



Response to draft BEREC report on best practices to facilitate switching

Introduction

The Communications Consumer Panel is an independent panel of experts established under the Communications Act 2003. Its role is to influence Ofcom, Government, the EU and service and equipment providers, so that the communications interests of consumers and citizens are protected and promoted.

The Panel welcomes BEREC's draft report on best practices to facilitate switching. The Panel's view is that it would be in consumers' interests for national regulatory authorities (NRAs) to work towards harmonisation of switching processes for all communications services within their country. The main reason for this is that while consumers are buying bundles of communications services in increasing numbers, the services that make up these bundles often have different switching processes. So unless NRAs begin the work of harmonising these processes now, consumers with bundles will face substantial problems in switching providers. The hassle involved in switching will deter some consumers from doing so, which is likely to mean reduced competition and a worse deal for consumers across the board.

The Panel's view is that gaining provider-led switching processes work best for consumers. So in the Panel's view BEREC should signal that they would like to see gaining provider-led processes for all communications services. We recognise that this will take time and involve a series of steps, but it is important for NRAs to make the direction of travel clear to industry and to set out a timetable for achieving this goal.

At present there is a variety of different switching processes and a variety of competing commercial interests. This means that NRAs will need to ensure that industry engages constructively with this issue. This will be possible only if they have a clear goal and convey to industry their commitment to achieving it.

The need for harmonised switching processes

NRAs should take into account that important changes are taking place in the communications sector, notably the fact that the take-up of bundles of services is increasing. In 2009 46¹ percent of UK homes bought communications services as part of a bundle of services and there is the prospect of further growth, particularly in relation to ‘triple-play’ bundles. Within the UK the percentage of homes with bundled services in Scotland, Wales and Northern Ireland is lower than in England, but the rate of growth in the purchase of bundles is higher in Wales and Northern Ireland².

The Panel recognises that most consumers with bundles in the UK have not reached the end of their initial contracts yet. As a result, there is limited empirical evidence that the trend towards consumers buying bundles of services will lead to increased problems with switching and a detrimental effect on the level of competition. But we can anticipate with reasonable certainty that when consumers do try to switch bundles of services they will encounter significant problems.

The Panel believes it is unlikely that consumers realise that switching away from a bundle involves different processes and contact with a number of different service providers. We believe consumers expect to be able to contact one service provider and write one cancellation letter. In addition consumers wishing to switch from a bundle to non-bundled services may find the process more difficult due to unclear pricing structures and a lack of information regarding the implications of switching on the costs of separate services. We also believe that consumers with a bundle, particularly a bundle of three services, are less likely to switch in future because, for example, they have TV programmes stored on the hard drive of a set-top box that forms part of the bundle. This makes it even more important that switching processes do not provide a barrier to switching.

There is also increasing infrastructure competition, with network providers competing to supply next-generation broadband services. This is significant because at the moment there is not a seamless process for switching from, for example, BT to Virgin Media in the UK. Consumers have to cancel their BT service and place an order with Virgin, with the risk that they will have a gap in service.

In the Panel’s view, these market developments mean that NRAs’ goal should be a set of harmonised switching processes which mean that for consumers there is a straightforward and reliable way of switching a single service or a bundle of services regardless of the provider or providers that they are switching to or from. BEREK should take steps now to pre-empt the potential for consumer harm that is clearly visible on the horizon. It should signal now that it is in the interests of

¹ Ofcom Communications Market Report 2009
<http://www.ofcom.org.uk/research/cm/cmr09/cmr09.pdf>

² England 48% (up by 7% from 2008), Scotland 44% (up by 4% from 2008), Wales 35% (up by 10% from 2008) and Northern Ireland 39% (up by 11% from 2008). Ofcom Communications Market Report Nations and Regions 2009 <http://www.ofcom.org.uk/research/cm/cmnr09/charts/converge.pdf>

consumers in the communications sector to move towards a harmonised set of switching processes for all services.

Additions to best practices

The Panel supports the best practices that BEREC has recommended to facilitate switching. The following three principles are included within the BEREC best practice 1 - minimization of unnecessary switching costs/barriers:

- switching process should be quick and reliable;
- service should not be disrupted during switchover; and
- switching processes should work across sales channels to enable consumers to transfer more than one service at a time.

We recommend separating these out as individual best practice principles to reflect the Panel’s view that these are particularly significant barriers to switching and therefore should be emphasised.

The value of gaining provider-led processes

At the moment there is a confusing mixture of different switching processes, and in some cases there are no switching processes at all. Moving to a system of harmonised processes will involve choosing between two main options: losing provider-led services; and gaining provider-led services.

In the table below we have examined the extent to which gaining and losing provider-led processes fit with the best practices recommended by BEREC.

Minimise switching costs/ barriers	Favours gaining provider-led processes	Losing provider-led processes involve more hassle because consumers have to contact their existing as well as their new provider. Losing provider-led processes can lead to delay as losing providers can put off providing the authorisation code that a consumer needs in order to switch. So gaining provider-led processes involve lower switching barriers.
Quick and reliable	Favours gaining provider-led processes	Gaining provider-led processes tend to be quicker and more reliable than losing provider-led processes because there are fewer steps involved in the process. They also tend to involve less effort and engagement on the part of consumers.
Provide continuity of service	Evenly balanced	Both losing provider-led and gaining provider-led processes can provide continuity of service. This is in contrast with a situation where the consumer needs to ‘cease and re-provide’, which is what happens when, for example, consumers want to switch to a new network.

Work across sales channels	Favours gaining provider-led processes	Gaining provider-led processes tend to be simpler for the customer than losing provider-led processes. This in some cases can mean they are more likely to work effectively across different sales channels.
Protect against slamming	Favours losing provider-led processes	There is a higher risk of ‘slamming’ with gaining provider-led processes, but suitable verification processes can reduce this risk. Plus some people who are notified that they are going to be ‘slammed’ manage to prevent it happening. So arguably the risk of actual slamming with gaining provider-led processes can be reduced to a reasonable level.
Ensure consumers well-informed about implications	Evenly balanced	With losing provider-led processes, losing providers can speak to their customers and explain the potential implications of switching. But they do not always do so accurately. Gaining provider-led processes can be designed so that an independent third party gives consumers information about the implications of switching.
Promote retail competition	Favours gaining provider-led processes	Price discrimination tied to ‘save activity’ is less feasible with gaining provider-led processes, which is beneficial for competition. Gaining provider-led processes have lower switching costs because there are fewer ‘touch points’ and less scope for delay, which promotes competition. Gaining provider-led processes avoid a guaranteed opportunity for the losing provider to engage in ‘save activity’, where they make their customer an offer to encourage them to stay. ‘Save activity’ creates a risk that vulnerable consumers will be left on worse deals than more active ones.
Cost-efficient	Further analysis needed	Detailed work is needed to understand the costs and benefits of possible unified processes, but in analysing the costs and benefits of moving to losing provider-led or gaining provider-led processes, BEREC should use the option of not changing the current situation as the base case. This would enable the analysis to reflect the fact that consumer harm and the negative effect on competition will increase over time as bundling and infrastructure competition increases.
Overall	Gaining provider-led processes outperform losing provider-led processes	The application of the eight principles points towards adopting gaining provider-led rather than losing provider-led processes. It is notable too that the vast majority of EU countries use gaining provider-led processes, particularly for fixed and mobile services.

Conclusion

Market developments, particularly the increasing popularity of service bundles, mean that we need harmonised switching processes for all communications services.

The Panel supports the best practice principles recommended by BEREC to facilitate switching. We believe that an analysis of these best practices shows that there is a strong case for moving towards gaining provider-led processes for all communications services. In the Panel's view, NRAs should work towards this goal. This would help to focus the minds of industry players on the need for change and on the practical steps needed to make progress. The Panel invites BEREC to suggest an indicative timetable for harmonised processes to be implemented by NRAs. Strong leadership from BEREC on this issue is needed now to avoid direct harm to consumers and reduced competition in the future.