

[NON-CONFIDENTIAL VERSION]

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Carmen To
Ofcom
Riverside House
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9 October 2018

Dear Carmen,

Helping consumers to engage in communications markets

Consultation on end-of-contract and out-of-contract notifications

TalkTalk believes that UK communications markets are not working as well as they should be for consumers and that regulatory intervention is required to make the markets fairer for consumers. Ofcom has correctly identified one problem in UK communications markets in that too few customers are failing to switch providers to enjoy better offer. Consumers therefore end up incurring a loyalty penalty by paying higher out-of-contract prices. There is also a separate problem in that consumers are being penalised whilst in contract because of the widespread industry practice of frequent in-contract price increases.

TalkTalk has sought to address the above market failures in relation to its own customers. As Ofcom is aware, TalkTalk does already notify its customers when they are coming to the end of the term of their contract. TalkTalk also guarantees that the customer will not face any price increases during the contract term. TalkTalk believes that these measures make its commercial offers fairer for the consumer.

TalkTalk strongly supports Ofcom's proposals to introduce requirements to send end-of-contract and out-of-contract notifications to customers. Although Ofcom's proposals are a welcome step forward, we believe they should be strengthened further as follows:

- (i) Providers must be required to send the end-of-contract and out-of-contract notifications as stand-alone letters or emails. There is a strong risk that providers

otherwise are tempted to include the information in other communications, e.g. bills or newsletters, which will dilute the effectiveness of the communications and hence reduce the impact on overall customer switching.

- (ii) Providers must be required to send more than one out-of-contract notification to customers who have not switched for a significant period of time. The longer a customer has been with a provider the more inert they are likely to be and so less likely to consider switching to another provider. We would argue that a customer who has been longer than 5 years with a provider would require two notifications and longer than 10 years three such notifications. By way of comparison, the additional challenge of encouraging such customers to switch has been recognised in insurance markets where providers are required to identify consumers who have renewed with them four consecutive times, and give these consumers an additional prescribed message encouraging them to shop around.¹
- (iii) Ofcom should separately consider proposals to ban in-contract price increases to tackle the consumer harm being caused by these unfair commercial practices. TalkTalk believes that consumers currently fail to take advantage of any contractual right to leave without penalty to make such price increases commercially unviable and that regulatory intervention would therefore be justified and proportionate.

We believe that these additional requirements would make Ofcom's new regulations much more effective and therefore much more likely to achieve the overall objective of increasing consumer switching in communications markets. We look forward to working with Ofcom in implementing these essential rules to reduce consumer harm and increase consumer protection.

Yours sincerely,

[redacted]
[redacted]

¹ Increasing transparency and engagement at renewal in general insurance markets – feedback on CP15/41 and final rules and guidance, Financial Conduct Authority, August 2016, <https://www.fca.org.uk/publication/policy/ps16-21.pdf>