



## BT's response to Ofcom's Call for Inputs

*"Helping consumers to engage  
in communications markets"*

15 September 2017

**NON-CONFIDENTIAL VERSION**

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## 1. Executive summary and introduction

1. Today's competitive communications markets in the UK provide consumers with a huge choice of fixed and mobile phone, broadband and pay TV services. We agree that customer engagement and ensuring that customers are able to take advantage of this choice, make an effective assessment and act to change their service or provider, should they wish to, is important.
2. But Ofcom must undertake a careful assessment in order to understand how consumers make decisions and how firms respond in order to avoid interventions which are unnecessary, that are ineffective or have unintended consequences.
3. We think that telecoms markets currently exhibit a high level of customer engagement reflecting the gains from engaging, the variety of triggers which prompt engagement (e.g. handset upgrades) and the existing tools for understanding usage and making accurate comparisons. These, together with improvements to switching processes have lowered barriers to search and switching.
4. We (and other operators) seek to enhance customer engagement because customers are more satisfied and loyal if they choose the services which best suit their needs and this provides an opportunity to deepen customer relationships and reduce churn (consistent with normal competitive dynamics).
5. The loyalty shown by satisfied customers should not, therefore, be confused with disengagement – customers who are happy with their service and their supplier may not be very active in regularly “shopping around”. Nor should metrics like tenure be misinterpreted given that long tenure customers may nonetheless be engaged (e.g. by switching tariffs to get the best value based on usage needs or by negotiating discounts).
6. Ofcom should focus on engagement in the widest sense (including changes made within a supplier's portfolio) and on establishing whether there are dissatisfied customers who would like to change but are deterred and, if so, the nature and extent of any barriers.
7. Ofcom's assessment should take the following into account:
  - a) Product and price complexity is to be expected (and is pro-competitive) in markets with differentiated demand, and regulators have previously come unstuck by trying to impose tariff simplification at the expense of pro-competitive product differentiation. The enhancement of engagement should not prevent or dis-incentivise competition (whether focused on price or non-price factors). We have consistently argued, for example, that the regulation of compensation schemes should not stifle competition between operators on service dimensions (in particular compensation arrangements) above a minimum level of consumer protection.
  - b) The prevalence of introductory offers and discounting is also pro-competitive. For Ofcom, the widening gap between list and promotional prices increases the costs of not engaging with the market. But it also increases the benefit of engaging and with bigger gains, engagement becomes more likely because the gains are more likely to outweigh the costs associated with change; customers may pay higher prices for reasons that are not immediately apparent, but which exist, and have nothing to do with inertia, inactivity or weak customer response – e.g. out of contract mobile customers who are waiting for a new phone release before upgrading; split purchasers who value having two service providers over the benefits from bundling or customers who value the certainty of a fixed price “all you can eat” package even though their usage level might make a cheaper “pay as you go” package more economically rational. In other words, Ofcom must not assume that customers are disengaged where Ofcom has identified cheaper deals (which are available but not taken) because Ofcom cannot understand

all of the dimensions of value (reflecting individual customer circumstances) which explain their choices. Even where no such reasons exist, customers are not disengaged if they regard the gains from engagement as insufficient to make it worthwhile (notwithstanding the efforts of operators and improvements to regulation in reducing search and switching costs).

- c) A dynamic view is required; if pockets of concern are identified, Ofcom must assess whether they are likely to be enduring. Segments which Ofcom's own research identifies as highly engaged (namely consumers taking dual and triple play services) account for an increasingly larger proportion of the overall market (currently around 81% according to Ofcom<sup>1</sup>), and segments which Ofcom identifies as relatively less engaged (e.g. standalone fixed voice customers) are declining rapidly and will continue to do so.<sup>2</sup>
  - d) There are vulnerable consumers (e.g. consumers in financial distress or with disabilities) that may inherently find it difficult to engage in the absence of assistance. A tailored approach for these consumers is therefore required to help ensure they receive the services that meet their needs, and so Ofcom should consider this consumer group separately from the rest of its assessment. We set out the things BT already does to support vulnerable customers in section 3.3.
8. Any decision to intervene must be made very carefully in order to avoid adverse consequences. Intrusive interventions such as price controls and forced migrations which directly control market outcomes and/or over-ride customer choices are very unlikely to be welfare enhancing.
  9. Other kinds of intervention (e.g. communication remedies) are subject to significant uncertainty around effectiveness and optimal design. Before considering trials, Ofcom should look at existing communication initiatives by operators (i.e. their scope, design and effectiveness) to see what can be learnt. Any trials are much more likely to be successful and insightful if industry-led (and industry-wide), capitalising on the marketing expertise and customer knowledge that operators have and reflecting the customer bases they have.
  10. It is too early for Ofcom to be proposing solutions for barriers to engagement which have not yet been established, particularly given the range of industry and regulatory initiatives which are relevant to the suggested issues and which should be assessed before embarking on further intervention.
  11. Nonetheless, of the solutions proposed by Ofcom, we think that the following are non-duplicative of other initiatives and merit further investigation because they have a good prospect of promoting greater engagement with a low risk of unintended consequences.
  12. We consider that end of contract prompts (which already exist for mobile customers) could be investigated for some fixed services, with trials offering a possible way of testing alternatives which might be appropriate to this service.
  13. We also think there is significant scope for new and existing comparison tools to include more non-price search criteria to help customers make more informed purchasing decisions and promote greater competition.
  14. In terms of the scope of Ofcom's work on consumer engagement, BT does not agree that it is appropriate to include business customers, especially SME businesses as these customers are highly engaged and served well by a range of innovative competitors. We provide further

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<sup>1</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0014/104441/call-inputs-consumer-engagement-communications.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0014/104441/call-inputs-consumer-engagement-communications.pdf) (Page 5)

<sup>2</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0030/97806/Consultation-Review-of-the-market-for-standalone-landline-telephone-services.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0030/97806/Consultation-Review-of-the-market-for-standalone-landline-telephone-services.pdf) (Page 4)

information on this in section 3.4. Therefore unless stated otherwise, this response is relevant to consumer customers.

15. The remaining sections cover the following:
  - a) Section 2 describes the market and customer context and explains why we think that levels of engagement (in the widest sense) are high;
  - b) Section 3 outlines our efforts to engage customers and help them (i) identify when to act, (ii) to assess which product or service best suits their needs and (iii) to exercise this choice;
  - c) Section 4 comments on Ofcom's proposed customer engagement work programme and the need for a careful assessment using appropriate diagnostic tools and the need to avoid interventions which are unnecessary, that are ineffective or have unintended consequences;
  - d) Section 5 highlights the key areas we think merit further investigation, noting however that some of Ofcom's proposed solutions are either premature or duplicative of existing initiatives; and
  - e) Annex 1 addresses each of the questions identified in the CFI, cross-referencing to the main response where necessary.

## 2. Overview of the market

### 2.1 Markets are delivering good outcomes for all consumers

16. In the CFI Ofcom suggests that consumers that are not highly engaged in the market may not reap the benefits of competition<sup>3</sup>. However, Ofcom's own evidence on market outcomes indicates that the benefits of competition are widespread, extending beyond the most highly engaged consumers.
17. Ofcom has recently presented evidence that shows that:
  - a) The UK mobile market continues to be among the most competitive in the world. Ofcom notes that "compared to the average of the 28 EU member countries, the UK handset plan prices are between 24%-64% cheaper...[and] the UK's 'weighted average' stand-alone price is still significantly below that of most other comparator countries". Ofcom goes on to state that "the market is operating well for consumers at present, with strong competition between suppliers, relatively low prices for UK consumers, and continued investment in new services."<sup>4</sup>
  - b) The UK has been a leader in 4G roll out in Europe and has consistently provided customers with significantly higher average mobile data speeds.<sup>5</sup>
  - c) The UK has the highest consumer satisfaction with mobile services among the EU5 countries and USA.<sup>6</sup>
  - d) Customers have continued to get more for their money with Ofcom concluding that the "*price of mobile services has remained stable despite very large increases in data use*" which equates to a quality adjusted price reduction. In the CFI Ofcom points to evidence that out of bundle charges for calls have been increasing, however Ofcom fails to acknowledge (in the CFI) that, at the same time, the size of bundles has also increased and so too has the number of call number ranges that are now included in consumers call allowances. As Ofcom itself has noted "*many current post-pay mobile phone tariffs provide generous inclusive call and text allowances...Likewise, many fixed broadband plans offer unlimited data allowances*". These benefits are available to all customers irrespective of whether they are in-contract, receiving a discount or very engaged in the market.<sup>7</sup>
  - e) In relation to Broadband services Ofcom has previously noted that the migration from standard to superfast services has resulted in the average speed of a UK residential fixed broadband connection increasing from 4Mbit/s to 29Mbit/s between 2008 and 2015, vastly improving the experience of using these services. Superfast broadband services (i.e. those with a download speed of 30Mbit/s or higher) have similarly revolutionised the fixed broadband industry since the first widely-available residential service launched in 2008, and by June 2016 were available to 89% of UK premises.<sup>8</sup>

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<sup>3</sup> Ofcom Customer Engagement CFI - [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0014/104441/call-inputs-consumer-engagement-communications.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0014/104441/call-inputs-consumer-engagement-communications.pdf) (Page 3)

<sup>4</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0026/93545/award-of-the-spectrum-bands-consultation.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0026/93545/award-of-the-spectrum-bands-consultation.pdf) (Page 12)

<sup>5</sup> Fig 2, Enders Analyses, UK mobile market Q3 2016

<sup>6</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0024/26826/cmr\\_uk\\_2016.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0024/26826/cmr_uk_2016.pdf) (Page 54)

<sup>7</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0028/98605/Pricing-report-2017.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0028/98605/Pricing-report-2017.pdf) (Page 13)

<sup>8</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0035/95876/CN-Report-2016.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0035/95876/CN-Report-2016.pdf) (Page 1)

- f) The number of traditional pay-tv subscriptions increased by almost a quarter (24%) to 17.9 million in the five years to 2015, while service quality has improved, with a proliferation in the number of HD channels that are on offer, and the inclusion of on-demand/catch-up services with pay-tv subscriptions.<sup>9</sup>

## 2.2 Current levels of engagement are high

18. In its summary of the current market context Ofcom suggests that consumer engagement varies across communications markets, and that there is room to improve consumer engagement in general.<sup>10</sup>
19. Ofcom's assessment of current levels of engagement relies exclusively on a single consumer research survey undertaken by Saville Rossiter-Base. The results from this survey are at best mixed and now a year old. Whilst only around 46% of landline-alone consumers surveyed indicated that they were either 'interested' or 'engaged' in the market, 63% of dual play and 79% of triple play customers showed the same level of engagement. This is significant because dual and triple play customers already make up a significant (more than 80% and increasing) proportion of the market.
20. BT/EE/Plusnet's own survey evidence suggests that a significant proportion of customers are highly engaged in the market. A survey of EE's post-pay customers found that [redacted] of EE's post-pay mobile customers said that they were aware of when they were eligible to upgrade or switch (Figure 1). Furthermore [redacted] of EE's post-pay customers sought information about EE's plans and services before deciding to upgrade. Customers sought information from a wide range of sources including EE's website, stores and call centres as well as price comparison websites (Figure 2). Before deciding, [redacted] of customers started thinking about the mobile options available to them at least a week in advance of making their decision to upgrade (Figure 3).
21. This evidence clearly suggests that EE's post-pay mobile customers, which make up more than [redacted] of UK handset post-pay mobile subscribers are fully aware of when they can upgrade or switch and even when they decide not to switch they do shop around for information from a wide range of sources.

### Figure 1

[redacted]

### Figure 2<sup>11</sup>

[redacted]

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<sup>9</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0014/104441/call-inputs-consumer-engagement-communications.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0014/104441/call-inputs-consumer-engagement-communications.pdf) (Page 5)

<sup>10</sup> Ofcom Customer Engagement CFI - [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0014/104441/call-inputs-consumer-engagement-communications.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0014/104441/call-inputs-consumer-engagement-communications.pdf) (Page 5)

<sup>11</sup> Source: [redacted]

### Figure 3<sup>12</sup>

[redacted]

22. BT/EE/Plusnet also observes significant customer engagement through uptake of new products and services, use of our websites and mobile apps and interaction with customers through call centres and online webchat.
23. BT's fixed broadband business has observed a steady but sustained uptake in both unlimited and superfast broadband in the last three years, an indication that our customers are acting to reflect the changes in their needs and preferences and in response to our efforts to engage them (Figures 4 and 5).

### Figure 4

[redacted]

### Figure 5

[redacted]

24. Since January 2017 nearly a million of our landline customers have actively opted into BT's Call Protect service which helps protect our customers from nuisance calls.
25. BT's website has around [redacted] hits a month, with [redacted] of those being unique users. Every week [redacted] download a bill and close to [redacted] customers check their usage just via web-based online accounts.
26. BT/EE/Plusnet has also seen significant uptake of, and engagement with, mobile apps. Over [redacted] customers have already downloaded the BT app, and around [redacted] of these customers have logged into the app in the last 90 days (average of [redacted] a week). Meanwhile during July 2017 there were [redacted] logins into the EE mobile app.
27. BT's mobile app received in excess of [redacted] customer calls into its call centres and around [redacted] webchats were initiated with customers.
28. EE have [redacted] customers registered for the MyEE app and have initiatives to increase their MyEE App adoption rate to [redacted].[redacted].
29. Evidence on churn and switching rates (indicators of customer engagement), suggests that customer engagement in the UK telecoms market is higher than in other European markets (Figure 6 and Figure 7). [redacted] (Figure 6). The UK also has amongst the highest switching rates in Europe, [redacted] (Figure 7).

### Figure 6

[redacted]

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<sup>12</sup> Source: [redacted]

**Figure 7<sup>13</sup>**

[><]

30. Despite the clear evidence of high customer engagement Ofcom should be mindful that for some customers there may be very rational reasons to not engage as actively as other customers. Many consumers make a rational choice on how they want to use their free time, which supports their lifestyle and interests. Not every customer wants to be engaged with their CP nor do they want to exert time or effort into looking for a better deal. Ofcom’s switching tracker indicates that around the vast majority of customers, particularly those which Ofcom defines as ‘inactive’ or ‘passive’, have very high levels of overall satisfaction with their all telecoms services (see Table 1). This may be another legitimate reason why some consumers don’t engage as actively in the market as others.
31. There may also be factors relating to individual circumstances and preferences that explain conduct that appears disengaged or sub-optimal which have nothing to do with inertia, inactivity or weak customer response – e.g. out of contract mobile customer that wait until a new handset is released (e.g. iPhone or Samsung handset launches) before deciding to renew their existing contracts or switch provider; split purchasers who value having two service providers over the benefits from bundling or customers who value the certainty of a fixed price “all you can eat” package even though their usage level might make a cheaper “pay as you go” package more economically rational. In other words, Ofcom must not assume that customers are “disengaged” where Ofcom has identified cheaper deals (which are available but not taken) because Ofcom cannot understand all of the dimensions of value (reflecting individual customer circumstances) which explain their choices.

**Table 1: Consumer satisfaction with telecoms services (July-August 2016)<sup>14</sup>**

	Inactive consumers	Passive consumers
Landline	84%	99%
Fixed Broadband	82%	100%
Mobile	89%	99%
Pay TV	90%	100%

32. Ofcom identifies a number of market features which it suggests may be behind the purported lack of consumer engagement for some services, however the available evidence does not appear to support this.
33. Ofcom suggests, for example, that a lack of alignment between contract dates of different services may be acting as a barrier to consumers engaging, in particular, a barrier to leaving their current service. Ofcom’s own research, however, indicates that only 6% of consumers, defined by Ofcom in the survey as taking a bundle, have different contractual periods for the services in their package and a much smaller proportion (2%) report that all the services in the bundle have different contract lengths.<sup>15</sup> We also note that some of these customers may in fact take multiple services with the same provider on separate contracts rather than taking products in a ‘bundle’ (i.e. in a single contract). This is important because customers that take multiple services with the same provider but on separate contracts, can move any of these

<sup>13</sup> Source: EC Consumer Markets Database

<sup>14</sup> Ofcom Switching tracker 2016, 25 July to 21 August 2016

<sup>15</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0014/104441/call-inputs-consumer-engagement-communications.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0014/104441/call-inputs-consumer-engagement-communications.pdf) (Page 17)

services individually without interrupting their other services, and so a lack of alignment between contract dates should not present a barrier to switching.

34. Furthermore in Ofcom's latest switching tracker not a single customer listed the fear of splitting up their bundles (as defined in the survey) as a reason not to switch their broadband provider and only 2% said it was the reason they chose not to switch their landline provider. This issue is clearly not prevalent and doesn't act as a material impediment to switching.
35. Ofcom also points to an increasing number of prices and services, as well as an increase in the use of offers and discounting, as something that adds complexity and discourages engagement.<sup>16</sup> Whilst we agree with Ofcom that more can be done to make comparing products easier for consumers (e.g. more service related information on price comparison sites), an increase in the number of products and discounting in the market is likely to result in greater product differentiation, increased competition, and greater choice for consumers.
36. Furthermore, increasing choice around product/price points is indicative of markets where consumers are highly engaged and providers need to create more tailored offerings which reflect differentiated demand. Figure 2 illustrates that consumers engage in the mobile market by consulting a wide range of sources before choosing a product. This may drive competing providers to provide more choice, discount more heavily and tailor products to the needs of all consumers. Ofcom should, therefore, give weight to the pro-competitive nature of product and pricing proliferation.
37. There is also evidence that whilst the number of tariffs may be increasing, the instances and prevalence of out of bundle pricing has fallen over time, making pricing less complex for consumers. For example, with more services being included within monthly in-bundle allowances (e.g. calls to 03 and 0800 and with roaming in the EU are now included within the vast majority of consumers mobile call allowances) there are now potentially fewer out of bundle charges. This is further reduced by the increase in add-on bundles which are offered to consumers in place of out-of-bundle run on rates. EE and BT Mobile's post-pay customers for example now have the simple option of purchasing fixed sized data bundles at set fixed prices, to avoid bill shock and make prices easier to understand. Together these two developments mean that pricing has become less complex for consumers over time.

## 2.3 Business Customers

38. BT does not agree that it is appropriate to include business customers, especially SME businesses, in the scope of Ofcom's work on consumer engagement.
39. BT provides its business customers with access to a variety of business tools to help them self-serve and also provides communications and campaigns to encourage customers to review their services. Such initiatives are widespread in the market and therefore regulatory intervention is unnecessary. We provide further information on this in our answer to question 1.

### 2.3.1 Business Market

40. The business market has a number of features which initiate a healthy degree of engagement.
  - a) Business solutions are often complex and use a wider variety of products. Businesses will typically have more than one service and will add and remove services more frequently. To make their businesses more competitive and to be able to serve their changing needs, business owners have strong incentives to understand what is in the

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<sup>16</sup> Ofcom Switching tracker 2016, 25 July to 21 August 2016

market and how much it costs. The latter is particularly relevant to SME business customers who may be advised by accountants or act on their own account.

- b) For business customers, service levels and reliability may be more important than price and customers tend to be proactive in finding the business specific services and support they need.
- c) Intermediaries such as resellers operate in the market and they provide an additional channel for engagement between business owners and communication providers. BT Local Businesses work with customers to provide further engagement and advice on business needs.
- d) Larger business are likely to have staff who deal with contracts, provision of services and who know when to review their telecoms services. Indeed this may be an ongoing review during the lifetime of the contract. They are able to discuss or negotiate with BT for the service(s) that best suits their needs.

### 3. What we do to engage customers

41. BT/EE/Plusnet along with other providers seek to enhance customer engagement because customers are more satisfied and loyal if they choose the services which best suit their needs. Higher customer satisfaction is likely to deepen customer relationships and reduce churn, which is consistent with normal competitive dynamics. We set out below the wide range of things BT/EE/Plusnet and other parties do to enhance customer engagement, help them to identify when to act, assess which product or service best suits their needs and exercise this choice.

#### 3.1 Helping customers to identify when to act

42. In the CFI Ofcom suggests that engagement levels could be improved by providing consumers with reminders about their contract term and prompts to consider engaging at particular points in time. Ofcom also notes that such prompts are common in other markets, such as car and home insurance.
43. However BT/EE/Plusnet already proactively reminds its customers about when they are eligible to upgrade, and how to benefit from new services and discounts, through a variety of channels including text messages, e-mails, and outbound calls. In Table 2 **Error! Not a valid bookmark self-reference.** we provide a list (but not exhaustive) of recent tools and campaigns that have prompted customers to upgrade or re-contract.

## Table 2

[redacted]

44. In addition approximately [redacted] EE PAYG customers receive offers and promotions. We are seeing increasing levels of engagement from these customers.
45. BT Mobile/EE/Plusnet also makes it easy for customers to view their contract end date. Customers can find out their contract expiry date by logging into their account online via the web or on the relevant BT Mobile/EE/Plusnet apps, where contract expiry dates are clearly highlighted to customers or by calling our customer service teams. Furthermore, EE mobile customers can find out their contract expiry date by texting “up” to our customer service number free of charge.
46. In the CFI Ofcom suggests that customers that are not actively engaged in the market may not benefit from discounted pricing. However, BT/EE/Plusnet proactively make customers aware of new deals and offers that are available to existing customers, so that even those customers not actively seeking discounted prices are aware of opportunities to benefit from them. We do this through mass market advertising on TV, radio and billboards. Figure 8 shows that advertising spend of the five major fixed operators has increased significantly in the last financial year.

## Figure 8

[redacted]

47. We also contact customers directly via text messages and e-mails alerting customers to discounted services.<sup>17</sup> Recent examples of this include text messages being sent to EE's post pay customer base making them aware that as an EE customer they can get six months free subscription to Apple music (normally £9.99/month).
48. BT/EE/Plusnet's efforts to keep customers informed about their contract end date and available discounts is part of our strategy to retain our existing customers. We continue to monitor the effectiveness of these channels of communication and seek new innovative ways to keep customers engaged.
49. We note that whilst Ofcom points to select sectors where providers send renewal reminders to customers, Ofcom does not provide any evidence that these prompts enhance engagement in each of those sectors. Furthermore, even if these prompts are effective in those sectors, consideration needs to be given to the frequency and different ways in which consumers interact with their telecoms providers compared to providers of other services. The vast majority of consumers use one or more of their telecoms services every day and are frequently in contact in some way with their provider, whereas consumers may not correspond with their car insurer and so a once-a-year renewal reminder might prove more effective. A 'one size fits all' or 'the more information the better' approach will not necessarily be in the best interests of consumers.
50. Finally since the start of 2013, our BT fixed line only customers have been declining at an annual rate of between [redacted]. [redacted]. These customers are choosing another provider for voice services, upgrading to a dual play bundle with BT or leaving BT to take voice and broadband elsewhere as their first entry into broadband.

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<sup>17</sup> Customers can opt out of receiving these offers by simply responding by e-mail or text.

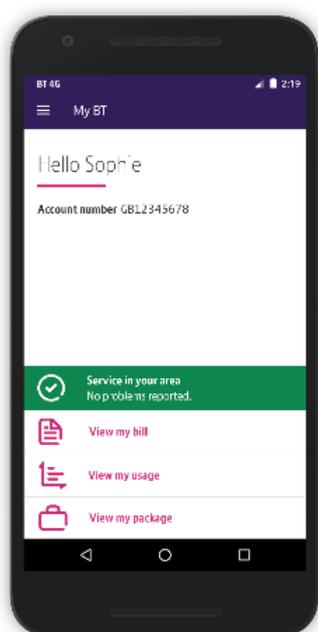
## 3.2 Enabling consumers to make the right choice

### 3.2.1 Keeping customers informed about their services and usage

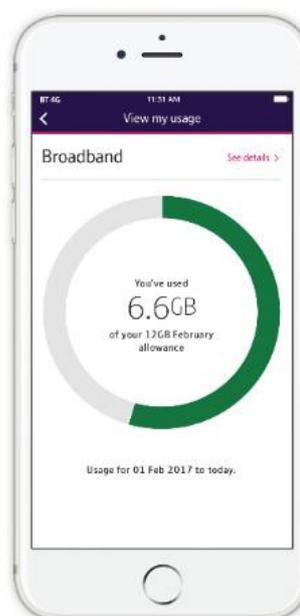
51. In the CFI Ofcom suggests that to help consumers to effectively choose the right deal, CPs could provide them with data on the current services they purchase and their personal usage, in a standard format, that would enable them to more easily assess the offers available that would meet their needs. This includes information on service charges, data speeds, and usage.
52. BT/EE/Plusnet's customers can already access information on their usage patterns and monthly spend (including itemised charges) in a standard format from several sources, including through apps, their online account, SMS request and by calling customer services who share information on the customers usage habits which they can then use to compare price plans including those of other providers (see, for example, the BT app). EE mobile customers also receive a 'value statement' which goes out every quarter to customers. This highlights what products the customer has as well and any promos and add-on that are available.

Figure 9: Extract from BT's mobile app

Manage your BT account on the go



Keep an eye on broadband, mobile, TV and landline usage



53. In addition to this most of our customers receive monthly reminders via e-mail or text that their bills are available to view.<sup>18</sup> Customers that subscribe to BT TV also receive regular e-mails and text messages notifying them of upcoming content and televised sporting events, which can in themselves act as a reminder to customers that they subscribe to a TV package.

<sup>18</sup> We understand that this is implemented by other broadband providers.

54. [redacted].<sup>19</sup> Most smart phones also allow customers to check their daily usage patterns over time. [redacted].
55. We note however that consumers may still purchase products that do not reflect their past usage patterns, but which still represent choices that are in the best interests of the consumer. Many customers prefer certainty and bill stability and so may prefer larger data allowances. Usage patterns also change over time, with access to more advanced devices, faster broadband speeds, and content leading to increased usage. Ofcom's own research indicates that the take-up of faster data networks has gone hand-in-hand with increasing use of data services. The average data use per mobile connection increased by 44% year on year to 1.3GB in June 2016<sup>20</sup>. Customers may therefore look to future proof their purchase by opting for plans with a larger data allowance or faster speeds even if they may not have had the need for them in past. Customers underutilising their usage allowances should therefore not necessarily be interpreted as customers making the 'wrong' choice of product.

### 3.2.2 Tools to help customers compare services

56. Ofcom suggests that another possible way to help consumers make the right choice is to provide them with information on the tools or services available to help them understand and navigate complex choices of price and non-price features.
57. We note that there are already a vast number of ways in which consumers can compare communication providers and plans on a like-for-like basis, including setting criteria that match their needs and preferences. Price comparison websites allow consumers to quickly compare many price plans, based on criteria such as usage, budget, and product preferences. [redacted]. We note that Ofcom's 2016 Switching Tracker survey found that only 3 percent of customers said that difficulty comparing prices was a reason that they decided not to switch.
58. Consumers are also able to compare providers based on quality of service using information published by independent parties. Ofcom for example publishes information on complaints and other quality of service metrics and industry is working with Ofcom to enhance these going forward. Independent third parties such as Rootmetrics and P3 also publish benchmarking information on mobile broadband data speeds enabling customers to compare mobile providers on network performance. BT Consumer is actively publishing its own quality of service metrics on bt.com so that consumers can monitor service levels over time.
59. In addition, BT/EE/Plusnet offers information to customers to help them choose the right plan for them based on their needs and preferences. For example, BT's "Including You" webpage offers information to help customers choose the right telephone contract for them. This page is designed primarily for our vulnerable customers and on it, we've brought together some tips to help people find the right calling plan for them that's within their budget. Customers can also visit stores, contact customer services or use an online chat to discuss plans and products based on their usage history, budget and preferences.
60. However, as we set out in section 5 below, we agree with Ofcom that there may be scope for comparison tools to include more information on non-price features (acknowledging the inherent challenges in identifying consistent measures of such features).

### 3.2.3 Providing transparent information at point of sale

61. Ofcom highlights the need to provide consumers with easily comparable information at point of sale, such as clearly identifiable total average price of the core elements of a service over the

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<sup>19</sup> [redacted]

<sup>20</sup> Ofcom Communications Market Report, August, 2017 [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0017/105074/cmr-2017-uk.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0017/105074/cmr-2017-uk.pdf) (Page 1)

course of a minimum contract period. We agree that an important part of enabling customers to make the right choice for them is ensuring that providers are clear and transparent about the products they offer. One of the ways BT does this is through easy to understand terms and conditions. BT has been awarded the Plain English Crystal Mark award for our suite of terms and conditions for Home Phone and Broadband, TV, Sport and Mobile. We provide FAQs and have also developed a short video clip that users can watch to understand the key parts of their terms and conditions. Furthermore, in our effort to improve transparency, before a customer takes out a new contract we make it very clear upfront what the price will be once they are out of their contract period.

62. We also note that most price comparison sites already provide clearly identifiable information on total average price of the core elements of a service over the contract period and other cost comparison measures so that, as Ofcom suggests consumers can more accurately compare different offers from different providers.

### **3.2.4 Clear process to exercise choice**

63. Once a customer has decided to switch or to change their plan, it is in the interests of the new (and to some extent old) provider to make this process as quick and easy as possible. Ofcom has already undertaken major reforms to the switching process for services provided across Openreach's network, enabling customers to switch by contacting their new prospective provider. Ofcom is also in the process of taking forward reforms to the switching process for mobile and triple play services, with the intended aim of making switching easier.
64. We also note that price comparison websites allow customers to select their preferred plan; it then directs them straight to the checkout page of the chosen provider's website, making the purchase quick and hassle-free.
65. Ofcom's 2016 Switching Tracker survey results suggest that there are very few barriers to consumers exercising their choice. For example, 81% of consumers with broadband considered the switching process to be easy, and even more telling was that 82% of those that Ofcom categorised as 'inactive' also considered the process to be straightforward. Only 2% of broadband consumers overall considered switching to be too time-consuming.
66. BT/EE/Plusnet also makes it easy for customers to remove services from their plan. For example, EE customers that take BT Sport on their mobile handset can opt out of this service by simply texting '150' (customers can also remove other 'add-ons' via the EE app). EE also sends its mobile customers a reminder when they are coming to the end of a trial period for a product (e.g. Apple music or BT Sport), giving them the option to opt out of the service. This reduces the time-cost of cancelling for customers and helps them exercise the right choice for them.
67. In respect of mobile services Ofcom suggests that the time and in some cases charges involved in unlocking handsets may dissuade or delay consumers from changing their mobile provider. However, whilst handset locking remains a key fraud prevention measure, MNOs have already taken significant steps to reduce the time and cost for customers wishing to unlock their handset. EE's pre-pay customers and out of contract post-pay customers can unlock their handset online or instore (same day) free of charge. Furthermore, customers in contract can unlock their device after six months for a nominal administration fee of £8.99.<sup>21</sup> We understand that other MNOs make it similarly easy for customers to unlock their handsets, and it is therefore unclear how this could be a barrier to engagement.

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<sup>21</sup> <http://ee.co.uk/help/getting-started/joining-ee/unlocking-your-device>

### 3.3 Vulnerable consumers

68. BT ensures vulnerable customers' interests are taken into account across its products and services. We have a history of inclusion and supporting people who need extra help with communications. We have a number of specialist products & services within our portfolio and use a number of ways to communicate with this audience. For example, we communicate using alternative media including audio (CD), large print and Braille. Accessible PDFs are produced for screen-reader technology and e-format guides are also available for Kindles and similar devices. All this helps customers with disabilities communicate more easily. More widely we have many initiatives and tools which help vulnerable consumers engage and ensure that the services they receive are tailored to their needs and preferences, a selection of which are summarised in Table 3.

**Table 3: Summary of BT's initiatives to support vulnerable consumers**

<p>Affordability schemes – BT Basic</p>	<p>BT Basic provides low line rental, an inclusive call allowance and a 'price cap', allowing BT Basic customers to make as many calls as they like to numbers starting with 01, 02 and 03, as well as UK mobiles, or to 08 numbers and know they'll only be paying a maximum of £10 a month for them (subject to a fair usage policy). BT also works with the Department for Work and Pensions (DWP) to check eligibility. Customers who also want broadband can get BT Basic + Broadband priced at £9.95 per month, and is the UK's cheapest line and broadband deal ensuring these customers get the very best prices.</p>
<p>Specialised products &amp; services - Inclusive Communications</p>	<p>Customers can use a range of contact methods to contact BT, including email and Instant Messenger. This is particularly useful if someone finds it difficult to speak or has an impairment or illness and needs time to reflect on a discussion. 'Including You' is Browse Aloud-enabled, a program that reads web pages aloud. BT provides a sign language service via webcam for consumers that are hard of hearing (we were the first FTSE 100 to do so). These customers can also download useful booklets on various services, e.g. BT Basic, Protected Services Scheme and Priority Fault Repair. Consumers with disabilities can use the impairment selector and 'filter' on range of phones showing the best features for their needs.</p>
<p>Steps we have in place to monitor / protect vulnerable customers</p>	<p>Customer identification - Firstly, in order to best support customers when they contact us, we flag impairments, if we are made aware of them, by phone or online without the need for them to tell us each time they call. These 'flags' include hearing, visual, physical, speech and mind (cognitive) impairment and general vulnerability. Our products &amp; services that support vulnerable people, are developed with insights from customers and carers. Protected Services Scheme - provides account protection if the bill goes unpaid, for example, hospitalisation. We can contact a nominated third party on an account holder's behalf. Network Controlled Calling ("NCC") - people with certain conditions (like memory loss, dementia or Obsessive Compulsive Disorder sometimes make a lot of calls to the same number. NCC provides call control and helps avoid call to premium rates. Priority Fault Repair - free priority repair, 365 days of the year, for someone in household who has a chronic long-term illness or disability and unable to leave the house without the assistance of another person. Power of Attorney - we helped develop best practice guidance for acting on behalf of a person with dementia. This can be downloaded from our website <a href="http://bt.com/poa">bt.com/poa</a>.</p>

	<p>Scam prevention - our scams website, <a href="http://bt.com/scams">bt.com/scams</a>, tells customers and their support network about the latest scams, how to protect themselves and what to do if they are a victim of a scam or attempted scam. BT works with the Police and other Government bodies to detect and prevent criminal activities and stay at the forefront of emerging scam trends, and sits on the City of London Police Fraud Prevention Group, to help co-ordinate fraud campaigns.</p> <p>Blocking nuisance calls - Nuisance and malicious calls are a problem for many, particularly older people, who are vulnerable to being scammed. BT offers several phones, which blocks unwanted calls, allowing only specific numbers to get through. We also launched BT Call Protect – a free service for landline customers which diverts up to 30 million unwanted calls a week to junk voicemail.</p>
Try Before You Buy Centres	<p>BT has a national network of places where customers can try out equipment to make sure it is suitable for their needs. Working in partnership with third-parties, we have over 160 locations where people can try out equipment.</p>
Inclusion events & attending roadshows	<p>We attend up to 15 shows a year, the idea is to promote our range of products and services for vulnerable customers. Particularly useful for the consumers who are unconnected to come and chat.</p>
Visibility in accessibility magazine	<p>We had 3 adverts last year with the purpose of raising awareness of the products and services we offer.</p>
Accessing this information	<p>BT has an inclusion portfolio and accessibility designed website <a href="http://bt.com/includingyou">bt.com/includingyou</a>. This is our one stop shop, and people know to go there for information around vulnerable customers.</p> <p>Alternative languages - Our Including You website has a translations selector where the website can be translated into 79 world languages. BT also has a Welsh Language Bureau centre.</p>

### 3.4 Business Customer Engagement

69. BT believes ongoing engagement with its business customers is very important and does so in a variety of ways including:
- a) Welcome communications - BT sends all business customers a welcome letter which provides the customer with full details of the service that they have contracted for including the duration of the minimum term.
  - b) “In life” and end of contract communications - For many of our business products BT proactively provides updates.
    - i. For example with BT Business Call Essentials, our main call package product for SME customers, at the end of the minimum term, we advise customers that their minimum term has ended and what this means to them.
    - ii. On our older call packages, we provide updates through the lifetime of the contract and also at the end of the contract.
    - iii. For our broadband and mobile products, we provide customers with regular updates about their contract during the lifetime, when their contract is about to end and also after it has ended. We also provide regular in life communications about the service.
    - iv. Campaigns - BT will target specific customer groups and products and write to these customers with details of offers. BT specifically targets business customers who are out of contract or who are about to end their contract as it believes that proactive contact is important. Through campaigns we actively encourage business customers to review their services with us.
    - v. Self Service methods - Through the online application “My BT Business Account” and eServe (mobile) customers can see;
      - 1. What products they have
      - 2. What is the contract end date per product
      - 3. Charging and usage information
      - 4. Online billing
70. BT believes it is important to provide its business customers with access to these services and to encourage them to review their services on a regular basis.

## 4. Ofcom's proposed customer engagement work programme

71. Ofcom's proposed work programme on customer engagement is intended to "explore in more detail potential barriers to engagement and identify ways to help consumers shop around and ultimately secure the best deal for their needs that are not already being addressed by our current work programme."<sup>22</sup>
72. Ofcom describes a work programme comprising: (i) investigation of barriers and their effects on inertia (informed by CFI responses and new market research); (ii) identification of possible solutions to overcome any barriers; (iii) testing/trialling of proposed solutions to ensure effectiveness; and (iv) implementation of any solutions, possibly through voluntary initiative (in collaboration with Ofcom) or, possibly, through regulation such as using General Conditions.
73. Ofcom's investigation of alleged barriers must use appropriate diagnostic tools avoiding the pitfalls associated with traditional research techniques in the context of behavioural issues.
74. Any decision to intervene must be made very carefully in order to avoid adverse consequences. Intrusive interventions such as price controls and forced migrations which directly control market outcomes and/or over-ride customer choices are very unlikely to be welfare-enhancing.
75. Other kinds of intervention (e.g. communication remedies) are subject to significant uncertainty around effectiveness and optimal design. Before considering trials, Ofcom should look at existing communication initiatives by operators (i.e. their scope, design and effectiveness) to see what can be learnt.
76. Any trials are much more likely to be successful and insightful if industry-led (and industry-wide), capitalising on the marketing expertise and customer knowledge that operators have and reflecting the customer bases they have.
77. Equally, any solutions which are found to be potentially effective and proportionate should be implemented through voluntary initiatives in order to deliver a comprehensive industry-wide solution which does not distort or deter competition.

### 4.1 Using appropriate diagnostic tools for the assessment of behavioural issues

78. As explained in Section 2, customer engagement issues are not widespread in telecoms markets and any pockets of concern tend to be self-solving as the market moves rapidly towards consumption of bundles, in relation to which customers are more engaged. In large part this is because triggers are abundant in the telecoms markets, for example, the high interest in new products or services which are constantly refreshing, the end of fixed term contracts, or the prevalence of marketing material. Moreover, regular usage of communications products means that familiarity with, and understanding of, products and providers tend to be high, and standardised comparison tools exist which (although imperfect) can help information to be assessed.
79. Accurately diagnosing any pockets of concern (and the likelihood of them resolving over time) is important in order to establish whether intervention is genuinely needed in order to improve customer outcomes and, if so, to guide the design of any intervention to help ensure that it is both effective and proportionate.

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<sup>22</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0014/104441/call-inputs-consumer-engagement-communications.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0014/104441/call-inputs-consumer-engagement-communications.pdf) (Page 8)

80. Identifying and diagnosing behavioural issues (to the extent they exist and are likely to be enduring) is, however, difficult using traditional research tools in circumstances where context is important to the decision making process or where behaviour reflects unconscious preferences, as may be the case for many decisions made by telecoms customers.
81. More specifically, surveys can be imperfect at capturing how customers make decisions where cognitive process are unconscious and, consequently consumer actions may be driven more by “heuristics” or rules of thumb and implicit associations.<sup>23</sup>
82. Survey respondents may find it difficult, in these circumstances to articulate the processes which have led to their past decisions, and may post-rationalise in order to present a coherent story. In other words, they may give responses they think are expected rather than responses which indicate actual behavioural drivers.
83. Equally, where decisions are influenced by context, respondents can find it hard to respond accurately to survey questions which, inevitably, replace the actual decision making context with an artificial one. The standard problem of potential bias due to the way questions are ordered and framed, and what is easy to call to mind, is particularly acute in these circumstances.
84. In light of this, Ofcom should ensure that its surveys are carefully designed with these issues in mind. In particular, surveys should focus more on actual behaviour (ideally recent experiences that can be readily recalled within a specified timeframe) rather than asking respondents to explain why they have not acted in a particular manner, or how they might behave in the future (both of which require an artificial choice context to be created).
85. It might also be helpful for any surveys to be reviewed by behavioural experts who can help assess how questionnaire design might influence responses. Operators will also have relevant customer research experience, and should be consulted on the design of any research.
86. More generally, all survey evidence should be reviewed and assessed in the context of the wider body of evidence including evidence that operators can provide on actual customer behaviour and levels of engagement (e.g. responses to campaigns); Ofcom can then decide to place less weight on survey results which are inconsistent with the weight of other evidence.
87. Finally, Ofcom mentions trials and testing solely in the context of the assessment of possible solutions. There may be a role, however, for some forms of trials to better understand the drivers for decisions. A laboratory experiment, for example, might be used to distinguish whether customer behaviour is driven more by a lack of motivation or by difficulties accessing and interpreting information on differentiated products.

## 4.2 Avoiding overly intrusive solutions to customer engagement issues

88. Regulatory intervention in retail markets to address customer engagement issues, although widely discussed in light of the regulatory spotlight on the energy, financial services and other sectors, is contentious and difficult to implement effectively in light of inevitable uncertainty about the drivers of customer decision making and behaviour.

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<sup>23</sup> The Financial Conduct Authority's Occasional paper on behavioural economics documents these decision making issues (see for example Table 4) and notes that quick and intuitive decision making may be preferred in order to save time and effort and this must be weighed up when assessing any perceived “errors” from making choices in this way. Moreover, pushing such customers to make more effort may leave them worse off (depending on what is at stake).  
<https://www.fca.org.uk/publication/occasional-papers/occasional-paper-1.pdf>

89. The FCA, for example, rightly describes reaching a judgment on whether or not customer choices are reasonable as a “*considerable challenge*”. It states “*When evaluating policy options and considering how to bring about better outcomes for consumers, we will have to ask a non-trivial question: ‘Does this consumer choice reflect an error to be corrected or a reasonable consumer decision that should be respected?’ If the FCA mistakenly intervenes to ‘correct’ reasonable consumer choices, our interventions could impose costs for no real benefit, or even make people worse off.*”<sup>24</sup> (emphasis added)
90. Distinguishing what is an error to be corrected from a reasonable consumer decision is not straightforward because the drivers of behaviour will be varied, and some cognitive processes will be conscious – and potentially discoverable through research – but others less so (and yet no less important in explaining behaviour). If customer errors are misdiagnosed because Ofcom fails to identify relevant behavioural drivers, then there is a high risk of unnecessary intervention.
91. For example, Ofcom is proposing to intervene to promote greater engagement by customers purchasing a standalone voice service from BT and a broadband product from another provider (so called “split purchase” customers). Ofcom justifies this by noting the savings that are potentially available by bundling but which are not taken up by split purchase customers. Ofcom has not, however, demonstrated that these customers are making purchasing mistakes; nor that this can be explained by customer inertia. Many of these customers will prefer split purchase arrangements for specific reasons and it cannot be assumed that they are not well served because they do not appear to be optimising from a price perspective.<sup>25</sup>
92. Even if Ofcom does establish (through appropriately designed behavioural research) that customers may be making mistakes or failing to optimise their purchases, then intervention is not automatically justified. Customers can often learn from mistakes and avoid them in the future, particularly for telecommunications products which offer ample opportunity (through regular purchasing decisions and the opportunity to learn from the purchases of others) for this to occur. Further, if customers come to expect regulatory protection from poor decisions, they will be less inclined to avoid mistakes in the first place (a “moral hazard” problem).<sup>26</sup>
93. It is equally important to be able to distinguish supplier conduct designed to exploit customer inertia (or other biases) from straightforward competition for market share. Indeed, we consider that competitive pressures drive firms to help their customers engage and make better choices, and to devise channels for interaction which offer a better customer experience or are cheaper to use.<sup>27</sup>
94. In light of the risks associated with intervention (which arise from inevitably imperfect diagnostic tools and moral hazard problems), Ofcom should be very cautious in identifying possible solutions to engagement issues. In particular, intrusive interventions such as price controls and forced migrations which directly control market outcomes and/or over-ride customer choices are not suitable.
95. Put simply, any measure which effectively removes the need for customers to engage with the market should only be considered on consumer protection grounds, based on irrefutable evidence of substantial and enduring consumer detriment with no prospect of a market solution.

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<sup>24</sup> <https://www.fca.org.uk/publication/occasional-papers/occasional-paper-1.pdf> (Page 19)

<sup>25</sup> These reasons might include (but are not limited to): the availability of broadband deals for pay TV customers with a second provider; enabling multiple routes for the resolution of service issues; where the phone line is for business use, but the broadband for personal use, and the customer needs separate bills for VAT reasons (and vice versa).

<sup>26</sup> This issue was raised during the CMA's investigation of the energy sector. Several parties raised the risk of a 'safe haven effect' whereby consumers would feel 'protected' by the CMA's proposed (transitional) price cap for prepayment customers, and feel that they don't need to engage in the market. These parties argued that the 'safe haven effect' might last beyond the lifespan of the price cap as consumers 'lose the habit' of engaging in the market.

<sup>27</sup> Further examples are provided in section [3]

In our view, there are no segments of the communications markets which currently meet this threshold for this type of intervention.

96. Ofcom has rightly shown a degree of caution in this regard; it dismisses a remedy involving automatic switching within BT tariffs as part of its review of standalone fixed telephone services due to the risk of unintended consequences which included: (i) the difficulties in choosing the best tariff given changing usage / lack of information (ii) the risk of customers being moved to a different tariff against their preferences; and (iii) the risk of undermining incentives to engage with other offers because customers feel they are already protected.<sup>28</sup>
97. Equally, price controls are not suitable in competitive markets. They are complex to implement and monitor and create a very high risk of market distortions. In particular, such measures may seriously undermine, or remove incentives to engage and are not appropriate unless Ofcom can show that customers are disengaged, there is no prospect of stimulating competition and there is a significant and enduring consumer protection concern.
98. As regards measures intended to stimulate or “nudge” greater customer engagement, again, Ofcom must tread carefully because influencing (rather than directly controlling or over-riding) customer choices can still have negative consequences if Ofcom cannot assess well what is in customers’ best interests. In particular, such measures may be unwelcome if customers are, in fact, making decisions in line with their true preferences, but Ofcom’s research methods do not reveal these behavioural drivers and hence misinterpret observed outcomes as evidence of customer detriment.
99. Any such intervention must be based on solid and convincing evidence of behavioural biases (i) which are systematic; (ii) which are giving rise to customer detriment; (iii) which are not likely to self-solve; and (iv) which Ofcom can show are capable of being overcome.
100. Even then, designing measures which have a reasonable prospect of achieving the desired behavioural change is not straightforward. Whilst Ofcom’s suggestion of trials is sensible in order to remove some of the guesswork involved, these should not be undertaken lightly and may be unnecessary if Ofcom can observe what works and what does not by assessing initiatives which are already in the market (as discussed further below).

### **4.3 Any trials should be industry led and industry wide**

101. Before considering trials, Ofcom should look at existing communication initiatives by operators (i.e. their scope, design and effectiveness) to see what can be learnt. Section 3 sets out a range of communication strategies adopted by BT and EE which are often tailored in order to be more effective in engaging different customers. For example, we use digital channels as well as more traditional channels to ensure that customers are aware of their usage patterns, their existing contract terms, and any deals and offers that might benefit them.
102. By way of example, Ofcom identifies customers of standalone fixed telephone services as being relatively less engaged than other types of customers. However, we have found ways of encouraging engagement that are effective for these customers, for example, direct marketing with easy-to-use reply coupons. We also promote relevant services and products at exhibitions and via Government support services such as via care workers and in Job Centres.
103. If Ofcom does decide to proceed with trials, these are much more likely to be successful and insightful if industry-led (and industry-wide), capitalising on the marketing expertise and customer knowledge that operators have and reflecting the customer bases they have.

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<sup>28</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0030/97806/Consultation-Review-of-the-market-for-standalone-landline-telephone-services.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0030/97806/Consultation-Review-of-the-market-for-standalone-landline-telephone-services.pdf) (Page 83)

104. We have serious concerns about a trialling process controlled by Ofcom given the risks of disproportionate cost, damage to customer relationships and potential limits being placed on our freedom to communicate with our customers at times of our choosing.

#### **4.4 If intervention is found to be necessary voluntary initiatives should be preferred over regulation**

105. We think that Ofcom's work programme will identify that any customer engagement issues are not material and/or diminishing over time. In light of this, we consider that any regulation is not required or appropriate.
106. Not only would this be disproportionate as a solution to consumer engagement issues, but creates wider risks relating to investment incentives. Ofcom (and government) have ambitious plans for greater investment in ultrafast networks and more infrastructure competition. Investors will undoubtedly perceive retail regulation negatively, particularly given the uncertainty created by Ofcom's (currently) broad and unspecified remit for any such regulation.
107. Investors will already be alarmed by the potential contagion and any precedent created by Ofcom's existing proposals to address alleged engagement issues in the standalone fixed telephone segment with a price cap rather than with measures designed to enhance levels of engagement for these customers.
108. More generally, the prospect of retail regulation will weigh heavily on investment incentives in the context of wider concerns about new powers which Ofcom might seek post Brexit (for example oligopoly regulation), and new Government powers to set the strategic priorities for Ofcom.
109. Put simply, if Ofcom is able to substantiate (with compelling and clear evidence) that consumer engagement issues exist in communications markets, then industry should be given the opportunity to address them through voluntary initiatives, in discussion with Ofcom but in good faith, and with the requisite flexibility to identify and implement innovative solutions.

## 5. Areas for further investigation

110. In the CFI Ofcom proposes a number of “possible solutions” to address what it believes may be barriers to engagement. These include providing consumers with reminders about their contract term, information on current services they purchase and their data usage. Ofcom also makes some suggestions on how consumers with non-coterminous contract end dates could understand and manage their contracts better. In section 3 we set out an extensive list of measures BT/EE/Plusnet already implement to improve customer engagement and address any such concerns. Many of these overlap with the proposals Ofcom has set out in the CFI. There is likely to be similar overlap with the measures implemented by other operators in these areas.
111. We do, however, agree that there is merit in seeking to further enhance customer engagement in certain areas, and that some of Ofcom’s proposed initiatives have a good prospect of promoting greater engagement, with a low risk of unintended consequences, and therefore merit further investigation.
112. We consider that end of contract prompts (which already exist for mobile customers) could be investigated for some fixed services, with trials offering a possible way of testing alternatives which might be appropriate to this service. BT/EE/Plusnet do not currently include reminders on customers’ bills for fixed broadband customers in large part because we have not seen evidence that a sufficient number of customers would respond to this form of engagement. Put simply, the engagement benefits appear to be immaterial, but the costs and complexity of implementation are significant.
113. As indicated above, Ofcom might, for example, identify existing end of contract notification measures used by different operators and consider their relative effectiveness. We are also conscious that customer groups will respond differently to the various methods and reasons for communication to them by their service provider. Therefore some existing processes may provide information akin to a trial, but equally trialling may also be necessary to explore the different combinations of customer type, method of communication and reason for communication such as the end of contract date. If trials are deemed to be appropriate then these must be industry-led (for the reasons set out in section 4.3).
114. We also believe there is significant scope for new and existing comparison tools to include more non-price search criteria to help customers make more informed purchasing decisions and promote greater competition. There are a wide range of comparison tools which allow customers to compare products and offers in terms of price, however a comparison of non-price features tend to be limited to information on usage limits and data speeds.
115. Whilst these may be the most important features for consumers, including information on features such as customer service ratings, network performance and other value services that are offered could potentially lead to customers making decisions that better reflect their needs. In its June 2017 consultation on Auto Compensation Ofcom raised a concern that when making purchasing decisions consumers may not get sufficient information about features that relate to their long term interests such as network reliability and speed of provisioning.<sup>29</sup>
116. There is, of course, a balance to be struck between providing enough information for consumers to make informed decisions and providing so much information that customers become confused or overwhelmed (and potentially even disengage). A further challenge is that for some non-price features measuring or comparing different products or providers consistently (i.e. on a like-for-like basis) may be difficult or even unfeasible. In order to identify which non-price features consumers would most benefit from being able to compare, and find

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<sup>29</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0030/98706/automatic-compensation-consultation.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0030/98706/automatic-compensation-consultation.pdf) (Page 27)

measures which can be compared appropriately, Ofcom must develop them in consultation with industry.

117. Finally we note that there are a number of Ofcom accredited price comparison websites that prioritise price plans from sponsored adverts over those that best meet the criteria set by the consumer (see Figure 10 as an example). This has the potential to result in consumers opting for price plans that do not best meet their needs and preferences. In the interests of improving price and product transparency for consumers Ofcom should consider whether effectively endorsing such price comparison sites is in the best interests of consumers and whether more can be done to address this issue.

**Figure 10: Extract from Ofcom accredited price comparison website that shows sponsored plans**

The screenshot displays a website interface for broadband price comparison. At the top left, under 'Broadband Availability', there are three green checkmarks indicating service availability: 'Phoneline Broadband up to 11Mb', 'Fibre Optic Broadband 80% of homes exact estimate unavailable\*', and 'Virgin Media Broadband up to 300Mb'. To the right is a Google Map of Hackney, London, with a location pin and the text 'You are 0.7km from the Hackney exchange. Read detailed report...'. Below the map is a section titled 'Promotional broadband offers from our sponsors' with a link to 'Skip to the best deals in your area'. This section features several sponsored offers: Sky (£15.00 first 12 months, £19.95 upfront cost), NOW TV (£24.99 first 12 months, £22.00 upfront cost), John Lewis (£22.50 first 12 months, no upfront cost), TalkTalk (38Mb in E8 1LA\*), and Virgin Media (300Mb in E8 1LA\*). Below this is a section 'The Best Deals for your Area' with a note 'You are viewing advertised speeds, switch to estimates for your postcode'. A navigation bar includes filters for 'Cheapest Deals', 'Fastest Deals', 'TV Bundles', 'Broadband-Only', 'Unlimited', 'Fibre Optic', and 'No Contract'. A 'Sort' dropdown is set to 'Package', and other filters include 'Reliability', 'Speed', 'Usage', 'Contract', '1st Year Cost', and 'Monthly Cost'. A 'SPONSORED RESULT' for Sky is highlighted, showing 'Sky Broadband Unlimited with Pay as you Talk More info' for £15.00 per month (£28.99 after 12 months, £19.95 upfront cost). The offer includes 'Special offer: 12 months reduced price! Add a Sky Talk package to your order from just £4 a month!', 'up to 17Mb', 'truly unlimited', and '12 months' for £200. A 'Go to site' button and contact information (0800 083 2414) are also present.

## 6. Annex 1: Responses to Ofcom's questions in the CFI

**Question 1:** Do you agree that we should include SMEs in the scope of our work?

118. BT would note that Ofcom refers to SMEs (up to 249 employees) and micro businesses (10 employees and less) as potentially being in scope.
119. BT would not agree that it is appropriate to include these business customers in the scope of Ofcom's work, especially SME businesses.
120. We believe that businesses are responsible for managing their own costs and have a duty to do so. Purchasing is a core aspect of any business and so businesses will, at appropriate times, put the effort into making informed decisions by evaluating and researching the market before making choices. These businesses often have access to a range of support options, lawyers, accountants, trade associations, who can help them understand contract information, purchasing decisions, all of which demonstrates that customers are well able to make considered and informed purchases.
121. Whilst micro businesses may not have all the range of support options, we believe that they are still capable of making informed decisions that are appropriate to their business. Micro business customers are likely to be very cost conscious and will understand exactly what they are paying for and for how long. Furthermore some micro businesses may purchase consumer products and receive the protections afforded by those consumer products. Ofcom has accepted this practice in its consultation on automatic compensation, agreeing that further regulation is not necessary for all business customers but that micro business customers who purchase consumer products will receive the protection of those products.
122. BT considers that there is already good information available in the business market to inform purchasing decisions; that businesses take advantage of their formal and informal networks to inform purchasing decisions; that there are already tools available to businesses to interrogate and assess their charges; we continue to improve our online presence to offer guidance, case studies and advice and will continue to improve; businesses use a range of methods to research and test purchase options.
123. We do not accept that forcing pre-defined approaches on the market will add value for customers. We believe that the benefit of any intervention will be disproportionate to any alleged harm or confusion that these type of businesses may suffer.

**Question 2:** What are your views on whether consumers not knowing when to engage is a barrier to their engagement? What impact do you think this has on them and to competition in the various communications markets? Please provide evidence supporting your views, including any research you have conducted or have access to.

124. Please refer to section 2 and 3 of our response for our views and supporting evidence on this.

**Question 3:** What are your views on the suggested possible solutions to help address consumers not knowing when to engage? What could be their positive or negative effects? What other possible solutions might there be?

125. Please refer to section 3 and 5 of our response for our views on this.

**Question 4:** What are your views on whether consumers not understanding their own needs, or having difficulties navigating available information, is a barrier to their engagement? What impact do you think this has on them and on competition in the various communications markets? Please provide evidence supporting your views, including any research you have conducted or have access to.

126. Please refer to section 2 and 3 of our response for our views and supporting evidence on this.

**Question 5:** What are your views on the suggested possible solutions to help consumers understand their own needs, and navigate available information? What could be their positive or negative effects? What other possible solutions might there be, and what might be their effects?

127. Please refer to section 3 and 5 of our response for our views on this.

**Question 6:** What are your views on whether these (or other) particular contract terms and conditions, or industry practices, are a barrier to consumer engagement? What impact do you think this has on them and on competition in the various communications markets? Please provide evidence supporting your views, including any research you have conducted or have access to.

128. Please refer to section 3 of our response for our views and supporting evidence on this.

**Question 7:** What are your views on the suggested possible solutions to help address the impact on consumer engagement of particular contract terms and conditions, or industry practices? What could be their positive or negative effects? What other possible solutions might there be, and what might be their effects?

129. Please refer to sections 3 and 5 of our response for our views on this.

**Question 8:** Are there other barriers to engagement that you think our work should seek to address? What impact do you think these have on consumers and on competition in the various communications markets? What possible solutions might there be to these barriers, and what might be their effects? Please provide evidence supporting your views, including any research you have conducted or have access to.

130. Please refer to section 5 of our response for our views on this.

**Question 9:** What are your views on the need to trial or test potential solutions? To what extent might you be willing and able to participate in or facilitate field trials or other testing of possible solutions?

131. Please refer to section 4 and 5 of our response for our views on this.