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Citizens Advice response to Ofcom consultation: “Open Communications: Enabling people to share data with innovative services”

Dear Sir or Madam,

Thank you for the opportunity to respond. This submission is not confidential and may be published on your website.

In the context of BEIS’s recent response to the Smart Data Review and its complementary objectives, we welcome the opportunity to respond to this consultation. As the statutory advocate for the consumer in energy and postal services, and as an independent voice for people in essential markets, we see this as a potentially important piece of work to facilitate better outcomes for consumers across regulated sectors.

Open Communications, as framed in the consultation, are applicable across domestic and microbusiness regulated utility markets, including telecoms, post, energy, water and banking. We encourage the government and Ofcom to actively coordinate across sectors to unlock the breadth of data-sharing opportunities, particularly that of better data sharing to improve data quality about consumers in vulnerable situations. In our response, we outline our rationale for this approach.

Towards data mobility

We are pleased to see basic “data portability”, as protected by GDPR and targeted by certain minimalist ‘midata’ initiatives, seems to now be recognised as not sufficient to significantly improve engagement with essential services. Ofcom’s use of the term “data mobility” appears to support minimising barriers in a consumer journey to data sharing. It is vital that data sharing should not be

a barrier for consumers to overcome in pursuit of fair outcomes from their essential service providers.

Ofcom provides two proposed principles that support this outcome: that “Data should reflect what people need to navigate the market effectively” and that “Open Communications services should follow inclusive design principles and should be accessible to all users”. Both of these principles can support data mobility. They should mean addressing the barriers in the role of assisted and supported data mobility that will occur for consumers that need help from relatives, carers or charities to engage with suppliers. This requires engagement to be as simple as possible and for there to be scope to act as an authenticated proxy. In our view, this is what being “accessible to all users” means.

The data that “people need to navigate the market effectively” will often need to be detailed personal data that captures their additional support needs. Without additional details and only using the sharing data proposed by Ofcom, for example, a switching service will be unable to show whether switching to another provider will be appropriate for a consumer in a vulnerable situation. Without a focus on these areas, it seems unlikely that open communications will increase engagement in the telecoms market from consumers in vulnerable situations.

Loyalty penalty

In 2018, Citizens Advice raised a super-complaint about the loyalty penalty because the previous action by regulators had been focused primarily on interventions to increase switching and was not proportionate to the scale of the detriment.¹ Demand-side remedies must also sit side-by-side with effective, well-designed and proportionate supply-side remedies.² This is especially relevant for consumers who may struggle to engage with the market.

We are pleased to have seen the range of responses by regulators and companies in response to the super-complaint. However, there is more work to be done. In broadband, Ofcom estimates that voluntary commitments will save consumers £274 million. However, BT, EE, and Plusnet need to turn their one-off commitments into permanent solutions. Sky and Virgin Media should also provide more generous price reductions to their vulnerable consumers, especially those who have been out-of-contract for longer periods.³

¹ Citizens Advice, [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), September 2018

² Citizens Advice, [Response to Ofcom consultation: Trialling consumer remedies](#), 2019

³ Ofcom, [Review of pricing practices in fixed broadband](#), 2020

As proposed by Ofcom, open standards and data openness and improved data mobility could help to address the loyalty penalty by empowering switching services, brokers and other intermediaries to reduce barriers for those able to engage with the market. However, **open communications should encourage engagement from more consumers in vulnerable situations**. This requires open comms to support service providers to better identify and respond to the needs of a consumer. Better identification of the additional needs of consumers will make suppliers more accountable if they are given access to reliable data about a consumer's needs. **Ofcom should prioritise improving data quality about consumers through standardisation of data sharing in an open communications approach.**

More data shared about consumers should mean consumers benefit

This consultation and Ofcom's initiative is increasingly important because across all sectors mentioned, to differing degrees, there is increased marketisation, digitisation and personalisation of essential services. These changes mean that consumer engagement with their service is being used to profile consumers and offer tailored services. The use of data held by an essential service about a consumer's situation and their service needs should be protected by a coordinated approach from regulators to prioritise positive consumer outcomes. **Exploring this should be the priority of the newly launched Smart Data Working Group.**

Without a coordinated approach, which is focused on improving consumer outcomes, people's ability to engage with their evolving service choices will be limited. It will allow increasing consumer data poverty caused by intentionally or unintentionally inaccessible data. A coordinated approach to tackle ease of data provision, accessibility and sharing is necessary to increase the coherence of regulated sector efforts to tackle digital and societal barriers to inclusion such as basic or protected tariffs and priority service registers. Viewed holistically across sectors, these supplier and network projects are often resource-intensive, regularly duplicated and then under-utilised due to a lack of consumer awareness.

An essential services market with fair access for all consumers requires significant data standardisation to deliver positive outcomes from consumer identification, data management and sharing.

The simple dashboard approach suggested as an outcome by Ofcom to enable a consumer to review their data in a standard format can be a key part of this

strategy. Citizens Advice has previously developed a proof of concept for smart meter data to support consumers to access and consider their energy use data.⁴

The opportunity of cross-sector coordination

Citizens Advice have produced a report: *Getting support to those that need it: how to improve consumer support in essential services*.⁵ It provides our vision of how better data sharing can enable essential services to better protect consumers. All of whom are susceptible to being in vulnerable situations.

Much of what Ofcom has outlined in the consultation is supported in our report, particularly that consumers should be in control of how their data is shared. Our research 'Clear and in control' about smart meter data also shows how much consumers value their data control options.⁶ There are however several areas where Ofcom's approach to open communications appear to miss certain opportunities and has chosen an approach with consumer risks. These are outlined below:

Benefits of a cross-sector open communications approach

Any initiative to improve open communications for essential service providers should be as holistic as possible for utilities in essential service markets. There are multiple benefits to this approach:

- A coordinated cross-sector initiative creates an opportunity for better consumer awareness and lowers the costs of awareness-raising. Awareness encourages engagement and transparency around open communications and could increase access to additional support (such as basic tariffs, priority registers or language support) to meet additional needs of consumers
- The opportunity for cross-sector data sharing - data sharing across sectors can reduce the duplication of data collection processes and help suppliers in multiple sectors to add to a single source of data about a consumer
- Shared best practice - a coordinated process for open communication will offer scale and incentive for innovation
- Lower digital skill barriers to engage with essential services by a standard process for open communication

⁴ Citizens Advice, [The Smart Meter Dashboard](#), 2018

⁵ Citizens Advice, [Getting support to those that need it: how to improve consumer support in essential services](#), 2020

⁶ Citizens Advice, [Clear and in Control](#), 2020

- Greater industry predictability about a single data-sharing reform - particularly for vertically or horizontally integrated utility provider offerings that will only need to comply with a single process. A clear long term outcome can also improve engagement and investment.
- Better policy targeting - improving data quality is an opportunity for government and regulators to target support at consumer groups via regulated providers.

Solution options

Ofcom's consultation document looks at two options for enabling open communications. The first, where all suppliers communicate directly with other providers, the second is where a trustee manages all sharing communications.

The important principle is that there is accurate data about a consumer's situation that can be easily updated by multiple providers at the discretion of consumers. This means that a consumer can benefit from a supplier that can, if a consumer chooses, can have information about them so that they tailor their service. This should mean regulatory obligations to support consumers in vulnerable situations can be consistently applied.

Problems with the third party access principle

A principle that "data should be open to all eligible third-party services" is problematic given the risks to consumers, particularly with data about vulnerability. Different services may require different levels of data eligibility, but the onus should always be on third parties to prove their authenticity.

Who consumers choose to share their data with needs to be carefully managed. We are aware that Open Banking has made it easier for third parties to process data from different account providers, lowering barriers to entry. This supports innovation. However, given the importance of consumer trust in open communications, consumers must have sufficient protection from the misuse of their data. Personal data in the wrong hands can badly expose a consumer to fraud, manipulation and other forms of detriment. Even when sharing data with their choice of provider, such as for bank details or to provide services such as energy efficiency - consumers can fall victim of sophisticated scams. Maintaining consumer confidence in sharing their data will require clear and easy to understand forms of regulatory protection, channels for redress and options for support.

When service providers access personal data and provide an element of an essential service, there should be proportionate regulatory protections for consumers. The CMA's Digital Comparison Tool study highlights poor practise "*in particular a lack of information about the nature of the service provided by DCTs and the presentation of results, as well as around their use of people's personal information.*"⁷ To address these and other concerns In the energy sector - where autoswitchers and other TPIs take on more consumer service responsibilities - we have encouraged Ofgem to protect consumer outcomes through regulatory oversight. We have advocated that they adopt an approach similar to the FCA's oversight of insurance TPIs. There are a number of examples of regulators expanding their competencies so that regulation can protect consumers as essential service markets service providers innovate and diversify⁸. Ofcom should consider whether this approach would also be applicable to TPIs in telecommunications.

Thank you for the opportunity to respond. Please do get in contact if you have any questions.

Kind regards

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⁷ Competition and Markets Authority, [Digital comparison tools market study](#), (2020) p37-45

⁸ Cornwall Insight and Citizens Advice, [The role of TPIs in the GB SME and Microbusiness Energy Supply Sector](#), 2019