BT Group response to BEIS consultation Reforming Competition and Consumer Policy

1. Executive Summary

1.1 BT welcomes the opportunity to respond to this consultation on reforming competition and consumer policy.

1.2 With over 30 million customers, and more than 600 stores on the high street, we're the largest provider of Consumer mobile and fixed broadband communications services in the UK. Consumers buy solutions from our BT, EE and Plusnet brands, including landline, mobile, broadband and TV services, coupled with supplementary propositions like handsets, accessories and insurance. In our Consumer business we are seeing the benefits of some significant long-term investments aimed at improving customer experience and fairness (see Annex). We have also relaunched our Being Trusted code[1] for employees setting out the principles of how we expect our people to behave, do business and "connect for good", for example, we create standout customer experiences, and we compete fairly.

1.3 The government's commitment to competition, underpinned by high regulatory standards and strong consumer rights, is welcome. The communications markets in which BT operates are fiercely competitive and consumer demand for digital connectivity and content continues to grow and evolve. Ofcom has been very active in addressing areas of concern for consumers and we will continue to work with Ofcom to respond to these. Ofcom research has found that most telecoms' customers are happy with their service and customer satisfaction is higher for telecoms' customers compared to other utilities (energy and water) according to comparisons between regulators[2].

1.4 We agree that some changes may be appropriate to the UK's competition and consumer regime, however, some of the proposed changes would have far-reaching effects, and the government should take the time to get it right, balancing the benefits in change versus the value of stability. Changes should be evidence led and assessed in the round taking into account existing regulation / regulatory developments and government goals such as the Build Back Better investment and growth plan. The changes must also be consistent with the well-established Good Regulatory Practices, including accountability, transparency, proportionality and certainty and must incentivise good regulatory decision making by ensuring a quick and reliable correction of errors on appeal, as incorrect decisions and over-regulating can have significant negative impact for consumers.

1.5 BT is already a heavily regulated business and is concerned about the imposition of duplicative, restrictive regulation that goes beyond what many of its competitors, for example, in digital and over the top markets, face. Alongside, the proposals for the Digital Markets Unit, there is an opportunity for government to address the asymmetric nature of regulation.

1.6 BT has a number of key observations on the competition, consumer rights and consumer law enforcement policy proposals which are outlined below with more detail provided in sections 2, 3, and 4.

[1] https://www.bt.com/about/bt/our-company/our-business-practice-and-code-of-ethics
[2] House of Commons Library Research Briefing August 2021 Telecoms: fairness and protection for consumers

Competition Policy (section 2)

1.7 We are concerned by the CMA's proposal to **reopen the debate on the standard of review** of the CMA's decisions on appeal. A shift from a full merits review to judicial review would result in less scrutiny of the CMA's decisions on Competition Act investigations, interim measures and penalties. The current standard of review appropriately incentivises good decision making (including certainty, predictability) with efficiency (taking an end-to-end view of the decision-making). We have seen no evidence to suggest that a change from the current merits review is necessary and therefore do not support a change.

1.8 Our concern is exacerbated when combined with the government's proposals to **increase the CMA's enforcement power** and to **revise its internal decision-making process** making it less robust. Increasing the CMA's enforcement power, whilst weakening the internal decision-making process, and making it more difficult to challenge its decisions, would lead to less scrutiny and could disincentive the CMA to follow a robust internal decision-making process, potentially resulting in bad decisions which are more difficult to overturn. The cumulative effect of these changes would adversely impact legal certainty and business confidence, in particular for large companies such as BT that intend to make large scale investments in the UK.

1.9 We are also concerned about the government's proposals for the **revision of the merger control thresholds and process** (which would significantly increase the CMA's remit whilst increasing the burden on parties); and its proposals to increase penalties and personal accountability for failure to comply with information requests. In terms of the changes to merger control thresholds, we believe further work needs to be undertaken to understand the extent of the competition issue and then target any proposed changes specifically at the evidenced competitions problems. We consider that when assessing potential non-compliance with information requests, the CMA should be mindful of the severity of the penalties and the burden on businesses.

1.10 We broadly support the government's proposed **new settlement tool for abuse of dominance cases** although query the basis on which a competition authority can impose a fine where there is no admission or finding that competition rules have been breached.

Consumer Rights (section 3)

1.11 Any **response to subscriptions traps needs to be proportionate to the potential harm** as the majority of customers are happy with their subscription and do not regard them as traps.

1.12 An important **distinction should be drawn between contracts which continue after an initial period but which the consumer can give notice to cease at any time, and contracts which automatically renew at the end of one fixed commitment period,** to lock the consumer into a further fixed commitment period. The latter are already prohibited for communications services.

1.13 A level playing field for subscription providers of all kinds is important and there are things to learn from Ofcom's recent interventions in the communication subscriptions market, such as the requirement for end of contract notifications. **Additional intervention in the telecommunications sector is unnecessary.**

1.14 **Telecommunications services should be excluded from the scope of the proposed reforms** on consumer protection because the proposals either duplicate or disrupt the requirements on traders who are regulated by Ofcom.

Consumer Law Enforcement (section 4)

1.15 We are not opposed to enforcement of consumer law by the CMA directly, but **CMA direct enforcement powers should be limited to where there is not already a sector regulator** with powers to intervene.

1.16 **Checks and balances are needed to ensure effective decision making, strong judicial scrutiny of decisions and proportionate enforcement.**

1.17 The **CMA's enforcement decisions should be subject to a full merits review** given that the CMA's enforcement decisions are likely to have far ranging consequences for businesses.

1.18 There is **no evidence that the significant level of fines appropriate for competition law enforcement is appropriate or proportionate for consumer law**. If implemented, significant fines should be reserved for the sharpest of business practices.

1.19 **Transparency of the ADR schemes could be improved** by clearer and more consumer-friendly rules which are easily accessible. We would like a wider choice of telecommunication ADR providers. We do not agree with the proposal to reduce the deadline for referring complaints to ADR from 8 to 4 weeks as there is no case for why this will serve to drive up access and to swifter and better resolutions for customers.

1.20 In our view, **introducing collective redress** in addition to (or even instead of) the other proposals in this consultation **would be a disproportionate response** at this time. The case for it has not been made. If implemented, the process would need to be defined and availability limited to where there is a very significant issue and no other remedy available for those consumers affected.

1.21 Given the impact of the government's proposals, BT considers that **further consultation will be required** on more developed proposals and looks forward to the opportunity to comment on any such more developed proposals and in particular to engage with the evidence supporting the implementation of those proposals.

2. Competition Policy

2.1 We summarise below our views on the Competition Policy proposals rather than responding to the specific questions in the consultation.

(a) Standard of review

2.2 The consultation proposes a potential change in the standard of review of the CMA's decisions on appeal, from full merits to judicial review standard in relation to Competition Act investigations (para.1.207, p.72), interim measures (para.1.168, p.61) and penalties imposed by the CMA when a business fails to comply with the CMA's investigative and enforcement powers, including information requests and remedies across its functions (para.1.208, p.72).

2.3 We are concerned about the CMA's proposal to reopen the debate on the standard of review of the CMA's decisions on appeal. BT's view is that the right standard of appeal is a full merits review as opposed to judicial review. A shift from a full merits review to judicial review would result in less scrutiny of the CMA's decisions on Competition Act investigations, interim measures and penalties. In our view, judicial review is not appropriate for many Competition Act cases. Unlike merger cases, there is no two-tier review of decisions by the CMA.

2.4 In addition, changing the standard of review to a judicial review will not necessarily deliver the efficiency results the government is aiming for. To the contrary, a successful merits appeal could in practice be more streamlined than judicial review since the CAT could substitute the erroneous decision with its own new decision. In contrast, under judicial review principles, the CAT would be required to remit the case back to the relevant regulator for a second assessment and decision.

2.5 Given the long-term consequences that poor competition decisions can have, and the specific negative consequences that such decisions can have for a party directly affected, we consider that the standard of review should be significantly more intrusive than judicial review. It is insufficient that the CMA's decisions should only be subject to judicial review for being factually or legally incorrect, or procedurally flawed. Such a change would result in the opposite outcome, a lower standard in the quality of decisions resulting in more litigation and cases taking longer to reach a conclusion. In short, changing the standard of review from full merits to judicial review will not improve the quality of decision making by the CMA, it will make it harder to overturn bad decisions, it will not streamline the regulatory appeals process and it will damage the interests of competition and consumers.

2.6 Competition law infringements are quasi-criminal in nature and can have significant negative consequences of parties found in breach (fines of up to 10% of worldwide turnover, damages awards, reputation impact, director disqualification, etc). Wrong decisions can also distort and negatively impact competition, for example by blunting or disincentivising legitimate competition. Given the magnitude of decisions that the CMA can make, affecting billions of pounds of company value, it is right and proper that, if the CMA's decisions are wrong, it should be possible that they are overturned.

2.7 We have similar concerns about judicial review of interim measure and penalties decisions. Note that interim decisions can have far ranging consequences and can significantly blunt commercial freedom. In relation to penalties decisions, the CAT has already confirmed that the CMA has considerable

discretion when setting penalties and rarely intervenes. It is therefore unclear what concerns the government is seeking to address[3].

2.8 Reform of the standard of review has previously been considered and dismissed by the CMA. We are not aware of any developments that indicate that it is necessary to revisit that analysis. Nothing in the consultation sets out why there has been a change from previous reviews. It will be important to explore how the efficiency of appeals process can be increased by amending the rules of procedure without changing the standard of review.

2.9 Our concern about the standard of review is exacerbated when combined with the government's proposals to increase the CMA's enforcement power and to revise its internal decision-making process making it less robust. We summarise our additional concerns below.

(b) Strengthening the CMA's interim measures powers and enabling the CMA to use interim measures during a market investigation

2.10 Regarding interim measures, the government proposes:

- That the CMA is only required to provide reasons for its decision to impose interim measures rather than access to the underlying evidence;
- To lower the standard of review of interim measures on appeal from full merits to judicial review; and
- To enable the CMA to impose interim measures on businesses during a market investigation as it does in Competition Act investigations, i.e. where necessary as a matter of urgency for the purpose of preventing significant damage to a particular person or category of person, or to protect the public.

2.11 We are concerned with these proposals. We want to reiterate interim measures should be used sparingly and be subject to strict procedural safeguards, given they are imposed before a comprehensive investigation or any finding of adverse effect on competition, and can have substantial implications for businesses.

2.12 Accordingly, the CMA should be required to provide evidence in support of its decision to impose interim measures, so that businesses have a reasonable opportunity to inspect the CMA's evidence and decision-making.

2.13 Further, an appeal of an interim measure should be subject to a full merits review, so that businesses under investigation are sufficiently protected. Considering the negative consequences that interim measures may have for a party directly affected, the standard of review should be on the merits rather than judicial review. Allowing the CMA to act more quickly, with fewer checks and balances, and less scrutiny on appeal, could result in unnecessary interventions.

[3] The CAT recently confirmed that the CMA has significant discretion in how it calculates fines for competition infringements: See Roland (U.K.) Limited v Competition and Markets Authority, 19 April 2021: link to judgment here. See also, Generics UK Limited, Glaxosmithkline plc a.o. v Competition and Markets Authority, 10 May 2021, link here.

2.14 Although we understand that in limited, urgent circumstances, interim measures might be appropriate in market investigations, we have concerns about expanding the use of interim measures to market investigations and without proper checks and balances for similar reasons.

(c) Empowering the CMA to impose certain behavioural remedies at the end of a market study

2.15 The government is consulting on two alternative proposals to restructure the market inquiry process. We are concerned with its first proposal (to keep a 2-stage market enquiry, i.e. market study followed by a market investigation, but to empower the CMA to impose certain behavioural remedies[4] at the end of a market study, potentially subject to an extended statutory timetable).[5]

2.16 That means that the CMA would be required to have identified an adverse effect on competition and decided that it should take action to remedy the adverse effect.[6] The CMA proposes that its Board would act as the responsible decision-maker rather than a full independent panel (as currently used in market investigations).

2.17 We are concerned with the increase in the CMA's power to impose remedies at the end of a market study, without conducting a market investigation. This concern is exacerbated by the shorter statutory timetable and the proposal to empower the CMA's Board to decide, rather than a full independent panel. As we said above, the proposal to increase the CMA enforcement power, is of concern both of itself and when coupled with weaker scrutiny, both within the CMA and potentially on appeal (if the standard of review changes to judicial review). We therefore support the second proposal. If nevertheless the government's first proposal is adopted, remedies should only be imposed by the CMA after thorough consideration. Given the substantial implications for businesses, the statutory timetable should be extended for an additional period of at least 6 months, and the decisions should be adopted by a full independent panel.[7]

(d) CMA internal decision-making process

2.18 The government proposes a smaller pool of Panel members whose primary employment would be with the CMA, and members would be required to work on a greater number of cases. The government also proposes to reduce the role of Panel members to making final decisions on theories of harm and remedies, to give the CMA more control over administrative procedure such as timetabling.

2.19 We consider it is important that the CMA decisions continue to be made fully independently from government, by dedicated and independent Panel members working in business, industry, academia, etc. Particularly in a scenario in which government would give a more detailed steer to the CMA, potentially resulting in more politicised decision-making process, which could enable direction which is

[4] Government believes it is likely to be appropriate to reserve structural remedies, such as sale of assets or ownership separation, for use in market investigations only.
[5] Currently, the CMA can impose legally binding remedies after conducting a market investigation which typically follows a market study. The statutory deadline to complete a market study is currently 12 months and for market investigations 18 to 24 months, with additional time to implement remedies. The CMA is open to considering extending the statutory timetable by additional 3-6 months when remedies are proposed at the end of the market study, with an additional 6 months to implement the remedies.
[6] See section 134 Enterprise Act 2002.
[7] See Consultation section 1.60.

expedient or popular in the short term, but risk sub optimal outcomes in the medium or long term, as well as increased uncertainty for businesses. Instead, it is important that Panel Members with individual commercial and regulatory expertise can provide the CMA with independent and objective advice. A smaller pool of dedicated Panel members may compromise the quality of CMA's decision-making, particularly in regulated and technically complex sectors such as telecoms. Further, Panel members whose primary employment is with the CMA may not have the same level of independence as the current Panel members, nor will they have sector-specific expertise. Note that part time roles mean that Panel Members are able to stay in tune with business and industry developments and that they will be better suited to provide the CMA with a "fresh pair of eyes".

2.20 The consultation also proposes a more active role for government by providing the CMA with a more regular "strategic steer". This means that the government would indicate to the CMA what the government's priorities and expectations are, and against which specific metrics government will measure the state of economy and the CMA's performance (paragraph 14.42, page 30). We are concerned that this would potentially result in more politicised decision-making process.

(e) Revision of merger control thresholds

2.21 We support the government's proposal to raise the turnover threshold from £70 million to £100 million. We also support the government's proposal to exclude from the CMA's jurisdiction mergers where the businesses' respective turnover is less than £10 million, even if the merger would otherwise qualify for review under the share of supply test. This would enable the CMA to focus on mergers that are more likely to lead to harm, reduce cost to businesses, and provide comfort and clarity to small businesses.

2.22 The government proposes a new jurisdictional threshold to deal with threats to competition in fast-moving markets. The government proposes that the CMA should be empowered to review mergers in which any merging party has both (a) a share of supply of at least 25% and (b) a UK turnover of more than £100 million. This aims at allowing the CMA to review vertical mergers involving large established competitors, as well as acquisitions by large companies of small start-ups or potential entrants which have no qualifying UK share of supply.

2.23 We are concerned that the proposed new threshold will expand the CMA's jurisdictional remit considerably, potentially capturing a wide range of transactions that give rise to no substantive issues. The proposed third jurisdictional threshold is formulated too widely such that, as well as capturing so-called killer acquisitions (i.e. where large players acquire smaller innovators before they have the chance to become effective competitive rivals), it will capture *any* transaction involving a large company, not just those acquisitions by large companies of small start-ups which have no qualifying UK share of supply. This may ultimately result in greater, yet unnecessary, regulatory burden on companies and additional pressure on the CMA, and prevent it from focusing on mergers that are more likely to lead to harm in the long term.

2.24 BT considers that the approach to any new jurisdictional threshold should be evidence driven. In this respect, before any significant change is proposed, information on transactions that were not captured by the current jurisdictional thresholds but ultimately gave rise to a competition concern should be collated and reviewed in order to determine the extent of the presumed problem. This should also be

considered alongside proposed new rules for firms with strategic market status to ensure government is not double-regulating the same problem.

(f) Revision of merger control process

2.25 The government proposes various reforms to the merger control process to increase efficiency and speed up merger investigations. We are concerned with the proposal to speed up the Phase 2 investigation, as businesses (both merging parties and third parties) may be under time pressure to set out their position and clarify why the proposed transaction would (not) result in a substantial lessening of competition. Having to comply with shorter timelines may put businesses under greater pressure to collate all the relevant information and to build a robust case to present to the CMA. Limiting the CMA's use of an extension at Phase 2 should therefore be carefully considered and any information requests sent by the CMA should consider the shorter timelines available to businesses and any penalties for non-compliance. Careful thought needs to be given to the impact that such changes would have on third parties. In BT's experience, the CMA is increasingly requiring detailed input from third parties and very tight deadlines are imposed. Given that these parties are not parties to the transaction and often do not have internal or external team dedicated to third party merger control processes, this poses a significant burden on businesses.

(g) Increased penalties for failure to comply

2.26 The government proposes that the CMA should be able to impose fixed penalties of up to 1% of a business' annual turnover and an additional daily penalty of 5% of daily turnover while non-compliance continues. Based on BT's experience in responding to vast numbers of statutory information requests (e.g. from Ofcom, the CMA and the European Commission), we are concerned with the proposal to significantly increase fines for failure to comply with information requests. In our view, this proposal will not necessarily produce the results the government hopes to achieve. Whilst there have been several recent examples of companies failing to provide the CMA with accurate information, the CMA should recognise the burden involved in responding to such information requests and produce evidence of overall compliance or the lack thereof. To the extent reforms are considered necessary the government should ensure that increased penalties are targeted at those companies that persistently fail to comply with information requests and do not result in a disproportionate burden on companies.

2.27 Any increase in penalties should be backed up by quantitative and qualitative evidence and not merely based on a comparative assessment of other jurisdictions.

(h) Personal accountability for the provision of evidence

2.28 The government proposes to require an individual or a company director whose company is responding to an information request to make a personal declaration certifying that the information "is, to the best of their knowledge, full, complete and correct", and that they have "carried out all reasonable checks to verify this." The government is separately considering whether a false declaration by a director should attract the same civil penalties as supplying false and misleading information to the CMA (i.e. fixed penalties of up to £30,000 along with the possibility of a daily penalty of up to £15,000 while non-compliance continues), or should, for flagrant breaches, be grounds for director disqualification.

2.29 There are a wide range of issues the CMA will need to consider if it is to expand personal responsibility for competition and consumer infringements including (i) rights of defence/ rule of law issues and (ii) standards of proof. As per the above, any introduction of additional sanctions or increase in penalties should be backed up by quantitative and qualitative evidence as to its necessity. Further, the government should consider that requiring an individual or company director to make a personal declaration will significantly complicate any investigation and may result in disproportionate burdens on companies. The risk of personal accountability is likely to result in additional and detailed governance processes which may reduce the efficiency of investigations that the government seeks to achieve. Note that BT takes compliance with statutory and information requests very seriously. However, these requests are time-consuming and pose a significant burden on businesses. For large organisations where information is held by numerous people in different departments, it is very difficult to guarantee a 100% accuracy. The CMA should be mindful of the fact that mistakes and errors happen even where companies are using their best endeavours, especially when under significant time pressure.

(i) New settlement tool for abuse of dominance cases

2.30 The government proposes a procedure that would allow businesses to enter into an "Early Resolution Agreement", which, unlike settlement cases, would not require an admission of dominance or infringement, and would therefore not be binding as to matters of fact or liability in follow-on damages claims. Businesses may still be required to agree to a settlement payment in return for closure of the investigation. The CMA needs to be satisfied that it has reasonable grounds to believe that an infringement has been committed. The government is also considering whether the Competition Appeal Tribunal should have to approve an Early Resolution Agreement.

2.31 BT broadly supports enabling early resolution in abuse of dominance investigations as an efficient and effective way of addressing competition issues. Early Resolution Agreements would enable the CMA and businesses concerned to accept certain factual matters relevant to the conduct under investigation, to give commitments as to the business' future conduct and agree to make a settlement payment, without having to admit an infringement of competition law. Early resolution of investigation would benefit both the CMA and businesses involved and would ensure that disruption for businesses is as limited as possible. The proposed new settlement tool would also reduce costs incurred for businesses and the CMA. However, we are concerned about the proposal for parties to agree to make a settlement payment as part of this process, given that there would be no admission or finding of liability. Given the quasi-criminal nature of competition law infringements, it would not be appropriate to levy a fine where there is no admission of finding of a breach of competition law.

3. Consumer Rights

3.1 We summarise below our views on the Consumer Rights proposals and respond to a number of specific questions in the consultation.

Modernising consumer rights & subscription contracts

General & Action to date

3.2 The consultation makes the point well that subscriptions are increasingly a normal and essential part of many consumers' lives in the UK. In the consultation document, BEIS's research sets out that consumers spend on average £660 each a year on subscription contracts in non-regulated markets, making the subscriptions industry worth around £25 billion per year. BEIS also states that their research demonstrates that c£1.8 billion a year is spent by consumers on unwanted subscriptions.

3.3 BEIS does not draw out, however, that whilst £1.8bn is a significant figure requiring further insight and analysis, their research also demonstrates that the vast majority of subscription revenue - over 90% on their analysis - is therefore generated by businesses from customers that are happy with their purchase. We believe that any response to the small percentage of subscriptions - and by implication traders and/or sectors – therefore needs to be proportionate to the potential harm.

3.4 We agree that ensuring subscription contracts work fairly for consumers and are not designed as traps is an important issue. However, we urge caution in automatically deeming all subscriptions to be "traps". As we say above, this conclusion is not borne out by the data. In addition, the overall subscription market covers a broad range of goods, services and digital content and in the case of markets that are already regulated, the subscription model operates to give customers the benefit of continuity of essential services.

3.5 The Subscriptions Impact Assessment attached to this consultation[8] sets out a marketplace assessment that excludes "*payments for utilities such as energy or water, financial services, telecommunications, and public transport*" and invites responses on this definition. The draft definition is set out at Figure 8 of the Consultation. We agree that telecommunications should be excluded from the definition for the purposes of the proposals in this consultation, for a number of reasons.

3.6 Communications services are already regulated by Ofcom as a result of interventions including, but not only, existing General Conditions and guidance but also the agreements reached with Communications Providers (CPs) as a result of the Loyalty Penalty super-complaint first raised by the Citizens Advice Bureau (CAB) to the CMA in Autumn 2018. Subscription contracts for telecommunications services therefore already have robust guardrails in place to protect consumers.

3.7 There is an important distinction to be drawn here between contracts which continue indefinitely but which the consumer can give notice to cease at any time without paying any early termination charges,

[8] Subscriptions regulations impact assessment (publishing.service.gov.uk)

and contracts which automatically renew at the end of one fixed commitment period, to lock the consumer into a further fixed commitment period with early termination charges payable if they cease the contract early. As BEIS notes, CPs are already prohibited under the General Conditions from renewing a consumer's contract for Public Electronic Communications Services for a further fixed commitment period, without the consumer's express consent.

3.8 Since Spring last year, CPs have been required to send End of Contract Notifications (EOCNs) to those consumers coming to the end of a minimum commitment period, and Annual Best Tariff Notifications to consumers who are already outside of a minimum commitment period, letting them know what their options are, and how they could save money by choosing to renew their fixed commitment period or to switch their provider. Ofcom has given detailed guidance on the content of those notifications, the time period during which they must be sent and the methods of communication; so CPs are already subject to the requirements that BEIS is proposing in this respect.

3.9 In addition, following the CMA's response to the Citizens' Advice "loyalty penalty" complaint, all the major CPs (with the exception of Virgin Media) have given voluntary commitments to limit the increase in price when broadband consumers' minimum contract period ends. It has been recognised by regulators that there needs to be an incentive for consumers to engage with the market, and hence for there to be cheaper prices available to consumers prepared to commit to a new minimum term; but any harm suffered by consumers who fail to do so has been minimised in the broadband market as a result of these voluntary commitments. Similarly, the mobile network operators (with the exception of Three) have voluntarily agreed to reduce the subscription price after consumers' minimum commitment period has ended. This further demonstrates why communications services should be excluded from the scope of BEIS's proposals as further regulation is unnecessary.

3.10 Question 41 also addresses the issue of scope and asks whether certain contract types or services should be excluded. Taking questions 8, 31 and 41 together, our view is that communications services should be exempt from the new requirements. We comment above (and throughout this response) on the existing sector regulation that already applies. In addition, we highlight below some of the unintended harm that could be caused to customers were certain provisions to be additionally applied to our industry. For these reasons we believe that there is a genuine and strong case for telecommunications to be excluded on welfare grounds.

3.11 We agree that a level playing field for subscription providers of all kinds is important and there are things to learn from Ofcom's recent interventions in the telecommunication subscriptions market. We note that many CPs bundle their own services together with third party services in a single or combined subscription for their customers. The forthcoming implementation of the consumer protection measures of the European Electronic Communications Code (EECC) will make sure that consumers in such instances have the same information and cancellation rights over the third-party services as they do over their telecommunications products. However, this will create an asymmetry of regulation when compared to consumers purchasing unregulated services directly from third parties. In our view, any new regulation should be applied to those standalone services and any liability for non-compliance with new regulation should rest with the third party, rather than any regulated partner who may serve as an introducer only.

Giving consumers a clear choice on what they are signing up for

3.12 Questions 31 and 32 ask for views about the impact on traders of implementing the proposed pre-contract information requirements to make it clearer to customers what they are agreeing to. In our view, existing law already requires traders to do this and no further intervention is required. The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 require traders to provide information pre-purchase about the term of any agreement and how to cancel. The Consumer Rights Act also provides for the main characteristics of any digital product to be stated up front too. The Consumer Protection from Unfair Trading Regulations 2008 require traders to communicate, with due prominence, such material information as is necessary to enable a customer to make an informed purchasing decision and otherwise prohibit unfair trading practices.

3.13 However, we understand and acknowledge that specific guidance may be desirable now to provide clarity and consistency, particularly in non-regulated sectors, as there has been a significant rise in customers entering into digital subscriptions through digital means since these key pieces of existing legislation conceived and implemented. We therefore consider that it would be quicker and more efficient to consult on and issue guidance in this area, perhaps focusing expressly on digital/online customer journeys, rather than to consult on new law which appears to overlap with the existing provisions above. This may also be an opportunity to consider best practice when it comes to accessibility for different classes of vulnerable customers.

3.14 The consultation acknowledges that the EECC will require CPs to implement additional measures for pre-contract information by June 2022. We have compared the requirements of Chapter 4 of the EECC with the 3 main topics of information suggested in this consultation and their proposed prominence to consumers. Our conclusion is that any new law in this area will be duplicative and must therefore exclude communications contracts.

3.15 In our view the impact on traders will depend on whether the pre-contract information proposed by the consultation has to cover a prescribed list of content and be presented in a prescribed way. The consultation states that this information must be presented clearly and prominently but this is not further explained. We anticipate the impact will also differ depending on current approach in different sectors.

3.16 Ofcom has set out how it wishes CPs to provide the information stated in Chapter 4 of EECC. We consider that further intervention is unnecessary. Again, this is another reason why we consider the communications sector should be exempted from any new regulation.

3.17 Question 33 asks what the impact would be on traders if they had to give consumers, in all circumstances, the choice upfront to take a subscription contract without autorenewal or rollover impact traders.

3.18 The distinction between contracts that automatically renew and those that rollover in this question is unclear. It is an important distinction, as noted in paragraph 3.8 above. We interpret this proposal to mean that traders would have to offer a fixed term contract that automatically terminates at the end of that fixed term and address the proposal as such below.

3.19 We do not support this proposal as it is highly likely to create onerous costs for traders and to create unintended harms for consumers. In our view these are:

- The consultation document does not propose the detail of nor consider the implications for businesses and consumers of a subscription automatically "suspending" at the end of a fixed term. In our view consumers would have to be given some significant health warnings about what happens at the end of the term. These would have to be given up front when the option is presented as well as in life. However, there is no data to suggest that a large proportion of such customers will act before the end of the contract to renew or proactively transfer their service to another provider. We must therefore assume that a proportion of customers on fixed term contracts will face a scenario where their services terminate and they don't actually want them to. It will be impractical for businesses to "suspend" services, the implication being that they will remain indefinitely available to be switched on again at the same price. The only rational choice is for traders to terminate the services. In the communications market that therefore means that:
    - Customers will likely lose their ability to keep their phone number;
    - Customers will lose access to their connectivity services which would include the ability to make 999 calls; and
    - Customers will have to go to the trouble of starting an entirely new relationship with their existing or a new provider in order to restore service. Their original service and price may no longer be available to them as a new customer.
- The technical and operational costs for traders in offering an alternative fixed contract option alongside each of their subscription options could be high. Traders will be required to have systems that can support the delivery of dual options to customers at point of sale as well as systems that automatically terminate contracts at their expiry. Traders will also have the operational costs of training staff and ensuring compliance with the proposed parity of choice. For Traders who are currently aiming to simplify their portfolios, which brings benefits through making it simpler for customers to find the products they want and transact, and making it simpler for sales and service advisors to understand the portfolio, leading to a better customer experience and improved NPS, we feel that this proposal would actually create a poorer experience for customers, by adding complexity to the portfolio.
- These costs are unlikely to be offset by any increase in subscription revenues or recovered elsewhere. In the telecommunications market BT is already committed to unprecedented investments in systems and infrastructure, for example to deliver innovative full fibre broadband and 5G mobile services. It will not be possible for BT (and we assume other traders) to sustain those investments as well as to bear the costs of this proposed regulation.
- It is unclear whether providing a fixed term contract option is what customers want, as no evidence has been provided to support the proposal. A trader will be free to set the price of the fixed term contract option and it seems logical that traders will set it at a higher monthly price to their existing permitted models. In such circumstances, it seems likely that consumers will continue to make choices driven by the immediate monthly cost/benefits. There is therefore a real risk of traders spending considerable time and effort to build and offer fixed price options, only for there to be limited take up by consumers.
- We consider that any new regulation in this area should exclude the regulated markets, including communications. There are already significant transparency obligations on CPs, and we believe that these remedies are proportionate and customer friendly. In our view these types of informational nudges are effective and appropriate. To summarise, Ofcom regulation already requires CPs to alert customers to the end of their initial contract, to recommend a new offer and to explain how to terminate the agreement. BT Consumer today therefore sends a number of communications to all our customers both on the run up to the end of their initial minimum term contract and also after the minimum contract period ends. [redacted]

[redacted] All customers receive an annual best tariff notification, which we send on the anniversary of their minimum contract period coming to an end, unless they have re-contracted.

- If BEIS wishes to explore this part of the proposal any further, a detailed consumer study is required to understand the likely consumer benefits, if any, when compared to exploring greater informational/nudge remedies in the alternative. In our view it is hard to understand which types of customer would choose a fixed term plan as they would have to be engaged and proactive to make sure that they acted to renew or transfer services at the end. In our view such an engaged customer is already served by the existing subscription models in the telecommunications market.

Nudging consumers so they are aware of ongoing subscriptions

3.20 We understand question 34 to ask whether the proposed requirement to remind customers at the end of a subscription period should apply only where there it renews onto a new fixed minimum term, or whether this should happen in all circumstances. The consultation refers in other places to "rollover", which we assume to mean that a new fixed minimum term does not apply and instead the contract continues until cancelled.

3.21 The consultation does not ask first whether automatic renewals onto new fixed minimum terms should continue to be fair and enforceable. This model is not permitted for telecommunications, but it is permitted for other services on which customers rely e.g. insurance policies. We recommend that this is clarified if any further consideration of these proposals.

3.22 As summarised above, CPs are already required to provide customers with an end of contract notification, which covers the key information described in the consultation. In that we remind customers that their service will continue until terminated. On this basis, our view is that the requirement to notify should be universal for all subscriptions, regardless of nature of the renewal or rollover.

3.23 We must already point out to customers that they could save money by switching, and there is a requirement to include "best tariff" information for the service the customer currently has (or nearest equivalent). We consider that these additional requirements should also be implemented across all sectors.

3.24 In response to question 35 on impacts, traders will have to develop systems to make sure that factually correct information is sent to customers at the appropriate time. Traders will also have to bear the costs of increased customer activity as a result, which could be cancellations or negotiations for a new/better deal to continue with the same provider.

Reminders as free trials and introductory offers end

3.25 Free trials and offers provide considerable benefits to customers and businesses and there is already an extensive legal framework in place to require traders to give clear and precise pricing information up front, including the price after any free or discounted period.

3.26 The offer period can often be short, often as little as a "first month free". We have not seen any evidence to support a conclusion that a reminder will be helpful where there would be a very short period between agreeing to the subscription and being reminded.

3.27 However, in principle we are broadly supportive of customers being reminded when trials and introductory offers end and suggest that further consideration is given to the types of offer in scope. We also consider that the requirement to provide a reminder should only apply where the offer lasts for a significant period.

3.28 Our view is that better pre-contract information and a targeted reminder are together adequate remedies to resolve the risk of consumer harm and are a proportionate and useful response to the effects of customer biases towards forgetting and then taking time to take action. For this reason, we do not support the proposal that customers need to give their express consent to the fully chargeable service beginning. This would be disproportionate. It would also make it very hard for traders to anticipate volumes and revenues as inevitably customers who want the service (due to the very same behavioural biases) will not confirm that they want the service to continue. The unintended consequences described above in relation to question 33 could also apply. There is a real risk that traders will therefore find it too difficult to make offers available to customers, leading to higher costs for customers from day 1.

Long term inactive subscriptions

3.29 We sympathise with the families of deceased customers who have the burden of administering their loved ones' estate. Our customer care teams are trained to deal with vulnerable relatives who contact us. As the consultation acknowledges, until we are contacted, we do not know that a customer is deceased. When we are informed, we act quickly to refund all charges back to the date that the customer passed away. [redacted]

3.30 We do not agree that one unfortunate use case (one which we act promptly to resolve) provides a rationale for widespread change. We are aware of the undertakings that a number of traders in the anti-virus software market have provided to the CMA in relation to inactive accounts. We note that those undertakings were limited to providing information about options to customers whose accounts were considered inactive. Reading between those undertakings and this consultation which proposes suspension/termination of inactive accounts, we have not been able to find the evidence for why such a remedy is required and proportionate.

3.31 In our view, there are many reasons which communications subscriptions are unused but still required by customers. There are therefore risks in requiring a trader to assume that inactivity can only imply that

the subscription is forgotten and therefore unwanted. There is a difficulty in defining what "inactivity" means in a way that makes sense across the variety of subscription products that consumers enjoy. For example, in telecommunications it is not as simple as looking at whether a customer is making calls or using the internet. An elderly customer may have a phone purely to receive incoming calls from family. A commuter may have a phone in the glovebox for emergencies. A traveller may have a mobile broadband device to provide internet on the go from time to time. And customers may actively choose to subscribe to a calls package or mobile data plan for which the inclusive allowances are more than they generally need, because they prefer the peace-of-mind of knowing they will never incur additional one-off charges. [We also offer backup and insurance products that we hope are never activated, such as 4G/5G backup. Although we bundle 5G backup into Halo now, if we sold it as a bolt-on and it was never used then the fact it was inactive is a good thing for customers, not a reason to cease their service.]

3.32 In our view current formulation of consumer law is based on viewing the average consumer as someone who can make good decisions based on the information that they have. We understand that consumers' behavioural biases will affect the quality of that decision making. However, taking the telecommunications market as an example, customers are provided with: clear up-front information about their subscription lifecycle; regular informational nudges in-life; a simple switching service; and an annual best tariff review notification once outside their minimum contract period. We do not consider that requiring traders to start to actually take decisions on customers' behalf (in this instance, termination) is either necessary or desirable from a precedent perspective.

3.33 In response to question 37, similarly to points made above, there is therefore potential harm in any new regulation that risks requiring providers to take unilateral action, for example necessary services not being available just when customers need them the most. In our view, telecommunications should therefore be excluded from any new regulation in this area.

3.34 In response to question 38, this is hard to answer, as it seems logical that the relevant level of inactivity should be linked to the nature of the subscription service. The Subscription Impact Assessment relevant to this part of the consultation[9] suggested 24 months. We consider that this could be the long stop date and that this should only begin to run at the end of any minimum term contract but that more data should be considered to shed any light on sector specific issues before proceeding.

3.35 Finally, we have approached this part of our response on the basis that, should the new requirements apply to communications services despite the potential harm we have outlined, we would give notice to terminate and close the account. If "suspending" the service means that we would have to retain an account in the customer's name, retain their phone number and other records then that would create unacceptable uncertainty for traders. We would need a long stop date by which accounts could be terminated or we would be holding customer data beyond our need for it, which could create unintended data privacy risks. This would mean that phone numbers could not be recycled as efficiently as today. It also means that we would have the cost of data storage of the customer records. As with our response to question 33, we therefore recommend that any new provisions in this area require full termination of the agreement. Any new regulation in this area should be approached carefully as there is potential for further consumer harm, as those whose accounts were terminated might have to pay (re)connection charges to reinstate their service.

[9] Subscriptions regulations impact assessment (publishing.service.gov.uk)

Making it as easy for consumers to exit a contract as enter it

3.36 We have considered the "easy exiting" proposal at paragraph 2.28 on page 90 of the consultation document in our response to questions 39 and 40.

3.37 We consider that the proposal is both unnecessary and not sufficiently well considered to be viable for the communications sector. We also observe that it is not clear whether the proposed automatic termination process would be the only possible process (regardless of whether the customer originally signed up online or not) or whether customers can still call to cancel. We recommend that this is considered further, especially in light of how vulnerable customer groups may wish to interact with traders.

3.38 The proposal contains 4 points, so taking each in turn:

- "Automated": Ofcom's General Conditions prohibit any termination processes that deter customers from switching their services to another provider. There is already an Ofcom regulated automated switching process for mobile and fixed telecommunications services in the UK. It isn't clear how any proposals here would fit with this existing regulation (soon to be extended to cross-platform switching of fixed voice and broadband services) and for this reason alone we consider that telecommunications should be exempt from any other new regulation in this area.
- "Require the customer to input only the information essential to process their refund": This is not straightforward in the telecommunications market, which is why traders offer the ability to speak to a customer care advisor alongside any live automatic switching routes. Customers will have to validate their identity so that any process is not open to fraud. Customers may have a variety of services with us, and remaining benefits (like discounts) could be contingent on which services they wish to terminate. Ofcom has recognised the complexity of this scenario in requiring operators to enhance their end of contract messages to include mention of linked contracts as part of the new EECC requirements. Any automated cancellation process would need to take account of the complexity of consumers' product holdings, which we consider to be a significant challenge. Finally customers cancelling within a minimum term contract will not get a refund, instead they will owe us an early termination charge, which needs to be calculated in real time and explained.
- "Simple and straightforward with the minimum number of clicks": We do not consider that any regulation should mandate a trader's customer journey to this level of detail. A trader should be able to judge the most effective way of building a customer journey which is about the amount of information, the necessary systems' checks required and making sure that customers can assert a clear choice-viewing this as a number of clicks is overly reductive.
- "Easy to find": We assume that this point removes the risk that a trader may be tempted to provide the proposed exit process in a particular part of their website. In principle we support that, subject to our point above that we disagree that this proposal is relevant for the communications market. Ofcom's guidance on cancellation processes already requires CPs to provide information on cancellation that is clear and easy to find.

3.39 Finally, we urge caution in assuming that an automated process is universally beneficial to trader and customer. Such a process also removes the ability for a trader to contemporaneously resolve any issues that have motivated a customer to terminate their services and/or to offer a new subscription offer which may be attractive to the customer. We also recommend that consideration is given to the impact on vulnerable customers of such an automated process.

Scope and exclusions

3.40 Our view is that telecommunications services should be excluded from the scope of the proposed reforms on consumer protection because there is already an informed sector regulator with powers to intervene and enforce. The CMA should prioritise sectors where consumers do not have the benefit of expert sector regulators to protect them while enabling long term strategic investment.

3.41 We have responded with the detail above, but our reasons are summarised by three key points:

- The impact assessment for this consultation did not consider the telecommunications market, so the case for change is not made;
- The proposals in this consultation either duplicate or disrupt the requirements on traders who are regulated by Ofcom today; and
- Continuity of communications services is a public good, and in many circumstances is essential as an interruption in supply could result in serious harm to consumer welfare.

4. Consumer Law Enforcement

4.1 BT has considered the proposals in the round and in this section we give our holistic answer to questions 55 to 64 inclusive. We note that many of our concerns formulated in the section on competition law policy above are relevant in relation to the government's proposals on consumer law enforcement. Both sections should be read in conjunction with one another.

Empowering the Competition and Markets Authority to enforce consumer law directly

4.2 BT is not, as such, opposed to enforcement of consumer law by the CMA directly but notes that changes to the enforcement model should only happen for well-evidenced reasons. In BT's view, the government has not sufficiently clarified why today's model of enforcement is problematic, and what concerns it is trying to address. Further, BT notes that the CMA's proposed enforcement powers are very wide and that the CMA could step in before the CMA has established an actual breach of consumer laws. The detail of the proposals is not yet set out. However, if the CMA is to acquire the proposed new powers, the parameters must be clearly defined, with materiality thresholds clarified, the sharpest of rogue business practices bought into focus, and robust checks and balances put in place throughout the process.

4.3 In further considering its proposals, we would also urge BEIS to consider the value for both traders and consumers in an enforcement model that inspires collaboration and cooperation between traders rather and regulators rather than one that only aims to deter.

4.4 Ofcom already has powers to directly intervene in telecommunications matters. In our view, the new CMA direct enforcement powers therefore should be limited to where there is not already a sector regulator with powers to intervene. We are also concerned about the risk of double regulation were the CMA and Ofcom to have concurrent powers. No case has been made for this and if the proposals go forward to increase the CMA's enforcement powers then there should be express consultation on what protections and protocols should be established as a Memorandum between the two regulators to make sure that traders are not subject to double or diverging regulator scrutiny. Consideration also needs to be given to whether Ofcom should have enforcement jurisdiction over adjacent markets to telecommunications to make sure that there are informed and consistent decisions in the digital markets sector.

4.5 Given that the CMA's enforcement decisions are likely to have far ranging consequences for businesses, strong judicial scrutiny is essential. The CMA's enforcement decisions should be subject to a full merits review. Consumer law is judgement based, built around balancing the rights of traders and consumers and requiring sensitive adjudications on the concept of fairness. The recent High Court judgment in the Care Home UK case shows how finely balanced decisions about how customers make their purchasing decisions can be. It is appropriate that decisions which can have far reaching market effects are tested to the fullest extent of the law and a clear body of judicial precedent is kept alive.

4.6 It is therefore insufficient that the CMA's decisions should only be subject to judicial review for being factually or legally incorrect, or procedurally flawed. A judicial review standard would result in a lower standard in the quality of decisions, resulting in more litigation and cases taking longer to reach a conclusion. The government rightly acknowledges that fair, transparent and open processes are needed to give businesses confidence in an administrative enforcement model.

4.7 We are concerned with the proposal to enable the CMA to impose very high fines.

4.8 There is no evidence that the level of fines appropriate for competition law enforcement is appropriate or proportionate for consumer law. The proposed fines are also significantly higher than those proposed by the EU in their New Deal for Consumers[10].

4.9 Specifically, in relation to information requests, the CMA should recognise the burden this involves for business (see also paragraphs "Increased penalties for failure to comply" and "Personal accountability for the provision of evidence" of Competition Policy section of our response). The government should ensure that increased penalties are targeted at those companies that persistently fail to comply with information requests and do not result in a disproportionate burden on companies. BT takes compliance with statutory and information requests very seriously. However, these requests are time-consuming and pose a significant burden on businesses. For large organisations where information is held by numerous people in different departments, it is very difficult to guarantee a 100% accuracy. The CMA should be mindful of the fact that mistakes and errors happen even where companies are using their best endeavours, especially when under significant time pressure. The risk of incurring heavy fines is likely to result in businesses asking for extensions on a regular basis. This may ultimately lead to longer and less efficient processes, which the CMS is seeking to avoid.

4.10 As per the above, judicial scrutiny of CMA's decisions will be essential. The CMA's decisions to impose fines should be subject to a full merits review (see also paragraph "Standards of review" in Competition Policy section of our response).

Admission of liability

4.11 At question 63, the consultation seeks views on whether businesses' undertakings to the CMA should contain an admission of liability. The consultation states that admissions of an actual or likely breach by a business can help other businesses understand their obligations under consumer protection law and assist in deterring breaches more widely. The consultation asks whether businesses should be encouraged to admit liability in return for a reduction of the fine, to reflect their willingness to settle.

4.12 It is our view that businesses should be able to accept certain factual matters relevant to the conduct under investigation, to give commitments as to the business' future conduct and agree undertakings, without having to admit any liability. This would ensure that the respective behaviour can be amended as early as possible and with limited disruption for businesses. This would reduce costs incurred for businesses and the CMA. Being able to agree undertakings without admitting liability is also important in encouraging early settlement by traders. Being required to admit liability – with the potential this will have for knock-on consequences – is undoubtedly a disincentive for businesses to agree to settle.

[10] Review of EU consumer law - New Deal for Consumers | European Commission (europa.eu)

Supporting customer enforcing their rights independently

Improving Alternative Dispute Resolution

4.13 We have provided in this section our holistic response to questions 65- 68 inclusive.

4.14 BT and EE are members of Ombudsman Services: Communications (OS) and Plusnet are members of the Communications and Internet Services Adjudication Scheme (CISAS). We have established a collaborative working relationship with both ADR providers to ensure that consumers who use the ADR scheme have a good experience and to improve processes where necessary.

4.15 We suggest that the transparency of the ADR schemes could be improved by clearer and more consumer-friendly rules which are easily accessible. We consider that this should be led by the ADR providers. We agree that the decisions reached by the ADR provider should be clear, transparent and easy for both the consumer and CP to follow and understand. However, at the same time, it is fundamental that the decisions set by the ADR provider are based on the legal and regulatory position together with the consumer's own individual set of circumstances and facts provided, setting a precedent only where the facts lead to the same conclusion as previous cases.

4.16 We would like to see a wider choice of telecommunication ADR providers and have separately urged Ofcom to review the number of ADR providers approved as part of the Alternative Dispute Resolution for Consumer Disputes Regulations 6 2015 (ADR Regulations). Competition in the market is beneficial; it helps to improve ADR standards as well as giving CPs a wider choice of provider. Extending the number of ADR providers should only be done on the condition that potential providers meet all the relevant criteria and that there are no discrepancies in the way customers are treated between the different providers. We consider that this is crucial to achieving efficiency and increased quality of service, the aims set out in the Penrose Review.

4.17 We do not agree with the proposal to reduce the deadline for referring complaints to ADR from 8 to 4 weeks. There is no case set out for why this change will serve to drive up access to the scheme and to swifter and better resolutions for customers. We strive to resolve complaints as quickly as possible. BT and EE often rely on third parties to help us to provide services to our customers. We rely on Openreach to set up and maintain a broadband line and we rely on third parties to maintain and fix our mobile phone cell sites. As problems with physical infrastructure can be difficult to fix quickly, we stay in dialogue with customers to keep them updated and provide back-up services to provide interim connectivity were possible. We are also signatories to the Ofcom Voluntary Code of Practice for Automatic Compensation, so that we give fixed compensation to customers where there is (for example) a delay in fixing a fault, thus mitigating consumer harm. For these reasons we would argue that any change should not be applied to the communications market as all complaints have the possibility of being complex and may often be contingent on third parties to resolve.

Collective redress

4.18 We have provided in this section our holistic response to questions 72- 73 inclusive.

4.19 We appreciate that this consultation examines the consumer protection landscape in the UK from all angles. However, the consultation does not state the need for the totality of all the changes to be made in order to achieve the right outcomes for consumers. Specifically, there is no case made for why greater access to collective redress is needed alongside ADR, a more active CMA and existing sector regulators. It isn't clear to us how any funding or priority gaps in those areas can be tackled by consumers funding their own litigation. It may be that BEIS envisages that third parties will invest in the outcome of the litigation, but that is not addressed in the consultation.

4.20 In our view reforming our regime for collective redress in addition to (or even instead of) the other proposals in this consultation would be a disproportionate response, overly burdensome for traders and unnecessary. This development could lead to an undesirable commercialisation of consumer rights. In our view a more proportionate response would be to implement any changes considered in this consultation carefully and one step at a time, reserving a further consideration of collective redress only if the other measures taken do not produce the desired and measurable consumer benefits. In summary, we would expect to see any proposals limited to where there is a very significant issue and there is not otherwise a remedy for consumers affected.

4.21 Finally, detail on this proposal is needed to allow traders to properly consider and respond to any proposal on collective redress. We would want to see an analysis of other jurisdictions (including but not limited to how developments in this area in the EU proceed), detail on the proposed thresholds for entry, the outline of relevant civil procedure rules (including but not limited to whether consumers opt in or opt out), who has jurisdiction to decide the case and any appeals, provisions for costs and funding and sensible restrictions on the types of claims and types of damages.

END

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Annex

1. BT Group and Consumer Fairness

1.1 We have on-shored our customer service teams; we are levelling up the gap between new and existing customer pricing; and we are now starting to see the first wave of truly converged products that use the combined power of BT's fixed and mobile networks coming to market. We have now seen almost five years of consecutive improvements in our quarterly customer satisfaction surveys and, most recently, record Net Promoter Scores[11] for both the BT and EE brands.

1.2 We want regulation which delivers better outcomes for all customers which includes enabling investment, while providing support for those who are vulnerable. We've continued to work with Ofcom to show how we're sticking to their Fairness for Customers commitments we signed up to in June 2019. That includes:

- supporting customers and helping them engage with the market;
- making sure services work like they should; and
- making it quick and easy for customers to switch communications providers ensuring everyone gets fair treatment[12].

1.3 We've brought in protections voluntarily for customers who don't take up a new deal at the end of their contract. BT broadband customers get a capped price increase, and BT Halo customers keep paying the same.

1.4 EE mobile handset customers who've been out of contract for more than three months get a price discount from then on. And when their broadband or mobile contract is ending, we offer existing BT, EE and Plusnet customers equivalently priced deals to new customers if they choose to re-contract.

1.5 For customers we know are vulnerable, we've committed to regular account reviews to help them get the best deal for their needs. This June we launched our new social tariff, Home Essentials offering broadband for £15 per month to households on universal credit and those pensioners receiving guaranteed income pension credit.

1.6 In 2020 we also completed upgrading around 700,000 customers from copper to superfast broadband at no extra cost.

1.7 During the pandemic we went to great lengths to support vulnerable households, for example helping the Department of Education devise its mobile data programme for families without fixed broadband, via which EE and BT mobile supported over 10,000 families with free data.

[11] Net Promoter Score is an index ranging from -100 to 100 that measures the willingness of customers to recommend a company's products or services to others.

[12] Our company Code of Ethics is also about doing things openly, right, and standing up against things that are wrong: https://www.bt.com/about/bt/our-company/our-business-practice-and-code-of-ethics.