



## The Consumer Council for Northern Ireland response to Ofcom's Trialling Consumer Remedies Consultation

### The Consumer Council

1. The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.
2. We welcome the opportunity to respond to Ofcom's consultation on trialling consumer remedies.

### Consumer Principles

3. The Consumer Council, like many consumer and regulatory organisations, uses a set of eight core principles (Figure 1). The principles provide a framework for working out how particular issues or policies are likely to affect consumers, help identify key issues and risks, ask questions into consumer issues about service design and delivery, consumer impact and how services should look and feel to the consumer. The Consumer Council believes that the consumer principles framework can also underpin Ofcom's guidance for providers.

Figure 1: Consumer Principles



4. Affordability considerations also run throughout our principled consideration of consumer issues.
5. We view a deficiency in any of these eight principles or affordability, whatever its cause, as a potential source of vulnerability, a potential that may crystallise into detriment and consumer harm. We recommend that Ofcom consider these when assessing whether practices and policies are causing harm. They should also underpin regulatory interventions and remedies.

## Telecoms in Northern Ireland

6. All consumers have a right to be treated fairly by their service providers. However, there are aspects of the market that are not working for consumers. In December 2018, the Competition and Markets Authority (CMA) published its response to Citizens Advice's Supercomplaint on the loyalty penalty. It found that broadband consumers are being penalised £990m per year for being loyal customers. Ofcom found that of the 8.8 million broadband customers who are out of contract, provider data indicates that 1.5 million are vulnerable, which represents 43% of all vulnerable customers<sup>1</sup>. Ofcom also found that out of contract mobile phone customers on bundled contracts are overpaying by £182m per year<sup>2</sup>. Problems with the market have a greater impact on consumers in vulnerable circumstances who are more at risk of paying the loyalty penalty and may be least able to afford it.
7. It is clear that remedies and interventions are needed in this market to protect consumers from harmful practices.

## Trialling Remedies

8. We agree that the ability to conduct trials would be a valuable addition to the regulatory toolkit. To that end we welcome Ofcom's proposal to amend the General Conditions of Entitlement requiring providers to take part in trials of remedies relating to customer engagement, particularly as Ofcom has found providers may not wish to commit to such trials on a voluntary basis.
9. We recognise the benefits of conducting trials to ensure the remedy is effective and produces the intended outcomes. We note that Ofcom does not intend to use trials in every circumstance, and that it will be considered on a case by case basis, when it is appropriate and proportionate.
10. We are generally supportive of the proposals, but wish to make the following high level recommendations.
11. We note that Ofcom will consider that, where the ongoing harm to consumers is sufficiently high, waiting for the trial results before implementing the remedy would not be appropriate given the need to act quickly. We agree. However we believe it would be useful for Ofcom to define the characteristics of consumer harm it considers *sufficiently high*.
12. When considering whether the trial is proportionate, Ofcom proposes to consider the costs and benefits of the trial. This will involve "taking account of the burden imposed on providers". We believe that Ofcom should consider the benefits to consumers first and foremost, not only when deciding whether to commence a trial but also when considering solutions to remedy the harm.
13. When implementing any remedial measures at the conclusion of the trial, consumer acceptability should be a criteria applied when deciding whether to fully implement the remedy.
14. The Consumer Council is happy to work with Ofcom as it rolls out any trials going forward.

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<sup>1</sup> Ofcom *Fairer prices for broadband customers* – 25 September 2019

<sup>2</sup> Ofcom *Helping Consumers to get better deals in communications market: mobile handsets statement* – July 2019