

Title: Communications Review: The switching of 'bundled' services IA No: DCMS077 Lead department or agency: DCMS Other departments or agencies: Ofcom	Impact Assessment (IA)		
	Date: 07/05/2013		
	Stage: Development/Options		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Elinor Howard / Holly Creek 0207 211 6033			
Summary: Intervention and Options		RPC Opinion: RPC Opinion Status	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£- 1.26m	£-0.87m	£0.09m	Yes
			Zero Net Cost

What is the problem under consideration? Why is government intervention necessary?
 Electronic Communications Services (ECSs) are increasingly sold in bundles with other goods, such as Pay TV. Differences between the regulation of ECS goods and non-ECSs goods has meant that the switching processes for a bundle can differ. This means that the process of switching providers of bundled services can be complex and time consuming. We want the switching of providers to be as straight-forward as possible - supporting competition.

What are the policy objectives and the intended effects?
 To improve the consumer experience of switching bundles of services and increase competition between providers as customers are enabled to switch readily between them.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Two options have been considered:

Option 1: Preferred Option: Provide Ofcom with duty to ensure a consistent and effective experience for consumers switching away from a bundle (that includes content and ECS services).

Option 2: Do Nothing.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 04/2018					
Does implementation go beyond minimum EU requirements?				No	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: n/a	Non-traded: n/a

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____ Date: 10 May 2013

Summary: Analysis & Evidence

Policy Option 1

Description: Preferred Option

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: --1.26

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.56	0.14	1.26

Description and scale of key monetised costs by 'main affected groups'

Ofcom will incur extra costs associated with investigation of switching and the monitoring and enforcement of the new system.

Businesses will incur the costs of investment in new switching systems - where required to ensure consistency - and the subsequent implementation of them.

Other key non-monetised costs by 'main affected groups'

None identified.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

None identified.

Other key non-monetised benefits by 'main affected groups'

It is expected that the measure will improve the consumer experience of switching and reduce costs to customers. The measure is also expected to increase competition between providers as customers are enabled to switch readily between them. It is also expected that innovation among providers will be encouraged.

Key assumptions/sensitivities/risks

A key assumption is that bundling of comms services is a growing trend. Ofcom research indicated that take-up of bundles of two or more services more than doubled from 29% to 60% between 2005-11. As of Q1 2013, 21% take a 'triple play' (fixed voice, broadband and multichannel TV) bundle (up from just 3% in Q1 2005).

Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

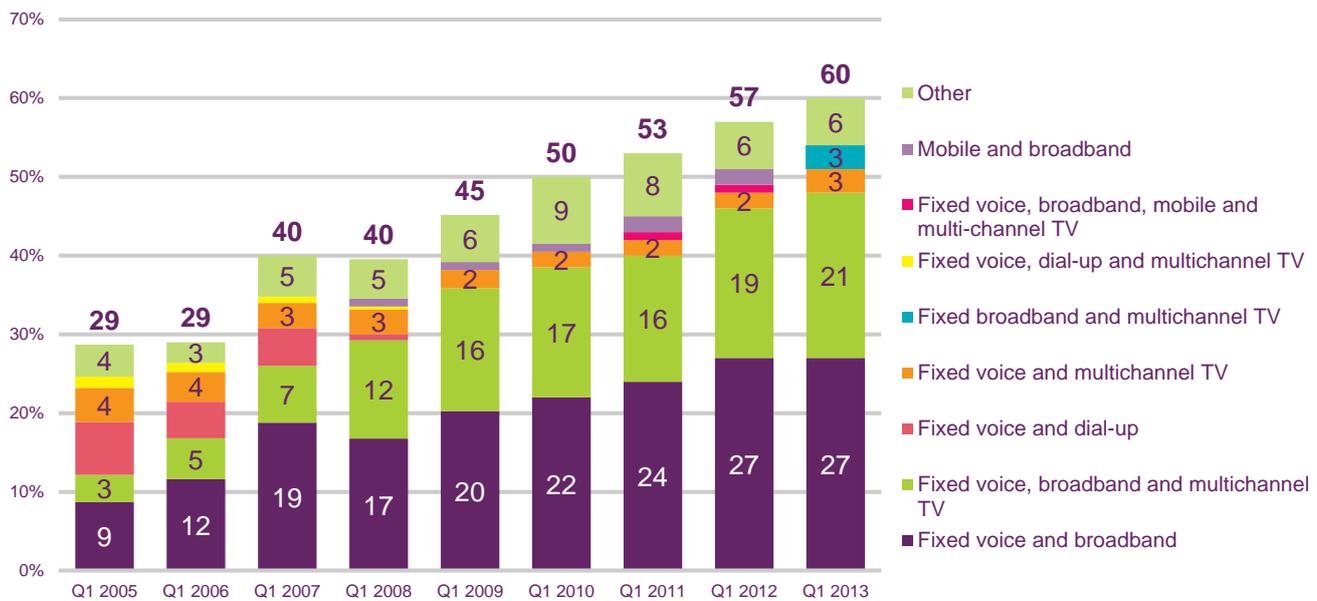
Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.09	Yes	Zero net cost
Benefits: 0		
Net: -0.09		

BACKGROUND

Bundling is an important part of the communications landscape in the UK

Bundled services – where consumers purchase multiple communications services from a single provider – are an increasingly significant feature of the communications market. Bundling has brought benefits to consumers – lower prices, convenience and service integration – and helped support the UK’s leading position in broadband take-up.¹ Between Q1 2005 and Q1 2013, take-up of bundles of two or more services more than doubled from 29% to 60%. As of Q1 2013, 27% of households bundle pay TV with at least one other telecoms service, and 21% take a ‘triple play’ (fixed voice, broadband and multichannel TV) bundle (up from just 3% in Q1 2005).

Figure 1: Take-up of bundled services Q1 2005 – Q1 2013



Source: Ofcom Technology Tracker.

Base: all adults aged 16+.

The trend since 2006 is one of steady growth. This is likely to continue, since the four largest ISPs all now offer and heavily promote these integrated packages (see figure 2 below).

Figure 2: Triple play customers - proportion of base accounted for by four largest providers

Provider	Proportion of triple play subscribers
Virgin Media ²	65%
Sky ³	33%
BT ⁴	13%
TalkTalk ⁵	2%

Source: Operators / DCMS as at 31 December 2012.

Note: TalkTalk has only actively marketed triple play services since Q4 2012.

Bundles bring together services that are subject to different regulatory regimes – e.g. telecoms services are typically regulated as ‘Electronic Communications Services’ (ECS), but other bundled services may be subject to broadcast licensing or simply generic consumer protection and competition law.⁶

¹ Ofcom’s International Communications Market Report 2012 states there are 77 broadband connections per 100 households in the UK. This is the fourth highest number among the 17 major comparator markets in the report. See http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr12/icmr/ICMR_Section_6.pdf, p. 57.

² <http://investors.virginmedia.com/phoenix.zhtml?c=135485&p=irol-financial-results>.

³ http://corporate.sky.com/documents/pdf/latest_results/q2_1213_kpi_sheet.pdf.

⁴ http://www.btplc.com/Sharesandperformance/Quarterlyresults/PDFdownloads/q313_KPIs.pdf.

⁵ <http://www.talktalkgroup.com/~media/Files/T/TalkTalk/pdfs/results/q3-results-2013.pdf%20title>.

Switching processes for bundled services are inconsistent

Historically, switching processes for different services have been regulated in different – and sometimes multiple – ways. And for some services there is no agreed formal switching process at all, making a seamless transition between services unlikely.

Where they do exist, typical switching processes follow either a ‘gaining provider led’ (GPL) or a ‘losing provider led’ (LPL) model. In GPL processes, consumers who wish to switch contact their new (or ‘gaining’) provider who handles the process on their behalf with no need for the consumer to contact their previous supplier. By contrast, in a ‘losing provider-led’ (LPL) process the consumer must contact their previous (or ‘losing’) supplier, usually for a code which they must then provide to their new supplier. Where no agreed switching processes exist, a procedure called ‘cease and re-provide’ is generally followed, which shares some characteristics with LPL (e.g. the need to contact the previous supplier).

Figure 3 summarises the current switching processes for the main communications services:

Figure 3: Current UK switching processes

Switching processes	Relevant services (single or bundled)
Gaining provider-led	
<u>‘Notification of transfer’ (NoT) process</u> – consumer contacts gaining provider and receives letters from both gaining and losing providers prior to switch, with 10 day period to halt switch	<ul style="list-style-type: none"> • <u>Fixed-line</u> (using Wholesale Line Rental or Metallic Path Facility) • <u>Broadband</u> (using Metallic Path Facility)*
Losing provider-led	
<u>‘Migration authorisation code’ (MAC) process</u> – consumer must contact losing provider to request a MAC, and then provide MAC to gaining provider within 30 days.	<ul style="list-style-type: none"> • <u>Broadband</u> (using BT Wholesale product – IPstream or Shared Metallic Path Facility)
<u>‘Porting authorisation code’ (PAC) process</u> – if they wish to keep their mobile number, a consumer must contact losing provider to request a PAC, and then provide PAC to the gaining provider within 30 days	<ul style="list-style-type: none"> • <u>Mobile</u> – where number is ported
No agreed switching process	
<u>‘Cease and re-provide’ (C&R)</u> – consumer terminates contract with existing provider and requests new service from new provider (not necessarily in that order).	<ul style="list-style-type: none"> • <u>Fixed-line</u> (to/from cable) • <u>Broadband</u> (to/from cable) • <u>Pay TV</u> (using cable or satellite) • <u>Mobile</u> (where number is not ported)**

Source: DCMS based on Ofcom – *Strategic Review of Consumer Switching* (<http://stakeholders.ofcom.org.uk/consultations/consumer-switching/>)

* Switches to or from MPF follow the NoT process rather than the MAC process.

** With pay as you go mobile a consumer arguably never needs to contact the losing provider to ‘cease’ as they can just go out and buy a new SIM card or handset and use up the credit they have with their existing provider.

Inconsistent processes undermine efficient switching and lead to consumer hassle

Ease of switching plays a vital role in improving consumer experiences and ensuring effective competition. Where switching processes are not efficient (for example through market failure or through artificial barriers to switching providers), consumers are unable to make and act upon effective choices, and thus cannot secure the best value and most appropriate products and services for them. They may also experience unwanted hassle and be discouraged from switching in the future. At present, a consumer of a triple-play bundle will need to make a number of different phone calls to switch provider.

Growing evidence of problems with the consumer experience of switching bundles

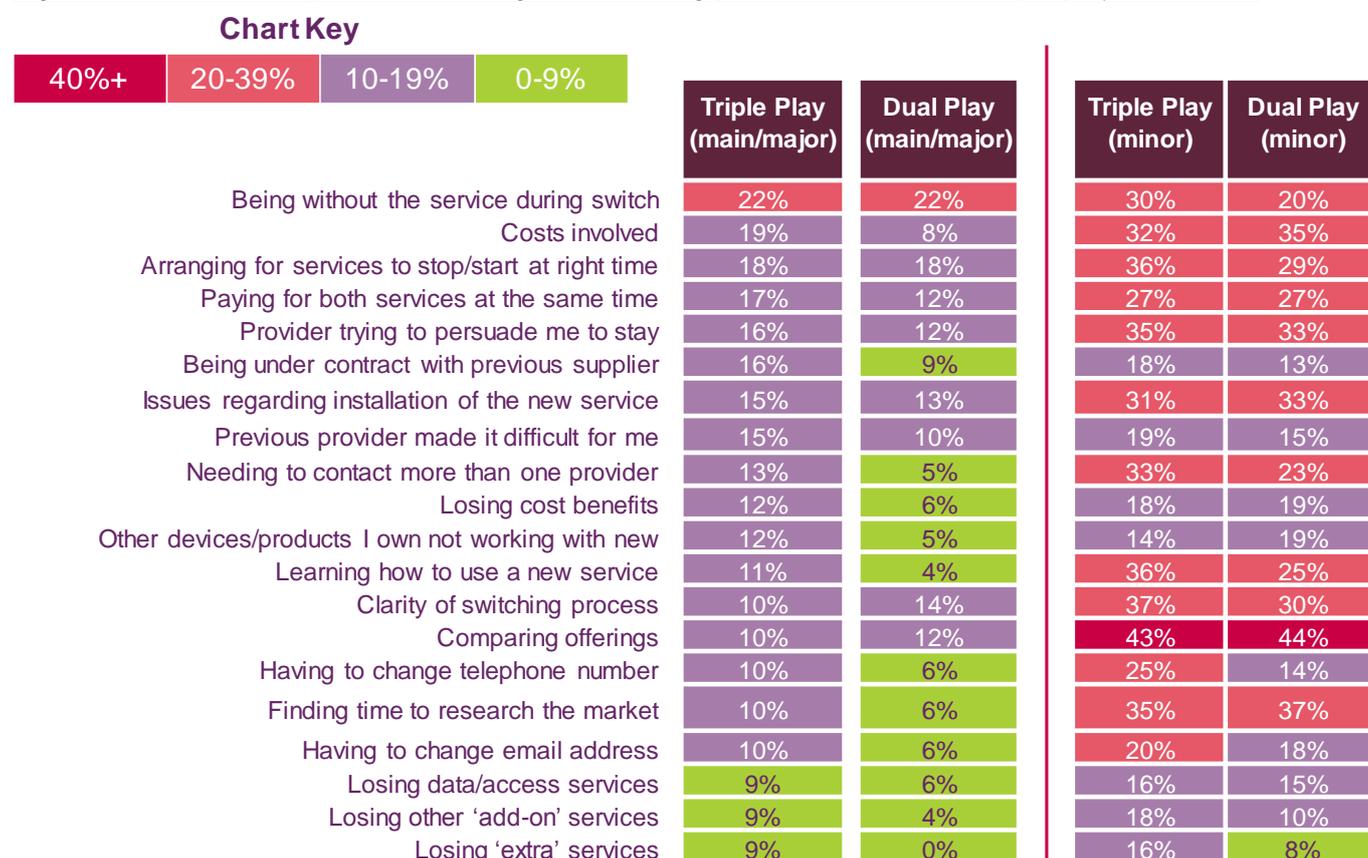
The impact of bundling on switching levels varies. A relatively high proportion (13%) of consumers has switched at least one service to or from a bundle in the previous year. But very few people have

⁶ There is no unified framework for the regulation of communications services in the UK (either generally or with regard to switching processes in particular). The overall regime is based on a variety of pieces of legislation including both European and domestic law (primarily the Communications Act 2003, but also relevant consumer protection and competition law).

switched their entire bundle to a different supplier (3%).⁷ This was the joint lowest level of switching, along with pay TV.

Low switching levels do not necessarily indicate a problem. Other reasons for low switching levels may include high levels of customer satisfaction, and the natural lag in a nascent market between subscribers taking bundled services with long contracts and being eligible to switch without penalty. However, Ofcom research also shows that triple play switchers report higher levels of nearly all main or major difficulties associated with switching processes for bundles than double play customers (Figure 4).

Figure 4: Difficulties experienced during the switching process: double and triple play customers



Source: DCMS based on Ofcom Customer Retention and Interoperability Research 2012, QE1/2.
Base: All switchers (past two years)

In addition, around 15% of those who switched bundled services in the past year experienced continuity of service problems (figure 5) – e.g. a break in service or the need to pay two providers simultaneously.

Figure 5: Experience of problems relating to continuity of service

	Proportion experiencing this	Average duration/cost
Unwanted break in service	15%	12 days
Paying two providers simultaneously	14%	£30

Source: Ofcom Strategic Review of Consumer Switching March 2010, research annex.
<http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switching-bundling.pdf>

IMPACT ASSESSMENT

Problem under consideration

Electronic Communications Services (ECSs) are increasingly sold in bundles with other goods, such as Pay TV. Differences between the regulation of ECS goods and non-ECSs goods has meant that the

⁷ <http://stakeholders.ofcom.org.uk/binaries/consultations/consumer-switching/annexes/switchingbundling.pdf>, p.10.

switching processes for a bundle can differ. This means that the process of switching providers of bundled services can be complex and time consuming. We want the switching of providers to be as straight-forward as possible - supporting competition.

Rationale for intervention

To improve the consumer experience of switching bundles of services and increase competition between providers as customers are enabled to switch readily between them.

Policy objective

Provide Ofcom with duty to ensure a consistent and effective experience for consumers switching away from a bundle (that includes content and ECS services).

It is anticipated that this will have the following outcomes:

- Consumers' overall experience of switching bundled services will improve. They will be more likely to consider switching in the future.
- competitive inefficiencies in the market for bundled services will be reduced, thereby further leading to an improved consumer experience; and
- regulation will be sufficiently flexible to take into account changes in the market for bundled communications services.

Description of options considered (including do nothing)

Option 1) Preferred option: Provide Ofcom with duty to ensure a consistent and effective experience for consumers switching away from a bundle (that includes content and ECS services). Ofcom shall have a duty to develop a code of practice to regulate switching processes for bundled services, where the bundle includes at least one service defined as an ECS. Any extension of regulation in this way would be subject to strict legal tests of objectivity, non-discrimination, proportionality and transparency. Ofcom would be required to consult prior to introducing a code of practice in this way.

Option 2) Do nothing: leave existing provisions relating to switching unchanged – which means consumers will have to negotiate multiple switching processes to switch a bundle. Regulatory inconsistencies between ECS and non-ECS services would remain, as would hassle in the switching process.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Option 1) Preferred option

At this stage, attempting to assess costs and benefits of any Ofcom intervention is speculative; although indicative values have been set out below.

It is hoped that responses to the White Paper on this matter will help clarify the nature and extent of the likely costs and benefits associated with this proposal. Any such responses will be incorporated into the Final IA which will accompany the introduction of any subsequent bill.

We note that under section 7 of the Communications Act, Ofcom must carry out an impact assessment for all important proposals. This should ensure that any decisions that are made take full account of the current realities of the market.

Benefits

Reduced barriers to switching of bundled services. Consumers benefit from easy switching by being able to move to providers offering the most appropriate and best value services for them. They also benefit from increased competition and innovation between providers when barriers to switching are low.

Consumers' experience of switching will improve: The inconvenience of switching will be reduced with the result that, in future, consumers are more likely to consider switching between bundles in search of more favourable deals.

Providers benefit from greater opportunities to expand in existing markets and to enter new markets by appealing to subscribers who might otherwise have remained with their existing provider. Where markets are open and have low barriers to entry, there are incentives on providers to innovate and provide increasing value to consumers.

Costs

Administrative burden of Ofcom investigating and monitoring switching processes: before implementing a code of practice outlining reforms to switching processes Ofcom will have to review switching processes and consult on the proposals for the code of practice.

Ofcom inform us that investigations are estimated to involve an extra 1,250 FTE days per annum (at an average cost of £150 per FTE day including ancillary cost) spread over 2014 and 2015 with none thereafter. This equates to £0.36million in 2012 prices NPV 2014-23. In addition, on-going monitoring is estimated to involve an extra 50 FTE days p.a. (also at an average cost of £150 per FTE day). This equates to £0.03million in 2012 prices NPV 2014-23.

Costs to business of compliance with and implementing switching processes: businesses will need to invest in processes, infrastructure and interfaces to establish switching processes between suppliers. This will likely involve both capital and operational outlay.

Benchmark information from Ofcom suggests that the cost of system changes would be of the order of £100k for each distribution platform. This investment is assumed to be spread between mid-2014 and mid-2016 and equates to £0.56million in 2012 prices NPV 2014-23. This represents a transition cost. Subsequent operation of the switching systems will involve an estimated of 100 FTE days. For business, industry sources suggest that each FTE day will cost on average £250, including ancillary costs. This equates to £0.31million in 2012 prices NPV 2014-23.

Option 2) Do nothing

Benefits

No additional benefits to status quo anticipated

Costs

Increased switching costs and hassle as more and more consumers take triple play bundles.

Reduced competitive intensity as providers are able to raise barriers to switching and target save activity to most active subscribers. Consequent Growing competitive asymmetry in bundles markets which unfairly favours pay-tv incumbents.

Reforms to switching processes for telecoms services may be undermined where these services are bundled with non ECN/S services.

Summary Costs and Benefits

The main benefits of this measure cannot be estimated because they depend on future market developments that might result from this policy. To monetise them would require detailed modelling of the relevant markets which would be costly and time-consuming and, hence, disproportionate.

By contrast, it is possible to estimate the main costs. These are detailed in Figure 6.

Figure 6: Summary Costs and Benefits (£ million in 2012 prices NPV 2014-23)

	Preferred Option
COSTS	
Ofcom:	
Investigations	0.36(1)
Monitoring	0.03(2)

Total Ofcom	0.39
Business:	
Investment	0.56(3)
Operations	0.31(4)
Total Business	0.87
Total Costs	1.26
BENEFITS	
Increased Competition	+
Increased Innovation	+
Reduced Costs to Customers	+
Improved Consumer Experience	+
Total Benefits	+

Notes: (Source Ofcom / industry estimates)

1. It is assumed that this function will take an extra 1,250 FTE days per annum at a cost of £150 per FTE day spread over 2014 and 2015 with none thereafter.
2. This is assumed to take an extra 50 FTE days p.a. at a cost of £150 per FTE day.
3. It is assumed that there are 3 platforms distributing bundled packages. Each will invest £100,000 in new systems to make the regulation effective. This investment is assumed to be spread between mid-2014 and mid-2016.
4. It is assumed that businesses will devote 100 FTE days p.a. to the new systems at a cost of £250 per FTE day.

Competition Assessment

This measure is primarily intended to improve the consumer experience of switching bundles but it will also promote competition in the bundled communications and telecommunications services market, since promoting competition is a key part of improving the consumer experience. It does so by enabling customers to switch between providers in more timely and lower cost ways than is currently the case. As a result, it will reduce the ability of providers to treat some customers as tied in for extended periods and so facilitate new entry into the market.

The direct or indirect impacts of the measure on the number or range of sustainable suppliers is not known. An increase in the number and range of suppliers is likely to occur only if the improvement to market competition is so marked that existing impediments to new market entry are reduced. It is difficult to judge how far this measure will cause this to occur. Nevertheless, it is most unlikely that it will have the opposite effect.

It is possible that the measure will enhance the ability of suppliers to compete in adjacent markets. This might occur if new forms of distribution are made possible as a result of the enhanced market competition which could allow suppliers to innovate or to supply existing products in new ways. It could also mean that the costs of new entry into the bundled products market will be reduced. It is difficult to judge whether this measure on its own will be sufficient to make these occur. It is, however, clear that the measure is very unlikely to inhibit the ability of suppliers to compete.

This measure is expected to promote competition because it will enable consumers to switch between suppliers more easily than at present, and reduce competitive asymmetries between suppliers at present regulated in different ways. Suppliers of products that are either relatively expensive or relatively low quality will not be able to prevent customers from seeking out alternatives. By the same token suppliers of cheap high quality products will be able to attract customers away from other suppliers. As a consequence, this measure increases directly the incentives for suppliers to vigorously compete. Moreover, it does so without adversely affecting other aspects of competition.

For these reasons, this measure is expected to lead to a net increase in competition in bundled communications and telecommunications markets.

It has not been possible to monetise the impact of this increase in competition. However, it is expected that consumers will reap benefits in the form of reduced prices and higher quality products.

Whether wider social benefits will result is more doubtful. The consumption and production of bundles of communications and telecommunications products do not seem to be associated with significant external benefits. Hence, it is unlikely that this measure will have positive impacts beyond the confines of the bundles market.

Overall this measure is pro-competition and should be counted as zero net cost for OITO purposes.

Rationale/evidence to justify level of analysis used in the IA (proportionality approach)

The proposal involves giving a new duty to Ofcom ensure consistent switching of bundles.

The circumstances under Ofcom power(s) would be exercised in the future cannot be determined with any certainty. Hence, a detailed quantification of the range of possible benefits that this measure might bring could only be made with aid of costly modelling the results of which would be open to debate. For this reason, we believe it to be disproportionate use of resources.

However, it has been possible to quantify some of the main costs that are likely to be involved and these are set out above.

Risks and assumptions

The preferred option falls short of full harmonisation of the regulatory regimes across communications services. As a result, some degree of inconsistency enduring in how the different components of bundles are regulated will remain.

This is a fast moving market and any intervention needs to be sufficiently flexible and subtle to ensure that it neither unfairly penalises one type of service at the expense of others (e.g. targeting pay TV but not emerging over the top audio visual services) nor damages a growing and relatively successful market.

Direct costs and benefits to business calculations (following OITO methodology)

This is an in that would increase the direct influence on firms. Actions taken in the future will undergo a thorough assessment of specific case costs and benefits. PVNCB in 2009 prices is estimated to be £0.82 million and EANCB is £0.09 million. However, because the measure is pro-competitive, it should be counted as an IN with zero net cost.

Wider impacts

None identified.

Summary and preferred option with description of implementation plan

The trend to bundled services creates challenges because bundles bring together services which are regulated in different ways, and even combinations of regulated and unregulated services. Our objective is therefore to enable Ofcom to regulate the switching processes for bundled services consistently and where appropriate.

The objective of the duty is for Ofcom to protect the interests of consumers by ensuring that there is a consistent and effective switching process that applies when a consumer decides to switch the provider of any or all services provided in a Bundle and switch to an alternative provider, or providers, of those services.

It is likely that a code of practice is preferable to other prescriptive mechanisms written into the legislation as it maintains a greater degree of flexibility to changing market dynamics than any mechanism hardwired into legislation and would enable Ofcom to revise the code in response to changes in the market.

Ofcom shall have a duty to develop a code, to be drawn up following investigation and consultation conducted by Ofcom. Such consultation would include an Impact Assessment. It would also involve Ofcom evidencing the potential or actual problem with the consumer switching experience (some of which evidence is already available, albeit not in a developed state), formally consulting on the nature

and extent of the harm caused by any inconsistency, and containing options to remedy the harm, by way of the code.

Any breach of the code would likely entail a fine being levied on a provider which acted in breach of the code.

We note that Ofcom have suggested the definition of a “bundle” as the simultaneous provision of a set of services including (a) an ECS; and (b) a Content Service to an end-user – where a “Content Service” is the sale of a package including access to (a) services licensed under the Broadcasting Acts; (b) an on-demand programme service; or (c) other forms of content to be considered/subject to an extension mechanism.