

Changes to the Switching Regime – What it means for your company

What has happened?

Ofcom published the Statement¹ relating to the new regime for Consumer² Switching on 20th December 2013, which relates to fixed voice and/or broadband services over the Openreach network. These changes will come into effect in two stages; the first being harmonisation of processes by **20th September 2014** and Openreach system modifications between **20th December 2014 and 20th June 2015**.

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Key Summary of Changes

- Harmonisation of the migration of BT Openreach copper based products³ to a Gaining Provider Led (“**GPL**”) Enhanced Notice of Transfer (“**NoT**”) (a variant of what is in force today for say Carrier Preselect) process
 - This means that the Broadband Migration Authorisation Code is dead as a Consumer process, though may remain as a back office systems process.
- The requirement to maintain a durable record of the Consumer’s consent to switch for a year.
- Provision of better information to Consumers on the implications of switching (which affords the Losing Communications Provider (“**LCP**”) the ability to outline consequences where appropriate), including precise information on Early Termination Charges, a statement making it clear that the Consumer does not have to contact the LCP to cancel (the NoT does that) and a requirement for the LCP to list affected and unaffected services which it provides as a result of the transfer.
- A “condition” on all providers to minimise loss of service when switching bundles.
- Changes to Working Line Takeover model.
- Number portability is technically out of scope and is theoretically unchanged, however, it is a process that feeds into the affected processes so may not escape impact.
- Extension on the prohibition on Reactive Saves to all products in scope, which means that the LCP will be unable to actively “win back” the Consumer when in receipt of a NoT.

Whilst the regulation only applies to domestic customers and small businesses, Openreach do not have visibility of the size of a Communication Provider’s (“**CP’s**”) customers; they merely see a single asset on the network. To that end, it is likely that any and all system and process changes involving Openreach will be agnostic to the type of customer, regardless of the regulatory obligation which will pose challenges when dealing substantively with larger entities.

Ofcom will be leading a programme of work to implement these changes through the Office of the Telecommunications Adjudicator (“**OTA**”), which will need resourcing by the Operations staff of each affected CP.

The substantive elements that are changing are Operational and systems based (and to be decided through the OTA), which aren’t touched on here – it is for those appropriate people to determine the impact and the ITSPA Operations Group shall pick this up in due course.

¹http://stakeholders.ofcom.org.uk/consultations/consumer-switching-review/statement/?utm_source=updates&utm_medium=email&utm_campaign=switchingstatement

² Consumer in this context is taken as natural person and businesses upto 10 employees

³ Broadband (including Local Loop Unbundling and Fibre to the Cabinet), Wholesale Line Rental, Carrier Preselect

Reactive Saves

Harmonisation to GPL led processes means that a Consumer can switch services in a manner commensurate with how they switch energy companies or banks today; this means that they don't have to communicate with the LCP at any point – and in all cases the LCP is prohibited from inducing them to stay, save for very limited circumstances.

Whilst this may, prima facie, appear to be problematic, we have a requirement to list services that we provided that will be affected by the transfer, as well as an encouragement to suggest third party services that may be affected. This allows scope to produce a series of standard communications such as to ensure that the Consumer is fully cognisant of all potential impacts of switching; providing this is neutral and factual, it allows the LCP to discharge a Duty of Care with Consumers when they are switching and to ensure that their intent to switch is appropriately informed.

Termination

Sky was recently criticised in the press for making it difficult to terminate contracts; the GPL has a condition to make termination easy without "unreasonable effort" by phone, email or post.

Notes

This paper was prepared for ITSPA by Peter Farmer (Commercial & Regulatory Manager at Gamma; Chair of the ITSPA Industry Developments Working Group; ITSPA Council Member) and the ITSPA Secretariat. This guide has been prepared by the authors (who hereby assert their moral rights) on an 'as is' basis and is not intended to constitute advice on regulatory or any other matters, whether general or specific, and accordingly the authors disclaim all liability, however arising, from any reliance placed on this guide.

Copies of ITSPA's two responses to the two Ofcom consultation phase can be found on the ITSPA website ["Policy Papers"](#) page or via the ITSPA Secretariat.