# Helping consumers to engage in communications markets

Response to Ofcom from
Citizens Advice

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# 1. General Comments

Citizens Advice welcome's Ofcom's call for inputs on consumer engagement. The evidence presented throughout the document points to a market in which even active consumers can struggle to find the best deal, while inactive, loyal customers are penalised. These findings chime with many of the findings of our own research. For example, we found that broadband customers who do not switch at the end of their minimum contract period pay a 'loyalty penalty' averaging £113 each year.[1]

The call for inputs highlights a number of aspects of the market which may hinder engagement in the market, and the potential remedies it proposes have the potential to make a real difference for consumers. We comment on these proposals in greater depth below.

However, we are concerned that the document's strong focus on informational remedies means that other important barriers to engagement are not being fully considered. We have identified three significant weaknesses in the current framework which, if unaddressed, have the potential to significantly hinder progress towards improving consumer outcomes in these essential markets:

First, **the framework should be centred around how people behave and make decisions in real life**. The current framework is primarily focussed on encouraging consumers to behave like economically 'rational' actors - placing the onus on consumers to be proactive in gathering and assimilating all of the necessary information in order to ensure that they get the best deal.

In reality, a range of behavioural biases, well documented within the behavioural insights literature, will affect how people make decisions, with significant implications for the types of remedies which will be effective. Simply telling people that it is in their interests to engage, and providing them with more information will not necessarily lead to consumers taking action and making 'better' decisions. [2]

Second, **the framework currently fails to acknowledge the comparatively high risks telecoms consumers face when switching in comparison to other regulated sectors.** For example, broadband and mobile customers face a genuine risk of loss of supply when switching their service, as well as the

[1] R. Morelo and L. Greenhalgh, ***Exploring the Loyalty Penalty in the Broadband Market*** (Citizens Advice, 2017)
[2] T. Oguyne, ***Against the Clock*** (Citizens Advice, 2016)

prospect of engineer visits and requiring the delivery new hardware. In contrast, when a consumer switches their energy provider, the supply is continuous, with the only real risks being administrative in nature.

Telecoms contracts are also often more restrictive, and represent a more significant commitment, than other utilities. The comparatively long length of most mobile and broadband contracts also means that consumers are required to make decisions based not just on what what meets their needs now, but also on a prediction of how technology, and their own circumstances, might change in the future. If they make what turns out to be the wrong decision, consumers can be made to pay an exit fee equal to the entire remaining cost of the minimum contract term, with often only a small deduction, to leave their contract. In contrast, consumers wishing to leave a fixed term energy contract are only required to pay a fee of around £30. If it is to be effective in driving up engagement in these markets, the framework must to do more acknowledge, and find ways to reduce, these risks

Finally, the interventions set out in the framework have the potential to make it easier for active consumers to find the best deal, and encourage some inactive consumers to become more active. However, **the framework does not currently acknowledge that some consumers will never be willing and/ or able to shop around to find the best deal and switch.**

It is a well established feature of competitive market that consumers who shop around and switch regularly secure the best deals. The question, however, is the extent to which those who don't switch, either through inertia or loyalty, should be penalised. As noted above, our research found that broadband customers who do not switch at the end of their minimum term pay on average 43 % more[3] We also found that some groups of vulnerable consumers are also more likely to be loyal customers. For example, customers aged 65 and over are more than twice as likely than younger customers to have been in the same contract for over 10 years. In the energy market, Ofgem recently intervened in the energy market to cap the cost of energy for prepayment customers.[4] Alongside reducing barriers to engagement, Ofcom should follow Ofgem's lead by considering ways to minimise the risk of exploitation for those who do not engage.

To be successful, any initiative to increase consumer engagement in the market needs to be approached with a truly open mind. It should consider whether the way the telecommunications market is currently structured actually allows consumers to engage when they need to most, and fits in with the way people

[3] ***Exploring the Loyalty Penalty***
[4] Ofgem, ***Prepayment meter price gap*** (2017)

live their lives. In the following section we provide more in depth comments on the three categories of intervention outlined in the call for inputs.

## 2. Do consumers know when they should be reviewing their contract?

We agree with Ofcom's assessment that consumers should be provided with more information about when they should be reviewing their contract. End of contract notifications, or annual statements,  could be an effective way of providing this information. As we argued in our report, Hung up on the Handset, these notifications should include all of the information a consumer needs in order to make a decision about the type of product they need, including the key features of the tariff they are currently on, the proportion of any inclusive allowance they used each month over the past year, and in how many months they exceeded their allowance.[5]

Over the last decade Ofgem has introduced a number of highly prescriptive regulations setting out which pieces of information energy suppliers must provide to their customers, when and in what format.  For instance as a result of 2010-13 Retail Market Review (RMR) (2010–2013), Ofgem introduced a number of changes to energy bills, and separately required the production of an annual statement for all energy consumers. These interventions met with mixed success and did not appear to considerably increase switching rates.[6] It is important, therefore, that any annual statement or end of contract notification is rigorously tested with consumers to establish the most effective time and channel for targeting information at different groups before they are rolled out more widely. Our joint report with the Behavioural Insights Team, Applying behavioural insights to regulated markets, makes a detailed case for consumer testing.

However, end of contract notifications alone are unlikely to be sufficient. The first interactions many consumers have with the market is advertising. Recent regulatory changes now require broadband adverts to include the cost of line rental and to give greater prominence to contract length, post-discount pricing and up-front costs. However, our research found that providers are often not being transparent in advertising the cost of their broadband contracts after the initial period.[7]

As well as helping consumers to make a more informed choice about which broadband deal will offer the best value for money over the medium to long

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[5] A. Pardoe and B. Whitham, ***Hung up on the Handset. An investigation into sales practices in the mobile phone market*** (Citizens Advice, 2016)
[6] A. Faulk, ***The Lost Decade Consumer Experience of Energy Billing Issues 2005–2015*** (Citizens Advice, 2015)
[7] *Exploring the Loyalty Penalty*

term, making these costs clearer would help to raise consumers' awareness that the cost of their broadband will go up significantly after a certain amount of time. This is particularly important as many consumers are not aware that being a loyal customer doesn't pay. Our research found that a third of broadband consumers think that long standing customers pay the same or less than new customers.[8] To be successful, this programme of work will have to consider how far it is possible to overcome such ingrained assumptions

[8] ***Ibid***

# 3. Helping consumers identify the right deal

Ensuring that prices are clear and transparent is critical if consumers are to be able to confidently navigate the market and find the best deal. Unfortunately this is not always the case in telecoms markets. Citizens Advice has previously campaigned to make broadband adverts more transparent, and ASA rules now prevents broadband providers from misleading consumers by separating line rental and broadband service costs  However, as indicated in the section above, our research on the loyalty penalty in the broadband market found that providers are still upfront about the cost of their services. While consumers are now presented with a single in contract price, the, often far higher, out of contract prices are often left buried in terms and conditions by most providers.

It is concerning that the industry's response to regulatory action on one form of misleading pricing has been to adopt another. Ofcom and the ASA should look again at the way broadband prices are displayed in adverts, on company websites and on price comparison services  to ensure that consumers have access to all of the information they need. Any such review should concentrate on making 'future proofed' proposals, which can be applied to new industry practices as they develop.

Although pricing in the broadband market is still in need of improvement, mobile phone contracts are often far more difficult for consumers to decypher. Consumers have a wide range of tariffs, with varying volumes of inclusive minutes, texts and data to choose between. Selecting a handset which meets their needs and matches up with an appropriate tariff adds a further layer of complexity.

Our research found that mobile customers cannot rely on mobile phone sales staff to help them to find the right deal. The tariffs recommended by mobile phone sales staff were on average 130%, or £23 a month, more expensive than the cost of the most appropriate tariff identified through our desk research[9]. The difference in the cost was primarily due to sales staff recommending tariffs with data, call and text allowances which significantly exceed the needs of our mystery shoppers.

Better tools to measure and match usage, for example an annual statement or end of contract notification, would help consumers to better understand their tariff, and how much of their monthly allowances they actually use. As noted

[9] ***Hung up On the Handset***

above, however, these tools should be tested with consumers before wider roll-out.

However, these information remedies in isolation will not be sufficient to make mobile phone tariffs clear and easy to compare for consumers. Our research, including mystery shopping of the mobile phone sales process, has consistently identified that the way most mobile phone contracts are structured, combining the cost of the handset with the cost of the service in one monthly free, is a root cause of many of the problems we see across the market, from accessing redress to leaving contracts. When it comes to barriers to engagement, combining these costs presents 3 problems:

First, the most expensive, and popular handsets are often only available when the customer signs up to expensive monthly contracts  with extensive inclusive data, call and text allowances which far exceed the needs of many consumers. This in large part reflects the higher costs paid by retailers to the manufacturers of these devices. However, if the cost of the handset and service charge were separated out, there should be no reason that consumers should not be able to select a handset with a set monthly cost alongside a tariff with inclusive allowances which meet their needs.

Second, combining the cost of the handset and the cost of the service in one monthly payment makes it impossible for consumers to establish how much in total they will pay for the handset, and how payment will be divided up over the course of the contract. They are similarly unable to establish how much they are paying for their inclusive services. As well as fundamentally lacking in transparency, this makes effective price comparison across the market all but impossible. This is particularly important as consumers can be tied into a mobile phone contract for up to two years.

Finally, unless consumers switch to a new contract, or ask their provider to switch them to a sim only deal at the end of their minimum contract period, they are at risk of continuing to pay for their mobile phone even after they have finished paying it off. Our soon to be published analysis shows that over third (36%) of consumers on a Handset inclusive contract do not cancel as soon as their minimum contract period has ended, staying with their provider for on average 7 months. Over this period consumers with a low to mid cost handset, will pay on average £111 more than if they were on an equivalent sim-only contract,  this rises to £251 for those with the most expensive phones.[10]

[10] To calculate the size of this payment, we examined the pay monthly contracts offered by EE, Three and Vodafone across 12 handsets. Each handset is available on a pay monthly contract with at least 5 of the 6 largest mobile providers. We included both Android and iPhone devices

## 4. Removing barriers to switching

It is encouraging that the Call for Inputs discusses the barriers which telecommunications providers put in the way of consumers leaving their contract. The document cites two examples, locking mobile handsets and bundles which have different contract lengths for different services. However, it does not mention other significant barriers to consumers leaving service, most notably lengthy contracts and high exit fees which are characteristic of telecommunications market.

Charing exit fees can be a fair practice, which allows providers to ensure that they get a reasonable return on the costs of acquiring new customers. However, they should not be used as a way punish or extract unreasonable profits from consumers who wish to go elsewhere. When Ofcom last reviewed these fees in 2010 they argued that any fees charged should reflect the savings providers made by not having to provide service anymore, and reached a voluntary agreement with the providers to reduce these charges.

[Redacted Paragraph - refers to forthcoming research]

High exit fees are most concerning when a  consumer wants to leave a contract due to receiving poor service. Currently the criteria for fee-free exit are unclear. As Ofcom's consultation on automatic compensation noted, broadband providers terms and conditions display 'a frequent lack of concrete and meaningful commitments to service levels'.[11] This ambiguity makes it hard for consumers to argue that their service has been so poor that they should be able to leave.  Making it easier to exit contracts in these circumstance would mean that consumers would be more able to engage with the market at the point when they are most incentivised to do so: when they are unhappy with the service provided by their current provider.

The practice of charging high exit fees is also one of the reasons why different services in bundles having different contract lengths can form a barrier to switching. If one service in a bundle ends before the others a consumer has three options.  They can ether pay a, potentially large, exit fee for the contract that has not yet expired, pay the 'loyalty penalty' for the other services until the end of the contract, or sign a new contract and commit to stay with the same provider for up to another two years.

with a spread of recommended retail prices (RRP) - 3 'low-range' handsets (RRP under £300), 5 'mid-range' handsets (RRP £300-£600, and 4 'high-range' handsets (RRP of over £600).

[11] Ofcom, ***Automatic Compensation: Protecting consumers from quality of service problems*** (2017)

This is not a problem that can be solved by the better provision of information alone. Even if these charges are prominently displayed consumers during the signup process, it is questionable whether the majority of consumers  will be willing and/or able to accurately calculate their implications. Research by both Ofcom and Citizen Advice looking into the effect of advertising broadband and line rental showed that consumers were rarely able to correctly determine which deals were best value.[12] This is even more likely to be the case when the calculation involves three or four different services.

Instead, providers should prevent such situations occurring at all. The changes they should make depends on the service. In the case of  pay TV services, problems primarily arise when TV services have been added after the contract for the broadband and/or fixed line began. This can either lead to consumers having their main telecoms  minimum contract term extended (leaving them unable to engage in the market for at least another year) or with mismatching contract lengths. In this case we would question why providers need to tie consumers into such lengthy contracts for additional services. Long contracts are typically viewed as necessary in order to ensure that providers can recover the costs of installation and acquisition, costs which are far lower when existing customers are adding services. The mobile sector has long allowed consumers to purchase additional services without signing new contracts (through add-ons), and providers of fixed line services should follow suit.

Bundles which include mobile services require a different approach. Mobile contracts which include a handset usually last 24 months, whereas broadband, TV and Fixed voice contracts last between 12 and 18 months. Making these contracts match when bought in a bundle could have unfortunate consequences: either extending the amount of time that consumers are tied to their fixed service provider, or significantly increasing the monthly cost of mobile contracts. However, consumers should not face an increase in the cost of their mobile service if they decide to move their fixed services at the end of the minimum contract period: any discount offered to consumers purchasing mobile service as part of a bundle should continue for the full length of the minimum mobile contract, whether or not they continue to receive the other services.

[12] Citizen Advice, ***Misleading broadband adverts hiding the true cost of contracts***, (2015); ***ASA and*** Ofcom, ***ASA and Ofcom research into broadband pricing advertisements***, (2016)

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