



Ofcom's Consumer Policy

Statement

Statement

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Foreword

We believe that over the last year, our approach to competition and regulation has begun to deliver significant benefits to consumers in terms of falling prices, increased reported levels of satisfaction and an increase in the availability of a range of services. However, consumers have also faced harm in a number of areas.

We have increased our efforts to protect consumers from scams and unfair practices, and to help enable them to benefit from competitive markets through access to information and processes that allow them to switch providers. Nevertheless, it is clear that more needs to be done. In this statement we set out our approach to protecting and empowering consumers and the actions we believe will ensure we are more effective in these areas.

The communications sector is at the forefront of technological change. Consumers are benefiting from innovative services, faster connection speeds and the ability to buy bundles of communications services more cost-effectively than ever before from a single provider. However, with technological change comes complexity; and with complexity comes the increased potential for scams and other forms of abuse which can develop rapidly and cause a great deal of consumer harm. This complexity can also make comparing services and switching provider more challenging.

We will always seek to prevent scams and unfair practices from occurring. However, the potential for harm will always remain. Where such practices do arise, we will seek to respond promptly and effectively. We have continued to build on and strengthen our enforcement activity over the last year. We have introduced new rules to tackle mis-selling and slamming in our sector and have taken action against the worst offenders. We have also reduced the potential for silent calls through the introduction of new rules and increased penalties, and improved the effectiveness of the regulation of premium-rate services by enhancing the ability of the regulator, ICSTIS, to take effective action against those involved in premium-rate scams.

However, we believe we still need to increase our efforts to make sure we take swift and effective enforcement action against those who defy regulation. We also want to make sure that consumers can complain to the right organisations at the right time and to seek redress when things do go wrong.

In addition to our work on protection we try to ensure that customers are able to understand and explore the market, make informed choices regarding provider and service and benefit from processes that enable them to switch supplier easily when they choose to do so.

To help this, we are revising and relaunching Ofcom's accreditation scheme for providers of price comparison services. Another important factor for consumers in deciding which service to buy from which supplier is the quality of that service. We are exploring the feasibility of providing data for broadband and 3G quality of service, and considering alternative ways of providing quality of service information to consumers without internet access.

While the majority of consumers who have switched communications provider tell us their experience was on balance a good one, substantial problems are emerging in some areas. This is particularly true for a significant number of consumers wanting to switch broadband provider. In response, we are currently consulting on proposals to make it easier for customers to move from one broadband company to another.

We are also aiming to establish consistent principles on customer migrations and switching across a range of communications services. We want to make sure that consumers can switch providers easily and with confidence as bundles of services sold together, such as mobile, landlines and broadband, become increasingly popular.

Ofcom's primary statutory duty is to further the interests of citizens and consumers. All our work is ultimately geared towards this one aim. To understand whether we are doing so effectively, it is important to measure and analyse the consequences of our decisions. On 16 November 2006 we published *The Consumer Experience*, the first in a series of annual publications which will report on how well consumers are served in communications markets. We will continue to work with consumer representatives, industry and other stakeholders to ensure we remain focused on the task at hand: the development and implementation of policies which will secure the best possible outcomes for citizens and consumers of communications services.

Consumer policy action plan

The tables below give a high level overview of the actions which underpin Ofcom's Consumer Policy for the next two years. The tables also set out what we try to achieve on the consumer's behalf. The action plan relates to the three main elements of Consumer Policy:

- Integration with competition policy: ensuring that competition policy takes sufficient account of consumer interests and behaviour;
- Consumer protection: protecting consumers against harm, unreasonable annoyance and anxiety; and
- Consumer empowerment: equipping consumers to obtain the best deal they can.

The background and the details of these initiatives are discussed in more detail in the remainder of the document.

Initiatives related to integration with competition policy	
We will continue to strive to ensure that the conditions that allow sustainable competition take hold and flourish. In this way, we hope to encourage further investment and innovation so that communications markets carry on delivering an increasing range of high quality services at lower prices, ever more tailored towards consumers' particular needs. To ensure that our competition policy is designed to secure maximum benefits to consumers, we will pursue the following actions:	
Action	Purpose
Deepen our market research to gain insight into consumer interests.	To ensure that we understand the impact of competition policy on different consumer segments, and to make sure our policy is designed to deliver positive outcomes.
Further build on relationships with consumer advocacy organisations.	To make sure we fully understand the interests of consumers and reflect these interests effectively in our competition policy and actions.
Further implement the consumer interest toolkit in order to identify, evaluate and communicate consumer interests throughout the development of policy.	To ensure that all our policy is targeted at improving consumer experiences, to make sure that we take account of potential trade-offs between different consumer groups and can articulate this fully in our publications and communications.
Monitor consumer interests by publishing the 'Consumer Experience' report on an annual basis.	To make sure we are able to gauge the success of our actions, re-direct policy accordingly, and focus resources at the highest priority consumer issues.

Initiatives related to consumer protection:

While competition has delivered substantial benefits to consumers, the presence of scams and unfair practices continue to cause consumer detriment. We have increased our enforcement activity over the last 12 months which we believe is beginning to have a positive effect. Nevertheless there are more problems to be addressed and we will step up our efforts in this area further. We will also continue to work to ensure that consumers have effective mechanisms in place to complain to the right organisations at the right time and to seek redress when things go wrong. We therefore will carry out the following actions:

Action	Purpose
Carry out reviews of the consumer related General Conditions and the use of self- and co regulation.	To ensure that consumer protection regulation is fit-for-purpose. Rules need to protect consumers effectively and be readily enforceable, while not imposing excessive or unnecessary burdens on providers.
Continue to develop the consumer advice section of Ofcom's website.	To ensure that consumers are provided, either directly or through intermediaries, with the information they need to understand how they can protect themselves from scams and unfair practices, and how they can complain and seek redress when things go wrong.
Gather information on complaints handling processes in order to assess their effectiveness – and take appropriate action where inadequacies are identified.	To ensure that consumers can pursue complaints in a fair manner, and that they are advised of their right to seek alternative dispute resolution without undue delay where the provider cannot provide satisfaction.
Further develop our early warning systems, in order to identify problems at an early stage.	To ensure that we can act to address consumer harm effectively.
Streamline and improve our referral and investigation processes.	To ensure that we address effectively practices that are causing consumer harm.
Identify further opportunities to deploy industry wide programmes of compliance and enforcement activity.	To further secure industry compliance with the rules that are designed to protect consumers from harm.

Initiatives related to consumer empowerment:

By comparing the price and quality of different services, switching between providers or negotiating a better deal with an existing provider, consumers can influence the market positively in many ways. Over the last 12 months, we have pursued initiatives to deliver information on price and quality of service, and have started to look at consumers' experiences of switching provider. However, more needs to be done to ensure consumers are aware of the choices available and have access to the right kinds of information so they can shop around. We also need to make important improvements to existing switching and migrations processes so that consumers can change provider easily and with confidence. To ensure consumers are empowered to participate in communications markets we will carry out the following actions:

Action	Purpose
Continue to create partnerships with consumer groups and other organisations to promote media literacy, especially focussing on older people.	To ensure consumers are aware of services and alternative providers, especially so they can search for information and shop around.
Explore other channels (in addition to Ofcom's website) to disseminate advice and information to consumers - for example, by creating consumer advice fact sheets.	To enable all consumers, particularly those without internet access, to participate in communications markets by providing advice about opportunities for searching and switching.
Introduce requirements on VoIP providers to produce information about VoIP services to consumers.	To ensure consumers are able to make well-informed decisions about what VoIP services to subscribe to and how to use them.
Launch a new price comparison scheme, and increase consumers' awareness of the scheme.	To provide consumers with accurate information that enables them to compare the cost of different services, and shop around with confidence.
Explore ways to improve the current fixed and mobile quality of service initiatives and to ensure consumers get the information they desire in relation to broadband services.	To provide consumers with accurate information which enables them to compare the quality of service offered by different providers and shop around with confidence.
Introduce new rules on broadband switching. (Subject to consultation).	To ensure that consumers can switch broadband supplier or service with minimum effort or service disruption.
Work to establish consistent principles on customer migrations and switching across a range of communications services.	To enable consumers to switch easily and confidently across a range of communications services, particularly as services increasingly get sold as bundles, including landlines, broadband and mobile.
Improve current number portability processes.	To reduce the time it takes for consumers to transfer from one network to another and to ensure that they can do this when their existing provider has gone out of business.

Section 1

Executive summary

Introduction and overview

- 1.1 The purpose of this Statement is to:
- Set out Ofcom's approach to the promotion of the consumer interest, having taken into account stakeholders' responses to our consultation, additional market research and further analysis; and
 - Give an overview of actions we have already taken and will start over the next two years focusing on consumer protection and consumer empowerment.
- 1.2 We delayed publication of this Statement to complete a number of new research initiatives which have informed our policy direction. This research was carried out in close cooperation with the Ofcom Consumer Panel, who encouraged us to do so in their response to the consultation document.

Consumer and citizen interests

- 1.3 The Communications Act 2003 requires Ofcom:
- To further the interests of citizens in relation to communications matters; and
 - To further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 1.4 In our February consultation document, we proposed a distinction between consumer and citizen interests. This recognised that consumer and citizen interests are closely related and that for many people, the distinction is not very important. Stakeholders' responses to the consultation confirmed this view.
- 1.5 However, for clarity, we propose to maintain a distinction between consumer and citizen policy as follows:
- The purpose of consumer policy is to facilitate the operation of markets, to remove barriers and correct market failures which might otherwise prevent them delivering what consumers want.
 - Citizen-related policy is concerned with changing market outcomes in order to meet broader social, cultural or economic objectives.

Vulnerable consumers

- 1.6 We recognise that vulnerable consumers are not one homogeneous group but that different people can be vulnerable in different situations. Where there is evidence that particular consumers are more likely to be vulnerable to harm than others, we will take this into account when formulating and implementing consumer policy and may give greater weight to the interests of those groups.
- 1.7 We are undertaking a number of initiatives which consider the interests of vulnerable consumers. We also commission and publish a substantial amount of market

research related to potentially vulnerable groups and continue to build our relationships with a variety of advocacy groups in order to learn from their experiences.

Consumer policy objectives

- 1.8 We believe the overall objective of our consumer policy should be, within the confines of our statutory duties, functions and requirements:

To take reasonable and proportionate steps to ensure that consumers benefit from well-functioning markets, are effectively protected from financial and physical harm, unreasonable annoyance and anxiety and are enabled to make informed choices.

- 1.9 The remainder of this Statement addresses developments and initiatives with regard to consumer protection, consumer empowerment and the integration with competition policy.

Consumer protection

- 1.10 We will always seek to prevent scams and unfair practices from occurring. However, the potential for harm will always remain. Where such practices do arise, we will seek to respond promptly and effectively.

- 1.11 In our consultation, we identified four key elements of an effective consumer protection regime:

- Well-designed regulations governing supplier behaviour;
- Consumer access to information about rights and risks;
- Effective complaints handling processes, including provisions for awarding redress; and
- Active monitoring and enforcement.

- 1.12 Below we will describe the priorities and initiatives we have taken and intend to take in the future in each of these four areas.

Priorities and initiatives in respect of regulations and rights

- 1.13 We have carried out research into the nature of consumer harm in order to help us examine the characteristics of scams and unfair practices and to recognise and address the circumstances that make them possible. This should help us determine the possible impact on potentially vulnerable groups and to prioritise our activity.

- 1.14 We are further developing our early warning systems, in order to identify problems at an early stage.

- 1.15 We are committed to carrying out a review of the consumer related General Conditions and the use of self- and co-regulation. This work will be included in our plan for 2007/8.

Priorities and initiatives in respect of raising consumers' awareness regarding scams and rights

- 1.16 The Consumer Advice section of Ofcom's website has been updated with improved signposting and sources of information.¹ We are also in the process of updating our Competition Bulletin in order to make it more effective as a source of information.

Priorities and initiatives in respect of complaints handling and redress

- 1.17 Last year we reviewed the effectiveness of the Alternative Dispute Resolution (ADR) schemes, established to mediate between consumers and providers and to ensure appropriate redress where required.
- 1.18 One of the recommendations of that review was for both ADR schemes – Otelo and CISAS – to publish key performance indicators (KPIs) on their performance. Otelo has been publishing performance data for some time, and CISAS has now also started to publish.
- 1.19 We have commissioned research to gain a greater insight into consumers' satisfaction with their communication providers' complaints handling processes. The findings of this research will inform our policy and/or enforcement action in this area.
- 1.20 We are also reviewing the proportion of cases in which a consumer has been forced to wait for the regulated maximum of twelve weeks (in the absence of a 'deadlock letter') before being able to use the ADR scheme.

Priorities and initiatives in respect of monitoring and enforcement

- 1.21 We have continued to build on, and strengthen, our enforcement activity over the last year. We have also improved our cooperation with other external enforcement partners. It is vital that we continue to reinforce our efforts in this area, so that we can act quickly and effectively wherever consumers are experiencing harm as a result of poor practices by providers.

Consumer empowerment

- 1.22 For a market to be effectively competitive, consumers must be effectively informed and actively engaged. In the consultation, we sought feedback on our overall approach to ensuring consumers benefit from the information they need.
- 1.23 Below we summarise our conclusions and plans for consumer empowerment in the following key areas:
- Our approach to consumer information;
 - The research which informs our decisions;
 - Awareness of alternatives and services;
 - Access to comparative information; and
 - Access to switching processes.

¹ See <http://www.ofcom.org.uk/consumeradvice/>.

Ofcom's approach to consumer information

1.24 We believe there is a role for Ofcom in enabling consumers to make effective choices where we identify gaps in the information available. We do not believe that we are well placed to provide complex comparative information in our own right, but we may have a role in facilitating the provision of this information where the market is not already doing so. However, we do believe that Ofcom is best placed to provide other types of generic, impartial information - such as general advice about communications markets as a whole and opportunities for switching.

1.25 This is reflected in our revised approach to consumer information:

Consumers must play an active and informed role in markets if competition is to be effective. For this to happen, they need information on the products they wish to purchase. If consumers cannot switch easily or buy new services because they do not have the right information, competition does not deliver the intended benefits. In addition, where vulnerable groups of consumers cannot engage in the market, they may fail to benefit from competition or new services that others take for granted.

We recognise that in some cases the market may not deliver to consumers the information they want or need, or may fail to deliver information to certain groups of consumers. Where the market does not deliver the information consumers want or need, Ofcom will consider appropriate intervention where this is deemed to be effective in improving the situation. In such cases, Ofcom will choose the most effective and proportionate option. This could be a self/co-regulatory initiative, an initiative that would involve the provision of information by an independent third party or Ofcom providing the information itself.

Overview of Ofcom's decision-making research

1.26 In previous research we had identified that around half of consumers were 'uninvolved' in communications markets. We based this on whether or not consumers had switched provider. We expressed concern over this and carried out additional research to explore further the barriers consumers face, and the factors which motivate their decisions.

1.27 Our new research² has identified that although some consumers are not actively switching provider, they are participating in the market in other ways, for example by negotiating better deals with current suppliers and surveying the market for alternative offers.

1.28 The research also found that significant numbers of consumers say they would participate more actively if they had access to comparable information on price and customer service, and if the regulator approved reliable and trusted comparison websites. Ofcom's current initiatives fit well with this. However more needs to be done to raise levels of awareness and ensure the information provided fulfils consumers' needs.

² See Annex 4 of the Consumer Experience report, <http://www.ofcom.org.uk/research/tce/report/annex4.pdf>.

Awareness of alternative providers, new services and consumer rights

- 1.29 Our research shows that the majority of consumers are sufficiently aware of alternative providers of communications services. In particular, awareness of fixed line suppliers has risen significantly in the last 18 months, prompted by the launch of Wholesale Line Rental (WLR) services.

Access to comparative information on services

- 1.30 In the consultation we distinguished between comparative information on price and quality of service.

Price

- 1.31 We recognised that communications markets have changed significantly since the accreditation scheme for price comparison websites ('PASS') was established by Ofcom's predecessor, Oftel. We also acknowledged that consumer awareness of the scheme was low and more needed to be done to promote the scheme and add value to accreditation. We concluded that it was appropriate to conduct a full review of the scheme and asked for stakeholders' views on a number of options.
- 1.32 We have concluded that to retain, review and relaunch the PASS scheme is the best way forward. This option was favoured by the majority of respondents. It is also supported by our research which confirms that significant numbers of consumers would be more inclined to participate in communications markets if they had access to price comparison information accredited by Ofcom and would in turn share this knowledge with other people in their social network.
- 1.33 This option would also enable Ofcom to bring the scheme up to date and take account of new services and delivery methods – such as bundled services or international roaming charges that have the potential to make comparisons more complex. We are therefore publishing the details of a new accreditation scheme for price comparison providers alongside this Statement.

Quality of service

- 1.34 In the consultation, Ofcom outlined the details of two separate initiatives to publish comparable information of quality of voice services, one for fixed and one for mobile. The fixed providers launched their website - www.topcomm.org.uk - in July 2006. The mobile network operators launched their website - www.topnetuk.org - in September 2006, with results of independent mobile network voice quality surveys across the UK.
- 1.35 Working with Topcomm and Topnetuk, we are examining ways to improve the current initiatives, for example by exploring the feasibility of providing data for broadband and 3G quality of service, and considering alternative ways of providing quality of service information to consumers without internet access. We are undertaking a full review of both schemes and will publish our proposals next year.

Awareness of, and access to, switching processes

- 1.36 Whilst overall participation in communications markets is high, there is potential to encourage more people to shop around more actively.

- 1.37 However, problems in switching suppliers are emerging for some services, particularly as more consumers take up bundles of services which can make changing providers more complex. Through Ofcom's work on Migrations, Switching and Mis-selling, we are aiming to establish consistent principles on customer migrations and switching across a range of telecoms services.
- 1.38 In addition, Ofcom is aware that significant numbers of consumers who have tried to switch provider suffered from poor customer service. This is particularly true for a number of broadband consumers. In response, Ofcom is currently consulting on proposals to make it easier for customers to change broadband suppliers.

Section 2

Introduction

- 2.1 On 8 February 2006, Ofcom published a consultation entitled Ofcom's Consumer Policy which set out a number of issues and options in respect of Ofcom's approach to the promotion of consumer interests.³
- 2.2 This Statement sets out Ofcom's approach to consumer policy, except in relation to broadcast content and operational aspects of spectrum management. Our approach to consumer issues relating to TV and radio content is considered in the public service broadcasting review and the radio review, which can be found on Ofcom's website.
- 2.3 Equally, this statement does not deal directly with 'citizen' issues, such as Ofcom's approach to the Universal Service Obligation. This area is also covered in other Ofcom publications.
- 2.4 We received 34 non-confidential responses to our consultation and 3 confidential ones. The non-confidential responses can be found on the Ofcom website under <http://www.ofcom.org.uk/consult/condocs/ocp/responses/>.
- 2.5 This statement has been written taking account of the responses to the consultation, initiatives that have started within Ofcom since publication of the consultation and the findings of new research.
- 2.6 In preparing this statement, we have largely preserved the structure of our original consultation. Each section of this statement will cover:
- A reminder of the proposals contained in the consultation document;
 - A summary of stakeholders' responses;
 - An overview of relevant developments, initiatives and projects that have started or taken place since the publication of the consultation document; and
 - Decisions and actions in relation to the issues and options discussed in the consultation document.
- 2.7 This statement identifies the objectives and priorities, formulated in a detailed action plan that will drive Ofcom's consumer policy over the next two years.
- 2.8 Ofcom will apply its consumer policy in a way which is consistent with its duties and powers under the Communications Act 2003 ('the Act') and the relevant EU Directives.

Elements of consumer policy and scope of the statement

- 2.9 Ofcom is required by the Act to further the interests of consumers in communications markets, where appropriate by promoting competition. Furthermore, a central premise of Ofcom's approach, as stated in the consultation document, is that

³ See <http://www.ofcom.org.uk/consult/condocs/ocp/>.

consumer interests can in general best be served by promoting effective competition in the provision of communication services.

- 2.10 However, effective competition may not always be enough to ensure that consumer interests are fully served. In order to make informed choices between competing services and providers, consumers need to have information, tools and confidence. They also need to be protected against scams and malpractice that could cause them financial, physical or psychological harm.
- 2.11 Ofcom therefore identified the following elements of consumer policy which define the scope of this statement:
- The relationship between competition policy and consumer interests;
 - Consumer protection; and
 - Consumer empowerment.

Market research

- 2.12 All our findings are underpinned by market research carried out by Ofcom and the Ofcom Consumer Panel. The following research initiatives have contributed to the findings in this statement:
- Ofcom Communications Residential Tracker;
 - Ofcom Consumer Panel tracking survey;⁴
 - Ofcom Consumer Panel – Older people and communications technology survey;⁵
 - Ofcom decision making survey;⁶
 - Ofcom accuracy of consumer usage estimates;⁷ and
 - Ofcom tracking general awareness of consumers.

⁴ See http://www.ofcomconsumerpanel.org.uk/publications/consumer_panel_report06.pdf.

⁵ See http://www.ofcomconsumerpanel.org.uk/publications/Older_People_and_Comms_FINAL.pdf.

⁶ See <http://www.ofcom.org.uk/research/tce/report/annex4.pdf>.

⁷ See <http://www.ofcom.org.uk/research/tce/report/annex5.pdf>.

Section 3

Overview of Ofcom's Approach

Introduction

- 3.1 In the February consultation document, we gave an overview of our approach to consumer policy. This considered our duties to further the interests of consumers and citizens - including vulnerable groups - and introduced three key elements to our approach:
- The integration of consumer policy with competition policy;
 - Consumer protection; and
 - Consumer empowerment.
- 3.2 We have since refined our thinking, based on the consultation responses, additional research and further internal assessment. In this section of the Consumer Policy statement we outline:
- Our principal duty to further the interests of citizens and consumer and the implications of this for our policy and actions;
 - Ofcom's citizen related initiatives;
 - Our approach in respect of vulnerable groups;
 - The objectives of Ofcom's Consumer Policy; and
 - How we plan to monitor and evaluate whether our policy and actions are having the desired impact, and how to ensure that our resources and efforts are focused on priority areas.

Ofcom's duty to further consumer and citizen interests

- 3.3 It is vital that we take full account of both the interests of citizens and those of consumers in our regulatory decisions. The way the Act is drafted ensures this takes place. Under Section 3(1) of the Act, it is our principal duty, in carrying out our functions:-
- To further the interests of citizens in relation to communications matters; and
 - To further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 3.4 In the consultation document, we proposed the following distinction between consumer and citizen interests:

Consumer interests arise following the establishment of a market, in which individual consumers make decisions about the acquisition and/or use of goods and services, which are provided by suppliers. The establishment of a market creates options for consumers, about

whether to purchase or use particular goods and services, and if so in what quantity or with what frequency.

As citizens, on the other hand, we have a shared, collective interest in a range of issues which are 'beyond the market', but which also have a major influence on our lives.

- 3.5 We recognised in the consultation document that consumer and citizen interests are closely related and that, for many people, the distinction is not very important. Stakeholders' responses to the consultation confirmed this view; most stakeholders either agreed with the proposed distinction between consumers and citizens, or considered it to be artificial and of little relevance.
- 3.6 We believe it is important to maintain some distinction between consumer and citizen interests. Whilst consumer interests focus on the interests of the individual, citizen interests consider what is good for society. The Act anticipated that conflicts could arise between Ofcom's different duties, such as for instance the duties regarding furthering the interests of citizens and consumers. Sections 3(6)-3(8) provide that:
- "Where Ofcom resolve a conflict in an important case between their duties, they must publish a statement setting out:
- a) the nature of the conflict;
 - b) the manner in which they have decided to resolve it; and
 - c) the reasons for their decision to resolve it in that manner."
- 3.7 A framework for thinking about the interests of citizens and consumers and identifying trade-offs between them will enable us to be clearer about the rationale for our interventions. We therefore propose to maintain a distinction between consumer and citizen policy in the following way:
- Consumer policy is concerned with ensuring that markets operate in a manner which most effectively serves consumer interests. The purpose of consumer policy is to facilitate the operation of markets, to remove barriers and correct market failures, which might otherwise prevent them delivering what consumers want.
 - Citizen-related policy is concerned with changing the outcome delivered by the market in order to meet broader social, cultural or economic objectives or interests.
- 3.8 A number of stakeholders wished that we had addressed citizen issues in more detail in the consultation document. As set out above, we have a duty to further both the interests of citizens and consumers and this is reflected fully in our programme of work. Whilst we made a decision to limit the focus of the February consultation – and this statement – to consumer interests, we continue to undertake a large number of citizen-related initiatives. Moreover, as set out in the consultation, we recognise that people are both consumers and citizens and many of the issues and proposals discussed in this statement will therefore positively impact society more generally as well as individuals.

Ofcom's citizen related initiatives

3.9 Although our Consumer Policy consultation, and this statement, are focused on the "consumer" half of Ofcom's principal duty, it is important to be clear that a significant part of our work relates substantially to citizen interests. The following list provides examples of our projects with a specific citizen angle.

- Digital inclusion: We published a survey on the *Communications Market: Nations and Regions*, examining the availability, take-up and consumption of communications services across the UK in April 2006. In October, we published a Statement looking at the policy issues raised by the research. The Digital Inclusion project, whose conclusions will be published in 2007, builds on the findings of this survey, and widens the analysis to look at inclusion issues related to income, age, ethnicity and disability as well as geographic location.
- Media literacy: Ofcom's definition of media literacy is 'the ability to access, understand and create communications in a variety of contexts'. In April 2006, we published an audit of media literacy across the UK.⁸ Its purpose was to provide stakeholders with a range of information about media literacy in the UK. The findings of the research will be used to help us and other stakeholders target their activity to promote media literacy.
- Digital dividend review: The digital dividend review (DDR) examines the options arising from the release of spectrum afforded by the digital switchover (DSO) programme. It considers the value to society of particular uses that the released spectrum might be put to, and how this value to society might be realised. The DDR also considers the process under which the spectrum might be made available for new uses. Ofcom intends to publish a consultation on its initial proposals for the Digital Dividend Review within the next month or two.
- Taking account of consumer and citizen interests: Throughout 2006, we have been implementing the recommendations of the Ofcom Consumer Panel's report *Capturing the consumer interest: A toolkit for regulators and government*, published in February 2006,⁹ to help ensure that we take due account of citizen and consumer interests throughout our work and can articulate these interests across relevant publications and in its communications with stakeholders.
- Usability: The Act gives us a duty to encourage the availability of domestic electronic communications equipment that is easy to use (section 10 of the Act). Our role is to provide an independent assessment of the issues as they affect different groups in society and then work with partners in industry and consumer interest organisations to drive improvements. We have recently started a project that will develop our usability strategy more broadly.
- Digital broadcasting: Within the context of our usability duty, we have thus far concentrated on supporting projects aimed at improving access to digital television. We are also committed to a project aimed at encouraging manufacturers to produce an easy to use remote control for digital TV that will provide consumers with a user experience closer to traditional analogue TV.

⁸ See http://www.ofcom.org.uk/advice/media_literacy.

⁹ See http://www.ofcomconsumerpanel.org.uk/publications/capturing_the_consumer_interest.pdf.

- Video relay work: As part of our review of the Universal Service Obligation we commissioned independent research to study the feasibility of additional telephone relay services. The study focused primarily on video relay. A video relay service could enable deaf, hard of hearing and speech-disabled individuals to make real-time calls to hearing people, and vice versa. We are currently exploring these possibilities with government and with relevant agencies.
- 3.10 We will continue to develop a framework for Ofcom's role in relation to citizens to ensure that appropriate trade-offs can be made between policy aimed at resolving conflicts between consumer interests and citizen interests, and develop policy where markets do not deliver the outcomes society wants.

Vulnerable consumers

- 3.11 Our role in relation to vulnerable consumers constitutes an important example of where our policy work relates to both our citizen and consumer duties. For example, market forces might not deliver access to certain communications services for disabled or low income users.
- 3.12 Where there is evidence that particular consumers are more likely to be vulnerable than others, we must take this into account in the formulation and implementation of our consumer policy. It is important that our policy is not geared solely towards the experience of the 'average consumer' but effectively captures the interests of a range of consumers.
- 3.13 In the consultation we described how Ofcom must take account of a number of specific groups under the EU's Universal Service Directive and the Act. This recognises that vulnerable consumers are not one homogeneous group of consumers, but that different people can be vulnerable in different situations. This was a view supported by stakeholders.
- 3.14 Although most stakeholders agreed with our proposal on vulnerable consumers, some considered that little weight had been given to the issue. They were interested in knowing more about how we would improve the situation of vulnerable consumers.
- 3.15 We have sought to address the needs and interests of vulnerable consumers through various policy initiatives, such as our work to implement the universal service obligations. In addition we have sought to develop a consistent approach to carrying out Impact Assessments and undertaking market research which captures the experiences of vulnerable groups.¹⁰ Going forward, our Digital Inclusion project will consider specifically some of the key issues affecting potentially vulnerable groups in relation to communications markets.
- 3.16 Sections 4 and 5 of this statement will consider issues of vulnerability as they relate specifically to consumer protection and consumer empowerment. In the context of consumer protection, where a scam is targeted at certain vulnerable groups or affects them disproportionately, Ofcom takes this evidence into account when taking enforcement decisions.
- 3.17 In terms of consumer empowerment, vulnerability can relate to the information consumers need to make an informed decision about buying a certain service, or

¹⁰ See Ofcom's Impact Assessment Guidelines, where specific groups of consumers are mentioned, http://www.ofcom.org.uk/consult/condocs/ia_guidelines/condoc.pdf.

switching provider. Certain groups of consumers may experience a gap between the information required and that available, or do not look for information at all.

Consumer Policy Objectives

3.18 The consultation document set out the overall aim of Ofcom's consumer policy. It referred to the characteristics of a world-class consumer regime and had regard to the institutional framework within which Ofcom operates, its duties under the Act and its own regulatory principles. In the consultation document, we described the aim of Ofcom's consumer policy as follows:

To work together with other organisations and the industry to ensure that consumers benefit from increasingly competitive communications markets, are effectively protected from financial and physical harm, unreasonable annoyance and anxiety, and have the information and tools necessary to make informed choices.

3.19 We asked stakeholders for feedback on our view that the overall objective would be achieved when (referred to as Ofcom's 'sub-objectives'):

- Consumer interests are fully and consistently taken into account in the development and evaluation of policy, supported by appropriate evidence on the state of consumer opinion;
- Consumers are equipped with the information, skills and confidence needed to obtain a good deal;
- Consumers have access to clear advice on their rights, and to effective complaints handling procedures and redress;
- Regulatory obligations on suppliers provide an adequate level of consumer protection, without imposing an undue burden, whilst being objectively justifiable, not unduly discriminatory, proportionate and transparent;
- Compliance monitoring and enforcement are fair, consistent, effective and proportionate; and
- Due consideration is given to the needs of vulnerable consumers, to ensure that they are not disadvantaged by the operation of the market.

3.20 Most stakeholders welcomed Ofcom defining the aim of its consumer policy and were broadly supportive of the components and the sub-objectives. Many commented on the detailed wording of the objectives. An overview of the main comments is given below.

- Some stakeholders were pleased to see that we would work with other stakeholders; others considered it inappropriate that our consumer policy could be influenced by those parties who have a vested interest selling to consumers.
- A few stakeholders, though agreeing with our proposal to work together with organisations and industry, considered this to be a means rather than the end of our consumer policy. We agree with this comment.
- One stakeholder considered that our high level objectives were too weak to deliver for disabled consumers. Another stakeholder made a more general

comment that it should be our objective to ensure that all consumers can access and benefit from increasingly competitive markets. We agree that our high level objectives must be strong enough to deliver for all consumers and believe this is made explicit in our sub-objective to give due consideration to vulnerable consumers to ensure they are not disadvantaged in the market.

- One stakeholder wanted to know more about our view about the weight given to consumer policy compared with competition policy. We do not consider it of value to seek to indicate the relative weight that ought to be given to consumer policy and competition policy. Indeed, we view competition policy, in conjunction with measures related to protection and empowerment, as the key means of ensuring the market delivers good outcomes for consumers. We consider that in many cases the two will be mutually supportive.

3.21 Following a consideration of consultation responses and subsequent further analysis, we have slightly amended the objectives of our overall consumer policy:

To take reasonable and proportionate steps to ensure that consumers benefit from well-functioning markets, are effectively protected from financial and physical harm, unreasonable annoyance and anxiety and are enabled to make informed choices.

Monitoring consumer interests

3.22 In the consultation document we proposed that Ofcom should monitor progress on an annual basis against the objectives of Ofcom's consumer policy, using an appropriate set of indicators suggested in the consultation document for each of the communication services.

3.23 There was broad support from stakeholders to monitor consumer interests in both residential and SME markets. Many stakeholders commented on the preliminary list of indicators and offered suggestions. In summary:

- A number of stakeholders believed VoIP should be included as a separate service category;
- Some stakeholders suggested a further breakdown of indicators for different groups of consumers (such as disabled people in general, blind and partially sighted people, other specific user groups and users in different parts of the UK); and
- A few stakeholders suggested including an indicator to measure innovation, for instance by defining a basket of new technologies and comparing take-up in the UK with OECD take-up.

3.24 Since publication of the consultation document, Ofcom has published 'The Consumer Experience', our first annual report of consumer related metrics. The publication covers:

- Access to and take-up of services;
- Competition policy / consumer choices;
- Consumer protection; and

- Consumer empowerment.
- 3.25 This publication¹¹ consists of a research report and a policy evaluation. The research sets out the indicators for each of the four areas and the policy evaluation discusses the implications of the findings, sets out how improvements are being delivered and how issues raised are being addressed by Ofcom, industry and other agencies. It also helps us identify new areas of concern to assist us in prioritising our work.
- 3.26 As discussed in the Consumer Experience report, we are keen to develop the set of measurements we use in this first annual publication for subsequent years. We will continue to work with stakeholders to build on the first report and to expand the list of indicators. The Consumer Experience report describes how stakeholders can provide comments.

Indicators for competition policy

- 3.27 In the consultation document, we proposed to include the following indicators for competition policy:
- Service availability, indicating the extent to which a service is offered in the UK;
 - Household ownership of services, measuring the percentage of UK households that have taken up a service;
 - Pricing levels, indicated by an average change in the market price for each of the services compared to the price level in the previous year;
 - Awareness of general choice of suppliers, measuring the percentage of UK people who are aware of alternative suppliers; and
 - Satisfaction with overall service: the percentage of customers being satisfied with the service provided by their supplier.
- 3.28 Comments in respect of the proposed competition policy indicators were relatively limited and mainly related to measuring Ofcom's high level objectives.
- 3.29 One stakeholder suggested measuring our consumer policy objectives by measuring the percentage of the population which agrees that, overall, our policies reflect consumer interest. We believe it is not feasible to test policy in this generalised way. Instead, we build our policy on rigorous and specific consumer research, stakeholder feedback and analysis.
- 3.30 There are a number of other indicators monitoring our objectives. These include the section in the Consumer Experience report on consumer concerns, complaints data from the Ofcom Contact Centre, ADR schemes, and also stakeholders' responses to Ofcom's consultations.

Indicators for consumer protection

- 3.31 We suggested including the following indicators for consumer protection:
- The number of complaints received by Ofcom, through Ofcom's Contact Centre;

¹¹ See <http://www.ofcom.org.uk/research/tce/>.

- Consumers' awareness of the right to receive a code of practice;
- Consumers' awareness of their provider's complaints procedure and Alternative Dispute Resolution schemes; and
- Satisfaction with Ofcom through measuring the satisfaction of consumers who have used Ofcom's Contact Centre.

3.32 In terms of the proposed indicators for consumer protection, a number of stakeholders suggested including a broader range of information and sources to gather information about protection related issues. Below, we discuss these comments and Ofcom's response.

The number of complaints received by Ofcom

3.33 Because of Ofcom's limited role in complaints handling, stakeholders considered that this indicator would be of limited value. Stakeholders suggested we measure complaints to all relevant bodies, including the Alternative Dispute Resolution (ADR) schemes.

3.34 Although we appreciate Ofcom handles only a small share of the total number of complaints relating to communications services, we propose to keep this indicator, since it will provide some insight into the type and extent of certain complaints.

3.35 Both ADR schemes regularly publish information regarding their complaints data on their websites (see paragraph 3.43 below for further details). We will consider whether including these metrics in the The Consumer Experience report would add value.

Awareness of the right to receive a Code of Practice (CoP)

3.36 Some stakeholders suggested measuring providers' compliance with the obligation to have a complaint handling CoP, including belonging to an accredited ADR service, as an additional indicator. We have published a set of clear guidelines for communications providers seeking approval of their codes¹² and put in place procedures for monitoring and enforcement of non-compliance. Whilst we do not believe an additional indicator is required at this time, we will continue to develop the measurements we use, as set out in the Consumer Experience.

Awareness of complaints procedures

3.37 Stakeholders suggested measuring awareness of complaints procedures amongst consumers who want to make a complaint, rather than all consumers. This would appear to be a pragmatic approach given that the primary responsibility for handling complaints rests with the communications provider.

3.38 In addition, we have introduced a new indicator we have included in the Consumer Experience report, measuring the percentage of consumers who are aware of whom they should approach initially should they wish to make a complaint.

¹² See http://www.ofcom.org.uk/telecoms/loi/g_a_regime/gce/ccodes/.

Satisfaction with Ofcom

- 3.39 We have decided not to include the indicator 'Satisfaction with Ofcom' in the Consumer Experience report. We feel this is more about the effectiveness of Ofcom's handling of customer queries than the extent of harm originating from consumer protection issues.

Any concerns with the market

- 3.40 This is a new indicator which is included in the Consumer Experience report. It measures the percentage of the population that has any concerns in respect of fixed line, mobile and internet services.

Other complaints related indicators

- 3.41 A number of stakeholders suggested including additional complaint related indicators, such as the main causes or types of complaints, the number of complaints resolved/referred back to the provider/referred to ADR/ resulting in sanctions, consumer satisfaction with provider, complaint resolution and consumer satisfaction with ADR.
- 3.42 Information on complaints data is already available from a variety of sources. Following the publication of an Ofcom Direction in January 2005, certain fixed voice service providers publish comparable quality of service statistics on an independent website.¹³ This website shows data regarding the performance of individual fixed communication providers in handling complaints, including billing complaints. The mobile service providers are considering publishing similar indicators.
- 3.43 The ADR schemes (CISAS and Otelo) also regularly publish a breakdown of complaints received by category on their respective websites, including a breakdown of cases where some or no action was required by the provider and the incidence of financial awards made. Both schemes also publish the results of their annual customer satisfaction surveys.
- 3.44 Consumer satisfaction with customer service is included in the Consumer Experience report and is available at an industry level.

Enforcement related indicators

- 3.45 We publish details of our enforcement activity in our Competition Bulletin. We are reviewing the Bulletin to make sure that the information is accessible to stakeholders, including the media. A number of enforcement related indicators, such as the number of investigations instigated by Ofcom, the length of time to conclude investigations and whether a sanction has been imposed are already included in the Competition Bulletin.¹⁴

Indicators for consumer empowerment

- 3.46 In the consultation document, we proposed including the following indicators for consumer empowerment:

¹³ See <http://www.topcomm.org.uk/>.

¹⁴ For information on Ofcom's competition bulletins, see http://www.ofcom.org.uk/bulletins/comp_bull_index/.

- Awareness and understanding of technology terms, measuring consumers' awareness and understanding of new technologies and services offered over new technologies;
- Keeping informed about developments, measuring the percentage of consumers who are interested in the communications markets and keep informed about developments;
- Switching, indicating the percentage of consumers who have ever changed supplier;
- Perceptions of ease of switching, measuring the percentage of switched consumers who considered the switching process to be easy, and perceived ease of switching for those consumers who haven't changed supplier; and
- Ease of making cost and quality of service comparisons, measuring the percentage of consumers who consider comparing costs and quality of service levels of different suppliers to be easy.

3.47 Based on additional research we have made a number of changes to the empowerment indicators published in the Consumer Experience report, compared to those proposed in the Consumer Policy consultation document. Research into consumers' decision making behaviour has provided us with insight into the levels of participation in telecoms markets which are much wider than switching behaviour and the 'Keeping informed' indicator we proposed in the consultation.

3.48 We have also added an indicator monitoring the extent to which consumers are aware of trusted sources of information.

3.49 A number of stakeholders questioned the value of including 'Awareness and understanding of technology' as an indicator. They considered that, in general, new services using new technologies are not being marketed as the technology, but as a new service (e.g. video calling, instead of 3G technology). This appears to be a sensible approach, and future research carried out by Ofcom will focus on new services instead of new technologies.

Integration with competition policy

3.50 In the consultation, we said that given the importance of competition policy in promoting consumer interests, it is essential that sufficient account is taken of those interests in developing competition policy. We suggested this could be achieved by:

- Ensuring that sufficient evidence is available on the nature of consumer interests and behaviour in the markets concerned;
- Developing processes designed to ensure that the evidence is taken into account in an appropriate way; and
- Monitoring the impact of competition policy on the things which matter to consumers, such as price levels, service quality and having a choice of suppliers.

3.51 Stakeholders did not raise any objections to this approach.

3.52 Below we outline a number of priorities and proposals for achieving each of our aims.

Ensuring sufficient evidence is available

- 3.53 One of our key regulatory principles is to be evidence-based. We continue to collect information and evidence on consumer interests from various sources, as set out below:
- Our market research is used to provide us with soundly-based, up to date knowledge about consumers and citizen issues as well as ongoing monitoring of the market. This research has played a particularly important role in our work on complaints handling and redress, and the role of comparative price information, as outlined later in this statement.
 - The OCC continues to perform an important role in handling consumer enquiries. It produces statistics which can be used to identify issues at an early stage and support appropriate intervention.
 - Responses to consultation documents from individual consumers and from representative groups continue to provide a valuable source of evidence on consumer interests. We are currently reviewing the way we consult with stakeholders to ensure our processes are effective.

Developing processes to ensure that the evidence is taken into account

- 3.54 The second approach identified by Ofcom in the consultation involved developing processes to ensure that evidence of consumer interests is taken into account throughout our decision-making.
- 3.55 In February 2006, the Ofcom Consumer Panel (OCP) published *Capturing the Consumer Interest*, a toolkit for regulators and government. In the report the OCP set out a consumer interest toolkit to assess Ofcom's approach to regulation. The toolkit represents a methodological model of good regulatory practice and comprises a set of questions an external auditor could ask a regulator (or another organisation) to assess if consumer interests are being appropriately taken into account.
- 3.56 The OCP's report concluded that Ofcom does have processes demonstrating how it incorporates the consumer interest in its regulatory decision making but that further enhancements may be required.
- 3.57 Ofcom has welcomed the report and its findings. Since publication of the report, we have developed a number of initiatives we believe will help us capture consumer interests effectively. Our proposals fall into three areas:
- **Planning:** to develop a framework which Ofcom can use to prioritise and plan its consumer and citizen policy programme of work and respond appropriately to consumer and citizen interest related demands;
 - **Projects:** to develop a consistent and coherent framework to ensure citizen and consumer interests are taken into account appropriately throughout Ofcom's policy and decision making processes; and
 - **Communication:** to ensure we articulate and communicate our decisions in a way that allows consumers to understand our decisions and explains what the outcomes are for citizens and consumers.
- 3.58 The OCP intends to use the toolkit to undertake a programme of audits.

Monitoring the impact of competition policy

- 3.59 The final area identified by Ofcom in the consultation related to monitoring the impact of competition policy on consumers. As set out above, we have considered stakeholders' comments on these indicators and on 16 November 2006 published *The Consumer Experience*, the first in a series of annual publications which reports on how well consumers are served in communications markets.
- 3.60 The remainder of this statement will address our consultation proposals, stakeholders' responses and our plans for the next two years in respect of consumer protection and consumer empowerment.

Section 4

Consumer Protection

Introduction

- 4.1 In the context of Ofcom's work, consumer protection refers to the protection of residential and business customers from harm caused either by the use of communications networks and services or by providers of those networks and services.
- 4.2 Competition, and the associated innovation and development of new services, delivers significant benefits to consumers. However, both competition and new services can also contribute to an environment in which scams and other forms of abuse can develop quickly and cause consumer harm. The existence of scams and other unfair practices may also adversely affect the business of legitimate providers who play by the rules. This risks undermining competition and the benefits that accrue to consumers from well-functioning, competitive markets.
- 4.3 We fully appreciate the importance of our role in ensuring that the potential for consumer harm arising from communications markets is minimised. Consumer protection is recognised as a key priority in this year's Annual Plan.
- 4.4 Our protection work aims to ensure that scams and other unfair practices are prevented from occurring, but that where they do occur, we respond swiftly and effectively. Our work, therefore, involves a mix of both preventative action and enforcement.
- 4.5 We also have a role to play in ensuring that, where things go wrong, consumers have access to adequate complaints handling processes. We take action if providers make it difficult for consumers to complain or to seek redress through alternative dispute resolution (ADR) schemes.
- 4.6 As our work moves forward, we are particularly keen to prioritise our policy work and enforcement action. Given the complexity of this challenge, we plan to further step up our consumer protection activity in next twelve months.
- 4.7 The consumer protection section of the consultation document considered among other things the effectiveness of the existing consumer protection framework and set out a list of priorities and proposals.
- 4.8 The remainder of this section considers:
- an overview of our proposed priorities and proposals and stakeholders' responses;
 - developments which have taken place and relevant external and Ofcom initiatives that have started since the publication of the consultation document; and
 - actions for the next two years, in terms of activities and projects related to consumer protection.

Consultation document proposals and stakeholders' responses

Key elements of an effective consumer protection regime

4.9 Ofcom identified four key elements of an effective consumer protection regime:

- Well designed regulations governing supplier behaviour;
- Access to information about rights and risks;
- Effective complaints handling processes, including provisions for awarding redress; and
- Active monitoring and enforcement.

Responses to the consultation

4.10 Stakeholders broadly agreed on the characteristics of an effective consumer protection regime. A number of stakeholders, both providers and consumer organisations, agreed but argued that the practical implementation of these elements was critical.

4.11 VoIP and Internet providers stated that new regulation should be targeted against unscrupulous suppliers and expressed concern about the risks of untargeted regulation imposing unnecessary burdens upon responsible suppliers.

4.12 Another provider suggested Ofcom should target its regulation to require specific companies, based on an objective set of criteria, to put in place appropriate remedies in case they are in breach instead of using general conditions that place a burden on all providers.

Ofcom's comments

4.13 We note there was broad support from stakeholders in respect of the key elements of an effective consumer protection regime and we therefore endorse these elements as providing an adequate framework for effective consumer protection. The broader issues around the need for regulation to be targeted as well as issues related to empowerment/literacy and the protection of vulnerable consumers are discussed below.

4.14 We agree with stakeholders' comments that regulation should minimise the burden on companies that are not causing consumer harm and in all our policy making we seek to achieve this. General Conditions necessarily apply to all providers. We will only put in place appropriate remedies and take targeted action when a specific provider is in breach of the conditions.

4.15 The Annual Plan, in which consumer protection is recognised as a key priority, makes clear our intention to protect consumers and citizens by:

- Handling complaints via our Contact Centre;
- Taking appropriate enforcement action;
- Promoting media literacy;

- Carrying out research to understand better the varying needs of different groups within the UK population; and
 - Working with Digital UK and the Government in relation to digital TV switchover.
- 4.16 We have started a number of activities to deliver ongoing improvements in the effectiveness of our consumer protection work. Through this, we aim to strengthen and prioritise our prevention and enforcement activity by developing our knowledge and systems to protect customers. This involves the following:
- Undertaking improved analysis to increase our understanding of consumer harm and how this impacts on different groups of consumers: this will allow us to better target work and resources on the basis of evidence and analysis;
 - Re-evaluating our internal processes to ensure that Ofcom can intervene swiftly and effectively where evidence of new scams and other unfair practices emerge;
 - Analysing when and how to communicate information effectively about our enforcement activity, as well as developing improved links with relevant external stakeholders (such as other enforcement agencies and consumer organisations).
- 4.17 This ongoing work has already yielded some positive outcomes including:
- Better use of systematic cross-team working - in particular, between Ofcom's Consumer Enforcement Unit, Consumer Policy Team, Contact Centre and External Communications Team;
 - An increasing number of investigations which are being triggered from complaints from sources other than direct complaints into Ofcom; and
 - Improved working relationships with other enforcement agencies, including local Trading Standards departments, the City of London Police, the OFT consumer team and other agencies.

Priorities and proposals with regard to regulations and rights

- 4.18 The consultation document contained the following three proposals regarding regulations and rights – that we would:
- Find ways to make the regulatory framework more adaptable to changing circumstances, and able to respond better to new problems as they emerge, by:-
 - developing an early warning system through sharing information with other complaint-handling organisations;
 - agreeing with other complaint-handling organisations common criteria for classifying types of complaints;
 - looking for opportunities to fast-track changes in regulations where these are necessary to address cases of consumer harm.
 - Review the requirements for effective self- and co-regulation; and

- Review the consumer-related General Conditions, to see if they can be simplified, and better targeted towards offending firms.

Responses to the consultation

- 4.19 Stakeholders generally agreed with Ofcom's priorities and proposals. Although there was broad support for the development of an early warning system, a number of comments and observations were made in relation to the practicality of such an approach, including that:
- The effectiveness of an early warning system will depend on consumers using complaints handling organisations, and complaints data alone may not be sufficient and will take time to build up;
 - Sharing of information between organisations should be based on strict guidelines; and
 - While sharing information is a good idea, it may be less useful where there is systematic abuse by a single company. The concern here was that it could take some time before an ADR scheme becomes alerted to such abuse and/or is able to inform the regulator about it.
- 4.20 Both the proposed review of the General Conditions and the review of self- and co-regulation were welcomed by all stakeholders. Some providers were concerned about the presumption that self-regulatory frameworks may not be sufficiently robust, whereas a consumer organisation believed Ofcom should be cautious, and only allow self- or co-regulation once providers have proved themselves to be capable of behaving in a responsible way in a regulated arena.

Ofcom's comments

- 4.21 We note there is broad agreement from stakeholders in respect of our priorities and proposals with regard to regulation and rights.
- 4.22 We have been developing early warning systems in order to identify problems at an early stage, by making further improvements to our internal systems and by continuing to build connections with other enforcement agencies and complaints handling organisations (for instance, we were one of the first organisations to be allowed direct access to Consumer Direct's database).
- 4.23 As already described, we have undertaken research on the nature of consumer harm. This work has helped us to recognise and address the circumstances that make scams/ unfair practices possible, improved our intelligence on the impact of scams, and assisted us in the prioritisation of enforcement activity.
- 4.24 We continue to look for opportunities to fast-track particular investigations where there is a likelihood of significant consumer detriment. As a result, we have already taken action to improve our powers through our action on persistent misuse (which is discussed in section 4.55), on PRS diallers and on broadband migration.
- 4.25 Ofcom also remains committed to carrying out reviews of the consumer-related General Conditions as well as the use of self- and co- regulation. These substantial pieces of work will form a major component of Ofcom's consumer-related work in 2007/8.

Priorities and proposals for raising consumers' awareness

4.26 The consultation document set out the following list of proposals:

- Promoting awareness of scams, by:
 - publishing new scam alerts and distributing these via an email registration service on the Consumer Advice section of our website; and
 - revamping our Competition Bulletins by making them easier to read, (for instance, by explaining the nature of the offence in plain English as well as in precise technical terms).
- Provision of improved information about consumer rights and about how to complain, by:
 - including advice written to the standard of the Plain English Crystal Mark on the Consumer Advice section of Ofcom's website, to cover the types of harm which occur repeatedly, advice on rights, and where (if appropriate) to find other sources of information.
 - offering training for service and call centre staff from other relevant regulatory bodies on recognising and managing complaints.

Responses to the consultation

4.27 In general, stakeholders agreed with these proposals, although a fair number of provider and consumer stakeholders questioned whether Ofcom's website would be sufficient to provide information about scams and consumer rights, particularly in relation to vulnerable groups. They suggested finding more innovative ways to communicate, using a wider diversity of media.

Ofcom's comments

4.28 We have been conducting further analysis on how best to communicate information about scams and unfair practices to consumers, using different channels (including the media and existing channels such as OFT's "scambusters" group). We have also strengthened our relationships with other regulators/ enforcers and are reviewing our arrangements for communicating through the media.

4.29 The Consumer advice section of our website has been updated. It now provides consumers with more advice on what to do and where to go on a wide variety of communications issues and offers suggestions on what to look out for when choosing a new service or provider.

4.30 We are also in the process of updating and improving the Competition Bulletin in order to make it more effective as a source of information to consumers as well as to the media.

4.31 In relation to the proposal on training for customer service staff, we now think it will be more appropriate for us to share best practice in complaints handling among providers and other complaint handling agencies. This is something we have already started doing.

Priorities and proposals regarding complaints handling and redress

- 4.32 We considered the main priority in this area to be the implementation of the recommendations of the Alternative Dispute Resolution Review¹⁵ and the issues arising from it. The first set of recommendations related to the ADR schemes stated that:
- ADR Schemes should publish Key Performance Indicators (KPIs) covering staff competence, timeliness of decision-making and overall customer satisfaction;
 - The schemes should publish regular reports showing the breakdown of complaints received by type;
 - CISAS should carry out and publish consumer satisfaction surveys comparable to those currently produced by Otelo; and
 - The schemes should notify Ofcom where a member's breach of the rules and/or decisions was sufficiently serious to consider expulsion from the scheme.
- 4.33 The second set of recommendations involved the effectiveness of complaints handling by communication providers, where Ofcom made a number of recommendations for best practice:
- Communications providers should ensure that complainants are correctly signposted to ADR – by making their complaints code of practice easily accessible;
 - Communications providers should record and monitor complaints accurately to ensure that consumers are directed to ADR at the right time;
 - Communications providers should issue a 'deadlock' letter whenever the provider decides that a complaint could not be resolved. Complainants should not be made to wait for twelve weeks as a matter of course before being referred to ADR; and
 - Communications providers should not direct enquiries or complaints to Ofcom, nor prematurely to an ADR scheme.

Responses to the consultation

- 4.34 There was some support for these proposals, although many stakeholders believed Ofcom could have taken a stronger stance towards ensuring all communication providers took responsibility for handling their customers' complaints.
- 4.35 For example, one of the ADR schemes pointed out that in order for KPIs for ADR schemes to be meaningful and comparable, the member companies must be required to inform their customers about the existence and way of accessing their ADR services and they should not restrict consumers' knowledge of and/or access to an ADR scheme.
- 4.36 Some industry stakeholders were concerned that Ofcom's proposals seemed to imply a transfer of enforcement powers from the regulator to ADR schemes such as

¹⁵ See <http://www.ofcom.org.uk/consult/condocs/adr/statement/>.

in relation to best practice in complaints handling which, in their view, went beyond what is required by the European Framework or the Communications Act.

- 4.37 A number of suggestions were made to ensure compliance with the General Conditions on complaints handling. Those suggestions included a content/service provider registration scheme and a Consumer Codes Approval Scheme (a self-regulatory initiative by the OFT aimed at promoting and safeguarding consumers' interests). More generally, it was felt that the proposal to review the General Conditions of Entitlement would help Ofcom to focus its compliance activity on those companies which persistently generated complaints.

Ofcom's comments

ADR schemes

- 4.38 There has been a rapid growth in the membership of CISAS and Otelo since their approval by Ofcom in late 2003. This presents new challenges to the schemes to ensure that customer service standards are not compromised. The requirement to publish and regularly monitor KPIs to improve transparency was therefore central to the ADR review.
- 4.39 CISAS published information on its performance for the first time in 2006. Both Otelo and CISAS have set internal targets for the improvement of service standards. Ofcom has stipulated a KPI that 80% of disputes accepted for investigation should be resolved within a six week period.
- 4.40 Otelo published the results of its most recent customer satisfaction survey in July 2006. Over 7 out of 10 of those surveyed were satisfied with the service provided by Otelo (irrespective of the outcome of their dispute).
- 4.41 CISAS published the results of its first customer satisfaction survey in August 2006. This relates to all consumers who made enquiries to CISAS, 63% of which were either satisfied or very satisfied with the service provided.
- 4.42 Ofcom considers that it seems that customers who have contact with ADR schemes are generally satisfied with the service they receive.

Communications providers

- 4.43 Research undertaken for Ofcom in August this year investigated the level of consumer awareness of their right to receive a code of practice on complaints handling from their communications provider. The code of practice includes information about how to refer a dispute to ADR, should the provider fail to resolve a complaint satisfactorily.
- 4.44 In total, 46% of adults using a communications provider (fixed line, mobile or internet) were aware that a code of practice existed for any of their suppliers. Around one third of those customers found out about the code from their supplier. This finding does not demonstrate that providers are not signposting correctly to ADR - for example, it is possible that complaints are handled effectively at the first point of contact.
- 4.45 Ofcom has therefore commissioned further research to gather data on consumers' experiences with the complaints handling processes of their suppliers in order to assess whether these processes are effective. If we find that providers are making it difficult for consumers to complain or to seek redress through ADR, we will take

action. This may for example involve enforcement activity where there are breaches of existing regulations or further work to determine whether the existing rules need to be strengthened in some way.

- 4.46 One of the aims of the fixed voice quality of service initiative, Topcomm,¹⁶ launched in July 2006 (see section 5.82), is to improve the transparency of providers' service standards, including how well fixed voice providers handle complaints. A major advantage of this has been the industry development of a common definition for recording and monitoring complaints. This should help providers identify more easily when it is appropriate to refer a complainant to an ADR scheme.
- 4.47 Finally, we are reviewing the timeliness of referrals to ADR. A communications provider which is unable to resolve a complaint should send a customer a "deadlock letter", so they can access ADR immediately (without waiting 12 weeks). We are looking at the evidence on referrals. If this suggests that consumers are being made to wait unnecessarily before being able to access ADR, then we will consider what action we need to take to secure improvements.

Priorities and proposals regarding monitoring and enforcement

- 4.48 Ofcom considered its main priority in this area to be to continue its approach to the enforcement of consumer rights. Ofcom considered more could be done regarding:
- Monitoring evidence on consumer problems, and particularly on the emergence of new issues;
 - Developing its experience of consumer protection enforcement; and
 - Streamlining processes for handling cases referred from co-regulatory bodies.

Responses to the consultation

- 4.49 Stakeholders generally agreed with Ofcom's proposals, but made a number of observations:
- One stakeholder would like to see a more vigorous collection of premium rate service fines imposed by the regulator ICSTIS;
 - Another one believed Ofcom should have published criteria to judge whether regulatory intervention was necessary; and
 - A third stakeholder suggested extending the enhancement of referral procedures to include the Information Commissioner's Office and the Gambling Commission in the future.

Ofcom's comments

- 4.50 Ofcom found broad support from stakeholders for Ofcom's priorities and proposals regarding monitoring and enforcement.
- 4.51 We have already seen a significant improvement in fine collection by ICSTIS. Its half-year statement to September 2006 reported that 75% of fines were now being

¹⁶ See <http://www.topcomm.org.uk/>.

collected.¹⁷ We believe that changes to the ICSTIS code, as approved by Ofcom, should enhance ICSTIS' ability to collect fines.

- 4.52 We have not published criteria to specify when we will take enforcement action. Whilst we have considered this, we need to balance the merits of transparency against the possibility that such information might be abused by unscrupulous providers, which might target their activity where enforcement action is less likely.
- 4.53 We have continued to build on, and strengthen, our enforcement activity over the last year, and have taken a vigorous approach to enforcement. For example, we have established a dedicated team within Ofcom's Investigations Programme to focus on the enforcement of consumer protection measures. Since then the Consumer Enforcement Unit has pursued a number of own-initiative "active enforcement programmes".
- 4.54 Examples of Ofcom's enforcement activity over the last six months include:
- An ongoing monitoring and enforcement programme into fixed-line telecoms mis-selling and slamming. This follows a policy initiative that obliged providers to establish and comply with a code of practice for sales and marketing of fixed-line telecoms. This has already resulted in six individual investigations;
 - A programme of investigation and enforcement to prevent the harm caused to consumers by silent and abandoned calls, following the publication of a revised statement of policy on the persistent misuse of an electronic communications network or service. Notifications of Contravention of Section 128 of the Communications Act 2003 regarding persistent misuse of an electronic communications network or an electronic communications service have recently been sent to Bracken Bay Kitchens Ltd, Space Kitchens Ltd, Toucan and Carphone Warehouse; and
 - A programme of investigation to monitor compliance with new rules introduced on 19 April 2006 requiring telephone companies and other communications providers to provide their customers with improved information about calls to Number Translation Services (NTS) and Premium Rate Service (PRS) numbers.
- 4.55 The last twelve months' activity has also seen significant movement towards improved joint working with external enforcement partners. Key Ofcom enforcement activity in individual investigations over the past twelve months include:
- Action taken under our 'urgent case' powers to require the immediate suspension of premium rate services provided by Talkline Communications Limited, following the failure of Talkline to comply with previous decisions of ISCTIS;
 - Issuing of an enforcement notification and financial penalty of the maximum level permitted (of 10% of turnover) against Just Telecomms UK Ltd, trading as Lo-Rate Telecom, for serious and repeated breaches of rules governing the sale and marketing of fixed line telecoms services;

¹⁷ See http://www.icstis.org.uk/pdfs_news/1stHalfYearStatement0607.pdf.

- Imposing fines totalling £50,000 on Telecom Billing Services Ltd (TBS) for failing to provide the information required by Ofcom in the course of an investigation; and
- Issuing an enforcement notification against Platinum Telecom UK Ltd for serious and repeated breaches of rules governing the sale and marketing of fixed line telecoms services, including the requirement for Platinum to remedy the consequences of its actions.

4.56 Ofcom intends to build further on these initiatives. Future priorities include continuing:

- To streamline and improve our processes for the referral and investigation of cases related to consumer protection so that Ofcom can intervene swiftly and effectively where evidence of new scams or consumer harm arise;
- To look for opportunities to improve further our early warning systems to identify, and inform, priorities for investigation;
- To identify further opportunities to deploy industry wide programmes of compliance and enforcement; and
- To pursue external engagement with other enforcement partners and stakeholders, to deliver effective outcomes and co-ordinated responses to emerging issues.

Section 5

Consumer Empowerment

Introduction

- 5.1 As set out in the consultation, active consumer behaviour is a key condition for healthy competition to exist in a market. By searching out offers in terms of price and quality, comparing them, switching between providers or negotiating a better deal with an existing provider, consumers can influence the market positively in many ways. Furthermore, some consumers play an important role in giving advice about services, providers, prices and quality to other consumers, enabling them to make better informed choices.
- 5.2 Consumers' ability to search, compare, switch and negotiate can be characterised as 'consumer empowerment'. In the consultation we established three key elements of consumer empowerment and sought feedback from stakeholders on proposals for each:
- Awareness of alternative suppliers and services;
 - Access to comparative information on services; and
 - Awareness of and access to switching processes.
- 5.3 In the consultation, we also sought feedback on Ofcom's overall approach to consumer information.
- 5.4 The remainder of this section considers stakeholders' responses to Ofcom's proposals and the findings of market research carried out during and after the consultation period. It describes Ofcom initiatives to help support and deliver information to consumers and sets out our conclusions and plans for consumer empowerment in the following key areas:
- The role of information in competitive markets and Ofcom's approach to consumer information;
 - An overview of Ofcom's decision-making research, looking at participation of consumers in the communications markets;
 - Awareness of alternatives and services – an update on our proposals and what we have done to promote awareness;
 - Access to comparative information – conclusions of our review of the 'Ofcom PASS', other price related information and plans for quality of service information; and
 - Access to switching processes – conclusions drawn from the decision-making research on consumer switching behaviour in communications markets and an update of our review of switching processes.

Ofcom's approach to consumer information

Responses

- 5.5 In the consultation, Ofcom defined its high level approach to consumer information in the following way:

Ofcom does not consider it has a primary role in improving information flows between suppliers and consumers – this is best left to the market. However, we recognise that in some cases the market may not deliver to consumers the information they want. Where the evidence suggests that this has resulted in consumer harm, or is likely to do so in the future, there may be a case for regulatory intervention.

In these cases, Ofcom will first consider the scope for a self-regulatory or co-regulatory initiative, or for an initiative that would involve the provision of information by a third party. Only in exceptional cases will Ofcom itself provide information about suppliers or their products and services.

- 5.6 Although most providers in general agreed with this statement, some believed Ofcom could do more to deliver the message that consumers could save money if they shop around. One provider suggested there may be a need for Ofcom to provide unbiased information about the types of products and services available. Another argued that the Ofcom website should be better publicised and Ofcom should look at alternative means of communication.
- 5.7 Consumer stakeholders were substantially less supportive of Ofcom's high level approach. They considered that Ofcom could have been more ambitious and that our overall approach to information was not sufficiently robust. These stakeholders believed more should be done to equip consumers with information and skills, either by Ofcom becoming a primary source of information or by working with a third party. More generally, both industry and consumer stakeholders questioned whether Ofcom's web based approach was sufficient and suggested that Ofcom should explore other ways of reaching consumers without internet access.
- 5.8 In response to this feedback, we have looked again at the role consumer information plays in competitive markets and the types of conditions that may initiate intervention, to help develop a strategic framework for consumer information that more explicitly defines and explains Ofcom's approach. We have also revised our stated approach to consumer information to reflect our new thinking.

The role of consumer information in competitive markets

- 5.9 When analysing markets, the traditional analysis tends to concentrate on the supply-side structure of the industry. Ofcom's recent Strategic Review of Telecommunications achieved a groundbreaking settlement to address the key concerns with the structure of the UK telecommunications services industry. However, Ofcom recognises that it is not only the supply-side that determines the outcome in a market - demand-side issues are also of great importance. Accordingly, in this section we have sought to develop and explain our understanding of the role of consumer information in the effective functioning of competitive markets.

- 5.10 As set out in this statement, Ofcom wishes to address a wide range of consumer policy issues related to empowerment. Underpinning these issues is a need to understand why, when and how it may be necessary to intervene in the market to help consumers make decisions. We need to understand why and when it might be that consumer behaviour will not create the necessary pressures on companies to provide effective competitive outcomes and whether it is necessary and, if so, possible to intervene to attempt to remedy any problems.
- 5.11 Two branches of economics – ‘information economics’ and ‘behavioural economics’ – can be used to extend our understanding of the role of consumer information and how consumers use information, in markets.
- 5.12 A very important and relevant conclusion from information economics is that there will be wide ranges of prices in a market when there are more uninformed than informed consumers. This makes it possible for suppliers to price discriminate, charging uninformed consumers higher prices than informed consumers.
- 5.13 A central conclusion from behavioural economics is that some consumers do not find it easy to make informed decisions. This might be because the information they are presented with is complex and comparisons are difficult to make. Here, it appears that there may be a role for Ofcom in supporting consumers in their decision-making to ensure that they are capable of making effective choices.
- 5.14 For some consumers, purchasing a communications service may not be sufficiently important for them to be concerned that they are on a costlier price plan if they are “time poor” but financially well off. On the other hand, some consumers may be on the wrong price plan because they are simply unable to make an informed decision about what they are buying. For these consumers - and particularly for vulnerable consumers - they are not achieving an outcome that best meets their needs, so it seems they suffer a genuine loss as a result of their uninformed decision.
- 5.15 Where we identify a gap in consumer information, we need to understand what particular biases different consumer groups employ and how their decisions are affected by particular social circumstances, to help guide and target interventions. This will allow Ofcom to understand the format in which comparison data should be presented and what the data should cover, so it can overcome certain biases without moving outside of consumers’ computational abilities.
- 5.16 Ofcom may be able to identify ways in which some problems could be overcome by providers changing the way they present information to their customers in their marketing literature and bills. However, it is highly likely that there will still be a need for the coordination of data across the market. As a result we could work with third party suppliers of information or, if necessary, provide data directly to consumers ourselves. The application of these different types of intervention is discussed further below and is reflected in the various initiatives set out in this section.
- 5.17 However, even producing information in a usable format may not be enough to change consumers’ decision-making if they do not feel capable of making the decisions - perhaps because they have negative past experiences or are simply not aware that information exists. Accordingly, we could work with consumers and intermediaries to understand what further support consumers might need if they are to feel confident about making active, effective choices.

Ofcom's approach to consumer information

- 5.18 We have revised our approach to consumer information to reflect our understanding of the critical role consumer information plays in competitive markets and the various information initiatives we have supported and are proposing.
- 5.19 There is a role for Ofcom in enabling consumers to make effective choices where information gaps are identified. Some problems may be overcome by encouraging suppliers to change the way they present information to their customers. However, it is highly likely that some problems will require the coordination of data across the market. In practice, we think it is unlikely that Ofcom would have a role to provide co-ordinated information that involves complex computation and requires significant resources to keep up-to-date – such as price comparison information. Here, the role of intermediaries is vital. However we do believe that Ofcom may be best placed to provide other types of generic, impartial information - such as advice about opportunities for switching.
- 5.20 This proportionate position is reflected in the revised approach set out below and in the information initiatives and proposals described in the rest of this section:

Consumers must play an active and informed role in markets if competition is to be effective. For this to happen, they need information on the products they wish to purchase. If consumers cannot switch easily or buy new services because they do not have the right information, competition does not deliver the intended benefits. In addition, where vulnerable groups of consumers cannot engage in the market, they may fail to benefit from competition or new services that others take for granted.

We recognise that in some cases the market may not deliver to consumers the information they want or need, or may fail to deliver information to certain groups of consumers. Where the market does not deliver the information consumers want or need, Ofcom will consider appropriate intervention where this is deemed to be effective in improving the situation. In such cases, Ofcom will choose the most effective and proportionate option. This could be a self/co-regulatory initiative, an initiative that would involve the provision of information by an independent third party or Ofcom providing the information itself.

Overview of Ofcom's decision-making research

Introduction

- 5.21 As set out above, in analysing the contribution consumer information makes to market outcomes, there is a need to try to understand how consumers make decisions and how they are able to use information, considering the ways in which information could be presented differently to meet the needs of all consumers.
- 5.22 Previous research conducted for the consultation identified that around 50% of consumers said they were 'uninvolved' in communications markets. This was based on whether consumers had switched provider. In the consultation we expressed concern over the position of 'uninvolved' consumers and agreed to carry out further research into the decision-making behaviour of different groups to better understand what drivers and barriers they experience in terms of engaging with the market.

- 5.23 Our new research¹⁸ explored the ‘how’ and ‘why’ that underpins consumer behaviour when it comes to evaluating, selecting or switching provider – focusing on the factors which encourage or discourage activity in these markets and the role that information plays in the decision-making process.
- 5.24 There were two phases to Ofcom’s decision-making research - a qualitative study to identify how consumers are participating in communications markets and to develop hypotheses for what influences this behaviour, followed by a large-scale quantitative study to validate these findings and determine the key drivers of behaviour.

‘Participation’ in communications markets

- 5.25 The research identified that while between 62%-72% of consumers in each communications market said they had not changed their supplier in the last four years, some consumers were ‘participating’ in other ways that would have a positive impact on competition in the telecoms markets, for example by negotiating better deals with current suppliers and keeping an eye out for alternative offers.
- 5.26 By taking all of the elements of participation, such as past switching behaviour, negotiations with main supplier, current market knowledge and future switching intentions, four participation segments have emerged:
- **Inactive** consumers - consumers *may have had some past involvement*, but have *low interest in the market*. This group does not keep up to date with the market or plan to make any changes to their service in the future.
 - **Passive** consumers – more likely than inactive consumers to have participated in the past and indicated *some current interest* in the market and/or were *not averse to changing* an aspect of their service in the future.
 - **Interested** consumers – while *broadly similar to passive* consumers in terms of their past behaviour and future intentions but as their name suggests they are *more likely to keep an eye on the market*, looking out for better deals. The increased interest in the market means that this group are more likely than passive consumers to act on their future intentions.
 - **Engaged** consumers – *the most active group* in terms of past behaviour, interest in the market and future switching intentions.
- 5.27 These segments differ slightly across markets with the level of engagement highest in the internet market and lowest in the fixed line market. This appears to reflect the relative maturity of each market, with participation higher in less mature markets where consumers may be more aware of the availability of new services.

Information sources

- 5.28 As part of the decision-making research, Ofcom asked consumers whether they would be more encouraged to shop around if they had access to certain types of information. This included:
- Information available to calculate the cheapest supplier according to usage;

¹⁸ For details, see Annex 4 of The Consumer Experience report, <http://www.ofcom.org.uk/research/tce/report/annex4.pdf>.

- Information available comparing customer service levels; and
 - Regulator approval for reliable / trusted comparison websites.
- 5.29 The research found that significant numbers of people within the passive, interested and engaged groups state they would participate more actively in the market if they had access to comparable information on price and customer service, and if the regulator approved reliable and trusted comparison websites.
- 5.30 Ofcom's current initiatives fit well with this. However, we recognise that consumers may not always be aware of the existence of these initiatives and that *inactive consumers* are unlikely to respond to the provision of more information. We believe that more needs to be done to raise levels of awareness and ensure the information provided fulfils consumers' needs. We address these issues in our proposals and conclusions set out in the rest of this section.

Sources of information used

- 5.31 Whilst access to comparable information is important to many consumers, it is evident that one of the most important influences on participation is testimony from family and acquaintances.
- 5.32 The qualitative part of Ofcom's decision-making research revealed that personal sources of information not only have the potential to overcome false perceptions that deter shopping or 'searching', they also play a critical role during the shopping process itself. Opinions of friends, family and colleagues are important in identifying options for consideration, in testing these options, in justifying a preferred option or even as a way to short-cut the decision by seeking a recommendation.
- 5.33 The research also showed that much of what underlies the significance of word of mouth has to do with trust – friends and family act as a proxy guarantor for the trustworthiness of a supplier precisely because they are a trusted source themselves. While information provided by suppliers is often thought to be informative, it is less likely to be trusted.

Who gives word of mouth recommendations?

- 5.34 Amongst all markets and consumer groups people are acting as trusted advisers to other consumers.
- 5.35 The numbers vary considerably by the four participation segments, rising to 53% among *engaged consumers* in the Internet market and falling to 9% among *inactive consumers* in the fixed market. This reflects the different degrees of interest that these segments display in the market.
- 5.36 Because word of mouth has such a significant impact on consumer decision-making in communications markets, it is essential that those consumers who play an advisory role are well informed. We conclude that information initiatives that would encourage these 'advisers' to participate more actively in the market are likely to have an even greater impact on the market because they will help inform consumers who then go on to advise other people within their social network. This conclusion is reflected in the proposals set out in the rest of this section.

Vulnerable consumers

- 5.37 Ofcom's decision-making research identified little demographic variation between *inactive, passive, interested and engaged consumers*. However it should be noted that the research only addressed consumers who are already customers of communications services. It did not, therefore, identify potential obstacles to new consumers wanting to enter the market.
- 5.38 Ofcom is currently addressing potential obstacles to take-up of communications services amongst vulnerable groups in a number of important areas. This includes our work on Universal Service, through which BT is required to provide affordable voice telephone services to consumers with low-incomes and a text relay service enabling deaf and hard of hearing users to communicate. We will continue to assert the principle of functional equivalence of access such that disabled users can access services that are functionally equivalent to the mainstream services they are excluded from. This year we commissioned a study into the feasibility of alternative relay services - including video relay - and we are now carefully studying its findings.
- 5.39 In addition, we will be further investigating the behaviour of people who are excluded from communications markets in our Digital Inclusion project in 2007. The project will look at where there is lack of availability or take up, the causes of this and significance for social exclusion, what policy options are open to us, and how we can work with other organisations to address these issues. Alongside this, we will be launching a Vulnerability Study which will consider the needs of specific groups of vulnerable consumers in communications markets.
- 5.40 More generally, we recognise that vulnerable groups are particularly at risk if they suffer a financial loss as a result of an uninformed decision. This might be choosing the wrong price plan or signing up to a service that offers poor customer service. To help guide appropriate interventions in the market, we need to understand how decisions are made and what type of support is required. In this context, several stakeholders commented that Ofcom's existing approach to information needed to do more to address the needs of certain groups of consumers without Internet access – such as consumers on low incomes and older people. We address this issue in the proposals set out in the rest of this section.

Awareness of alternative providers, new services and consumer rights

- 5.41 In the consultation, Ofcom identified the first element of consumer empowerment as awareness of alternative suppliers and services – comprising general awareness of suppliers, and awareness and understanding of technology terms.

Awareness of alternative suppliers

- 5.42 Previously, Ofcom found that consumer awareness of alternative suppliers was generally between 87-97%, depending on the communications market. In those areas where we found knowledge and understanding to be lower – for example in naming alternative fixed calls suppliers – we predicted that the emergence of new suppliers and services in these markets flowing from the growth of CPS, WLR and LLU would boost consumer awareness.
- 5.43 Our research shows that awareness of fixed line suppliers has risen significantly in the last 18 months prompted by the launch of WLR and LLU services by providers such as Carphone Warehouse and the Post Office. Currently over half (54%) of fixed line customers are spontaneously aware of two or more suppliers available in their

area. Nearly a fifth of fixed line customers now say they aware of three or more suppliers which compares to just 6% at the end of 2005.

Awareness of new services

- 5.44 A number of stakeholders commented they did not see any sense in Ofcom measuring consumers' awareness of technology terms such as 'broadband', 'VoIP' and '3G'. They argued that consumers are more interested in what services are available – high-speed internet, cheaper phone calls and video mobile telephony.
- 5.45 We agree that emphasis should be placed on consumers' awareness of new services, rather than the technologies that sit behind them. For example, we are seeking to ensure that consumers are well informed about the benefits and drawbacks of VoIP services and are able to make informed decisions about what services to subscribe to and how to use them. We will shortly be publishing new requirements for VoIP providers to supply their customers with information about their service, including whether access to the emergency services is available.

Older people

- 5.46 In the consultation we expressed concern that older people appeared to have significantly lower levels of awareness and said we would look further at this finding. Most stakeholders shared our concern about older consumers. One stakeholder suggested that Ofcom should consider communicating with older people in partnership with other organisations such as Age Concern.
- 5.47 In July 2006, the Ofcom Consumer Panel published a study into older people and their engagement with communications technology¹⁹. It found that attitude and character are key determinants of whether or not people are connected to the internet – rather than health, age or income. The study suggests that those who are not engaged with communications technology, if given appropriate support and assistance, could have the opportunity to overcome their concerns and fears and benefit from PC and internet usage. Examples of support mentioned by the study include courses designed for and run by older people and a mentoring scheme.
- 5.48 Ofcom has created a number of partnerships to deliver activity to promote media literacy in recognition of the particular needs of older people. This approach seeks to use expert third parties - with experience of effectively engaging with older people and existing channels of communications - to deliver information. For example, in England and Wales we have worked with the National Institute of Adult Continuing Education (NIACE) to highlight media literacy as a major theme for Adult Learners' Week and have provided support for trainers taking part in Silver Surfer Week - a week-long event organised by Age Concern and Digital Unite where local groups provide computer and internet taster sessions for older adults who want to learn and experience first hand the benefits of being digitally connected.
- 5.49 Ofcom's Digital Inclusion project (see above) will further explore the issues around barriers to take-up of services amongst older people alongside our ongoing work on media literacy.

¹⁹ Older people and communications technology, Ofcom Consumer Panel, July 2006
http://www.ofcomconsumerpanel.org.uk/publications/Older_People_and_Comms_FINAL.pdf.

Awareness of consumer rights

- 5.50 We believe a further element of consumer empowerment that can be brought under the heading of 'awareness' is consumers' ability to access information on complaints handling processes and consumer protection issues such as scams.
- 5.51 As set out in the Section 3, we have launched a consumer advice portal on our website which offers various types of consumer advice, including what to do if you are slammed or receive a nuisance call. We hope that this information will help enable consumers to protect themselves against scams and unfair practices. The advice also includes information on how providers should deal with consumers' complaints and the role of the ADR schemes in cases where complaints are not resolved. We will consider other means of disseminating this advice via fact sheets and intermediaries, for example media and consumer groups (see below).

Access to comparative information on services

- 5.52 The second element of empowerment identified by Ofcom is access to comparative information on services. In the consultation we distinguished between comparative information on price and quality of service. This section sets out our conclusions and proposals for each.

Ofcom 'PASS'

- 5.53 Under Article 21(2) of the Universal Service Directive, Ofcom has an obligation to encourage the provision of information to enable end-users (including consumers), as far as appropriate, to make an independent evaluation of the cost of alternative usage patterns.
- 5.54 In 2002, Oftel introduced a scheme called the 'Oftel PASS' for websites which compare the prices and services of different suppliers and provide impartial and accurate information. The scheme was adopted and rebranded as the 'Ofcom PASS' in 2003.
- 5.55 In the consultation²⁰ we recognised that communications markets have changed significantly since the PASS was established, with a far greater range of services and providers to choose from. We also acknowledged that consumer awareness of the scheme was low and more needed to be done to promote the scheme and add value to accreditation. We asked for stakeholders' views on four options:
- Option 1: Withdraw the PASS scheme;
 - Option 2: Maintain the scheme as it stands;
 - Option 3: Retain, review and relaunch; and
 - Option 4: Establish closer links with a single price comparison provider.

Responses

- 5.56 Respondents generally saw value in the provision of quality-assured comparative information on price and therefore did not support withdrawing the scheme altogether

²⁰ See http://www.ofcom.org.uk/consult/condocs/ocp/ocp_web.pdf, paragraph 5.45.

(Option 1). However, most respondents put forward ideas for how the current accreditation arrangements could be improved and therefore did not favour maintaining the scheme as it stands (Option 2).

- 5.57 Nearly all respondents supported a review and re-launch of the existing scheme (Option 3) or the development of a single source of information by Ofcom establishing links with a single information provider (Option 4). Some respondents did not express a preference between these two options as long as the information was provided, whilst one thought a combination of the two would work best.
- 5.58 Respondents favouring option 4 argued that closer links with a single provider would help ensure that information was complete, comprehensive and objective. It was also suggested that since the Ofcom PASS had failed to accredit services other than home telephony, option 3 was no longer tenable. However the OFT warned that there may be competition concerns attached to option 4 and industry stressed that it would not be appropriate to ask it to fund any such scheme.
- 5.59 A number of respondents noted that web-based solutions do not cover everybody's needs and that all consumers – not just those with Internet access – need access to independent price comparison information.

Research

- 5.60 As set out above, Ofcom's decision-making research found that a significant number of *passive, interested and engaged consumers* across all communications markets would be encouraged to participate more in markets if information to calculate the cheapest provider according to usage was available and if they had access to trusted comparison services that were approved by the regulator. Our research found that these groups of consumers were also most likely to be the originators of word of mouth recommendations.
- 5.61 Price is a key driver of participating in the telecoms markets. While the vast majority (at least 80%) of all consumers agreed that the cost of their service was very important to them, *engaged* consumers were significantly more likely to be driven by price (98%). This is further evidenced by the willingness of this segment to consider unfamiliar brands offering them a good deal (59% compared to 32% of inactive consumers).
- 5.62 In addition to the decision-making research, we have undertaken an assessment of fixed line and mobile price comparison websites to see how effective they are in capturing accurate information on consumers' usage and providing accurate advice on potential savings.²¹ This is particularly important given that consumers need to have an understanding or knowledge of their personal usage patterns in order to extract information or advice on cheaper or better quality services from these sites. A copy of the research - *Ofcom Price Comparison Research* – is published alongside this report.
- 5.63 The research found that one in three fixed users are able to accurately estimate their usage/monthly spend. However fixed line customers with unbundled services tend to underestimate their usage/monthly spend. Reasons for this include disregarding extras such as VAT, or under-calculating the cost of line rental. In contrast,

²¹ See Annex 5 of The Consumer Experience report, <http://www.ofcom.org.uk/research/tce/report/annex5.pdf>.

consumers with bundled services tend to over-estimate their usage/monthly spend as they do not realise the cost of the rest of the bundle or are unable to disaggregate the component parts.

- 5.64 For mobile, the research found that nearly half of mobile users are able to estimate their usage. Of the remainder, one in three under-estimated their monthly spend, while 1 in 5 over-estimated. Mobile customers on a contract tended to under-estimate usage and spend, often due to a lack of awareness of when their existing tariff limits have been exceeded. Mobile customers who use pre pay tended to estimate their spend more accurately as they are much more in control of their spend patterns.
- 5.65 Just under half of all consumers claimed to have used a price comparison website, with the most popular use being for utilities, and financial products such as credit cards. However this appears to be largely driven by low awareness rather than lack of interest. Indeed the research clearly found that consumers were generally positive towards price comparison websites and would favour sites that looked credible, impartial and explained clearly how they make their money. Consumers wanted the option of switching bundled services together but were put off by the need to input a lot of detail. Ofcom's PASS accreditation logo was not noted by any respondents, reflecting the low levels of awareness which we reported in our consultation.
- 5.66 In summary, the price comparison research shows that significant numbers of consumers are able to accurately estimate their fixed and mobile usage but that doing so is less easy for users of bundled services and packages that include bundles of free minutes. Price comparison websites appear to play an important role – in addition to other sources of information – in informing consumers about alternative deals and in some cases, enabling consumers to switch provider. However lack of awareness prevents some consumers from using this information.

Conclusions

- 5.67 We conclude that Option 3 – to retain, review and relaunch Ofcom's price accreditation scheme – is the best option. This option was favoured by the majority of respondents to the consultation who identified significant value in the provision of quality-assured, independent comparative information on price. It is also supported by our decision-making research which confirms the idea that significant numbers of consumers would be more inclined to participate in communications markets if they had access to price comparison information accredited by Ofcom and would in turn share this knowledge with other people in their social network.
- 5.68 Option 3 would enable Ofcom to bring the scheme up to date and take account of new services and delivery methods – in particular bundled services that have the potential to make comparisons and switching more complex. This is reflected in Ofcom's price comparison research which found users of bundled packages have greater difficulty using comparison services that are geared towards unbundled services. It would also give us the opportunity to relaunch the scheme and raise awareness amongst consumers.
- 5.69 Whilst Option 4 – developing a single source of information – has benefits in terms of simplicity and clarity, we believe the innovation displayed by providers of comparative information is to the advantage of consumers and this can be harnessed best by an accreditation scheme open to multiple providers. For example, the inclusion of customer satisfaction ratings alongside price comparison information gives consumers a range of information on which to base their decisions to buy and switch services. We are also aware that several new providers of comparative information

are keen to apply for accreditation by Ofcom. We would therefore not wish to foreclose the market for quality-assured information by limiting accreditation to a single provider.

- 5.70 On the basis of this feedback and evidence, we are publishing the operational details of a new accreditation scheme for price comparison providers alongside this statement. We believe that a new scheme, offering consumers quality-assured price comparison services for both individual and bundled communications services - which is widely promoted by Ofcom and which consumers are advised to use - would be the most effective means of ensuring wide availability of independent price comparison information, one of the key elements of consumer empowerment. An Impact Assessment setting out the benefits and costs of the four options is included in Annex 2 of this statement.
- 5.71 Indeed, a key objective of the new accreditation scheme is to get the information into the public domain and across a variety of consumer segments – not simply by Ofcom directing individual consumers to accredited sources of information, but also by encouraging intermediaries (such as newspapers, magazines and consumer advisers) to reproduce the data and offer advice in alternative formats.
- 5.72 In revising and relaunching the scheme, we will encourage the provision of price comparison information to consumers without internet access and ensure that accreditation is extended to these alternative means of provision. We would like to accredit only those price comparison websites who also offer consumers the ability to get advice and switch without necessarily being online. If this requirement deterred price comparison providers from applying for accreditation, we would review our position. However we are aware that a number of existing online providers – including www.uswitch.com and www.simplyswitch.com – already offer their customers the option of speaking to an adviser and switching over the telephone.
- 5.73 Given the consensus amongst respondents to the consultation and the detailed comments we received, we do not consider further consultation on the four options is required. However, as mentioned in paragraph 5.70, a full impact assessment of our proposals as part of the details of the new scheme is included in Annex 2. We will keep the scheme under review and take comments from stakeholders on its application and value, considering whether to revise the scheme in light of any comments we receive.

Other price information initiatives

Consumer information on price comparisons

- 5.74 In the consultation, Ofcom suggested commissioning or sharing in the costs of an annual report, produced by an independent third party, which would provide consumers with general information about the choices available to them in communications markets, which could be used to generate awareness of price comparison information. A number of stakeholders believed an annual report of this kind would be out of date too quickly, but that it could be useful to track overall trends.
- 5.75 We acknowledge that information about prices has the potential to become dated very quickly. However we do think there is value in Ofcom producing more general advice on communications markets – such as what to consider when choosing a provider and how to switch. For example, fact sheet information could be sent out directly to consumers as well as intermediaries representing particular groups of

consumers (e.g. older people, disabled users and children) and the media. In addition, where Ofcom has previously placed summaries of complex consultation documents in public spaces such as doctors' surgeries, we could use this opportunity to display the fact sheets, providing punchier, more targeted advice on pertinent consumer issues and information about communications markets.

Access to comparative information on quality

5.76 In the consultation, Ofcom outlined the details of two separate initiatives by industry to publish comparable information on quality of voice services, one for fixed and one for mobile. The fixed quality of service initiative, TopComm,²² was launched in July 2006 and the mobile scheme, Topnet UK,²³ was launched in September 2006. Ofcom proposed to monitor consumer attitudes and behaviour with respect to quality of service, and review the schemes once they had been launched.

Responses

5.77 There was a wide range of views in response. Some industry stakeholders questioned the level of consumer demand for quality of service information. Others were keen to expand the scope of the fixed voice initiative to include services such as VoIP and internet access. Those who supply primarily large business customers believed the scope may be wider than Ofcom may have intended. The CPS/WLR/LLU providers questioned whether the proposed parameters were a fair representation of the different services, and stressed the need to ensure that consumers knew the difference. In relation to the operation of the scheme, validation of the data and ensuring compliance with the Direction were raised.

5.78 Consumer stakeholders agreed that providing quality of service information would help consumers make a more informed decision when switching supplier, provided they were aware it existed. However they felt that a web based only service might fail to reach a wider audience.

Research

5.79 Ofcom's decision-making research shows that quality of service is consistently identified by consumers as an important factor in deciding whether to switch to another fixed-line provider.

5.80 As set out above, a significant number of *passive, interested and engaged consumers* across all communications markets would be encouraged to participate more if information to compare customer service level was available. Similar to our conclusions on comparative price information, the case for information on quality is strengthened since these consumers are also most likely to be the originators of word of mouth recommendations. Comparative information on customer services will therefore help inform consumers who then go on to advise other people within their social network.

5.81 Ofcom's decision-making research found that around a third of consumers found it difficult to make quality of service comparisons – with the lowest level of ease in the fixed line market.

²² See <http://www.topcomm.org.uk/>.

²³ See <http://www.topnetuk.org/>.

Conclusions

- 5.82 The fixed providers launched their website - www.topcomm.org.uk - on 27 July 2006. The site provides comparable information on service provision, fault incidence and fault repair, complaints processing and upheld billing complaints. The data is approved by Topcomm's independent auditor, who ensures that all participants are interpreting the scheme requirements and measurement definitions in a standard and comparable way. Ofcom requires that all fixed line providers with at least £4 million net revenues and 100 million minutes of voice calls handled to end users per quarter participate in the scheme.
- 5.83 The mobile network operators launched their website - www.topnetuk.org - on 5 September 2006, with results of independent mobile network voice quality surveys across the UK.
- 5.84 Ofcom will continue to monitor consumers' needs for information when making purchasing decisions to ensure that the quality of service parameters provided keep pace with changing needs, for example choice of bundled products.
- 5.85 Working with Topcomm and Topnetuk, Ofcom is exploring ways to improve the current initiatives. For example, Topcomm is exploring the feasibility of providing data for broadband quality of service. The mobile operators are considering the potential for testing 3G services. Ofcom is also encouraging the mobile providers to publish customer service related statistics such as complaints handling and billing complaints. Both schemes are considering alternative ways of providing quality of service information to consumers without web access, for example provision of information in retail outlets.
- 5.86 As mentioned in the Consumer Policy consultation document²⁴ and in The Consumer Experience report,²⁵ Ofcom is undertaking a full review of both schemes, based on end user feedback and independent research and will publish its proposals in the new year.

Awareness of and access to switching processes

- 5.87 The third element of consumer empowerment identified by Ofcom relates to awareness of and access to switching processes. In the consultation we looked at various drivers and barriers to switching and referred to Ofcom's Migrations, Switching and Mis-selling consultation.
- 5.88 We concluded that while the majority of consumers found switching easy, a significantly higher minority found switching broadband service more difficult than switching fixed or mobile supplier. We also found that whilst most consumers had a realistic perception of how long it would take them to switch supplier, people who didn't search for information tended to overestimate the time it would take to search for alternatives in the fixed market and that this may deter these consumers from switching.
- 5.89 In the consultation we also expressed concern over the position of 'Uninvolved' consumers who were not dissatisfied with their situation but who may have been disadvantaged in terms of their ability to participate in the market. We agreed to carry

²⁴ See http://www.ofcom.org.uk/consult/condocs/ocp/ocp_web.pdf, paragraph 5.77.

²⁵ See <http://www.ofcom.org.uk/research/tce/tidb/tce.pdf>, paragraphs 2.62-2.63.

out further research into the decision-making of different groups to 'engage' in the market or not, and what drivers and barriers they experience.

Responses

- 5.90 Stakeholders broadly agreed with Ofcom's approach regarding switching. A number of providers considered that Ofcom appeared to be concerned with the need for consumers to switch, although in many cases the benefits did not outweigh the costs, or consumers were quite happy with their current provider. The NCC observed that high switching levels did not automatically mean that a market was competitive, and that there could be considerable consumer benefits in providers alerting consumers to alternative, cheaper packages based on consumers' recent usage patterns.

Awareness of switching processes

- 5.91 Ofcom's decision-making research assessed consumers' use of information sources, the trade-offs consumers make when considering how to switch and whether mis-perceptions about potential savings and the switching process impact consumers' switching decisions.
- 5.92 The research found that whilst just over a third of consumers in the fixed and mobile markets have ever switched suppliers, customers who have not switched are still actively participating in the market. 40% of fixed-line customers and 36% of mobile customers have changed tariff packages with their current supplier at some stage. And 53% of internet customers have changed their tariff or package with their existing ISP whereas only 28% have switched supplier.
- 5.93 Whilst overall participation in communications markets is high, there seems to be potential to encourage more people actively to switch provider. The figure below gives a breakdown of possible reasons stopping people from switching.

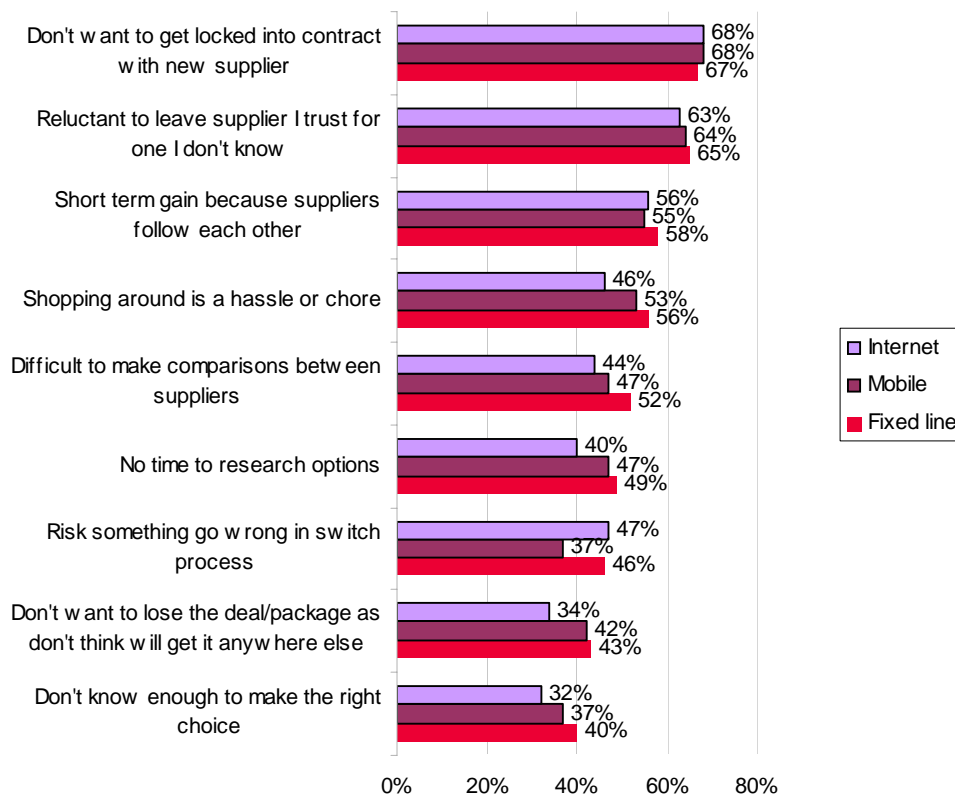


Figure 1: Perceived barriers to switching. Source: Ofcom decision-making survey, conducted by Jigsaw during June 2006.

5.94 In these markets, fear of the unknown is one of the largest barriers to switching. In all three markets 'not wanting to get locked into a contract' and 'reluctance to leave a provider they trust for one they don't know' are the most mentioned barriers to switching. The hassle of switching is a barrier to shopping for a new provider specific to non-switchers, with between 46% and 56% of consumers who have not switched mentioning it being a hassle/chore.

Conclusions

5.95 Our research shows that significant numbers of consumers are put off switching because it might be too much hassle, or something might go wrong. More needs to be done to dispel these fears of the unknown.

5.96 As set out earlier in this section, we recognise that Ofcom may have a role in providing more general advice on communications markets – such as opportunities for switching and what to look for when choosing a new provider. This information would not only be useful for individual consumers but could also be used by intermediaries to help generate greater public awareness of the benefits of searching and switching.

Access to switching processes

5.97 Between 84% and 93% of those who have switched in each of the communications markets said it had either been very or fairly easy to change their supplier.

- 5.98 These are positive results. However Ofcom recognises that problems in switching suppliers are emerging for some services particularly as more consumers take up bundles of services which can make changing providers more complex. In addition, Ofcom is aware that not all consumers who have tried to switch provider have a good experience and this is particularly true for broadband consumers.
- 5.99 As a proportion of total transfers, the number of broadband customers who experience difficulty switching is small. However for those who experience a problem the effect is significant and consumers are often stranded without service. Problems associated with switching broadband provider are currently the biggest cause of complaints received by the Ofcom Contact Centre.

Migrations, Switching and Mis-selling

- 5.100 On 16 February 2006, Ofcom published a consultation on Migrations, switching and mis-selling. The consultation reviewed current approaches to migrations, switching and mis-selling across transferable voice and broadband products.
- 5.101 The primary focus of the consultation was on the processes that enable customers to switch between service providers and products. Over time, the industry has developed different processes for different products, which means that the customer experience of switching varies depending on the products involved.
- 5.102 Ofcom's view is that there should be no artificial obstacles in the way of customers who choose to move between service providers and products. The underlying processes for switching should be swift and efficient, and enable customers to move from one provider or product to another smoothly, ideally with no service interruptions or problems arising from the underlying migrations process.
- 5.103 Ofcom's initial view was that there may be good reasons for moving towards a single switching process applying to all transferable voice and broadband products.
- 5.104 Ofcom is currently considering responses to the consultation, which closed on 28 April 2006, and intends to carry out a further consultation in early 2007 setting out its thinking in more detail. In advance of this, Ofcom is engaged with an industry inter-product transfers working group looking at some of the policy and practical issues raised in the Migrations Consultation associated with current and future harmonised migration processes in more detail. The outputs of this group will feed into Ofcom's further consultation.

Number portability

- 5.105 Number portability allows consumers to keep their telephone numbers when they switch provider. Ofcom has published a consultation document containing a set of proposals to improve current number portability processes.²⁶ For mobile numbers, Ofcom is proposing that the time it takes to transfer a customer's number from one network to another should be reduced from the current five working days to either three days or one day, subject to consultation responses.
- 5.106 Separately, for both fixed and mobile numbers, Ofcom is seeking to protect consumers from some of the impacts of network failure, which could occur for example if a network operator ceases trading. Under the current method for routing

²⁶ See <http://www.ofcom.org.uk/consult/condocs/gc18/>.

calls, should a network failure occur, customers may not be able to keep their number when they switch to another provider. In addition, former customers of the failed network who had kept their number when they switched provider could lose incoming calls. Ofcom is proposing an improved method of routing calls, based on a central database of numbers, which would avoid these impacts.

Switching broadband provider

- 5.107 In April 2006 Ofcom announced that it would examine the effectiveness of existing processes which enable consumers to sign up to, and switch between, broadband providers. While, in the majority of cases, these processes are effective and ensure that customers do not experience problems, Ofcom was concerned that where problems do arise they tend to be serious and disruptive to customers. One such example is where consumers want to switch but are unable to do so because they find it difficult to obtain a Migrations Authorisation Code (MAC) from their current supplier. Without a MAC, consumers find it more difficult to change provider and may find themselves without a broadband service while the transfer goes through.
- 5.108 The MAC process is part of a voluntary industry initiative. This means that providers who make it difficult for their customers to obtain a MAC are unlikely to be in breach of any formal obligations, limiting Ofcom's ability to take action to protect consumers.
- 5.109 In order to address these difficulties, Ofcom published a consultation document (*Broadband migrations: enabling consumer choice*) on 17 August 2006 which proposed changes intended to make it easier for customers to transfer between broadband service providers. Ofcom proposed the introduction of new regulation to require all broadband providers to follow the MAC process, and make it mandatory for broadband providers to supply customers with MACs on request.
- 5.110 The consultation closed on 5 October 2006 and Ofcom intends to publish a final statement shortly.

Annex 1

Glossary

3G	Third generation of mobile systems. Provide high-speed data transmission and supporting multimedia applications such as full-motion video, video-conferencing and internet access.
ADR	Alternative Dispute Resolution: Requirement on communications providers to have a method in place for resolving disputes with their customers, if their own processes fail to do so. See also CISAS and Otelo.
Annual Plan	Ofcom's annual plan, setting out its priorities and full work programme for a period of 12 months.
Broadband	A service or connection generally defined as being "always on" and providing a bandwidth greater than 128kbit/s.
BSI	British Standards Institute: National Standards Body of the UK, develops standards and standardization solutions to meet the needs of business and society.
CISAS	Communication and Internet Services Adjudication Scheme: one of the two Ofcom approved alternative dispute resolution schemes.
Communications Act, or the Act.	Communications Act 2003, which came into force in July 2003.
Consumer Experience	Annual publication by Ofcom containing a list of indicators reporting on how well consumers are served in the communications sector.
Consumer Interest Toolkit	A methodology for evaluating or auditing the way in which consumer and citizen interests are taken into account in the formation and implementation of regulation. "Capturing the consumer interest - a toolkit for regulators and government" published February 2006 www.ofcomconsumerpanel.org.uk
Code of Practice	A set of rules specifying certain types of behaviour which providers can or should adhere to.
CP	Communications Provider.
CPS	Carrier Pre-selection: The facility offered to customers which allows them to opt for certain defined classes of call to be carried by an operator selected in advance (and having a contract with the customer) without having to dial a routing prefix, use a dialler box, or follow any other different procedure to invoke such routing.
DSO	Digital Switch Over: The process, starting in 2008 and ending in 2012, whereby TV services in the UK will go completely digital by TV region.
DTI	Department of Trade and Industry. Department responsible for trade,

	business, employees, consumers, science and energy.
Engaged consumers	The most active group in terms of past behaviour, interest in the market and future switching intentions
FPS	Fax Preference Service: A central opt out register whereby businesses and individuals can register their choice not to receive unsolicited sales and marketing faxes.
FSA	Financial Services Authority: Regulator of financial services in the UK.
General Conditions	Set of conditions applying to communication providers, imposing legal obligations on providers.
ICSTIS	The industry-funded regulatory body for all premium rate charged telecommunications services.
Impact Assessment	An analysis of the likely impacts of a policy change and the range of options for implementing it.
Inactive consumers	Consumers who may have had some past involvement, but have low interest in the market. This group does not keep up to date with the market or plan to make any changes to their service in the future.
Interested consumers	While broadly similar to <i>passive</i> consumers in terms of their past behaviour and future intentions but as their name suggests they are more likely to keep an eye on the market, looking out for better deals. The increased interest in the market means that this group are more likely than <i>passive</i> consumers to act on their future intentions.
ISP	Internet Service Provider: A company that provides access to the internet.
KPI	Key performance indicator. Indicators used to provide measurements of the defined priority and key success factors of a project or system.
LLU	Local Loop Unbundling. A process by which BT's exchange lines are physically disconnected from BT's network and connected to other operators' networks. This enables operators other than BT to use the BT local loop to provide services to consumers.
MAC	Migrations Authorisation Code. A MAC is a unique code that the customer obtains from their existing provider and gives to their new provider to switch service.
Mis-selling and	Range of unacceptable marketing and sales activities including:

slamming	<ul style="list-style-type: none"> • the provision of false and/or misleading information; • applying unacceptable pressure to change Providers, such as refusing to leave until the customer signs, or using threatening or otherwise intimidating behaviour; and • 'slamming', an extreme form of mis-selling, where customers are simply switched from one company to another without their express knowledge and consent.
NCC	National Consumer Council: Non-departmental public body established to safeguard the interests of consumers and to ensure that these interests are represented to, and are taken account of, by decision-makers.
OCC	Ofcom Contact Centre: Part of Ofcom dealing with complaints and enquiries about communications services.
OCP	Ofcom Consumer Panel: Organisation set up to advice Ofcom and other interested bodies about consumer issues and concerns in communications markets.
OFT	Office of Fair Trading. UK statutory body which enforces consumer protection and competition law .
Otelo	Office of the Telecommunications Ombudsman: one of the two Ofcom approved alternative dispute resolution schemes.
Passive consumers	More likely than inactive consumers to have participated in the past and indicated some current interest in the market and/or were not averse to changing an aspect of their service in the future.
PASS-scheme	Price Assurance Standard scheme: seal of approval by Ofcom for websites which compare the prices of different suppliers and provide impartial and accurate information.
PPM	Pence per minute.
PRS	Premium Rate Services: Premium Rate Services ('PRS') are services commonly providing information or entertainment via the telephone, fax, PC (e.g. Internet), mobile or interactive digital TV services charged at above ten pence per minute ('ppm').
QoS	Quality of Service. There are two separate quality of service initiatives by industry to publish comparable information - one for fixed and one for mobile. The fixed quality of service initiative, www.topcomm.org.uk , was launched in July 2006 and the mobile scheme, www.topnetuk.org , was launched in September 2006.

Rogue internet diallers	A type of software which may be downloaded inadvertently by internet subscribers, and which then generates calls to premium rate numbers.
Silent calls	Calls originated by automated calling systems known as predictive diallers used by call centres. Sometimes a dialler is wrongly set up to make more calls than the available call centre operators can handle. When this happens the dialler is programmed to terminate the call as soon as it is answered, resulting in a silent call.
Slamming	See 'Mis-selling'.
SMEs	Small and Medium sized enterprises.
SMP	Significant market power: An enterprise with a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers, which has been notified as such by Ofcom.
Tag on line	A marker or tag left by a broadband provider on a line which prevents a customer taking service with another provider.
TPS	Telephone Preference Service: A central opt out register whereby businesses and individuals can register their choice not to receive unsolicited sales and marketing telephone calls.
USD	Universal Service Directive. This is Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services.
USO	Universal Service Obligations: The set of Universal Service requirements, currently on BT and Kingston Communications, to provide every household in the UK with access to a landline phone
uSwitch	Ofcom PASS accredited provider of price comparison data for fixed telephony services.
VoIP	Voice over Internet Protocol. A technology that allows users to send calls using Internet Protocol, using either the public Internet or private IP networks.
Which?	Independent organisation that deals with consumer issues.
WLR	Wholesale Line Rental: A regulatory instrument requiring the operator of access lines to make this service available to competing providers at a wholesale price.

Annex 2

Impact Assessment regarding the future of the Ofcom PASS

Introduction

- A2.1 This Impact Assessment (IA) sets out the conclusions of our consultation on the future of the Ofcom PASS, as described in section 4 of this statement.
- A2.2 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, *Better policy-making: Ofcom's approach to impact assessment*, which are on our website: http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf. In accordance with section 7 of the Act, in producing the IA in this document Ofcom has had regard to such general guidance as it considers appropriate, including related Cabinet Office guidance.
- A2.3 This Annex also sets out how Ofcom's proposals meet the tests set out in sections 3 and 4 of the Communications Act 2003:
- Section 3 sets out Ofcom's principal duties, in carrying out its functions, to further the interests of citizens in relation to communications matters and of consumers in relevant markets, where appropriate by promoting competition. Section 3 also sets out certain matters to which Ofcom must have regard in performing its duties. In considering the proposals in this document, Ofcom has had regard to these matters and in particular to the matters in section 3(4) of the Act, including the needs of persons with disabilities.
 - Section 4 sets out the duties on Ofcom for the purpose of fulfilling Community obligations. In considering the proposals set out in this consultation document, Ofcom has taken account of these requirements. In particular, Ofcom has considered the requirement to promote the interests of all persons who are citizens of the European Union.

Options

- A2.4 In February 2006 we published *Ofcom's Consumer Policy* consultation document ('the February 2006 consultation'). In this, we considered that it was appropriate to conduct a full review of the PASS scheme and asked for stakeholders' views on four options:
- Withdraw the scheme;
 - Maintain the scheme as it stands;

- Retain, review and re-launch the scheme; or
- Establish closer links with a single price comparison provider.

A2.5 As set out in section 5 of this statement, we have concluded that Option 3 is the best option. Below is an impact assessment of the various options which explains the reasoning behind our decision.

Option 1 – Withdraw the PASS scheme

Benefits

- A2.6 Consumers would continue to have access to price comparison information provided by a range of non-accredited organisations.
- A2.7 Price comparison organisations would not be subject to the audit fees associated with accreditation and Ofcom would not need to spend time and resource assessing the accuracy of individual calculators.

Costs

- A2.8 Without an accreditation scheme in place, price comparison calculators would undergo no independent scrutiny. This could result in consumers basing their decisions on inaccurate information and remove pressures on companies to provide effective competitive outcomes.
- A2.9 Ofcom would find it difficult to advise consumers to use unaccredited information with no quality-assurance. This would not address our concerns that consumers are not aware of the existence of price comparison information and could more easily enable providers to charge uninformed consumers higher prices than informed consumers.

Option 2 – Maintain the PASS scheme as it stands

Benefits

- A2.10 Consumers would continue to benefit from the availability of web based quality-assured price comparison information on telecoms services.
- A2.11 Accredited websites would remain independent from communications providers.

Costs

- A2.12 The status quo would not address the concerns Ofcom has that the scope of the Ofcom PASS is too limited and would not enable Ofcom to extend the scheme to a wider variety of communications services, including bundled services. . Nor would it address the issue that accreditation is only open to providers of web based price comparison services. As a result, price comparison information would remain limited and consumers without Internet access would continue to miss out on quality-assured advice.
- A2.13 Maintaining the scheme as it stands would prevent price comparison organisations from entering into exclusive deals with communications providers that may offer consumers added incentives to switch. It would not be in consumers' interests to disallow potential savings such as these.

- A2.14 Consumer awareness of the scheme would remain low. The value of accreditation would therefore remain uncertain and fewer organisations would be likely to apply for accreditation. In addition, this would not address our concerns that consumers are not aware of the existence of price comparison information and could more easily enable providers to charge uninformed consumers higher prices than informed consumers.
- A2.15 Smaller price comparison organisations – including not-for-profit type organisations - may be deterred from applying for accreditation by the one-size-fits-all audit fee.

Option 3 – Retain, review and re-launch the PASS scheme

Benefits

- A2.16 As set out in this statement, this is Ofcom's chosen option. It offers the potential to extend the scope of the scheme to services offering price comparisons on a wider range of communications services such as bundled products and international roaming.
- A2.17 This option was favoured by the majority of respondents to the February 2006 consultation who identified significant value in the provision of quality-assured, independent comparative information on price. It is also supported by our research which confirms the idea that significant numbers of consumers would be more inclined to participate in communications markets if they had access to price comparison information accredited by Ofcom and would in turn share this knowledge with other people in their social network.
- A2.18 By extending accreditation to non web-based services, consumers without Internet would be able to benefit from quality-assured information.
- A2.19 Focusing accreditation on the accuracy of the calculator (rather than the independence of the organisation providing the service) would allow consumers get accurate advice and at the same time take advantage of special offers such as 'cash back' deals, offered by price comparison organisations that have entered into exclusive deals with communications providers.
- A2.20 Re-launching the scheme would provide Ofcom with a real opportunity to promote the availability of accredited information amongst consumers and thereby increase the value of accreditation. This is likely to have the positive result of comparative information on a wider range of services being made available to consumers.
- A2.21 By requiring lower audit fees from smaller price comparison organisations – including those that do not receive commission payments from communications providers – smaller providers could be encouraged to apply for accreditation.

Costs

- A2.22 By encouraging accreditation of a greater number of price comparison calculators, Ofcom would be required to spend more time and resource assessing and reviewing the accuracy of individual services.

Option 4 – Establish closer links with a single price comparison provider

Benefits

- A2.23 Closer links with a single provider would help ensure that information was complete, comprehensive and objective.
- A2.24 This option offers the potential to extend accreditation to a wider range of services, including bundled products and international roaming. It also provides Ofcom with the opportunity of raising awareness of accredited information by directing consumers and intermediaries to a single source of quality-assured information.
- A2.25 A single price comparison calculator could be developed by an expert third party, and hosted on Ofcom's website. This could appeal to consumers who favour information to be provided entirely independently from communications providers.

Costs

- A2.26 This option is likely to be the most costly for Ofcom. We estimate that out-sourcing the development of price comparison calculators on a range of communications services is likely to cost in excess of £50,000.
- A2.27 In its response to the February 2006 consultation, the Office of Fair Trading commented that there may be some specific competition concerns arising from Option 4. By limiting accreditation to a single provider, we could be seen as foreclosing the market for quality-assured price comparison information.

Section 3 and 4 analysis

- A2.28 Ofcom has considered its duties under Section 3 of the Act and all the Community requirements set out in Section 4. Option 3 furthers the interests of consumers in relevant markets because it encourages the provision of quality-assured information to enable consumers to make an independent evaluation of the cost of alternative communications services. It takes account of new services and delivery methods – in particular bundled services that have the potential to make comparisons and switching more complex. It also gives Ofcom the opportunity to raise awareness of accredited information amongst consumers. In addition, by keeping the operation of the scheme under review, the scheme will remain flexible and allow Ofcom to update it when necessary.
- A2.29 Option 3 promotes the interests of all persons who are citizens of the European Union by providing consumers with accurate information that enables them to compare the cost of different communications services, and shop around with confidence.