

By Adam Clark

28 November 2022

Mobile and broadband: affordability and consumer protection



Summary

- 1 Introduction
- 2 Consumer protection regulation in the telecoms industry
- 3 Affordability and prices
- 4 Helping consumers get better deals
- 5 Vulnerable consumers and customers in debt
- 6 Satisfaction, complaints, and disputes

Image Credits

[Mobile-phone-image /](#) image cropped. Licensed under [Pexel License](#) – no copyright required.

Disclaimer

The Commons Library does not intend the information in our research publications and briefings to address the specific circumstances of any particular individual. We have published it to support the work of MPs. You should not rely upon it as legal or professional advice, or as a substitute for it. We do not accept any liability whatsoever for any errors, omissions or misstatements contained herein. You should consult a suitably qualified professional if you require specific advice or information. Read our briefing [‘Legal help: where to go and how to pay’](#) for further information about sources of legal advice and help. This information is provided subject to the conditions of the Open Parliament Licence.

Feedback

Every effort is made to ensure that the information contained in these publicly available briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Please note that authors are not always able to engage in discussions with members of the public who express opinions about the content of our research, although we will carefully consider and correct any factual errors.

You can read our feedback and complaints policy and our editorial policy at commonslibrary.parliament.uk. If you have general questions about the work of the House of Commons email hcenquiries@parliament.uk.

Contents

Summary	5
1 Introduction	9
2 Consumer protection regulation in the telecoms industry	10
2.1 Legislative framework	10
2.2 General Conditions of Entitlement	11
2.3 Universal Service and SMP Conditions	12
2.4 Ofcom’s approach to regulation: the Fairness Framework	13
2.5 Voluntary commitments from telecoms providers	15
2.6 Consumer advocacy	16
Consumer advocacy in Northern Ireland and Scotland	17
3 Affordability and prices	19
3.1 Regulation of telecoms prices	19
3.2 Household spending on telecoms	21
3.3 Affordability of communications services	22
3.4 Mid-contract price increases	24
3.5 Prices for out-of-contract customers	27
3.6 Mobile roaming in the EU	29
3.7 Targeted affordability interventions	31
Social tariffs	31
Zero-rating websites	35
4 Helping consumers get better deals	38
4.1 Barriers to consumer engagement	38
4.2 Marketing telecoms services	42
4.3 Consumer contracts	44
4.4 End-of-contract notifications and annual best tariff information	46
The ‘Loyalty Penalty’	46

Government response to the CMA's report	47
Notification requirements	48
4.5 Mobile and broadband switching	49
4.6 Comparison tools	52
5 Vulnerable consumers and customers in debt	54
5.1 Vulnerable consumers	54
Treatment of vulnerable consumers	55
5.2 Protection for people in debt or at risk of disconnection	56
6 Satisfaction, complaints, and disputes	58
6.1 Service quality	58
6.2 Customer satisfaction	58
6.3 Automatic compensation for delayed services and repairs	60
6.4 Resolving disputes with telecoms providers	61

Summary

This briefing aims to examine how UK telecommunications market (broadband, mobile, and landline services) serves consumers and how it is regulated.

The National Audit Office found in 2019 that consumers of telecommunications services face a number of challenges: affordability and debt; difficulties accessing the most appropriate deal or service; and service failures or poor quality of service.¹ This briefing discusses recent concerns expressed on behalf of consumers in telecoms markets, and looks at reforms aimed at improving customer fairness and protection.

How are telecoms services regulated?

The Government (through the Department for Digital, Culture, Media & Sport) and Ofcom aim to encourage a competitive market for telecoms services in which consumers can make informed choices and shop around to get the best deals.

Telecoms markets are regulated by Ofcom under the [Communications Act 2003](#) as amended. Under the Act, one of Ofcom's primary statutory duties is to further the interests of consumers, where appropriate by promoting competition. In addition, Ofcom must act in accordance with the Government's [Statement of Strategic Priorities](#) (SSP) for telecommunications. One of these priorities is "safeguarding the interests of telecoms consumers, including the vulnerable and less engaged, by ensuring they are better informed and protected."

Under the Communications Act 2003, Ofcom sets [General Conditions of Entitlement](#) on communications providers. These are the regulatory conditions that all providers of broadband, landline phone and mobile services must meet to operate in the UK. They set, for example, the basic requirements for consumer contracts, such as the information that must be provided to customers, and the minimum steps providers must take to support vulnerable consumers.

Over the past few years, Ofcom has reformed the General Conditions so that they comply with the European Electronic Communications Code (EECC). The EECC came into force during the Brexit transition period, meaning that Ofcom was required to implement it.

¹ National Audit Office, [Regulating to protect consumers in utilities, communications and financial services markets](#), 20 March 2019, p7

Ofcom also works with the industry to agree voluntary measures to support customers. Measures include codes of practice and the introduction of social tariffs for customers on benefits.

Affordability of telecoms services

Ofcom does not directly regulate the price of retail telecoms services. It takes the view that, in a competitive market, customers are able to shop around to find deals that offer good value for money.

However, the coronavirus pandemic [heightened concerns about the affordability](#) of telecoms services. [Ofcom reported](#) in July 2021 that 2 million households experienced an affordability issue with their broadband or mobile service in the last month.

Current high levels of inflation have also contributed to affordability issues. Many communications providers raise their prices annually in line with the Consumer or Retail Price Index, plus an additional percentage. Bills for some customers rose by over 11% in 2022. Communications consultancy Farrpoint has estimated that, based on inflation projections, bills will [rise by a third over the next five years](#).

Annual price rises also affect customers who are within their initial contract period. Ofcom's rules permit mid-contract price increases, although customers may have a right to exit their contract if the terms and conditions are not sufficiently clear about how price increases could affect their monthly bill. Price comparison website Uswitch has [called on Ofcom to tighten these rules](#).

Customers whose initial contract period has ended are moved to a monthly rolling deal if they do not sign up for a new contract. Prices for these 'out-of-contract' customers are a persistent area of concern. They typically pay 20% more per month than 'in-contract' customers, according to Ofcom. In July 2020, Ofcom secured voluntary commitments from providers to bring the price differential down, especially for vulnerable customers.

Social tariffs

Ofcom considers that targeted discounted tariffs (called social tariffs) have an important role to play to ensure affordable telecoms services for low-income households. There is no mandatory requirement for telecoms providers to offer social tariffs but many providers offer them voluntarily.

Awareness of social tariffs is low, however. As of August 2022, 136,000 households were on social tariffs. That is just over 3% of the number of households on Universal Credit. Ofcom and [the Government](#) have "strongly encouraged" all providers to offer effective social tariffs and to actively promote them to eligible customers.

Ofcom has said it will continue to monitor affordability and consider whether further regulatory interventions are necessary. Ofcom has powers to

introduce a mandatory industry-wide social tariff. These powers can only be exercised following a direction from the Government. Telecoms industry commentators have highlighted that some small providers investing in new fibre infrastructure [may struggle to offer](#) a social tariff without raising prices for other customers, due to small margins in their business.

Helping customers get better deals

In general, Ofcom believes that telecoms customers can benefit from a wide range of deals that provide good value for money for most consumers. However, research by Ofcom, Citizens Advice and the Competition and Markets Authority indicates that some consumers are not engaging in the market and are paying more for, or receiving less from, services than they could.

Ofcom has introduced various policies designed to help customers get better deals, both in terms of prices and identifying which service is most suitable for their needs. It sets various requirements on providers designed to ensure that customers have access to accurate and comparable information and that customers are not prevented or discouraged from switching to another provider.

Customer protections in this area include:

- Rules about how providers advertise their services, such as broadband speeds;
- A ban on practices that tie customers to a particular provider, such as long-term contracts, automatic contract renewals, and locked handsets;
- Rules to require telecoms providers to send notifications to customers at the end of their contract including information on the best new deals available;
- Reforms to the process for switching, including allowing customers to change providers by sending a text;
- Rules and guidance for providers on how to engage with customers who are considering switching.

Vulnerable customers

Ofcom publishes specific guidance on how providers should deal with vulnerable customers, who are more likely to display low levels of engagement and may therefore struggle to find the best deal. Providers are required to have procedures in place to ensure vulnerable customers and customers in debt are treated fairly. Ofcom also advises that providers actively try to identify vulnerable customers and make them aware of the targeted support that is available, including social tariffs.

Consumer satisfaction and complaints

Most telecoms customers are happy with their service. According to Ofcom, the UK telecoms regulator, [90% of mobile customers](#) were happy with their

mobile service in 2020. The satisfaction rate for broadband and landline customers was lower (80% and 77%, respectively).

Ofcom has launched a voluntary compensation scheme whereby customers of participating providers automatically receive compensation for delays to repairs and installations. For customers who cannot satisfactorily resolve disputes through their provider's internal procedures, Ofcom has accredited two alternative dispute resolution schemes. All providers are required to be members of one of the schemes.

Customers can also [report complaints](#) to Ofcom. Ofcom does not investigate individual cases but collects data to monitor consumer issues, as does the [Communications Consumer Panel](#).

Sources of support and advice

Ofcom publishes a wide range of advice articles on its website, including:

- [choosing a provider](#)
- [switching providers](#)
- [fixing faults](#)
- [getting compensation](#)
- [safety and security](#)

Advice is also available from consumer groups. Citizens Advice, through its [Phone, internet or TV](#) issues website, has advice on topics such as how to switch to another provider or dispute bills. Consumer charity Which? similarly has articles aimed at helping consumers in choosing and switching [Broadband, mobile & TV services](#).

Articles offering practical advice are signposted in side comments throughout this briefing.

1 Introduction

This briefing aims to examine how UK telecoms markets serve consumers and how they are regulated. It first describes the regulation of the retail telecommunications market, including the relevant legislation and the powers of the regulator, Ofcom. Section 3 discusses affordability issues, looking at how prices and pricing practices are regulated. Ofcom's main advice to people struggling with affordability is to shop around for a better deal, and section 4 looks at how Ofcom has intervened in the market to help customers access them. Section 5 covers specific measures aimed at supporting vulnerable customers and customers who fall into debt. Section 6 discusses Ofcom's research on customer satisfaction with telecoms services and how it regulates complaints and disputes.

This briefing does not provide information about the extent of broadband and phone coverage or what support is available for people to get connected to these services. These issues are covered in other Library briefings, including:

- Library Data Dashboard [Constituency data: broadband coverage and speeds](#).
- [Gigabit-broadband in the UK: Government policy and targets](#) (April 2021)
- [Gigabit-broadband: funding for rural and hard to reach areas](#) (June 2022)
- [The Universal Service Obligation \(USO\) for Broadband](#) (October 2020)
- [Rural mobile coverage in the UK: Not-spots and partial not-spots](#) (April 2022)
- [Digital telephone switchover](#) (April 2022)

For information on consumer rights and protection in general please see the following Library briefings:

- [Consumer Rights Act 2015](#) (March 2020) – this briefing covers consumer protection provisions in respect of contracts to purchase goods, services and digital content, and the rules regarding “unfair contract terms” in consumer contracts and notices.
- [Consumer Protection: Unfair Trading Regulations 2008](#) (November 2021) – this briefing covers the Regulations prohibiting traders in all sectors from engaging in unfair commercial practices with consumers.

2 Consumer protection regulation in the telecoms industry

2.1 Legislative framework

The legislative framework governing the UK's telecommunications industry is primarily contained in the [Communications Act 2003](#), as amended. The 2003 Act implements EU Directives [2002/22 \(the Universal Service Directive\)](#) and [2018/1972 \(the European Electronic Communications Code\)](#). Through the Communications Act 2003, both Directives remain part of UK law after Brexit.

The industry is regulated by Ofcom, the UK's communications regulator. Ofcom's principal statutory duty under the 2003 Act is "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."²

The 2003 Act gives Ofcom powers to implement specified consumer protection measures if it believes that doing so would be consistent with its statutory duties.

The Department for Digital, Culture, Media & Sport (DCMS) is the Government department responsible for telecoms. In carrying out its functions, Ofcom must "have regard to" the [Statement of Strategic Priorities \(SSP\)](#) published by DCMS.³

With regards to consumer issues, the Government's strategic priorities are to:

- Tackle harmful industry practices and improve the support available to vulnerable customers, who can pay more than others;
- Address the difficulties that consumers experience in navigating the communications market by giving them the right data, information and support to boost their engagement;
- Remove barriers that consumers face to switching products and services, and ensure all consumers get better outcomes, even if they are not actively searching for the best deal all of the time; and

² [Communications Act 2003, section 3\(1\)](#)

³ [Communications Act 2003, section 2B](#)

- Improve the overall quality of service for telecoms consumers.⁴

Ofcom fulfils its function to protect the interests of consumers in several different ways including:

- through the provision and enforcement of General Conditions of Entitlement and SMP Conditions;
- issuing guidance and codes of practice;
- negotiating voluntary initiatives with telecoms providers; and
- conducting research on how telecommunications markets are operating for consumers.

2.2 General Conditions of Entitlement

Communications providers generally do not need specific permission or a licence to provide services in the UK.⁵ They have a general authorisation to operate in the UK, so long as they comply with the [General Conditions of Entitlement](#) set by Ofcom.⁶

Under the Communications Act 2003 s51(1)(a), Ofcom can set such conditions that it considers appropriate for “protecting the interests of the end-users of public electronic communications services.” Many of the consumer protection interventions discussed in this briefing are implemented and enforced through the General Conditions of Entitlement.

Part C of the conditions stipulates consumer protection provisions in the following areas:⁷

- Contract requirements (C1)
- Information publication and transparency requirements (C2)
- Billing requirements (C3)
- Complaints handling and dispute resolution (C4)
- Measures to meet the needs of vulnerable consumers and end-users with disabilities (C5)
- Calling line identification facilities (C6)
- Switching (C7)
- Sales and marketing of mobile communications services (C8)

⁴ DCMS, [Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services](#), 18 July 2019, Section 2

⁵ Some types of networks or services require a licence, for example a licence to use radio spectrum for mobile broadband.

⁶ Section 45

⁷ Ofcom, [General Conditions of Entitlement Unofficial Consolidated Version](#), 17 June 2022

The provisions aim to ensure that, for example, consumers: receive adequate information about their contracts; are informed of prices and charges so that they can compare the market; are aware of their rights to service levels and compensation; are not overcharged and can control their usage; are able to switch providers; and can have complaints dealt with by an independent adjudicator if necessary.

Ofcom has powers to enforce compliance with the General Conditions including powers to impose financial penalties.⁸ It has published guidelines setting out how it will investigate compliance and enforce the regulations.⁹

Ofcom is in the process of updating the General Conditions to comply with the requirements of the European Electronic Communications Code, which came into effect during the Brexit transition period. The General Conditions were most recently [updated](#) on 17 June 2022.¹⁰ Ofcom has published an [“unofficial consolidated version”](#) in force as of that date.¹¹ Further changes will come into force from April 2023.¹²

2.3 Universal Service and SMP Conditions

The General Conditions apply to all communications providers. Ofcom has powers to impose additional conditions on designated providers: universal service conditions and significant market power (SMP) conditions. BT (outside Hull) and KCOM (in Hull) are both subject to these conditions.

The purposes for which universal service and SMP conditions can be used are contained in the Communications Act s65 and s87-92 respectively. For example, SMP conditions require Openreach (the division within the BT Group responsible for network infrastructure) to offer internet service providers other than BT access to its network on fair and reasonable terms. This helps prevent BT from using its market power to restrict competition and consumer choice in the retail broadband market.

As universal providers, BT and KCOM are required to provide, on request, a decent and affordable broadband connection (at least 10MB/s and no more than £45 per month) to eligible residential and business consumers, up to a cost cap of £3,400 per premises. Further information on this is available in

⁸ Communications Act 2003, as amended, sections 94-104. For example, in February 2021 Ofcom fined mobile provider O2 for overcharging customers that were leaving their service: [Ofcom fines O2 £10.5m for overcharging customers](#), 12 February 2021

⁹ Ofcom, [Enforcement guidelines for regulatory investigations](#), 28 June 2017

¹⁰ For an overview of the changes see Ofcom, [Implementation of the European Electronic Communications Code \(EECC\)](#), October 2021

¹¹ Ofcom, [Amendments to the General Conditions of Entitlement](#), 4 January 2021

¹² Ofcom, [Quick, easy and reliable switching: statement on changes to the General Conditions](#), 3 February 2022

the Library briefing, [The Universal Service Obligation \(USO\) for Broadband \(March 2022\)](#).

2.4

Ofcom's approach to regulation: the Fairness Framework

In March 2019 the National Audit Office published a report assessing the effectiveness of the regulators of the utilities, communications, and financial services markets in terms of protecting the interests of consumers.¹³ One of its recommendations was that the regulators, including Ofcom, should be clearer about the objectives of their customer protection work and how they will manage those objectives in areas where there are trade-offs, competing objectives, or where their powers are limited.

Ofcom published a policy statement in January 2020 setting out its [Fairness Framework](#) which explained the factors Ofcom would be likely to consider in assessing whether customers are being treated fairly.¹⁴ It was intended to provide a set of principles for Ofcom to use when deciding whether to take further steps to intervene in the market or take enforcement action against a provider.¹⁵ It also provided clarity to providers regarding Ofcom's expectations.

In the consultation for the Framework, Ofcom defined two types of fairness: procedural and distributive.¹⁶ Procedural fairness refers to the way firms treat customers during the 'customer journey.' The Fairness Framework identified some concerns that Ofcom wanted to address in this area, including:

- a lack of clear information to help customers make decisions;
- providers exploiting customers' lack of engagement;
- service problems not being fixed, and
- difficult complaints and dispute resolution processes.¹⁷

Distributive fairness refers to practices that involve some customers gaining at the cost of others. For example, firms may cover the cost of discounted introductory offers through higher out-of-contract prices for other customers. In such cases, Ofcom would need to weigh the costs and

¹³ National Audit Office, [Regulating to protect consumers](#), HC 1992, 20 March 2019

¹⁴ Ofcom, [Making communications markets work well for customers](#), A framework for assessing fairness in broadband, mobile, home phone and pay TV, 23 January 2020

¹⁵ Ofcom, [Making communications markets work well for customers](#), A framework for assessing fairness in broadband, mobile, home phone and pay TV, 23 January 2020, para 3.64-3.65

¹⁶ Ofcom, [Discussion paper: Making communications markets work well for customers](#), 17 June 2019, para 3.9-3.22

¹⁷ Ofcom, [Making communications markets work well for customers](#), A framework for assessing fairness in broadband, mobile, home phone and pay TV, 23 January 2020, p26, fig 2

benefits. The Fairness Framework says that Ofcom would be particularly concerned about providers' behaviour where:

- vulnerable customers are being harmed;
- the harm is persistent, significant, and/or widespread;
- problems occur in services regarded by customers as highly important or essential;
- there are no offsetting benefits, such as low price offers.¹⁸

Ofcom noted that an aspect of the communications market that distinguishes it from other regulated sectors is the role of technological change in physical infrastructure networks, and the significant investment required to deploy new networks. For example, Openreach alone is investing £15bn in rolling out its full fibre broadband network. Various smaller network providers are similarly investing in expensive rollout programmes, which are likely to take many years to pay off. Under the [Communications Act 2003](#) s3(4), as amended, Ofcom is required to 'have regard to' promoting investment and innovation when carrying out its duties, including its duty to further the interests of consumers.

While Ofcom regards innovation and investment as ultimately beneficial to consumers, the Fairness Framework acknowledges that there may be trade-offs in the short term. For new services that require large or risky investment, Ofcom says that it "may need to be more careful that any interventions [it makes] take due account of whether providers continue to have sufficient incentives to invest for the risks involved."¹⁹ This does not mean that Ofcom would not intervene in, for example, the markets for gigabit broadband or 5G, but it may design its interventions differently than it would for 'legacy' markets such as landline telephone services.

When it identifies fairness concerns, Ofcom said that its approach to addressing concerns about customer fairness is to "seek the least intrusive remedies that are likely to be effective."²⁰ This may involve using best practice guidance rather than regulatory interventions where there is little evidence of harm (see for example section 5.2 on customers in debt). Ofcom also seeks to influence the market by working with telecoms providers on a voluntary basis (see for example section 3.7 on social tariffs).

Commenting on the Fairness Framework consultation, consumer groups expressed concern about the robustness and effectiveness of the proposed 'least intrusive' approach. Citizens Advice, for example, argued that providers have "few incentives" to stick to the voluntary commitments they

¹⁸ Ofcom, [Making communications markets work well for customers](#), A framework for assessing fairness in broadband, mobile, home phone and pay TV, 23 January 2020, p26, fig 2

¹⁹ Ofcom, [Making communications markets work well for customers](#), A framework for assessing fairness in broadband, mobile, home phone and pay TV, 23 January 2020, para 4.16

²⁰ Ofcom, [Making communications markets work well for customers](#), A framework for assessing fairness in broadband, mobile, home phone and pay TV, 23 January 2020, para 3.48

sign up to.²¹ Ofcom stated in response that it will monitor providers' progress in relation to voluntary commitments it secures.²²

2.5 Voluntary commitments from telecoms providers

As part of its [Fairness for Customers](#) programme, Ofcom announced in June 2019 that the UK's biggest broadband, phone and pay TV companies had signed up to Ofcom's new [Fairness for Customers commitments](#). Ofcom set out the commitments and how they are intended to support customers:

- Customers get a fair deal, which is right for their needs. Providers offer customers packages that fit their needs and have a fair approach to pricing. Prices are clear and easy to understand;
- Customers get the support they need when their circumstances make them vulnerable. Providers understand and identify the characteristics, circumstances, and needs of vulnerable customers - such as vulnerability due to a disability, age, mental illness or having recently been bereaved - and act to give them fair treatment and equal access to services too;
- Customers are supported to make well-informed decisions with clear information about their options before, during, and at the end of their contract. Providers design and send communications in a way that reflects an understanding of how customers generally react to information so that they can understand and engage with the market;
- Customers' services work as promised, reliably over time. If things go wrong providers give a prompt response to fix problems and take appropriate action to help their customers, which may include providing compensation where relevant. If providers can't fix problems with core services they have promised to deliver within a reasonable period, customers can walk away from their contract with no penalty;
- Customers can sign up to, change, and leave their services quickly and smoothly. Providers ensure that customers who

²¹ Citizens Advice, [Ofcom's Fairness Framework: Citizens Advice formal consultation response](#), [accessed 24 November 2022]

²² Ofcom, [Making communications markets work well for customers](#), A framework for assessing fairness in broadband, mobile, home phone and pay TV, 23 January 2020, para 3.48-3.49

are leaving do not face additional barriers or hassle compared to those who are signing up to new services;

- Customers can be confident that fair treatment is a central part of their provider's culture. Companies can demonstrate that they have the right procedures in place to ensure customers are treated well. They keep these effective and up-to-date.²³

Ofcom's assessment of how commitments have been met

Ofcom has assessed progress made by the communications providers that signed up to the fairness commitments. It published [progress reviews](#) in January 2020 and May 2021. The latter report found that progress had been stronger in some areas than others:

- Since 2019, signatories have taken steps to promote fairness for their customers, but progress has been mixed and we continue to challenge providers to do more. We observe some initial progress towards making fairness central to how companies run their businesses, and in addressing some of our concerns on pricing and the treatment of vulnerable customers.
- However, our assessment shows that there is room for improvement in every area. We are particularly concerned about customer service levels. Call centre wait times have risen in the past year, highlighting issues around the ease with which customers can change or exit contracts and report faults. Customer satisfaction with complaint handling has remained just above 50% since before the commitments were launched. Whilst we recognise the particular challenges in call centre capacity over the past twelve months caused by Covid-19, it is vital that providers now focus on improving customer service.²⁴

The report gives a star rating for performance against each of the six commitments and sets out positive actions Ofcom has seen so far and areas for development.

2.6

Consumer advocacy

Consumers' interests in the telecoms sector are currently protected and promoted by the [Communications Consumer Panel](#), a panel of independent members which represents the interests of consumers in the UK and

²³ Ofcom, [Britain's biggest broadband and phone firms to put fairness first](#), 3 June 2019

²⁴ Ofcom, [Fairness for Customers commitments Progress review](#), 7 May 2021, p2

provides advice to Ofcom and other bodies. It was set up in accordance with section 16 of the Communications Act 2003, as part of Ofcom's duty to establish and maintain effective arrangements for consultation with consumers.²⁵

The Government's consultation on consumer markets in April 2018 asked whether consumers' interests in the telecoms sector, as currently protected and promoted by the Communications Consumer Panel, would be better served by a different model, and if so, what arrangements would be most effective.²⁶

In July 2019 the Government published a consultation paper, [Reforming Consumer Advocacy in Telecoms](#), which observed that consumer advocacy in telecoms was "strikingly underfunded" in comparison to other regulated sectors, potentially to the detriment of consumers (as well as the industry and regulators).²⁷

The paper asked for views on options to:

- Provide direct support and advice to consumers, particularly the most vulnerable;
- Conduct more research to better understand and highlight where the consumer experience can be improved; and
- Better represent consumers in key public debates in relation to digital infrastructure.

The three options considered were to: appoint Citizens Advice as the new statutory consumer advocate for telecoms; expand the funding and remit of the CCP; or create a new Arm's Length Body to act as the consumer advocate. Of these, the consultation said that appointing Citizens' Advice as the new advocacy body for England and Wales was the Government's preferred option.²⁸

The Government has not responded to the consultation.

Consumer advocacy in Northern Ireland and Scotland

Northern Ireland

Consumer policy is devolved in Northern Ireland, except for postal and telecoms advocacy. Although telecoms advocacy in Northern Ireland remains reserved, in the 2019 consultation on reforming advocacy in telecoms the Government proposed that the [General Consumer Council \(GCCNI\)](#) would

²⁵ [Ofcom and the Communications Consumer Panel Memorandum of Understanding](#), approved 2006.

²⁶ BEIS, [Modernising consumer markets: Consumer Green Paper](#), April 2018

²⁷ DCMS, [Consultation Reforming Consumer Advocacy in Telecoms](#), July 2019, Executive Summary

²⁸ DCMS, [Consultation Reforming Consumer Advocacy in Telecoms](#), July 2019, Executive Summary

undertake consumer advocacy for telecoms in Northern Ireland. The GCCNI is funded directly by the Department of Business Energy and Industrial Strategy through an industry levy.²⁹

Scotland

Consumer advice and advocacy are devolved in Scotland including for telecoms. The UK Government stated in the 2019 consultation paper on reforming consumer advocacy in telecoms that it would work with the Scottish Government to consider how its telecoms consumer advocacy proposals will work with the more general proposals for consumer advocacy in Scotland.³⁰

The [Consumer Scotland Act 2020](#) established Consumer Scotland as the consumer advocacy and advice body in Scotland.³¹

²⁹ DCMS, [Consultation Reforming Consumer Advocacy in Telecoms](#), July 2019, Executive Summary: Consumer policy, advice and advocacy is devolved in Northern Ireland, except for postal and telecoms advocacy. The General Consumer Council (GCCNI) for Northern Ireland, is funded directly by BEIS through an industry levy.

³⁰ DCMS, [Consultation Reforming Consumer Advocacy in Telecoms](#), July 2019, Ch 5

³¹ The [Consumer Scotland Act 2020](#) received Royal Assent on 9th June 2020. Scottish Government, [New consumer organisation](#), 6 Jun 2019

3 Affordability and prices

The coronavirus pandemic and recent increases in the cost of living have heightened concerns about the affordability of telecommunications services.³² Additionally, Ofcom has noted that as operators roll out new technology (such as gigabit-capable full-fibre and 5G networks), the increasing investment may see prices rise for customers.³³

Despite these concerns, Ofcom believes that communications services generally provide good value for money. However, the regulator has intervened in situations where insufficient competition or unfair practices risk causing artificially high prices. It has also considered more targeted interventions aimed at vulnerable customers, such as social tariffs.

3.1 Regulation of telecoms prices

Ofcom has not regulated retail prices for telecoms services since 2006.³⁴

The market for retail communications services is competitive and, in theory, customers are able to ‘shop around’ to get the best deal. Ofcom is responsible for monitoring the market and ensuring that it is delivering value for consumers. Ofcom has found that overall, telecoms customers can benefit from a wide range of deals that provide good value for money for most consumers.³⁵

Ofcom has powers to intervene if it considers that the market is not delivering value for customers. This could be through changes to the General or SMP Conditions or through voluntary initiatives agreed with the industry. For example, BT reduced its prices for landline-only customers after a review by Ofcom.³⁶

The Government’s view, as set out in DCMS’s Statement of Strategic Priorities, is that “promoting investment” in new and upgraded network

³² Citizens Advice, [More than one in six struggling to afford broadband](#), 28 January 2021; Resolution Foundation, [Pandemic Pressures](#), 11 January 2021

³³ Ofcom, [Affordability of communications services](#) A summary of initial findings, December 2020, p7

³⁴ Ofcom, [Retail Price Controls](#), 2006

³⁵ Ofcom, [Review of pricing practices for fixed broadband](#), 28 July 2020, para 2.9; Ofcom, [Affordability of communications services: a summary of our initial findings](#), December 2020, page 12-13

³⁶ Ofcom, [Protecting prices for BT’s landline-only customers](#), 25 March 2021

infrastructure “should be prioritised over interventions to further reduce retail prices in the near term.”³⁷

Wholesale broadband price regulation

The wholesale broadband market is the market for access to broadband network infrastructure. Internet service providers (ISPs) who do not build their own infrastructure pay network operators for access, which they use to provide retail internet services to consumers. These wholesale costs are passed on to consumers.

Ofcom believes that Openreach, the part of the BT Group responsible for network infrastructure, has significant power in this market. The regulator has expressed concern that Openreach could use its market power to “engage in various forms of exclusionary and/or exploitative conduct that could distort competition and/or harm consumers” including by charging “excessive” wholesale prices.³⁸ It therefore controls the prices of some of Openreach’s wholesale products.

Direct price controls mainly apply to fibre-to-the-cabinet connections offering speeds of 40Mbit/s download and 10Mbit/s upload. In its [Wholesale Fixed Telecoms Market Review \(WFTMR\) 2021-26](#), Ofcom allowed Openreach to increase these prices in line with inflation. This is a departure from previous reviews, where prices were set based on costs and had generally fallen over time. Openreach’s prices for higher bandwidth products are subject only to the requirement that they are ‘fair and reasonable,’ allowing Openreach to obtain a fair rate of return on its investment in full fibre network infrastructure.

Consistent with the SSP, Ofcom’s pricing remedies in this area are primarily aimed at promoting competition and investment in full-fibre networks rather than keeping consumer prices low.³⁹ However, it does expect the regulated 40Mbit/s price to act as an ‘anchor’ on prices for higher speed products because customers are, at present, not willing to pay a significant premium for higher broadband speeds.

During the WFTMR consultation some ISPs, especially those who rely on access to Openreach’s copper network, argued that Ofcom’s proposals would be detrimental to consumers. TalkTalk, for example, estimated that deregulating most wholesale prices and allowing regulated prices to rise with inflation would cost consumers over £900 million in higher broadband bills across the review period.⁴⁰

³⁷ DCMS, [Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services](#), 18 July 2019, para 18

³⁸ Ofcom, [Wholesale Fixed Telecoms Market Review 2021-26, Volume 3](#), March 2021, paras 1.6

³⁹ Ofcom, [Wholesale Fixed Telecoms Market Review 2021-26, Volume 1](#), March 2021, paras 1.6-1.7

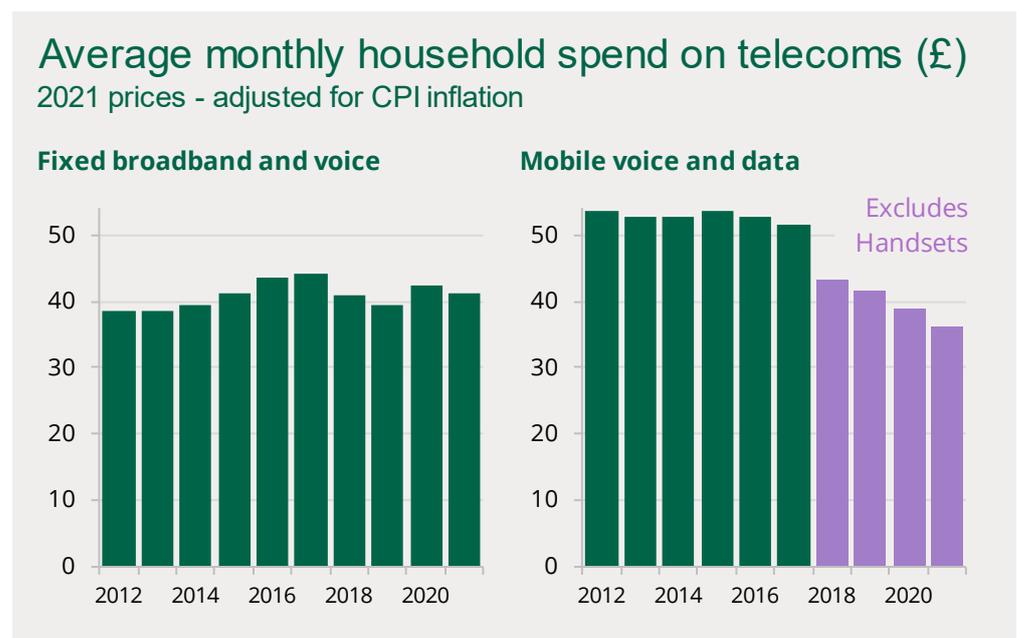
⁴⁰ TalkTalk, [Non-confidential submission to the Wholesale Fixed Telecoms Market Review](#), May 2020
See also, ISPReview, [TalkTalk Considers Legal Action to Stop Openreach Price Rises](#), 29 November 2020

Ofcom has argued that its approach is justified in part because the move to full-fibre presents a “window of opportunity” for alternative providers to “deploy gigabit-capable networks in competition with Openreach and compete for ISPs and their end customers.”⁴¹ It took the view that the benefits of increased competition and investment in network infrastructure “outweigh any higher prices paid by consumers in the short term” and provide greater consumer protection in the long term.⁴²

In October 2022 the Labour Party called for a return to cost-based wholesale pricing “so that telecoms wholesalers and internet service providers don’t get a windfall from sky high inflation whilst families and firms struggle to pay their bills.”⁴³

3.2 Household spending on telecoms

The following chart shows average monthly household spend on telecoms services since 2012 in real terms (adjusted for inflation). On average, UK households spent £77.20 per month on broadband, landline, and mobile services in 2021. That is down from £81.20 the previous year.



Source: Ofcom, [Communications Market Report 2022](#)

⁴¹ Ofcom, [Wholesale Fixed Telecoms Market Review 2021-26, Volume 4](#), March 2021, para 1.20.

⁴² Ofcom, [Wholesale Fixed Telecoms Market Review 2021-26, Volume 4](#), March 2021, para 1.91

⁴³ Labour Party, [Labour launches 3 point plan to ease the broadband bombshell and help families and firms facing cost of living crisis made in Downing Street](#), 13 October 2022

Note that due to a change in accounting methods the figure for mobile and voice data does not include spend on handsets from 2018 onwards. Mobile spend figures before and after 2018 are therefore not directly comparable. For the same reason, the total average household spend on telecoms services published by Ofcom in its [Communications Market Report 2022](#) shows a fall in 2018.

The chart shows spending on telecoms services, not average prices. Lower average spend may be the result of households choosing to save money by switching to cheaper broadband and mobile deals rather than falling prices. Conversely, higher spending may be the result of households choosing to take up more expensive gigabit broadband packages rather than rising prices. Price data is reported separately, in Ofcom's [Pricing trends of communications services](#) reports. The 2021 report found that average prices for mobile and broadband services fell between 2015 and 2020 in real terms.

According to Ofcom, households in different income groups spend similar amounts on telecoms services. It estimates that, in 2020, the median household spent around 1.2% of its disposable income on broadband. For households in the lowest income decile, average monthly spending on broadband represents 4.2% of their disposable income.⁴⁴

As discussed in section 3.4 below, many telecoms providers link annual price rises for their services to the level of inflation. With inflation projected to remain high for some time, telecoms consultancy FarrPoint has estimated that the average annual cost of broadband and mobile services will increase from £1,123 in 2022 to £1,508 in 2027.⁴⁵ Despite this, it cautioned against cancelling services. Analysis by the Internet Association for the Daily Express found that internet access saves households an average of £780 per year by enabling online shopping, access to price comparison websites, and working from home.⁴⁶

Compared with France, Germany, Italy, Spain and the US, the UK had lowest pricing for mobile services in 2020, but France and Italy had lower fixed-line broadband prices.⁴⁷

3.3 Affordability of communications services

Ofcom monitors the [affordability of communications services](#). It tracks trends in affordability by conducting surveys and publishes reports based on

⁴⁴ Ofcom, [Affordability of communications services](#), July 2021, paras 3.28-3.35

⁴⁵ FarrPoint, [Connectivity cost crisis: FarrPoint analysts warn cancelling contracts "hugely counterproductive"](#), 27 July 2022

⁴⁶ Daily Express, [Using the internet can save families £21billion a year](#), 30 January 2019

⁴⁷ Ofcom, [Pricing trends for communications services in the UK](#), July 2021, p59

the results. Survey participants are asked whether they have experienced any of the following five issues:

- Cancelling services because they can no longer afford it;
- Changing a service to make it more affordable;
- Reducing spending on essential items in order to continue paying for communications services;
- Missing payments;
- Changing payment methods (such as using savings, a credit card, or a repayment plan) in order to continue paying for the service.

In its February 2022 affordability report, Ofcom found that 5% of broadband customers had experienced one of the above affordability issues in the month of October 2021.⁴⁸ That figure rises to 11% for households on low income (less than £10,399 per year) or on means-tested benefits. 4% of households had experienced affordability issues with smartphones. In total, Ofcom estimated that 2 million households had struggled with the affordability of broadband and/or mobile services.

Ofcom publishes advice for customers on managing the costs of broadband, mobile, and landline services.

These figures have remained broadly stable since Ofcom began collecting data in June 2020. However, research has indicated more affordability issues in 2022. Ofcom published an updated affordability report in September 2022. Compared to October 2021, the percentage of customers experiencing affordability issues rose for mobile (4% to 9%), pay TV (8% to 12%), and on-demand streaming services (6% to 11%).

The number of customers struggling with broadband remained the same at 5%, and landline services saw only a small increase (3% to 4%). Ofcom speculated that this is due to households “prioritising budgets on telecommunications over more discretionary spend on entertainment services.”

In total, Ofcom found that 3 in 10 households (8 million) had experienced affordability issues with at least one communications services in July 2022. This figure includes those who struggled to afford pay TV and on-demand streaming services. Ofcom’s report does not include a figure for the number of households struggling with any telecommunications service specifically. By analysing Ofcom’s raw survey data, consumer group Which? estimated that around 20% of UK households (5.7 million) experienced an affordability issue relating to “essential telecoms services” (broadband, mobile, or landline) in the month of April 2022.

Which? also found that people were prioritising these services over other spending. It estimated that the number of households that had reduced

⁴⁸ Ofcom, [Affordability of Communications Services: Summary of research findings and update on availability and take-up of broadband social tariffs](#), 15 February 2022

spending on other items to afford telecommunications services increased by 59% between February and April, from 2.2 million to 3.5 million.⁴⁹

3.4 Mid-contract price increases

In recent years, many broadband and mobile providers have introduced annual price increases linked to the rate of inflation. BT first announced this policy in January 2019. It said that the new policy would give customers “greater clarity and predictability about any price changes.” BT’s first Consumer Price Index (CPI) linked increase of 1.3% in March 2020 was lower than the 4-6% increases that had previously been common.⁵⁰

BT further tweaked its policy so that from 2021 prices would rise annually by CPI plus 3.9%.⁵¹ Many of its broadband and mobile rivals have since followed suit.

While this approach provides greater transparency, it also means that many customers are unable to terminate their contract in response to mid-contract price increases. Whether they have that right depends on the terms and conditions of their agreement.

Where a customer has signed up to a fixed-term contract at a set price, mid-contract price increases would normally be considered a change in terms causing material detriment. In accordance with Ofcom’s [General Conditions of Entitlement](#) (C1.14-C1.15) the provider should give the customer the right to exit the contract without any penalty charges.

However, where the terms of a contract provide for a mid-term price increase and those terms are “sufficiently prominent and transparent” such that the customer can be said to have agreed to the price rise, then the price increase will not normally be considered material detriment ([General Conditions of Entitlement](#) C1.17). Ofcom’s guidance on Condition C1 states that this is likely to be the case where the contract specifies the amount of the price increase and provides a numerical example of how it may affect the customer’s monthly prices.⁵² In that case, the customer may be then required to pay early-terminations charges if they wished to end the contract.

For example, the [standard terms and conditions for Virgin’s broadband service](#) states that Virgin “may increase our charges under this agreement at any time.” It adds that if this constitutes a material disadvantage, the

⁴⁹ Which?, [Six million households struggling to afford essential telecoms services](#), 4 August 2022.

⁵⁰ ISPreview, [ISP BT Match UK Broadband and Mobile Price Rises to CPI Inflation](#), 11 January 2019

⁵¹ ISPreview, [Sneaky UK Broadband ISP BT Inserts New 3.9% Price Hike Clause](#), 8 September 2020

⁵² Ofcom, [Guidance under General Condition C1 – information requirements](#), June 2022, para 1.21-1.24

customer can cancel the agreement without paying an early disconnection fee.

By contrast, [the standard terms and conditions for Virgin Mobile](#) states that prices will “increase each April, in line with the Retail Price Index (RPI) rate of inflation plus an additional 3.9%.” It provides an example of how the cost a two-year plan starting at £22.50 per month would increase based on an illustrative RPI rate. Customers cannot cancel their contract based on this increase.

Price comparison website Uswitch maintains a list of providers’ [mid-contract pricing policies](#).

2022 price increases

Contractual above-inflation price increases have drawn criticism given the current high level of inflation. In January 2022, CPI was 5.4% and the Retail Price Index (used by some mobile providers) was 7.5%. This meant that many customers saw their monthly costs rise by over 9%, and some by 11%.

Separate surveys for Uswitch and internet service provider Hyperoptic, both published in January 2022, found that more than half (56-60%) of customers were not aware that their contracts permitted mid-contract price increases.⁵³ Only a small minority knew the current CPI or RPI levels. Uswitch argued that because customers could not be expected to predict the future rate of inflation, Ofcom should tighten its rules “so that all subscription pricing is spelt out in pounds and pence.” It also argued that customers should be able to end their contracts without penalty if they find the price increases unaffordable.

Hyperoptic similarly wrote to Ofcom asking the regulator to investigate the practice. It suggested reforms to require mid-contract price increases to be displayed more prominently and to allow impacted customers to switch providers without incurring penalty charges.⁵⁴

Citizens Advice has called upon providers to cancel their price rises for 2023 and for Ofcom and the Government to do more to protect consumers in the future.⁵⁵

BT defended its 9.3% price increase (equivalent to £3.50 per month for the average broadband customer) as being necessary for it to keep up with rising costs. It said that data usage had increased by 90% for broadband and 79%

⁵³ Uswitch, [Inflation Frustration: Consumers must be allowed to walk away from broadband and mobile contracts set to soar by up to 11%](#), 27 January 2022; Hyperoptic, [Research reveals that over nine million broadband consumers unaware they are set for biggest in-contract price hike in years](#), 25 January 2022

⁵⁴ Hyperoptic, [Hyperoptic calls for Ofcom to investigate broadband industry mid-contract price hikes](#), 11 April 2022

⁵⁵ Citizens Advice, [Millions of mobile and broadband customers face £2.5 billion price hikes in 2023](#), 22 September 2022

for mobile since 2019.⁵⁶ Customers on unlimited deals do not pay extra for higher data use, but network operators still need to invest in new and upgraded infrastructure in order to meet the demand.

In a statement, Ofcom acknowledged the need for network infrastructure investment but noted that providers had to get the balance right between investment and affordability. It urged consumers to look for a better deal and said that it will:

continue to monitor prices closely, as we keep pressure on phone and broadband companies to ensure that people are not priced out of affordable services, and those struggling to pay their bills get the support they need.⁵⁷

Speaking at a telecoms industry conference, Lindsey Fussell, Ofcom's Group Director of Networks and Communications, emphasised the duty companies have to their customers in an 'exceptional period of hardship':

Of course, we recognise that inflation is a wider, macro-economic problem that affects some wholesale costs, as well as customers. But while Ofcom does not regulate retail prices, we want companies to think very carefully about what is justified during an exceptional period of hardship for many people.

We believe companies have a duty to their customers, to recognise and respond to a unique economic climate. We expect them to meet that responsibility. They can do so within their means, and without compromising on fair returns or continued investment.⁵⁸

In June 2022 the Government announced that the country's biggest telecoms companies had agreed to a set of commitments to help customers with the cost of living. The commitments include supporting customers who are struggling with bills by allowing them to move to cheaper packages (with the same provider) without charge or penalty.⁵⁹

In September 2022 the Advertising Standards Agency (ASA) launched a consultation on whether it should tighten its rules on [how mid-contract price increases feature in telecoms adverts](#). While there are existing rules about how prices should be advertised, the ASA noted that in the context of rising inflation "it is even more important that consumers are presented with clear and prominent information in advertising about what their contract will cost

⁵⁶ BT, [This year's price changes](#), 20 January 2022

⁵⁷ Ofcom, [Telecoms price rises – could you get a better deal?](#), 25 January 2022

⁵⁸ Ofcom, [Providers must think carefully about price rises](#) – transcript of a speech delivered by Lindsey Fussell, Ofcom's Group Director, Networks and Communications, at the Connected Britain conference, 22 September 2022

⁵⁹ DCMS, [Telecoms industry agrees to new cost-of-living plan following government summit led by Digital Secretary Nadine Dorries](#), 27 June 2022

them throughout its term.”⁶⁰ Its proposed guidance states that in order to be compliant, adverts should:

- Indicate the possibility of price rises either as part of the price claim or immediately adjacent to it;
- Prominently display the nature of the price rise (eg CPI+X%);
- Use clear and understandable terminology to describe the price rise;
- Distinguish the full contractual price from introductory offers;
- Take account of the time of year the advert is published relative to the date on which the price rise will take effect.

3.5 Prices for out-of-contract customers

A persistent area of concern with regards to affordability is the higher price paid for telecoms services by customers whose contract has expired. Customers typically pay around 20% more when they are out of contract.⁶¹ The difference between in- and out-of-contract price has been dubbed the ‘loyalty penalty’ as it affects customers who stay with their provider after the end of their initial contract period. Ofcom does not regard the existence of a price differential as a problem in itself. However, it is concerned about customers paying higher prices because they find it difficult to engage or access the information they need to get a better deal.⁶²

The ‘loyalty penalty’ was the subject of complaint to the Competition and Markets Authority, brought by Citizens Advice in 2018. This is discussed further in section 4.4 below.

In July 2020 Ofcom announced that it had secured commitments from major providers to reduce prices for those who are out of contract and protect vulnerable customers. These included:

- commitments from BT, Sky, TalkTalk, EE, and Plusnet to give all existing customers access to new customer prices when they renew their contracts.⁶³ BT, TalkTalk, Sky and EE have also taken steps to reduce the difference paid by customers who fall out of contract (such as adding price caps on the difference between in and out of contract prices).

⁶⁰ ASA, [Guidance on the presentation of mid-contract price rises in telecoms ads](#), 8 September 2022, p14

⁶¹ Ofcom, [How much could you save on your broadband?](#), May 2021

⁶² Ofcom, [Helping customers get better deals: review of the impact of end-of-contract notifications and pricing commitments by broadband and mobile providers](#), 30 November 2021, para 1.13

⁶³ Ofcom, [Broadband customers to save millions following Ofcom review](#), 28 July 2020

- commitments from BT, Sky, TalkTalk, EE, Plusnet, and Virgin Media to automatically reduce prices for vulnerable customers who are out of contract. The exact commitment varies between the providers but generally this means an automatic price reduction for vulnerable out-of-contract customers, along with a commitment to review their deal annually.⁶⁴

Ofcom published a review of the impact of these commitments in November 2021.⁶⁵ For broadband customers, the aggregate overpayment (defined as the difference between total average prices and out-of-contract prices) fell from £485 million in 2019 to £451 million in 2020. Overall, the prices paid by out-of-contract broadband customers remained stable but for vulnerable customers the monthly price differential fell considerably, from £4.40 to £2.30. For bundled out-of-contract mobile customers, the aggregate overpayment fell from £182 million to £83 million.

Citizens Advice reported in August 2022 that one in seven broadband, mobile, and mortgage customers were “still paying the loyalty penalty.”⁶⁶ It called on Ofcom to take similar action to the Financial Conduct Authority, which requires car and home insurance providers to automatically switch customers to better deals.

Mobile customers and out-of-contract handset charges

In July 2019 Ofcom announced [commitments from mobile providers](#) O2, Vodafone, EE, Virgin Mobile and Tesco Mobile to reduce the monthly price paid by out-of-contract customers on bundled contracts, to comparable to SIM-only deals by February 2020.⁶⁷ Bundled contracts include charges for both the mobile handset and airtime (voice and data). The exact commitments varied between the providers. Ofcom stated it was “disappointed” that Three had not chosen to make a commitment on out-of-contract bundled customers.⁶⁸

Additionally, new transparency rules came into force from June 2022 that require mobile providers to explain the cost of buying the handset and

⁶⁴ Ofcom, [Helping consumers get better deals: review of pricing practices in fixed broadband](#), 28 July 2020, para 1.6 and 4.3

⁶⁵ Ofcom, [Helping customers get better deals: review of the impact of end-of-contract notifications and pricing commitments by broadband and mobile providers](#), 30 November 2021

⁶⁶ Citizens Advice, [One-in-seven customers still paying the loyalty penalty despite cost-of-living crisis](#), 1 August 2022

⁶⁷ Ofcom, [New measures to increase fairness for mobile customers](#), 22 July 2019

⁶⁸ Ofcom, [Statement and consultation: Helping consumers to get better deals in communications markets – mobile handsets](#), 22 July 2019 para 1.29. See also, Ofcom, [Fairness for Customers – progress updates](#), 7 May 2021

airtime separately.⁶⁹ These reforms formed part of implementing the European Electronic Communications Code (EECC).

These commitments and changes followed a [consultation](#) in 2018 on clear and fair handset charges for mobile users, following concerns that many customers on bundled contracts were continuing to pay handset charges, even when the handset had been paid off.⁷⁰ This issue formed a large part of the Citizens' Advice super complaint to the CMA on the loyalty penalty in 2018 (see section 4.4 below). Ofcom said that the EECC prevented it from imposing a default tariff for out-of-contract customers such as exists in the energy market.⁷¹

3.6 Mobile roaming in the EU

Mobile roaming refers to when a mobile customer travels abroad and continues to use their home mobile service. For this to be possible, the home network operator must conclude commercial agreements with foreign operators to use their networks (known as wholesale roaming). Customers typically face higher charges for using mobile services abroad as mobile operators pass on their wholesale roaming costs.

In the EU, roaming surcharges for retail customers were abolished for an initial period of 5 years from June 2017.⁷² This meant in practice that UK mobile customers could use their domestic allowance of minutes, text messages and data throughout the European Economic Area without incurring additional charges, subject to limits such as a fair use policy. Limits were also placed on how much mobile operators could charge each other for wholesale roaming.

Following the end of the Brexit transition period these protections no longer apply to UK mobile customers. The [Mobile Roaming \(EU Exit\) Regulations 2019](#) amended the [EU Roaming Regulation](#) (which was retained in UK law) to remove the provisions on roaming surcharges.

Initially the four major UK mobile operators (EE, O2, Vodafone, and Three) stated that they had no plans to change their mobile roaming policies. As of

⁶⁹ Ofcom, [New measures to increase fairness for mobile customers](#), 22 July 2019; Ofcom, [Implementation of the new European Electronic Communications Code – Annex 11](#), 17 December 2020

⁷⁰ Ofcom, [Clear and fair handset charges for mobile users](#), 26 September 2018

⁷¹ Ofcom, [New measures to increase fairness for mobile customers](#), 22 July 2019; Ofcom, [Statement and consultation: Helping consumers to get better deals in communications markets – mobile handsets](#), 22 July 2019 para 1.20

⁷² [Regulation \(EU\) 531/2012](#), Art 6a

August 2022, however, only O2 still offered surcharge-free roaming in the EU.⁷³

There had been [calls for the Government to seek legally binding commitments from mobile operators](#) to continue to offer surcharge-free roaming. The Government argued that such a legal requirement would be “inoperable” post-Brexit because operators would no longer benefit from the EU’s limits on wholesale roaming charges. Offering surcharge-free roaming would become “unaffordable for many operators,” resulting either in the service being removed from some retail packages or prices rising for all mobile services.⁷⁴

Ofcom advises customers who are worried about incurring high mobile costs when abroad to [set a mobile bill limit](#).

Consumer protections that were not contingent on EU membership were initially retained in UK law.⁷⁵ This included a financial limit on data usage abroad of £45+VAT per day (unless the customer expressly agreed to continue) and a requirement on operators to inform customers when they have reached 80% and 100% of their data allowance. Operators also had an obligation to inform customers how to avoid inadvertent roaming costs.

These protections expired from July 2022 in line with the sunset clause in the EU Roaming Regulation. Mobile operators can continue to apply them on a voluntary basis, but it is important for customers travelling abroad to check the roaming charges and fair use policies that apply to their mobile package. Ofcom requires mobile providers to publish their standard roaming charges on their website.

Consumer website moneysavingexpert.com has called on the Government and Ofcom to re-introduce the customer protections that expired from July. In a report on [The Roaming Risk](#), it raised the possibility that roaming customers could “rack up hugely expensive data charges” if they mistakenly believe that they will receive a text before they reach their data limit.⁷⁶

Ofcom has said that it is “looking into the options for roaming protections for customers.”⁷⁷ It does not have powers to prevent mobile operators from charging for roaming.

⁷³ BBC News, [EE to reintroduce Europe roaming charges in January](#), 24 June 2021; BBC News, [Vodafone to bring back roaming charges from January](#), 9 August 2021; BBC News, [Three brings in EU roaming charges and ends global scheme](#), 9 September 2021; ISPreview, [Virgin Media O2 UK Commits to Retain Free EU Mobile Roaming](#), 9 January 2022

⁷⁴ [Explanatory Memorandum to the Mobile Roaming \(EU Exit\) Regulations 2019](#), para 2.8

⁷⁵ In [Regulation \(EU\) No 531/2012](#), as amended by the [Mobile Roaming \(EU Exit\) Regulations 2019](#).

⁷⁶ MoneySavingExpert, [The roaming risk: how lapsed protections could cost consumers](#), 8 August 2022

⁷⁷ Ofcom, [Using your mobile abroad](#), accessed 22 November 2022

3.7

Targeted affordability interventions

In general, Ofcom's view is that for most customers the competitive retail telecoms market offers a wide range of deals that provide good value for money for most consumers.⁷⁸ As discussed in the next section, it has introduced various measures intended to encourage consumers to 'shop around' to find the best deal for them.

However, Ofcom has also acknowledged that there is a role for interventions targeted at customers struggling with affordability. Two prominent proposals are social tariffs and zero-rating.

Social tariffs

Social tariffs are targeted, discounted tariffs for broadband and mobile services that are made available to certain consumers on low incomes or with special social needs. According to Ofcom, social tariffs should have the following features:

- Commercially discounted price;
- Market competitive speeds;
- No mid-contract price rises;
- Available to customers on Universal Credit, plus additional eligible benefits at the provider's discretion;
- No early termination charges, either for moving onto or off the social tariffs;
- Minimal set-up costs.⁷⁹

There is at present no mandatory requirement for broadband or mobile providers to offer social tariffs.⁸⁰ At the time of writing, fourteen ISPs, including BT, Virgin Media, and Sky, do so voluntarily. The available broadband tariffs cost £12-22 per month. Vodafone, through VOXI, offers a social mobile tariff costing £10 per month. Ofcom maintains a list of [social broadband and mobile packages](#) currently on the market.⁸¹

Ofcom maintains a [list of the available social broadband and mobile tariffs](#).

⁷⁸ Ofcom, [Review of pricing practices for fixed broadband](#), 28 July 2020, para 2.9; Ofcom, [Affordability of communications services: a summary of our initial findings](#), December 2020, p12-13

⁷⁹ Ofcom, [Affordability of communications services – September 2022 update](#), 29 September 2022, p21

⁸⁰ BT and KCOM are required to provide a social tariff for landline telephone services as part of their obligations as telephony universal service providers (Paragraph 5(2) of the Schedule to [The Electronic Communications \(Universal Service\) Order 2003](#)). There is no mandatory social tariff requirement under the broadband universal service obligation. The [Library briefing on the broadband USO](#) provides more information.

⁸¹ Community Fibre offers a [Fibre Essentials](#) package with 10Mbps download speeds for £12.50 per month. This was previously a social tariff but is now available to all customers, so it is not included in Ofcom's list.

Eligibility criteria vary. Households in receipt of Universal Credit are eligible for all social tariffs currently on the market. Some social tariffs are also available to households on a broader range of benefits (such as Pension Credit or Personal Independence Payment).

Eligible customers can sign up for a social broadband or mobile deal via the relevant provider's website.

Based on 2020 data, Ofcom has estimated that "eligible households could almost halve the proportion of their disposable income they spend on broadband by taking up a social tariff." The average monthly spend on broadband in the 10% most deprived geographic areas of the UK was £27. For an out-of-work Universal Credit claimant, that accounts for 8.3% of their disposable income.⁸² Moving to a social tariff costing £15 per month would reduce that proportion to 4.6% and reduce annual bills by an average of £144.

As discussed in section 3.4, in 2021 and 2022 many providers implemented above-inflation price rises. BT, for example, increased its broadband prices by 9.3% from March 2022. As social tariff prices have remained the same, the value of social tariffs to consumer on low incomes will have increased.

Uptake of social tariffs

Despite the potential savings, take-up of social tariffs is low. In its July 2021 affordability report Ofcom found that, as of January 2021, approximately 40,000 households were on a social tariff. It put the low take-up down to: the newness of the services; limited choice of provider; limited customer awareness; specification of the services; and up-front costs.

By the end of 2021 take-up had increased only slightly to 55,000 households. In its February 2022 affordability report, Ofcom said that low awareness remained one of the key barriers, despite social tariffs becoming more established in the market. Its research found that only 16% of benefits recipients were aware of the existence of social tariffs. Ofcom criticised ISPs for not including social tariffs in their advertising and for making it difficult to find information about them on their websites and via search engines.

Cost of living pressures, media coverage, and other awareness-raising work saw take-up rise to around 136,000 by August 2022. Ofcom called this a "welcome increase" but as it equates to just 3.2% of the 4.2m households on Universal Credit (and therefore eligible for all social tariffs on the market) it remained disappointed and called on the industry to do more. Once again,

⁸² By contrast, the average UK household's monthly spend on broadband was £31, or 1.3% of disposable income. Ofcom, [Affordability of Communications Services: Summary of research findings and update on availability and take-up of broadband social tariffs](#), 15 February 2022, paras 4.8-4.18

Ofcom criticised providers for not actively promoting social tariffs in advertising campaigns or on their websites.⁸³

Research conducted in May 2022 by Which? found that only KCOM had advertised social tariffs on their social media accounts during that month. Of the seven providers they looked at, none sought to proactively identify eligible customers by, for example, asking whether they received benefits when they signed up for a new broadband deal.

The Government stated in response to a July 2022 Parliamentary Question that raising awareness of social tariffs was a “key priority”:

We are working closely with other departments including the Department for Education, and the Department for Work and Pensions, to share information on the availability of social tariffs with libraries, local authorities, schools and regional job centres. We have also engaged a number of charities to circulate social tariff messaging to help reach those who may qualify for support. [...]

To support the sector, the government is developing eligibility checking software which will allow a more efficient application process.⁸⁴

The eligibility checker was announced in August 2022.⁸⁵ The service, which will be run by the Department for Work and Pensions, will allow ISPs to verify whether a customer who has requested a social tariff is in receipt of a relevant benefit. It is intended to remove the need for customers to prove entitlement themselves, for example by providing a letter from their Jobcentre.

The Internet Service Providers’ Association (ISPA) has argued that comparing the number of potentially eligible households with the number of households on social tariffs is a “simplistic” measure of take-up “given the wide range of financial situations that eligible households might find themselves in.”⁸⁶ Ofcom acknowledged this in its September 2022 affordability report and conducted a segmentation analysis to identify the segments within the wider group of households eligible for social tariffs that are most likely to have affordability issues. Broadly, households from the [DE socio-economic group](#) with adults of working age who are currently unemployed or working part time were more likely to benefit from a social tariff. These groups make up around 40% of the total number of eligible

⁸³ Ofcom, [Affordability of communications services – September 2022 update](#), 29 September 2022, p22-23

⁸⁴ [PQ 39959](#), 25 July 2022

⁸⁵ Prime Minister’s Office, DWP, and DCMS, [Cheaper broadband for struggling families](#), 15 August 2022

⁸⁶ ISPA, [Response to Ofcom’s consultation on proposals to amend the guide to help ensure customers in debt or struggling to pay are treated fairly](#), [accessed 24 November 2022]

households. Ofcom advised targeting these groups when raising awareness.⁸⁷

A mandatory social tariff?

Under the Communications Act, Ofcom may recommend that telecommunications service providers should be required to offer social tariffs. It can only implement that recommendation if the Secretary of State agrees and issues a direction.⁸⁸

In October 2022 the Labour Party called for an industry-wide social tariff. Lucy Powell, Shadow Secretary of State for Digital, Culture, Media and Sport, said that a Labour Government would legislate to set one if the industry, Ofcom, and consumer groups could not come to an agreement.⁸⁹ Groups including [Citizens Advice](#) and the Money and Mental Health Policy Institute have also called for a regulated social tariff.⁹⁰ In its reports on the loyalty penalty the Competition and Markets Authority (CMA) encouraged Ofcom to consider pricing interventions such as social tariffs.⁹¹

By contrast, industry groups have argued that such a policy would be unnecessary, pointing out that there has been a “strong response from the market with virtually all eligible customers in the UK having access to multiple providers with social tariffs.”⁹² Industry commentator Mark Jackson, of telecoms news website ISPreview, has noted that imposing a mandatory social tariff would be a “difficult balancing act” as some smaller broadband providers (especially those investing in new fibre infrastructure) may struggle to offer a social tariff due to the small margins in their business.⁹³

Ofcom has powers under the Communications Act to set up an industry-wide cost-sharing scheme if it believes that requiring all ISPs to offer social tariffs would impose an ‘unfair’ financial burden on particular providers.⁹⁴

⁸⁷ Ofcom, [Affordability of communications services – September 2022 update](#), 29 September 2022, section 4

⁸⁸ Communications Act 2003 s72D

⁸⁹ Labour Party, [Labour launches 3 point plan to ease the broadband bombshell and help families and firms facing cost of living crisis made in Downing Street](#), 13 October 2022

⁹⁰ Money and Mental Health Policy Institute, [Response to Ofcom’s consultation on proposals to amend the treating vulnerable customers fairly guide](#), [accessed 24 November 2022]

⁹¹ CMA, [Loyalty penalty update - progress two years on from the CMA’s super-complaint investigation](#), December 2020, pp12 and 14

⁹² Internet Service Providers Association, [Response to Ofcom’s consultation on proposals to amend the treating vulnerable customers fairly guide](#), [accessed 24 November 2022]

⁹³ ISPreview, [Ofcom Ponder Regulated Social Tariff for UK Broadband and Mobile](#), 18 December 2020

⁹⁴ Communications Act 2003 s72H

BT has suggested Government measures that could support social tariffs such as removing VAT from social tariffs.⁹⁵ Which? and ISPA have similarly called on the Government to reduce VAT on telecoms bills.⁹⁶

In its [June 2021 affordability report](#) Ofcom said that it would consider introducing a mandatory social tariff if the voluntary approach proved insufficient. However, regulatory action was not mentioned in the [February 2022 report](#). Ofcom's 'next steps' instead focus on raising awareness of social tariffs, scrutinising take-up rates, and conducting research into the behavioural barriers to consumer take-up of social tariffs.

Zero-rating websites

Zero-rating is a practice whereby an internet service provider (ISP) does not charge for the data traffic associated with accessing certain websites or applications. Customers can access zero-rated websites without using their data allowance and can continue to access them if they have reached their data limit. Whether and how to offer zero-rating is a commercial matter for ISPs and in the UK it has, until recently, generally been used as a promotional tool to attract customers.

Zero-rating is regulated under open internet, or 'net neutrality,' legislation. The [Open Internet Regulation](#) (EU Reg 2015/2120) is based on the principle that users should be able to access the (lawful) internet content that they want in the way that they choose without their ISP discriminating against particular content. With certain exceptions, ISPs are not permitted to "block, slow down, alter, restrict, interfere with, degrade or discriminate between specific content, applications or services, or specific categories thereof..." (Article 3(3)).⁹⁷

The Open Internet Regulation does not necessarily prohibit zero-rating. However, the practice may be contrary to Article 3 if it creates a material incentive to visit zero-rated websites over competing websites or otherwise limits access to content that is not zero-rated. Ofcom reviews zero-rating offers on a case-by-case basis, in accordance with the framework set out in its [approach to assessing compliance with net neutrality rules](#) (May 2019, paras 3.7-3.24).

In recent years zero-rating has come to be seen as a method of tackling affordability issues by ensuring continued access to essential websites for

⁹⁵ BT, [Government support is crucial if we are to build a digitally inclusive society](#), 12 May 2021; [BT Calls on UK Gov to Help Subsidise Social Broadband Tariffs](#), ISPReview, 12 May 12th, 2021

⁹⁶ ISPReview, [Which? and ISPA UK Call on Gov to Cut VAT from Broadband Bills](#), 4 August 2022

⁹⁷ This regulation remains applicable in the UK as retained EU law and through the [Open Internet Access \(EU Regulation\) Regulations 2016](#), as amended

people with limited data allowances.⁹⁸ During the coronavirus pandemic, for example, mobile operators agreed to offer free access to NHS websites.⁹⁹ This was later extended to websites offering advice and support to victims of crime, sexual abuse, and domestic abuse.¹⁰⁰ Some mobile providers also zero-rated educational websites, including BBC Bitesize and Oak National Academy (ONA).¹⁰¹ This was intended to ensure that children without broadband at home could access online learning material via mobile internet without using up their mobile data.

Ofcom did not conduct a detailed review of the zero-rating of NHS and victim support websites because they were “clearly aimed at supporting consumers during challenging periods and there appeared to be little to no risk of the offers limiting the rights of end-users.”¹⁰²

The regulator appears to have had greater concerns about the legality of zero-rating BBC Bitesize and ONA’s educational content. Ofcom’s net neutrality compliance report for 2021 notes that it advised network providers to “ensure that other providers of educational resources were able to join the offer.”¹⁰³ According to ONA, Ofcom ‘waived’ net neutrality rules on the basis that the zero-rating offer was part of the pandemic response.¹⁰⁴

1 Zero-rating: technical challenges

The efforts to provide free access to educational websites during the pandemic highlighted the technical challenges associated with zero-rating.

ISPs can zero-rate access to a specific domain, such as the website of Oak National Academy, and the pages within it. However, content that is embedded in the zero-rated domain but hosted elsewhere, such as a Youtube video, would not be included. Watching an ONA lesson on Youtube would still cost data unless the host domain (ie youtube.com) was also zero-rated.¹⁰⁵ ONA has said that was able to secure an agreement with ISPs to provide free access to its website only by moving all content to its own domain:

This was a considerable task. Most websites and applications contain requests to third party domains, and Oak’s 10,000 different lessons featured embedded activities, quizzes, Google Forms and Slides, analytics tools and videos which were all served by third parties.

⁹⁸ See for example Nesta, [What is data poverty?](#), December 2020

⁹⁹ GOV.UK, [Mobile networks remove data charges for online NHS coronavirus advice](#), 18 March 2020

¹⁰⁰ GOV.UK, [Data charges removed for websites supporting victims of crime](#), 11 June 2020

¹⁰¹ MobileUK, [Mobile Operators Extend Educational Assistance by Zero-Rating Oak National Academy Website](#), 9 February 2021

¹⁰² Ofcom, [Monitoring compliance with the Open Internet Regulation](#), November 2021, para 3.11

¹⁰³ Ofcom, [Monitoring compliance with the Open Internet Regulation](#), November 2021, para 3.13

¹⁰⁴ Oak National Academy, [Response to Ofcom’s net neutrality review call for evidence](#), undated, p4

¹⁰⁵ BBC News, [Lockdown: Vodafone will not offer free access to BBC Bitesize](#), 21 January 2021

Oak's small tech team is fortunate to have some of the most able digital engineers in the country, along with access to others in the commercial sector, so they undertook to rebuild significant parts of the Oak site so all traffic was served from its own domain. Oak was then able to provide 11 operators with a guarantee all content was routed through one apex domain where all its subdomains could be zero-rated.

With BBC Bitesize the situation was similar, but as all content was hosted on bbc.co.uk/bitesize the challenge was to allow Bitesize access without zero-rating other content in the BBC domain such as iPlayer. O2, Vodafone, and Three all concluded that this was not technically feasible. BT was able to offer zero-rated access to BBC Bitesize using a [variety of different methods to identify eligible traffic](#). BT noted that its system was imperfect and potentially costly but said that it was [worth exploring as a short-term measure](#) in response to the pandemic.

Ofcom consulted on [the UK's net neutrality rules](#) in 2021. The call for evidence stated that, as part of the review, Ofcom would look at the "merits of the current approach to zero-rating" and "seek to learn lessons from the Covid-19 pandemic, where certain health and educational materials were temporarily made available on a zero-rated basis."¹⁰⁶

Following the call for evidence Ofcom published a consultation document setting out its proposals for revised net neutrality guidance. On zero-rating Ofcom proposed to "clarify" its guidance to make clear that it would only object to zero-rating offers in limited circumstances:

In particular, we are unlikely to have concerns where ISPs provide:

- zero-rated access to information and services from public sector organisations (e.g., Government, NHS) that provide a public benefit and are not in competition with other suppliers; and
- zero rating offers that are genuinely open for all [content providers] of a certain category, or class, of applications ("class-based offers") to join.¹⁰⁷

¹⁰⁶ Ofcom, [Net neutrality review – call for evidence](#), September 2021, para 3.11

¹⁰⁷ Ofcom, [Net neutrality review – consultation](#), 21 October 2022, para 5.2

4 Helping consumers get better deals

In general, Ofcom believes that telecoms customers can benefit from a wide range of deals that provide good value for money for most consumers. However, research by Ofcom, Citizens Advice and the Competition and Markets Authority indicates that some consumers are not engaging in the market and are paying more for, or receiving less from, services than they could.

Ofcom has introduced various policies designed to help customers get better deals, both in terms of prices and identifying which service is most suitable for their needs. It sets various requirements on providers designed to ensure that customers have access to accurate and comparable information and that customers are not prevented or discouraged from switching to another provider.

The Government's strategic priorities for telecoms customers include:

- Addressing the difficulties consumers face in navigating the telecoms market by giving them the right data, information, and support to boost engagement;
- Removing barriers to switching, including for those not actively searching for a better deal all of the time; and
- Tackling harmful industry practices.¹⁰⁸

4.1 Barriers to consumer engagement

Engaged consumers tend to get better deals. Cheaper tariffs are available to customers who are in contract (that is, within the initial contract term rather than on a rolling contract). Consumers therefore benefit from 'shopping around' at the end of their contract, either by switching providers or re-contracting with their existing supplier. Engaged consumers are also more likely to purchase packages that are suited to their needs.

In this context, an 'engaged' consumer is one who has taken some form of action to ensure that they are on a suitable deal in terms of price and/or specification. This may involve using a price comparison website,

¹⁰⁸ DCMS, [Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services](#), 18 July 2019, para 46

renegotiating their existing deal, re-contracting with their existing supplier, or switching to a new supplier.

According to Ofcom, effective engagement requires consumers to be confident in their ability to: understand the language used by providers; speak to providers about deals; and compare deals.¹⁰⁹ Despite the likely availability of better or more suitable deals, roughly a quarter of broadband and a third of mobile customers are reluctant to engage in the market.¹¹⁰

The complexity of the retail telecommunications market is a barrier to effective engagement. Broadband, mobile, landline, and pay TV services are offered with a wide variety of specifications, features, and technologies. Broadband packages, for example, differ in their download and upload speeds, length of contract, monthly fees, set-up fees and processes, sign-up offers, data limits, contract terms and quality of service guarantees.

Even where the numbers are directly comparable, identifying the 'best' choice can be a challenge. Most customers will know that a broadband package with download speeds of 1000MB/s is faster than one offering 30MB/s. Yet it is not necessarily easy for individual customers to understand what the advertised speed will mean for their speeds in practice, or which speed they require based on their internet use.¹¹¹

Research conducted by Which? in 2019 found that engaging with the broadband market in particular was regarded challenging topic, leading to consumers not knowing where to start when researching deals and worrying about making the wrong choice. Besides technical complexity, the research found five further barriers to engagement:

- Lack of knowledge about pricing practices. In particular, there was low awareness among consumers of the possibility and benefits of re-contracting with their existing supplier after the end of their contract. Some customers saw introductory discounts as one-time only opportunities.
- Lack of communication about current and alternative packages. Customers did not have sufficient information from their provider about the nature of their current package and the alternative packages on offer. Others who were aware of alternatives were put off by the prospect of having to negotiate with their provider to access them.
- General satisfaction with broadband services. Many customers believed that their existing package was 'fine' and did not feel the need to proactively look for a better deal.
- Belief that changing provider could lead to a worse service. Broadband was regarded by many as a variable service, and they felt it was difficult

¹⁰⁹ Ofcom, [Pricing trends for communications services: 2021 report](#), 22 July 2021, p18

¹¹⁰ Ofcom, [Pricing trends for communications services in the UK: 2019 report](#), 9 January 2020, p2

¹¹¹ Which?, [What broadband speed do I need?](#), 7 October 2022

to judge the standard of service they would receive from a new provider until the service had actually been installed.

- Concern about unexpected costs. The research found that consumers did not trust their own ability to spot additional fees (e.g. for installing the service) or suppliers' willingness to be transparent about them.¹¹²

Which? found a higher level of engagement in the mobile market, with customers more likely to enter into a new deal with their supplier when their existing deal ended. The research put this down to the prominence of mobile phone handsets, which makes the market for mobile network services more 'interesting' and 'tangible' in the eyes of consumers and provides an incentive to engage that does not have an equivalent in the broadband market.¹¹³

Existing barriers to engagement are exacerbated by the fact that communications services have become essential to everyday life. According to a research report for Ofcom on engagement, consumers consequently give significant weight to continuity of service. The study found that this induced a resistance to change "among all but the most confident."¹¹⁴

Ofcom has introduced various measures designed to improve engagement with the telecoms market. They can be broadly categorised as demand-side or supply-side measures. The former are interventions "intended to enhance competition by helping the demand-side of markets – that is, customers – to work more effectively."¹¹⁵ They generally seek to improve engagement by ensuring that consumers have more and better information available to them. Interventions include rules around how services are marketed and an obligation for providers to tell out-of-contract customers about the deals that are available to them.

However, the Government's 2018 Green Paper on consumer markets noted that providing more market information was by itself insufficient to help consumers get better deals:

Simply relying on 'engaging' consumers by providing them with more and more information has been shown not to be a wholly effective approach.

Ofcom's engagement research identified some common behavioural biases (see Box 2) which may constrain customers' willingness or ability to choose deals that are right for their needs, even where they have sufficient

¹¹² Which?, [Consumer Engagement with the Broadband Market – full report](#), 18 October 2019, p4-5

¹¹³ Which?, [Consumer Engagement with the Broadband Market – full report](#), 18 October 2019, p69

¹¹⁴ Ofcom, [Consumer Engagement With Communication Services A Qualitative Research Study. Final Report](#), April 2018, p13

¹¹⁵ Centre for Competition Policy, [The role of demand-side remedies in driving effective competition: a review for Which?](#), 7 November 2016, p4

information.¹¹⁶ Ofcom expressed concern that providers could exploit these biases to the detriment of customers.¹¹⁷ Research by the Competition and Markets Authority, for example, has looked at how business can design website in a way that uses behavioural biases to influence purchasing decisions.¹¹⁸

The consumer markets Green Paper said that while a competitive market should ensure that deals are available, “no one should be exploited if they lack the time or capacity to engage and the vulnerable should be protected.”¹¹⁹

The regulator has therefore also introduced supply-side measure, which are interventions aimed at how companies operate, either requiring or banning certain practices.¹²⁰ For example, Ofcom requires providers to offer a ‘one touch switching’ process whereby customers do not need to speak to the provider they wish to leave.

2 Common behavioural biases

- Loss aversion – a bias towards the status quo, where change is regarded as a loss in itself.
- Myopia – a bias towards present costs and benefits at the expense of future implications of one’s choices. For example, customers may not appropriately factor in future fees and charges.
- Inertia – a bias towards the ‘default’ choice. Customers may be inclined to take the service advertised as by a provider as the default option, even if a cheaper option would suit their needs.
- Prominence – a bias in favour of the most prominent aspect of a product, for example a low introductory price.
- Over-confidence – for example, customers may ignore fees for high usage because they are overly confident of avoiding them.
- Confirmation bias – a tendency to base decisions on information that confirms one’s pre-existing beliefs.

¹¹⁶ Ofcom, [Making communications markets work well for customers](#), 23 January 2020, para 3.21 and Table 1

¹¹⁷ Ofcom, [Making communications markets work well for customers](#), 23 January 2020, para 2.4

¹¹⁸ CMA, [Online choice architecture: how digital design can harm competition and consumers](#), 5 April 2022

¹¹⁹ BEIS, [Modernising consumer markets: Consumer Green Paper](#), April 2018, para 8

¹²⁰ PA Consulting, [Review of supply side remedies: the role of supply side remedies in improving consumer outcomes](#), February 2020, p22

4.2 Marketing telecoms services

When marketing their services, mobile and broadband providers are required to provide consumers with “adequate, up-to-date, comparable information” regarding various aspects of the product or service offered. These are specified in [General Condition C2](#) and include information on:

- The nature of the service, including minimum service guarantees (if offered, or a statement that there are none) and any usage restrictions.
- The tariff, including usage allowances, charges for excess usage, and mobile roaming charges.
- Contract terms, including duration and early termination charges and rights.
- Products or services designed for users with disabilities.
- Compensation and refund policies and any available dispute resolution mechanisms.

There are specific rules about how communications providers can advertise broadband speeds and when they can say that a service is ‘unlimited.’

Speed claims

In its 2017 Digital Strategy, the Government said that it was “working with regulators and industry to ensure that advertising for broadband more accurately reflects the actual speeds consumers can expect to receive, rather than a headline ‘up to’ speed available only to a few.”¹²¹

In 2016, the Advertising Standards Agency (ASA) commissioned research into consumer perceptions of broadband speed claims¹²². At the time, ISPs were permitted to use the phrase ‘up to’ when advertising broadband speeds. The ‘up to’ speed had to be available to at least 10% of customers.

The research found that ‘up to’ speed claims had the potential to be materially misleading. Research participants with low knowledge about broadband products were most likely to believe that they would get the advertised speed. Participants with higher knowledge were more cautious, but still anticipated that they would achieve speeds close to the advertised speed. Once it was explained to them that the ‘up to’ speed was applicable to 10% of customers, most felt that it would not help them understand the speeds they were likely to receive.

As a result, the ASA strengthened its rules about how broadband speeds can be advertised. Since May 2018, ISPs have been required show the ‘average’

¹²¹ DCMS, [UK Digital Strategy](#), 1 March 2017

¹²² ASA, [Qualitative research for broadband speed](#), November 2016

speed that at least 50% of their customers receive at the network's busiest time (8-10pm for home services and 12-2pm for business services).¹²³

Ofcom updated its residential and business [Broadband Speeds Codes of Practice](#) to reflect the new ASA advertising standards. Signatories to the Code must, at the point of sale, provide consumers with a 'normally available download speed' based on the peak time speeds achieved by the 20th to 80th percentile of the ISP's customers on the broadband package in question.

Signatories must also provide a minimum guaranteed download speed. Customers should be able leave the contract without penalty if their actual download speeds are below the minimum for three successive days, and the ISP cannot fix it within 30 days. This right to exit also applies to bundled landline and TV services bought at the same time as the broadband package.¹²⁴

The Code of Practice was explored as part of the customer engagement research conducted by Which?. While it was regarded as beneficial in theory, the research found that in practice it was "undermined by consumers' low trust in providers." Customers were not motivated to exit their contract if they were dissatisfied with their download speeds because "it means they have to go through the effort of engaging with the market again."¹²⁵

'Unlimited'

Providers can only advertise a broadband service as 'unlimited' if users do not incur an additional charge or a service suspension as a consequence of exceeding usage thresholds set out in, for example, a Fair Usage Policy (FUP). 'Unlimited' services can come with limitations affecting speed or usage but only if they are moderate and clearly explained in the marketing communication.¹²⁶

In August 2022, for example, the ASA banned an advert for Lebara Mobile that claimed to offer unlimited UK minutes and texts, subject to an FUP. Users who exceeded the text and call limits in the FUP were charged the standard rate. Lebara argued that its FUP was needed to prevent the service from being used for illegitimate reasons, such as spam calling, fraud, or commercial purposes. The ASA considered that "merely exceeding a particular level of usage was not enough to render a user illegitimate" and concluded that the advert could mislead users.¹²⁷

¹²³ ASA, [Broadband speed claims guidance](#), 23 November 2017. The ASA's rules permit ISPs to make speed claims on a different basis, as long as they can provide evidence to demonstrate that it is not likely to mislead consumers.

¹²⁴ Ofcom, [Clear, honest information before you buy broadband](#), 28 February 2019. A list of current signatories to the Codes is available on Ofcom's [Codes of Practice](#) webpage.

¹²⁵ Which?, [Consumer Engagement with the Broadband Market – full report](#), 18 October 2019, p60.

¹²⁶ ASA, [Internet: 'Unlimited'](#), 3 March 201

¹²⁷ ASA, [ASA Ruling on Lebara Mobile Ltd t/a Lebara Ltd](#), 10 August 2022

'Fibre'

The ASA has also assessed whether the term 'fibre' ought to be used to advertise fibre-to-the-cabinet (FTTC) broadband services. FTTC connections use fibre optic cables to carry the signal from the exchange to street cabinets and then existing copper telephone lines are used to connect the cabinet to individual premises. FTTC is therefore technically only part-fibre. The ASA was concerned that the term could lead consumers to believe that they were purchasing a full-fibre, fibre-to-the-premises (FTTP) service.

However, the ASA's research found that 'fibre' was not a key differentiator for most consumers and was not likely to materially affect their decision-making. Consumers simply regarded it as "one of many buzzwords to describe modern, fast broadband."¹²⁸

The ASA's ruling has been criticised, in particular by internet service providers who only build and operate full fibre networks. CityFibre CEO Greg Mensch argued that consumers are being "misled into thinking they can get full-fibre benefits on a copper broadband network."¹²⁹ A March 2021 report by WIK Consult, commissioned by CityFibre, asked a sample of broadband customer what type of internet connection they had. 52% claimed to have full fibre. Comparing the responses with Ofcom's full-fibre coverage data, the report found that full-fibre was in fact only available to 18% of those who claimed to have it.¹³⁰

CityFibre has called on Ofcom to "enable consumers to make informed purchasing decisions" by mandating a traffic light system where products are categorised as copper, hybrid copper/fibre, or full fibre.¹³¹

The potential for "fibre" advertising to mislead customers has also been raised in Parliament. The Government maintains that it is this is ultimately an issue for the regulators.¹³² Ofcom has sought to secure a voluntary agreement within the industry about the use of common terminology to describe broadband technologies, but so far without success.

4.3

Consumer contracts

Information requirements

Ofcom has set [General Conditions](#) designed to ensure that consumers have the information they need to make an informed choice about the service they are purchasing. Communications providers must provide certain types

¹²⁸ ASA, [Broadband fibre qualitative research: final report](#), November 2017, p3

¹²⁹ ISPReview, [Cityfibre Secure Judicial Review of "Misleading" Fibre Broadband Ads](#), 12 June 2018

¹³⁰ WIK Consult, [Impact of labelling on full fibre adoption](#), March 2021, p17-18

¹³¹ DCMS Committee, [Broadband and the road to 5G](#), 17 December 2020, para 65

¹³² [PQ 39901](#), 20 September 2022

of information in a “clear and comprehensible manner” before customers sign a contract.

The general information requirements, set out in the Annex to Condition C1, are similar to the marketing requirements described in section 4.2 above. ISPs must also include ‘comprehensible’ explanations of the download and upload speeds that should be available (and the customer’s rights in the event that they are not met), and how traffic management policies could impact the service.

Contracts for bundled services must include the prices of the individual elements of the bundle.

In June 2022 Ofcom introduced an additional requirement for customers to be provided with a one-page summary of their contract.¹³³ The summary must include information about the speed of the service, the price, the length of the contract, and features for customers with disabilities.

Contract duration

General Conditions C1.11 and 1.13 require that the commitment period for fixed-term contracts can be no longer than 24 months, and providers must offer contracts with a duration of 12 months. Since December 2021 this limit has also applied to bundles.

Automatic rollover contracts, where the minimum contract period is renewed unless the customer actively opts out, have been banned since December 2011. Research carried out for Ofcom found that these contracts were associated with “a significantly lower level of switching” and had the potential to exploit consumer inertia.¹³⁴ Ofcom concluded that they were consequently harmful to consumers and competition.

Advice on contracts for customers

Ofcom has published a [checklist for customers](#) considering new mobile phone, home phone or broadband deals. Factors for customers to consider include the length of contracts, how prices may vary for different services or increase over time, and other charges that may apply. The checklist contains the information that customers should be given by providers and explains how customers can complain about services or contracts.¹³⁵

¹³³ Ofcom, [New rules on short and simple contract details](#), 17 June 2022. The template of the summary is contained in the Annex to [Commission Implementing Regulation \(EU\) 2019/2243](#)

¹³⁴ Ofcom, [Automatically renewable contracts, 13 September 2011](#), para 4.56

¹³⁵ Ofcom, [Checklist for new phone or broadband contract \[last accessed 5 Feb 2021\]](#)

4.4

End-of-contract notifications and annual best tariff information

The ‘Loyalty Penalty’

As mentioned in section 3.5 above, people who switch or re-contract at the end of their contract generally pay less than those who take no action.

In September 2018 Citizens Advice (CA) made a ‘[super complaint](#)’ to the Competition and Markets Authority (CMA) about five markets, including the broadband and mobile markets, where longstanding customers can pay much more than new customers for the same services, an issue it referred to as the ‘loyalty penalty’.¹³⁶ At the time, around 2 in 5 broadband customers were out-of-contract.¹³⁷ CA argued that:

Broadband customers face an average loyalty penalty of £113 for every year they stay in their contracts after their initial contract period ends, a 43% increase on the initial price. Proportionally, this penalty is far higher than in other sectors, such as energy, and reflects a recent shift in the market. More than 9 in 10 (96%) consumers think this penalty is unfair.

The cost of broadband after the initial contract period is rarely included in advertising and is often hard to locate on providers’ websites. Over a third of customers (35%) say it was not straightforward to find a good deal in essential markets. 35% of customers are unaware of the loyalty penalty.¹³⁸

Prior to the Citizens Advice super complaint, Ofcom had also previously highlighted that out-of-contract customers often pay more for the same services compared to customers that re-contract or switch. It had begun a programme of work to deliver better outcomes for consumers on these issues.¹³⁹

The CMA sought views on the significance, impacts, and causes of the loyalty penalty, and suggestions on how to remedy it. Submissions from industry stakeholders warned against over-regulation that could restrict competition. Industry stakeholders highlighted that price discounts on new deals provide an incentive for customers to engage and are an important tool that

¹³⁶ Citizens Advice, [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), 28 September 2018

¹³⁷ Ofcom, [Pricing trends for communications services](#), January 2020

¹³⁸ Citizens Advice, [Exploring the loyalty penalty in the broadband market](#), 18 April 2017

¹³⁹ Ofcom, [Pricing trends for communications services in the UK](#), July 2018; Ofcom, [Call for inputs: Helping consumers to engage in communications markets](#), 14 July 2017; Ofcom, [Consultation: End-of-contract and out-of-contract notifications](#), 31 July 2018

companies can use to attract new customers in a “fiercely competitive market”.¹⁴⁰

The CMA responded in December 2018. It found that the [loyalty penalty was significant](#), and quantified the effect in telecoms markets to be “nearly £1 billion in broadband and £0.3 billion in mobile (for handset inclusive contracts)”.¹⁴¹

The report provided a breakdown of the penalty for various services, including the number of people/households potentially affected and the average penalty per person/household, based on Ofcom and Citizens Advice data. For example, it estimated that:

- the average loyalty penalty for mobile (handset inclusive) customers was £264 a year, potentially affecting 4 million customers, based on the difference between the initial fixed term contract price and continuing price for people who remain on the contract longer than the initial fixed term length;
- the average loyalty penalty for broadband package customers was £112 per year, potentially affecting 8.7 million customers, based on the difference between average spend per customer for ‘in contract’ and ‘out of contract’ customers and the number of customers ‘out of contract’.¹⁴²

The CMA found that more action was needed from regulators, the Government and the CMA and highlighted the need for a “step-change” in approach to effectively tackle loyalty penalty issues.¹⁴³ It said there was a “strong case for considering more direct intervention such as price controls, targeted to protect those who are worse off”.¹⁴⁴

Government response to the CMA’s report

The Government responded to the CMA’s report in June 2019 saying that it was committed to ensuring that both Government and regulators took

¹⁴⁰ BT, EE, and Plusnet, [Response to the CMA’s call for inputs on the ‘loyalty penalty’ super-complaint by Citizens Advice](#), 12 October 2018

¹⁴¹ CMA, [Tackling the loyalty penalty Response to a super-complaint made by Citizens Advice on 28 September 2018](#), 19 December 2018, Executive summary

¹⁴² CMA, [Tackling the loyalty penalty Response to a super-complaint made by Citizens Advice on 28 September 2018](#), 19 December 2018, Table 4.1. Further information on the evidence base and its limitations is provided in paras 4.10-4.20, 4.39-4.30 and Annexe E

¹⁴³ CMA, [Tackling the loyalty penalty Response to a super-complaint made by Citizens Advice on 28 September 2018](#), 19 December 2018, Executive summary

¹⁴⁴ CMA, [Tackling the loyalty penalty Response to a super-complaint made by Citizens Advice on 28 September 2018](#), 19 December 2018, Executive summary

further action on the recommendations to tackle harmful business practices and deliver better outcomes for consumers.¹⁴⁵

In 2019 Ofcom announced the outcome of some of its ongoing work to address the loyalty penalty issue.¹⁴⁶ For example, these included a mandatory requirement for end-of-contract notifications (ECNs) and annual best tariff information to be issued, and voluntary commitments by providers to cut prices and protect out-of-contract vulnerable customers (see section 5.1 below).

In September 2020 CA welcomed the steps that Ofcom had taken so far but questioned whether voluntary one-off commitments by providers would be sufficient and called for stronger action from Ofcom and government.¹⁴⁷

The CMA's latest update published in December 2020 broadly welcomed progress made in tackling the loyalty penalty across the mobile and broadband markets, (as well as the markets for cash savings, home insurance and mortgages) saying the "direction and commitment of regulators to tackle the problems is clear". The update included a summary of the actions taken so far.¹⁴⁸ It encouraged regulators to continue to push forward changes and monitor their effectiveness.

Notification requirements

From 15 February 2020 Ofcom required broadband, mobile, home phone and pay TV companies to tell customers about any changes to their price at the end of their minimum contract period, along with the best deal available to them for a similar package and any discounts available to new customers (via End of Contract Notifications, ECNs).¹⁴⁹ The ECN may also offer the customer an upgraded package. Customers who remain out of contract are to be advised about their contract status and their provider's best tariffs at least annually (Annual Best Tariff Notifications, ABTNs).¹⁵⁰ Notifications to mobile customers on bundled contracts (contracts including the phone handset and service) must include a SIM only option.¹⁵¹

¹⁴⁵ [Letter from Rt Hon Greg Clark MP Secretary of State Department for Business, Energy & Industrial Strategy](#), 17 June 2019

¹⁴⁶ Including: Ofcom, [Fairer prices for broadband customers](#), 25 September 2019; [New measures to increase fairness for mobile customers](#), 22 July 2019

¹⁴⁷ Citizens Advice, [The loyalty penalty in essential markets Two years since the super-complaint](#), September 2020

¹⁴⁸ CMA, [Loyalty penalty update - progress two years on from the CMA's super-complaint investigation](#), December 2020, paras 46-60

¹⁴⁹ General Conditions of Entitlement C1.10-15

¹⁵⁰ Ofcom, [Helping consumers get better deals: Statement on end-of-contract notifications and annual best tariff information](#), 15 May 2019; [Companies must tell customers about their best deals](#), 14 February 2020

¹⁵¹ Ofcom, [Helping consumers to get better deals in communications markets: mobile handsets](#), 22 July 2019, para 4.6

In November 2021 Ofcom published a review of the impact of ECNs and ABTNs. It found that 62% of broadband customers whose contract ended in September 2020 either re-contracted or switched, compared to 47% of those whose contract expired in September 2019 (prior to the introduction of ECNs).

Overall, the proportion of broadband customers who were out of contract fell from 40% in September 2019 to 35% in September 2020. The 5 percentage-point fall meant that 1.3 million customers were no longer out of contract. Ofcom's pricing research suggested that they would have saved, on average, £5.10 per month by either re-contracting with their existing supplier or switching to a new one.

There was a smaller impact in the mobile market. 76% of customers re-contracted in September 2020, up from 70% in 2019 and 25% of customers were out of contract in 2020 compared to 27% in 2019. Ofcom put this down to historically higher levels of engagement among mobile customers and to the fact that low-usage SIM-only customers may be financially better off out of contract.

Ofcom acknowledged that higher engagement rates could not be entirely attributed to the introduction of ECNs. A further review was published in May 2022 which used econometric techniques to estimate the direct contribution of ECNs to re-contracting rates among broadband customers. It found variation among providers: ECNs increased re-contracting at Plusnet by 13%, but only 3% at TalkTalk.¹⁵² The report did not seek to explain this disparity. The November 2021 report had noted variations in how providers had implemented ECNs but found no systematic difference in engagement as a result.

4.5 Mobile and broadband switching

As mentioned previously, consumers who shop around will generally find cheaper or better deals than those who do not. While this can be achieved by re-contracting with one's existing provider, it is the ability of consumers to switch to a new one that gives providers an incentive to compete on price and quality. However, customers who want to switch to take advantage of better deals may be put off by legal, technical, and practical difficulties in the switching process. This may include contractual terms and conditions, time-consuming procedures, and fees.

The European Electronic Communications Code (EECC) introduced a number of high-level protections to enable switching. It requires national regulators

¹⁵² Ofcom, [End-of-contract notifications: an ex-post evaluation of the impact of the introduction of ECNs on re-contracting and pricing for broadband services](#), May 2022, p11

to introduce a switching process that is quick, efficient, simple, and ensures continuity of service where feasible.

Ofcom has introduced various measures to make switching easier as part of its Fairness for Customers programme, implementing the EECC.

Mobile

Prior to July 2019, consumers wanting to switch mobile operator and keep their phone number needed to obtain the consent of their current provider. To do so they usually had to call their provider to request a Porting Authorisation Code (PAC), which they would pass on to their new provider. Ofcom found that this created barriers to switching, with nearly one third of customers finding it difficult to cancel their previous service.

From July 2019 Ofcom enabled mobile customers to leave their network by sending a free text message.¹⁵³ Consumers can inform their current provider that they want to switch and keep their number by texting 'PAC' to 65075. The PAC provided will be valid for 30 days, and once the consumer has given it to a new provider their number must be ported within one working day.

Ofcom also made it easier for switching customers to obtain new numbers and find out whether they are still in their minimum contract period by sending a text. Ofcom's new rules also enabled customers to avoid paying notice periods on their old contracts when they had switched to another provider (however, minimum contract terms or early termination charges may still apply).

Broadband

In February 2021 Ofcom announced plans to make switching broadband easier for those switching to a different network or technology.¹⁵⁴ Currently switching between providers that use Openreach's network (such as BT, TalkTalk and Sky) is a 'one-stop' process. Customers only need to contact their new provider, who will arrange the switch. Customers who would like to switch between different networks (for example, from BT to Virgin Media) need to contact both suppliers. They need to arrange for their existing service to be stopped before the new service can begin.

From April 2023 Ofcom will introduce new rules so that all customers only need to contact their chosen provider to switch between any network. The process will be known as 'One Touch Switch.' The new process will be developed and operated by the industry in accordance with the requirements set by Ofcom in the General Conditions. In particular, the

Ofcom has published guides for customers looking to switch their mobile, broadband, or landline provider.

¹⁵³ Ofcom, [End it with a text: easy mobile switching from Monday](#), 28 June 2019. The requirements on mobile providers are set out in General Condition B3.

¹⁵⁴ Ofcom, [New plans for seamless broadband switching](#), 3 February 2021.

process must not require customers to contact, obtain consent from, or take any other steps required by, their existing provider.¹⁵⁵

The retention conversation

When customers contact their provider to tell them that they would like to switch, the provider will likely wish to encourage the customer to stay with them. The so-called 'retention conversation' can be used by customers as a way to get a better deal. A survey by Which? found that, on average, broadband customers saved £85 per year by haggling with their provider.¹⁵⁶

However, not all customers will welcome the conversation. Ofcom's customer research has found that a lack of confidence in, for example, the terminology used to describe telecoms services is a barrier to engagement. Customers may be reluctant to contact their providers to switch if they expect to be drawn into a prolonged sales pitch.

Ofcom therefore requires that providers ensure that their conditions and procedures for terminating contracts do not act as a disincentive to switching. Ofcom's guidance states that, in dealing with termination requests that take place by phone or web chat:

- Customer service agents should not be rewarded for discouraging switching, or penalised for processing termination requests promptly;
- Offers made to the customer are recorded so that customer service agents are aware of them in future conversations; and
- Customer service agents should be trained to recognise when it is not appropriate to engage in a retention conversation.¹⁵⁷

Providers should also offer alternative communication options for customers who would like to terminate their contract without speaking directly to the provider.¹⁵⁸

Ban on selling locked handsets

Locked handsets are mobile phones that can't be used on other networks unless they are unlocked (which incurs a cost and can take time). According to Ofcom, a third of people who considered switching but decided against it said that they were put off by the need to unlock their handset.¹⁵⁹

As part of its reforms to implement the EECC, Ofcom introduced rules to ban providers from selling locked handsets from December 2021.

Tips for getting a better deal by engaging in a retention conversation are available from [telecoms news website](#) [ISPreview](#) and [consumer group Which?](#)

¹⁵⁵ Ofcom, [Quick, easy and reliable switching](#), 3 February 2022, para 3.40

¹⁵⁶ Which?, [How to haggle for the best broadband and TV deal](#), 24 June 2022

¹⁵⁷ Ofcom, [Guidance under General Condition C1 – contract requirements](#), June 2022, para 1.5-1.55

¹⁵⁸ Ofcom, [Guidance under General Condition C1 – contract requirements](#), June 2022, para 1.49-1.50

¹⁵⁹ Ofcom, [Mobile companies now banned from selling locked handsets](#), 17 December 2021

4.6

Comparison tools

The European Electronic Communications Code (EECC) requires that consumers have free access to at least one digital comparison tool that provides clear, concise, and impartial information about telecommunications services. Ofcom operates a voluntary accreditation scheme that operators of online price comparison tools can join, provided they meet the standards set in the EECC and by Ofcom.¹⁶⁰ The [accredited members](#) are listed on Ofcom's website.

Communications providers have an obligation to make information on prices and service levels available to third parties for the purpose of providing a comparison tool (General Conditions C2.19-2.21).

From December 2019 to February 2020 Ofcom ran a consultation on changes to the scheme designed to benefit customers, such as making sure that comparison information is independent, accurate and can be corrected, covers a significant proportion of the market, and includes any provider wishing to be included. Ofcom published amendments to the scheme in October 2020, bringing it into line with the EECC's requirements and incorporating recommendations made by the Competition and Market Authority's digital comparison tools market study.¹⁶¹

Ofcom publishes annual research reports on customer service performance in the telecoms industry. The reports track customer satisfaction and complaints, providing a scorecard for the major providers. Ofcom says that it publishes the research to "help people make informed decisions" and to allow customers to "look beyond price and see what level of service they can expect from different providers."¹⁶² It also publishes an [interactive version](#) of the reports. The results of the latest report are discussed in section 6 below.

Open Communications consultation

In August 2020 Ofcom consulted on [introducing a data mobility initiative](#) to help people and small businesses engage with the market by sharing information about their services and how they use them with third parties.¹⁶³ This could enable digital comparison tools, providers and others to offer innovative new services that help people identify the best deal for their needs and receive tailored offers.

Ofcom published a summary of responses to the consultation in July 2021, and stated that it had not yet reached any conclusions about the case for

[Ofcom's guide to choosing the best mobile, broadband, and landline provider looks at factors other than price to consider when comparing deals.](#)

¹⁶⁰ Ofcom, [Statement on digital comparison tools](#), 27 October 2020, para 4.11

¹⁶¹ CMA, [Digital comparison tools market study](#), September 2017

¹⁶² Ofcom, [Choosing the best broadband, mobile and landline provider](#), May 2022

¹⁶³ Ofcom, [Consultation: Open Communications-Enabling people to share data with innovative services](#), August 2020

implementing a data mobility initiative.¹⁶⁴ It said it would await the Government's [Smart Data Review](#) process to be finalised which could include new legislation to enable the introduction of data mobility:

Through its Smart Data Review, the Government is considering introducing legislation that will enable the launch of Smart Data initiatives in different sectors. We await the outcome of this process. If any legislation gives Ofcom specific powers to implement data mobility, the responses to our consultation will provide a helpful background to further work that we would need to do to establish whether and how data mobility should be introduced in the telecoms and pay TV markets. In the meantime, we will continue to evaluate what can be learned from data mobility initiatives in other sectors through our membership of the Government's Smart Data Working Group.¹⁶⁵

¹⁶⁴ Ofcom, [Update on Open Communications: Enabling people to share data with innovative services](#), 7 July 2021

¹⁶⁵ Ofcom, [Update on Open Communications: Enabling people to share data with innovative services](#), 7 July 2021

5 Vulnerable consumers and customers in debt

5.1 Vulnerable consumers

There is no strict or official definition of a vulnerable consumer. Broadly it means customers who, due to a range of personal factors, may need extra help to engage in telecoms markets.

Ofcom has identified age, disability, and income among other factors that may make people vulnerable:

Some people's ability to participate in communications markets is affected by factors such as their age, disability, income or geographical location. Life events such as bereavement or illness can temporarily reduce people's ability to participate in society and/or increase their dependence on certain communications services.¹⁶⁶

The Competition and Markets Authority (CMA) report in 2018 into the Loyalty Penalty also observed that some individuals have certain characteristics that can lead to greater risks of experiencing problems across a range of markets:

In a broad sense, consumer vulnerability can refer to any situation in which an individual may be unable to engage effectively in a market and as a result, is at a particularly high risk of getting a poor deal.¹⁶⁷

The CMA classed as vulnerable those consumers with at least one of the following characteristics: low levels of education; being time-poor; indebtedness; English as a second language; lacking skills or confidence online; being digitally excluded; or living in social isolation or a remote geographical area.¹⁶⁸

¹⁶⁶ Ofcom, [Consumer vulnerability](#) [accessed 8 October 2020]

¹⁶⁷ CMA, [Tackling the loyalty penalty Response to a super-complaint made by Citizens Advice on 28 September 2018](#), 19 December 2018

¹⁶⁸ CMA, [Tackling the loyalty penalty Response to a super-complaint made by Citizens Advice on 28 September 2018](#), 19 December 2018, para 3.8. It published further analysis of consumer vulnerability in February 2019: [Consumer vulnerability: challenges and potential solutions](#)

Treatment of vulnerable consumers

Research published in 2018 by the Money and Mental Health Policy Institute found that 75% of customers with mental health issues have “serious difficulties” engaging with service providers through at least one commonly-used communication channel. As a result, many struggle to report complaints and faults or ask for extra help. The survey also found that communications from service providers could be a source of stress, especially where the information contained jargon or was not presented in an accessible way.¹⁶⁹

Guides and FAQs about services for disabled customers can be found on Ofcom’s [accessibility webpage](#).

Ofcom must have regard to vulnerable consumers when performing its duties under the Communications Act 2003.¹⁷⁰ Additionally, one of the Government’s strategic priorities for the telecoms market is for Ofcom to safeguard the interests of telecoms consumers, including the vulnerable and less engaged, by ensuring they are better informed and protected.¹⁷¹

Through the General Conditions of Entitlement (GC5) Ofcom requires telecoms providers to have procedures in place for the fair treatment of customers who the provider has “been informed or should otherwise reasonably be aware may be vulnerable due to circumstances such as age, physical or learning disability, physical or mental illness, low literacy, communications difficulties or changes in circumstances such as bereavement.” Providers are required to put in place certain measures to support customers with disabilities, including:

- Access to telephone directory information for customers unable to use printed directories;
- A relay service that allows customers to make and receive voice calls in text format;
- SMS and video relay access to emergency organisations;
- Priority fault repair;
- Permit customers with relevant disabilities to nominate a third party to manage their bills;
- Communications from the provider, including contracts, bills, and End-of-Contract Notifications, must be provided in an accessible format.¹⁷²

In addition, Ofcom has published best practice guidance on [how telecoms providers should treat vulnerable customers](#).¹⁷³ It suggests actions that providers should take such as proactively identifying vulnerable customers,

¹⁶⁹ Money and Mental Health Policy Institute, [Access essentials: Giving people with mental health problems equal access to vital services](#), 4 July 2018

¹⁷⁰ Communications Act 2003 s3(4), as amended

¹⁷¹ DCMS, [Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services](#), October 2019

¹⁷² Ofcom, [General Conditions of Entitlement – unofficial consolidated version](#), 17 June 2022, C5.7-C5.16

¹⁷³ Ofcom, [Vulnerable customers must be treated fairly](#), 23 July 2020

offering a wide range of communication channels, and actively promoting the extra help, support and services that are available to relevant customers.

In June 2021 Ofcom published research into vulnerable customers' experiences when contact their communications providers.¹⁷⁴ It found a lack of consistency, with the quality of service dependent on the individual member of staff. Ofcom recommended that providers put in place processes for recording customers' needs (with their consent) and train staff to ensure they can recognise signs of vulnerability and adapt their service accordingly (for example by using plain English).

5.2 Protection for people in debt or at risk of disconnection

Customers struggling to pay their bills should contact their provider. Ofcom has published advice about [how providers and advice services may be able to help](#).

An average of 2% of fixed broadband customers and 3% of mobile customers were in arrears between January 2020 and January 2021, according to Ofcom's research.¹⁷⁵ The proportion of customers in arrears by two or more regular payments in that period was less than 1% for both mobile and broadband. Average customer debt for customers in arrears was highest for customers taking mobile pay-monthly contracts.

A survey for Citizens Advice in March and April 2021 found that 18% of households in receipt of Universal Credit were behind on their broadband payments, as were 12% of 18-34 year olds.¹⁷⁶

The proportion of broadband customers disconnected for non-payment each month was, according to Ofcom's research, around 0.1 to 0.2% for broadband and mobile services (between September and January 2021).

The proportion of customers disconnected or in arrears by two or more regular payments increased at the start of the pandemic but returned towards pre-pandemic levels by January 2021.

Ofcom launched a [review of measures to protect people in debt or at risk of disconnection](#) in July 2021.¹⁷⁷ Ofcom stated that although a relatively small proportion of customers were in arrears, being in debt can have a significant impact on those that experience it. After reviewing provider practices, Ofcom considered that there was no evidence of significant consumer harm that would warrant amendments to the General Conditions. However, it did note that there was considerable variation in how providers treat customers in debt, meaning that some customers could receive less support than others

¹⁷⁴ Ofcom, [Contacting phone, broadband and pay-TV companies: vulnerable customers' experiences](#), 14 June 2021

¹⁷⁵ Ofcom, [Review of measures to protect people in debt or at risk of disconnection](#), 22 July 2021

¹⁷⁶ Citizens Advice, [2.5 million people are behind on their broadband bills](#), 4 June 2021

¹⁷⁷ Ofcom, [Review of measures to protect people in debt or at risk of disconnection](#), 22 July 2021

depending on which provider they are with. Ofcom therefore argued that there was a case for setting best practice recommendations to providers regarding practical measures they could adopt to treat financially vulnerable customers fairly.¹⁷⁸

Ofcom issued a consultation on its proposals in March 2022 and published its decision in September 2022.¹⁷⁹ Ofcom decided to add best practice recommendations in four areas to its existing guide on treating vulnerable customers fairly:

- Identify and engage with customers in debt. Providers should be proactive in identifying and contacting people who are in debt or struggling to pay. When communicating with those customers, they should tell them about the debt support available.
- Strengthen links with debt advice organisations. In communications about payments, providers should inform customers about sources of free debt advice. They should also make it easy for free debt advice services to represent customers.
- Be transparent and proportionate when taking steps to effect payment. Customers should be able to find out the steps providers will use during the 'debt journey.' Where service restrictions are used to encourage payment they should, where possible, be: phased, avoid restricting services that vulnerable people rely on; and not restrict calls to support helplines.
- Inform customers about payment support measures. This includes measure that apply to the customer's existing deal such as payment holidays and deferrals, but also involves informing customers about the provider's social tariff if one is offered. The updated guide highlights that Ofcom considers it best practice to offer a social tariff. Providers should work with consumer groups and charities to promote their social tariff.

¹⁷⁸ Ofcom, [Review of measures to protect people in debt or at risk of disconnection](#), 22 July 2021, overview

¹⁷⁹ Ofcom, [Treating vulnerable customers fairly guide – changes to the guide to help ensure customers in debt or struggling to pay are treated fairly](#), 29 September 2022

6 Satisfaction, complaints, and disputes

6.1 Service quality

Under Article 104 of the [European Electronic Communications Code](#) (EECC) Ofcom has discretionary power to require communications providers to publish “comprehensive, comparable, reliable, user-friendly and up-to-date information” on the quality of their service. This includes (where appropriate for the service) information on: service connection time; fault rates and repair times; voice connection quality; dropped and unsuccessful call ratio; bill correctness complaints; latency, jitter, and packet loss. The Body of European Regulators for Electronic Communications (BEREC) has published guidelines on how to apply Article 104.¹⁸⁰

Ofcom has chosen not to utilise this power. Communications providers in the UK are not required to publish general information on service quality. Ofcom noted in its statement on implementing the EECC that it has already introduced measures to improve customers’ ability to compare service quality, such as its Code of Practice on broadband speeds (see section 4.2 of this briefing).¹⁸¹ Ofcom also publishes its own data comparing customers’ satisfaction with different providers, as discussed in the next section. It said in the EECC consultation that it may, in the future, consider whether providers should be required to publish this data on their own websites.

Ofcom has published advice for customers on:

- [Improving mobile phone reception](#);
- [Improving indoor mobile coverage](#);
- [Improving wifi performance](#);
- [Improving broadband speeds](#).

6.2 Customer satisfaction

Since 2017 Ofcom has published [annual reports comparing customer service performance](#) across the telecoms industry. It tracks customer satisfaction for

¹⁸⁰ BEREC, [Guidelines detailing Quality of Service Parameters](#), 10 March 2020

¹⁸¹ Ofcom, [Fair treatment and easier switching for broadband and mobile customers: Implementation of the new European Electronic Communications Code](#), 27 October 2020, paras 6.59-6.66

the major mobile, broadband, and landline providers and compares the performance of telecoms providers with that of other sectors.

The latest report was published in May 2022.¹⁸² For mobile customers it found that:

- 91% of customers were satisfied with their service; and
- 85% thought their service provided value for money.

Satisfaction among broadband customers was lower:

- 83% of customer were satisfied with their service overall; and
- 80% were satisfied with the speed of their service.

The report includes a breakdown of satisfaction by major service providers, showing how they compare against the industry average.

Ofcom also publishes [performance scorecards](#) along with regulators in water, energy and banking that compare how customers rate the biggest service providers in each sector.¹⁸³ The scorecards include information on customer satisfaction, service quality, value for money and complaints. The scorecards show that overall, telecoms and media ranked second among these four sectors in July 2020, with banks and building societies coming out on top.

The UK Customer Satisfaction Index, produced by the professional membership body, the Institute of Customer Service, compares telecoms and utilities customer service against a range of other service sectors including retail, tourism, public sector and transport. In July 2022 it found that out of 13 sectors only four – national and local public services, transport, and utilities (energy and water) – had lower levels of customer satisfaction than telecommunications & media.¹⁸⁴ This is an improvement over previous years: in 2018, for example, only transport performed worse in terms of customer satisfaction.¹⁸⁵

Complaints handling

Ofcom also tracks how the industry is performing in terms of complaints and complaints handling. In its 2022 report, Ofcom reported that 9% of mobile and 20% of broadband customers had had a ‘reason to complain’ over the past 12 months.

¹⁸² Ofcom, [Comparing customer service: mobile, home broadband and landline](#), 18 May 2022

¹⁸³ Ofcom, [UKRN performance scorecard](#), 14 January 2021

¹⁸⁴ Institute of Customer Service, [UK Customer Satisfaction Index](#), July 2022. Industries included were automotive, banks & building societies, insurance, leisure, public services (local), public services (national), retail (food and non-food), services, telecommunications & media, tourism, transport and utilities (energy and water).

¹⁸⁵ DCMS, [Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services](#), 18 July 2019, para 47

This metric had been broadly stable in the in the first three years of reporting (covering 2017-2019). The 2020 report, which covered the first six months of the coronavirus pandemic saw, a significant increase in the number of customers who reported a reason to complain. Among mobile customers, the 2020 report found that 10% had a reason to complain, up from 3% in the 2019 report. For broadband customers, the proportion rose from 12% to 26%. Ofcom cautioned that due to change in its methodology (from face-to-face to online surveys) it was not possible to make a direct year-on-year comparison, but it speculated that customers' changing expectations of and increasing reliance on communications services during the pandemic may have affected the results.¹⁸⁶

The pandemic also affected average waiting times for customers calling their provider due to a reduction in call centre capacity. Mobile customers had to wait 2 minutes 7 seconds to speak to an advisor, up by 49 seconds compared to the previous year. Broadband customers were in a queue for 4 minutes 9 seconds on average, up by almost 2 minutes. According to the 2022 report, average waiting times for broadband customers had fallen back to just above pre-pandemic levels (2 minutes 16 seconds) but had increased slightly for mobile customers (2 minutes 15 seconds).

6.3

Automatic compensation for delayed services and repairs

[Ofcom's website provides advice on how to identify, fix, and get compensation for broadband and landline faults.](#)

A voluntary Automatic Compensation Scheme was introduced in April 2019 under which broadband and landline customers of co-operating providers are compensated automatically for delays to the start of a new service or repairs to a faulty service, and for missed appointments, without having to ask their provider.¹⁸⁷

The compensation levels are:

- £8.40 per calendar day for customers whose service has stopped working and has not been fixed after two working days;
- £26.24 for missed appointments or appointments cancelled with less than 24 hours notice;
- £5.25 for each calendar day that a new service is delayed.

These amounts increase annually in line with the Consumer Price Index.

BT, Sky, TalkTalk, Virgin Media and Zen Internet all started to pay automatic compensation for service issues that occurred after 1 April 2019. Other

¹⁸⁶ Ofcom, [Comparing customer service: mobile, home broadband and landline](#), 7 May 2021, p5

¹⁸⁷ Ofcom, [Improving compensation for landline and broadband customers Review of the automatic compensation scheme](#) 21 August 2020

providers have since signed up. Current participants are listed on the [scheme webpage](#).¹⁸⁸

Customers are not entitled to compensation if they caused the problem or prevented the provider from fixing it in time (by asking for a later engineer appointment, for example). The scheme also includes an exception for civil emergencies. During the coronavirus pandemic, for example Ofcom decided that compensation for some delays was not required.¹⁸⁹

Ofcom published a review of the scheme in August 2020. Although it was broadly satisfied with the operation of the scheme it called for all providers to sign up and extend coverage to include the remaining 20% of broadband and landline customers.¹⁹⁰

6.4 Resolving disputes with telecoms providers

In general customers who have complaints about their broadband, landline or mobile services or problems paying their bills should contact their provider first for advice and assistance.

If this does not resolve the problems, the customer can make a formal complaint to the provider. Customers should be able to find details of how to do this on their bill, on the company's website, or by phoning customer service.

Customers who remain dissatisfied with the response from their provider having made a formal complaint, may have their complaints dealt with through an Alternative Dispute Resolution (ADR) scheme. As Ofcom explains on its [ADR schemes website](#) the schemes act as an independent middleman between the service provider and the customer.¹⁹¹

Communications providers offering services to individuals and small businesses (up to 10 employees) must be members of an Ofcom-accredited ADR scheme.

There are two schemes, both of which are free to use: [Communication & Internet Services Adjudication Scheme \(CISAS\)](#) and [Ombudsman Services: Communications](#). Their websites explain what the schemes can deal with, how they work and the possible outcomes of the adjudication process.

¹⁸⁸ Ofcom, [Automatic compensation: What you need to know](#), 1 April 2019

¹⁸⁹ Ofcom, [Improving compensation for landline and broadband customers Review of the automatic compensation scheme](#) 21 August 2020, paras 3.45-3.46

¹⁹⁰ Ofcom, [Improving compensation for landline and broadband customers Review of the automatic compensation scheme](#), 21 August 2020, Overview

¹⁹¹ Ofcom, [Making a complaint and using ADR schemes](#), 14 January 2021

Customers cannot appeal the decision made by the independent adjudicator.

Ofcom reviews the schemes periodically to ensure consistency in standards between them. Ofcom's [ADR schemes website](#) shows which scheme each provider belongs to.

Customers can also [report complaints](#) to Ofcom. While Ofcom does not look into individual cases, it uses complaints to monitor consumer issues and may investigate companies based on complaints received.

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on commonslibrary.parliament.uk.

Get our latest research delivered straight to your inbox. Subscribe at commonslibrary.parliament.uk/subscribe or scan the code below:



 commonslibrary.parliament.uk

 [@commonslibrary](https://twitter.com/commonslibrary)