

Communications Consumer Panel and ACOD response to BIS' call for evidence on improving the consumer landscape and quicker switching

The Communications Consumer Panel (the Panel) and the Advisory Committee on Older and Disabled People (ACOD) welcome the opportunity to respond to BIS' call for evidence on improving the consumer landscape and quicker switching.

The Panel consists of eight independent experts who work to protect and promote people's interests in the communications sector. Established by the Communications Act 2003, the Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

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

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

Response

We welcome the opportunity to respond to this call for evidence on improving the consumer landscape and quicker switching, with the aim of helping consumers get a better deal.

Our response focuses on consumers within the communications sector. These include micro businesses. According to Tax Research UK about 80% of self-employed people in the UK are living in poverty. We would therefore highlight that self-employed people running a business, who encounter similar issues to domestic consumers, may suffer the added dimension of detriment that comes from risk of harm to their business and to their own customers (and thus their livelihoods). They are an important part of the consumer landscape as a whole and for the purpose of this call for evidence we have included them as consumers.

Switching

As Ofcom has noted, the degree of benefits that competition delivers to consumers is partly driven by how engaged those consumers are. The more customers search, compare and act, the more providers must compete to attract and keep them.

It's therefore important that consumers:

- know what products, services, technologies and providers are available to them;
- can compare the different products and services on price and quality; and
- can switch providers easily, safely and with confidence.

The Panel believes the current regime is simply not sustainable and has long called for the process of switching communications providers (CPs) to become easier for consumers and micro businesses. Low switching levels lead to reduced competition and a worse deal for consumers across the board. This situation should not be allowed to endure - particularly in the context of increasing consolidation in the mobile market. If consumers are more aware of the potential benefits of switching and can switch between providers quickly and easily, consumers will benefit from enhanced competition and innovation in communications markets.

Consumers need to have confidence that switching will be a hassle-free process with effective “safety nets” to mitigate against loss of services. Robust switching processes are the bedrock of this, but they are not sufficient by themselves - consumers need to be able to make informed decisions, and be assured that they will not incur excessive cost, time or disruption as a result of a decision to switch. If consumers are not informed, it can lead to poor buying decisions and anxiety about engaging with the market and switching providers in future.

Switching between CPs is often complex and involves steps that must be coordinated between different providers in ways that do not arise in other consumer markets. What should be an easy and seamless consumer journey as part of a vibrant market can in many respects be an obstacle-ridden process that, evidence suggests, discourages switching and thus deprives consumers of potential benefit. Additionally, consumers may suffer instances of poor service that are in themselves a cause of harm and detriment - as well as having a negative impact on the industry's reputation.

The issue of switching has been under discussion for a considerable time, so we would expect communications providers to enact any changes without delay, with systems and processes already being in a state of preparedness. We believe it is essential that Ofcom leads the charge to make switching easier across all communications services.

The Panel welcomed that, in 2015, Ofcom completed the harmonisation and simplification of the process for switching fixed voice and/or broadband services provided over the Openreach copper network and a single 'Gaining Provider-led' (GPL) process is now in force, with consumers only needing to contact their new (gaining) provider to request a switch. The Panel has urged providers to work with Ofcom to design a unified switching system as soon as possible. Ofcom's strategic aim should, we believe, be harmonised switching processes for all communications services including mobile, pay TV and cable services.

We have previously highlighted to Ofcom our concerns about the barriers to switching which face all consumers, but particularly those who are older, disabled, or on lower incomes. Micro businesses also warrant particular attention- where switching complexity is off-putting and acts as a brake on market engagement to the detriment of the very people who should benefit from a thriving and competitive market sector. The number of different switching processes operated, lack of clarity regarding timescales and charges and the fact that switching processes are currently in the hands of the provider who has most to lose from the switch, all leave consumers open to harm and detriment.

Switching - the context

Ofcom's Switching Tracker¹ has highlighted that over the past 12 months there have been small but significant increases in engagement in the broadband (from 14% to 18%) and TV (from 8% to 11%) markets (at a total market level). Engagement levels have returned to levels comparable with those in 2013 in both the fixed-line (14%) and mobile (18%) markets. But it is the Panel's view that these are low levels in the context of a fast paced, innovative and competitive market.

¹ http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-15/CER_2015_FINAL.pdf

Figure 27 Trend in 'engagement activity' in the communications markets in the past 12 months



Source: Ofcom Switching Tracker, July - August 2014 and 2015

Base: All adults aged 16+ who are the decision-maker for fixed line (whole market, 1736 2014, 2199 2015) (single purchase, 409 2014, 646 2015) (service in bundle, 1327 2014, 1553 2015), mobile (whole market, 1679 2014, 2609 2015) (single purchase, 1614 2014, 2461 2015) (service in bundle, *65 2014, 148 2015), broadband (whole market, 1464 2014, 1877 2015) (single purchase, 149 2014 305 2015) (service in bundle, 1315 2014 1572 2015), TV (whole market, 1723 2014, 2251 2015) (single purchase, 1088 2014, 1400 2015) (service in bundle, 635 2014 851 2015). *Caution: Low base, treat as indicative only.

Switching (in the last 12 months while remaining at the same address) in the fixed-line and mobile markets each increased by three percentage points since 2014 (from 6% to 9% for fixed-line and from 7% to 10% for mobile). Just under one in ten (8%) consumers had switched broadband provider, but switching remains lower for the main TV provider, at 4%.

One in ten consumers with a dual (11%) or triple-play bundle (10%) had used a different provider for at least one service in their bundle in the previous 12 months. Eight per cent of dual-play customers had switched their entire bundle, compared to 7% among triple-play customers.

Switching across all communications markets continues to be driven by consumers aged under 65.

More consumers have taken up an offer of extra or improved services in the last year than have switched provider. At least one in ten consumers (10% - 18%)

in each communications market say they have taken up an offer of extra or improved services from their current provider in the last 12 months. This is more than the number of consumers who have switched to another provider, in each market. While an offer of improved services appears beneficial on face value, making switching easier may encourage customers to look elsewhere and compare deals from other providers with those that they are being offered by their current provider - and benefit from a genuinely improved service, for them.

Figure 28 Switching in fixed-line, mobile, fixed broadband markets and TV markets in the past 12 months: year-on-year comparison²⁸

Switched in 12 months to Sept.	Sept 2015		Sept 2014		Sept 2013	
	Total	Excl. home move	Total	Excl. home move	Total	Excl. home move
Fixed line	11% ↑	9% ↑	7% ↓	6% ↓	11%	9%
Mobile	10% ↑		7% ↓		11%	
Broadband	11%	8%	8%	6%	11%	9%
Total TV	6% ↑	4% ↑	3%	2%	4%	3%
Pay TV	7% ↑	5% ↑	3%	2%	5%	4%
Free-to-air TV	5% ↑	3%	2%	1%	2%	1%

Source: Ofcom decision-making survey carried out by Saville Rossiter-Base in July to August 2013, 2014 and 2015

Base: All adults aged 16+ who are the decision-maker for fixed line (2015, 2199; 2014, 1736; 2013, 1596) mobile (2015, 2609; 2014, 1679; 2013, 1718), broadband (2015, 1877; 2014, 1464; 2013, 1291) total TV (2015, 2251; 2014, 1723; 2013, 1592), pay TV (2015, 1302; 2014, 1006; 2013, 908), Freeview (2015, 948; 2014, 717; 2013, 648)

Informed choice

Consumers need accurate, accessible and easily comparable information that does not overwhelm them with detail. The Panel's work on behavioural economics² highlighted that, in contrast to traditional economic models, consumers do not act in a perfectly rational manner and are not constantly assessing the market for better deals.

²<http://www.communicationsconsumerpanel.org.uk/smartweb/telecommunications/behavioural-economics-and-vulnerable-consumers>

Accessible, accurate and digestible information for consumers is key. The Panel's Going Round in Circles³ research found that provision of clear information about contract terms, dates and penalty clauses for consumers and robust switching processes are key - and consumers need to be assured that they will not incur excessive cost, time or disruption as a result of a decision to switch. Only then can consumers make informed choices, understand what is going to happen next, not be misled and be able to resolve any problems quickly and easily.

Increased tariff transparency - and simplicity - for both a consumer's existing contract and the potential new contract would greatly aid people's ability to make a fully informed decision. Ideally, this information should be in an easily comparable form. Consumers also need information to be available before they make a decision to switch so that they can assess the implications of switching. Changes of mind part way through the process have financial and inconvenience implications for both the consumer and the providers.

Ofcom's 2015 Consumer Experience report⁴ highlighted that the internet continues to dominate as the main source of trusted information.

However the proportion of consumers aged 65+ who are unaware of any trusted sources of information is about double the average in each market - ranging from 5% in the bundled services market to 26% in the fixed line market. This lower level of awareness may indicate a lack of interest in these markets, but may also act as a barrier to switching, by increasing the perceived level of hassle for these consumers in searching for alternatives.

The research also highlights that amongst the general population, around a quarter of respondents consider it difficult to compare the costs of bundles of communications services. Twenty per cent of respondents stated that it is, or would be, 'difficult' to compare the costs of stand-alone fixed-line services, and 24% said this about bundled services. This level of stated difficulty for bundled services is higher than in 2014 (up from 19%).

A theme that recurs across our work is relevant in relation to switching - the vital need to increase the transparency of information about communications service provision. We have encouraged businesses to continue to improve the information available online and by other means. We consider that prominent "plain English" information about contract length and early termination charges (ETCs) should be available to all customers - on bills, by phone and online, and it should be communicated specifically when enquiring about switching. We believe that clear information about service level expectations, pricing and

³ <http://www.communicationsconsumerpanel.org.uk/going-round-in-circles/going-round-in-circles>

⁴ <http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-15/Annex.pdf>

customer service standards should be readily available to consumers without the need for undue searching.

The provision of information about providers' quality of performance is vital to informing consumers' decision making, to encouraging providers to maintain or improve performance and to improve transparency and trust within the sector. Ofcom has a key role in helping consumers to assess their options by providing information in easily digestible and accessible formats which can be picked up and widely promoted by the press and online sources. The new 'leader-board' graphic employed in Ofcom's quarterly complaints publication is a fine example of how to make this area more engaging and accessible for consumers. Ofcom has a number of opportunities for this kind of information dissemination and it must ensure that it utilises the platforms available - including social media - and provides journalists, bloggers, consumers and citizens with the tools to ensure that everyone can engage with and understand the data it publishes.

As well as understanding the switching process, it is vital that consumers have access to accurate information on tariffs that can be easily compared via independent, accredited price comparison and switching sites. To this end, the Panel advised Ofcom on its recent review of its Price Accreditation Scheme as the information these sites carry must be accurate and complete if they are to be valuable and trustworthy tools.

We place one caveat on informed choice - it is that information overload is a real risk, and can have the opposite effect. So information should help not hinder; and should inform, not confuse. Markets are complex and consumers are largely time poor; too much information (for example, too many tariffs and confusing deals) is not the solution. We note that a situation in the energy market, where there was a huge proliferation of tariffs, resulted in consumer disengagement and required the eventual intervention of the regulator to simplify the market.

When seeking to improve advice and information for consumers, advice and information for providers also needs to be improved - and needs to be reinforced by measures that build trust in markets. This may require greater penalties, actions or powers for enforcement agencies. It is vital that communications providers - especially smaller businesses - are fully aware of consumer rights themselves and understand the obligations imposed on them along with enforcement measures that may be taken.

The switching process

The variety of ways in which consumers are required to switch different services appear to confuse, rather than aid the ease of switching. We believe that consumers - and in the long run the industry which serves them - will benefit from a switching process that is quick, easy, convenient and error free. Based on the evidence to date we believe that a

Gaining Provider Led (GPL) process most closely meets these requirements and is a considerable improvement on the current arrangements. Putting the responsibility for the process in the hands of the gaining provider - who would benefit from the switch - would appear to be the best way to ensure fewer obstacles and errors, resulting in a smoother journey for consumers.

Communications services are increasingly purchased in 'bundles' of two or three services offered by a single provider. We are conscious that, as more consumers take bundled services, and discounted offers are often available for certain elements of a bundle by contracting for a further fixed period e.g. 12 months, there is an increased risk of non co-terminous services. This makes terminating bundled services without ETCs progressively more difficult for consumers to undertake (or fully understand). There is no good reason for this.

We remain concerned that consumers are insufficiently aware of early termination charges (ETC) in relation to their communications services. The Panel considers it vital that letters or any other communications from a consumer's losing provider are clear and specific to the individual consumer and do not, for example, use meaningless and unhelpful generic language such as 'you *may* incur an ETC'.

We would encourage the provision of far greater plain English information about ETCs as consumers are entering into a new contract, so that they are aware of the potential implications, should they then wish to switch in the future. We would reinforce that consumers who are about to enter a switch should be given information on when that switch is likely to happen, any associated costs, the key terms and conditions of the new service, the possibility of any loss of service during the switch and what remedial action can be taken should something go wrong.

We are aware that Ofcom receives a large number of complaints from consumers trying to cancel or exit communications contracts. This suggests that some consumers are finding it difficult to leave their provider, which may result in consumer harm - part of which may be suppression of switching activity. We have therefore welcomed that Ofcom has opened an industry wide monitoring and enforcement programme to assess CPs' cancellation and termination arrangements, and the impact these have on consumers' ability to leave providers.

This intersects with our concern about the notice periods required for communications services in some cases and the associated need for 'dual running' - which only serve to incur additional costs for the consumer. Under the current mobile providers' 'Cease & Re-Provide' process we have significant concerns about consumer harm in that some people effectively pay double for a period of time. Double billing is a major issue - Ofcom estimate that the overall cost to consumers per year could be £46 million. This may be

due to concerns about possible loss of service, or simple unawareness. In any event the Panel would strongly advocate that there should be no notice period when consumers who switch are out of their initial contract term as there is no cost incurred to mobile providers - revenue gained in this way amounts to unjustified enrichment.

We have welcomed the fact that Ofcom will be discussing further the issue of over-lapping or double payments with industry, and we would urge this to be done as quickly as possible in the interests of consumers. In principle, we do not believe that it is right that a consumer should pay twice for a service; nor should a consumer have to defer a switch just to wait for a meaningless notice period to expire.

Continuity of service is a big concern for consumers who are considering switching. This clearly indicates that there needs to be a focus on making sure the process is "error free" - so a process with as few "touch points" as possible is favourable, with highly effective safeguards and mitigation in terms of loss of service. Consistency in processes should lead to familiarity - and with a robust process, incorporating safeguards and mitigation in respect of continuity of service, this in turn should help consumer confidence and engagement with the market.

The Panel considers that handset unlocking presents a particular barrier to consumer switching. In our view it is a restraint of trade for some communications providers to charge consumers for their handset to be unlocked - and to make them wait significant periods (potentially up to 30 calendar days) - if they have already completed their contracted period and, therefore, paid for their handset. We cannot see any justifiable rationale for any communications provider to charge a consumer for unlocking in this circumstance - it is another example of unjustified enrichment.

We remain particularly concerned that changing phone number or email address continues to present as an issue for a significant number of consumers who are considering switching. In short, switching should not in and of itself create barriers to consumers participating in online engagement; difficulties in respect of e-mail addresses could be one such barrier - thus there needs to be clarity and advice for consumers on the issue. One solution may be for the losing provider to be required to set up an automated forwarding service for a limited period - and perhaps provide it as a chargeable option after that period.

Difficulties experienced with switching

Ofcom's Switching Tracker provides an understanding of how 'ease of switching' reported after the event compares across different types of switching.

While a majority in each market report switching to be 'easy', around half of

switchers in the fixed-line and broadband markets (when prompted) said they had experienced difficulties. The switch most likely to be stated as 'difficult' is one that involves the fixed line plus one other service (most likely fixed broadband). Nearly a fifth (19%) of these switchers said they found it either very, or fairly, difficult to switch. When prompted, around half of switchers in each of the fixed line (55%), fixed broadband (57%) and a third in the mobile market (35%) said they had experienced some difficulties. It is unacceptable that in two of the main markets in our sector, around half of switchers said that they had experienced some difficulties during their experience.

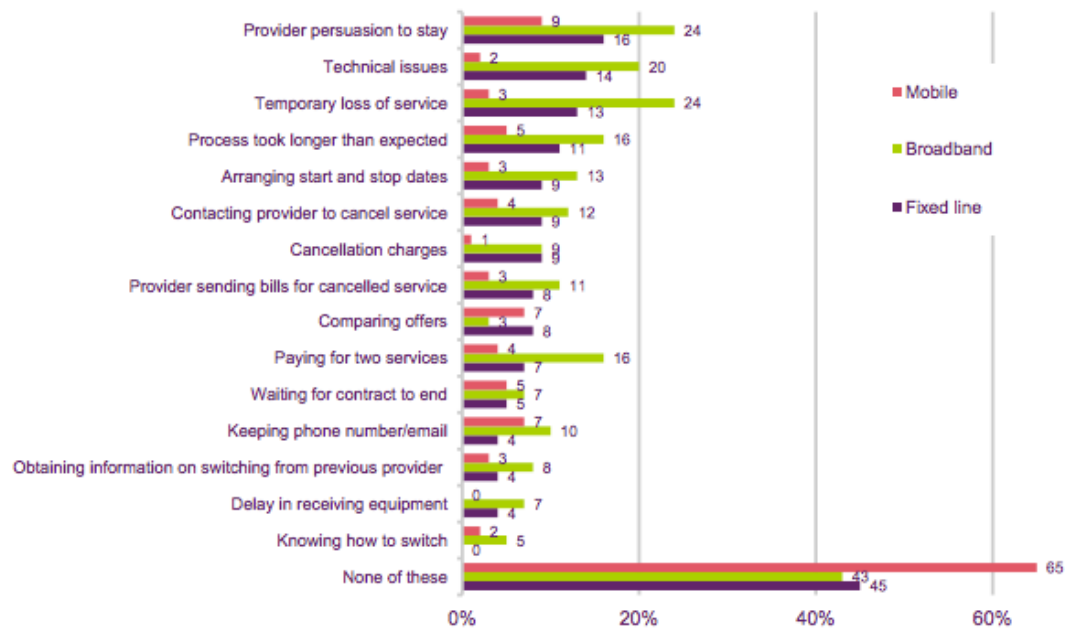
In the fixed-line and broadband markets, three particular difficulties had been experienced at similar levels in each respective market (each was mentioned by more respondents for broadband than for fixed line): 'provider persuasion to stay' (16% for fixed line, 24% for broadband); 'technical issues' (14% for fixed line, 20% for broadband); and 'temporary loss of service' (13% for fixed line and 24% for broadband). Given the importance of online services this loss of service is extremely concerning, and warrants urgent action. We see no good reason why any consumer should lose service at all through the - from a consumer's viewpoint - simple act of changing providers. We remain strongly of the view that it is wholly unacceptable that the convenience of the CP is placed ahead of the convenience of the consumer.

Neither should consumers be expected to have to undertake mitigating action in the form of 'dual running' and incur extra costs - or alternatively suffer significant inconvenience - as a result of wishing to change provider. This situation is even more pronounced in the case of micro businesses who risk losing business while they cannot be reached by customers and suppliers. This puts them off even contemplating switching.

In the mobile market no individual difficulty was mentioned by more than one in ten switchers. The top three issues mentioned by mobile switchers were 'provider persuasion to stay' (9%), 'keeping my phone number' (7%) and 'comparing the different offers available' (7%).



Figure 38 Experience of (prompted) difficulties among those who had switched fixed-line, broadband or mobile provider in past 12 months³⁴



Source: Ofcom Switching Tracker, July - August 2015

Base: All adults aged 16+ who switched provider in the past 12 months for fixed-line (170) mobile (244) and broadband (134).

Reasons for not switching and perceived difficulties with switching

Ofcom's Switching Tracker found that, among inactive consumers, the absence of a perceived cost benefit is the key reason for their lack of interest in changing provider. Among those who do not agree that their provider is the best on the market, but who have not switched or considered switching, a perceived lack of cost benefit in switching is the most likely reason offered.

Reasons for considering, but not switching provider, vary by market. In the broadband and TV markets 'perceived hassle' was the main reason why considerers had not switched (32% and 37%). In the fixed-line market it was 'lack of perceived cost benefit' (33%) and in the mobile market it was 'terms and conditions' (33%).

The difficulty - or perceived difficulty - of switching is undoubtedly a factor in consumers' switching behaviour.

Ofcom's Switching Tracker also asked non-switchers for their perceptions of how easy or difficult it might be to switch, in each of the communications markets. The

mobile market and the TV market returned similarly low levels of perceived difficulty in switching among non-switchers, at 12% and 14% respectively. Just under twice as many non-switchers in each of the fixed voice and fixed broadband markets perceived switching to be either very, or fairly, difficult (both 20%). This perception may increase the ‘hassle’ barrier for some potential switchers.

Decision-makers who do not agree that their provider is the best on the market, but have neither switched nor considered doing so in the past 12 months, were asked for spontaneous reasons why they were not interested in changing provider, for each relevant service.

The reason that consumers are most likely to give for their lack of interest in changing provider is the perceived lack of any cost benefit (24%-33%, across communications markets).

Although these inactive decision-makers did not agree that their current provider was the best on the market, their next most likely reasons for not being interested in changing provider were that they were satisfied or perhaps ‘happy enough’ with their current provider and would prefer to stay with a trusted or known provider. These reasons were given by between 17% to 25% of inactive decision-makers across the markets.

The perceived hassle of switching to, and setting up with, a new provider was more likely to be stated as a reason for not being interested in changing fixed-line or broadband provider (both 21%) than for mobile or TV services (both 15%). Beyond the general perception of ‘hassle’, this concept includes two specific areas of difficulty: ‘setting up a new service’ and ‘time taken to search and switch’. This is consistent with qualitative evidence which suggests that the actual switching process does not come to the fore until consumers weigh up their options and make a final decision.

Micro businesses’ experiences

The Panel has published research *Realising the Potential: micro businesses’ experiences of communications service*⁵ - qualitative research with 115 micro businesses around the UK. Interviews revealed that there may be a reluctance to switch amongst the sampled micro businesses.

⁵ <http://www.communicationsconsumerpanel.org.uk/research-and-reports/realising-the-potential-micro-businesses--experiences-of-communications-services>

Our research revealed that there is an unmet need for information, advice and guidance specifically tailored for micro businesses. Some businesses highlighted that they found it difficult to make decisions with respect to communications services and providers - as complex pricing and packages made it hard to compare information and to determine the potential return on investment. Many micro businesses expressed scepticism in relation to provider claims about internet speeds and mobile coverage and so there was some reluctance to switch providers. Some key findings and two quotes to bring them to life are shown below: -

- 47% disagreed that they *'change suppliers as often as I need to, to get the best deals'*. A key barrier to switching was that they did not want to disrupt their existing service. If using residential services, switching could mean being without internet for a few weeks which would be intolerable from a business perspective, but this fear also applied to switching business grade services. In addition inflexible contracts were raised as a barrier to switching.
- Those who had switched often did so in pursuit of cheaper costs but then frequently regretted their decision when the service was disrupted and the provider response was poor.
- A potential reluctance to switch also needs to be seen in the context of how confident micro businesses felt about negotiating better deals with existing providers. For some micro businesses there was a sense of resentment about how they felt they had been treated by their providers. They felt they lacked any bargaining power compared to larger companies, and some micro businesses perceived that providers considered them to be 'too small' to care about.

“Being a small business just means being trampled over, not only by the big businesses but by the legislation which allows them to trample over you”.

(Restaurant, Urban England)

“We are in the process of moving our broadband supplier from (provider) to (provider) mainly on the recommendation of our IT guy who is a specialist in this and from his experience knows that (provider) is more reliable, and there is better bandwidth, and would be better for us. When we came to cancel our service after finding it wasn't what we were promised, we found that we couldn't get out of our broadband contract for two years which left us sort of stuck and quite unhappy”.

(Domestic Appliance Company, Urban England)

The Panel has said that it is vital that: information about contracts is in unambiguous language; and that there is transparency about key contract terms and conditions, price and any penalty clauses. We have also recommended that:

- Price comparison websites offer clear information on data and broadband packages that are relevant to micro businesses.
- Ofcom uses its resources to support micro businesses seeking information that enables them to assess and judge different providers' performance.

Risk-free switching - fair contracts and safety nets

The Panel has advised previously - and remains of the opinion - that there should be a “safety net” provision within the overall switching process. In other words, there should be the capability to restore easily a consumer’s service when an error has occurred or where there is a proven case of slamming. Such a process should be part of the overall switching process so that consumers can have confidence about continuity of service and protection from errors. The ‘make before break’ proposal addresses some of the concerns we have in this area.

Risk-free switching would benefit all, but particularly older, disabled and more vulnerable consumers and self-employed people. It is also vital that providers give consideration to extra support that may be needed by some disabled customers switching to them - for example, use of assistive technology and making preferred method of contact (such as text or video relay) easily available (having promoted the availability of those services in the first place).

Alternative Dispute Resolution (ADR)

The Panel has an ongoing concern about customer service standards. Evidence of detriment suffered by consumers who have had cause to complain is clearly set out in research by the Panel (*‘Going Round in Circles’*⁶, *‘Inclusive Communications - We’re Not All the Same’*⁷, *‘Realising the Potential - micro businesses’ experiences of communications services’*⁸) and Ofcom (*‘Quality of Service in Telecoms’*⁹). *‘Inclusive Communications: We’re Not All the Same’* also highlights the greater significance that communications services can have for older and disabled people by helping to mitigate some of the potentially disempowering effects of age or disability.

⁶ <http://www.communicationsconsumerpanel.org.uk/going-round-in-circles/going-round-in-circles>

⁷ <http://www.communicationsconsumerpanel.org.uk/research-and-reports/we-re-not-all-the-same-inclusive-communications>

⁸ <http://www.communicationsconsumerpanel.org.uk/research-and-reports/realising-the-potential-micro-businesses--experiences-of-communications-services>

⁹ http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/digital-comms-review/Jigsaw_quality_of_service_in_telecoms.pdf

Communications providers could and should do more to promote ADR and make information more easily accessible - more information on websites, on online bills, as well as paper bills and those in alternative formats, such as braille or audio. This is even more important for consumers in vulnerable circumstances, or with additional communications needs, who may rely more on communications services and suffer more harm upon loss of a service.

We have been especially concerned about communications providers' referral of complaints to the ADR Services and have called for the shortening of the eight week referral period, greater publicity of the Services and publication of information about ADR complaints. On the latter our proposal is that accurate complaints data from the ADR services should be published regularly in a form that is digestible and useful to consumers, so that all consumers and micro businesses can be aware of the performance of their providers and engage more with the market. The data should be in a common format across the ADR Schemes and should, in our view, include: -

- The number of complaints referred to ADR per communications provider.
- The main types of complaint.
- The number of complaints upheld.
- The average financial award.
- The number of complaints accepted where a communications provider has failed to provide either a "deadlock letter", or an "eight week" notification of the consumer's eligibility to use ADR.

Following the Panel's proposals and engagement with stakeholders, we understand that Ofcom and the two ADR schemes that operate within the communications sector are in the process of arranging this. We believe that this would complement Ofcom's published complaints data; would provide an incentive for communications providers to improve performance; and, most importantly, would enable consumers to better assess the quality of customer service on offer from their providers. This would in turn help them make informed decisions about their choice of provider, switching and exercising their right to redress. It would also raise awareness of the ADR services.

We believe that the current eight-week period that communications providers have to resolve a complaint before referring a complainant to their ADR scheme is unnecessarily long. Four weeks should be enough time for a provider to resolve a complaint, agree an acceptable action plan with a customer, or issue a deadlock letter. If none of those things happen within four weeks, it is unacceptable to expect someone to wait any longer before they can seek independent redress, especially in a fast-paced industry such as communications and indeed where mobile phone contracts are billed monthly.

The ADR landscape in the communications sector could also be improved for consumers by consolidating the two ADR schemes. Having two schemes in operation is potentially confusing for consumers, who have no choice over which service to use.

While access to an ADR scheme is a statutory requirement in the communications sector, we would highlight that the 2015 ADR Directive appears flawed, as the requirement is not mandatory across all sectors. This is confusing for consumers.

We also believe that ADR schemes need to be held more firmly to account when and if they under perform. Having waited eight weeks to access the ADR scheme, it is unacceptable that a consumer should suffer further delays for reasons beyond that consumer's control, such as complaint volumes.

Automatic compensation

For the reasons mentioned above, we consider that the introduction of automatic compensation, as soon as possible, would be a particularly important tool for building consumer trust and encouraging empowerment. This needs to be truly automatic, meaning that it is fully reactive and does not require any undue effort from affected consumers. We will shortly be responding to Ofcom's consultation on automatic compensation and would encourage other consumer bodies to do the same.

Consumer representation and advocacy

The call for evidence asks for examples of problems with consumer representation and consumer advocacy. We would highlight the need for bodies to be sufficiently resourced and able to keep staff and volunteers well-trained on consumer rights. It is important that organisations are able to meet the demands of consumers seeking help on a range of specific market and local issues.

Two potential solutions¹⁰ that have been discussed in Wales (and are planned to be rolled out) are firstly, regional co-ordination of advice services so that consumers have access to a range of advice services that meet local need; and secondly, the introduction of national standards for advice which are quality assured and which have to be met to access Government funding.

In relation to advocacy, we would highlight the value of 'critical friend' input into policies that have an impact on consumers. Specialist panels contribute valuable market experience and independent research into the development of regulatory policy. They are

¹⁰ <http://gov.wales/docs/caecd/research/130515-advice-services-review-summary-en.pdf>

able to liaise with national, local and market-specific stakeholders and give insight to businesses, regulators and Government, as highlighted in research by Citizens Advice on Tackling Consumer Vulnerability¹¹.

The Panel's job is to ensure that the communications sector works for consumers, citizens and micro businesses - and in particular the more vulnerable in society, which may include older people, disabled people and indeed anyone who finds themselves in a vulnerable situation. We have a unique relationship with Ofcom. Sometimes described as a 'critical friend' to Ofcom, the Panel provides robust and independent advice that is constructive, realistic and cognisant of the trade-offs which regulatory decisions may sometimes involve. This is made possible by the fact that Ofcom shares information and ideas in confidence with the Panel at the beginning of regulatory processes, before consulting formally with other stakeholders. This unique position enables us to give strategic advice on policies early on in their development, as plans are being formulated, so that consumer and citizen interests can be built into Ofcom's decision-making from the outset.

Our single sector specialism generates and sustains a focus and expertise so that we can challenge in a constructive environment, offer comprehensive advice and influence the development of policy in a timely way. Attendees at Panel meetings realise that it is a place for robust, informed debate but with the over-riding intention to help Ofcom and other stakeholders deliver better policy and outcomes – for individual consumers, citizens, micro businesses and ultimately for the UK economy and society.

The Panel engages with stakeholders to inform the advice that it gives and to help to keep the interests of consumers, citizens and micro businesses on the agenda across the sector. The Panel also engages with a range of other organisations working on behalf of these constituencies - including those representing older and disabled people. Our National Members not only have individual sectoral expertise but also have strong networks within their nations and it is vital that they bring this experience to bear in their work.

We have a small budget for research and focused use of this has contributed evidence and insight to Ofcom's and others' work. For example, our *Going Round in Circles*¹² research has contributed to Ofcom's extensive review of communications providers' complaints and ADR referral systems, and our *Inclusive Communications*¹³ research has ignited a debate both within Ofcom and businesses about how communications providers can best support customers with additional communication support needs, such as people with disabilities,

¹¹ https://www.citizensadvice.org.uk/global/migrated_documents/corporate/tackling-consumer-vulnerability.pdf

¹² <http://www.communicationsconsumerpanel.org.uk/going-round-in-circles/going-round-in-circles>

¹³ <http://www.communicationsconsumerpanel.org.uk/research-and-reports/we-re-not-all-the-same-inclusive-communications>

and older consumers. Both research reports were also welcomed by communications providers, who told us that they found them of great value.

Our activity is often behind the scenes, shaping policy as it is just starting to develop; and outcomes are often long term. Sometimes we can see that we have clearly affected a change in policy - for example, BT has agreed to change its BT Privacy renewal practices after we raised concerns about its fairness to consumers. But in terms of evaluating our impact and our role, we also greatly appreciate the feedback we get from our stakeholders on various areas where we had given input or raised concerns and challenges including:

“The Board very much values the independent and expert input from both the Consumer Panel and ACOD and look forward to working with you over the coming year. Your ability to hold Ofcom to account in these areas is important.”

Dame Patricia Hodgson, DBE, Ofcom Chairman

Reflecting the consumer and citizen voice in policy development and decisions is vital - and yet hard to achieve effectively. So to help ensure that as wide a group of consumer and citizen stakeholders as possible could input into Ofcom policy development, we set up a sub-group of the Panel, joined by two external stakeholders, to undertake a review of how Ofcom consults - in the widest sense.

We have been pleased to see some of the approaches we recommended being used subsequently and look forward to their continued use - particularly around the promotion of consultations and the acceptance of consultation responses in alternative formats. One of the key recommendations from the Panel was for Ofcom to create a consultations mailing list, to enable interested parties to be notified of consultations it has underway. We're delighted that Ofcom has now established such a mailing list which we hope will be useful for people to keep up-to-date with the issues that Ofcom is consulting on.

Interested parties can sign up to the consultations update mailing list at:

<http://www.ofcom.org.uk/emailupdates/Consultations>

The Panel is currently part of an informal network of consumer panel chairs and finds the exchange of information and best practice to be extremely useful. We would suggest that statutory consumer bodies establish a formal network body/meeting, bringing together market expertise and building on working relationships that already exist, to promote joint areas of interest on a regular basis (examples of which exist in this document).

Summary

- The industry needs to better serve its consumers in respect of switching through a robust GPL process, which should be implemented without delay.
- Better information that is easily comparable needs to be accessible to all consumers.
- Micro businesses must not be overlooked.
- Consumers in vulnerable circumstances (permanent or temporary) must be helped to engage with market through switching.
- ADR needs better and wider promotion; ADR data should be published; and consumers should be able to access ADR Services quicker.
- Specialist Panels are a valuable part of the advocacy landscape.
- Consumer representation needs adequate resources.

Based on the evidence we have highlighted in this document, we make the following high level recommendations:

Switching

- All stakeholders to articulate and promote the potential benefits of switching in ways that are clear, transparent and easily and widely accessible from trusted sources;
- Implementation of consistent switching processes for all communications markets, so that consumers become accustomed to a straightforward and fair process in each part of the communications sector - and ideally in other sectors;
- Provision of a safety net in case of difficulties and especially loss of service during the switch;
- Elimination of double billing when switching;
- Easy access to redress if needed;

ADR, complaints and redress

- ADR provision should be mandatory across all sectors and should be well-promoted online and by other means;
- Complaints data should be published in a comparable format, on a regular basis;
- Consumers to be able to access independent ADR within four weeks if complaints are unresolved;
- Implementation of proactive automatic compensation without delay.

Information, advice, representation and advocacy

- Clear information should be available for consumers, both online and by other means, via trusted sources;

- Funding should be available to consumer advice groups to allow consumers and businesses to be provided with information and advice that is up-to-date and sector/locality-specific;
- Statutory consumer-representative bodies should collaborate to ensure that joint areas of interest are promoted and progressed;
- ‘Critical friend’ input into policy-making, in the form of specialist panels, should be used to develop, influence, challenge and review policies on behalf of consumers.