance to apply on every occasion where no other providers have been pre-selected for the use of a telephone number;
- (l) “**Customer**” means a person who is an End-User of Communications Services provided by a different Communications Provider or a person who is seeking to become an End-User of a Communications Provider;
- (m) “**DSL (Digital Subscriber Line)**” means a family of technologies generically referred to as DSL, or xDSL, capable of transforming ordinary phone lines (also known as ‘twisted copper pairs’) into high speed digital lines;
- (n) “**Durable Medium**” means any instrument which enables the Customer or End-User to store information addressed personally to him in a way accessible for future reference, for a period of time adequate for the purposes of the information, and which allows the unchanged reproduction of the information stored, excluding SMS;
- (o) “**Early Termination Charge**” means the charge payable by the End-User for the termination of the contract before the end of the minimum contract period;
- (p) “**End-User**” means a person, other than a Communications Provider, who:
- (i) is party to a contract with the Communications Provider for the provision of Communications Services, and;
 - (ii) is not acquiring the Communications Services in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise);
- (q) “**Effective Date**” means [*date to be inserted in the final condition; X months from date on which modifications are made*];
- (r) “**Failure to Cancel**” means failure by the Gaining Provider to cancel a Transfer Order, after a request from the Customer during the Transfer Period;

- (s) **“Fixed-line Telecommunications Services”** means narrowband calls and lines services provided to an End-User or Customer that allow for the transfer of speech communications, and other forms of communications such as facsimile and data;
- (t) **“FTTC (Fibre-To-The-Cabinet)”** means an Access Network consisting of optical fibre extending from the access node to the street cabinet;
- (u) **“Gaining Provider”** means:
 - i. the Communications Provider to whom the End-User or Customer is transferring; or
 - ii. the Communications Provider to whom the Inbound Customer or End-User makes a Home-Move Request;
- (v) **“Home-Move Request”** means a request by an Inbound Customer or End-User to begin acquiring one or several Communications Services over the Target Line;
- (w) **“Inbound Customer or End-User”** means the Customer or End-User who is moving into the Target Address;
- (x) **“Incumbent Communications Provider”** means the Communications Provider who supplies Communications Services to the Incumbent End-User over the Target Line;
- (y) **“Incumbent End-User”** means the End-User who is moving out of the Target Address;
- (z) **“Losing Provider”** means the Communications Provider from whom the End-User or Customer is transferring;
- (aa) **“MAC (Migration Authorisation Code)”** means a unique code used to identify a Broadband Service that is intended to be transferred from one Communications Provider to another Communications Provider;
- (bb) **“MDF”** means the metallic distribution frame;
- (cc) **“Migration”** means one or more of the following processes by which:
 - i. the Communications Provider transfers from one Communications Service to another Communications Service;
 - ii. an End-User transfers from one Communications Service to another Communications Service;
 - iii. an End-User or Customer transfers from Communications Services supplied by one Communications Provider to Communications Services supplied by another Communications Provider (**“Communications Provider Migration”**);
 - iv. an End-User or Customer transfers from Communications Services supplied by a Communications Provider at one location to Communications Services supplied by the same Communications Provider at a different location.

- (dd) “**Migration Date**” means the date on which the transfer of the Communications Service or takeover of the Target Line will be effected, at which point the End-User’s Communications Service will commence being provided to the End-User by a different Communications Provider or at a different location;
- (ee) “**MPF (Metallic Path Facility)**” means a circuit comprising a pair of twisted metal wires between an End-User’s premises and a main distribution frame that employs electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy to convey signals when connected to an Electronic Communications Network;
- (ff) “**Narrowband**” means the services provided over a traditional Public Communications Network, excluding services provided over a Cable Network;
- (gg) “**Notification of Transfer**” means a process by which an End-User or Customer transfers from the Communications Services provided by one Communications Provider over a WLR, MPF or SMPF line to Communications Services provided by another Communications Provider over that same line;
- (hh) “**Openreach**” means the BT group business offering Communications Providers’ products and services that are linked to BT’s nationwide Access Network;
- (ii) “**Slamming**” means where a request for a CPS, WLR, SMPF and/or MPF has been made, or a Transfer Order or a Working Line Transfer Order has been placed on Openreach, without the Customer’s express knowledge and/or consent; that is in the following circumstances:
- i. where the Customer has never contacted, or has never been contacted by, the Gaining Provider;
 - ii. where the Customer has contacted, or has been contacted by, the Gaining Provider, but has not given the Gaining Provider authorisation to transfer some or all of their Communications Services;
 - iii. where the Customer has agreed to purchase a product or service from the Gaining Provider and the Gaining Provider has submitted an order for a different product or service which the Customer has not agreed to purchase; or
 - iv. where the Customer has agreed to transfer some or all of their Communications Services to the Gaining Provider having understood as a result of a deliberate attempt by the Gaining Provider to mislead, that they are making an agreement with a different Communications Provider;
- (jj) “**SMPF (Shared Metallic Path Facility)**” means access to the non-voiceband frequencies of the MPF;
- (kk) “**SMS (Short Message Service)**” means a text message delivered to the handset of an End-User or Customer who acquires Publicly Available Telephone Services, or, if SMS is superseded or withdrawn, an equivalent text communication sent directly to the handset of an End-User or Customer who acquires Publicly Available Telephone Services;

- (ll) **“Target Address”** means the address where the Target Line is situated;
- (mm) **“Target Line”** means the working WLR, MPF or SMPF line to which a Customer request for a Migration, or a Home-Move Request, refers;
- (nn) **“Transfer Order”** means an order submitted by, or on behalf of, the Gaining Provider to Openreach, or other applicable wholesaler, requesting for the Target Line to be transferred from the Losing Provider to the Gaining Provider;
- (oo) **“Transfer Period”** means a period of 10 Working Days before a Customer’s Order can be activated;
- (pp) **“WLR (Wholesale Line Rental)”** means a regulated wholesale service sold by BT, which is used by the Communications Provider to provide retail customers with exchange lines and in turn, access to other narrowband telephone services (for example, telephone calls, facsimile and dial-up);
- (qq) **“Working Day”** means the hours between 09.00 – 17.00 on Monday to Friday, with the exception of Bank Holidays;
- (rr) **“Working Line Takeover”** means a process by which a Communications Provider takes over a WLR or MPF line in order to provide Communications Services to the Inbound Customer or End User, where that line is being used by that same or a different Communications Provider to supply Communications Services to the Incumbent End-User; and
- (ss) **“Working Line Takeover Order”** means an order submitted by, or on behalf of, a Gaining Provider to Openreach, requesting for the Working Line Takeover of the Target Line.

Annex 1 to Condition 22

Notification of Transfer

A1.1 Where a Gaining Provider elects to co-ordinate a Communications Provider Migration on behalf of a Customer who has requested to transfer to a Communications Service supplied by it, that Gaining Provider shall, within a reasonable time, ensure a Transfer Order is placed.

Cancel Other

A1.2 The Losing Provider shall only be permitted to use Cancel Other in the following circumstances:

- (a) where Slamming has occurred;
- (b) at the Customer's request, where the Gaining Provider has failed to cancel the Transfer Order after being directed by the Customer to do so ("Failure to Cancel");
- (c) where the telephone line is or will be, ceased during the Transfer Period ("Line Cease");
- (d) for other specified reasons not related to a Customer's request to cancel a transfer, as agreed by the relevant industry forum and approved by Ofcom; and
- (e) in such other circumstances as defined by Ofcom.

A1.3 Before using Cancel Other in cases of Slamming and/or Failure to Cancel, the Losing Provider shall take reasonable steps to establish that Slamming and/or Failure to Cancel has actually taken place.

A1.4 After using Cancel Other, the Losing Provider shall confirm the cancellation of the order by Durable Medium to the Customer, unless this is not possible or appropriate, including where the Customer is deceased.

A1.5 The Losing Provider shall record its reasons for using Cancel Other in each case, selecting the appropriate reason code from a list corresponding to permitted use of Cancel Other and consistent with Condition 22.25 (ii)(i) to (iv), as agreed by the industry and approved by Ofcom.

Annex 2 to Condition 22

Working Line Takeovers

A2.1 Where a Gaining Provider elects to carry out a Working Line Takeover pursuant to a Home-Move Request that Gaining Provider shall ensure a Working Line Takeover Order is placed.

Asset identification

A2.2 Before a Working Line Takeover Order is placed, a Gaining Provider shall take reasonable steps, having regard to industry best practice, to identify the Target Line.

A2.3 A Gaining Provider may only place a Working Line Takeover Order if it has identified an exact match for the Target Line.

Notification Letter

A2.4 After being notified of the Working Line Takeover Order, the Incumbent Communications Provider shall send the Incumbent End-User a letter, in accordance with the industry agreed process, in paper or another Durable Medium, which clearly sets out:

- i. the date of the letter;
- ii. a notification that a third person has indicated that they are moving to the Target Address and want to take over the Target Line;
- iii. all Communications Services directly affected by the Working Line Takeover;
- iv. where relevant, the Calling Line Identification of all Communications Services that are directly affected;
- v. the expected Migration Date;
- vi. that the End-User should notify the Incumbent Communications Provider if they are not moving out of the Target Address or if they expect to move at a later date than the expected Migration Date;
- vii. the relevant contact details.

A2.5 The letter must be sent by post, unless the Customer has explicitly agreed to receive correspondence electronically, such as through verbal consent in a call or through electronic confirmation when ordering online.

SCHEDULE 2

Ofcom are proposing to revoke GC 24.

SCHEDULE 3

The table below sets out, for illustrative purposes only, the proposed modifications to the current provisions of General Conditions 22 and 24.

Current provision (number)	Description of proposed modification/short description of the reason for proposed modification	Proposed modifications (made by deletions and insertions marked in bold and highlighted in yellow)
22.1	Deleted (GPL NoT Harmonisation)	
22.2	Amended (partly no longer relevant/ drafting modifications)/ re-numbered	<p>22.1 The Communications Providers shall:</p> <ul style="list-style-type: none"> (a) facilitate the migration (or where applicable, connection) of the Broadband Service in a manner that is fair and reasonable; (b) ensure that the migration (or where applicable, connection) of the Broadband Service is carried out within a reasonable period; (c) ensure that the migration (or where applicable, connection) of the Broadband Service is carried out with minimal loss of the Broadband Service.;and (d) assist with, and facilitate requests for, the migration (or where applicable, connection) of a Broadband Service provided by another Communications Provider, in instances where the other Communications Provider has failed to, or refused to, comply with the MAC Broadband Migrations Process, in a manner that is fair and reasonable.
22.3 (a)	Deleted (merged with 22.3 (k))	
22.3 (b)	Amended (GPL NoT Harmonisation, drafting modification)/re-numbered	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>cc) “Broadband Migration” “Migration” means one or more of the following processes by which:</p> <ul style="list-style-type: none"> (a) (i) the Communications Provider transfers from one Broadband Communications Service to another Broadband Communications Service; (b) (i) an End-User or Customer transfers from one Broadband Communications Service to

		<p>another Broadband Communications Service;</p> <p>(c) An End-User or Customer transfers from a Broadband Service Communications Services supplied by a one Communications Provider to a Broadband Service Communications Services supplied by another Communications Provider ('Communications Provider Migration');</p> <p>(d) an End-User or Customer transfers from a Broadband Service Communications Services supplied by a Communications Provider at one location to a Broadband Service Communications Services supplied by the same Communications Provider at a different location;</p>
22.3 (c)	Amended (updated definition)/ re-numbered	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>d) "Broadband Services" means all high-speed DSL (including FTTC) services that allow for the transfer of high volumes of data at high speeds which are capable of supporting always-on services that provide the End-User with high data transfer speeds, excluding services provided over a cable network;</p>
22.3 (d)	Deleted (no longer needed)	
22.3 (e)	Deleted (no longer needed)	
22.3 (f)	Deleted (no longer needed)	
22.3 (g)	Amended (GPL NoT Harmonisation– extension to Broadband Services)/ re-numbered	<p>22.25</p> <p>For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>h) "Communications Provider" means a person who provides Broadband Communications Services;</p>
22.3 (h)	Amended (GPL NoT Harmonisation)/ re-numbered	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>l) "Customer" means a person who is an End-User of a Broadband Communications</p>

		Services provided by a different Communications Provider or a person who is seeking to become an End-User of a Communications Provider;
22.3 (i)	Deleted (no longer needed)	
22.3 (j)	No modifications/renumbered	22.25 (m)
22.3 (k)	Amended (GPL NoT Harmonisation, partly no longer needed, drafting modifications)/ merged with 22.3 (a)/ re-numbered	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>p) “End-User” means a person, other than a Communications Provider, who:</p> <ul style="list-style-type: none"> (i) an Account-holder is party to a contract with the Communications Provider for the provision of Communications Services, and; (ii) a person who may be authorised, by a person falling within paragraph (i) above, so as to transfer the Broadband Services; who is not a person <p>who is not acquiring the Broadband Communications Services in respect of an undertaking carried on by him for which more than ten individuals work (whether as an employees or volunteers or otherwise);</p>
22.3 (l)	Amended (updated terminology)	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>s) “Fixed-line Telephone Services” Fixed-line Telecommunications Services means narrowband calls and line services provided to an End-User or Customer that allow for the transfer of speech communications, and other forms of communications such as facsimile and data;</p>
22.3 (m)	No modifications/re-numbered	22.25 (aa)
22.3 (n)	Deleted (no longer needed)	

22.3 (o)	Deleted (no longer needed)	
22.3 (p)	Amended (GPL NoT Harmonisation)/ extension to home-moves/ re-numbered	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>(dd) “Migration Date” means the date on which the transfer of the BroadbandCommunications Services or the takeover of the Target Line will be effected, at which point the End-User’s BroadbandCommunications Services will commence being provided to the End-User by a different Communications Provider or at a different location;</p>
22.3 (q)	No modifications/re-numbered	22.25 (qq)
24.1	Deleted (no longer needed)	
24.2	Deleted (no longer needed)	
24.3	Amended (GPL NoT Harmonisation)/re-numbered	<p>22.3 When selling or marketing Fixed-Line Telecommunications ServicesCommunications Services, the Gaining Communications Provider must not:</p> <ul style="list-style-type: none"> (a) engage in dishonest, misleading or deceptive conduct; (b) engage in aggressive conduct; (c) contact the Customer in an inappropriate manner; or (d) engage in Slamming.
24.4	Amended (to refer to GC 22 as amended)/ drafting modifications/re-numbered	<p>22.20 Where the Communications Providers engages representatives or agents, such as any sales agency, to act on its behalf in the sale and marketing of Fixed-Line Telecommunications Services, the Communications Provider they shall procure that such representatives or agents comply with the requirements of this General Condition</p>
24.5	Amended (to refer to GC 22 as amended)/ minor drafting modifications/re-numbered	<p>22.23 The Communications Providers s must:</p> <ul style="list-style-type: none"> (a) publish a copy of this General Condition, or a link to a copy of this General Condition, published on Ofcom’s website, in an easily accessible and reasonably prominent manner on itstheir website or, where there is no such website, by making it available in its registered office during normal office hours for inspection free of charge by members of the general public; and (b) provide a copy of this General Condition to the Customer free of charge upon

		<p style="text-align: right;">reasonable request.</p> <p>22.4 The Gaining Communications Provider must take all reasonable steps to ensure that before entering into a contract for the provision of a Fixed-Line Telecommunications Communications Services, the Customer who is transferring the line who is requesting a Communications Provider Migration:</p> <p>(a) is authorized to do so;</p> <p>(b) intends to enter into the contract; and</p> <p>(c) is provided with the information set out below in a clear, comprehensible, prominent and accurate manner, in paper or another Durable Medium which is available or accessible to the Customer or, where the Customer enters into the contract during a sales call, by telephone:</p> <p style="padding-left: 40px;">(i) the identity of the legal entity the Customer is contracting with and its telephone, website and/or email contact details;</p> <p style="padding-left: 40px;">(ii) a description of the Fixed-Line Telecommunications Communications Service requested; the key charges, including minimum contract charges, and any early termination charges, if applicable; payment terms; the existence of any termination right, termination procedures and the Customer's right to cancel at no cost from the point of sale to the completion of the Transfer Period; the arrangements for provision of the service, including the order process and, as accurately as possible, the likely date of provision of the service and any minimum period of contract.</p>
<p>24.6</p>	<p>Amended (GPL NoT Harmonisation)/ drafting modifications/ re-numbered</p>	<p>22.10 Where When the Customer enters into a contract for the provision of Communications Services a Fixed-Line Telecommunications Service, the Gaining Communications Provider and the Losing Communications Provider must each send the that Customer a letter, in accordance with the industry-agreed process, stating that the Customer is transferring their Fixed-Line Telecommunications Service, in paper or another Durable Medium, which clearly sets out, as appropriate. The letter shall set</p>
<p>24.7</p>	<p>Amended (GPL NoT Harmonisation, GPL NoT+, drafting modifications)/ re-numbered</p>	

		<p>out in clear and intelligible terms:</p> <ul style="list-style-type: none"> (a) (i) the date of the letter; (b) that the Customer is transferring their Communications Service; (c) all Communications Services that will be transferred (d) (i) where relevant, the Calling Line Identification of all Electronic Communications Services which are affected that will be transferred; <ul style="list-style-type: none"> (iii) the list of services affected/unaffected; (iv) the proposed switchover date (e) a reasonable estimate of the Migration Date (including date and time of the day); (f) (v) the right to terminate the contract as set out in Condition 22.5, the means by which the right to terminate from the point of sale to the completion of the Transfer Period can be exercised and the date by which the right to terminate must be exercised; and (g) (v) relevant contact details; and. <p>22.11 Where the Customer enters into a contract for a Fixed-Line Telecommunications Service, the Gaining Communications Provider and the Losing Communications Provider must, in accordance with the industry agreed process, each send the End-User a letter, in accordance with the industry agreed process, stating that the Customer is transferring their Fixed-Line Telecommunications Service, in paper or another Durable Medium, which clearly sets out, as appropriate. The letter shall set out in clear, intelligible and neutral terms:</p> <ul style="list-style-type: none"> (a) (i) the date of the letter; (b) that the End_user is transferring their Communications Service; (c) all Communications Services that will be transferred; (d) (i) where relevant, the Calling Line Identification of all Electronic Communications Services which are affected that will be transferred; <ul style="list-style-type: none"> (iii) the list of services affected/unaffected; (e) all Communications Services or other types of services that the Losing Provider reasonably expects to be directly or indirectly affected by the transfer; (f) all Communications Services that the Losing Provider reasonably expects to remain unaffected by the transfer; (g) (iv) the proposed switchover date
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		<p>reasonable estimate of the Migration Date (including date and time of the day);</p> <p>(h) an explanation that the transfer will automatically take effect on the Migration Date and that no contact is required with the Losing Provider to cancel their existing service;</p> <p>(i) an explanation that after the transfer, the Customer will receive a final bill including any Early Termination Charge that is due;</p> <p>(j) an explanation of the applicable Early Termination Charge as set out in the contract;</p> <p>(k) the means by which the Early Termination Charge must be paid;</p> <p>(l) the amount of the Early Termination Charge due at the expected Migration Date;</p> <p>(m) where applicable, the impact of the transfer on the prices of all continuing Communications Services; (vi) the right to terminate the contract, the means by which the right to terminate from the point of sale to the completion of the Transfer Period can be exercised and the date by which the right to terminate must be exercised; and</p> <p>(n) (v) relevant contact details; and.</p>
24.8	No modifications/ re-numbered	<p>22.12 The letters s under Conditions 22.10 and 22.11 must be sent by normal post, unless the Customer or End-User has explicitly agreed to receive correspondence electronically, such as through verbal consent in a call or through electronic confirmation when ordering online.</p>
24.9	Amended (GPL NoT Harmonisation, drafting modification)/ re-numbered	<p>22.5 When the Customer enters into a contract to transfer a Fixed Line Telecommunications for the provision of Communications Services, the Gaining Communications Provider must allow the Customer to terminate the contract from the point of sale to the completion of the Transfer Period without charge or any other form of compensation being required to be given by the Customer to the Gaining Communications Provider.</p>
24.10	Amended (drafting modifications)/ re-numbered	<p>22.6 The Gaining Communications Provider must have procedures in place to enable the Customer to exercise their right to terminate their contract pursuant to General Condition 24.9 22.5 without unreasonable effort. These procedures must include the ability to contact the Gaining Communications Provider to terminate the contract by any of the following contact methods:</p> <p>i. telephone;</p> <p>ii. e-mail; and/or</p>

		iii. post.
24.11	Amended (GPL NoT Harmonisation, drafting modifications)/ re-numbered	22.7 The Gaining Communications Provider must use reasonable endeavours to create and keep all records regarding the sale of its Fixed-Line Telecommunications Communications Service, for a period of not less than six months. Such records must include the date and approximate time of the contact with the Customer, the means through which the contract was entered into, the place where the contract was entered into, where relevant, and be such as to allow subsequent identification of the salesperson(s) involved and to assist in dealing with any complaint or query.
24.12	Amended (to refer to GC 22 as amended)/ drafting modifications/re-numbered	22.21 The Communications Provider s must ensure that all its their staff or any representatives of any sales agency engaged by it them, involved in direct contact with Customers for the purpose of sales and marketing activity and/or Cancel Other are appropriately trained to comply with this General Condition.
24.13	Amended (to refer to GC 22 as amended)/ drafting modifications/re-numbered	22.22 The Communications Provider s must monitor, including conducting regular audits, its their compliance with this General Condition, including compliance on its their behalf by any representatives or sales agency engaged by it them, and take appropriate steps to prevent the recurrence of any problem(s) identified.
24.14	Amended (drafting modification)/re-numbered	A1.2 The Losing Communications Provider shall only be permitted to use Cancel Other in the following circumstances: (a) where Slamming has occurred; (b) at the Customer's request, where the Gaining Communications Provider has failed to cancel the request Transfer Order after being directed by the Customer to do so ("Failure to Cancel"); (c) where the telephone line is or will be, ceased during the Transfer Period ("Line Cease"); (d) for other specified reasons not related to a Customer's request to cancel a transfer, as agreed by the relevant industry forum and approved by Ofcom; and (e) in such other circumstances as defined by Ofcom.
24.15	Amended (drafting modification)/re-	A1.3 Before using Cancel Other in cases of Slamming and/or Failure to Cancel, the Losing

	numbered	Communications Provider shall take reasonable steps to establish that Slamming and/or Failure to Cancel has actually taken place.
24.16	Amended (drafting modification)/re-numbered	A1.4 After using Cancel Other, the Losing Communications Provider shall confirm the cancellation of the order by Durable Medium to the Customer, unless this is not possible or appropriate, including where the Customer is deceased.
24.17	Amended (drafting modification)/re-numbered	A1.5 The Losing Communications Provider shall record its reasons for using Cancel Other in each case, selecting the appropriate reason code from a list corresponding to permitted use of Cancel Other and consistent with GC24.19(m) (i) to (iv) Condition 22.25 (ii)(i) to (iv) , as agreed by the industry and approved by Ofcom.
24.18	Amended (drafting modification)/re-numbered	22.14 Where the Losing Communications Provider communicates with the Customer in order to comply with this General Condition, it must not make any marketing statements or representations in the communication which may induce the Customer to terminate their contract with the Gaining Communications Provider and/or remain in a contract with the Losing Communications Provider.
24.19 (a)	No modifications/re-numbered	22.25 (e)
24.19 (b)	Amended (drafting modification)/ re-numbered	22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition: (g) “Cancel Other” means the industry term for a functionality that enables the Losing Communications Provider to cancel, during the Transfer Period, a Transfer Order wholesale orders (during the Transfer Period) placed by the Gaining Communications Provider which can only be used in the circumstances set out in 24.14;
24.19 (c)	Deleted (no longer needed)	
24.19 (d)	No modifications/re-numbered	22.25 (k)
24.19 (e)	Deleted (no longer needed)	

24.19 (f)	Amended (updated terminology, drafting modification, exclusion of SMS)/re-numbered	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>(n) “Durable Medium” means any instrument which enables the Customer or End-User to store information addressed personally to him in a way accessible for future reference, for a period of time adequate for the purposes of the information, and which allows the unchanged reproduction of the information stored, excluding SMS;</p>
24.19 (g)	Amended (updated definition, drafting modification)/ re-numbered	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>(r) “Failure to Cancel” means where failure by the Gaining Communications-Provider has not to cancel led a transfer Order, after a request from the Customer during the Transfer Period</p>
24.19 (h)	Deleted (no longer needed)	
24.19 (i)	Amended (to cover home-moves)	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>(u) “Gaining Provider” means:</p> <ul style="list-style-type: none"> i. the Communications Provider to whom the End-User or Customer is transferring; or ii. the Communications Provider to whom the Inbound Customer or End-User makes a Home-Move Request;
24.19 (j)	Deleted (no longer needed)	
24.19 (k)	Amended (updated terminology)	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>(z) “Losing Provider” means the Communications Provider from whom the End-User or Customer is transferring;</p>
24.19 (l)	No modifications/re-numbered	22.25 (ff)
24.19 (m)	Amended (GPL NoT-Harmonisation, drafting modifications, updated	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p>

	<p>definition)/ re-numbered</p>	<p>(ii) “Slamming” means where a request for a CPS, WLR, and/or LLU SMPF and/or MPF has been made, or a Transfer Order or a Working Line Transfer Order has been placed on Openreach, without the Customer’s express knowledge and/or consent; that is in the following circumstances:</p> <ul style="list-style-type: none"> i. where the Customer has never contacted, or has never been contacted by, the Gaining Communications Provider; ii. where the Customer has contacted, or has been contacted by, the Gaining Communications Provider, but has not given the Gaining Communications Provider authorisation to transfer some or all of their telephone calls and/or line rental to the Gaining Communciations Provider Communications Services; iii. where the Customer has agreed to purchase a product or service from the Gaining Communications Provider and the Gaining Communications Provider has submitted an order for a different product or service which the Customer has not agreed to purchase; or iv. where the Customer has agreed to transfer some or all of their telephone calls and/or line rental Communications Services to the Gaining Communications Provider having understood as a result of a deliberate attempt by the Gaining Communications Provider to mislead, that they are making an agreement with a different Communications Provider.
<p>24.19 (n)</p>	<p>No modifications/re-numbered</p>	<p>22.5 (oo)</p>
<p>24.19 (o)</p>	<p>Amended (updated definition/drafting modifications)/re-numbered</p>	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>(pp) “WLR (Wholesale Line Rental)” means Wholesale Line Rental, a facility which BT provides other CPs with the ability to offer monthly line rental and associated services (such as fault repair) on the BT line; a regulated wholesale service sold by BT,</p>

		which is used by the Communications Provider to provide retail customers with exchange lines and in turn, access to other narrowband telephone services (for example, telephone calls, facsimile and dial-up);
24.19 (p)	Deleted (no longer needed)	
	New Provision (clarification of scope)	22.2 Communications Providers shall in relation to Communications Provider Migrations comply with Conditions 22.3 to 22.14.
	New Provision (GPL NoT+)	<p>22.8 For each contract entered into with a Customer for the provision of Communications Services, the Gaining Provider must create and keep individually retrievable records of the following, for a period of not less than twelve months:</p> <p>(a) A direct record of consent, as provided by the Customer, to:</p> <ul style="list-style-type: none"> i. migrate from the Communications Services supplied by the Losing Provider to the Communications Services supplied by the Gaining Provider; or, as relevant, ii. begin acquiring Communications Services over the Target Line; <p>(b) an explanation from the Communications Provider that they are required to create a record of the Customer's consent;</p> <p>(c) the name and address of the Customer;</p> <p>(d) the time, date and means by which the consent in sub-section (a) was given;</p> <p>(e) where appropriate, the place where consent in sub-section (a) above was given and the salesperson(s) involved;</p> <p>(f) the Target Address;</p> <p>(g) where appropriate, the Calling Line Identification of the Target Line.</p>
	New Provision (GPL	22.9 Gaining Providers shall keep the records

	NoT+)	required in paragraph 22.8 irrespective of whether the contract for the provision of the Communications Services is cancelled or terminated.
	New provision (GPL NoT+)	22.13 Where a Gaining Provider elects to co-ordinate a Communications Provider Migration on behalf of a Customer who has requested to transfer to Broadband and Fixed-line Telecommunications Services provided by it over the same line, it shall submit to Openreach an order for the simultaneous transfer with minimal loss of service of both Communications Services.
	New provisions (GPL NoT Harmonisation)	<p>22.15 In addition to Conditions 22.1 to 22.14, each Communications Provider shall comply with the provisions of Annex 1 to this Condition in each instance where it is a Gaining Provider which elects to co-ordinate a Communications Provider Migration on behalf of a Customer.</p> <p>22.16 Each Communications Provider shall ensure that the End-User is not required by the Losing Provider to make contact with it in order for a Communications Provider Migration falling within Condition 22.15 to be put into effect.</p> <p>22.17 Without prejudice to the generality of paragraph 22.16, a Losing Provider shall not require, in particular, the granting of consent by it, nor the provision of any information (such as a MAC) by it to the End-User, in order for a Communications Provider Migration falling within Condition 22.15 to be put into effect.</p> <p>22.18 Conditions 22.15 – 22.17 only apply where the Communications Provider Migration does not involve a change of the location where the Communications Services are supplied.</p>
	New provision (GPL NoT Harmonisation)	22.19 In addition to Conditions 22.1 – to 22.14, each Communications Provider shall comply with the provisions of Annex 2 to this Condition, in each instance where it is a Gaining Provider which elects to carry out a Working

		Line Takeover pursuant to a Home-Move Request.
	New provision	22.24 The obligations set out in this Condition shall apply from (and including) the Effective Date.
	New provision (definitions)	<p>22.25 For the purposes of this Condition and Annexes 1 and 2 to this Condition:</p> <p>a) “Access Network” means the Electronic Communications Network which runs from a Local Access Node to a network termination point on an End-User’s premises and which supports the provision of copper-based access services and fibre-based access services to End-Users;</p> <p>b) “Address” means a UK postal address;</p> <p>c) “BT” means the BT Group plc;</p> <p>f) Calling Line Identification means a facility that enables identification of the number from which a call is being made or to which a return call could be made;</p> <p>i) “Communications Provider Migration” means a process by which an End-User or Customer transfers from Communications Services supplied by one Communications Provider to Communications Services provided by another Communications Provider;</p> <p>o) “Early Termination Charge” means the charge payable by the End-User for the termination of the contract before the end of the minimum contract period;</p> <p>q) Effective Date means [date to be inserted in the final condition; X months from date on which modifications are made];</p> <p>t) “FTTC (Fibre-To-The-Cabinet)” means an Access Network consisting of optical fibre extending from the access node to the street cabinet;</p> <p>v) “Home-Move Request” means a request</p>

		<p>by an Inbound Customer or End-User to begin acquiring one or several Communications Services over the Target Line;</p> <p>w) “Inbound Customer or End-User” means the Customer or End-User who is moving into the Target Address;</p> <p>x) “Incumbent Communications Provider” means the Communications Provider who supplies a Communications Services to the Incumbent End-User over the Target Line;</p> <p>y) “Incumbent End-User” means the End-User who is moving out of the Target Address;</p> <p>bb) “MDF” means the metallic distribution frame;</p> <p>ee) “MPF (Metallic Path Facility)” means a circuit comprising a pair of twisted metal wires between an End-User’s premises and a main distribution frame that employs electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy to convey signals when connected to an Electronic Communications Network;</p> <p>gg) “Notification of Transfer” means a process by which an End-User or Customer transfers from the Communications Services provided by one Communications Provider over a WLR, MPF or SMPF line to Communications Services provided by another Communications Provider over that same line;</p> <p>hh) “Openreach” means the BT group business offering Communications Providers products and services that are linked to BT’s nationwide Access Network;</p> <p>jj) “SMPF (Shared Metallic Path Facility)” means access to the non-voiceband</p>
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		<p>frequencies of the Metallic Path Facility.</p> <p>kk) “SMS (Short Message Service)” means a text message delivered to the handset of an End-User or Customer who acquires Publicly Available Telephone Services, or, if SMS is superseded or withdrawn, an equivalent text communication sent directly to the handset of an End-User or Customer who acquires Publicly Available Telephone Services;</p> <p>ll) “Target Address” means the address where the Target Line is situated;</p> <p>mm) “Target Line” means the working WLR, MPF or SMPF line to which a Customer request for a Migration, or a Home-Move Request, refers;</p> <p>nn) “Transfer Order” means an order submitted by, or on behalf of, the Gaining Provider to Openreach, or other applicable wholesaler, requesting for the Target to be transferred from the Losing Provider to the Gaining Provider;</p> <p>rr) “Working Line Takeover” means a process by which a Communications Provider takes over a WLR or MPF line in order to provide Communications Services to the Inbound Customer or End-User, where that line is being used by that same or a different Communications Provider to supply Communications Services to the Incumbent End-User; and</p> <p>ss) “Working Line Takeover Order” means an order submitted by, or on behalf of, a Gaining Provider to Openreach, requesting for the Working Line Takeover of the Target Line.</p>
	<p>New provision (GPL NoT Harmonisation)</p>	<p><u>Annex 1 to Condition 22</u></p> <p>Notification of Transfer</p> <p>A1.1 Where a Gaining Provider elects to co-ordinate a Communications Provider Migration on behalf of a Customer who has requested to transfer to a</p>

		<p>Communications Service supplied by it, that Gaining Provider shall, within a reasonable time, ensure a Transfer Order is placed.</p>
	<p>New provision (GPL NoT Harmonisation/GPL NoT+)</p>	<p><u>Annex 2 to Condition 22</u></p> <p>Working Line Takeovers</p> <p>A2.1 Where a Gaining Provider elects to carry out a Working Line Takeover pursuant to a Home-Move Request that Gaining Provider shall ensure a Working Line Takeover Order is placed.</p> <p>Asset identification</p> <p>A2.2 Before a Working Line Takeover Order is placed, a Gaining Provider shall take reasonable steps, having regard to industry best practice, to identify the Target Line.</p> <p>A2.3 A Gaining Provider may only place a Working Line Takeover Order if it has identified an exact match for the Target Line.</p> <p>Notification Letter</p> <p>A2.4 After being notified of the Working Line Takeover Order, the Incumbent Communications Provider shall send the Incumbent End-User a letter, in accordance with the industry agreed process, in paper or another Durable Medium, which clearly sets out:</p> <ul style="list-style-type: none"> v. the date of the letter; vi. a notification that a third person has indicated that they are moving to the Target Address and want to take over the Target Line; vii. all Communications Services directly affected by the Working Line Takeover; viii. where relevant, the Calling Line Identification of all Communications Services that are directly affected; ix. the expected Migration Date; x. that the End-User should notify the Incumbent Communications Provider if they are not moving out of the Target Address or if they expect to move at a later date than the expected Migration Date;

		<p>xi. the relevant contact details.</p> <p>A2.5 The letter must be sent by post, unless the Customer has explicitly agreed to receive correspondence electronically, such as through verbal consent in a call or through electronic confirmation when ordering online.</p>
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Annex 12

Gemserv Report

A12.1 Please see the PDF document published alongside this document entitled Analytical Assistance on the Implementation of Ofcom's Proposals for Switching Fixed Voice and Broadband on the Openreach Copper Network. This is available on the landing page of the review via the following link:

http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/annexes/Annex_12.pdf

Annex 13

Sources of Evidence

Introduction

A13.1 We have noted throughout this Consultation the evidence we have relied upon in relation to our proposals and how we have relied upon that evidence. This Annex lists the main sources of evidence used. We also list all respondents to our consultations and provide details of our formal information requests.

A13.2 Whilst the Annex lists the main evidence we have relied upon, the list is for convenience only and is not intended to be exhaustive.

Respondents to the 2012 Consultation

A13.3 We published a consultation on Consumer Switching processes on the 9th February 2012, setting out our proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network. This can be found at the following link:

<http://stakeholders.ofcom.org.uk/consultations/switching-fixed-voice-broadband/>

A13.4 In total we received 34 responses to our 2012 Consultation. Responses were received from:

- Three UK;
- British Telecommunications;
- Cable and Wireless Worldwide;
- Charles River Associates;
- Citizens Advice;
- The CMA;
- Communications Consumer Panel;
- Consumer Focus;
- Consumer Forum for Communications;
- Entanet International Limited;
- ESRC Centre for Competition Policy;
- Everything Everywhere;
- The Federation of Communication Services;
- Gemserv;

- ITSPA;
- KCOM;
- Magrathea Telecom;
- The Ombudsman Services;
- PWC;
- BSkyB plc;
- SSE plc;
- TalkTalk Group;
- Telefonica O2;
- Universal Utilities Ltd;
- Virgin Media;
- Which;
- Zen Media Ltd;
- Two confidential responses; and
- Responses from the following individuals: Mr P. Bitis; Mr A. Porter; Mr P. Rush; and two further individuals who opted to remain anonymous.

A13.5 We have published the non-confidential versions of the responses from all the stakeholders listed above. These can be found on our website:

<http://stakeholders.ofcom.org.uk/consultations/switching-fixed-voice-broadband/?showResponses=true>

Respondents to the 2010 Consultation

A13.6 We published a consultation titled A Strategic View of Consumer Switching on the 9th September 2010, with objectives to identify the key issues and problems of the current switching process and set our strategic vision of our preferred model of a switching process. This can be found at the following link:

<http://stakeholders.ofcom.org.uk/consultations/consumer-switching/>

A13.7 In total we received 65 responses to the 2010 consultation. Responses were received from:

- Broadband.co.uk;
- British Telecommunications;
- Cable and Wireless Worldwide;

- Citizens Advice Bureau;
- COLT;
- Consumer Focus;
- Communications Consumer Panel;
- Everything Everywhere;
- The Federation of Communications Services;
- Gemserv;
- ITSPA;
- KCOM;
- Office of the Telecommunications Ombudsman;
- BSkyB plc;
- SSE;
- TalkTalk Group;
- Telecom Yorkshire;
- Telefonica O2;
- Tesco Telecoms;
- Three;
- Thus;
- Telephony Services Ltd;
- Virgin Media;
- Vodafone;
- Which;
- Zen Internet; and
- Responses from the following individuals: Mr P. Bailey; Mr S. Ball; Mr G. Ellis; Mr S. Green; Mr C. Hutchison; Prof M. Hviid; Mr B. Innes; Mr D. Jackson; Mr B King; Mr S. Livingstone; Mr I. Marshall; Mr D. Murray; Mr Palmer; Dr P. Radcliffe; Mr M. Rossiter; Mr Samy; Mr R Smith; Mr G. Thompson; Mr J. Ward; Mr S. Williams; and nineteen further individuals who opted to remain anonymous.

A13.8 We have published the non-confidential versions of the responses from all the stakeholders listed above. These can be found on our website:

<http://stakeholders.ofcom.org.uk/consultations/consumer-switching/?showResponses=true>

Information-gathering using statutory powers (s135)

A13.9 Over the course of this review, we have issued a series of notices under section 135 of the Act requiring various CPs to provide specified information as set out in the notice. These information requests are listed below:

- Information request of 5 May 2010 regarding the current state of the market and the switching process, including current practices and interaction with customers, available offers, and the MAC, PAC and NOT processes.
- Information request of 12 May 2011 regarding save activity and ETCs, confusion in the switching process among providers, and data on asset validation, authentication, cancel other, access to bills and data protection.
- Information request of 27 November 2012 to three main providers covering retail consumer broadband losses.
- Information request of 4 April 2013 to BT Wholesale and Openreach regarding the number of retail customers on discounted save and retention offers, and data on monthly order volumes on specified migrations.
- An informal Information request of 6 December 2012 regarding the costs of call recording and other potential changes to the switching processes.

Ofcom Documents

A13.10 *Ofcom Annual Plan 2013/14*, 28 March 2013,

<http://www.ofcom.org.uk/files/2013/03/annplan1314.pdf>

A13.11 *Strategic Review of Consumer Switching*, 10 September 2010,

<http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/summary/switching.pdf>

A13.12 *Consumer Switching; a consultation on proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network*, 9 February 2012,

<http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/summary/condoc.pdf>

A13.13 *Ofcom's Statutory Duties and Regulatory Principles*,

<http://www.ofcom.org.uk/about/what-is-ofcom/statutory-duties-and-regulatory-principles/>.

A13.14 *Fixed Access Market Reviews: wholesale local access, wholesale fixed analogue exchange lines, ISND2 and ISDN30*, 3 July 2013,

<http://stakeholders.ofcom.org.uk/binaries/consultations/fixed-access-market-reviews/summary/fixed-access-markets.pdf>

- A13.15 *Ofcom's Guidance on Unfair Terms in Contracts for Communications Services*, <http://stakeholders.ofcom.org.uk/binaries/consultations/addcharges/statement/Guidance.pdf>
- A13.16 *Consumer Switching; a consultation on proposals to change the processes for switching fixed voice and broadband providers on the Openreach copper network, Three Points for Clarification*, <http://stakeholders.ofcom.org.uk/consultations/switching-fixed-voice-broadband/amendment>
- A13.17 *Ofcom's Own-initiative investigation into the TalkTalk Group concerning compliance with General Condition 24 – sales and marketing of fixed-line telecommunications services*, http://stakeholders.ofcom.org.uk/enforcement/competition-bulletins/closed-cases/all-closed-cases/cw_01059-11-10/
- A13.18 *Switching Working Group, SWG 1 meeting 18 November 2010*, <http://stakeholders.ofcom.org.uk/telecoms/groups/switching-working-group/meetings/18nov2010/>
- A13.19 *Changes to the Mobile Number Porting Process, Final Statement, 8 July 2010*, <http://stakeholders.ofcom.org.uk/binaries/consultations/mnp/statement/mnp.pdf>.
- A13.20 *Review of the Wholesale Broadband Access Markets, 11 July 2013*, http://stakeholders.ofcom.org.uk/binaries/consultations/review-wba-markets/summary/WBA_July_2013.pdf
- A13.21 *Better Policy Making, Ofcom's Approach to Impact Assessment, 21 July 2005*, http://stakeholders.ofcom.org.uk/binaries/consultations/better-policy-making/Better_Policy_Making.pdf

Legislative Documents

- A13.22 *The Electronic Communications and Wireless Telegraphy Regulations 2011, SI 2011/1210, made 4 May 2011*, http://www.legislation.gov.uk/ukxi/2011/1210/pdfs/ukxi_20111210_en.pdf
- A13.23 *Directive 2002/20/EC of the European Parliament and of the Council, paragraph 8, Annex A (as amended by Directive 2009/140/EC), 7 March 2002* <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:108:0021:0021:EN:PDF>
- A13.24 *Directive 2002/22/EC of the European Parliament and of the Council, (as amended by Directive 2009/136/EC), 7 March 2002*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:108:0051:0051:EN:PDF>
- A13.25 *Consolidated Version of the General Conditions as at 22 November 2012*, <http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/general-conditions22nov12.pdf>.
- A13.26 *General Condition 24 on Sales and Marketing of Fixed-Line Telephony Services*, <http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/narrowband/statement.pdf>

Ofcom Internal and Commissioned Research

- A13.27 *Consumer Switching and Bundling, Saville Rossiter-Base, September 2010,* <http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf>
- A13.28 *Switching Options: An Assessment of Potential Costs, CSMG, 9 September 2011,* http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/csmg_report.pdf
- A13.29 *Ofcom's Impact Assessment of Changes to Switching Options for Fixed Voice/Broadband Lines: An Economic Review, CRA, May 2012,* http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Charles_River_Associates_1.pdf
- A13.30 *Ofcom's Assessment of the Use of Reactive Save Activity by Suppliers, of Fixed Voice and Broadband, Services: An Economic Analysis, CRA, May 2012,* http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/responses/Charles_River_Associates_2.pdf
- A13.31 *Customer Retention and Interoperability Research, Jigsaw Research, 14 June 2013,* http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/customer-retention/CRI_Report_Final.pdf
- A13.32 *The Consumer Experience Report 2011, 6 December 2011,* http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-11/research_report_of511a.pdf
- A13.33 *The Consumer Experience Report 2012, January 2012,* http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-12/Consumer_Experience_Research1.pdf
- A13.34 *Investigation into the Reported Levels of Telecoms Mis-selling and Slamming, Mott MacDonald, August 2007,* <http://stakeholders.ofcom.org.uk/binaries/consultations/missellingprotection/statement/report.pdf>
- A13.35 *Analysis of Fixed-Line Mis-selling Complaints, Mott MacDonald, August 2012,* <http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/fixedline-mis-selling.pdf>
- A13.36 *Consumer Switching, Experimental Economics, London Economics, June 2010,* <http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/economics-research.pdf>.
- A13.37 *Fixed Broadband Switching Research, 2011,* http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack.pdf
- A13.38 *2012 Mis-Selling Research Survey Results, Capi Omnibus, 22 February- 4 March 2012,* http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/Misselling_Billshock_W3_071.pdf

- A13.39 *Ofcom Switching/Decision Making Tracker data tables 2012*, 17 July to 20 August 2012, <http://stakeholders.ofcom.org.uk/binaries/research/statistics/switching-tracker.pdf>
- A13.40 *The Communications Market Report, 2012*, 18 July 2012, http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr12/CMR_UK_2012.pdf
- A13.41 *The Communications Market Report, 2013*, http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr13/2013_UK_CMR.pdf.
- A13.42 *Switching Broadband Suppliers*, YouGov, 2011, http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/broadband_slidepack2.pdf
- A13.43 *Telecommunications Market Data Update Q4 2012*, 29 April 2013, <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/tables/q4-2012/>.
- A13.44 *Internet use and attitudes: 2012 Metrics Bulletin*, 18 July 2012, http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr12/2012_metrics_bulletin.pdf.

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- A13.45 *Connectivity, Content and Consumers: Britain's digital platform for growth*, DCMS, July 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225783/Connectivity_Content_and_Consumers_2013.pdf.
- A13.46 *BEREC Report on the Best Practices to Facilitate Consumer Switching*, 18 October 2010, http://berec.europa.eu/eng/document_register/subject_matter/berec/reports/185-berec-report-on-best-practices-to-facilitate-consumer-switching.
- A13.47 *Draft Berec Report on the best practices to facilitate switching*, June 2010, http://berec.europa.eu/doc/consult/bor_10_34_switching.pdf.
- A13.48 *Opinium Research ('Broadband providers still failing on MAC Codes' – money.supermarket.com)*, <http://www.moneysupermarket.com/c/press-releases/broadband-providers-still-failing-on-mac-codes/0009167/>.
- A13.49 *BT Group PLC Annual Report and Form 20F -2010*, <http://www.btplc.com/Sharesandperformance/Annualreportandreview/pdf/BTGroupAnnualReport2010.pdf>
- A13.50 *Virgin Media – First Quarter 2013 Results*, 24 April 2013, <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTgxNTE2fENoaWxkSUQ9LTF8VHlwZT0z&t=1>.
- A13.51 *MPF 'Access Line Identifier' Help Line Tactical Process, MPF line identification at multiple MPF sites, Consumer scenarios:- Migrations & - WLTO Homemoves, OTA2*, 24 October 2012, <http://www.offta.org.uk/MPFALIDHelpLineTactical%20Process.pdf>

- A13.52 *Annex B, Homemovers, Working Line Takeover (WLT), OTA2, Best Practice Guide*, 6 March 2013, <http://www.offta.org.uk/IndustryBPGAnnexB.pdf>
- A13.53 *Industry Best Practice Guide: Migrations & Home Moves, for Fixed Line Voice & Broadband Services, Appendix D – Standard Template - Losing Notification Letter*, OTA2, <http://www.offta.org.uk/IndustryBPGAppendixDStandardTemplateLosing.pdf>
- A13.54 *Cancelling Direct Debits, BACS – Direct Debit*, <http://www.bacs.co.uk/Bacs/Businesses/DirectDebit/PayingBy/Pages/Cancelling.aspx>,
- A13.55 *Applicability of the literature on price guarantees to the PAC and MAC processes*, Professor Morten Hviid (UEA), July 2010, <http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/paper.pdf>.
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- A13.57 *Coordination and Lock-in: Competition with Switching Costs and Network Effects*, J. Farrell and P. Klemperer (2007), in Armstrong, M. and R. Porter eds, *The Handbook of Industrial Organization*, Vol.3, Amsterdam: North-Holland.
- A13.58 *Slamming Research Survey Results, 1 – 6 September 2011*, GfK, <http://stakeholders.ofcom.org.uk/binaries/consultations/switching-fixed-voice-broadband/annexes/slamming2011.pdf>
- A13.59 *Making Broadband Switching Easier, Think Broadband*, 19 April 2012, <http://www.thinkbroadband.com/news/5172-making-broadband-switching-easier.html>

Annex 14

Proposed Switching Model – from the FCS Workshop

A14.1 Please see the PDF document published alongside this document entitled Delivery of an Efficient GPL Switching Process. This is available on the landing page of the review via the following link:

http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching-review/annexes/Annex_14.pdf

Annex 15

Glossary

Act - The Communications Act 2003.

ADR – Alternative dispute resolution.

ALID – Access line ID. A unique reference number that identifies each copper pair on the Openreach network.

Broadband – Service or connection that is capable of supporting ‘always on’ services that provide the end user with high data transfer speeds.

BT - British Telecommunications plc.

Bundle – Where a consumer purchases two or more services from the same Provider on a single bill and considers this to be a package of services. The consumer may or may not receive a discount for purchasing the services together.

CAT – Competition Appeal Tribunal.

C&R – Cease and re-provide. The consumer terminates their contract with the Losing Provider and requests a new service from the Gaining Provider, not necessarily in this order (i.e. the consumer may request a new service first before terminating their contract).

C&W – Cable&Wireless Worldwide plc.

Cable Network – A hybrid fibre-coax Electronic Communications Network that uses a combination of optical fibres and coaxial cable.

Cancel Other – The industry term for a functionality that enables the Losing Provider to cancel wholesale orders (during the switchover period) placed by an alternative Provider, either where slamming has been alleged by the customer or where the GP has failed to cancel the order on the customer’s request.

Cancel Own – During the GPL NoT process, if the consumer changes their mind about switching, the GP initiates this process.

CCP – The Communications Consumer Panel.

CFC – The Consumer Forum for Communications.

Carrier Pre-selection - A facility which allows a Subscriber to whom a Publicly Available Telephone Service is provided by means of a Public Telephone Network to select which Pre-selected Provider of such Services provided wholly or partly by means of that Network is the Pre-selected Provider he wishes to use to carry his calls by designating in advance the selection that is to apply on every occasion when there has been no selection of Provider by use of a Telephone Number.

CLI – Consumer/ calling line identification (telephone number).

Competitive neutrality – A situation where no CP enjoys a competitive advantage over others simply by virtue of the switching process associated with the service(s) they provide.

Considerers - Consumers that have considered switching in the last year but subsequently decided not to.

Consumer – Any person who uses or requests a publicly available Electronic Communications Service for purposes which are outside his or her trade, business or profession.

CP – Communications provider.⁴⁵³ A person who provides an Electronic Communications Network or provides an Electronic Communications Service, as defined in the Communications Act 2003.

CRA – Charles Rivers Associates.

CSMG – Cambridge Strategic Management Group.

DS – Dialogue service. Operated between Openreach and Communications Providers regarding services are available to them.

DSL - Digital subscriber line. A family of technologies generally referred to as DSL, xDSL, capable of transforming ordinary phone lines (also known as ‘twister copper pairs’) into high speed lines.

EE – Everything Everywhere Ltd.

EMP – Equivalence management platform.

ETs - Erroneous transfers. Where the wrong customer’s service is transferred as a result of a process failure, or when they have not requested or given their permission for the transfer.

ETC – Early termination charge. Charge for consumers who terminate their contract before the end of any Minimum Contract Period (or Subsequent Minimum Contract Period).

Fixed-line – Narrowband call and/or line rental services provided to consumers and small business consumers.

FCS – Federation of Communications Services.

FTTC – Fibre to the cabinet. A form of fibre optic communication delivery in which the fibre network reaches the street-side cabinet. The street cabinet is usually located only a few hundred metres from the user’s premises. The remaining segment of the access network from the cabinet to the customer is the existing copper pair.

FTTP – Fibre to the premises. Form of fibre optic communication delivery in which the fibre network is installed up to the user’s premises.

Full LLU – Services where the provision of access to the copper wires from the customer premises to a BT exchange allows a competing Provider to provide the customer with both voice and data services over such copper wires.

GP - Gaining provider. Provider to whom the customer is transferring.

GPL NoT - Gaining provider led Notification of Transfer process. A GPL process where the consumer only needs to contact their (new) Gaining Provider to switch. The Gaining Provider

⁴⁵³ Terms ‘communications provider’ and ‘provider’ are used interchangeably throughout this document.

informs the (current) Losing Provider on behalf of the consumer in order to organise the transfer. The consumer receives letters from both Providers confirming the planned switch before it happens. This provides an opportunity for the consumer to stop the order going ahead where they change their mind or in cases where they have no knowledge or have not given their consent to the attempted switch.

GCs – General Conditions of Entitlement.

GEA - FTTC – Generic Ethernet access – fibre to the cabinet. This is the FTTC variant of the wholesale service used provided to CPs to supply superfast broadband services

GPL process – Gaining provider led process. Switching process where the consumer only needs to contact the Provider they are transferring to in order to switch.

GPL TxC – Gaining provider led transfer code option. For a more detailed explanation of the GPL TxC option, including a process flow diagram, see Annex 7.

Greenfield - Situations where there are no existing switching processes already in place and we are starting from first principles (for example with the rollout of next generation access networks, new switching processes need to be developed).

Hub/ database – Designed to capture the name, address, post code, CLI, current CP, service type, technology type and account reference for each customer.

Inactive - Those consumers that have neither switched nor considered switching in the last year.

Inappropriate save - Relates to inappropriate activity on the part of the CP to retain their customer and is contrary to General Condition 1.2.

ITSPA – Internet Telephony Services Providers Association.

LLU – Local loop unbundling. The regulatory process of allowing multiple telecommunications operators to use connections from the telephone exchange's central office to the customer's premises. The physical wire connection between customer and company is known as a 'local loop', and is usually owned by the incumbent local exchange carrier.

LO – Linked orders process. May also be referred to as a 'simultaneous provide' or 'SIM Provide'.

Local loop – The access network connection between the customer's premises and the local serving exchange, usually comprised of two copper wires twisted together.

LP - Losing provider. Provider from whom the customer is transferring.

LPL MAC - Losing provider led migration authorisation code process. A LPL process which applies to broadband only. It means that if a consumer wishes to change their provider, they need to obtain a code from the Losing Provider and give it to the Gaining Provider. On receiving a request for the code, the Losing Provider carries out checks to confirm that the consumer making the request is the legitimate account holder and has an opportunity to discuss the implications of switching with the consumer. The consumer must supply the code to their Gaining Provider to allow the switch to go ahead.

LPL process – Losing provider led process. Switching process where the consumer needs to contact the Provider they are transferring away from as well as the Provider they are transferring to in order to switch.

LPL TxC – Losing provider led transfer code option. For a more detailed explanation of the LPL TxC option, including a process flow diagram, see Annex 7.

LPL ALT – Losing provider led alternative option. For a more detailed explanation of the LPL ALT option, including a process flow diagram, see Annex 7.

MAC – Migration authorisation code. Unique code that a customer obtains from the losing broadband service Provider and gives to the gaining provider, that allows the service to be transferred from an existing service Provider seamlessly and with little or no disruption of service.

MCP – Minimum contract period. A minimum (fixed term) contractual period set at the start of a contract (often for 12 to 24 months).

MM – The Mott MacDonald Group.

Mis-selling – Irresponsible sales and marketing activities, such as the provision of false or misleading information, applying unacceptable pressure to change Providers and where customers are switched without their express consent.

MPF – Metallic path facility. Is the product sold by Openreach to allow Providers to gain full control of the local loop connecting to end users to deliver both voice and broadband to end users.

Narrowband – Services provided over a traditional Public Telephone Network, excluding services provided over a Cable Network.

NGA – Next generation access.

NRA – National regulatory authority.

Number portability – The ability of consumers' to retain their telephone number when they switch providers

Ofcom - Office of Communications. The regulator for the communications industries, created by the Office of Communications Act 2002.

Openreach – BT's access services division.

OTA – Office of the Telecommunications Adjudicator. Acts independently from industry and the regulator. Seeks to facilitate the implementation of process improvements, particularly where multi-lateral engagement is necessary.

PO - Parallel order process. A process in which two or more separate orders can be managed together.

PAC - Porting authorisation code. The process used if a consumer wishes to change mobile network operator but retain their existing phone number. The consumers must first speak to their existing provider and request a code which they then give to their new provider.

Price discrimination – Where a Provider sells the same good or service at a different price to different consumers.

Price guarantees – Incentives offered by firms to retain or attract customers, e.g. a firm may offer to match or beat any lower price a consumer may be offered by a rival CP. Public Telephone Network – An Electronic Communications Network that is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech communications, and also other forms of communication, such as facsimile and data.

Proactive save – Where the LP offers the consumer an incentive not to switch without being alerted as part of the switching process that the consumer is intending to switch.

PSTN – Public switched telephone network. BT's fixed voice service.

Reactive save – Also known as 'targeted save activity'. Where the LP is able to accurately identify, as a result of information the LP receives as part of the formal switching process, customers intending to switch and to make them a counteroffer not to switch. The LP is informed of the imminent switching either by the consumer via the code request under a LPL process or by the GP placing the order to transfer the service under a GPL process. The term does not refer to counteroffers requested by a consumer who explicitly contacts the LP with the purpose of obtaining a better offer.

SFBB – Superfast broadband.

SIM – Simultaneous (as in simultaneous provision).

Slamming – Where a CP has requested to takeover CPS, WLRR and/or LLU services without the customer's express knowledge and/or consent; that is in the following circumstances:

- ii) Where the customer has never been contacted by the Gaining Communications Provider;
- iii) Where the customer has been contacted by the Gaining Communications Provider, but has not given the Gaining Communications Provider authorisation to transfer some or all of their telephone calls and/or line rental to the Gaining Communications Provider;
- iv) Where the customer has agreed to purchase a product or service from the Gaining Communications Provider and the Gaining Communications Provider has submitted a request for a different product or service which the customer has not agreed to purchase; or
- v) Where the customer has agreed to transfer some or all of their telephone calls and/or line rental to the Gaining Communications Provider having understood, as a result of a deliberate attempt by the Gaining Communications Provider to mislead, that they are making an agreement with a different Communications Provider.

SMPF – Shared metallic path facility. A wholesale unbundling product provided by Openreach, giving the CP partial control of the line, usually for broadband services. A way for Providers to gain partial control of the local loop connect to end users.

SME – Small and medium-sized enterprise. Business with up to 10 employees.

Switchers – Consumers that have switched their Provider in the last year.

Switching costs – Costs incurred by changing supplier that are not incurred by remaining with the current provider. There are several types of switching costs, including transaction costs, compatibility costs, learning costs, contractual costs, equipment costs, uncertainty costs, psychological costs, shopping costs and search costs.

SWG - Switching working group. Was a joint industry, Office of the Telecommunications Adjudicator and Ofcom body, formed in 2010. Considered the problems with the existing NoT and MAC processes in more detail and developed detailed specifications and costs for different switching process options for fixed voice and broadband services on the Openreach copper network.

TPI – A third party integrator.

TPV – Third party verification. Process of recording a consumer's consent to switch using a third party.

Triple play bundles – Fixed voice, broadband and digital TV services

TxC – Transfer code. Code that identifies the assets and services to be switched at each level in the supply chain.

TxCIA – A transfer code issuing authority/ agency/ agreement.

USN - Unique service number. A code that would be issued to consumers via their bills that they would need to give to the GP before they could switch.

WLR – Wholesale line rental. Product offered by Openreach to communications Providers to enable them to offer fixed voice services to end users without having to fully manage the line. It enables other Communications Providers to offer both line rental and calls to end-users over BT's local network.

WLR3 – Wholesale line rental 3. Offers a range of features that give greater flexibility and control over the service CP offers to end customers.

WLT – Working line takeover. A request to reuse a working telephone line for a new end user at an existing end user's address.