



2 Marylebone Road
London NW1 4DF
t 020 7770 7000
f 020 7770 7600
which.co.uk

Consumer Policy - Trials team
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Which? response to Ofcom's consultation: trialling consumer remedies

Introduction

Which? fully supports Ofcom's proposals requiring communications providers to trial demand side remedies focused on increasing customer engagement in the telecommunications market prior to implementation, to inform their design and increase the likelihood of those interventions delivering the desired outcomes. We also believe that there must be monitoring and ex-post evaluation of key remedies once they have been implemented to determine if there are working as expected, or whether changes are needed to increase their effectiveness.

Low engagement in the market and prompts to action

We know that engagement in the telecoms market is low, as is consumer trust. We have recently published a report looking at the barriers that consumers face in engaging in the broadband market.¹ This highlighted that there are a number of key factors that contribute to consumers' low engagement in this market. These are often underpinned by behavioural factors such as status quo bias and risk aversion. Our report highlighted that broadband is 'perceived as functional and unexciting' and 'not thought about unless there are problems'. There is a lack of strong prompts for participants to engage with the market and those that do exist tend to be 'push' factors with engagement only to remove a negative (such as an increase in price rises) rather than 'pull' factors that provide positive benefits from engagement. The research also showed that there was low awareness of the benefits of engagement when compared with other markets such as car insurance.

Given the number and complexity of barriers that consumers face, the design of new remedies requires careful thinking about how consumers behave in this sector and the psychological factors that limit engagement. Therefore, trialling any new demand-side remedies focused on increasing consumer engagement prior to their introduction is critical. In particular, trials will help Ofcom and industry to understand how successful interventions are likely to be at delivering on their aims and enable the identification of where the remedy could be improved, prior to implementation.

We agree with Ofcom that trials run on a voluntary basis could in theory achieve many of the same benefits as those providers are formally required to participate in. However, we note

¹ <https://www.which.co.uk/policy/utilities/4986/broadband-engagement>

that no providers worked with Ofcom to test the effectiveness of end-of-contract notifications. As highlighted in our response to that consultation, we believe that these types of remedy would benefit from testing prior to implementation to ensure that they have the intended effect.² As such, it is important that Ofcom takes regulatory steps to oblige communications providers to run trials of potential interventions to ensure they deliver their intended effect for consumers.

Importance of good remedy designs and evaluation

As the consultation notes, in other regulated sectors such as energy and finance, trials have already been implemented. As Ofgem's Active Choice Collective Switch Trial showed, these can successfully increase consumer engagement. A caveat must be added though, that whilst it is useful to look at examples of trials in other sectors and the experiences of other regulators in trialing remedies, it is also important to recognise the unique characteristics of each sector and how consumers behave in that particular sector. Remedies must be designed with the specific issues and consumer behaviour in the telecoms market in mind. As part of this, trials are crucial in helping design remedies that deliver the desired outcome for telecoms customers.

As detailed in the consultation, a number of remedies to increase fairness in the market are already in progress. There needs to be ongoing monitoring and ex post evaluation of these to measure their effectiveness in delivering their desired outcomes. Ofcom must also monitor implementation of remedies, such as its requirement for providers to retain records of notifications for at least 12 months.

For further information please contact Colum McGuire, External Affairs Manager, Which? at colum.mcquire@which.co.uk.

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² <https://about-which.s3.amazonaws.com/policy/media/documents/5c519576d752b-End%20of%20contract%20and%20annual%20best%20tariff%20information%20consultation.pdf>