

Communications Consumer Panel and ACOD's response to Ofcom's consultation 'Fair treatment and easier switching for broadband and mobile customers: Proposals to implement the new European Electronic Communications Code'

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, 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

We welcome the opportunity to respond formally to Ofcom's consultations on the way it should implement the requirements of the European Electronic Communications Code (EECC). We have discussed our views with the team during the policy option development phase.

We support Ofcom's proposals to ban mobile device locking; its proposed guidance on non-coterminous linked contracts; and new requirements on contract duration, termination and information. We had raised our concerns with Ofcom about these issues for a significant period of time and are pleased that the EECC is a vehicle that Ofcom can use to implement the changes.

We have responded to Ofcom's previous consultations on the fair treatment of - and easier switching for - consumers. In our response to [Ofcom's proposed Annual Plan for 2017/18](#), in February 2017, we said:

"An outcome of competition should be fairness and simplicity for all consumers. This



includes the way in which consumers are informed about products and services (such as promotional material, terms and conditions, service guarantees and fair expectations). A further outcome should in our view be the absence of unjustified enrichment for providers - for example by virtue of revenue from meaningless switching notice periods or continuing to bill for the handset element of a tariff after it has been paid off. Correction of these unfair practices would we believe lead to greater levels of trust in the market - ultimately better serving all stakeholders.”

In our response to [Ofcom’s consultation in September 2019](#), we highlighted our belief that handset locking presents a particular barrier to consumer switching. In our view it is unfair that some providers charge consumers for their handset to be unlocked - and make them wait significant periods - if they have already completed their minimum contract period and, therefore, paid in full for their handset. We cannot see any justifiable rationale for any provider to charge a consumer for unlocking in this circumstance - it is an example of unjustified enrichment.

We have also highlighted the plight of micro businesses, and particularly sole traders, which face similar challenges to residential consumers and face the unfair choice of operating under a residential contract and missing out on business service level agreements that might help reconnect their business more swiftly in the case of a fault, minimising financial detriment, by or facing lengthy contracts of up to five years.

In our response to [Ofcom’s November 2018 consultation](#) we advised that consumers should be able to receive information that they can easily understand and use to their advantage and agreed with Ofcom’s proposal that communications providers (CPs) should “*inform customers when they purchase services, and in a clear and transparent manner, of the different cost elements of the mobile package a consumer is purchasing, particularly where this includes handset, airtime and any other services.*” As a practical step, we suggested that Ofcom and industry develop standards for what ‘clear and transparent’ look like, in collaboration with the Panel and other consumer groups.

We also urged, in the above response, that information be provided in an accessible format (appropriate and consistent with any arrangements the customer has with the provider already) and should include details that help to inform consumer choices.

Accessible, accurate and understandable information for consumers is key. Information to clarify pricing and make switching easier should be presented in an inclusive format, especially for those people who have specific access needs in relation to their engagement with provider. Increased tariff transparency - and simplicity - for both a consumer’s existing contract and the potential new contract would greatly aid people’s ability to make a fully informed decision.

In our response to Ofcom's [October 2018 consultation](#) on end of contract and out of contract notifications we urged Ofcom to look to address the issue of non-coterminous contracts, and the way in which consumers should be notified of these. We are pleased to see these covered in Ofcom's current proposals.

We would make the following additional comments on the proposals set out in this consultation:

- We believe that the guidance on non-coterminous contracts would benefit from the inclusion of examples of where Ofcom might take enforcement action;
- We commend the new transparency requirements and believe customers should receive the contract in writing (and in accessible formats relevant to the consumer) before being bound by its terms and conditions;
- Providers should clearly explain any terms and conditions that could be perceived as, but would not result in, a right to exit the contract e.g. inflation increases;
- Where changes to policy regarding split linked mobile contracts, capped at 24 months, could result in price increases, we would like to see these addressed, and in the interim, clearly explained to consumers;
- We consider that a single switching process would be clearer for consumers by ensuring consistency when switching. We also encourage Ofcom to include user-testing in any assessment of the auto-switching proposals;
- The accessibility features of communications providers' services and platforms can widely differ, as can the needs of a consumer. We consider that ease of switching should extend to switching back to the previous provider, if a consumer's accessibility requirements are not met by the new provider;
- It is important that consumers make informed decisions, and we urge that any switching-related costs should be clearly outlined from the outset;
- We agree with enhancements in the rights of consumers who have disabilities which may mean that they need to use non-mainstream services such as video relay. As shown in the videos included as part of Ofcom's consultation, in emergencies, access to video relay may save lives. We therefore agree that all phone and broadband providers should enable British Sign Language (BSL) users to contact the emergency services using video relay services. Furthermore, we commend the actions Ofcom has taken to reach Deaf consumers and their representatives and seek their views on this proposal and we would encourage Ofcom to consider more innovative approaches to stakeholder mapping in future consultation exercises, so that people potentially affected by Ofcom's policy proposals have a fair chance to comment.

Summary

- We strongly support these proposals, which will empower consumers and which we hope will strengthen consumers' trust in the communications market.
- We strongly agree with Ofcom's proposal to ban mobile providers from selling "locked" devices.
- We support Ofcom's proposal to include better contract information and stronger rights to exit.
- We believe that ensuring customers with disabilities have equivalent access to, and choice of, communications services is a basic level of fairness - and in emergencies, access to video relay may save lives. We agree that all phone and broadband providers should enable BSL users to contact the emergency services using video relay services.