

## Communications Consumer Panel and ACOD response to Ofcom's Consultation on helping consumers to get better deals in communications markets: mobile handsets

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The Communications Consumer Panel, established by the Communications Act 2003, is a group of independent experts with direct sectoral experience. We ensure the citizen and consumer voice is represented in communications policy development.

The Panel's job is to ensure that the sector works for consumers, citizens and micro businesses - and in particular people who may be in a more vulnerable position in society. We carry out research, provide advice and encourage Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD (the Advisory Committee for Older and Disabled people) with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

### Response

In early 2017 the Panel raised concerns with Ofcom about some mobile customers (Ofcom estimate up to 1.5 million) being overcharged after their contracts end. This unfair practice by some mobile providers takes the form of people continuing to pay for a handset even though they have paid off the cost of that handset during the life of the contract. In other words, as their tariff initially includes both a handset and a service element, consumers are continuing to pay a monthly amount that includes both. This is exacerbated by some Communications Providers (CPs) taking a passive approach when it comes to informing consumers of their options. We have continued to highlight<sup>1</sup> this issue and welcome that Ofcom is now taking steps to address it.

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<sup>1</sup> For example, in our responses to formal consultations by Ofcom and Government:  
<https://www.communicationsconsumerpanel.org.uk/news-latest/latest/post/679-mobile-phone-operators-overcharging-for-handsets>; <https://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod---bis-consumer-landscape-and-switching-23062016-final.pdf>;  
<https://www.communicationsconsumerpanel.org.uk/downloads/ofcom20mobile20switching20final20oct202015.pdf>

We have also highlighted that consumers whose provider does not automatically unlock their handset at the end of the minimum contract period face an additional barrier to switching. Ofcom's analysis provides further evidence of this.

### **Mandating further transparency measures**

We have previously supported proposals by Ofcom to require CPs to give people more information about their ongoing contracts.

We welcome the proposals that Ofcom has made concerning end-of-contract and out-of-contract notifications. It is essential that CPs give consumers clear information about the products and services that they purchase so they can make informed decisions about their options going forward.

Consumers should be able to receive information that they can easily understand and use to their advantage. We therefore welcome Ofcom's proposal that CPs should "inform customers when they purchase services, and in a clear and transparent manner, of the different cost elements of the mobile package a consumer is purchasing, particularly where this includes handset, airtime and any other services. This information should also be provided at the end of the minimum contract period to provide the customer with a breakdown of what they are continuing to pay for".

This information must be provided in an accessible format, where appropriate and consistent with any arrangements the customer has with the provider already and include details that help to inform consumer choices.

We feel that it should be easy for CPs to communicate the anticipated monthly cost of a consumer's contract after the initial contract period has elapsed at the outset of the contract. We are however mindful that, due to the current average length of mobile contract, consumers will likely require a notification at the end of the initial contract term (as was the recent subject of an Ofcom consultation to which we provided a response).

### **Fairer default tariffs**

We believe that it is in consumers' best interests to require CPs automatically to place consumers on a different, and fairer, default deal when their minimum contract period ends if the purchase of a handset, which had previously been included in the monthly price, has in effect been completed.

A solution which would bring greater clarity to the whole issue would be for CPs to tell consumers when they take out a new contract that includes both handset and service components what price they would pay in the month following conclusion of their minimum contract period. This would allow consumers to make an informed choice about the full implications of their initial purchase.

We also consider that a consumer's handset should automatically be unlocked, without any fee, by their provider at the end of the minimum contract term. Post-contract charges for

handsets and handset unlocking do not form a major part of the questions on which Ofcom is consulting but, as highlighted above, they are an important related issue. We believe it is unfair that once a consumer has paid off the cost of their handset - and therefore effectively own it - they may be charged by their current provider to unlock it in order that it can be used on another network.

We believe that it is unfair for CPs to refer to a monthly fee that is paid over the initial term of a contract to be referred to as a 'discount' price and to increase monthly fees for the same services to a 'default' out of contract monthly price. This is potentially misleading.

We also strongly advocate billing that accurately identifies the costs of both a handset and mobile services being offered under a contract with a CP.

### **Additional solutions including split contracts**

Our focus in respect of protecting consumer interests is to ensure that Ofcom requires CPs to offer mobile phone contracts that are fairly priced, transparently communicated, and easy for consumers to understand.

Split contracts offer many benefits and we have engaged with CPs about this previously. We are in favour of such contracts if they represent a fairer deal to the consumer and are presented in a way that is easier for the consumer to understand.

Whilst we recognise Ofcom's view that this could restrict providers' ability to bundle services and lead to less innovation and competition we do not fully agree that this need be the case. At least one provider already does this and as far as we can tell consumers generally have not suffered as a result.

### **Further comments**

We were very encouraged by Ofcom's statement in the consultation that, in relation to this issue and other work to review barriers and practices that make it harder for consumers to understand the choices available and find better deals, "we (Ofcom) expect to focus on the outcomes for vulnerable consumers".

We welcome the opportunity to inform Ofcom's thinking in this area and consider that important issues in respect of consumer fairness that particularly impact upon consumers in vulnerable circumstances include:

- provision for consumers who are not online and may not be able to benefit from deals that are available online. Deals should be available through more than one channel (e.g. a consumer should not be prohibited from claiming a deal because they can't speak on the phone); and
- the particular impact of unfair policies and practices upon those who are older, disabled (for example, people requiring information in a specific format), less digitally skilled, or on lower incomes - or where a Power of

Attorney is involved. Any consumer who is made vulnerable by a life event such as redundancy or bereavement may also find communications providers' processes harder to navigate. We are keen to understand how CPs have defined vulnerability in their vulnerability policies as required under the new General Conditions and how they are accommodating different needs in their communications in relation to pricing and the end of mobile contracts.

## Summary

- We welcome the proposals to provide consumers with better and clearer information and support the idea of CPs telling customers the different costs for each element of their deal. We support the provision of this information at the point of purchase and at the end of the minimum contract period. We also support moving customers automatically on to a default “best deal” at the end of that period.
- We urge Ofcom to consider the issue of handset unlocking as part of this initiative - the issue relates directly to helping consumers get a better deal in respect of mobile handsets, which is the subject of this consultation.
- We do not believe that Ofcom should rule out looking again at the possibility of split contracts if there is evidence that the current proposals fail to achieve a reduction in consumer harm.
- Finally, we welcome the focus on vulnerable consumers and are interested to see how CPs ensure the needs of all consumers are met in terms of having equal access to information and options.