



Verizon response to Ofcom consultation “Helping consumers to get better deals in communications markets: mobile handsets”

Verizon Business Group (“Verizon”) welcomes the opportunity to respond to Ofcom’s consultation “Helping consumers to get better deals in communications markets: mobile handsets” (the “Consultation”). Please note that the comments in this response are applicable only to the UK market and should not be interpreted as representing Verizon’s views in any other jurisdiction.

We have concerns with the approach that Ofcom adopts in the Consultation and would ask that Ofcom takes the points made below into account as it considers its next steps.

The substance of the Consultation raises questions about the appropriateness of Ofcom’s approach to implementing the EU Electronic Communications Code (the “Code”). We would like to see Ofcom take a more strategic holistic and transparent approach to implementation, as it currently appears to be picking certain elements of the Code and seeking to implement them on an ad hoc piecemeal basis. The Consultation is one example of this approach, and we have seen this previously with its work on end-of-contract notifications.¹ This is causing uncertainty and lack of clarity for the industry, as well as being inefficient. We also consider that Ofcom is acting prematurely in seeking to transpose elements of the Code when there is still considerable uncertainty in terms of when and how the UK will leave the EU.

The flawed approach to implementation of the Code is compounded by a lack of transparency for stakeholders. The Consultation is titled “*Helping consumers to get better deals in communications markets: mobile handsets*”. Any reasonable interpretation of this title would lead readers to believe that the document has relevance for consumer-facing providers, in particular those offering mobile services.

There is nothing to suggest that these proposals in fact have implications for enterprise providers that do not offer mobile services. Yet upon closer inspection, there are implications for enterprise providers that serve public sector customers. It seems likely that given the title many providers potentially affected by these provisions will not have taken the opportunity to review the document and provide comments on the proposals. On this basis alone, the consultation process is unfair and arguably procedurally flawed. It is disappointing that Ofcom does not make clear how its proposals will affect the broader industry upfront in a transparent manner.

¹ <https://www.ofcom.org.uk/consultations-and-statements/category-2/helping-consumers-get-better-deals>

As drafted the General Condition in Annex 7 will make the 24 month maximum contract term length applicable to not-for-profit organisations of any size. This means that large public sector bodies, government departments and multinational charities will be included in the scope. Such large organisations generally negotiate contracts in a similar way to large business customers. They have a similarly strong bargaining power, and have bespoke terms and SLAs. They invariably also have the industry standard practice of tailor-made termination and break-up clauses that include penalty payments. The duration of contracts agreed with large non-profit customers is invariably greater than 24 months. We therefore consider that applying end-user protection requirements as a result of these proposals is disproportionate and unnecessary. While we can seek to agree a waiver of this maximum contract duration with the customer, we would ideally like to see such users carved out of the requirements, to the extent that Ofcom considers it has the flexibility to do so.

Notwithstanding these comments we continue our support to Ofcom in their transposition of the Code, while asking that it does not forget the importance of taking account of the specificities of the high-end business services market, which includes large public sector organisations.

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