Capturing the consumer interest: the removal of BT's retail price controls, broadband migrations and licence exemption framework reviews

The Ofcom Consumer Panel was established under the Communications Act 2003 as the independent research and policy advisory body on consumer interests in the communications market (with the exception of content issues).

Working from a firm evidence base, we advise Ofcom, the communications regulator, and others on how to achieve a communications marketplace in which all consumers can confidently choose and use products and services that suit their needs.

The Consumer Panel sets its own agenda but works constructively with the Ofcom Board. This enables us to give strategic advice on policies early on in their development – before they are consulted on – so as to build consumer interests into Ofcom's decision-making from the outset.

The Consumer Panel is made up of part-time members with a balance of expertise in consumer issues in the electronic communications sector. There are members representing the interests of consumers in Scotland, Wales, Northern Ireland and England.

Consumer Panel Members are appointed by Ofcom, subject to approval by the relevant Secretaries of State. They are appointed in accordance with Nolan principles and are eligible for re-appointment. The Consumer Panel is assisted by a small support team.

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Important notice

We will consider all reasonable requests for our publications in alternative formats.

This report has been prepared by PricewaterhouseCoopers LLP ("PwC") for the Ofcom Consumer Panel ("the Panel") in connection with "An assessment of Ofcom's approach to the removal of BT's Retail Price Controls, its Broadband Migrations Review and the Licence Exemption Framework Review" using the Ofcom Consumer Panel's 'Capturing the Consumer Interest Toolkit' under the terms of the contract between the Office of Communications and PricewaterhouseCoopers LLP, dated 16 June 2004, Agreement No 410000155 (the "Agreement") and its contents are strictly confidential.

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Foreword

I am delighted that my first public act as the new chairman of the Ofcom Consumer Panel is to write a foreword to this toolkit report. The report shows that Ofcom has developed a much stronger sense of the consumer interest than it had at its inception five years ago. My predecessor, Colette Bowe, and the Panel helped to bring about that change and I congratulate them.

The report shows that, notwithstanding considerable progress, there is more to do properly to embed the toolkit and the thinking it represents. This is not surprising, since culture change takes time and there is a real sense in which the programme of work around the toolkit is just that. The Panel will continue to play its part in encouraging and, where necessary, chiding to support the change, the report shows that the senior Ofcom team have this very much in their sights too.

Moving forward a big challenge will be to find ways to engage with consumer interest advocates and special interest groups on communications regulation. The report shows that this can be difficult. Part of the answer lies in jargon free material identifying the key issues. But better presentation will not be enough. Ofcom will also need to find new and more imaginative approaches to engaging consumer interests; approaches which take account of the limited time, resource and sometimes technical know-how that most consumer interest organisations experience. The Panel will make this a priority for the next phase of the toolkit work.

The Panel is clear that the toolkit could be equally helpful to some of the many other regulators and policy makers that need to take proper account of the consumer interest. For this reason, we are delighted that the European Commission and the National Consumer Council joined us at the launch event for this publication. We are planning more work to promote the toolkit over the next year.

Anna Bradley
Chair, Ofcom Consumer Panel
March 2008

1 Executive Summary

1.1 Introduction

The Ofcom Consumer Panel ("the Panel") is an independent body established under the 2003 Communications Act to advise Ofcom on consumer interests.

The Panel has developed a methodology to assess how Ofcom takes consumer interests into account when developing and implementing regulatory policies. This is in the form of the consumer interest toolkit, which is a focused questionnaire of 31 questions. It is intended to provide a practical means of assessing how regulators:

- Identify and take account of consumer interests in regulatory policy development and implementation; and

- Demonstrate what they have done in addressing consumer interests and the basis for their actions.

The toolkit was publicly launched by the Panel in February 2006.

1.2 Background to this assessment

Having developed the toolkit, the Panel's main objective in this assessment is to apply the toolkit to selected policy projects, to assess how Ofcom has taken consumer interests into account. Amongst others, the Panel asks three key questions:

- Has Ofcom methodically considered the interest of consumers?

- How might consumer interests change over time, and is there a trade-off between detriment in the short run and benefits in the long run of regulatory intervention?

- How has Ofcom weighed up consumer interests with other factors in reaching its decision?

It is important to note that the Panel is concerned with how Ofcom takes into account consumer interest issues and not whether Ofcom has produced the "right answer".

The policy projects selected for this assessment are:

- Removal of BT's Retail Price Controls ("RPCs") **–** these regulations on the prices of certain BT retail telephony services were in place since BT was privatised in 1984. They were imposed to protect consumers by placing a limit on price increases for products where it was thought that BT faced insufficient competition to constrain its pricing. A consultation was launched in March 2006 to consider possible options to be implemented when they were next due to expire on 31 July 2006. As a result of this consultation RPCs were allowed to lapse on their expiry on 31 July 2006, although other regulations such as BT's Universal Service Obligation and certain voluntary and confidential assurances continue to protect certain groups of vulnerable consumers.

- Broadband Migrations **–** this was an Ofcom-initiated project that ultimately introduced legislation that made switching between broadband providers easier for consumers. A consultation was launched in April 2006, after the Ofcom Contact Centre received increasing volumes of complaints from consumers about the difficulties in switching broadband providers. New legislation was introduced in February 2007.

- Licence-Exemption Framework Review ("LEFR") – the electromagnetic spectrum[1] can be used for a wide range of valuable applications (e.g. from the transmission of television and radio signals through to cordless phones and Wi-Fi). For some parts of the spectrum e.g. when there is high demand and/or possible interference, there are restrictions on usage by requiring companies to obtain licences. For other parts of the spectrum no licence is required. The purpose of the LEFR was to establish a framework (i.e. set out some ground rules) to give guidance on managing licence-exemption spectrum to accommodate possible future demand. A consultation document was published in April 2007, and the framework was published in December 2007.

The assessment of the three policy projects was carried out by combining two main approaches:

- Documentation review – a physical inspection of documentation maintained by Ofcom. The main purpose of this review was to gain documentary evidence of how Ofcom had undertaken the projects and how it had incorporated consumer interest issues. The benchmark we used for assessing the quality of the processes is the standards set by the questions in the toolkit.

- Interviews – with key team members for each policy project, and with other relevant Ofcom personnel. These interviews were used to supplement the evidence we had gathered from the documentation and to gain the interviewees' wider perspectives on each project.

In conducting our work, some understanding was also gained of wider Ofcom consumer-related processes, beyond the three specific policy projects. While we were not asked explicitly to review these in detail, we provide highlights of our findings in this report.

1.3 Key findings across the three projects

This assessment of the three policy projects based on the questions set out in the Panel's consumer interest toolkit shows clear evidence that Ofcom is both aware of consumer issues and endeavours to ensure that consumer issues are given priority. The key findings supporting this are:

- There was clear documentation to show that consumer interest issues had been considered - consumer interest matters, and the way the project teams had gone about taking account of these, were generally stated clearly in the project documentation. In the case of the Removal of BT's RPC and the Broadband Migrations review, consumer interest matters were explicitly stated and related directly to the project (e.g. no harm to low income telephone users and making it easier for consumers to switch service

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[1] A continuous series of waves of electromagnetic radiation such as radio waves.

provider). In the case of the LEFR study the consumer interest issues were less explicit and related to the likely consequences of reduced licensing (i.e. the potential increases in economic benefits from new wireless applications). Peer challenge in Ofcom of consumer issues were also seen in the Removal of BT's RPCs and the Broadband Migrations review.

- Information was gathered to identify the issues of concern to consumers - for the studies on the Removal of BT's RPC and Broadband Migrations review, there was clear evidence that information had been gathered about consumers actual (Broadband Migrations) or likely (Removal of BT's RPC) concerns.

- Reports to senior management considered consumer issues - there was regular reporting to senior management in all three policy projects which included reporting on consumer interest matters relating to these studies. This meant that in making their decisions, senior management were aware of the consumer interest issues involved.

1.4 Areas for improvement across the three projects

However, based on our assessment we did identify a number of areas for improvement across the three policy projects:

- Consumer interest issues could be explained in more consumer-friendly terms, enabling them to be more readily understood by an average consumer rather than by a professional economist.

- The documentation reviewed did not always make it clear that consumer interest issues were kept in mind throughout the three projects, although interview evidence made this clear. Our preference is that consideration of consumer issues should be explicitly documented as this gives better evidence than interviews (which can rely on the memories and recollections of interviewees). Although we appreciate this assessment sets a demanding standard, we consider that clear documentation is important to help ensure that consumer interest issues are explicit and do not get "lost".

The above points appear to be particularly relevant for Ofcom's technical and complex policy projects.

1.5 Wider issues for consideration

In addition to the findings for the three projects above, we also raise broader issues for Ofcom's consideration:

- Publication of analysis based on confidential data – based on the assessment, we understand that Ofcom did not make public some of its analysis underpinning the decisions it reached as the underlying data were confidential. Ofcom may wish to consider whether it is possible to publish a high-level explanation of such analysis, where such an analysis would inform consumers of the relevant issues considered and the policy decision arrived at.

- Ofcom should consider publishing complaints data (suitably verified) from Ofcom's contact centre (the team that receives and logs consumer complaints – the Ofcom Advisory Team, or "OAT"). This may enable consumer stakeholders – both consumers

and consumer organisations – to input to the identification of emerging consumer interest issues and also to help in determining their urgency.

- Using the toolkit – while Ofcom has rolled out the toolkit across Ofcom, we were informed that its ownership is perceived to lie with the Panel. However, to ensure continued clarity about the purposes of the toolkit, Ofcom could consider refreshing the awareness and use of the toolkit within Ofcom.

- Consumer engagement – this has two elements: how best to engage, both with consumers and consumer organisations, and how best to communicate technical issues. We acknowledge that engagement with consumer organisations remains a real challenge owing to limited resources within these organisations and difficulties in facilitating effective engagement, and we believe that other regulators and some private sector companies face similar challenges. Areas for consideration include:

  – It may be appropriate for Ofcom to consider further the way in which consumer organisations are engaged, particularly how participation in the regulatory consulting process might be made easier for such organisations. For example, it may be necessary to increase the number of bespoke presentations for the organisations to assist them in understanding the issues involved in specific policy projects.

  – We consider that effective engagement with consumer stakeholders remains an important part of the regulatory process, although it is important that attempting to communicate with consumers should not become a "box-ticking" exercise. Ofcom may need to consider new ways to engage with consumers and consumer organisations.

  – The effectiveness of the different methods of consumer engagement could be evaluated further. These may include using focus groups or new emerging forms of communication. It needs to be recognised that each method has cost implications and may be more or less suitable for different types of policy project. The method of engagement will need to be chosen carefully to be appropriate to each case and to ensure that a balance is struck between cost and effort and the likelihood of obtaining useful information.

  – In respect of communicating with consumers, Ofcom has attempted to make consultations more accessible and to signpost issues for consumer organisations and stakeholders. In technical areas, however, perhaps more could be done to explain the consumer interest issues in more consumer-friendly terms.

While we have raised the issues above for Ofcom's consideration, we commend Ofcom on its on its endeavours to ensure that consumer issues are given priority. Moreover, based on the interviews we conducted and the information we received, there appears to have been a significant culture change in respect of consumer interest issues since we conducted our work developing the toolkit in 2005.

2 Background and context

2.1 Introduction

Under the terms of the contract between the Office of Communications and PricewaterhouseCoopers LLP ("PwC"), dated 16 June 2004, Agreement No 410000155 (the "Agreement"), we were asked by the Ofcom Consumer Panel ("the Panel") to conduct an assessment of three Ofcom regulatory policy projects using the Panel's consumer interest toolkit. This report sets out the background to the toolkit and discusses the findings of our work.

2.2 Background to the toolkit

2.2.1 Development of the toolkit

The Panel was established to advise Ofcom on consumer interests in telecommunications, broadcasting and spectrum markets under the Communications Act 2003.

The Panel has developed a methodology, in the form of the consumer interest toolkit, for carrying out an assessment of how Ofcom takes into account the interests of consumers in the formation and implementation of regulation.

The toolkit was developed by the Panel in 2005 with assistance from PwC and inputs from Ofcom, and was publicly launched in February 2006. The requirements underpinning the toolkit development were that the toolkit should be simple and practical. It was developed also to be flexible, thereby enabling a wide range of potential uses. For these reasons the toolkit is not a detailed methodology; it is a focused questionnaire consisting of 31 questions concentrating on the core issues that an organisation like Ofcom must address in order to show that the consumer interest has been taken into account in policy formation.

The 31 questions are designed to set a benchmark against which to evaluate how Ofcom deals with consumer interest matters. It has three key elements: organisation-wide issues, project-specific issues, and communication issues. We describe each of these in turn.

2.2.2 Organisation-wide issues

Organisation-wide issues concern how consumer interest issues are built into the infrastructure of Ofcom, for example through processes. The organisation-wide questions require Ofcom to consider issues such as:

- How to define who the relevant consumers are generally or in particular circumstances.

- How consumer interests are incorporated into the planning process, including the process by which decisions are taken as to which projects to undertake.

- How to ensure that staff are trained in consumer interest matters.

2.2.3 Project-specific issues

Project-specific issues are concerned with how Ofcom deals with consumer issues on a day to day basis. This concerns specific regulatory policy projects where policies are decided and/or implemented. For project-specific issues the toolkit asks questions such as:

- In planning a project, does Ofcom have a clear definition of the specific consumer issues that need to be addressed?

- Are there appropriate processes devised to ensure evidence is gathered from consumers on the key issues being addressed by the project?

- Are there appropriate processes in place to ensure that the key consumer interest issues are addressed in the final output from the project?

2.2.4 Communication issues

Communication issues are concerned with how Ofcom discusses consumer interest issues externally and internally:

- External communications cover processes for clear communication with consumers, explanation of the decisions taken, and clear channels for consumer participation.

- Internal communications cover management concerns such as reporting, identification of issues, performance indicators, acting on emerging consumer concerns and regular review of best practice in these areas.

The toolkit questions are provided in Appendix I.

2.3 Objectives and scope of the assessment

2.3.1 Objectives

Having developed the consumer interest toolkit, the Panel's objectives in this assessment were to:

- Apply the toolkit to specific selected policy projects, in order to assess how Ofcom has taken into account the interests of consumers in forming and implementing regulation in these areas.

- If necessary, suggest possible developments of the toolkit where these can add value[2].

The Panel has selected three specific Ofcom regulatory policy projects for assessment using the consumer interest toolkit. These are: the removal of BT's retail price controls ("RPCs"); the broadband migrations review; and the licence-exemption framework review ("LEFR"). We provide background to each of these projects in Section 4.

In evaluating each of the projects the Panel set three overarching questions to be answered:

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[2] We were not required to discuss these in this report.

- Has Ofcom methodically considered the interest of consumers?

- How might consumer interests change over time, and is there a trade-off between detriment in the short run and benefits in the long run of regulatory intervention?

- How has Ofcom weighed up consumer interests with other factors in reaching its decision?

During the course of this assessment, it was also expected that PwC would gain some broader understanding of Ofcom's approach to consumers and dealing with consumer interest issues, such as its organisational controls and communications processes. PwC was not required, however, to conduct a detailed assessment of organisation-wide issues.

2.3.2   Scope

The terms of reference for this assessment ("Specification of scope of work") are set out in Appendix II. In brief, the scope of this assessment included:

- Development of detailed terms of reference for the programme of work.

- Consideration and analysis of Ofcom's approach to identifying consumer interests in the respective policy projects, including:

    – The approach taken to work in relation to the issues raised in the toolkit.

    – Awareness of, and attitudes to, consumer interest issues.

    – The way in which this is evidenced by documentation and other forms of communications and meetings.

- Critical assessment of the way in which, and by whom, Ofcom has:

    – Implemented changes (in response to recommendations) in its documented policies and procedures and guidance.

    – Weighed consumer interests and traded these interests off against other possibly conflicting interests.

- The way in which Ofcom has collected evidence, undertaken research and derived information, including from its Contact Centre and external sources.

- The way in which Ofcom interacts with the Panel itself.

We note that because the procedures we undertook in connection with the assessment of these three projects did not constitute either an audit or a review made in accordance with International Standards on Auditing or International Standards on Review Engagements (or relevant national standards or practices), we do not express any assurance on the three projects we have assessed.

Had we performed additional procedures or had we performed an audit or review in accordance with International Standards on Auditing or International Standards on Review Engagements (or relevant national standards or practices), other matters might have come to our attention that would have been reported to the Panel.

Our report has been prepared solely for the purpose set out in the first paragraph in Section 2.1 of this report and is for the Panel's information and is not to be used for any other purpose. This report relates only to an assessment of the three projects concerned for their consideration and treatment of consumer issues against the defined framework provided by the toolkit as outlined above.

2.3.3 Acknowledgements

Throughout the course of our work, we received guidance from Graham Mather (Chair of the Audit Steering Group), Anna Bradley (Chair, Ofcom Consumer Panel), Colette Bowe (former Chairman, Ofcom Consumer Panel; now Non-Executive Director, Ofcom Board) and Dominic Ridley, (Policy Executive, Ofcom Consumer Panel). Benjamin Wallis (Policy Executive, Ofcom Consumer Panel) also provided support.

Our thanks also go to the Ofcom personnel who made time during their busy schedules to attend interviews and collate and provide documentation. We found that the process ran smoothly and this owes much to the helpful and cooperative response by Ofcom personnel to our requests during the course of the assessment.

2.4 Structure of the report

The remainder of this report is organised as follows:

- Section 3 discusses our approach to the assessment.

- Section 4 gives background on the three policy projects and wider organisational issues considered.

- Section 5 summarises the interviews conducted.

- Section 6 presents the main findings derived by applying the toolkit to assess the three policy projects.

- Section 7 gives an overview of the wider organisational issues encountered during the course of the assessment.

- Section 8 presents our concluding remarks.

Attached to this report are 7 appendices as follows:

- Appendix I contains the consumer interest toolkit questions.

- Appendix II contains the terms of reference for the study ("Specification of scope of work").

- Appendix III contains a list of interviews and process confirmation sessions.

- Appendices IV-VI contain the question by question assessments of the three policy projects using the toolkit.

- Appendix VII provides a glossary of technical terms.

3 Our approach

3.1 Overview

The study commenced on 6 December 2007 and our approach combined:

- Desk research (7-14 December 2007) – a brief review of publicly available documentation on the three policy projects, largely from Ofcom's website.

- Interviews with Ofcom and process confirmation sessions (19 December 2007 - 18 January 2008) – interviews and fact-checking sessions with key team members for each policy project and other relevant Ofcom personnel.

- Documentation review (2-7 January 2008) – a physical inspection of documentation and other evidence to assess whether processes meeting the requirements of the toolkit had been followed.

- Application of the Panel's consumer interest toolkit and reporting (December 2007- February 2008). To assess the three policy projects, only the project- specific and project/organisation-specific issues of the toolkit were examined (questions 12 to 31 of the toolkit)

3.2 Desk research

Various publicly available documents were reviewed for each of the three policy projects. In particular, publicly available material and the approach Ofcom adopted in its communications were examined. Table 1 summarises selected documents examined for each policy project.

Table 1: Phase 1 desk research, results for selected documents

	Removal of BT's retail price controls (RPCs)	Broadband migrations review	Licence-exemption framework review (LEFR)
Plain English summary for consultation	Available	None	Available
Press release	Available	Available	Available
Impact assessment	Available	Available	Available
Publicly available external research	None	None	Available

It should be noted that both the BT RPCs and broadband migrations review projects did conduct research, but this was not released into the public domain.

3.3 Interviews with Ofcom and process confirmation

Members of each policy project team and other relevant Ofcom personnel[3] were consulted to gain an understanding of the deliberations underpinning policy formation and implementation. While the main focus of the interviews was to gain an understanding of the consumer interest issues for each of the three specific policy projects, during the interviews we also gained some understanding of the broader organisation-wide context in which the policy teams operate.

Preliminary interviews were conducted with policy project team leaders, followed by interviews with individual team members, as appropriate, and other relevant Ofcom personnel including the Consumer Policy Director and the Director of Communications. The toolkit was used to guide our approach to questioning.

Once we had conducted our documentation review (see Section 3.4) we met each of the project team leaders again. The purpose of these sessions was to confirm the factual accuracy of our findings. These sessions took place before reporting and at them we set out our understanding of the processes followed and our findings from both the interviews and review of documentation.

Appendix III contains a summary of when and with whom interviews and process confirmation sessions were held.

3.4 Documentation review

For each policy project, project documentation was reviewed to gain a sound understanding of the processes involved in the formation and implementation of policy regarding consumer interest issues. Table 2 summarises the types of documentation requested, together with our comments for each policy project.

Table 2: Documentation review

Documents	Removal of BT's retail price controls (RPCs)	Broadband migrations review	Licence-exemption framework review (LEFR)
Policy Executive and Board submissions and presentations	Reviewed	Reviewed	Reviewed
Draft consultation	None	Reviewed	None
Project documentation, for example Project Requirements Document	Reviewed	Reviewed	Reviewed
Relevant correspondence	Reviewed	Reviewed	Consultation responses only
External communications, including notes from consumer groups meetings	Reviewed	Reviewed	Reviewed
Relevant internal publications, including market research and consultancy reports	Reviewed	Reviewed	None, but economic research is publicly available

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[3] These included the Ofcom Consumer Policy Director; a Board member; Ofcom Communications Director; Ofcom Partner, Spectrum Policy; and Ofcom Partner, Strategy and Market Developments.

Internal publications included:

- Internal economic analysis for the removal of BT's RPCs.

- Reports from an external consultancy (Schema) on its independent analysis of data from the Ofcom Contact Centre ("OCC", now Ofcom Advisory Team or "OAT") for the broadband migrations review.

Relevant correspondence included correspondence between Ofcom and operators, consumers and consumer bodies.

3.5 Application of the Panel's consumer interest toolkit and reporting

The consumer interest toolkit was then applied to the evidence reviewed, comprising the desk research, documentation and interviews. This formed the basis of our assessment of how Ofcom incorporated consumer interests into its regulatory process for the three policy projects. The key findings are discussed in Section 6 of this report, with organisation-wide issues discussed in Section 7. Written question-by-question assessments of the three policy projects using the toolkit are provided in Appendices IV, V and VI.

4 Background to the policy projects and organisation-wide issues

4.1 Removal of BT's Retail Price Controls

4.1.1 Overview

RPCs have been in place since BT was privatised in 1984 with the most recent RPCs taking effect from 1 August 2002. These regulated the price of a basket of residential retail telephony services, including local, national and international calls, calls to mobiles, operator assisted calls and exchange line rental. The RPCs applied to the expenditure on these services by the bottom 80% of BT's residential customers by spend. In short, the RPCs protected certain consumers from excessive price rises on the various telephony services referred to above.

The regulated prices were fixed in nominal terms[4] i.e. they were not allowed to rise in line with inflation, so long as inflation did not rise above 4%. With effect from 1 January 2006 the RPCs were modified such that prices were allowed to rise at the same rate as inflation[5] (i.e. they stayed the same in real terms). This occurred following BT's introduction of a wholesale service for new entrant telecommunications providers (termed Wholesale Line Rental, "WLR") whereby they were allowed to market BT lines under their own brands to consumers[6].

The 2003 Communications Act, implemented under EC directives, makes it necessary for Ofcom to perform market reviews to ensure that regulation remains appropriate in the light of changing market conditions.

On 21 March 2006 a consultation was launched on possible options on the expiry of the most recent RPCs. Subsequently Ofcom allowed the RPCs on BT to lapse on their expiry on 31 July 2006, effective 1 August 2006.

Although BT's RPCs have lapsed, another regulation, the Universal Service Obligation ("USO") continues to protect certain groups of vulnerable consumers, for example prohibiting BT from charging different prices for voice telephony services to urban and rural consumers.

During the review of the possible removal of the RPCs, BT provided a number of voluntary and confidential assurances for low spending consumers who do not qualify for USO. These related to the pricing of line rentals, among others. Ofcom considered that these measures would be sufficient to control appropriately the prices faced by such consumers.

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[4] This may be expressed as RPI-RPI, capped at RPI = 4% in 2003, where RPI is the Retail Price Index.
[5] This may be expressed as RPI-0%.
[6] BT met the condition of providing a "fit for purpose" WLR product which was actively being taken up by BT's competitors.

4.1.2 Possible consumer interest issues

The main consumer interest issue underpinning the RPCs was that through controlling annual price changes, consumers would be protected from excessive prices due to insufficient competition in the relevant retail market.

In its explanatory statement of its decision to end RPCs, Ofcom cited examples of the relevant factors that it took into account during its decision making process in respect of the options for future RPCs. These included:

- Increased competition through developments such as:

    - the separation of BT's access business (BT Openreach) from the rest of BT. This essentially made more transparent the prices of BT wholesale services for competitors and enabled such services to be made available on an equivalent basis to both competitors and BT's own retail business.

    - increased uptake by competitors of WLR and other wholesale services such as Carrier Pre-Selection ("CPS"), which enables end consumers to contract with BT's competitors for their phone calls.

    - predicted increasing awareness of voice telephony services using the internet such as Skype (these are called Voice over Internet Protocol ("VoIP") services).

- Rapidly falling call prices and the decreasing market share for BT.

- Evidence of consumer switching behaviour, where Ofcom found a relatively high consumer awareness of alternative fixed line suppliers and a perception that switching is easy.

There was some concern that specific customers, such as low user groups, were likely to bear a greater burden from the change in regulation.

In the evaluation Ofcom noted that it was important to consider long term potential benefits to consumers against a potential short term detriment. Long term potential benefits were considered likely owing to the greater consumer benefits that would be expected to be generated by a competitive market place. The logic underpinning this was that when the structure of prices is set by a competitive market rather than by regulation, consumers are better off because competition drives prices down and suppliers are forced to be responsive to customer needs. Potential short term detriment identified was that arising from increased prices for certain customers or products owing to BT's market power in retail telephony access and calls.

Some concern was expressed about the possible effects on certain groups of consumers. In consultations, the Citizen Advice Bureau and the Scottish Executive noted that competition remained limited, particularly in rural areas. The Welsh Assembly also noted that the rate and effects of BT's diminishing market share varied and materialised at different speeds across nations. However Ofcom reported that, on the whole, citizen and consumer groups generally welcomed the proposals.

Consumer responses in Ofcom's consultations were mixed, with some concerns expressed over BT's ability to raise prices in areas where it was considered that BT had a monopoly, for example in line rental and fixed line services outside of the cable franchise areas, and other concerns that BT may suppress competition by predatory pricing (i.e. charging very low prices so that competitors could not compete). Some consumers also called for tighter control of the whole industry as they considered that there was poor service and excessive pricing.

4.2 Broadband migrations review

4.2.1 Overview

In an own-initiative response to a steady increase in complaints in 2005 about problems related to broadband migrations, Ofcom investigated the issue and ultimately introduced a new condition for broadband service providers. This is called General Condition 22: Service Migrations[7], and was effective from 14 February 2007.

By November 2005, the OCC was handling very high volumes of calls relating to difficulties in switching broadband providers (so-called 'broadband migration').

Two major issues were identified as causing difficulties for consumers to switch their broadband service provider. These were:

- The "tag on line" marker. This is a marker on the telephone line that indicates that another supplier is supplying broadband services at that location. The tag needed to be removed before an alternative supplier could provide a broadband service on that line. It was difficult for consumers to find out which supplier had applied this tag and why, making it difficult to get it removed and switch supplier.

- The MAC (Migration Authorisation Code) process. A MAC is a technical code that identifies a consumer's services. Consumers require the code to be able to switch broadband providers, and the code can only be obtained from the provider. Some consumers experienced difficulty getting a MAC from their provider. At the time of increasing complaints, the MAC process was set out in a voluntary code of practice, so that Ofcom had no powers to investigate breaches.

In April 2006, the Broadband Migrations Review was launched in reaction to the increasing volume of complaints.

On 17 August 2006, Ofcom published the consultation document, "*Broadband migrations: enabling consumer choice*". After considering responses, General Condition 22 was implemented. As a regulatory requirement, General Condition 22 gave Ofcom powers to investigate potential breaches of the condition by service providers and where appropriate take enforcement action.

General Condition 22 consists of two elements:

- **All providers must comply with the MAC process.** This means that service providers about to lose a customer must provide a MAC code on request in most cases, including

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[7] This gives Ofcom powers to investigate potential breaches of the condition and if necessary take enforcement action.

where the customer owes money. Service providers gaining a customer with a valid MAC code must use the process to ensure a seamless transfer. Wholesale providers must provide MAC codes to service providers and resellers on request.

- **Where the MAC process does not apply[8], all providers must comply with a number of high-level obligations.** These include facilitating broadband migration or connection, including from another provider, within a reasonable time period and with minimal loss of service, and in a "fair and reasonable" manner.

4.2.2   Possible consumer interest issues

In its impact assessment, Ofcom cited widespread consumer harm and adverse competition effects from difficulties in switching broadband providers. It considered that these market failures would not be corrected without regulation. Moreover, in its regulatory statement, Ofcom stated that competition is only effective if consumers can switch providers.

Also relevant for consideration is the trade-off between consumer detriment and the cost to broadband providers of implementing and maintaining the solution. Consumer detriment results from the disruption of broadband services for up to several weeks, and the time and money costs incurred to resolve the problem. Provider costs consist of implementing and maintaining the solution, and are incurred by both service and wholesale providers.

During the consultation, all but one consumer respondent agreed that a mandatory version of the MAC was appropriate. The Citizen Advice Bureau supported Ofcom's proposals; while the National Consumers' Federation ("NCF") broadly agreed with Ofcom's proposals, but thought that regulation could go further to ensure switching without a code as is the case in the energy sector.

4.3   Licence-exemption framework review

4.3.1   Overview

Owing to scarcity and interference issues, spectrum[9] is commonly licensed to commercial or public users, who have the right to transmit on a specific frequency range. However, for some parts of the spectrum, the risk of interference is low and there may be considerable economic benefits from use without requiring a licence or with only light licensing required [10]. Cordless telephones, electronic car keys and baby monitors are examples of household devices that are licence-exempt, whereas anti-theft devices and car park security cards are business examples. There may be many possible future uses that have not as yet been developed. The Licence-Exemption Framework Review ("LEFR") was thus introduced to give guidance on managing licence-exemption spectrum to accommodate uncertain future demand.

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[8] The MAC process does not apply for one specific type of BT's Local Loop Unbundling ("LLU") technology. LLU is a process that allows a range of providers to supply communication services directly to consumers. This is where BT's local loops are disconnected from its network and connected to another provider's network.
[9] A continuous series of waves of electromagnetic radiation such as radio waves.
[10] Light licensing is where users of a band are given non-exclusive licences to use spectrum in a given range. These are usually available to everyone, and can be obtained free or for a nominal fee.

It is important to understand that the LEFR is a *framework* to develop an overall strategy for the management of licence-exempt spectrum use. As such, it does not explicitly consider whether or not any particular devices are to be made licence-exempt.

Work on the LEFR project commenced in the fourth quarter of 2005, and took as a starting point the high-level guidance given in Ofcom's Spectrum Review Framework (SRF) conducted in November 2005. This noted that if the potential value of spectrum was expected to be greater under licence-exemption than under licensed use, then the spectrum use should be licence-exempt. It also noted that licences might be an unnecessary overhead if harmful interference was unlikely e.g. if spectrum demand was less than supply for a given frequency range.

On 12 April 2007, the LEFR consultation was published. In brief, Ofcom's conclusions included, amongst others:

- Licence-exemption should not be reserved for any specific application, but should be available for use in general "classes" (or segments) of spectrum. Ofcom considered that this was more efficient, especially with improving technology to reduce interference, although each class would be subject to a specific set of regulatory "politeness" rules[11] to minimise interference.

- Licence-exemption is more appropriate than light licensing for situations where users cannot or do not need to coordinate to avoid interference e.g. handheld consumer devices. This is subject to adequate protection of existing users.

- Devices transmitting below certain power limits should be licence-exempted.

- Harmonisation with the rest of the EU and the world should be undertaken on a case-by-case basis, should impose minimum restrictions and should apply to most applications and technologies.

Further consultations are planned for 2008-2012 on how to define and enforce politeness rules, and on the proposed release of spectrum at various frequencies for licence-exempt use.

4.3.2   Possible consumer interest issues

Ofcom stated in its impact assessment that any step that maximises the efficiency and economic value derived from spectrum would optimise consumer interests.

In addition, by minimising harmful restrictions and promoting harmonisation, Ofcom hoped to increase innovation and competition, bringing more choice, reduced equipment costs and more international mobility to consumers.

One relevant issue for consideration is the fact that potential consumer benefits from new devices and products are difficult both to identify and quantify. The efficiency of licence-exempt spectrum use should also be considered, since consumers ultimately bear the cost of

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[11] These are termed politeness protocols and are technical etiquettes to ensure that a range of devices not requiring a licence to use spectrum, for example electronic car keys and baby monitors, can share the spectrum in a fair and efficient way.

inefficient use. The potential for interference between different spectrum users is another consideration.

Ofcom commissioned a study to estimate the economic benefits generated by licence-exempt applications over the next 20 years. Ten representative licence-exempt applications were selected (such as road user charging and public access wireless internet ("Wi-Fi")) and high, medium and low demand scenarios were modelled. These were then used as a basis for projecting the economic value of these devices. As examples, road user charging was estimated to yield between £0.3bn and £0.9bn in net present economic value, while Wi-Fi was projected to yield between £9bn and £239bn.

4.4 Organisation-wide issues

4.4.1 Overview

In the course of this assessment, we gained some understanding of the broader context, beyond the three projects, of Ofcom organisational controls and communications processes in relation to consumer interest issues.

As set out in the Communications Act 2003, Ofcom is statutorily required "to further the interests of consumers in relevant markets, where appropriate by promoting competition".

In the course of developing the toolkit, recommendations were made about how Ofcom's processes at the time could be updated to meet the toolkit requirements. In response to this, Ofcom had plans to introduce a number of initiatives. These included:

- More effective logging, tracking and reporting of consumer issues.

- Introducing project tools to make consumer interest issues more explicit.

- Introducing consumer related training.

- More regular meetings with consumer interest groups.

- Clearer communications both to consumers directly and more generally on consumer issues.

Ofcom supplied us with background documentation on the implementation of the initiatives. This comprised:

- Screenshots of relevant parts of the intranet.

- PowerPoint presentation slides to different policy groups for the "road show" of the Ofcom toolkit implementation (titled "Consumer interest toolkit", dated March 2006).

- Project plan (titled "Capturing the consumer interest – Implementation project plan", dated 3/2/2006).

- First bi-monthly update to ExCo, PowerPoint presentation (titled "Ofcom Consumer Panel Toolkit – Project progress report", dated 3/3/2006).

- Public update on implementation (titled "Taking account of consumer and citizen interests. Progress and evaluation – 12 months on", dated 28/2/2006).

Most of the initiatives described in the documentation reviewed were implemented during the progress of the three policy projects, between March and September 2006, so they may not have been applied in the projects. There was also some interview evidence, gained in the course of the assessment, of the effectiveness of the implementation. However, it was beyond the scope of our work to assess more generally how the initiatives work in practice, for example during a policy project.

5 Summary of interviews

5.1 Introduction

In this section we provide a summary of the key points of discussion during the interviews with Ofcom personnel. We first report on each of the three projects assessed and conclude with highlights of our discussions about relevant organisation-wide issues.

5.2 Removal of BT's Retail Price Controls

In this section we summarise the main points from the interviews relevant to the removal of BT's RPCs.

- In all of the interviews in which we discussed the removal of BT's RPCs, one view repeatedly expressed was that the project was very consumer focused from the start. With respect to the specific types of consumer and the relevant consumer interest issues, the project team explained that they were most concerned about consumers within the lower deciles of users by spend, especially those not protected by the USO. In particular this concern was prompted by the expectation that line rental charges would increase, as it had been believed for many years that BT's charges for line rental were below cost.

- In one interview, the economic analysis of the possible effect on vulnerable groups was explained. One example presented to us was an explanation of the modelling of the effect of increases in line rental on different decile groups by BT retail expenditure. We were also informed that analysis of switching and the ability to switch by vulnerable groups was also carried out. This included, amongst others, analysis of Ofcom's quarterly survey on switching and satisfaction.

- Consumer groups, such as the National Consumer Council and Which?, were approached, according to project team interviews, but we were informed that the organisations were unable to provide specific input to the project (although three responded to the consultation document) and no record of the communications was kept. We were also informed that the Panel was consulted and that the Director of Consumer Policy and the Communications Director were regularly informed about the project progress and findings.

- According to the project team, how to communicate the decision to remove RPCs to consumers was a major concern and, during the later stages, became an integral part of the project. This led to a BT-funded information campaign being planned and subsequently launched. However, it was acknowledged by the project team that in hindsight, the information campaign might have benefited from earlier planning. Furthermore, we were informed that the nature of the campaign meant that little meaningful review of its impact on consumer behaviour or on the market dynamics could be undertaken.

- We were informed that at each stage of the policy review process within Ofcom, the relevant group (e.g. the Policy Executive) was talked through some but not the entirety of the economic analysis. Instead, the team took several key consumers' profiles or "pen portraits" to illustrate the effects of the policy on specific consumer groups.

- We were also informed by the project team that there was significant challenge and interest in the project by the Board, and that at least one Board member expressed concern about the nature of BT's assurances. However, these concerns were addressed and ultimately the Board was persuaded that deregulation was the appropriate option.

- A market review to assess the impact of removing the RPCs has not yet been undertaken owing to competing priorities at Ofcom, according to several interviewees. However, data on prices have been monitored, indicating that prices have been continuing to fall, at an accelerating rate. Consequently, it was not considered pressing by interviewees to undertake the proposed market review.

5.3 Broadband migrations review

The main points from the interviews relevant to the broadband migrations review are as follows.

- According to the project team, the reason for initiating the broadband migrations review was a sudden "explosion" in consumer complaints to the OCC during the early part of 2005. The OCC increased its staff and added new categories to its logging system to record tag and MAC complaints.

- At this point the issue was elevated to senior Ofcom personnel and a project proposal was developed and taken to the Policy Executive. The team highlighted the risks for consumers, particularly as the industry voluntary code only addressed the retail market and neglected the relationship with the wholesale market. The policy question posed was how best to respond to the issue (i.e. that there may be a need to introduce a new process rather than the MAC process).

- OCC data were also used to understand further emerging issues, according to one interviewee. New issues identified in the OCC data included "debt blocking", where suppliers refuse to supply a MAC owing to outstanding debts. It was also reported that some suppliers attempted to charge for MACs. Consultants (Schema) were engaged to perform an analysis of the data, to gain an independent validation of OCC analysis and also to clarify higher level issues such as differences in consumer concerns by types of service.

- We were informed by the project team that the Panel was kept up to date with developments during the project.

- One interviewee highlighted that Ofcom used several channels for communicating the broadband migrations issues with consumers. There was a press release, and non-technical guidance on switching broadband suppliers was published on the Ofcom website for consumers. More detailed guidance was written for the OCC on advice to give to consumers in different situations. A detailed matrix of switching processes and what information to give to consumers in different cases was also provided to the industry.

- In terms of follow-up after General Condition 22 came into place, there are now enforcement proceedings for mis-communication with consumers about the MAC process, according to interviews, and providers supply monthly MAC process data.

Consumer awareness of the MAC process has grown significantly and we were informed that many consumers appear well-informed about their rights.

5.4 Licence-exemption framework review

The main points from the interviews relevant to the LEFR are as follows.

- All interviewees expressed the view that there is a challenge in the relationship between consumer interest issues and spectrum policy – very few consumers buy spectrum directly, the majority buy services from producers and manufacturers instead, and these in turn may rely on the spectrum of other companies for the provision of services. Thus, the consumer is typically several stages removed from spectrum.

- One interviewee recalled that in LEFR discussions no distinction was made between business applications that may benefit consumers further down the line, e.g. agricultural monitoring applications, and those with more visible and direct consumer benefits e.g. wireless applications.

- The project team stated that it believes that ultimately to benefit consumers, Ofcom must provide the best spectrum product for manufacturers to deliver applications. Thus, the underlying rationale for the project was a consideration of the maximisation of economic value as a proxy for consumer benefits, based on the likely usage of applications, including health monitoring, transport applications and public Wi-Fi.

- The project team considered that there were no sensible questions to ask consumers to understand their preferences regarding the LEFR. However, it was acknowledged that LEFR could have been made more accessible to consumers, although meaningful consumer engagement on technical issues would remain a challenge.

- With respect to project procedures, there was no particular trigger for the project, which serves to answer questions left unanswered by the Spectrum Framework Review on dealing with licence-exemption. The draft consultation documents followed the policy review procedures within Ofcom and were submitted to the Spectrum Executive Team – the spectrum steering group – two or three times, then to the Policy Executive and Board.

- We were informed that the wider spectrum group in Ofcom has had discussions about how the consumer and consumer interests should be considered. No definitive conclusion has been reached on how to include consumer interests in spectrum policy. One interviewee stated that this project may act as a trigger for stimulating further discussions and possibly a paper on these issues.

5.5 Organisation-wide issues

The main points from the interviews relevant to organisation-wide consumer interest issues are as follows.

- Most interviewees expressed the view that there appears to have been a considerable positive change in Ofcom's culture and approach to considering consumer interests during the last two years. More than one interviewee stated that the current Chief Executive has given such issues a higher priority. Furthermore, several initiatives

including: the establishment of a consolidated team of people with expertise in dealing with consumer issues; consumer policy sponsors within the organisation and at Board level; together with the formation of a consumer steering group; have helped to drive change. One interviewee remarked that the change was particularly notable in the competition group, which now sees competition as a tool to further the interests of consumers rather than an end goal in itself.

- It was highlighted in one interview that the consumer interest toolkit was split up and rolled out to relevant parts of Ofcom – for example, the project-specific part of the toolkit was distilled into around nine questions for project managers. There was some uncertainty among interviewees as to whether the toolkit is applied to policy projects in general, although several expressed the view that consumer interests are at least considered in most projects.

- Several interviewees highlighted the challenges faced in consulting consumers. It was relayed to us that consumer bodies do not have the resources to respond to all consultations, even though Ofcom considers that it has attempted to make consultations more accessible. We were informed that the consumer policy team acts as a channel for getting consumer input, for example through annual consumer experience sessions and regular bi-lateral meetings held with many consumer organisations. One view expressed was that it was considered important for project teams to engage early in the process with the relevant consumer groups.

- A few interviewees expressed concerns regarding consumer communications. One interviewee commented that consumer bodies may have "abdicated" responsibility to the Panel. Another expressed the need for greater "communication savvy" at Ofcom in order better to convey issues and decisions to consumers.

- New initiatives have been implemented, according to interviews. These include an internal issues log, informal monitoring of consumer concerns, and weekly email alerts on consumer issues based on OAT complaints and other sources. There is also regular reporting to the Policy Executive ("PE") and Executive Committee ("ExCo"), and a consumer policy training course.

- However, one interviewee has expressed concern that OAT data may not always be given sufficient attention, since it is often included in a large management pack with other management information and may get "buried".

6 Key findings using the toolkit

6.1 Introduction

In this section we provide the findings of the reviews of each of the projects using the toolkit. We note the following.

- To assess the three policy projects, only the project- specific and project/organisation-specific issues of the toolkit were examined (questions 12 to 31 of the toolkit).

- We have taken into account both interviews and documentation as evidence, and where only one was used it has been noted.

- The RPCs and LEFR projects commenced before the launch of the toolkit, and the broadband migrations project started two months after the launch.

- BT's assurances are confidential and were deemed not relevant to this assessment.

- Question-by-question assessments using the toolkit can be found in Appendices IV, V and VI.

6.2 Removal of BT's Retail Price Controls

6.2.1 Documentation

The conclusions from the review of the documentation relevant to the removal of BT's RPCs are as follows.

- The documentation showed no specific evidence that the views of consumers had been sought, beyond the public consultation process. Instead significant analysis was undertaken on consumer groups seen to be vulnerable using data provided by BT and other data collected by Ofcom, including publicly available information.

- Much of the economic analysis on vulnerable consumers was presented in annexes to the main papers produced for the Policy Executive and the Board. Whilst it was clear what this analysis showed when explained face-to-face, it was, perhaps, not explained clearly in the main documents.

- We noted that most consumer responses to the public consultation ranged from expressions of extreme caution to outright condemnation, although there appeared to be a lack of understanding about what the controls meant. That many of the consumer responses failed to understand what the RPCs meant could suggest that the consultation documentation had not explained the issue in a way that was readily accessible to consumers. As such consumers, appear not to have been able to participate in the debate in an informed way.

- The Board and Policy Executive papers showed support for the removal of price controls provided appropriate assurance could be obtained from BT about limiting price rises that could affect vulnerable groups.

6.2.2 Good practices based on the toolkit

The main good practices based on assessment against the toolkit, from the combined documentation and interview evidence, are as follows.

- The economic analysis and interview evidence suggest the project team prioritised and devoted considerable resources to considering consumer interest issues. The economic analysis extensively considered different types of consumers, and during interviews with Ofcom we were informed that the main concern was how vulnerable consumers might be impacted by the removal of RPCs. This is relevant to questions 12 and 13 of the toolkit, regarding whether consumer interest issues are explained and addressed in the project planning process.

- The project team tried to approach consumer organisations such as the National Consumer Council and Which? for consultation, according to interviews.

- The consumer information campaign was planned and carried out. It was a major concern and seen as integral to the later stages of the project, according to interviews. This is relevant to question 24 of the toolkit, regarding communication with consumers.

- There was regular reporting to senior management such as the Policy Executive. Ad hoc reports were also sent to the Chief Executive. At each stage of the policy review process the project team talked through some of the economic analysis, and illustrated policy implications using representative consumer profiles or "pen portraits". This is relevant to question 26 of the toolkit, regarding reporting to senior management on consumer related issues.

- There is interview evidence of peer challenge on consumer issues. The consumer information campaign was not given significant consideration initially and this was raised at one of the Ofcom project review meetings. At least one Board member questioned whether BT's assurances would be sufficient. Although the concerns were addressed at that meeting there was no explicit evidence of this in the documentation. This is relevant to question 28 of the toolkit, regarding peer review and internal challenge of consumer interest issues.

6.2.3 Areas for improvement

The main areas for improvement based on assessment against the toolkit, from the combined documentation and interview evidence, are as follows.

- It might have been appropriate to provide clearer explanation of consumer interest issues in the analysis for the non-economist, especially the risks to the vulnerable consumer e.g. from increases in line rental. This is relevant to question 12 and 13 of the toolkit, regarding whether consumer interest issues are explained and addressed in the project planning process.

- Whilst not technically part of the project we have reviewed, it may have been appropriate for the planned follow up market analysis to have been carried out to assess the impact of the policy (we were informed that it has not been conducted owing to resource constraints and also because data on prices indicate that they continue to fall). The information campaign might also have been planned earlier in the project. This

is relevant to question 16 of the toolkit, regarding whether there are processes to ensure key consumer interest issues are addressed in the final output.

- Even though the team tried to approach consumer organisations directly, there was little response from these, apparently due to internal resource constraints within the consumer organisations. Ofcom could consider the appropriate way to engage with consumers bodies. There was also no documentary evidence to support the communication with the consumer organisations. Ofcom may wish to consider logging such telephone calls or sending emails after calls to provide evidence[12]. This is relevant to questions 22, 23 and 25 of the toolkit, regarding communication with consumers.

- Consumers might also have benefited from a high-level explanation of the economic analysis of the effects of policy alternatives on different consumer groups, had this been made publicly available. This might have been particularly germane given that many of the consumer responses showed a lack of understanding of the issues involved. This is relevant to question 23 and 24 of the toolkit, regarding communication with consumers. However, this raises wider confidentiality considerations for Ofcom about what data should, or should not, be made public.

- Similarly, senior management might have benefited from more explanation of the detailed economic analysis in non-economist terms, in addition to the pen portraits provided (although we understand that oral briefings were given). This is relevant to question 27, regarding whether senior management was made aware of key consumer interest issues.

6.3   Broadband migrations review

6.3.1   Documentation

The conclusions from the review of the documentation relevant to the broadband migrations review are as follows.

- The project was well supported by documentation and underlying process. The documentation provided to us was stored by the project team on Ofcom's internal IT systems. Documentation was printed out for us and presented to us in well organised folders which facilitated the process of reviewing documentation.

- The documentation showed that while the views of consumers were not sought directly, extensive use was made of OCC data. The OCC data were derived from questions and complaints logged by consumers and thus represented a good source of consumers' views. Additionally, over 100 responses were received from consumers through the consultation process.

- Papers presented to the Board and Policy Executive clearly explained the consumer interest issues.

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[12] We note however that while such processes will provide an evidence base that consumer engagement has occurred, further actions to ensure effective engagement may be required.

- The documentation of the issues did on occasion use technical terms which may not have been well understood by the consumers. For example it was noted in the discussion document that "LLU[13] (local loop unbundling) uses different technology so the MAC process has not worked as effectively". Consumers may have benefited by an explanation of which consumers were likely to have LLU technology and why the MAC process did not work. However the high level consumer issues remained clear and it was only the lower level issues that were not so clear.

6.3.2 Good practices based on the toolkit

The main good practices based on assessment against the toolkit, from the combined documentation and interview evidence, are as follows.

- The consumer interest issues that led to this project were explicitly stated. The project plan was also explicit about how data would be gathered on consumer issues. This is relevant to question 12 and 13 of the toolkit, regarding whether consumer interest issues are explained and addressed in the project planning process.

- Two clear sources of information on consumer issues were identified – consultation responses and OCC data. This relates to question 15 of the toolkit, regarding evidence gathering from consumers.

- The OCC demonstrated clear processes for regularly logging and reviewing emerging consumer concerns. It was clear from interviews that OCC added new categories and sub-categories to its logging system to record tag-on-line issues. Consultants Schema were engaged to analyse the data, and the policy team was kept informed of developments. This is relevant to questions 17 and 18 of the toolkit, regarding whether there are processes for regularly logging, reporting and reviewing key consumer concerns.

- The OCC acted as an effective communication conduit for consumers to raise issues in this project. The Panel was also kept informed. This relates to questions 22 and 25 of the toolkit, regarding consumer communication processes and channels.

- There were regular reports to senior management, mainly the Policy Executive. This is relevant to question 26 of the toolkit, regarding reports to senior management on consumer related issues.

- Project documentation did make key consumer interests clear to senior management. This is relevant to question 27, regarding whether senior management was made aware of key consumer interest issues.

- There is some documentation evidence of peer review and challenge on consumer interest issues. It can be seen from internal emails that questions were asked by senior personnel on consumer interest issues. However, this cannot be termed an explicit and formal process. This relates to question 28 of the toolkit, regarding peer review and internal challenge of consumer interest issues.

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[13] LLU is a process that allows a range of providers to supply communication services directly to consumers. This is where BT's local loops are disconnected from its network and connected to another provider's network.

6.3.3 Areas for improvement

The main areas for improvement based on assessment against the toolkit, from the combined documentation and interview evidence, are as follows.

- There appears to be a policy process for appropriately actioning and initiating a project to investigate emerging consumer issues (those proceeding from the OCC and thereafter escalated by the policy team). However, it is unclear from this review whether this is part of a systematic process[14]. This relates to questions 19 and 20 of the toolkit, regarding whether there are processes for identifying, actioning and initiating a project to investigate significant emerging consumer issues. While we raise this comment in respect of the project, as it is relevant, we note that this relates more to wider organisational issues.

- The processes in place to determine the urgency of an issue could also be made more explicit. It was implicit from interviews that urgency was determined by the volume and nature of calls to the OCC in this project. This relates to question 21 of the toolkit, regarding whether there are processes to determine and act on the urgency of an issue.

- Ofcom may wish to consider regularly publishing OCC (now OAT) statistics as standalone public sources of information. OCC statistics were included in the consultation document and explanatory statement for the broadband migrations review, and OCC statistics have been included in other policy documents and reports, but these publications are not regular and typically do not encompass all areas of complaints. Regular publication may help other consumer organisations in identifying and determining the urgency of emerging consumer issues. This is relevant to question 19 of the toolkit, regarding the identification and appropriate actioning of emerging consumer issues.

- It might have been appropriate for there to have been more consideration and planning *during* the project about how to ensure consumers would understand the issues and the decisions to be taken. There was a press release but no plain English summary, although guidance on the Ofcom website for consumers trying to switch providers was drafted shortly after the General Condition came into place. This is relevant to questions 23 and 24 of the toolkit, regarding communication with consumers.

6.4 Licence-exemption framework review

6.4.1 Introduction

In this section we highlight a number of points of context for the assessment of the LEFR.

- The LEFR is removed from the consumer in two ways:

  - It is a high-level and generic regulatory framework review. It is an overall strategy for managing licence-exempt spectrum use. As such, it does not explicitly consider whether or not any particular devices are to be made licence-exempt, or initiate any immediate changes in spectrum allocations.

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[14] See Section 5, where we provide our understanding of the use of OCC data and the processes followed by the Consumer Policy Group in elevating issues.

– It regulates an area where consumer benefit derives from the development of commercial applications.

- It is difficult to conceive of sensible questions to ask consumers for consultation on LEFR, owing to its generic and technical nature. Evidence of the potential economic benefits of licence-exempt applications for consumers was instead gathered by using economic analysis of the value of different applications. This relates to question 15 of the toolkit, regarding evidence gathering from consumers.

- LEFR deals with emerging applications in the long-term. However, no new consumer issues were expected to emerge during LEFR, so the emerging consumer issues section of the toolkit was considered not applicable in this case.

- Meaningful consumer engagement on LEFR was unlikely since, again, many issues consulted on were technical (e.g. "politeness protocols"). This relates to question 25 of the toolkit, regarding channels for consumer communication.

- To provide further context to the LEFR, in Section 6.4.5, we provide a brief discussion of examples of applying licence-exemption to specific devices.

6.4.2   Documentation

The conclusions from the review of the documentation relevant to the LEFR are as follows.

- The project was well supported by documentation and underlying process. The documentation provided to us was stored by the project team on Ofcom's internal IT systems. Documentation was printed out for us and presented to us in well organised folders which facilitated the process of reviewing documentation.

- The documentation showed no specific evidence that the views of consumers had been sought.

- In papers presented to the Board, there was an explicit statement on the consumer interest issues as considered by the project team. This was that the "Consumer interest furthered by not imposing restrictive regulation on potential applications and users" and in terms of the consumer risk it noted that "The recommendations are associated with only limited risk, as they address unused spectrum or are based on the requirement that harmful radio interference is avoided". It was also noted in the Board paper that "Licence-exempt applications make significant contribution to the UK economy".

- Technical terms were used, but in many cases were explained in terms that the consumer might understand (e.g. "Polite protocols" in the plain English consultation document). However much of the documentation (including the publicly available documentation) did contain significant technical information on spectrum matters that would not have been very accessible to the public. There was also limited explanation of how consumers currently use non-licensed spectrum and how it might be used in the future, which might have assisted consumers by making the subject more relevant to their experiences.

- There were no consumer responses to the public documentation, which could either suggest a lack of consumer interest in the area, or that the subject matter was not accessible to consumers.

6.4.3 Good practices based on the toolkit

The main good practices based on assessment against the toolkit, from the combined documentation and interview evidence, are as follows.

- The consumer interest was explicitly stated in planning and project documentation. This was generic and theoretical, but may have been appropriate for a regulatory framework where only potential uses of licence-exemption could be considered, giving rise to many potential affected consumer groups and issues rather than specific ones. This is relevant to questions 12 and 27, relating to explicitly explaining relevant consumer issues in planning and to senior management.

- The wider spectrum group has had debates on consumer interest issues in relation to spectrum policy, according to interview evidence, although there was no formal record for this nor the conclusion reached. This is relevant to question 31, relating to management review of its approach to consumer related issues.

6.4.4 Areas for improvement

The main areas for improvement based on assessment against the toolkit, from the combined documentation and interview evidence, are as follows.

- The assumption that maximising potential economic value would ultimately benefit consumers could have been explicitly stated and explained. The consumer interest was implicit in the economic analysis of potential licence-exempt uses, so the assumption that consumers will eventually benefit from commercial as well as retail applications of licence-exempt spectrum should have been more explicitly explained and explored. This is relevant to question 12 and 13 of the toolkit, regarding whether consumer interest issues are explained and addressed in the project planning process.

- Publications for LEFR could have been made more consumer-friendly. The publications could have been more informative, in plain English, with regard to the current and potential future consumer aspects of licence-exemption, and the impact of LEFR on this. In the plain English consultation document and press release the former was done to a limited extent, but the implications of LEFR for the consumer were less clear. This relates to questions 22 to 24 of the toolkit, regarding communication with consumers.

6.4.5 Wider licence-exemption policy work

It has already been noted that the LEFR is removed from the consumer since it is a high-level regulatory framework for licence-exemption management. It can be argued that this makes the LEFR a good stress test for the toolkit, since it poses challenges in identifying specific consumer groups and issues, as well as in communicating and consulting with consumers.

It should be noted that the LEFR is one regulatory decision within a wider scope of Ofcom work on licence-exemption policy. This wider work includes decisions on specific licence-

exemption applications, where consumer groups and interests can be more readily defined and specific.

This wider policy work has not been appraised in this assessment, and no specific documentation or interview evidence was gathered during the assessment process. However, when we were gathering background information on licence-exemption, we were provided with the impact assessments of a number of licence-exemption decisions[15]. These provide examples of applying licence-exemption to specific devices that have more visible consumer impact.

For example, Wireless Telegraphy (Exemption) (Amendment) Regulations 2006 cover licence-exempted equipment for uses that include:

- Citizen Band radio – short range radio generally for hobby use.

- Micro FM transmitters ("i-Trips") – these allow audio from devices such as i-pods to be received by a domestic radio receiver such as a car radio.

- Short range devices including hearing aids and social alarms (e.g. to allow elderly or disabled people to call for assistance).

In relation to consumer interest issues, the impact assessment:

- Provides a rationale as to why the proposal will benefit consumers. This includes supporting new and innovative technologies, as well as specifically benefiting social groups such as the elderly and the hearing impaired.

- States that the advice of the Ofcom Consumer Panel was sought.

- Quantitatively estimates the consumer benefits arising from the licence-exemption of each device. These comprise the benefits of greater service take-up and the potential benefits for additional users from using services that they would otherwise not use if licensing costs still applied.

Consequently, the relevant consumer interest issues appear to be stated and explained, both generally and in some cases for specific social groups. Moreover, at least one consumer organisation was consulted on this policy decision.

In addition, despite applying mainly to commercial applications, the Wireless Telegraphy (Radio Frequency Identification Apparatus) (Exemption) Regulations 2005 also provides an example of the direct consideration of consumer interests. Radio Frequency Identification (RFID) is a technology that is expected to be used in some commercial applications, including tracking goods along the supply chain in supermarkets and tagging pharmaceutical products

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[15] These were: Wireless Telegraphy (Radio Frequency Identification Apparatus) (Exemption) Regulations 2005, Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) Regulations 2005, Wireless Telegraphy (Exemption) (Amendment) Regulations 2006, Wireless Telegraphy (Radio Frequency Identification Apparatus) (Exemption) (Amendment) Regulations 2007, Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2007, Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2008, Wireless Telegraphy (Exemption) (Amendment) Regulations 2008, Proposed Wireless Telegraphy (Exemption) (Amendment) Regulations 2008 (No.2).

to prevent counterfeiting. In relation to consumer interest issues, the impact assessment provides:

- An estimate of consumer surplus from lower retail prices if efficiency savings from using RFID is passed on. This is based on an economic cost-benefit analysis of retailers using RFID technology to track goods along the supply chain.

- Consideration of risks to consumers arising from possible infringements of personal privacy, although Ofcom concludes these would be addressed by privacy and/or data protection legislation.

- A brief (one paragraph) risk assessment on the future use of the spectrum band against other potential competing uses.

This example indicates that the relevant consumer interest issues appear to be stated and explained. There is also some risk assessment to consider the complexity of issues involved, although this was not specifically directed at consumer interests.

We note that the high-level and generic nature of the LEFR may not be representative of the wider body of Ofcom policy work on licence-exemption and spectrum more generally and there may be policy projects where it is easier to consider specifically and explicitly the consumer interest issues. However, as mentioned previously, the LEFR provides a useful stress test of the toolkit in dealing with regulation where the consumer impact is more general and further removed.

7 Organisation-wide issues

7.1 Points to note

While we were not explicitly asked by the Panel to review in detail general organisational issues in relation to consumer interests (i.e. those that do not directly relate to the three projects we reviewed), during the course of our programme of interviews, we were informed about a number of key changes that have occurred since the launch of the toolkit by the Panel in February 2006. In our view these changes, which we report below, are important areas to raise as they indicate the impact the toolkit launch has had on Ofcom's approach to consumer interest issues. Moreover, awareness of these factors may be a useful input to further toolkit assessments.

What we present below represents some highlights from our discussions, supplemented by a review of documentation supplied to us[16], rather than a comprehensive review of all initiatives within Ofcom since the toolkit was launched. We report on the information we received and note that Ofcom may have implemented further consumer interest initiatives not referred to here.

It should also be noted that what we report on below is based on comments made by a small number of interviewees. This compares to our research underpinning the original toolkit development, when we interviewed 21 senior Ofcom personnel directly about consumer interest issues across the organisation and several others in respect of specific projects.

7.2 Key changes

7.2.1 New initiatives

Since the toolkit launch, and following David Currie's response of 14 December 2005[17] our understanding is that Ofcom:

- Appointed a Director of Consumer Policy.

- Appointed two senior "consumer interest sponsors".

- Established a specific consumer representative role on the Board.

- Established a Consumer Policy Group and a Consumer Steering Group, comprising personnel with expertise in dealing with consumer issues.

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[16] Supporting documentation supplied to us included: 9 Screenshots of relevant sections of Ofcom's intranet, a PowerPoint presentation to different policy groups for the "road show" of the Ofcom toolkit implementation (titled "Consumer interest toolkit", dated March 2006), the Project plan (titled "Capturing the consumer interest – Implementation project plan", dated 3/2/2006), the First bi-monthly update to ExCo, a PowerPoint presentation (titled "Ofcom Consumer Panel Toolkit – Project progress report", dated 3/3/2006), and the Public update on implementation (titled "Taking account of consumer and citizen interests. Progress and evaluation – 12 months on", dated 28/2/2006).
[17] We have not sought to verify whether all of Ofcom's proposals have been implemented. Here we highlight those brought to our attention during this review.

- Increased awareness of the toolkit across the organisation via a series of "road shows" and papers for the Policy Executive, the Executive Committee and the Board.

- Developed documentation providing clear procedures for taking consumer interest issues into account from the start of projects through to publication. This covers identifying and defining consumer interests, demonstrating and representing consumer interests, and articulating and communicating consumer interests.

- Ensured that specific Ofcom procedures have consumer interest issues embedded in them (for example, the project requirement document[18] on the Ofcom project management system Artemis has questions on the consumer interest).

- Rolled out training for Ofcom personnel on consumer interest issues, the toolkit, and its relevance.

7.2.2 Cultural changes

We were also informed by a number of interviewees that they perceived that there had been a significant culture change at Ofcom with respect to consumer interest issues. Indeed, one interviewee stated that they considered that the attitude of Ofcom towards consumer interest issues had changed radically. Another stated that consumer interest issues had moved up the agenda across most of Ofcom. We were informed that:

- The Board has increased significantly its focus on consumer interest issues.

- For many, competition was now seen as a tool for furthering consumer interests and competition issues rather than an end goal in itself.

- Considering consumer interest issues is now a part of the Ofcom culture and senior management discussions.

- There appeared to be a genuinely positive reaction to the toolkit by Ofcom personnel.

7.2.3 Toolkit implementation

We were informed that the toolkit questions had been split and directed to specific parts of Ofcom. The project-specific questions have been provided in the standard Ofcom check-lists for project managers, for example, and other parts have been rolled out to specific groups such as communications and board governance.

While the toolkit is seen as providing a methodology for taking the consumer interest into account and making such procedures auditable, its ownership is perceived to lie with the Panel – the toolkit is seen as something that is used by the Panel to assess projects. Furthermore, based on our interview discussions, it did not appear that detailed knowledge of the toolkit was universal across Ofcom.

With respect to defining the consumer interest, we were informed about a number of initiatives through our review of documentation and interviews, including:

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[18] This is a mandatory document that is used to specify the objective of a project, the work to be done, the resources required and the deliverables from the project.

- There are some consistent processes for identifying and defining the consumer interest according to the public update on toolkit implementation "Taking account of consumer and citizen interests. Progress and evaluation – 12 months on". This includes a checklist on the intranet (provided in documentation), reference to a consumer interest section on Policy Executive and Board submission templates, details of the internal Early Warning System, and weekly OAT highlight reports.

- There is guidance on the intranet, provided in documentation, on how to identify, represent and articulate consumer and citizen interests.

- According to the public update on toolkit implementation, the Strategy Team looks for compliance with toolkit guidelines before Policy Executive and Board paper submissions.

- While we did not review the annual planning process, the public update explains that the December 2006 annual plan drew on the initiatives outlined, including OAT data updates.

- There is regular research conducted by the Market Research team, as well as continuous reports from OAT, according to interviews and the public update.

7.2.4 Communication with consumers

With respect to communications with consumers, there is a clear review process within Ofcom involving consultation and publication of documents. Ofcom also communicates through press relations and advice on its website. The Consumer Policy team makes pragmatic decisions about when to be involved, according to interviews. We were informed that:

- Efforts are made to communicate consumer issues in a manner that is accessible to the media. However, as noted, plain English documents are not compulsory, although Ofcom has issued guidance on when such documents are needed.

- There is regular liaison with consumer organisations, including bi-laterals and annual Consumer Experience events.

With respect to the last point – communication with consumer organisations – our discussions left us with the impression that this area remains challenging largely owing to resource constraints within consumer organisations and difficulties in facilitating effective engagement.

7.2.5 Organisational controls

In terms of controls across the organisation:

- Regular reports are prepared for senior management on consumer issues, including monthly OAT packs sent to the Executive Committee (ExCo) and the Board, as well as ExCo reports that all project teams contribute to, according to interviews and the public update.

- There are logging systems in place, including regular (weekly) OAT updates and an internal Early Warning System (EWS) set up by the Consumer Policy team, according to the public update.

With respect to the EWS, we were informed that there are some specific categories that are monitored by the Ofcom Consumer Policy Group and that this activity is supplemented by a weekly information pack from OAT, together with verbal updates from OAT (team leaders alert the Consumer Policy Group if they note changes in the data). The media and MPs' letters are also monitored and ad hoc checks are conducted if there appear to be oddities in the OAT data. All of these are compiled into an issues log by the Consumer Policy Group and this is monitored regularly and re-prioritised as appropriate every 4-6 weeks. Reports are produced on a 6 monthly basis.

However, one interviewee thought that it is possible that the OAT data in the Management Information packs provided to ExCo could get buried among the large bundle of information and that while issues are identified and discussed, sufficient attention may not always be practical owing to the large amount of information to be digested.

8 Concluding remarks

8.1 Introduction

In this final section of the report we provide our concluding remarks based on the assessment conducted.

8.2 Key findings across the three projects

This assessment of three projects based on the questions set out in the Panel's consumer interest toolkit shows clear evidence that Ofcom is aware of consumer issues and endeavours to ensure that consumer issues are given priority. In support of this we note that:

- All three projects included a clear statement about the consumer issues they were trying to address.

- The Ofcom intranet has a consumer interest checklist to be used by all project teams and teams need to consider consumer interest issues when completing the PRD and Impact Assessments for projects.

- Project teams appear to have a much greater appreciation of the importance of the consumer in the regulatory decision making process. In this regard all interviewees were aware of the consumer interest toolkit (although not all were aware of the detail of its contents).

Generally we consider that there is reason to commend Ofcom for the efforts it is making to become more consumer focused and consumer aware. However, on some specific matters we believe there are areas for Ofcom to consider, as follows:

- Based on the evidence we gathered, while Ofcom appears to be proficient in ensuring that consumer interest issues are explicitly stated, we note that this is sometimes stated in terminology that will be better understood by a professional economist than by an average consumer.

- While interviewees indicated that consumer interest issues were kept in mind throughout the three projects we assessed, the documentation we reviewed did not always make this clear. We appreciate that this assessment sets a demanding standard, namely that how consumer issues are to be addressed should be explicitly documented, and stated in non-technical language. However we believe that this standard is an important discipline in helping ensure that consumer interest issues do not become implicit or get "lost", especially in technical and complex studies and investigations.

- In very technical areas, perhaps more could be done to make the consumer issues more comprehensible to the average consumer. We do appreciate that this sets a real challenge, but we believe that a worthwhile objective could be for Ofcom to make sure that a consumer should be able to understand and contribute to the debate, even on technical issues to the extent that is feasible.

The key findings in areas common to the three projects are summarised in Table 3.

Table 3: Summary of common key findings

Good practices	Removal of BT's RPCs	Broadband migrations review	LEFR
Consumer interests were explicitly stated in the planning process.	Yes – economic analysis suggested consumer interests were a priority. Perhaps might have benefited from clearer explanation of the analysis undertaken.	Yes.	Yes (but in technical economic terms).
Project documentation maintained to provide evidence of approach adopted.	Yes.	Yes.	Yes.
Project provided clear explanation of decisions reached.	Yes – reason for decision made was explained.	Yes – reason for decision made was explained.	Yes – reasons for decisions made were explained.
Decisions made were explained in a way that showed consumer issues had been considered and in a way that consumer would understand.	Yes – the consumer issues were covered in detailed annexes. May have benefited from clearer explanation of those annexes.	Yes – in general consumer issues were explained. Some specific technical terms would have benefited from a more consumer friendly explanation.	Partly – consumer issues were considered in a broad way and in technical economic terms. Not certain this would be understood by the average consumer.
Project showed evidence of processes for consumers to raise issues.	Yes – project team tried to approach consumer organisations although no supporting documentary evidence.	Yes – through the OCC.	No – no direct communication channels with consumers. The project used economic value as a proxy.
There were regular reports to senior management.	Yes.	Yes.	Yes.
There was evidence of peer challenge on consumer issues.	Yes – interview evidence.	Yes – some documentary evidence.	No – no explicit evidence beyond standard project review processes.

The Panel stated in the terms of reference for the study that three key questions should be asked of each review:

- Has Ofcom methodically considered the interest of consumers?

- How might consumer interests change over time, and is there a trade-off between detriment in the short run and benefits in the long run of regulatory intervention?

- How has Ofcom weighed up consumer interests with other factors in reaching its decision?

We provide our answers to each of these for each review in Table 4.

Table 4: Answers to key questions

Question	Removal of BT's RPCs	Broadband migrations review	LEFR
Has Ofcom methodically considered the interest of consumers?	We consider that Ofcom has methodically considered the interests of consumers. The focus of the project was the potential impact on vulnerable consumers of removing RPCs. BT assurances were sought to mitigate potential adverse impacts and a public information campaign was undertaken.	We consider that Ofcom has methodically considered the interests of consumers. Consumers' concerns and issues were raised via communication with the OCC. There was detailed analysis of the consumer issues raised via the OCC (including using an external consultancy to conduct data analysis) and a new condition was introduced to benefit consumers.	The approach taken implicitly considered the interests of consumers on the basis of potential economic value of different applications that use spectrum.
How might consumer interests change over time, and is there a trade-off between detriment in the short run and benefits in the long run of regulatory intervention?	The project team considered that there would be long term benefits from the removal of RPCs but potential short run detriment to vulnerable consumers. The assurances were put in place to mitigate possible short term detriment and since the removal of RPCs price trends have been monitored.	This project looked at immediate problems and there was no clear short run and long run trade off as the issues were believed to be the same. The focus was on the removal of the short term detriment for consumers.	No explicit trade-off required. The LEFR is a framework to develop an overall strategy for the management of licence-exempt spectrum use. Implicit are the potential benefits to consumers of the proposed framework.
How has Ofcom weighed up consumer interests with other factors in reaching its decision?	Ofcom appears to have placed greater weight on consumer harm than on other factors such as the effect on fixed-line providers.	Ofcom appears to have placed greater weight on consumer harm than on costs to broadband providers.	The focus of the LEFR was to create a framework such that the appropriate spectrum is available for the development of specific applications. Ofcom took into account other factors such as the advantages and disadvantages of linking with International and European standards but these were considered with respect to their potential impact on consumer interests.

8.3   Issues for consideration

In reviewing the three policy projects we raise the following issues for Ofcom's consideration:

- Publication of analysis based on confidential data – based on the assessment, we understood that Ofcom did not make public some of its analysis underpinning the decisions it reached as the underlying data were confidential. Ofcom may wish to

consider whether it is possible to publish a high-level explanation of such analysis, where such an analysis would inform consumers of the relevant issues considered and the policy decision arrived at.

- Publication of OAT complaints data (suitably verified) – this may enable consumer stakeholders to input to the process of identifying and determining the urgency of emerging issues.

- Using the toolkit – while Ofcom has rolled out the toolkit across Ofcom, we were informed that its ownership is perceived to lie with the Panel. However, to ensure continued clarity on the purposes of the toolkit, Ofcom could consider refreshing the awareness and use of the toolkit within Ofcom.

- Consumer engagement – this has two of elements: how best to engage, both with consumers and consumer organisations, and how best to communicate technical issues. We acknowledge that engagement with consumer organisations remains a real challenge owing to limited resources within these organisations and difficulties in facilitating effective engagement, and we believe that other regulators and some private sector companies face similar challenges. Areas for consideration include:

  - It may be appropriate for Ofcom to consider further the way in which consumer organisations are engaged, particularly how participation in the regulatory consulting process might be made easier for such organisations. For example, it may be necessary to increase the number of bespoke presentations for the organisations to assist them in understanding the issues involved in specific policy projects.

  - We consider that effective engagement with consumers remains an important part of the regulatory process, although it is important that attempting to communicate with consumers should not become a "box-ticking" exercise. Ofcom may need to consider new ways to engage with consumer organisations.

  - The effectiveness of the different methods of consumer engagement could be evaluated further. These may include using focus groups or new emerging forms of communication. It needs to be recognised that each method has cost implications and may be more or less suitable for different types of policy project, and therefore a balance will need to be struck between this and the likelihood of obtaining useful information.

  - In respect of communicating with consumers, Ofcom has attempted to make consultations more accessible and to signpost issues for consumer organisations and stakeholders. In technical areas, however, perhaps more could be done to explain the consumer interest issues in more consumer-friendly terms.

While we have raised the issues above for Ofcom's consideration, we would like to conclude our report by commending Ofcom on its endeavours to ensure that consumer issues are given priority. Moreover, based on the interviews we conducted and the information we received, there appears to have been a significant culture change in respect of consumer interest issues since we conducted our original work developing the toolkit in 2005.

Appendix I – Consumer Interest Toolkit

	Organisational issues
	Point of focus
	Defining the consumer interest
1	Is there a clear view of who the consumer is?
2	Is there a consistent approach for how the organisation identifies and defines the consumer interest?
3	Are there clear policies and procedures setting out the organisation's approach to dealing with consumer interest issues?
4	Are there controls in place to ensure these policies and procedures are followed?
	Risk assessment and planning
5	Is there a process of ensuring consumer interest issues are taken into account in the development of the organisation's periodic business planning process?
6	Are the consumer interest issues included in the planning process supported by evidence of consumer key issues?
7	Are there adequate processes to gain feedback from consumers on the organisation's annual plan and to take their comments into account?
	Training and knowledge management
8	Is there regular liaison with consumer bodies to keep the organisation informed about their issues and concerns?
9	Is there regular research carried out to inform the organisation about key consumer issues and concerns?
10	Are there training courses in place for personnel to help them understand and appreciate consumers' interests and issues?
11	Is there monitoring of training to ensure that all personnel involved in studies which are relevant to consumers have received appropriate training?

	Project specific
	Point of focus
	Planned projects
12	For each project are the relevant consumer interest issues explicitly explained?
13	Is the project work plan clear about how the consumer interest issues identified will be addressed?
14	Is there a risk assessment process in place that helps define the significant impact and complexity of the consumer interest issues involved?
15	Are there appropriate processes devised to ensure evidence is gathered from consumers on the key issues being addressed by the project?
16	Are there appropriate processes in place to ensure that the key consumer interest issues are addressed in the final output from the project?
	Emerging issues
17	Are there clear processes in placing for regularly logging key consumer concerns?
18	Are the key consumer concerns reported reviewed regularly to identify issues that are emerging that are of concern to consumers?
19	Are there processes for ensuring that emerging consumer interest issues are identified and actioned appropriately?
20	Are there clear processes in place to initiate a project to investigate significant emerging consumer issues?
21	Are there processes in place to determine the urgency of an issue and are the timescales set for the study consistent with the urgency of the issue to be investigated?

	Organisational and project specific
	Point of Focus
	Communication with consumers
22	Are there clear processes in place that set out how the organisation communicates with consumers?

23	Are there processes in place that ensure that the organisation communicates in a way that allows consumers to understand the issues being considered?
24	Are there processes in place by which the organisation explains the decision or actions they have taken (including for example explaining why consumer interest issues may have been sub-ordinate to other issues)?
25	Are there clear channels through which consumers can communicate and raise issues with the organisation?
	Organisational controls
26	Are there regular reports prepared for senior management on consumer related issues?
27	In relation to specific investigations and projects are senior management made aware explicitly of the key consumer interest issues and how these are being addressed?
28	Is there a process in place to ensure peer review and internal challenge of significant consumer interest issues (e.g. definitions, identification of whether an emerging issue is valid, a proposed regulatory change)?
29	Has management established performance indicators that allows it to monitor whether consumer issues are being addressed?
30	Are there management systems in place for logging consumer related issues and for ensuring such issues are followed up on a timely basis?
31	Does management regularly review its approach to dealing with consumer related issues to ensure that it reflects advances in good practice? For example does it benchmark its processes against processes operated by other organisations involved in consumer matters?

Appendix II – Specification of scope of work

SPECIFICATION, INFORMATION AND INSTRUCTIONS

INVITATION TO TENDER TO UNDERTAKE AN AUDIT OF OFCOM'S REMOVAL OF BT'S RETAIL PRICE CONTROLS, ITS BROADBAND MIGRATIONS REVIEW AND THE LICENCE EXEMPTION FRAMEWORK REVIEW USING THE OFCOM CONSUMER PANEL'S CONSUMER INTEREST TOOLKIT

The independent Ofcom Consumer Panel (a part of the Office of Communications) wishes to commission an assessment of Ofcom's approach to the removal of BT's Retail Price Controls, its Broadband Migrations Review and the Licence Exemption Framework Review using the Ofcom Consumer Panel's 'Capturing the Consumer Interest Toolkit'.

1. Summary of requirements

1.1 The Ofcom Consumer Panel wishes to keep under review the way in which the interests of consumers and citizens are taken into consideration in Ofcom's regulatory activity in order to ensure that such interests are fully understood, given appropriate weight and ultimately furthered by the decisions that Ofcom takes.

1.2 The Panel has developed a methodology for carrying out an assessment of how Ofcom takes into account the interests of consumers in the formation and implementation of regulation. The original toolkit of 31 questions (included at the end of this schedule) does not refer to citizens but can be read as including both. The Panel is now seeking proposals to re-apply the toolkit to Ofcom's removal of BT's Retail Price Controls, its Broadband Migrations Review and the Licence Exemption Framework Review.

2. Background to the project

2.1 The Ofcom Consumer Panel was established to advise Ofcom on consumer interests in the telecommunications, broadcasting and spectrum markets under the Communications Act 2003. The Panel focuses its work on access to communications regardless of whether this affects people as citizens or consumers. The Act requires the Panel to be able to represent the interests and opinions, and be able to give informed advice, on the interests of people living in: rural and urban areas; small businesses; disadvantaged people; people with low incomes; disabled and older people.

2.2 The Panel – made up of 11 part-time members, from a range of backgrounds – believes that it cannot, with the resources available to it, be a comprehensive sounding-board for Ofcom on the whole range of consumer and citizen interests within its field of regulation. Inevitably, the Panel has to be selective. It therefore views part of its role as advising Ofcom on how well Ofcom itself carries out the job of understanding and taking on board consumer and citizen interests.

2.3 Many regulators, including Ofcom, have developed methodologies for assessing regulatory impacts. These are about outputs. The purpose of this project to date has been to develop a "good practice" model, a toolkit, which is focussed more on regulatory "inputs", i.e. what goes in to the formation of regulatory policy and its implementation.

2.4 The Panel's toolkit and the conclusions from its application to two Ofcom policy areas was published and launched in February 2006[19]. The toolkit was welcomed by senior representatives from regulators, government, Parliament, consumer bodies, industry and the European Commission as a valuable contribution to the better regulation agenda. The toolkit is an innovative method of making regulatory decision-making more transparent and holding regulators to account for consumers and citizens and as such is of immense interest to a range of other bodies.

2.5 The Panel now wishes to build on this work by subjecting particular projects in Ofcom to further scrutiny now that the regulator has had the opportunity to implement the recommendations emerging from the evaluation and to further enhance the toolkit as appropriate. Areas for enhancement suggested by feedback received to date include looking at how effective the toolkit is at delivering positive outcomes for both consumers and advising policy-makers on *how* to factor in the consumer interest into their policy development process.

2.6 It should be noted that this project is to look at the consumer interests - solely - in the three regulatory policy areas of Ofcom set out below.

3. Removal of BT's Retail Price Controls

3.1 On 19 July 2006 Ofcom removed the retail price controls (RPCs) on BT line rental and calls. RPCs have been in place since 1984 when BT was privatised. The last set of controls was put in place in June 2002 by Oftel's review of the fixed telephony market entitled "Protecting consumers by promoting competition: Oftel's conclusions". The ending of RPCs after more than twenty years was a major alteration in the regulatory regime.

3.2 The RPCs regulated the price of a basket of residential retail telephony services, namely: local, national and international calls, calls to mobiles, operator assisted calls and exchange line rental. The RPCs applied to the expenditure on these services of the lower 80% of BT's residential customers by spend. The effect of the controls, which were set at RPI+0% was that BT could not increase charges for the basket of services in real terms (i.e., overall retail prices could not go up by more than RPI).

3.3 Ofcom's proposal took account of commercial, regulatory and market-led developments that have occurred since the market review in 2003. The consultation explained how increasing numbers of consumers have switched to BT's competitors. These competing providers offer WLR, LLU, CPS/IA and VoIP services. The range of services, the ability to switch and the migration of increasing numbers of customers represented an increasing constraint on BT's prices for its retail services. The consultation also noted that other communications providers would be able to compete more effectively when Equivalence of Inputs was delivered by the middle of 2007.

3.7 The removal of BT's RPCs by Ofcom has been selected by the Consumer Panel for audit because the legislation protected consumers from high charges in the fixed-line market, in particular vulnerable groups.

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[19] http://www.ofcomconsumerpanel.org.uk/publications/capturing_the_consumer_interest.pdf and http://www.ofcomconsumerpanel.org.uk/events.htm

3.8 The Consumer Panel is keen to explore to what extent Ofcom has methodically considered the interests of consumers, the needs of future consumers and these trade-offs (not whether Ofcom has produced the 'right answer'). It is also keen to further develop the definitions of and consumer interests currently being used by the Consumer Panel and Ofcom.

4.   Spectrum Licence Exemption Framework Review

4.1 The radio spectrum is a finite resource of considerable economic and social value. Spectrum is essential for modern communications and broadcasting, for the effective operation of military and emergency services, and for safe and efficient transport and other infrastructure systems. It also has many scientific, social and educational applications. In the UK uses of spectrum such as mobile communications and broadcasting account for about 3% of the economy.

4.2 Studies commissioned by Ofcom indicate that the contribution to the UK economy of licence-exempt applications is significant. As an example, they assess that the net present value of public Wi-Fi local area networks (without taking congestion and interference costs into account) might be as high as £100bn over the next 20 years. While this is estimated to be only a quarter of the net present value that could be generated by licensed cellular networks over a similar period, it does emphasise the importance of licence-exempt use of the radio spectrum, and the need for an appropriate framework for its management.

4.3 We are all familiar with uses of the spectrum that operate at high power - like broadcasting or mobile networks. In these cases, each operator needs to be licensed to prevent interference. But there are also many uses of spectrum where users can actually share spectrum without causing much interference, and so there is no need for them to be licensed individually. Some of the most innovative wireless innovations in recent years have been in the licence-exemption band, including new uses which have a strong consumer dimension. Among existing technologies, these include Wi-Fi hotspots and wireless routers in the home, and devices like iTrips, which allows an iPod to be played over an FM radio. Among the technologies about to come into the market there is Ultra Wide Band, which will allow large amounts of data to be transferred wirelessly inside the home.

4.4 The Ofcom Spectrum Framework Review (SFR) sets out Ofcom's overall strategy for the management of spectrum through a market-based approach involving spectrum auctions, trading of licences, and spectrum liberalisation. It also outlines, at a high level, its approach to determining whether spectrum use should be licensed or licence-exempt, based on criteria such as economic value derived from spectrum, risk of congestion, required quality of service, and Ofcom's legal and international obligations.

4.5 The Licence Exemption Framework Review (LEFR) provides a framework within which decisions concerning the management of licence-exempt use of spectrum can be made and develops an overall strategy for future licence-exempt authorisations. The review examines a range of issues some of them being: application-specific spectrum vs. spectrum commons and associated rules; light-licensing and licence-exemption; licence-exemption above 40 GHz; and licence-exemption of low-power transmitters. Ofcom has also made a variety of decisions on licence exemption over the last 2 years, such as authorising the use of Ultra Wide Band devices.

4.6 Ofcom's work on licence exemption, including the LEFR, has been selected by the Consumer Panel for audit because the allocation of spectrum is one of the most important

areas of work Ofcom undertakes. And, as previously mentioned, the possible technologies that may come on to the market will be used by consumers and thus has a strong consumer dimension, i.e. there will be a direct impact on products available in the shops, and the way we live our lives. The framework review will set out the conditions for that market to operate in.

4.7 The Panel is keen to explore to what extent Ofcom has methodically considered the interests of consumers , the needs of future consumers and these trade-offs (not whether Ofcom has produced the 'right answer').

5. Broadband Migrations Review

5.1 Broadband has had a profound effect on the way that many people live their lives in the UK today. The ways in which we communicate and the ways we access information and entertainment services have been transformed by 'always-on' connections to the internet. The availability of increasingly low-cost, high-speed broadband has been a particular spur to mass market take-up of online services. The latest figures indicate that around 13.3 million UK households subscribe to broadband services, and this number continues to grow.

5.2 During 2005, Ofcom saw a steady increase in the number of customers complaining about problems related to broadband migrations. Evidence suggests that many consumers have found it difficult to switch between broadband suppliers or to move home without experiencing problems. Some have lost their broadband for several weeks, some have not been given their MAC code by the losing provider or been given confusing and contradictory information about what they need to do to migrate.

5.3 Ofcom took the view that where consumers don't have access to processes that let them switch easily, they may suffer inconvenience and distress. If consumers start to think that switching providers carries this kind of risk, the competitive process can be dampened in a way that means all consumers will suffer. If switching is difficult, competition may, over time, fail to ensure that consumers receive the benefits they should be able to expect.

5.4 Furthermore, with customers continuing to subscribe to broadband services for the first time, and increasing numbers now likely to be reaching the end of their initial contracts combined with the ever-increasing range of new packages and deals, may mean that more and more customers will want to be able to switch provider if they find a better deal. This, in turn, points to a risk that more and more customers may face difficulty when seeking to change broadband suppliers. Broadband customers may even decide not to switch rather than risk disruption to their service.

5.5 In light of the above Ofcom considered that these issues needed investigation and launched the Broadband Migrations Review (BMR) in April 2006 to understand the situation further and consider what action could be taken. The BMR specifically looked at broadband provided over BT copper loops using DSL technology, i.e. broadband connections based on wholesale products provided by BT Wholesale (IPStream and DataStream) and Openreach (shared and full LLU).

5.6 The review did not look at broadband over cable or emerging technologies such as wireless and satellite, where the underlying networks are physically distinct from the copper loops over which DSL is provided. Also it did not consider the migration processes for complex migrations, such as simultaneous migration of a bundle of products, including, for

example, WLR (wholesale line rental) and IPStream/DataStream broadband to full LLU. Ofcom is reviewing these processes as part of its Migrations Consultation work.

5.7 At the end of the review Ofcom introduced 'General Condition 22: Service Migrations'. This General Condition came into force on 14 February 2007 and consists of two elements:

- a requirement on all Communications Providers to comply with the MAC process, including wholesale providers; and

- where the MAC process does not apply, a requirement on all Communications Providers to comply with a number of high-level obligations designed to address consumer harm associated with broadband migrations

These high-level obligations are to:

- facilitate the migration (or where applicable, connection) of the Broadband Service in a manner that is fair and reasonable

- ensure that the migration (or where applicable, connection) of the Broadband Service is carried out within a reasonable period

- ensure that the migration (or where applicable, connection) of the Broadband Service is carried out with minimal loss of the Broadband Service

- assist with, and facilitate requests for, the migration (or where applicable, connection) of a Broadband Service provided by another Communications Provider, in instances where the other Communications Provider has failed to, or refused to, comply with the MAC Broadband Migrations Process, in a manner that is fair and reasonable

5.8 One other outcome of the consultation was the continued co-regulatory work between Ofcom and the industry on outstanding process issues, with a further consultation on additional broadband migrations processes – in particular, an alternative mechanism for the release of Migration Authorisation Codes ("MACs").

5.9 The residential broadband market is one of the fastest growing communication markets in history and its importance as to how people relate to society is becoming central to their lives. The BMR has been selected by the Consumer Panel for audit because of the importance of broadband to consumers and the consumer protection and switching issues involved.

5.10 The Panel is keen to explore to what extent Ofcom has methodically considered the interests of consumers, the needs of future consumers and these trade-offs (not whether Ofcom has produced the 'right answer').

6. Issues to be addressed

6.1 The Panel expects proposals for this project will address the following aspects:

- the development of detailed terms of reference for the programme of work

- at the strategic level, consideration of Ofcom's approach to identifying consumer interests for this project including: analysis of the way in which those working within

Ofcom approach their work in relation to the issues raised in the Toolkit; their awareness of and attitude to consumer interest issues; and the way in which this is evidenced by public statements, written documentation, website content and other forms of communications and meetings

- critical assessment of the way in which Ofcom has implemented its proposed changes in its documented policies and procedures and guidance – including consultation procedures, project management procedures etc; how these interests are weighed and traded off against other possibly conflicting interests; how is this done and by whom?

- the way in which Ofcom has collected evidence, undertaken research and derived information, including from its Contact Centre and external sources

- the way in which Ofcom interacts with the Consumer Panel itself and other sources of information and evidence on consumer requirements

7. Output of the project

7.1 The Panel expects the output of the project to be a report that documents how successfully Ofcom has understood, analysed and factored in the consumer in the above regulatory policies. This audit should be based on the existing toolkit questions (listed at the end of Schedule A). Should there be any commentary about how the toolkit could be enhanced, these comments should not be reflected in the audited project but be presented as a supplementary set of recommendations.

7.2 The Panel expects the final reports to include:

- Objectives of work and methodology adopted
- Definition of consumer used for the purpose of the review
- A summary of the notes of interviews with Ofcom colleagues
- A comprehensive review of documented policies and procedures in relation to the above regulatory policies. The existing toolkit questions should be answered and issues of trade-offs between competing stakeholder interests should be addressed
- Conclusions and recommendations on the extent to which Ofcom's approach in respect of the framing and execution of each policy project has been consistent with the approach set out in the Consumer Interest Toolkit
- If applicable, brief recommendations for further developments to the toolkit

7.3 As this project is likely to be of interest to other parties, those appointed may be invited to present on their experience and findings at external events hosted by the Ofcom Consumer Panel or others.

8. Method of working

8.1 Those appointed to this project will work in partnership with a Project Board chaired by Graham Mather, Consumer Panel Member and Colette Bowe, Consumer Panel Chairman. Day to day reporting and liaison will be managed by Dominic Ridley, Consumer Panel Manager.

8.2 The project board will take overall responsibility for the work but the appointed consultants will be expected to prepare their own report for the Panel setting out their own conclusions and recommendations. The Panel will decide on the appropriate manner to communicate the

conclusions to Ofcom. This may include publication of the report under the cover of a paper setting out the Panel's own conclusions and recommendations.

8.3 Those appointed must be aware that the content of the report will remain the property of the Ofcom Consumer Panel (a part of the Office of Communications). This is detailed in Ofcom's terms and conditions which must be strictly adhered to and agreement to these terms and conditions must be confirmed in proposals. The final report may or may not be made publicly available.

8.4 Those appointed to the project will need to agree the detailed arrangements with the project team but it is likely that the bulk of the work will include the following:

- agreeing the detailed scope of the assessment and approach
- interviews with a range of Ofcom colleagues (and possibly key selected external stakeholders)
- written reports of interviews to be agreed wherever possible with those interviewed
- collation and analysis of Ofcom documentation
- reports on progress and other planning documentation to be provided to the project board
- draft material for the final report to be discussed with project board members
- final edited text of the report in Word format and provided in electronic form and hard copy

8.4 The project would be carried out with the full co-operation of Ofcom, and it is contemplated that the result of the project would be widely publicised with a further publication and event in the first quarter of 2008.

Appendix III – List of Interviews and Process Confirmation Sessions

Interviews and process confirmation sessions

Policy project area	Interviewee	Roles	Interview date	Process confirmation session date if applicable
Removal of BT's retail price controls (RPCs)	Neil Buckley	Director of Investigations, previously Competition Policy Director	19/12/07	18/01/08
	Geoff Brighton	Policy Advisor, Project manager	20/12/07	-
	William Godfrey	Principal Economic Advisor	11/01/08	-
Broadband migrations review	Gavin Daykin	Consumer Policy Manager	19/12/07	18/01/08
	Natalie Siega	Former head of OCC, now Head of Consumer Services	10/01/08	-
Licence-exemption review framework (LEFR)	Philip Rutnam	Partner, Spectrum Policy, Ofcom Executive Board member	11/01/08	-
	William Webb	Head of R&D and Senior Technologist, Project manager	20/12/07	14/01/08
Organisation-wide	Sara Nathan	Former Board member, Consumer steering group	19/12/07	-
	Peter Philips	Partner, Strategy & Market Developments, Consumer interest sponsor	09/01/08 (joint)	-
	Claudio Pollack	Director of Consumer Policy	09/01/08 (joint)	-
	Julian Eccles	Communications Director	15/01/08	-

Appendix IV – Removal of BT's RPCs, question by question assessment

Assessment using the consumer interest toolkit – please note that interview evidence is given in italics.

	Organisational issues	Assessment based on documentation reviewed and interviews conducted
1	Is there a clear view of who the consumer is?	There was no specific definition of who the consumer was. However there was considerable analysis of those consumers (i.e. Low Usage Scheme and on BT Together Option 1) where the fixed line charge was likely to be a large element of their total bill.
2 - 11	**N/A**	**These organisation-level questions are considered not specifically applicable to the removal of BT's RPCs.**

	Project specific	Assessment based on documentation reviewed and interviews conducted
	Planned projects	
12	For each project are the relevant consumer interest issues explicitly explained?	The documentation seen extensively covered different types of consumer, but this could have been clearer to the 'non-economist' or 'non-technical' person. Based on the economic analysis conducted and the interviews, the project team appears to have devoted considerable resources to considering consumer issues. *From interviews, the number one concern for decision-makers was how more vulnerable consumers might be impacted by the removal of price controls. The team specifically considered deciles of consumers with low spending but who did not fall under BT's Universal Service Obligation (USO) tariff. Economic analysis identified the deciles of consumers most affected by potential line rental increases.*
13	Is the project work plan clear about how the consumer interest issues identified will be addressed?	As already noted the documentation seen extensively covered different types of consumer, but this could have been clearer to the non-economist. *The economic analysis and interviews suggest considerable resources were used on examining*

		consumer issues and the concern was how more vulnerable consumers might be impacted by the removal of price controls.
14	Is there a risk assessment process in place that helps define the significant impact and complexity of the consumer interest issues involved?	There was no specific risk assessment process adopted in the documentation to define the impact and complexity of the issues involved. *The economic modelling was used to consider the risk of consumer harm for more vulnerable consumers, according to interviews. These results were presented and annexed in presentations to the PE and the Board. For example, one analysis looked at decile groups and inflation two years ahead against increases in call prices. The risk of not being able to switch for consumers was also examined, both for consumers generally and those without direct debit.*
15	Are there appropriate processes devised to ensure evidence is gathered from consumers on the key issues being addressed by the project?	There was no new evidence sought. However data were sought from BT as well as existing data within Ofcom for analysis to be done on vulnerable groups. Consultation responses on a plain English guide were considered, and from interviews it was clear that consumer interest groups were approached.
16	Are there appropriate processes in place to ensure that the key consumer interest issues are addressed in the final output from the project?	Much of the analysis done was focused on the vulnerable consumer and that was taken into account in the output. There is also a standard project review procedure in Ofcom, which at the time was PPRG (the competition group), the Policy Executive (PE), and then the Board. Part of the consumer protection was predicated on a further market analysis to be done before end of 2007. However, it was clear from interviews that headline data clearly shows that call prices are continuing to fall, and if anything accelerating in its fall. Due to this and competing initiatives and priorities in Ofcom, the review has not been a high priority and has not been completed. Also money was spent by BT on a publicity campaign to make consumers aware of alternatives to BT. There was no analysis of the effectiveness. As such the consumer issues may have been explored further than they have been taking into account the whole timescale, including lapsed follow-up time, of this project. However, limited Ofcom resources must also be taken into account. *Evaluation of the communications campaign was discussed internally, according to interviews, but it was thought that the nature of the ads meant that effective market research could not be done. If the publicity campaign had been planned earlier and funded by Ofcom, content may have been different.*

	Emerging issues	
17 - 21	*This has been condensed since the assessments for all the questions in this section are the same.* Are there clear processes in placing for regularly logging key consumer concerns? Are the key consumer concerns reported reviewed regularly to identify issues that are emerging that are of concern to consumers? Are there processes for ensuring that emerging consumer interest issues are identified and actioned appropriately? Are there clear processes in place to initiate a project to investigate significant emerging consumer issues? Are there processes in place to determine the urgency of an issue and are the timescales set for the study consistent with the urgency of the issue to be investigated?	As noted it was expected that there would be a market analysis done in 2007 to determine if there were any emerging consumer issues. This was not done and was not formally explained. *The interviews made it clear that the market was being monitored throughout. For example, consideration was given to the fact that uptake of wholesale line rental products was increasing as the project went on, suggesting even more competition. During the project Ofcom's analysis of the importance of different issues changed, and this influenced the nature of assurances sought from BT.* *Headline call price data were monitored and found to be falling.*

	Organisational and project specific	Assessment based on documentation reviewed and interviews conducted
	Communication with consumers	
22	Are there clear processes in place that set out how the organisation communicates with consumers about the project?	There was no documentary evidence to support this had taken place. *According to interviews, there was an attempt to communicate with consumer bodies. A few consumer bodies and consumers responded to the consultation document.* *The lack of documentary evidence suggests Ofcom may wish to consider logging all telephone calls or sending emails after calls.*
23	Are there processes in place that ensure that the organisation communicates in a way that allows consumers to understand the issues being considered in the project?	There was no documentary evidence to support that this had taken place. *According to interviews, there was an attempt to communicate with consumer bodies but not documentary evidence to support this.* A few consumer bodies and consumers responded to the consultation document. The fact that much of the consumer response failed to understand what the controls meant could suggest that the documentation has not explained the issue in a way that consumers

		could understand.
		The documentation did not provide a plain English narrative description of the analysis done which may have made it clearer how consumer issues had been identified, but it is not clear that was required. Even so, there should have been consideration of whether to explain the analysis.
24	Are there processes in place by which the team explains the decision or actions they have taken (including for example explaining why consumer interest issues may have been sub-ordinate to other issues)?	Considerable analysis was done on specific consumers which were of concern. The documentation did not provide a plain English narrative description of the analysis done which may have made it clearer how consumer issues had been identified, but it is not clear that was required. Even so, there should have been consideration of whether to explain the analysis behind the decision. *A major concern for decision-makers was the handling of the information campaign to inform consumers of the decision to deregulate, according to interviews. This was seen as integral to the project, since it was about transitional arrangements, and investigating how to make consumers aware of choices.* *The team got BT to fund the publicity campaign to inform consumers about the impact and choices available to them. This included inserts with phone bills to alert consumers to the process of switching, and posters on the Underground.*
25	Are there clear channels through which consumers can communicate and raise issues on the project with the organisation?	Some evidence of regular clear communication channels with consumers, including consultation with a plain English guide. However there was some evidence that consumers were to some extent indifferent to the study (as shown by the lack of enthusiasm form consumer bodies to be involved in the project). *From interviews, groups such as Help the Aged, National Consumer Council, Which?, Citizens Advice Bureau and the Consumer Panel had been approached, but the limited response may be due to limited resources at these organisations.*
	Organisational controls	
26	Are there regular reports prepared for senior management on consumer related issues, such as the one in the project?	There was regular reporting to Ofcom's Policy Executive and ad hoc reports to Ofcom's CEO. There is also a standard project review procedure in Ofcom, which at the time was review by PPRG (the competition group), the Policy Executive (PE), and then the Board. These reviews consider issues including those relating to the consumer.

27	In relation to specific investigations and projects are senior management made aware explicitly of the key consumer interest issues and how these are being addressed on the project?	Significant analysis was conducted of the consumers groups of concern, but maybe the analysis would have benefited from more explanation so that it was more accessible to the 'non-economist'. *From interviews, each of PPRG, PE and the Board were talked through the analysis but not the entirety of the annex, which was where the detailed economic analysis was contained.* *Instead, the team took several people's profiles, or 'pen portraits', as examples of concerned groups.*
28	Is there a process in place to ensure peer review and internal challenge of significant consumer interest issues (e.g. definitions, identification of whether an emerging issue is valid, a proposed regulatory change)?	No explicit evidence from the documentation of peer review and challenge on consumer interest issues. *From interviews, the consumer information campaign was not given sufficient consideration initially and this was pointed out at one of the internal reviews. This was seen as a learning process.* *There appeared to be considerable interest from the Board in the project, according to interviews, and the team was challenged on the impact on consumers and the nature of BT's assurances. At least one Board member questioned why BT did not go further on one particular aspect of BT's assurances, but concerns were allayed in discussion at the Board. The entire review process (from PPRG to PE to Board) was carried out twice, once before the consultation and once before the final statement.*
29	Has management established performance indicators that allows it to monitor whether consumer issues are being addressed?	No evidence of consumer interest performance indicators from a review of the paperwork for this project. However, it is not clear that this is applicable in this project.
30	Are there management systems in place for logging consumer related issues and for ensuring such issues are followed up on a timely basis?	No evidence from a review of the paperwork for this project. However, it is not clear that this is applicable in this project.
31	Does management regularly review its approach to dealing with consumer related issues to ensure that it reflects advances in good practice? For example does it benchmark its processes against processes operated by other organisations involved in consumer matters?	No evidence from this review that management regularly reviews its approach to dealing with consumer issues. However, it is not clear that this is applicable in this project.

Appendix V – Broadband migrations review, question by question assessment

Assessment using the consumer interest toolkit – please note that interview evidence is given in italics.

	Organisational issues	Assessment based on documentation reviewed and interviews conducted
1	Is there a clear view of who the consumer is?	There was no specific definition of who the consumer was. Indeed one question arising from the industry comments was whether this study covered business users. However the tone of the consultation documents would have made it clear that the focus was domestic consumers.
2 - 11	**N/A**	**These organisation-level questions are considered not specifically applicable to broadband migrations review.**

	Project specific	Assessment based on documentation reviewed and interviews conducted
	Planned projects	
12	For each project are the relevant consumer interest issues explicitly explained?	The consumer issue that led to this project was explicitly stated. This was "To ensure that consumers are able to sign up for broadband with the provider of their choice and to switch easily between broadband providers"
13	Is the project work plan clear about how the consumer interest issues identified will be addressed?	Yes. The "Broadband Migrations Review: project plan" was explicit about how data would be gathered on consumer issues. The sources of data were noted as: • OCC (Ofcom Contact Centre, now Ofcom Advisory Team OAT) data; • BT data; • engaging with service providers
14	Is there a risk assessment process in place that helps define the significant impact and complexity of the consumer interest issues involved?	There was no specific risk assessment process adopted to define the impact and complexity of the issues involved. Risks of increased consumer harm from doing nothing were qualitatively highlighted in the impact assessment. Consumer interests were also weighed up qualitatively against other stakeholder interests in the impact assessment. The level and nature of complaints to the OCC was the trigger to undertake this study. There was a consultation process through which consumer's views on the matter were sought. As already noted there was also analysis of OCC

		consumer complaint data through which the specific issues of concern to consumers was identified.
15	Are there appropriate processes devised to ensure evidence is gathered from consumers on the key issues being addressed by the project?	There were two clear sources of data on consumer issues. There was the feedback received through the consultation process and then there was the detailed analysis of the OCC data.
16	Are there appropriate processes in place to ensure that the key consumer interest issues are addressed in the final output from the project?	There is no explicit process that we have reviewed which would help ensure that consumer issues were addressed in the final output. However the study was focused on consumer issues, so risk of this failing to be addressed in the final output were probably low. There is also a clear policy process within Ofcom, where projects are reviewed at PPRG (the competition group), the Policy Executive (PE) and at the Board.
	Emerging issues	
17	Are there clear processes in placing for regularly logging key consumer concerns?	For the subject matter that this study covered the OCC provided good background data for the emerging consumer issue. No evidence from the documentation on how the issues were first highlighted and then progressed. *It was clear from interviews that OCC changed its way of logging complaints by adding new categories and sub-categories to its logging system to record tag-on-line issues. This is done as and when needed.*
18	Are the key consumer concerns reported reviewed regularly to identify issues that are emerging that are of concern to consumers?	As noted above, the consumer issues were identified through OCC data but no clarity from documentation on how emerging issues were dealt with. *However, it was explained in interviews that OCC was a small team with regular meetings, so new issues such as tag-on-line were quickly flagged up. Schema was then asked to analyse OCC data. This was used to bring out higher level issues and obtain independent validation of OCC analysis.* *Some further issues became clear to the policy team from OCC data, including 'debt blocking' (suppliers refuse to supply a MAC because of outstanding debts) and attempts at charging for MACs.* *The level of complaints received by OCC/OAT fell to less than a third of previous levels after General Condition 22 was implemented.* *There are now also new initiatives, according to interviews. There is an issues log in the consumer policy team for informal monitoring of consumer concerns, and weekly email alerts on consumer issues based on OAT complaints and*

		other sources. There is also regular reporting to the Policy Executive (PE) and Executive Committee (ExCo).
19	Are there processes for ensuring that emerging consumer interest issues are identified and actioned appropriately?	As noted above, the consumer issues were identified through OCC data but it was not clear from the documentation how this was done. *However, it was explained in interviews that the issue was taken to the consumer policy group and escalated when complaints rapidly increased and E7even (ISP service with Tiscali and Netservices as wholesale suppliers) collapsed.* *Around early to mid-2004, OCC data were analysed and taken to the consumer policy group so they were aware of the issue. In early 2005 there was a sudden explosion in related complaints, so OCC increased its staff and changed its logging system.* *The policy team took the proposal for broadband migrations review to the Policy Executive (PE) when E7even collapsed. By this stage, there was also more senior focus on this issue.* *There is now also a swift enforcement process for dealing with mis-communication with consumers by broadband providers, particularly in relation to the provision of MAC codes. The joining up of policy and enforcement since this project is seen to be important. The issues log and possible action are formally discussed at regular meetings, according to interviews, and there are also ad hoc phone calls made to relevant project teams if new trends in complaints are spotted.*
20	Are there clear processes in place to initiate a project to investigate significant emerging consumer issues?	As noted above, the consumer issues were identified through OCC data but no clarity from the documentation review on how this was done. *There is a process for OCC/OAT to alert policy teams to certain complaints, according to interviews. Examples given of the process being used include mobile mis-selling, BT direct debit charges and premium rate services.* *Determining the urgency of emerging consumer issues is a qualitative process, according to interviews, with groups such as PPRG and PE weighing up all the proposals submitted.*
21	Are there processes in place to determine the urgency of an issue and are the timescales set for the study consistent with the urgency of the issue to be investigated?	As noted above, the consumer issues were identified through OCC data but no clarity from the documentation reviewed on how this was done or how its urgency was assessed. *However, it was implicit from interviews that urgency was determined by the volume and nature of calls to the OCC in this project.*

	Organisational and project specific	Assessment based on documentation reviewed and interviews conducted
	Communication with consumers	
22	Are there clear processes in place that set out how the organisation communicates with consumers about the project?	In this project the OCC has acted as an effective conduit by which the organisation can communicate with consumers. There was no specific liaison with consumer bodies, although the Policy Executive minutes of 31 July did suggest that the project team should engage pro-actively with key consumer stakeholders. *We were informed in interviews that the Ofcom Consumer Panel was also kept informed of developments.*
23	Are there processes in place that ensure that the organisation communicates in a way that allows consumers to understand the issues being considered in the project?	Not clear from the review of documentation on how communication with consumers occurred and how it was ensured that consumers would be able to understand the information provided. *There was a push in press relations in December, according to interviews, and related calls to the OCC actually increased in the two months following the implementation of the General condition due to increased consumer awareness of the MAC process.*
24	Are there processes in place by which the team explains the decision or actions they have taken (including for example explaining why consumer interest issues may have been sub-ordinate to other issues)?	Consumer issues were at the forefront of this review, even so no evidence that specific efforts had been made to explain the decision made in a consumer centric way. There is a press release and advice for consumers on the MAC process on the Ofcom website. *Efforts were also made to ensure consumers were provided with the correct information to make an informed choice, according to interviews. A detailed matrix of switching processes and what information to give to consumers was provided to the industry by Ofcom. In addition, more detailed guidance was drafted for the OCC/OAT just after the General Condition came into place on what information to give consumers calling with enquiries.*
25	Are there clear channels through which consumers can communicate and raise issues on the project with the organisation?	The calls being logged with the OCC continued to be passed to and monitored by the project team, so for this project the OCC was an effective way that consumers could continue to raise issues with the project team. *In addition, the enforcement team requests MAC data from providers, a procedure started on the same day as the General Condition, according to interviews. This is an indirect channel to gauge consumer issues.*

	Organisational controls	
26	Are there regular reports prepared for senior management on consumer related issues, such as the one in the project?	There was regular reporting to Ofcom's Policy Executive (PE), although there was no evidence existing processes that would ensure that senior management receive regular reports. *Regular reports were also made to PE after the General Condition came into place to follow up on the impact of the new rules, according to interviews. There is now a monthly management pack sent by OAT to the Executive Committee (ExCo) and the Board, according to interviews.*
27	In relation to specific investigations and projects are senior management made aware explicitly of the key consumer interest issues and how these are being addressed on the project?	The project documentation did make the key consumer interest clear.
28	Is there a process in place to ensure peer review and internal challenge of significant consumer interest issues (e.g. definitions, identification of whether an emerging issue is valid, a proposed regulatory change)?	No explicit evidence from this review of peer review and challenge on consumer interest issues. There is some evidence from internal e-mails that questions were asked by senior personnel on consumer interest issues, but would not say this was explicit and formal process. *There are now weekly highlight reports from OAT sent to most Ofcom groups, and these are informally discussed at monthly consumer policy meetings, according to interviews. There are also now monthly information packs on consumer interests sent to ExCo.*
29	Has management established performance indicators that allows it to monitor whether consumer issues are being addressed?	No evidence of consumer interest performance indicators from a review of the paperwork for this project. *However, from interviews we understand that there was ongoing monitoring of OCC data as a means for determining if the issues had been addressed from a consumer perspective.*
30	Are there management systems in place for logging consumer related issues and for ensuring such issues are followed up on a timely basis?	There is the OCC which logs consumer issues. The OCC was the means by which the subject of this study was identified as a consumer issue. No documentation was provided to show that issues are followed up on a timely basis. *However, it was clear from interviews that regular OAT reports are sent to senior management.*
31	Does management regularly review its approach to dealing with consumer related issues to ensure that it reflects advances in good practice? For example does it benchmark its processes against processes operated by other organisations involved in consumer matters?	No evidence from this review that management regularly reviews its approach to dealing with consumer issues. However, it is not clear that this is applicable in this project.

Appendix VI – LEFR, question by question assessment

Assessment using the consumer interest toolkit – please note that interview evidence is given in italics.

	Organisational issues	Assessment based on documentation reviewed and interviews conducted
1	Is there a clear view of who the consumer is?	From the documentation, there was no specific definition of who the consumer was. *It should be noted that LEFR is a regulatory framework rather than a specific licence-exempt application, so only potential uses of licence-exemption could be considered, and these are potentially wide-ranging.*
2 - 11	**N/A**	**These organisation-level questions are considered not specifically applicable to LEFR.**

	Project specific	Assessment based on documentation reviewed and interviews conducted
	Planned projects	
12	For each project are the relevant consumer interest issues explicitly explained?	The consumer issue that led to this project was explicitly stated in the decision paper submitted to the Policy Executive to get approval to progress with this report ("Consumer interest furthered by not imposing restrictive regulation on potential applications and users"). The consumer issues are expressed in general and theoretical terms and it may be argued that the specific consumer issues have not been explicitly identified. Even so, it may not be sensible in this case to identify very specific consumer groups and issues. It should be noted that LEFR is a regulatory framework rather than a specific licence-exempt application, so only potential uses of licence-exemption could be considered, and these are potentially wide-ranging. The consumer issue was implicit in economic analysis, which contained tables of the estimated economic value of potential uses of licence exempt spectrum. Given this, the assumption that consumers will eventually benefit from commercial applications of licence exempt spectrum directed towards business uses, e.g. from cost savings, in addition to retail applications, could have been more explicitly

| | | explained and explored in this project (although it may have been referenced before).

Given that many of the same issues are relevant to all licence exemption work and in fact to much of high-level spectrum policy, it should be discussed whether a consideration of the same issues should be expected on all projects. This could be repetitive. However, this consideration should be balanced with the need for ensuring that consumer issues are adequately considered for every policy. |
|---|---|---|
| 13 | Is the project work plan clear about how the consumer interest issues identified will be addressed? | It is not so clear from documentation how consumer issues were planned to be addressed. The project assumption is that lighter regulation will lead to a more innovative market in licence-exempt products which it is assumed must be good for consumers.

External economic analysis of the estimated value of potential uses was clearly planned in the project requirement document ("Proposal for a review of licence-exempt spectrum"), but its link with consumer issues is implicit. |
| 14 | Is there a risk assessment process in place that helps define the significant impact and complexity of the consumer interest issues involved? | There was no evidence of a specific risk assessment process adopted to define the impact and complexity of the consumer interest issues involved.

From interviews, it appeared that these were considered. Spectrum was identified as an 'upstream' input where benefits may sometimes be several times removed from the consumer e.g. agricultural monitoring applications. The regulator's task was seen to be balancing all potential benefits of an application with the opportunity cost of displacing other uses. Thus, the decision was taken to maximise economic value instead, with the implicit assumption that this would maximise consumer benefit further down the line. |
| 15 | Are there appropriate processes devised to ensure evidence is gathered from consumers on the key issues being addressed by the project? | There was no evidence that data had been collected on the consumer issues relevant to this study. Instead, the team used an economic study undertaken by Indepen, Aegis and Ovum to estimate the potential economic benefits of ten representative licence-exempt applications.

The team felt that there were not really any sensible questions to ask consumers about LEFR due to it being further removed from consumers and its generic nature, so gathering evidence was not considered, according to interviews. However, this reasoning could have been made more explicit in terms of an audit trail.

We note that there have been spectrum projects where consumers were actively engaged, for example the Digital Dividend Review, and where market research was undertaken to find out |

		consumer views on potential applications. In this case the project assessed a specific spectrum band for which there were actual competing potential uses.
16	Are there appropriate processes in place to ensure that the key consumer interest issues are addressed in the final output from the project?	There is no explicit process that we have reviewed which would help ensure that consumer issues were addressed in the final output. There is a clear policy process within Ofcom, and for spectrum policy this includes the Spectrum Executive Team (SET), a policy-focused steering group that sits below the Policy Executive. From interviews, the LEFR draft consultation documents went back to the SET two or three times, and were also passed to the Policy Executive (PE) and the Board, but main issues were technical.
	Emerging issues	
17 - 21	Are there clear processes in placing for regularly logging key consumer concerns? Are the key consumer concerns reported reviewed regularly to identify issues that are emerging that are of concern to consumers? Are there processes for ensuring that emerging consumer interest issues are identified and actioned appropriately? Are there clear processes in place to initiate a project to investigate significant emerging consumer issues? Are there processes in place to determine the urgency of an issue and are the timescales set for the study consistent with the urgency of the issue to be investigated?	While it is understood that LEFR deals with emerging applications, we consider that these questions on emerging issues during the project are not relevant to LEFR. In our view, this is because it was not possible to reasonably expect consumer concerns with respect to licence exemption to emerge as the project progressed. The project team stated that if a consumer interest appeared in consultation responses, it would have had to be taken into account, but this did not occur.

Organisational and project specific		**Assessment based on documentation reviewed and interviews conducted**
	Communication with consumers	
22	Are there clear processes in place that set out how the organisation communicates with consumers about the project?	There was no evidence from the review of the project paperwork that there has been any communication with consumers on this issue. *The project team stated that in respect of spectrum matters in general, greater effort could be made to communicate with consumers and retailers. For example, the website is not very good for informing consumers with queries.*

23	Are there processes in place that ensure that the organisation communicates in a way that allows consumers to understand the issues being considered in the project?	It is not clear from the review of documentation on how communication with consumers occurred and how it was ensured that consumers would be able to understand the information provided.
		From interviews it was confirmed that communication with consumers did not take place.
		One compulsory consideration before publication is whether or not to provide a plain English consultation document, but it was not considered necessary in this case because it was thought highly unlikely to be of direct interest to consumers or consumer bodies.
		The press release for the consultation document ("Removing regulation to promote new wireless services") gave some examples of licence-exempt applications and couched the changes in less technical terms. However, implications for the consumer of the changes were less clear.
24	Are there processes in place by which the team explains the decision or actions they have taken (including for example explaining why consumer interest issues may have been sub-ordinate to other issues)?	It is not clear from the review of documentation on how communication with consumers occurred and how it was ensured that consumers would be able to understand the information provided.
		In interviews, it was considered that LEFR might have been made more consumer friendly, although consumer engagement would still have been unlikely.
25	Were there clear channels through which consumers can communicate and raise issues on the project with the organisation?	There was a consultation document (to which no consumer or consumer body responded), but beyond that there was no evidence that consumers could communicate or raise issues with the project team.
		However, since the framework is high level regulation rather than concerning specific applications, it seems unlikely consumers would engage in the debate.
		From interviews, there is the consideration that even if there had been consumer engagement, the problem of meaningful input on LEFR still exists e.g. is it likely that consumers will have a view on politeness protocols. This question may be more pertinent for specific applications or spectrum ranges being consulted on where the relevant consumer is clearer.
	Organisational controls	
26	Are there regular reports prepared for senior management on consumer related issues?	No evidence provided (relating to this project) to show that there was regular reporting to senior management on consumer issues.

		However, there is a clear project review process within Ofcom through which consumer related issues amongst others can be reported, including the SET for spectrum policy, the PE and the Board.
27	In relation to specific investigations and projects are senior management made aware explicitly of the key consumer interest issues and how these are being addressed?	The project documentation did make the key consumer interest clear. However it could be argued that the consumer interest as described was generic and theoretical in nature and although some examples of applications were given, it was unclear in reconciling with the consumer's day-to-day life experience of licence-exempt services. *From interviews, there did not appear to be clear awareness of the eight or nine points taken from the toolkit and put on the intranet as a reminder to project managers. It was noted that these are reviewed to the same degree that impact assessments are, which may result in consumer issues being less explicit.*
28	Is there a process in place to ensure peer review and internal challenge of significant consumer interest issues (e.g. definitions, identification of whether an emerging issue is valid, a proposed regulatory change)?	No explicit evidence from this review of peer review and challenge on consumer interest issues, beyond standard project review processes.
29	Has management established performance indicators that allows it to monitor whether consumer issues are being addressed?	No evidence from this review of the paperwork for the project. However, it is not clear this is applicable in this project.
30	Are there management systems in place for logging consumer related issues and for ensuring such issues are followed up on a timely basis?	No evidence from this review of the paperwork for the project. However, it is not clear this is applicable in this project
31	Does management regularly review its approach to dealing with consumer related issues to ensure that it reflects advances in good practice? For example does it benchmark its processes against processes operated by other organisations involved in consumer matters?	No evidence from documentation that management regularly reviews its approach to dealing with consumer issues. *From interviews, it appears that the wider spectrum group has had debates about how to consider the consumer interest in relation to spectrum policy, for example in weekly meetings. However, there was no formal paper or meeting on this issue, and there was no definitive conclusion about the issue.*

Appendix VII – Glossary of technical terms

Term	Definition
Automotive short-range radar	This technology can be used for road safety systems in vehicles. For example, it can give the driver warnings about collisions and speeding.
Broadband migrations	The switching of broadband service providers.
BT Openreach	Separate division of BT that manages other communication providers' access to BT's local network, which is the wiring that connects consumers to their local telephone exchange.
CPS – Carrier Pre-selection	Mechanism that allows telephone users to select, beforehand, a provider other than BT to carry their calls, without having to dial a prefix or install special equipment.
General Condition 22	Regulation aimed at making the process of switching broadband providers more seamless. This includes ensuring that, where possible, providers supply and use an identifier code (please see MAC) to help consumers switch from one provider to another.
iTrips	Transmitters that allow consumers to listen to i-pods (or similar devices) on a car radio (or other domestic radio receivers).
LEFR – Licence-exemption framework review	A regulatory framework to develop an overall strategy for managing uses of spectrum that do not require a licence.
LLU – Local Loop Unbundling	Process that allows a range of providers to supply communication services directly to consumers. This is where BT's local loops are disconnected from its network and connected to another provider's network.
MAC – Migration Authorisation Code	Identifier code that consumers require to be able to switch broadband providers, and can only be obtained from the provider.
OAT – Ofcom Advisory Team	The current team within Ofcom responsible for dealing with complaints and enquiries from members of the public.
OCC – Ofcom Contact Centre	The former team within Ofcom (at the time of the broadband migrations policy project) responsible for dealing with complaints and enquiries from members of the public. Now the Ofcom Advisory Team (OAT).
Polite(ness) protocols	Etiquettes to ensure a range of devices not requiring a licence to use spectrum, for example electronic car keys and baby monitors, can share the spectrum in a fair and efficient way.
RFID – Radio Frequency Identification Apparatus	In general, technology that uses radio waves to identify objects.
RPC – Retail Price Controls	Regulatory limits on how high BT can set the price of a set of telephony services for a large group of its retail consumers (lower 80% by spend).
RPI – Retail Price Index	One of the most common domestic general-purpose measures of inflation in the UK.

Term	Definition
Spectrum	A continuous series of waves of electromagnetic radiation, for example radio waves.
SRF – Spectrum Review Framework	A regulatory framework for managing the use of radio spectrum for wireless communication devices, for example mobile phones. This was put into place before the Licence-Exemption Review Framework (please see LEFR).
"Tag on line" marker	Marker on the telephone line that indicates another broadband supplier is supplying broadband services at that location.
USO (Universal Service Obligation)	Legislation that ensures basic fixed-line telecommunications services are available at an affordable price to all consumers in the UK. Measures include low-cost schemes for those on low income, and the obligation to install a new telephone line at a standard rate regardless of geographic location.
Ultra-Wideband Equipment	Technology that allows large amounts of information to be sent wirelessly at high speeds at a short range, for example displaying pictures from a digital camera directly to a computer screen without a cable. This is done through spreading low-power radiation over a large segment of radio spectrum.
VoIP – Voice over Internet Protocol	Products that use a broadband connection and computer software to provide voice call services.
WLR – Wholesale line rental	Product provided by BT that enables other telephone companies to offer both line rental and call services over BT's local network.
Wi-Fi – Wireless Fidelity	A set of technical standards that allow users to connect to the internet without cables.