



Internet Telephony Services Providers' Association

ITSPA Response to Ofcom Consultation on end-of contract and annual best tariff notifications

About ITSPA

The Internet Telephony Services Providers' Association ("ITSPA") represents over 100 UK businesses involved with the supply of next generation communication services over data networks to industry and residential customers within the UK. Our traditional core members are VoIP providers. ITSPA pays close attention to both market and regulatory framework developments on a worldwide basis in order to ensure that the UK internet telephony industry is as competitive as it can be within both national and international markets.

Please note that certain aspects of the ITSPA response may not necessarily be supported by all ITSPA members. Individual members may respond separately to this consultation where a position differs. However, the ITSPA Council is confident that this response reflects the views of the overwhelming majority of ITSPA members.

A full list of ITSPA members can be found at <http://www.itspa.org.uk/>.

Response

ITSPA recognises that there are strong indications of a failure of the market to deliver to certain customers and that the proposals take steps to address this.

However, we note that a number of respondents to the previous consultation raise concerns about the proposals being applied to businesses; that it was not necessary nor proportionate absent evidence of harm which we say that Ofcom did not adequately adduce.

The latest consultation effectively "doubles down" on the inclusion of businesses citing Article 105(3) of the European Electronic Communications Code (EECC) and extends the provisions to even the largest of enterprises¹.

Whilst we recognise that Ofcom have reduced the burden through its Guidance (as outlined in Section 12 of the Consultation), we do not believe that Ofcom has the statutory basis to introduce this measure to any users of telecommunications other than residential customers or sole traders.

There is absolutely no evidence, whatsoever, that multi-billion pound international conglomerates are in any way, shape, or form, harmed by not being aware of best tariff information or the status of their contracts.

This is very important because the Consultation relies heavily on Article 105(3) of the EECC being directly transposed into a General Condition (GC) without primary or secondary legislation. ITSPA's members say that this is not the case for the proportionality reasons we outline above.

¹ [European Electronic Communications Code](#), European Union, accessed 05.02.2019



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Section 47(2)(c) of the Communications Act requires a GC to be “*proportionate to what it intends to achieve*”.

Ofcom’s evidence heavily weighted to residential consumers – which we do not seek to argue with. Indeed, we agree that there is read across into sole traders and we can debate the merits of whether or not it is proportionate to various businesses on a spectrum up to and including the (unworkable) 10 employee threshold.

Absent evidence of harm to enterprises, the proposed GC cannot be considered “proportionate” and therefore requires primary legislation to amend the Communications Act 2003 accordingly.

We do not say this to interfere with Ofcom’s approach to domestic consumers and do not consider that the process there needs to be stalled or otherwise interrupted; we merely say that the application to business has to await the transposition of the EECC in due course.

If you have any questions regarding our response or would like any further information, please contact the ITSPA Secretariat on team@itspa.org.uk or 020 3397 3312