

Fair treatment and easier switching for broadband and mobile customers - Citizens Advice response

Introduction

Citizens Advice gives people the knowledge and confidence they need to find their way forward - whoever they are, and whatever their problem. Our network of independent charities offers confidential advice online, over the phone, and in person, for free. Last year we helped 2.7 million people in person, by phone, email or webchat, and our advice website had over 29 million visits.¹

We welcome the opportunity to respond to Ofcom's consultation '[Fair treatment and easier switching for broadband and mobile customers](#)'. The proposals we respond to will help to reduce friction in the switching process. They will also make it easier for disabled and vulnerable consumers to use and receive key information about communication services.

Our response is structured on the following key areas:

1. Switching and porting
2. Disincentives to switch: mobile device locking
3. Disincentives to switch: non-coterminous linked contracts
4. Emergency video relay
5. The provisions of communications in accessible formats for disabled consumers

¹ Citizens Advice, [Making a difference: Our impact in 2018/19](#)

1. Switching and porting

In our previous work we have argued that demand-side remedies will not be enough in isolation to address harmful price differentials. Some consumers will need additional protection. However, it does not follow from this that the switching process is unimportant. All consumers should still be able to exercise choice and switch easily.

The EECC introduces new protections for consumers in the switching and porting process. We support Ofcom's proposed approach to the implementation of these new protections. We agree that all consumers - both residential and business - of mobile and broadband services should be in scope for the new rules. Additionally, residential consumers should benefit from additional rules regarding information, consent, compensation and notice period charges.

Compensation

Since 1 April 2019, most landline and broadband customers have been able to automatically get compensation from their provider when something goes wrong.² Ofcom's proposed approach for implementing the EECC will extend this system and require compensation to be provided for certain service failures during the switching and porting process. We welcome this expansion of the compensation arrangements and in particular Ofcom's guidance that compensation levels be equal to the minimum amounts in the voluntary scheme.³

Notice period charges

Ofcom is proposing to ban notice period charges beyond the switch date for residential customers switching their fixed services. Mobile consumers are already protected from 'dual paying' for two services at the same time, but broadband consumers are not.

Aligning the switch date from one provider to another can be extremely difficult. Ofcom's evidence suggests that the difficulty of aligning switches can prevent some consumers from switching entirely.⁴ Those who do go ahead with the switch can find that they either face a loss of service (if their new service starts

² Ofcom, [Automatic compensation: What you need to know](#) (accessed 28/02/2020)

³ Ofcom, Fair treatment and easier switching for broadband and mobile customers, [Annex 8: Draft guidance on General Conditions C7.43-45 on compensation](#)

⁴ Ofcom, [Fair treatment and easier switching for broadband and mobile customers Proposals to implement the new European Electronic Communications Code](#), Para 7.186

too late) or have to pay for two services at the same time (if the new service starts too early). The process itself can also be cumbersome and complicated. Therefore, we support Ofcom's proposed approach to implementing the EECC and protecting all broadband customers from this issue.

2. Disincentives to switch: mobile device locking

The EECC "requires that the conditions and procedures for contract termination should not act as a disincentive to switching provider."⁵ We agree with Ofcom's assessment that mobile device locking could be a disincentive to switch.

Ofcom's evidence finds that just over one third of customers who had considered switching, but decided not to, said device locking was one of the factors that put them off.⁶ This means that around 3 million consumers have been dissuaded from switching due to issues with locked handsets.⁷

Additionally, those who do go ahead with a switch can run into further issues with the handset unlocking process. Some have to pay additional charges. We agree with Ofcom that mobile device locking adds friction to the switching process. Some providers justify device locking as a means of reducing fraud and argue that banning device locking will lead to an increase in costs. Ofcom's analysis of data submitted by BT Mobile / EE suggests that this increase in costs will be small in the context of the benefits to consumers who currently experience difficulties switching or are deterred from switching altogether. Therefore, it does not seem proportionate for some providers to continue to lock handsets in order to prevent a relatively small number of instances of fraud. Moreover, the majority of providers do not lock handsets so it is not clear why the remaining providers do.

Ofcom presents two options for protecting customers from the harmful effects of handset locking, with Option 1 as the preferred option. Ofcom state that Option 1 "would fully remove the need for customers to go through the process of unlocking their handset when changing providers and the difficulties customers who switch currently face with device locking."⁸ However, it is difficult to see how this would benefit consumers who want to switch to a SIM-only

⁵ Ofcom, [Fair treatment and easier switching for broadband and mobile customers Proposals to implement the new European Electronic Communications Code](#), Para 8.1

⁶ Ofcom, [Fair treatment and easier switching for broadband and mobile customers Proposals to implement the new European Electronic Communications Code](#), Para 1.8

⁷ Ofcom, [Fair treatment and easier switching for broadband and mobile customers Proposals to implement the new European Electronic Communications Code](#), Para 8.58

⁸ Ofcom, [Fair treatment and easier switching for broadband and mobile customers Proposals to implement the new European Electronic Communications Code](#), Para 8.128

contract, and not purchase a new handset. Additionally, consumers may not know that they will benefit until they purchase the new handset, a decision which they may put off if they are unaware of the changes.

Therefore, providers should also look to automatically unlock all devices where they are able to do so remotely. They should also inform their customers about the change in a clear and straightforward way, so that consumers know what their options are. Where this is not possible, providers could send communications to consumers notifying them that they can easily unlock their device and informing them how to do this. The process should be straightforward and free of charge.

3. Disincentives to switch: non-coterminous linked contracts

The EECC requires that the conditions for terminating a contract should not act as a disincentive to switching provider, and that this applies to all elements of bundles of services. Ofcom's assessment concludes that there are some cases where non-coterminous contracts can act as a disincentive to switch. We agree with this assessment, sharing Ofcom's concerns that these types of contracts can sometimes lead to higher switching costs or a complex switching process, both of which deter consumers from switching.⁹

However, we also acknowledge that non-coterminous contracts can provide benefits for consumers. Banning them could have unintended consequences or leave consumers worse off overall. Therefore, Ofcom's approach is to issue guidance outlining how they are likely to assess whether types of non-coterminous linked contracts raise concerns under General Condition C1.8.¹⁰ Ofcom has also committed to monitoring the harm arising from non-coterminous contracts.

Given the complex mix of the costs and benefits of non-coterminous contracts, we support Ofcom's proposed approach to issue updated guidance and to monitor the harm arising from these contract types. Ofcom should clarify in its final statement which activities this monitoring will involve and be prepared to change approach if consumers are still being harmed.

⁹ Ofcom, [Fair treatment and easier switching for broadband and mobile customers Proposals to implement the new European Electronic Communications Code](#), Para 9.16 - 9.24

¹⁰ Ofcom, [Fair treatment and easier switching for broadband and mobile customers Proposals to implement the new European Electronic Communications Code](#), Para 9.50

4. Emergency video relay

Ofcom are proposing to require regulated providers to make available a free 24/7 video relay service for British Sign Language (BSL) users to enable effective communication with the emergency services.

Ofcom presents several case studies where deaf people have not had a way of contacting the emergency services when an emergency was unfolding in front of them, with sometimes very serious consequences. Ofcom's proposals will allow deaf BSL users to communicate in a way that is clear and effective for them and allows instructions from the emergency services to be more easily understood by the BSL user.

5. The provision of communications in accessible formats for disabled consumers

We support Ofcom's proposals to require correspondence relating to communication services (e.g. bills, contracts, complaints) to be provided in a format that is accessible to the customer, i.e. if they cannot access standard electronic (e.g. email) or print communications due to their disability".¹¹

Citizens Advice follows the social model of disability which says that disabled people are disabled not by their impairments but by the physical, institutional and attitudinal barriers in society. Ofcom should ensure that the updated General Conditions are flexible enough to adapt to the needs of people with different impairments.

The General Conditions already include some requirements on providing communications in alternative formats but they only apply to blind or vision impaired consumers. We agree with Ofcom that there may be individuals with other types of disability who may not be able to access important information via standard electronic (e.g. email) or print communications due to their impairment and this should be reflected in the General Conditions.

The General Conditions also do not include all communications. There are other types of correspondence other than bills and contracts (e.g. missed payment notifications, price rise notifications, responses to complaints or enquiries) which consumers should be able to access in an accessible format, but which are not covered by the General Conditions.

¹¹ Ofcom, [Fair treatment and easier switching for broadband and mobile customers Proposals to implement the new European Electronic Communications Code](#), Para 11.3

We support Ofcom's proposed approach to strengthen and expand these requirements to include all communications and to be for users with any impairment.

This change will significantly benefit consumers who require communications in an alternative format and will make it easier for them to manage their bills and keep on top of changes to their contract without stress, inconvenience, or having to rely on someone else.