

Emailed to: mobile.handsets@ofcom.org.uk

Lorna Horton
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

16 September 2019

Dear Lorna,

Helping consumers to get better deals in communications markets: mobile handsets

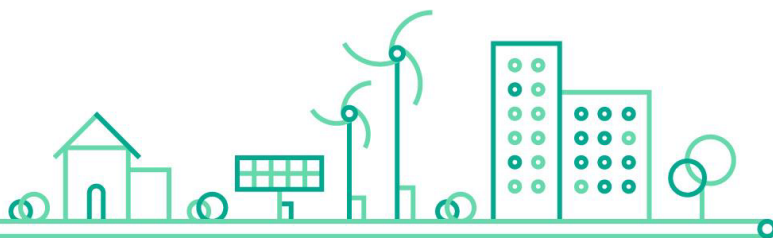
I write in response to your request for views on the recent statement and consultation concerning consumers paying more when out of contract and adopting a time limit for linked split contracts to not exceed 24 months. We would like to thank you for the opportunity to comment.

As you have mentioned, this forms part of the Fairness for Consumers Programme and we are supportive of measures that ensure that consumers are treated fairly, communicated with clearly and effectively, and are not disincentivised from switching by long handset contracts dependent on and bundled with airtime agreements. We are also pleased to see that so many communications providers have agreed to reduce bills for out-of-contract consumers and think this is positive for consumers and a good example of providers putting fairness and their consumers first.

In response to your consultation published last year, we commented that we were concerned about contracts which required consumers to have an airtime agreement in place while having a lengthy handset agreement, in some cases up to 36 months. We thought that in the cases where consumers have to pay off a handset in excess of 24 months to exit the airtime agreement that this acts as a disincentive to switching and is not in keeping with the General Conditions allowing for a maximum of 24 months. We welcome proposals to reduce the maximum handset agreements for linked split contracts.

About Ombudsman Services:

Ombudsman Services is a not-for-profit private limited company established in 2002 which runs a range of discrete national ombudsman schemes across different sectors including energy and communications. Each scheme is funded by the companies under our jurisdiction and our service is free to consumers. In 2018 we received 174,855 initial contacts from complainants and resolved 68,063 complaints. For communications we received 62,233 initial contacts and resolved 21,251 complaints. We also operate a private parking appeals service – POPLA and for 2018 we received over 67,000 appeals.



We are:

- to our consumers, the people they can turn to for impartial advice and solutions that's fair;
- to our partners, the people they look to for knowledgeable and insightful ways to help them reduce complaints by enabling them to make the changes they need to deliver better customer services;
- to our regulators, champions in protecting rights as well as partners in information sharing, we share our analysis so that regulators and business partners can make improvements; and
- to our people, here to enable them to deliver clarity to consumers and partners through meaningful work.

General comments:

Working with the wider regulatory landscape and strategic redress:

In order to help consumers get a better deals in communication markets we think that the wider regulatory landscape along with energy providers need to work together. This may also include greater collaboration between different sectors, for example in terms of bundled packages. This must include the better sharing and utilisation of data and insights that all stakeholders have.

At Ombudsman Services we take the approach that prevention is better than cure. So, as well as resolving individual consumer complaints, we use our complaint data to build insights to help businesses in the sectors that we operate in - to improve their customer services and complaint handling to the benefit of all their consumers, and we work with the wider regulatory landscape to help improve policy development, horizon scan and target consumer detriment as early as possible in order to improve consumer services and complaint handling in the sectors that we operate in. We also look at the impact and outcomes of policy makers and regulators to ensure they are the best they can be for consumers. By working in this way, we help to build consumer trust and confidence in markets. We call this Strategic Redress.

An example of where this works well is in the energy sector via the Tripartite working between Ofgem, Citizens Advice (including the Extra Help Unit) and the Energy Ombudsman. This involves sharing data and insight to spot consumer detriment early and to act accordingly.

Answers to specific questions:

1) Do you agree that our implementation proposal for bringing the requirements of the EECC into effect is sufficient to address our concern that linked split contracts (and other split contracts falling within the definition of a bundle) are liable to deter switching?

We share the concerns mentioned in Section 5 and support the proposal to limit the length of linked split contracts to ensure that consumers are not deterred from switching their airtime agreements to avoid paying off a handset agreement which is longer than 24 months. We agree that contractual terms such as these may hinder switching and with increased numbers of split contracts, we think that it is important to strengthen the General Conditions to ensure consumers can take advantage of a competitive market. This is important in ensuring fairness and for building trust in the sector.

2) Do you agree that the draft General Condition (in Annex 6) would achieve our aim of limiting the minimum contract periods of the contracts we are concerned about to 24 months?

We think that the General Condition would achieve the aim of limiting the minimum contract periods of lengthy handset and shorter airtime agreements. However, we think there is also an opportunity to consider how the components of 'Bundles' and 'Terminal equipment' are defined. The wording from Ofcom solves the immediate issue

but we have seen other non-regulated products and services bundled to communications services that fall out of the definition. As this may become more common, we think the EECC definition will serve consumers better in the future.

3) Do you agree with our implementation proposal that providers should have three months to make the necessary changes to their contracts and other relevant materials?

We think that it is important for any changes to be implemented as soon as possible though appreciate it may take time for communication providers to put the changes into practice. We think three months seems a sensible time period to do this.

One thing we would like Ofcom to clarify is whether the changes to strengthen General Conditions 1.3 and 1.4 will also cover consumers with existing contracts or only those whose contracts start after the implementation date. As these proposals build upon existing conditions, we think there is an opportunity to amend terms in contracts agreed before the implementation date to ensure the same level of protection for all consumers.

4) Do you have any comments on our impact assessment of our proposal to prohibit linked split contracts (and other split contracts falling within the definition of a bundle) of over 24 months?

We agree with the considerations highlighted in the impact assessment. We think it is also worth considering the impact on how contracts may evolve in the future. For example, these proposals may lead to an increase in handsets and service contracts not being linked so readily, leading to complaints for handsets and airtime being managed by different redress providers. As many communication providers have already made voluntary agreements with Ombudsman Services to deal with handset complaints, we would not want to see the redress landscape complicated further with a separation of these duties.

Please do not hesitate to contact us if you would like further information regarding our response. We would welcome further discussion around the concept of strategic redress and how practically we can develop this with Ofcom to provide fairer outcomes for consumers and thereby building consumer trust in the communications sector.

Yours sincerely,



Matthew Vickers
Chief Executive and Chief Ombudsman

For more information regarding this consultation please contact:

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