



uSwitch response to Ofcom's consultation on helping consumers to get better deals in communications markets: mobile handsets

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Contact

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1 Executive summary

1.1 About uSwitch

uSwitch is the UK's leading price comparison and switching service for home services, helping consumers to find a better deal and save money on their broadband, mobiles, TV, landlines and gas, electricity and personal finance products including mortgages, credit cards, current accounts and insurance.

uSwitch is a vocal champion of consumer issues and we are informed by our experience engaging directly with consumers on these matters. We are constantly looking for ways to innovate to ensure that our customers can navigate consumer markets effectively in the telecoms, energy and financial services sectors. We support any measures which recognise that competition is the best tool to deliver better outcomes for consumers. We look forward to continuing to engage with Ofcom on consumer issues.

1.2 Ofcom's consumer engagement programme

We welcome Ofcom's consultation on helping consumers to get better deals in the mobile market and note the unprecedented nature of the analysis of mobile tariffs that has been completed to identify the cost of confusion that can impact some mobile customers. uSwitch shares Ofcom's mission to enable customers to shop around with confidence in order to make informed choices and, ultimately, get a fair deal. It is right that there should be a wide-range of options available to consumers in the mobile market to suit different needs including spreading the cost of purchasing a new handset, airtime allowances, quality of service and coverage.

We are supportive of Ofcom's ongoing programme of work to improve outcomes for consumers of communications services and we recognise the progress already made to date. In particular, we keenly anticipate the benefit to consumers from receiving contract notifications as prompts at key decision points from February 2020. We note that Ofcom's monitoring programme for contract notifications and 'Fairness for Customers' voluntary commitments will be extended to cover the impact of provider's voluntary price reductions for out-of-contract bundled handset customers, new transparency measures and the trend of increasing use of split contracts. This is a sensible approach given the likely interactions between different measures and existing changes underway in the market.

1.3 Delivering a fairer customer experience

We see the measures announced by Ofcom's mobiles statement and consultation as steps in the right direction to improving the consumer experience of the mobile market. The fair treatment of customers should be central for providers, and it is essential that providers endeavour to communicate clearly with consumers.

1.3.1 Voluntary bill reductions for out-of-contract bundled handset customers is the right approach

uSwitch welcomes Ofcom's announcement that the majority of major providers will be voluntarily reducing the bills of out-of-contract bundled handset customers by February 2020. It is unacceptable that 1.4 million customers are overpaying by £182 million each year. This targeted approach goes a long way to address the issue of consumers 'double-paying' for their handsets, while avoiding the substantial harm of unintended consequences caused by a widespread pricing intervention.

We also note Three has not yet elected to reduce the bills of its out-of-contract handset customers. For us, this underlines the value of the 'Fairness for Customers' commitments being binding on each of the signatories, which would bring telecoms into line with other sectors such as financial services and energy.

1.3.2 Greater transparency for consumers taking out bundles

We agree that there could be value to plans for mobile customers being told the cost that they could buy the handset and airtime separately prior to entering a bundle, as well as being clear on the price of the bundle and the options the customer will have at the end of the contract. There has long been considerable room for improvement in the giving of clear and timely information to customers of communications services, including mobile, which has contributed to the cost of confusion experienced by some consumers.

Such a move should mean that customers entering into new handset contracts are more easily able to understand the value of their bundle and make the right choice for their needs. In addition, it should lead to greater consumer understanding of the cost of the handset and airtime portions of the bundle plus raise awareness of the benefits of engaging at the end of the minimum period.

uSwitch looks forward to Ofcom's forthcoming consultation which will propose specific guidance around the provision of this information. We believe that the information should be presented to customers on a provider's site before they reach the basket stage of the sales journey, so that it effectively prompts consumers to consider their wider options before reaching the final decision stage.

1.3.3 A cap of 24 months on all bundles represents a fairer consumer experience, but consumer behaviour will rely on clear communication

We agree with Ofcom that the ban on linked split contracts, and other bundles, over 24 months will be good for consumer outcomes by avoiding long tie-ins. In line with General Condition 1.4, all mobile customers should be free to switch to the airtime deal that best suits their needs after a maximum of 24 months. As well as improving individual consumer outcomes, switching is an important mechanism within competitive markets more generally.

However, unless the changes are clearly communicated, consumers will experience the taking out of unlinked split contracts in much the same way they currently enter linked split contracts over 24 months. As a result, it is essential that Ofcom incorporates a requirement in the General Conditions for providers to clearly highlight at the point of sale of unlinked split contracts that the two contracts have no impact on each other. Where the two contracts are non-coterminous, this should include a message that, at the end of the airtime contract, the customer will be free to switch to a different airtime deal or provider without affecting the handset contract.

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3 Delivering a fairer consumer experience

3.1 The fair treatment of customers should be central for providers

Crucial to delivering a fairer consumer experience is providers holding customers' fair treatment as a priority. We see the voluntary bill reductions announced by most major providers for out-of-contract bundled handset customers and Ofcom's upcoming measures for greater transparency for consumers taking out bundles as steps in the right direction.

3.1.1 Voluntary bill reductions for out-of-contract bundled handset customers is the right approach

uSwitch welcomes Ofcom's announcement that the majority of major providers will be voluntarily reducing the bills of out-of-contract bundled handset customers by February 2020. It is unacceptable that 1.4 million customers are overpaying by £182 million each year.

This targeted approach goes a long way to address the issue of consumers 'double-paying' for their handsets, while avoiding the substantial harm of unintended consequences caused by a widespread pricing intervention, including those noted by Ofcom in its recent 'Fairness Framework' Discussion Paper.¹ Such harm would likely include weakening the highly competitive SIM-only market leading to reduced choice with higher prices and making some consumers worse off. Indeed, Ofcom's analysis of tariffs found that more than a quarter of the two million mobile customers on bundled deals who are out-of-contract would pay more if they switched to an equivalent SIM-only deal.

We also note Three has not yet elected to reduce the bills of its out-of-contract handset customers. For us, this underlines the value of the 'Fairness for Customers' commitments being binding on each of the signatories, which would bring telecoms into line with other sectors such as financial services and energy.

We would also like to reiterate that customers on split contracts can be at risk of overpayment when they go out-of-contract, despite Ofcom stating that there is

¹ Ofcom, 2019. Making communication markets work well for customers. Page 16.
https://www.ofcom.org.uk/_data/assets/pdf_file/0022/152482/discussion-paper-making-communications-markets-work-well-for-customers.pdf

no risk of this.² While it is true that they will not overpay for their handset, as these payments will cease, customers on these contracts can still be at risk of overpaying for their airtime. This is because the airtime deal they are on is unlikely to still represent such good value as when the contract was first entered, and because their needs may well have changed. If a customer does not engage with their options for a more suitable and better value deal, that customer may well be at risk of overpaying for their airtime. Additionally, uSwitch research found that providers can charge a premium for these deals - up to 38% extra - meaning that consumers could end up paying £231 million more than they should on the airtime part of the deal alone.³

3.1.2 Greater transparency for consumers taking out bundles

We agree that there could be value to plans for mobile customers being told the cost that they could buy the handset and airtime separately prior to entering a bundle, as well as being clear on the price of the bundle and the options the customer will have at the end of the contract. There has long been considerable room for improvement in the giving of clear and timely information to customers of communications services, including mobile, which has contributed to the cost of confusion experienced by some consumers.

Such a move should mean that customers entering into new handset contracts are more easily able to understand the value of their bundle and make the right choice for their needs. In addition, it should lead to greater consumer understanding of the cost of the handset and airtime portions of the bundle plus raise awareness of the benefits of engaging at the end of the minimum period. In conjunction with contract notifications, which we believe will be particularly helpful in prompting consumer engagement, given their tying to key decision points at or following the contract end date, this measure should create a clearer picture for bundled mobile customers at the start and end of contracts.

uSwitch looks forward to Ofcom's forthcoming consultation which will propose specific guidance around the provision of this information, including the factors that providers should take into account in identifying the price to present to customers for individual elements of the bundle. We believe that the information should be presented to customers on a provider's site before they reach the basket stage of the sales journey, so that it effectively prompts consumers to

² Ofcom, 2019. Helping consumers get better deals in communications markets: mobile handsets. Footnote 7, page 6.

https://www.ofcom.org.uk/data/assets/pdf_file/0037/157699/statement-and-consultation-mobile-handsets.pdf

³ uSwitch, 2018. New breed of mobile tariff could cost customers £231 million.

<https://www.uswitch.com/media-centre/2018/07/new-breed-mobile-tariff-cost-customers-231-million/>

consider their wider options before reaching the final decision stage. Moreover, this approach would filter out this step for customers reaching the basket stage via a price comparison website who, by virtue of their origin, have already run a comparison making this step an irrelevant duplication. To that end, uSwitch believes that when information about the separate costs of airtime and the handset is shown to customers before the basket stage there should be a required prompt that the consumer should “shop around to find the most suitable deal”.

This addition should help to broaden consumers view of the market when considering their options. Also with this objective in mind, uSwitch is optimistic about the range of opportunities to better serve consumers presented by third-party access to provider and consumer data. The communications sector, and particularly the mobiles market, is generally very competitive and dynamic. The fast-pace of change and innovative offerings available to consumers mean that it can also be complex for consumers to navigate their options. With better access to data, third parties will be better able to support consumers in making decisions about the right deals for their needs.

Furthermore, as part of the providers’ ‘Fairness for Customers’ commitments, we believe it is important that providers commit to addressing the information shortfall that can also exist during contracts. Consumers’ ability to easily access information about their package, cost, deal type, contract end date and consumption can vary by provider. Transparency during contracts is essential to equip consumers with the tools they require to be generally well-informed and more broadly to allow a step-change in both the real and perceived ease of engagement when key points, such as the contract end, arise.

3.2 A cap of 24 months on all bundles represents a fairer consumer experience

uSwitch agrees with Ofcom that customer outcomes will be fairer following the introduction of a 24 month cap on all bundles. This is because the freedom to switch, without being tied-in for unduly long periods, gives consumers the ability to access the best deals on the market, as well as creates incentives for providers to make competitive offerings. Still, the effectiveness of this measure in changing consumer behaviour will rely on it being clearly communicated upfront to customers taking out ‘unlinked’ split contracts over 24 months.

3.2.1 The ability to switch is crucial for consumer outcomes

We agree with Ofcom that the ban on linked split contracts, and other bundles, over 24 months will be good for consumer outcomes by avoiding long tie-ins. In

line with General Condition 1.4, all mobile customers should be free to switch to the airtime deal that best suits their needs after a maximum of 24 months. This is especially the case given the fast evolution of the mobiles market that means we continue to see growing data consumption and falling prices. As well as improving individual consumer outcomes, switching is an important mechanism within competitive markets more generally. The ability for consumers to choose an alternative provider creates the incentive for providers to compete to both retain and gain customers with innovative offerings at attractive prices.

Our understanding of the measure is that any contracts over 24 months in duration with ongoing interdependencies would be prohibited. This means that, while a customer could take out a split contract with a handset agreement for between 25 and 36 months, this would be possible exclusively with an airtime contract that, in addition to being a maximum of 24 months long, had no ongoing impact on the handset contract. At the end of the airtime contract, if the customer chooses to switch to a different airtime tariff or provider, this would have no effect on the handset contract including no requirement to pay the remaining balance for the handset as a lump-sum (as is required for 'linked' split contracts) and no other impact such as on the price of the handset or the terms of its use (as is required for 'financially linked or interdependent' split contracts).

3.2.2 Consumer behaviour will rely on clear communication around 'unlinked' split contracts

Unless the changes are clearly communicated, consumers will experience the taking out of unlinked split contracts in much the same way they currently enter linked split contracts over 24 months. It would be reasonable for a consumer with unlinked split contracts for their handset and airtime, but which they took out at the same time, to assume that their contracts are interdependent in some way as linked or interdependent split contracts are at present. In this scenario, the measure will feed into the cost of confusion that Ofcom has identified within the mobiles market whereby customers can lose out if they do not engage with their provider for too long.

As a result, it is essential that Ofcom incorporates a requirement in the General Conditions for providers to highlight at the point of sale of unlinked split contracts that the two contracts have no impact on each other. Where the two contracts are non-coterminous, this should include a message that, at the end of the airtime contract, the customer will be free to switch to a different airtime deal or provider without affecting the handset contract.

4 Response to specific questions

Question 1: Do you agree that our implementation proposal for bringing the requirements of the EEC 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 agree with Ofcom that the ban on linked split contracts, and other bundles, over 24 months will be good for consumer outcomes by avoiding long tie-ins. In line with General Condition 1.4, all mobile customers should be free to switch to the airtime deal that best suits their needs after a maximum of 24 months. As well as improving individual consumer outcomes, switching is an important mechanism within competitive markets more generally.

However, unless the changes are clearly communicated, consumers will experience the taking out of unlinked split contracts in much the same way they currently enter linked split contracts over 24 months. As a result, it is essential that Ofcom incorporates a requirement in the General Conditions for providers to clearly highlight at the point of sale of unlinked split contracts that the two contracts have no impact on each other. Where the two contracts are non-coterminous, this should include a message that, at the end of the airtime contract, the customer will be free to switch to a different airtime deal or provider without affecting the handset contract.

Please see Section 3.2 which sets our views in further detail.

Question 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?

In general, we agree. However, as noted in response to Question 1, it is essential that Ofcom incorporates a requirement in the General Conditions for providers to clearly highlight at the point of sale of unlinked split contracts that the two contracts have no impact on each other. Where the two contracts are non-coterminous, this should include a message that, at the end of the airtime contract, the customer will be free to switch to a different airtime deal or provider without affecting the handset contract. Unless the changes are clearly communicated, consumers will experience the taking out of unlinked split contracts in much the same way they currently enter linked split contracts over 24 months.

Please see Section 3.2 which sets our views in further detail.

Question 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?

Yes, it is reasonable that providers should have three months to make the necessary changes to their contracts and other relevant materials. It is right that industry works to deliver a fairer experience to consumers by removing this barrier to switching as soon as is practicable.

Question 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?

No.