



## Which? feedback on Ofcom's Proposed Plan of Work for 2023/24

Which? welcomes the opportunity to respond to Ofcom's proposed plan of work for 2023/24 and are pleased with the number of areas that Ofcom and Which? are aligned on. Our response focuses on a number of the strategic priorities set out in the plan of work:

- **Internet we can rely on**
  - Affordability of communications services
  - Transition away from legacy services
  - Delivery of the broadband Universal Service Obligation
  - Improving consumer experience and information on mobile coverage
  - Addressing the issue of scams
- **Media we trust and value**
  - Advertising regulation
- **We live a safer life online**
  - Implementing the online safety regime
- **Other project work for 2023/2024**
  - Implementing One Touch Switch
  - Roaming customer protections
  - Implementing the GigaTAG recommendations
  - Artificial intelligence regulation

### Internet we can rely on

#### Affordability of communications services - social tariffs

The current cost of living crisis and its impact on households' ability to pay for essential services has been a key priority for Which?. Connectivity is a central focus of our cost of living campaign<sup>1</sup> and will continue to be a priority for Which? this year.

We support Ofcom's commitment to closely monitor communications providers to ensure they are promoting the take-up of 'social tariffs'. Which? research<sup>2</sup> found that awareness of social tariffs is very low, with 63% of eligible consumers having never heard of social tariffs.

However, awareness is not the only barrier to take up. Even as awareness is slowly increasing, we are not seeing the same increase in take up. Our research showed consumer perceptions that social tariffs meant slower internet speeds and that consumers believe they can't exit their current contract and/or face possible exit fees<sup>3</sup>.

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<sup>1</sup> "Which? launches cost of living campaign", Which?, *September 2022*

<https://www.which.co.uk/news/article/which-launches-cost-of-living-campaign-azHEi8p965DF>

<sup>2</sup> "Broadband social tariffs: awareness and concerns about the speeds offered are hampering take up", Which?, *November 2022* <https://consumerinsight.which.co.uk/articles/broadband-social-tariffs>

<sup>3</sup> Ibid

Our call on providers to offer a range of social tariffs allows eligible households to choose the option most suitable for their connectivity needs and addresses one of the key barriers to take up. As a result we welcomed Hyperoptic reducing the price of their fastest social tariff<sup>4</sup> and VMO2 launching a new superfast social tariff option<sup>5</sup>.

As Ofcom monitors the actions of providers, we encourage further research into barriers to take up and consider the possible long term options for providing affordable connectivity, through both broadband and mobile, to eligible consumers.

### Affordability of communications services - mid-contract price rises

As part of our cost of living campaign, Which? believes that providers should carefully consider the level of any price rises when many consumers are already under huge financial pressure and has two clear immediate calls on all communications providers around their application of mid-contract price increases this year:

- to allow customers to leave their contract without penalty if prices are hiked mid-contract - regardless of whether these increases can be said to be 'transparent'.
- for this year's mid-contract price rises to be cancelled for financially vulnerable consumers.

During this year's exorbitant price increases, all customers identified on provider's financial vulnerability lists (last year Vodafone did not impose an in-contract price increase for customers they identified as financially vulnerable) as well as those who are eligible for social tariffs, but have not yet taken them, should be exempt from the increase. Government and Ofcom should work with the providers to identify these consumers using all of the data available to them, in particular the pre-existing financially vulnerable lists and the DWP Citizen API that's providing eligibility checks for social tariffs.

It is disappointing that the issue of mid-contract price rises is not being addressed beyond Ofcom producing a report on pricing trends. Which? research<sup>6</sup> has found that broadband customers are trapped in a lose-lose situation where they either have to accept exorbitant mid-contract price increases or pay exit fees of over £200. We expect mobile customers to be trapped in a similar situation and not enough is being done to protect consumers. Which? will continue looking closely at providers' implementation of mid-contract price rises this year and the impact on consumers.

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<sup>4</sup> "Hyperoptic cuts price of UK's fastest broadband social tariff", Hyperoptic, *November 2022*  
<https://www.hyperoptic.com/press/posts/hyperoptic-cuts-price-of-uks-fastest-social-broadband-tariff/#:~:text=Hyperoptic%20is%20making%20fast%2C%20reliable,to%20%2%A320%20per%20month>.

<sup>5</sup> "VMO2 boosts support for benefit claimants in Cost-of-Living Crisis with more savings, speed and streaming", VMO2, *October 2022*  
<https://news.virginmediao2.co.uk/virgin-media-o2-boosts-support-for-benefit-claimants-in-cost-of-living-crisis-with-more-savings-speed-and-streaming/>

<sup>6</sup> "Millions of broadband customers trapped between price hikes and exit fees of over £200", Which?, *January 2023*  
<https://www.which.co.uk/news/article/millions-of-broadband-customers-trapped-between-price-hikes-and-exit-fees-of-over-200-aSw513S5J6m3>

We urge Ofcom to undertake a full review of the use of mid-contract price increases and consider its fairness for consumers and impact on the competitiveness of the market. The current practice of mid-contract price rises places an expectation on consumers to factor the future rate of inflation into their decision-making at the point of purchase. However, research has shown that a majority of people feel they don't have a good understanding of inflation<sup>7</sup> and we would expect it to be particularly difficult for some groups of consumers. It is questionable whether it is fair to place the burden on consumers to understand the impact of inflation on the future price they pay and we suspect that the variation in pricing practices makes it more difficult for consumers to compare offers across providers.

We also have broader concerns regarding the transparency of mid-contract price rises in communications providers' advertising. We are disappointed that the plan of work does not mention Ofcom's industry-wide enforcement programme<sup>8</sup> that will scrutinise providers' sales practices and customer contract information for in-contract price hikes. Which? would like to see Ofcom publicly commit the enforcement programme to their plan of work and include clear timelines, as well as considering how best to promote the new guidance from the Committee of Advertising Practice (CAP) on the presentation of mid-contract price rises within telecommunications advertising.

#### Transition away from legacy services

Which? welcomes Ofcom's continued commitment to ensure that consumers are supported and protected through the managed transition away from legacy services, such as the PSTN and 2G/3G networks. The Communications Consumers Panel (CCP)<sup>9</sup> found that awareness of the switch away from the PSTN was very low, with Which?<sup>10</sup> finding that 74% of those with a copper line connection were unaware of the migration.

Which? supports the move from PSTN to Digital Voice, as the majority of consumers should benefit from better services but the switch can only be a success if consumers are protected from any potential negative impacts. Which? research found that some consumers do not have an alternative to their landline, with 3% of landline users relying on their landline to make or receive calls in their home. In other cases, the alternative is not sufficient, with 14% of households with a landline reporting problems with their internet or mobile connection and this number rising to 27% for those in rural housing<sup>11</sup>. We would like to work with Ofcom to support the transition from legacy services and protected consumers by ensuring that:

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<sup>7</sup> Runge and Hudson (2020) [Public understanding of economics and economic statistics](#), The Economics Statistics Centre of Excellence

<sup>8</sup> "Ofcom probes transparency of telecoms price rises", Ofcom, *December 2022*  
<https://www.ofcom.org.uk/news-centre/2022/ofcom-probes-transparency-of-telecoms-price-rises>

<sup>9</sup> "Switchover from analogue to digital telephony: UK consumer and micro-business reactions, Communications Consumer Panel", *August 2021*  
<https://www.communicationsconsumerpanel.org.uk/research-and-reports/switchover-from-analogue-to-digital-telephony-uk-consumer-and-micro-business-reactions-2021>

<sup>10</sup> "PSTN - What is the consumer impact of the switch-off?", Which?, *February 2022*  
<https://consumerinsight.which.co.uk/articles/pstn>

<sup>11</sup> Ibid

- Consumers have access to clear, transparent and easy to understand information.
- All consumers have access to the support they need, with more specific support available to vulnerable consumers and those using devices connected to the PSTN.
- Consumers do not pay more as a result of the move to Digital Voice.
- Consumers are not left at risk if there is a power outage.

The switch off of 3G networks has already begun and Which? expects similar consumer issues to be raised. We believe that much more needs to be done to make consumers aware of the switch off and to understand the potential consumer impact.

Our immediate concerns are that the switch off may be problematic for those in rural areas with poor or non-existent 4G or 5G coverage, or for consumers using older mobile devices and services, which rely on these networks. We are also concerned that consumers could be forced to pay more for their devices or services and that if devices are not properly recycled, the switch off could have an environmental impact.

#### Improving consumer experience and information on mobile coverage

Around 8% of the UK is currently defined as having a 4G 'not spot', though this rises to 10% of Wales and 17% of Scotland<sup>12</sup>. It is important that Ofcom ensures that mobile operators are taking steps to ensure that their 4G coverage is improved ahead of the switch off, so that consumers do not face a loss of service.

Ofcom should also ensure that consumers are able to understand the information provided to them on mobile coverage and performance and we are keen to support Ofcom's programme of work to report on the availability and quality of mobile coverage, so that consumers have a consistent picture across 4G and 5G networks.

#### Delivery of the broadband Universal Service Obligation (USO)

In the UK, around 500,000 premises do not have access to 'decent broadband' via a fixed connection, with most of these premises in rural areas<sup>13</sup>. This number drops to 80,000 premises when taking into account fixed wireless networks but still represents a significant number of consumers without a decent connection. The delivery of the broadband USO is vital to ensuring decent and affordable connectivity is delivered to those premises and we support Ofcom's commitment to monitor the delivery of the broadband USO.

Beyond monitoring the pace of the delivery, Which? believes Ofcom should consider whether existing speeds (10Mbit/s download speed) are sufficient, especially as superfast broadband (speeds of at least 30Mbit/s) is now available to 97% of UK homes. Ofcom should also investigate whether the cap of 100GB is fair to consumers, considering that average monthly data use has grown to 482GB per connection<sup>14</sup> and the impact on

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<sup>12</sup> "Connected Nations 2022", Ofcom, *December 2022*  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0034/249289/connected-nations-uk-report.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0034/249289/connected-nations-uk-report.pdf)

<sup>13</sup> Ibid

<sup>14</sup> Ibid

consumers where the costs to connect them are likely to exceed the £3,400 cost threshold. In such cases, consumers may receive quotes that are completely unaffordable, with the most expensive premises under the USO estimated to be around £45,000<sup>15</sup>.

### Addressing the issue of scams

Which? welcomes Ofcom's commitment to consult on changing existing rules to strengthen number authentication, potentially through a common numbering database, to address the growing volume of scams received by phone calls and text messages. Introducing technical standards to allow networks to confirm the authenticity of a number before a call is made has the potential to reduce the risk of scams from spoofed numbers and improve consumer confidence and trust.

However, the implementation of the new rules are dependent on whether communications providers have the 'technical feasibility' to implement the changes. Which? is concerned that this opens up the possibility of a disparity in the protections provided across communications services and consumers will still be left vulnerable. We look forward to contributing to the consultation, with the view of making clear that the same protections must be provided across all networks.

Which?'s work into protecting consumers from scams remains a priority this year. We are particularly interested in the correlation between number spoofing in the domain sector and the creation of fraudulent domains and welcome the opportunity to work together. Which? is working to understand best practices with the use of data to prevent these scams reaching consumers.

## **Media we trust and value**

### Advertising regulation

It is promising to hear that Ofcom will continue to work with DCMS as it reviews the regulation of online advertising. However, Which? has some specific concerns with the risks associated with open display advertising, with only 1% of the ecosystem secure against fraud, with fraudsters making up to \$1m in a day<sup>16</sup>.

Which? recognises that Ofcom's role is to monitor developments in the Government's review of regulation in this area and to input based on its expertise. Which? is calling for the ad tech intermediaries to be regulated to ensure that they have proportionate systems and processes in place to prevent fraud. Our call would extend the approach of the Online Safety Bill on fraudulent advertising to other parts of the internet.

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<sup>15</sup> "The Universal Service Obligation (USO) for Broadband", House of Commons Library, *March 2022*  
<https://researchbriefings.files.parliament.uk/documents/CBP-8146/CBP-8146.pdf>

<sup>16</sup> "Fraud in the Open Display Advertising Market", Which?, *June 2022*  
<https://www.which.co.uk/policy/digital/8925/fraud-open-display-advertising>

## **We live a safer life online**

### Implementing the online safety regime

This year will be pivotal in ensuring Ofcom has the necessary powers to set up and implement the online safety regime. Which? previously responded to Ofcom's call for evidence on the first phase of online safety regulation. As part of Ofcom's expanded duties to create a safer life online, through the Online Safety Bill, we'd like to work closely with Ofcom as they develop codes of practice to tackle user generated fraud and fraudulent advertising that focus on:

- Effective due diligence checks to prevent fraudsters from using online services. By introducing effective checks on the identity and history of those wishing to place online adverts, platforms can protect consumers from encountering fraud.
- Better data sharing on the indicators of potential fraud through greater collaboration between industry, government and regulators.
- Improved content moderation through a risk based approach that uses expertise to stop fraud before it reaches consumers, as demonstrated by our recent research in collaboration with Demos<sup>17</sup>.

### **Other project work for 2023/2024**

#### One Touch Switch (OTS)

As we set out in our response to Ofcom's consultation<sup>18</sup>, the implementation of OTS is important to ensure that there is a quick, easy and transparent switching process for consumers to change their broadband connection. OTS removes the additional steps sometimes required for consumers to switch and the risk of losing connection when switching, or the potential for the provider to put pressure on to try to retain their customer. It is important that Ofcom maintains the existing timeline for implementing OTS in April 2023.

#### Mobile Roaming

The implementation of the Mobile Roaming (EU Exit) Regulations 2019 saw the legal requirement for mobile operators to provide surcharge-free roaming in the European Economic Area (EEA) removed and disappointingly, three of the four major UK mobile operators reintroduced charges. Which? is concerned that other protections under the now expired EU Roaming Regulation 2012<sup>19</sup> will not be maintained voluntarily. We are concerned that the key consumer protections could be dropped, in particular the £45 cap on data usage and the obligation to inform customers when they have reached 80% and 100% of their data

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<sup>17</sup> "Facebook and Instagram are failing to protect users from dodgy investment ads", Which?, December 2022

<https://www.which.co.uk/news/article/facebook-and-instagram-are-failing-to-protect-users-from-dodgy-investment-ads-which-research-finds-a4WL25H4bOAS>

<sup>18</sup> "Response to Ofcom's Consultation: Quick, easy and reliable switching", Which?, March 2021  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0033/218976/Which.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0033/218976/Which.pdf)

<sup>19</sup> "Mobile roaming in the EU after Brexit", House of Commons Library, August 2022  
<https://commonslibrary.parliament.uk/research-briefings/cbp-8649/>

allowance. Which? agrees that Ofcom must closely monitor consumers' experiences of roaming and ensure that consumers are well protected when they are roaming abroad.

### GigaTAG

Which? was pleased to be asked to convene an Advisory Group (GigaTAG) to drive take-up of gigabit-capable connections and we appreciate Ofcom's proactive engagement on the issue. We believe it's particularly important to maintain momentum in driving consumer awareness and take-up through developing common terminology and a core set of use cases and benefits. It is disappointing that implementing the GigaTAG recommendations are not included in Ofcom's plan of work. However, Which? looks forward to Ofcom's research into consumers' understanding of broadband terminology being published and would like to see this provide a catalyst for engagement with industry to ensure that consistent terminology is used and that a core set of use cases are developed to inform consumers.

### Artificial Intelligence Regulation

As the Government considers its approach to artificial intelligence (AI) regulation, it is important that Ofcom examines how best it can implement such regulation in the context of the communications sector. Which? believes Ofcom should work closely with other regulators and Government to ensure that they have the sufficient capability and resources to effectively regulate AI and protect consumers. Ofcom has an important role to play and should utilise its position as part of both the Digital Regulation Cooperation Forum (DRCF) and UK Regulators Network (UKRN) to influence the direction of AI regulation and encourage more proactive stakeholder engagement from both the DRCF and UKRN.

### **About Which?**

Which? is the UK's consumer champion. As an organisation we're not for profit - a powerful force for good, here to make life simpler, fairer and safer for everyone. We're the independent consumer voice that provides impartial advice, investigates, holds businesses to account and works with policymakers to make change happen. We fund our work mainly through member subscriptions. We're not influenced by third parties – we never take advertising and we buy all the products that we test.

**For more information contact**

**[REDACTED], February 2023**