

Consumer Policy - Trials team  
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By email: trials@ofcom.org.uk

20 November 2019

Dear Sir/Madam

### **uSwitch response to Ofcom's consultation on trialling consumer remedies**

I am writing on behalf of uSwitch in response to Ofcom's consultation on trialling consumer remedies published in September 2019. uSwitch is the UK's leading price comparison and switching service for home services, helping consumers to find a better deal and save money on their broadband, mobiles, TV, landlines, gas, electricity, and personal finance products including mortgages, credit cards, current accounts and insurance.


Ofcom's proposal for requiring providers to participate in trialling consumer remedies is the right next step in its ongoing programme of work to secure fairer practices for customers of communications services. We welcome Ofcom's consultation as a clear signal to industry as to how it intends to use the proposed new general condition to improve the outcomes of end-users. uSwitch recognises the value of using field trials to complement other research and evidence-gathering approaches to inform the design and implementation of remedies to support consumers in shopping around for their communications services.

The proposed new general condition would bring Ofcom's powers in line with those of other sector regulators', and it is right that Ofcom should be able to direct providers to participate in trials. We see this is an important part of a modern regulatory toolkit that Ofcom should have access to when considering consumer remedies. We believe that Ofcom has set out a sensible indicative framework to assess whether it is appropriate to conduct a trial in future cases, as well as criteria to select which provider(s) would be required to take part in a trial.

We are pleased that Ofcom is doing further work to measure the value of a broadband collective switch trial, which could be facilitated by the proposed new general condition. uSwitch welcomes such a trial as a way to help the less engaged customers who may benefit from targeted support to get a better deal. We also support Ofcom's consideration of trials to optimise the impact of end-of-contract notifications. uSwitch would be pleased to feed into Ofcom's assessment of specific potential trials to share our learnings as a consumer-focused organisation.

Please find our response to the specific consultation questions overleaf. We would welcome the opportunity to engage further with Ofcom regarding our submission if useful.

Yours faithfully



Richard Neudegg  
Head of Regulation

## Annex – Response to consultation questions

### **Question 1: Do you agree with the proposal to make a general condition to protect end-users' interests in requiring all providers to participate in trials of consumer engagement remedies, as directed by Ofcom?**

Yes, we agree that it is right that end-users' interests should be protected via a general condition that requires all providers to take part in field trials of consumer engagement remedies when directed by Ofcom.

The Fairness for Customers work programme has established that - across different services, products, contract types, and customer groups - some consumers find it difficult to engage with the communications market and access the best deals for them. As such, it's positive to see a move from Ofcom to expand its regulatory toolkit to address the consumer harm identified. We agree that this will complement Ofcom's efforts in engaging consumers to encourage them to shop around for their communications services.

In its consultation, Ofcom sets out several examples of other sector regulators having undertaken field trials to test interventions in several markets. uSwitch's long-held view is that the communications regulator should trial proposed remedies, as well as more generally take learnings from the findings and approaches to similar policy issues in other sectors. As a consumer-facing organisation, uSwitch recognises the importance of regularly testing what effectively prompts consumers to engage with their communications services. This is something we do ourselves on an ongoing basis across our services, and we have also commissioned standalone qualitative research to better understand consumers' likely reactions to different iterations of consumer engagement measures, such as the piece submitted as an annex to uSwitch's response to Ofcom's first consultation on end-of-contract and out-of-contract notifications.

Field trials are a valuable way to test consumer behaviour in 'real-life' scenarios which provide evidence on whether a proposed remedy would have the intended effect and on its optimal design. They can also be used to evaluate the implementation of an intervention, which could be particularly useful given the degree of industry and regulatory change in the communications market.

Moreover, the proposal would bring Ofcom's powers in line with those of other sector regulators'. For example, the CMA's similar direction to the energy regulator has allowed Ofgem to require suppliers to participate in an interesting package of consumer engagement trials. The trials have improved Ofgem's understanding of customer behaviour and effective interventions in the energy market. In particular, Ofgem has identified that certain remedies can prompt strong boosts in consumer engagement among vulnerable and non-vulnerable customers. A reliance on providers' voluntary participation in trials would limit Ofcom's ability to design and conduct rigorous field trials, and ultimately effective interventions. In the energy sector Ofgem has needed to enforce compliance with trial participation with some suppliers, suggesting that having a robust framework for requiring participation is necessary. Indeed, Ofcom notes in its consultation that no providers agreed to participate in trials to optimise end-of-contract notifications.

### **Question 2: Do you agree with our proposed approach for determining whether it is appropriate to conduct a trial in future cases?**

The proposed approach of separately consulting on any direction requiring participation in a specific trial seems sensible, especially given it would include reviewing the expected cost to the provider(s). We welcome Ofcom's outline of the framework it will use to assess both the viability and the appropriateness and proportionality of conducting a trial, as well as the work it would likely conduct prior and post consultation.

### **Question 3: Do you agree with the proposed criteria for selecting which provider(s) we would direct to take part in a trial?**

To set industry expectations, Ofcom is right to outline its proposed selection criteria for which provider(s) would be directed to take part in a trial. We agree with Ofcom's inclusion of an assessment of a provider's customer base in relation to the remedy being tested as well as consideration of the provider's capabilities and the burden of conducting the trial. Given the range of different interventions and customer groups that might be tested through different types of field trials, it's sensible to include a wider final selection criterion that notes there may be other factors relevant to the specific trial.

**Question 4: Do you have any comments on our assessment and provisional conclusions set out in Section 5?**

uSwitch believes that Ofcom is correct in its provisional judgement that the proposed new general condition would be an effective and proportionate way to achieve its aim of testing customer engagement measures and ultimately to protect the interests of end-users.

**Question 5: Do you have any comments on the draft condition set out in Annex 5 to this document?**

uSwitch agrees that the draft condition in Annex 5 will be effective in allowing Ofcom to direct providers to take part in trials of consumer engagement remedies.

**Question 6: Do you have any other comments on our proposals?**

In particular, uSwitch is pleased that Ofcom is considering different ways to engage the 41% of broadband users who are currently out of contract. As noted in Ofcom's initial conclusions from its review of broadband pricing practices, the potential of a specific broadband collective switch trial is being explored. We are pleased that Ofcom acknowledges that, while there are some differences in the consumer involvement needed to participate in a collective switch in energy and broadband, it is still feasible to conduct such a trial for broadband customers.

The proposed new general condition to require provider participation in trials could facilitate this broadband collective switch trial. uSwitch welcomes such a trial as a way to help the least engaged customers who may benefit from targeted support to get a better deal. For example, Ofcom's qualitative research report on consumer engagement in the broadband market found that some vulnerable participants perceived a collective switch letter as removing the "hassle" out of the switching process. In bypassing the "assess" stage, respondents felt that this addressed a "major barrier" to engaging. This research also demonstrates the value of conducting other research and evidence-gathering alongside trials to better understand the feelings and motivations of individuals.

We understand that Ofcom will be doing further analysis to assess the merits of a broadband collective switch trial, which we consider a worthwhile exercise that could ultimately lead to a remedy that would benefit customers. In addition, it's welcome that Ofcom has indicated that it may consider trials to improve the effectiveness of the design of end-of-contract notifications. uSwitch would be pleased to feed into Ofcom's assessment of specific potential trials to share insight from our experiences.