
Three's response to Ofcom's consultation on Open Communications

Non-Confidential

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Executive Summary

Encouraging the least engaged customers to participate in the market and consider switching providers or finding a new tariff is a key objective for the industry. There has been campaigning for policies that help people engage with the market for some time.

Open Communications is, on paper, a policy that can help consumers who do not engage with the market to be able to understand new options. This is particularly important for the least engaged customers in the market. But these consumers are equally vulnerable to the potentially misaligned incentives of third party intermediaries, whose business models are not necessarily based on finding telecoms consumers the best deal for them.

Ofcom has worked extensively with telecoms providers to crack down on mis-selling and other malicious practices. But Open Communications brings new third parties into contact with telecoms consumers. Unlike telecoms providers, these third parties are not regulated by our sector's rules.

We believe that third parties' activities when using Open Communications should be regulated in order to protect consumers in our sector.

Firstly, regulations must be put in place to ensure that the economic incentives of third parties are aligned with good outcomes for the consumers. Specifically, for digital comparison tools to access Open Communications data, we believe it is time that they are subject to mandatory regulation. This must include tools showing offers from the whole of the market to ensure consumers always get the best view of all available offers. The regulations also must include rules to ensure commission is not used to promote or give prominence to results: for customers to trust digital comparison tools – and Open Communications overall – they must be confident that their data is being used to generate the best advice for them and not recommendations driven by third parties' commercial incentives.

Secondly, participating third parties should not be given the power to switch consumers through using Open Communications. Ofcom has expended much effort in eliminating mis-selling and we believe that models such as automatic switching will only increase mis-selling complaints again, which telecoms providers will invariably have to solve.

Contents.

| | |
|---|-----------|
| Executive summary | 1 |
| 1. Introduction. | 3 |
| 2. Consumer policy should be focussed on the least engaged. | 4 |
| 3. Third parties should be motivated by the consumer, not by commission. | 7 |
| 4. More engagement should be encouraged, not less. | 13 |
| 5. Conclusion. | 16 |

1. Introduction.

1. Introduction

- 1.1. This document sets out Three's response to Ofcom's consultation on Open Communications published on 4 August 2020.
- 1.2. Our response covers three broad areas:
 - The need for Open Communications to focus on the least engaged.
 - The risk of third parties being able to dictate the comparison of tariffs to suit commercial goals.
 - The risk of customers losing control of their engagement with the market.
- 1.3. We conclude on the above three points in section 5.

2. Consumer policy should be focussed on the least engaged.

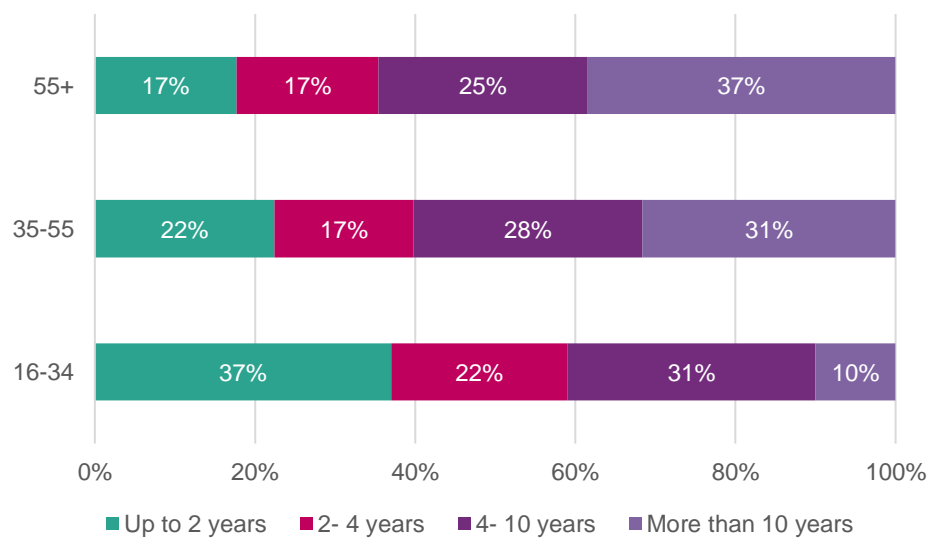
2. Introduction

- 2.1. Ofcom's aim in its Open Communications policy is to get consumers to navigate the choice available, where options are considered to be complex and difficult to navigate.
- 2.2. Ofcom set out that how it considers the following areas of engaging the market to be difficult:
 - When they should look for a better deal
 - What they already have or use
 - What they will need for the future
 - What services are available to them that would best match their needs
- 2.3. Ofcom feels that the risk of no understanding the above areas for consumers is that they find the market more difficult, time-consuming and become reluctant to engage. The result is that they have a product that is poorly suited to their needs.
- 2.4. Ofcom say that this has been tackled in two ways:
 - Digital comparison tools (e.g. price comparison websites) help a minority of people provide guidance about the availability of different communications services and comparative characteristics and prices
 - It has introduced, or is introducing regulations that help consumers on the overall journey:
 - End of contract notifications and annual best tariffs notifications have been introduced to bring further information to customers regarding current contract terms and best alternatives
 - Comms providers must share their tariff/pricing data with digital comparison tools on an open basis; the accreditation scheme for price comparison websites has been relaxed to allow this and Ofcom-collated information on mobile coverage has been made available to digital comparison tools
 - Text-to-switch was introduced to improve number porting and the switching process
- 2.5. Ofcom believes that the data mobility offered by Open Communications could further the benefits brought on by the above reforms. It believes that innovative services can come about which inform and match services to customers. It highlights Open Banking as one area in which innovation and investment has been encouraged amongst third parties.

The objective should be about engaging the least engaged

- 2.6. Ofcom has simultaneously talked about the benefits of investment and innovation by third parties who could access Open Communications data, and the need to help consumers navigate the market. The premise is that innovation and investment by third parties can help consumers navigate the market.
- 2.7. However, in order to work out what innovation and investment should be tailored towards, Ofcom should strengthen its objective based on *which* consumers are still struggling to navigate the market.
- 2.8. Ofcom’s switching tracker provides a very good start on setting this objective. Figure 1 below shows older age groups are more likely to not have changed providers in recent years. Worryingly, over 60% of consumers aged 55+ have not changed providers in the last four years and almost 40% of the cohort have not switched in more than 10 years.

Figure 1: Length of time with current mobile provider, by age group.



Source: Ofcom switching tracker 2019, Question 6F: *How long has (PROVIDER) been providing your Mobile Phone service?*

- 2.9. On the other hand, almost 60% of 16-34 year olds have switched provider within the last four years. Any policy, therefore, that seeks to improve the engagement of consumers should be targeting the older consumer group.
- 2.10. There are some important lessons to learn from the consumer survey and workshops conducted for Ofcom with respect to the unengaged and older age groups:
 - Still need to overcome barriers to engaging along with concerns about the switching process
 - Reassurance on the motivation of third parties in Open communications (i.e. serve the customer, not winning commission)

Investment and innovation from Third Party Intermediaries should focus on this objective

- 2.11. With a clear objective on engaging the least engaged, Third Party Intermediaries can invest and innovate to improve the engagement of these consumers.
- 2.12. Focussing the minds of potential third parties seeking Open Communications data access is more likely to yield results that help engage consumers in the market. One example of this in banking is the Open Banking For Good¹ programme which sought to bring third parties in who were asked to find solutions to help people with low financial capabilities. This type of programme has the advantage of being able to set a precise objective (e.g. on getting the mobile sector's least engaged customers to engage with the market) to find the right solutions.
- 2.13. The remainder of the Open Banking initiative has produced some interesting and innovative applications. This is particularly the case when considering the wide variety of account management mobile apps that have been created. However, the read-across to the objectives set by Ofcom for this initiative is less clear: current account switching has not really been affected by Open Banking to date, for example.
- 2.14. In addition, when presented to survey and workshop participants, account management tools for communications services came across as less useful applications of Open Communications. Part of the reason for this is that the market already provides this information in an easy-to-reach way in some cases: we feel that the My3 app offers a very easy way to keep track of allowances and spending, in addition to easily being able to control spend with a bill cap – all of which feature on the landing page of the app after sign-in.

Ofcom should treat the initiative as a data mobility initiative, rather than an open data initiative

- 2.15. We do not agree with the principle that Open Communications is approached from an open-to-all basis. It is worth noting that the data in scope in Open Communications is not *open* – it is either personal information on a customer's data usage, bills and location; or potentially also network commercial information (e.g. such as sampled speed tests).
- 2.16. This puts the initiative on a similar footing to Open Banking, where licencing and regulations are necessary to make sure that consumers' personal data and commercial information are both protected and not misused.
- 2.17. However, unlike in Open Banking which has been predominantly used for account management and aggregation tools, it is clear that the primary use of Open Communications will be to help customers switch services. It is therefore very important that wider sector regulation – from mis-selling to competition – is taken into account when licencing third party intermediaries. It is the risk from these that we consider in the next two sections.

¹ <https://www.openbankingforgood.co.uk/#about-section>

3. Third parties should be motivated by the consumer, not by commission.

3. Introduction

- 3.1. Ofcom has highlighted the importance of digital comparison tools to consumers as they help people engage with the market, including by saving them time. These comparison tools are available at no monetary cost to customers, but the third parties providing them gain revenues from commission paid by providers, promoting listings, advertising and selling on data to other businesses.
- 3.2. Ofcom's consumer research found that 28% of adults used a price comparison website in the last year for communication services, which is similar to use in energy, but lower than for insurance. Use of websites were highest for young adults at 37% but less than 20% of older (65+) adults had used them in the past year.
- 3.3. Ofcom said that many who had used price comparison websites to look for deals agreed or strongly agreed that websites have saved them time when comparing deals. Equally, many also found that they were easy to use, navigate and presented information clearly. But Ofcom also said that people cited reservations about whether the top offer is the best deal available, and whether price comparison websites might sell people's data.
- 3.4. We consider price comparison websites to be a useful part of the mobile sector's retail market. However, the regulator must acknowledge that they are a commercial part of the market, with incentives aligned to profit-maximising outcomes.
- 3.5. We therefore believe that, given consumers' concerns about the behaviour of price comparison websites, Open Communications should only be made available to third parties subject to regulatory conditions. These should include regulations that ensure results and recommendations are only listed according to consumer-motivated factors (such as price or relevance) and not the price comparison websites' commercial deals or commission.
- 3.6. Putting in safeguard regulation will improve the confidence of consumers in the policy and maximise its chance of success in improving the engagement of the least engaged, most critical consumers.

Price comparison websites are commercial operations motivated by profits

- 3.7. Price comparison websites are an important part of the mobile retail market. As stated in Ofcom's research, 15% of adults used price comparison websites to look for new or alternative mobile deals.
- 3.8. The main price comparison websites in the mobile sector are Uswitch and other websites driven by the Decision Tech comparison engine (owned by Moneysupermarket, but used widely outside Uswitch). The last published market share data of mobile switching through digital comparison tools was in 2017:

Figure 2: Market shares in the supply of Digital Comparison Tool services for mobile switching, 2017.

| Company | Market Share |
|-----------------------------|--------------|
| Uswitch | 65-70% |
| Moneysupermarket | 15-20% |
| Broadband Choices | 5-10% |
| Compare the Market | 0-5% |
| Gocompare | 0-5% |
| Other Decision Tech clients | 0-5% |
| Other | 5-10% |

Source: CMA Decision Statement, Moneysupermarket.com Financial Group Limited – Decision Technologies Limited acquisition, 2018

- 3.9. The mobile market for comparison website switching is heavily concentrated, with Uswitch being by far and away the dominant supplier of switches via comparison tools. We note that this does not match the survey results set out in Ofcom's quantitative research², which indicates an "equal distribution" across the various price comparison websites used. We urge Ofcom to corroborate its survey with market information, especially as non-price comparison websites were considered in the survey³
- 3.10. As Ofcom indicates, price comparison websites follow a particular commercial model: the customer does not directly pay the website, the price comparison websites gain their revenue from suppliers through the following streams:
- **Commission:** every search result where the consumer clicks through to a supplier's website and where the transaction is completed leads to a commission per acquisition for the price comparison website;
 - **Tenancies / Promotions:** on most websites, default listings are not based on a consumer-motivated factor, but rather on whether the supplier has paid for a tenancy in a particular sponsored position, or paid for a generally promoted position, which has more prominence in the listings; and
 - **Data sales:** price comparison websites have a rich dataset based on their customer searches and switches – they are able to gain revenue from selling on this information to other third parties for marketing purposes.
- 3.11. Price comparison websites have a variety of default views. Uswitch for example have an entirely promoted first page when landing for a SIM-only deal⁴. Only once "Load More" is selected at the bottom of the first 11 results do non-promoted results come through. This means every provider has paid for a tenancy to appear on the page. Promoted listings remain in filtered results (as long as they fit the filter selection) and are only removed once the customer chooses to re-sort the results according to other criteria.

² Open Communications 2020 Survey, *PCWs used in the past 12 months for mobile phone services*

³ For example, Carphone Warehouse and mobilephonesdirect.co.uk are both indirect retailers who maintain the customer relationship, rather than earning on a commission per acquisition basis where the communications provider continues to manage the customer relationship

⁴ https://www.uswitch.com/mobiles/compare/sim_only_deals/, accessed 10 November 2020

- 3.12. Other websites promote exclusive deals and set the default listing by “our top picks”; “our recommendations” or similar criteria. These criteria are often opaque and poorly explained. For example, Uswitch describe their “Sorted by promoted deals” with the following:

Promoted Deals have been lent additional visibility as a result of us securing exclusivity on a great deal, or a commercial agreement to showcase what we believe to be market-leading value to consumers.

- 3.13. The ordering of results, after promotions have been granted prominence over non-promoted results, is subject to popularity. This means that the top result is normally the most popular deal at that moment, creating a vicious cycle of guiding customers towards the same deal as it becomes more popular.
- 3.14. Much of Ofcom’s consultation focuses on the benefits that price comparison websites can give consumers. However, there was little discussion as to exactly how price comparison websites work in the telecoms sector. It is clear from the above that there are risks for consumers in using price comparison websites that have not been mitigated yet.

Open communications should provide consumers with the confidence to use price comparison websites

- 3.15. There is uncertainty about how results are ordered, and how commissions and promotions affect recommendations to consumers. This affects the confidence that consumers have in using price comparison websites, according to Ofcom’s qualitative and quantitative research. For example:

*“Third parties on commission is a negative for me. And why do I need to share my personal data?”
Male, >40, Unengaged, Dual Play, Norfolk (Ofcom qualitative survey)*

- 3.16. Overall, the qualitative research highlighted a lack of trust in third party intermediaries on concerns that suitable deals would be driven by commission, that the deal presented might not really be in their best interests, and that their personal data would be used for extensive marketing⁵.
- 3.17. These concerns are also shared by consumer advice organisations such as Citizen’s Advice Bureau⁶, Money Advice Service⁷ and Which?⁸ who, whilst promoting the benefits of price comparison websites for comparing deals, warn citizens of the pitfalls of promoted listings and the potential lack of offers from the whole market being represented in the search.
- 3.18. For Open Communications to be successful, it will require increased trust in third party intermediaries such as price comparison websites. At the moment, Ofcom’s regime for price comparison websites is unregulated:
- **Ofcom accreditation scheme** is voluntary and not taken up by major players in the mobile price comparison website market.
 - **New EECC rules on pricing, tariff and QoS data to be shared between providers and price comparison websites** sets out criteria for price

⁵ Ofcom, Open Communications Qualitative Survey, Slide 22, Slide 30

⁶ https://www.citizensadvice.org.uk/Global/Migrated_Documents/corporate/the-real-deal-final.pdf

⁷ <https://www.moneyadviceservice.org.uk/en/articles/price-comparison-sites-guide>

⁸ <https://www.which.co.uk/money/money-saving-tips/getting-a-great-deal/price-comparison-sites-explained-a8zz14p9c30b>

comparison websites to abide by, but price comparison websites can access this information through commercial negotiation in any case.

- 3.19. Current initiatives by Ofcom do not incentivise the largest price comparison websites to follow the rules because there is no reward (or consequence) for them to do so.
- 3.20. Open Communications represents an excellent opportunity to require price comparison websites to follow a set of rules to ensure that consumers are protected when shopping for new deals. In return for following the rules, price comparison websites can get access to customer data to provide services using Open Communications.
- 3.21. Ofcom will need to consider greater intervention in the behaviour of digital comparison tools for this policy to work effectively than was considered for the new voluntary scheme guidance and the new general conditions on comparison tool data sharing. This is because when parting with their personal information, consumers will expect a high level of impartiality and independent advice from the price comparison website – more so than under commercial comparison practices today.
- 3.22. We therefore believe there are two areas in which consumers can regain confidence in price comparison websites in order to make Open Communications a success:
- **Market view should be whole:** it is only right that when consumers consent to the use of their Open Communications data, that they are given a truly wide range of results from all possible providers. Where price comparison websites are given the power to pick and choose providers available on their platform, the consumer loses out on getting the best value available.
 - **Listings should not be directly or indirectly influenced by commissions:** when consumers offer price comparison websites use of their data, the results will now come across more as recommendations, rather than a set of shopping comparison results. This means that it is even more important to ensure that the default listing is free of commercial influence: promoted listings or sales/commission-based ordering means guiding consumers away from the most suitable offer available
- 3.23. We discuss these two areas below in more detail.

No provider should be excluded from a tool using Open Communications

- 3.24. The only way to make sure that consumers have access to tariffs from any potential service provider is to introduce a whole-of-market requirement. By having the choice to exclude certain providers from the market, price comparison websites are able to tailor results according to their commercial negotiations with providers. Open Communications is a consumer-side remedy to improve information – we believe that any provider that makes its information available through Open Communications should be listed in comparison tools – the third party must not be able to access the data and then restrict its visibility to suit its commercial incentive. This will maximise both the participation by providers in Open Communications as well as the fairness for consumers.
- 3.25. Previous criticisms of whole-of-market requirements have been unfair in our opinion. Three still pays commission to Price Comparison Websites where the

Third parties should be motivated by the consumer, not by commission. continued

listings are not determined by commission as a matter of default. In addition, operators generally differentiate commission by length of contract, and other factors – meaning much more differentiation than, say in the energy market. There is therefore still an incentive for providers to pay commission to Price Comparison Websites.

- 3.26. Introducing a whole-of-market requirement will not remove that, but it will reduce the threat to smaller providers, who face being locked out of the market if they do not pay enough commission. It also avoids the collapse of smaller new entrants who could benefit from the profile of third party tools, but who may not be able to afford the commissions if a whole-of-market requirement is not in place. The energy market saw many smaller providers go bust after the whole-of-market requirement was removed in 2018.

Figure 3: Energy firm exits, 2017-2019.

| Year | Number of exits |
|------|-----------------|
| 2017 | 5 |
| 2018 | 17 |
| 2019 | 24 |

Source: This is Money, *Record number of energy firms collapsed in 2019: Could even more disappear this year and why are many struggling to survive?* April 2020 based on Price Bailey analysis of a freedom of information request

- 3.27. Even if Ofcom is hesitant to impose a whole-of-market requirement on Price Comparison Websites using Open Communications, it is clear that it must ensure that no provider is unfairly excluded from appearing on a Price Comparison Website. If this does not follow a whole of market requirement, then Ofcom must investigate cases where suppliers feel they have been unfairly excluded.

Listings must not be determined by commissions, sales or any other commercial interaction between providers and tools

- 3.28. Even if the whole market is incorporated into the comparison tool, there is also a risk that results are still determined by commission. This would not be in the best interests of consumers.
- 3.29. We do not propose to say what should determine a default listing. It may be price, or it may be network quality. There may be many other factors that might be important for consumers. However, it should not be commission, which is not relevant to consumers.
- 3.30. We note that regulations were introduced for price comparison websites showing results for high cost short term credit products (“Payday loans”) by the FCA following a CMA investigation. In these regulations:
- Rankings and prominence must not be based on the commercial relationship between the provider and the website
 - The fact that a provider pays a commission or other marketing on the website, or the amount, must not affect the ranking or prominence of a result; and
 - No promotions must be displayed in or between the results of a search.

Third parties should be motivated by the consumer, not by commission. continued

- 3.31. The regulations were designed to provide a safe place for consumers to search for payday loans and choose a suitable provider.
- 3.32. The CMA found that customers would typically not search very far down a results page, and that results appearing at the top of the results page was a significant factor of choice. The CMA concluded that the influence of factors other than price or non-price product factors on listings would reduce the effectiveness of their remedy for the market.⁹
- 3.33. We believe that the same concept applies for most vital services including mobile telecoms services. Knowing that commissions can affect the recommendations given to consumers will hamper the trust that Ofcom is attempting to build up between consumers and third parties delivering services using Open Communications. This is highlighted as a key concern in the qualitative research commissioned by Ofcom for the consultation.

⁹ https://assets.publishing.service.gov.uk/media/54ebb03bed915d0cf7000014/Payday_investigation_Final_report.pdf Paragraphs 9.63 and 9.64

4. More engagement should be encouraged, not less.

4. Introduction

- 4.1. Open Communications should encourage customers to engage more with the market. This would represent the best opportunity for customers seeking new products and providers.
- 4.2. It is clear, however, that there is potential for third parties who access Open Communications data to reduce the engagement of consumers in the market, rather than increase it. In its consultation, Ofcom highlighted the potential for digital comparison tools to directly switch customers to a new deal (as happens in the energy sector for some companies).
- 4.3. In addition, Ofcom highlighted the potential for 'Automatic Switching', which would see consumers consenting to third parties to switch their service proactively, without requiring the consumer to initiate the switch.
- 4.4. Finally, Ofcom has identified how digital comparison tools could provide a recommendation to customers based on their current usage and other factors. This marks a significant change from the current function of digital comparison tools, which enable consumers to shop for a deal that might interest and suit them and alter search criteria to change their requirements.
- 4.5. We believe that tools allowing consumers to engage more will lead to customers that are better equipped to make informed choices in switches going forward. It means that communications providers are competing to provide the most competitive services to consumers, rather than concentrating on negotiating commercial agreements with automatic switching firms, for example.
- 4.6. The emergence of automatic switching, or single-recommendation services could see customers misled, and in the worse cases, be slammed onto another provider without prior informed consent.
- 4.7. Ofcom should therefore put in place rules on the use of Open Communications, to ensure that third parties are not switching customers automatically, but rather enabling them to manage their customer journey in a better way

The regulation of sales in the mobile sector should be respected – Open Communications should therefore not be about completing sales

- 4.8. In its consultation, Ofcom highlights that consumers cannot directly be switched to a new deal by third parties at the moment. It suggests that automatic switching in the energy sector can take the concept even further, by switching consumers proactively.
- 4.9. Firstly, we believe that this will re-open the avenue for mis-selling – a problem that Ofcom has spent considerable effort in almost eradicating. Ofcom regulates telecoms companies with mis-selling and switching rules. But we consider it will be almost impossible for Ofcom to then monitor the activities for third parties engaging in such activities.

- 4.10. This is because mis-selling and switching rules that apply to mobile service retailers are General Conditions imposed on the mobile service providers (i.e. it is up to the mobile service providers to ensure that retailers comply). However, Open Communications would oblige mobile service providers to supply data to third party intermediaries.
- 4.11. The right not to engage with third party retailers that cannot be fully audited and trusted is important for providers. However, potential obligations under Open Communications would appear to dilute this commercial freedom.
- 4.12. We therefore believe it is important that third party intermediaries using Open Communications should be separately regulated, and not permitted to undertake sales activity, such as automatic switching, in order to ensure that the customer-supplier relationship is always suitably regulated.

Single-recommendation search results defeat the point of helping the least engaged explore the market

- 4.13. Secondly, the aim for Open Communications is for consumers to engage with the market. Ofcom's qualitative research indicated that customers are keen to use the tools to filter and adapt their recommendations to their needs, for example:¹⁰
- Filtering by provider of handset;
 - Understanding what assumptions are made about which handset they want; and
 - Changing from an assumption that you want a similar deal based on your current usage to a different deal (for example downgrade, change packages).
- 4.14. We therefore do not think it is appropriate for third parties to make single product recommendations by using Open Communications data, as the transparency of that result can never be guaranteed. This is especially true where third parties are commercially incentivised by commissions or other payments by providers.
- 4.15. It is much safer to ensure third parties provide a range of recommendations – ordered by clear and fair criteria - since the third party is likely to be claiming to be searching the whole or significant part of the market to provide a customer with a recommendation. This will ensure that consumers are making an informed choice.

In any case, the benefits of automatic switching in other sectors are often overstated

- 4.16. According to Ofgem, in 2019 only 2% of energy customers used an automatic switching service. In addition, there have been many cases in the energy sector where automatic switching services do not in fact provide the customer with the cheapest tariff available, due to the commercial arrangements between market providers and the switching tools¹¹. It would be undesirable to see such outcomes in telecoms.

¹⁰ Ofcom, Open Communications Qualitative Survey, Slide 38

¹¹ <https://www.thisismoney.co.uk/money/bills/article-7767153/Can-REALLY-save-using-firms-help-switch-fuel-supplier.html> ; <https://www.which.co.uk/news/2020/03/is-energy-autoswitching-right-for-you/>

More engagement should be encouraged, not less. continued

4.17. We would propose the following regulations on third party intermediaries to ensure consumers are given a wide range of information to make an informed choice:

- Automatically switching a user is not permitted;
- Include in results a broad range of offers covering the majority of the market;
- Always provide an ability to search for and compare results and not guide the user to a single result; and
- Provide the user the ability to change criteria after the result is presented.

5. Conclusion.

5. Conclusion

- 5.1. Overall, we consider that Open Communications can provide benefits for consumers who, after many other consumer-side reforms, are yet to engage with the market. Ofcom will need to consider how it can maximise the benefits for these customers, some of whom have expressed concerns in trusting the switching process and third-party use of their data.
- 5.2. We have set out that:
- Open Communications should focus on the least engaged – this means focussing the innovation and investment into the initiative towards this group of consumers;
 - To maximise the benefits of Open Communications, third party intermediaries should not be influenced by supplier commissions, but rather by the consumer. This means that consumers should feel that when they are providing personal data to these third parties, they should expect recommendations from the whole of the market, and for the ordering of recommendations to not be influenced by commercial factors; and
 - To protect the consumers from the risks of Open Communications, automatic switching and any model that seeks to provide a single recommendation should not be allowed. The aim of the policy should be to increase the engagement of consumers, not reduce it.
- 5.3. We believe that with these factors considered, Open Communications can generate further engagement in the market. We think it is equally important for providers to participate in Open Communications themselves, including by having the same access to Open Communications data as third parties: unlike third parties, providers are appropriately regulated on telecommunications sales and so can therefore also provide services that improve engagement on product choice.
- 5.4. Our response has focussed on the objectives and behaviours of customers and third parties in the potential Open Communications ecosystem. However, we also raise the following points on specific parts of the consultation:
- **The data in scope needs to be objective** or go through a process of thorough independent verification. For example, whilst the current tariff paid, amount of data used and other customer data is objective, network performance data and coverage are not. The latter must not be introduced through Open Communications for the first time: we note that the mobile industry and Ofcom have worked together over some time to generate comparable 3G and 4G coverage information – now available through Connected Nations data. Network performance (such as speeds, latency) however, has not gone through the same process: creating consistent comparable metrics takes time, and we would hope that the policy takes this into account;

- **There are too many dependencies to estimate costs at this point in time:** for example, the data in scope would have a large bearing on the potential costs involved in organising and preparing data for Open Communications; and
 - **Further consideration needs to go into the participation of smaller telecommunications providers:** Open Communications will only work where all providers are participating in the initiative, otherwise customers of smaller MVNOs will be penalised for not being able to use services in the same way as customers on the major networks. However, the policy does favour operators with customer scale who will be in a position to invest the most in analytical capabilities to process Open Communications data. Larger operators are also in a better position to negotiate commercial arrangements with third party intermediaries than smaller operators. Ofcom will need to consider this side of the market in more detail to understand the competitive impact. We believe that appropriate regulations on digital comparison tools (such as whole-of-market, and non-commercial listing criteria) will go some way to addressing this.
- 5.5. Ofcom concludes in its next steps that they will continue engaging with stakeholders on a range of issues on the implementation of Open Communications. We encourage Ofcom to keep an open dialogue with stakeholders on the potential regulation required on third party intermediaries newly-participating in the telecoms sector as well.