



## Communications Consumer Panel's response to Ofcom's discussion paper: 'Making communications markets work well for customers - a framework for assessing fairness'

---

The Communications Consumer Panel, established by the Communications Act 2003, is a group of independent experts with direct sectoral experience. We ensure the citizen and consumer voice is represented in communications policy development.

The Panel's job is to ensure that the sector works for consumers (customers), citizens and micro businesses - and in particular people who may be in a more vulnerable position in society. We carry out research, provide advice and encourage Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD (the Advisory Committee for Older and Disabled people) with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

### Response

The Panel welcomes the opportunity to contribute further to this important discussion on Ofcom's proposed fairness framework. We have previously urged Ofcom to work with providers to help them to understand what is expected of them regarding the way they treat consumers - and obtain a firm commitment to fairness. We have been pleased to see that Ofcom has taken into account many of the Panel's suggestions in the recent set of actions it has taken to protect customers, the latest being the Fairness Commitments and [fairer pricing for mobile customers who have paid off their handset](#). It is vital that the fairness framework has at its core what customers need. [Ofcom's research](#), published alongside its Comparing Service Quality report in April 2019 shows that:

- Across landline, broadband and pay-TV, customers rated '**Ease of getting through to the right person (by phone)**' at less than 50% (46%, 47% and 58% respectively) with only mobile exceeding that at 53%.
- '**Getting the issue resolved to your satisfaction**' produced similar responses, with ratings of only 51% for landline, 56% for mobile, 49% for broadband and 52% for pay-TV.
- '**Logging of query details to avoid having to repeat yourself**' produced a customer satisfaction rating of 52%, 55%, 49% and 52% across the four services. These results show no improvement on the previous year's results.

The Panel's research (produced independently by Futuresight) brought to life some of the stories behind these statistics:

*“You have to wait in a queue. They take all your details, and then you’re passed to another agent, pushed from pillar to post. And the whole thing starts again. It feels like it’s never ending. No record is kept. So, if I call again, it’s as if I’ve never called them before. Really frustrating.”*  
Anthony, 65, pay-TV, Glasgow

*“You dread having to call.”*  
Greg, 64, broadband, Swansea

### Learning from other sectors

The Panel has previously highlighted the Treating Customers Fairly outcomes, used in financial services, as a baseline from which to build a framework for fairness in the communications sector. The financial services sector is similar to the communications sector - a complex, competitive, technical market, which can be difficult for customers (particularly those in vulnerable circumstances) to navigate. The financial services sector has needed to focus efforts on regaining consumers’ trust and we trust that the fairness commitments and fairness framework will go some way towards providing a bedrock on which communications providers can build customers’ trust in the sector.

One of the participants in the Panel’s research compared his experience of the communications sector with that of his bank after a problem arose:

*“I’ve got more confidence that it’ll be sorted. My bank took it seriously and didn’t question me.”* Harry, 60, mobile, resolved, Manchester

### Scope

Regarding the scope of the framework, we would highlight that:

- We would also encourage Ofcom to extend the scope of the framework to ensure that it covers the whole of the communications sector, including customers and citizens impacted by potential unfairness in postal services. Ofcom’s duties to “secure fair outcomes for customers” and “act where necessary to protect people from harmful practices” flow from the Communications Act 2003. However, the Postal Services Act 2011 empowers Ofcom to protect customers in the postal sector. We believe it would be valuable for Ofcom to take a holistic approach to fairness for customers and apply a consistent framework across all providers.
- The communications sector has an impact on the owners of micro businesses as well as residential customers. These businesses face many of the same challenges and barriers as residential customers;

Table showing the scope of the proposed fairness framework and potential exclusions, as highlighted in the text above:

	Landline	Broadband	Mobile	Pay-TV	Post
Residential customers	✓	✓	✓	✓	✗
Micro-businesses	?	?	?	?	✗

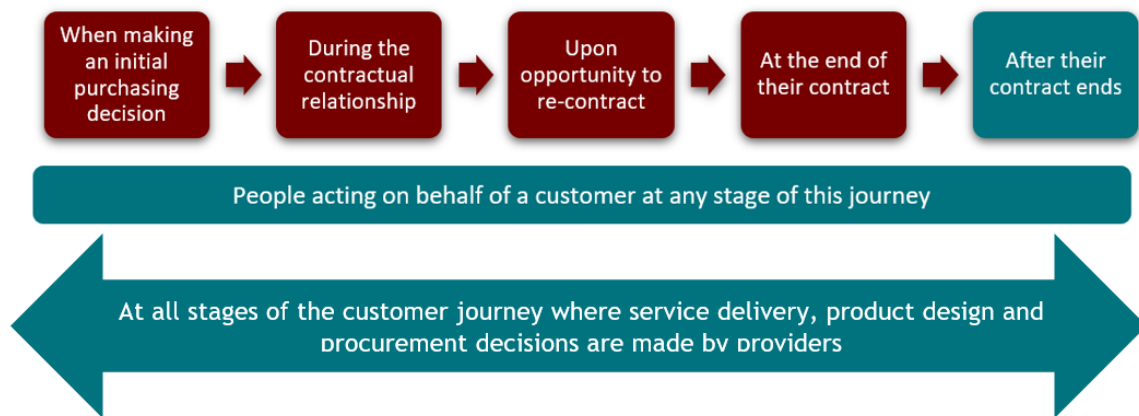


## Customer journey

The Panel has urged Ofcom to ensure fairness at all stages of a customer’s journey and we welcome the inclusion of the whole journey under this framework. We agree that this includes the following stages: “when customers are making an initial purchasing decision; during the contractual relationship; when customers have an opportunity to re-contract; and when customers come to the end of their contract”.

- For the avoidance of doubt, as illustrated by the graphic below, we would add, “and after their contract has ended” as some customers will still need to interact with a provider after their contract ends.
- Additionally, authorised friends and family members may contact a provider on behalf of the customer at any stage of the journey (whether or not they have Power of Attorney). We believe it is reasonable to expect that they are also treated fairly.

The customer journey:



Fairness should be evident during all stages of a customer’s journey, with access to processes and communications accessible to all customers, including where customers need information in alternative formats. Fairness in providers’ service delivery, product design and procurement decision-making processes are key to this.

A quote from the Panel’s ‘Still Going Round in Circles’ report highlights a situation that could affect a customers following termination of their contract:

*“Since being disconnected (9 months ago), I’ve been bombarded with letters and threats to take me to court, for some equipment I do not have. I am overwhelmed. I suffered from anxiety and it’s really caused me a lot of stress and worry, to the point where I’ve felt bullied and threatened, not knowing where to go for help. At one stage, I felt I needed to get some help for my anxiety.”*

Amy, 24, pay-TV, London, very low income

## Identifying fair and unfair practices

We strongly support Ofcom’s attention to harmful types of price discrimination and tariff complexity. In addition to the examples highlighted in the discussion document, we would add:

- Confusing or ineffective complaints processes and ineffective signposting to ADR

- Bill complexity
- A lack of flexibility and proactive action where a customer is having difficulty paying their bills, may be getting into debt, or it is evident that they are taking on more than they need or can afford

The Panel compiled a list of unfair policies and practices in 2017/18 which it shared with Ofcom. Some of these have been partially addressed by recent policy interventions by Ofcom and voluntary agreements by some providers<sup>1</sup>.

### **Procedural and distributional unfairness**

Procedural unfairness is a symptom of an unfair culture and no customer will benefit from it. As the discussion document explains, distributional fairness that affects some customers may be balanced in part by redressing unfair procedural policies and practices. A recent example can be seen in the reduction in landline costs paid by landline-only customers.

The discussion document also highlights the possibility of cross-subsidisation and references the wellbeing benefits to customers of fairness to customers in circumstances that make them vulnerable. It points out the societal benefit of doing the right thing for vulnerable members of society. In the case of communications customers, this would apply where all customers were aware that they contributed towards giving vital access to communications services to people who need them and otherwise would not be able to afford them, such as through supporting a social tariff. For this wellbeing benefit to apply, we believe that the wider customer base needs to know what services their provider has in place for vulnerable customers, for example, Priority Fault Repair.

In situations such as the one above (the reduction in landline costs paid by landline-only customers) the unfairness came as a result of providers continuing to raise retail prices, while wholesale costs were dropping. The agreement between Ofcom and BT eventually saw the most vulnerable customers benefitting from a reduction equating to £84 per year. Landline-only customers do not benefit from savings on broadband costs, so were proportionately experiencing greater detriment than customers paying for a landline in a bundle. Customers who were also overpaying for their landline but had a broadband package with another provider did not benefit from the reduction, which some may argue is unfair. In terms of the discussion document, these customers would be considered 'losers'.

### **Distributional unfairness - winners and losers**

The discussion document does not appear to give much detail about the way in which Ofcom plans to establish the extent by which customers are winners or losers, or how they will determine why, when and whether some customers will subsidise others. Unfairness is unfairness, whether the source is process or distribution-based and distributional unfairness may have been caused by process decisions. It is not clear to us how useful this distinction is and whether this is the right focus for Ofcom's analysis. Further consideration should be given to establishing more specific, quantifiable guidelines for the degree of cross-subsidy which is deemed fair.

---

<sup>1</sup> For example: [Text-to-Switch](#); [Price cap on 118 numbers](#); [Automatic compensation in broadband and landline](#); [Fairer, more realistic information for people buying broadband](#); [Fairer pricing for mobile customers who have paid off their handset](#).

We believe that providers should take proactive action in circumstances such as this, using the data available to them to identify where their practices are harming their customers, particularly their most vulnerable customers. If they fail to do this and the failure is later identified, it should be the provider, and not its customers - altruistic or not - who pay the subsidy.

### **A customer-centric approach that can be easily understood by all is needed**

As highlighted above, we find the Ofcom distinction between procedural and distributional fairness unhelpful and potentially confusing. We are not sure how helpful it is in measuring and rectifying unfairness. However, we are glad that Ofcom has included the customer journey framework, which we believe is much more customer-friendly and easier for stakeholders to grasp and act on. We believe it will also be easier for Ofcom to build up examples of good and bad practice using this. We support a customer-centric approach to talking about fairness, rather than an economist-centric one.

We believe that fairness will look different to customers according to their specific needs. Fairness should not be a one-size-fits-all arrangement, as to make processes fair, some customers may need more support. The two types of fairness we think Ofcom could helpfully refocus its efforts on would be:

1. A general level of fairness that **all customers** should expect from all providers in the UK, throughout their journey - this encompasses things like: automatic compensation for service outages, maximum call waiting times, simple tariffs, no small-print contract 'catches', straightforward complaints processes and referral to ADR schemes promptly.
2. Ensuring fairness of service experience and financial impact where more **vulnerable customers, or customers with particular needs** might otherwise be disadvantaged unfairly by providers' policies and practices.

Both of these would be addressed by a combination of, creating a culture of fairness across the sector (e.g. through a customer charter with quantifiable 'fairness' service levels which providers could sign up to and be performance-measured on), and Ofcom enforcement action.

Fairness is not about providing all customers with an identical service. It's about understanding customers' needs and ensuring that all customers can have an equivalent service and are not prone to exploitation/disadvantage by CPs (wittingly or unwittingly).

### **Assessing fairness**

We agree that it is vital that the following actions are taken by providers to ensure fair treatment of their customers:

- a) Giving customers clear, easy to understand and timely information before, during and at the end of their contract.
- b) Supporting customers in making well-informed decisions; and
- c) Responding promptly to fix problems when things go wrong.

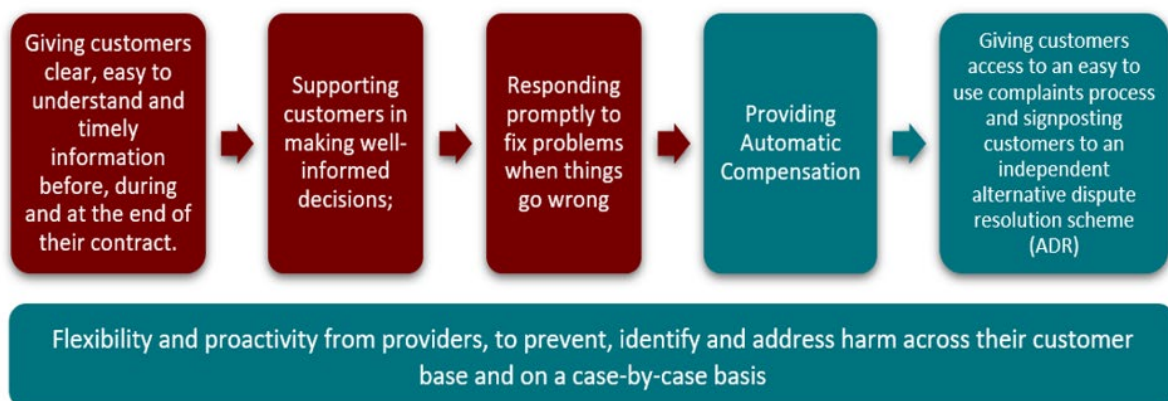


Additionally:

- We would elaborate on this to include giving customers access to an easy to use complaints process and signposting customers to an independent alternative dispute resolution scheme (ADR).
- We have been pleased to see the introduction of Automatic Compensation, but the scheme applies to broadband and landline services only, whereas the framework also covers mobile and pay-TV customers. Furthermore, not all broadband and landline providers have signed up. We trust that Ofcom will not rely on Automatic Compensation to make communications fairer and will continue to drive up standards in complaint handling.
- A key finding from the Panel’s research into the experiences of customers in vulnerable circumstances or with access needs has been that the provider’s policies were not flexible.

**Key pillars of fairness:**

As highlighted above, fairness in providers’ service delivery, product design and procurement decision-making processes are key to a culture of fairness, underpinning each of the pillars of fairness - the three proposed by Ofcom and the additional ones we add in the diagram below. These are: providing automatic compensation; giving customers access to easy to use complaints processes and signposting ADR schemes; and flexibility and proactivity from providers, to prevent, identify and address harm across their customer base and on a case-by-case basis:



*“Eight weeks? I’m not going to wait for that long.”* Matt, 38, mobile, Manchester, sole-trader

*“It’s difficult to know which one [ADR body] to apply to. On the site, when you type in [CP] it doesn’t tell you who to go to.”* Sylvia, 78, pay-TV, Manchester

*“They [websites] are really bad. Hard to find things. They aren’t designed with disabled people in mind.”* John, 37, London, mobile customer with a visual impairment



## Summary

- We would also encourage Ofcom to extend the scope of the framework to ensure that it covers the whole of the communications sector, including customers impacted by unfairness in postal services.
- We urge Ofcom to include micro businesses as customers within the focus of this framework.
- We are not convinced that Ofcom’s distinction between procedural and distributional fairness is helpful; we are glad that Ofcom has included the customer journey framework which we believe is much more customer-friendly and easier for stakeholders to grasp and act on.
- We believe Ofcom should focus on two types of fairness: an overarching culture of fairness by all providers to all customers and an attention to customers’ specific needs so that customers can receive an equivalent, fair service with no financial disadvantage.
- When looking at the customer journey we would add, “and after their contract has ended” as some customers will still need to interact with a provider after their contract ends - and during providers’ service delivery, product design and procurement decision-making processes - which are key to a culture of fairness.
- Friends and family members may contact a provider on behalf of the customer at any stage of the journey (whether or not they have Power of Attorney). We believe it is reasonable to expect that they are also treated fairly.
- We would add the following to Ofcom’s measures of unfairness:
  - Confusing or ineffective complaints processes and ineffective signposting to ADR
  - Bill complexity
  - A lack of flexibility where a customer is having difficulty paying their bills, may be getting into debt, or it is evident that they are taking on more than they need or can afford.