



Department for  
Digital, Culture,  
Media & Sport

## Consultation

# Reforming Consumer Advocacy in Telecoms

July 2019

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## Foreword from the Secretary of State for Digital, Culture, Media and Sport



More than ever before, electronic communications underpin much of our daily lives. It is becoming hard to remember a time when we did not rely on digital connectivity to connect with friends, apply for jobs and make everyday purchases. And this trend will increase in the future, with the rollout of 5G networks and gigabit broadband connections across the country.

Consumer advocacy in telecoms has not kept pace with these changes, and examples from other sectors, such as in the energy market, show the difference a strong advocate can make to improve outcomes for consumers, reduce consumer detriment, and ensure they get the best deals for their needs. I am clear that strengthening consumer advocacy in telecoms is key to supporting the Government's digital ambitions, as well as providers within the industry. I believe that a new independent statutory consumer advocate can play a key role in empowering consumers to engage in the telecoms market, and help them make the most of the new technologies and services that our communications providers are investing in heavily to offer.

I am very grateful for the work done by regulators, and especially Ofcom, to protect the interests of telecoms consumers, and the work of other organisations, such as the Communications Consumer Panel, which provides valuable early advice to Ofcom on their programme of work. However, in addition to these existing resources, telecoms consumers now deserve a strong, independent advocate which will be able to represent them in key policy and regulatory debates, provide them with direct support and advice, and undertake research on key issues and solutions to help Ofcom and the industry move the sector forward for the benefit of consumers.

This consultation seeks views on a number of potential options for creating a new consumer advocate. Your opinion is key to ensuring that any future advocate is best placed to work with Ofcom, industry and other consumer groups to improve the consumer experience in the telecoms market.

Jeremy Wright

A handwritten signature in black ink that reads "Jeremy Wright". The signature is written in a cursive, flowing style.

**Secretary of State for Digital, Culture, Media and Sport**

# General Information

## **Purpose of this consultation**

The government is seeking views on the consumer advocacy arrangements in telecoms. The geographic scope of this consultation is England, Wales and Northern Ireland.

This is a public consultation. The consultation dates are as follows:

**Issued:** 22 July 2019

**Respond by:** 14 October 2019

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. We ask stakeholders to limit any responses to a maximum of 10 pages, if possible. Responses should be emailed to the following address: **telecomsadvocacy@culture.gov.uk**

Responses or material sent to any other email addresses may not be taken into consideration.

If you cannot reply by email please respond by post:

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For enquiries about the consultation process only please email [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk), heading your communication 'Consumer Advocacy Consultation'. Please contact the data protection team on 020 7211 2077 (or [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)) if you require any other format e.g. Braille, Large Font or Audio.

This consultation is intended to be an entirely written exercise but we reserve the right to follow up any responses to seek further information.

Copies of responses may be published after the consultation closing date on the Department's website: [www.gov.uk/dcms](http://www.gov.uk/dcms). Information provided in response to this consultation may be published or disclosed in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000 ('FOIA'), the Data

Protection Act 2018 and the Environmental Information Regulations 2004). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.

If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. The Department will process your personal data in accordance with the Data Protection Act 2018 (and the General Data Protection Regulation). This consultation follows the Government's Consultation Principles (published in 2013) which are available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

# Executive Summary

- Consumers increasingly rely on mobile and broadband technologies in their everyday lives, and they are getting more for their money, with increasing access to better and faster services. This trend will continue as digital infrastructure improves across the country. In the Future Telecoms Infrastructure Review (FTIR), the Government set out its digital connectivity ambitions: nationwide deployment of gigabit broadband connections at pace; and a 5G signal for the majority of the country by 2027, in addition to the UK becoming a world leader in 5G.
- However, there remain significant challenges. Consumer satisfaction continues to be an area of particular concern, especially for broadband which lags behind that of other key essential services. Some consumers can face significant barriers to engaging in the market, sometimes paying more than they need to, and missing out on the benefits of the latest technologies. Government has made it clear, including in its Statement of Strategic Priorities to Ofcom<sup>1</sup>, that this needs to change. Informed consumers who are confident in their ability to engage with these markets and upgrade to faster, more resilient services are key to ensuring effective competition and investment in digital infrastructure.
- Over the years, Government and Ofcom have developed a robust regulatory framework and voluntary initiatives with industry to protect telecoms consumers, and empower them. These actions, and those of other organisations, including consumer groups and industry, are key to improving consumers' outcomes.
- In addition to this, appropriately resourced consumer advocacy can play a vital role in functioning markets, helping industry, regulators and Government identify ways to improve the consumer experience, championing the consumer voice in public debates, and advising and supporting consumers as they engage in markets.
- Consumer advocacy in other regulated sectors has gone through significant changes, to improve effectiveness and provide adequate funding. By contrast, the Communications Consumer Panel (CCP<sup>2</sup>), which has represented the interests of consumers in telecoms to Ofcom since it was created in 2004, has mostly remained in its original form. In addition, advocacy in the telecoms sector is now strikingly underfunded in comparison to other markets. As a result, consumers, as well as industry, Government and the regulators, are missing out on the benefits a strong, well resourced and independent advocate could bring.

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<sup>1</sup> Published on 19 July 2019. See here:

<https://www.gov.uk/government/publications/statement-of-strategic-priorities>

<sup>2</sup> In the Communications Act 2003, the CCP was given the function to advise Ofcom (and “such other persons as the Panel think fit”) on a number of matters pertinent to the interests of domestic and small business consumers. See here: <https://www.legislation.gov.uk/ukpga/2003/21/contents> (Part 1, section 16)

- The Government’s Consumer Green Paper (“Modernising Consumer Markets”), published in April 2018, asked whether the current consumer advocacy arrangements in telecoms remain the right ones or whether a different model could more effectively support consumers. The majority of respondents expressed the view that there was a need to change the consumer advocacy arrangements in telecoms, citing the growing complexity of the markets, as well as increasing levels of consumer detriment. Views differed on what change would be most beneficial.
- As a result, Government is now consulting on options to strengthen consumer advocacy in telecoms, to achieve a similar level of activities and consumer support as in other sectors, to:
  - 1) Provide direct support and advice to consumers, particularly the most vulnerable;
  - 2) Conduct more research to better understand and highlight where the consumer experience can be improved; and
  - 3) Better represent consumers in key public debates in relation to digital infrastructure.
- Three broad options were put forward by respondents, on which the Government is now seeking views:
  - **Option 1:** Replicating the arrangements in energy and post, by appointing Citizens Advice as the new statutory consumer advocate for telecoms;
  - **Option 2:** Expanding the funding and remit of the existing Communications Consumer Panel (CCP); and
  - **Option 3:** Creating a new Arm’s Length Body to become the new statutory consumer advocate for telecoms.
- The Government’s preferred option at this stage is Option 1, i.e. to appoint Citizens Advice as the new statutory advocate for England and Wales, alongside its current roles as the advocate for energy and post. We see significant benefits in having one organisation looking across multiple sectors, in line with the Government’s Consumer Forum, which aims to enhance collaboration and coordination between Government and regulators across sectors. We are proposing that the new statutory advocate will be funded by an industry levy, as is the case for energy and post.
- Consumer policy, advice and advocacy is devolved in Northern Ireland, except for postal and telecoms advocacy. Postal advocacy is undertaken by the General Consumer Council (GCCNI) for Northern Ireland, who are funded directly by BEIS through an industry levy. In reforming consumer advocacy in telecoms, we propose to put in place a similar arrangement in Northern Ireland, so that telecoms advocacy is undertaken by the GCCNI.

- On 5 June 2019, the Scottish Government introduced a Bill to establish Consumer Scotland as a public body for Scotland with the purpose of providing consumer advocacy and advice for consumers in Scotland. During our consultation, we will work with the Scottish Government to understand how our proposed reforms to consumer advocacy in telecoms can best work with their proposed reforms to consumers advocacy in Scotland. We will also explore how the different advocacy bodies operating across the UK could best work together for the benefit of telecoms consumers and industry, and avoid duplication.
- Subject to the views expressed in response to this consultation, we intend to bring primary legislation forward to appoint the new telecoms advocate and amend Ofcom's levy power to enable them to levy for the purposes of funding a statutory consumer advocate. The Secretary of State would instruct Ofcom on the level of funding, following a public consultation by the advocate on their draft programme of work for the following year.



# 1 The Communications Market

The Communications Market has developed exponentially since Ofcom's first Communications Market report was published in August 2004.<sup>3</sup> The 2004 report noted that:

- The total number of internet subscriptions was 15.1m in May 2004, of which 4.4m were broadband subscribers and the remainder 'dial-up' narrowband subscriptions.
- At the end of Quarter 2, 54% of UK households had an internet connection and internet penetration among small businesses was around two thirds.
- Broadband packages advertised speeds from 150 kilobits per second to up to 8 megabits per second (Mbps).
- At the end of March 2004, the five UK network operators reported a combined customer base of 54.7m.
- Third generation (3G) mobile networks were in their infancy, with the four mobile networks hoping to offer mass market consumer 3G handsets by the end of 2005. (n.b. The launch of the first Apple iPhone was not until 2007).

By the time of Ofcom's 2018 Communications Market<sup>4</sup> report:

- The total number of broadband connections was 26m, of which 12.8m connections were superfast connections providing access to download speeds of 30 Mbps or more. The average residential fixed broadband download speed was 46.2 Mbps in November 2017.
- Nine in ten people have access to the internet in their home.
- Active mobile subscribers have reached 92m, of which 58.4m were 4G mobile subscribers (i.e. the number of 4G subscribers in 2018 was higher than the total number of mobile subscribers in 2004).

Telecoms consumers are getting increasingly more for their money in many ways. The geographical coverage of faster, more reliable digital technologies has steadily grown in recent years. For instance, superfast broadband of at least 24 Mbps is now available to 96% of UK premises, the result of significant private sector investment, as well as public sector investment through the Government's Superfast Broadband programme<sup>5</sup>. In mobile, the latest figures from Ofcom<sup>6</sup> show that 92% of the UK landmass is covered by a good 4G signal from at least one operator, up from 88% last year, and 79% the year before. Over two thirds

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<sup>3</sup> See here:

<https://webarchive.nationalarchives.gov.uk/20160703015050/http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmp/pdf/>

<sup>4</sup> See here: <https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2018>

<sup>5</sup> Superfast broadband is defined in this context as broadband speeds of 24 Mbps or faster. See here:

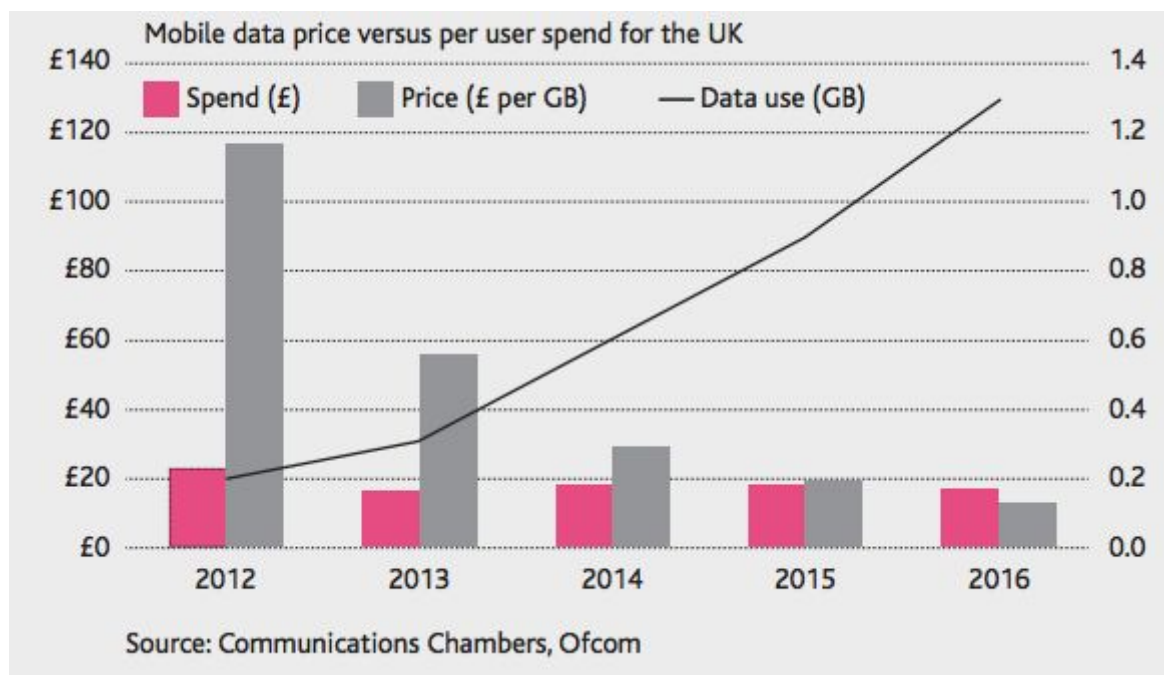
<https://www.gov.uk/government/news/superfast-broadband-now-available-to-more-than-19-out-of-20-uk-homes-and-businesses>

<sup>6</sup> See here:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/146613/connected-nations-update-spring-2019.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/146613/connected-nations-update-spring-2019.pdf)

of the country is covered by all four operators. Again, this is the result of significant private sector investment, combined with policy and regulatory measures.

Ofcom’s latest Pricing Trends report, published in May 2018, noted that despite the increasing take-up of better services, such as superfast broadband and 3G and 4G mobile connections, average monthly spending on phone and broadband services has fallen in the last decade. Other evidence supports this, showing that investment in new mobile and broadband technologies is a key driver by which the unit price of data has reduced in recent years (see Figure 1).



**Figure 1: Changes in mobile data prices, data use and consumer spend<sup>7</sup>**

Looking forward, the Future Telecoms Infrastructure Review (FTIR)<sup>8</sup> has set targets to improve access to faster, more reliable broadband and mobile technologies, specifically:

- Ensuring nationwide deployment of gigabit capable broadband at pace;
- Having the majority of the population covered by 5G networks by 2027.

The FTIR estimated that the total level of investment required for the rollout of gigabit capable fixed broadband networks is to be in the region of £30 billion, and the total capital expenditure required for 5G will be significant. The Government expects the vast majority of this investment to come from the private sector and we are putting in place the necessary conditions to support it.

<sup>7</sup> Source: Williamson, B (2018), 'Keeping an eye on the prize – investment in mobile networks to deliver coverage, capacity & the 5G strategy: A reappraisal of recurring spectrum fees'. See here <http://static1.1.sqspcdn.com/static/f/1321365/27899690/1525377757620/Reappraising+recurring+spectrum+fees+May+2018+1.pdf?token=CjK0faO2i6LF7rXxo4S%2B2UuT%2BIE%3D>

<sup>8</sup> See here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/732496/Future\\_Telecoms\\_Infrastructure\\_Review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732496/Future_Telecoms_Infrastructure_Review.pdf)

Full fibre coverage is starting to increase at pace. Coverage in the UK is now 8%, according to thinkbroadband, up from 4% twelve months ago when we published the FTIR. However, if we are to achieve our connectivity ambitions, deployment will need to continue to increase at pace.

The first 5G networks began to go live from May 2019. We expect deployment to continue throughout the year.

## 2 The Consumer Experience in Telecoms

It is important that all telecoms consumers are treated fairly and do not face detriment due to the costs of confusion, loyalty penalties and poor quality of service. In particular, the Government is clear that providers should not deploy egregious practices causing consumers harm and diminishing trust in the market. This is particularly important for vulnerable and low income consumers given the potential distributional effects of unfair business practices. Moreover, having engaged and well-informed consumers is necessary to support competition and investment.

### 2.1 Consumer Satisfaction Levels

Despite the increasing value for money enjoyed by consumers in the telecoms markets, there is evidence that consumer satisfaction in the sector is lower than it should be. For example, even though consumer satisfaction in Telecommunications and Media, as expressed by the UK Customer Satisfaction Index produced by the Institute of Customer Service, has improved recently, it still ranks as the fourth worst performing sector, above only Local Public Services, Utilities and Transport<sup>9</sup>. As shown on Figure 2, the level of customer satisfaction in Telecommunications and Media has been consistently lower (between 2.4% and 4.5%) than the average for other sectors in the last decade or so.

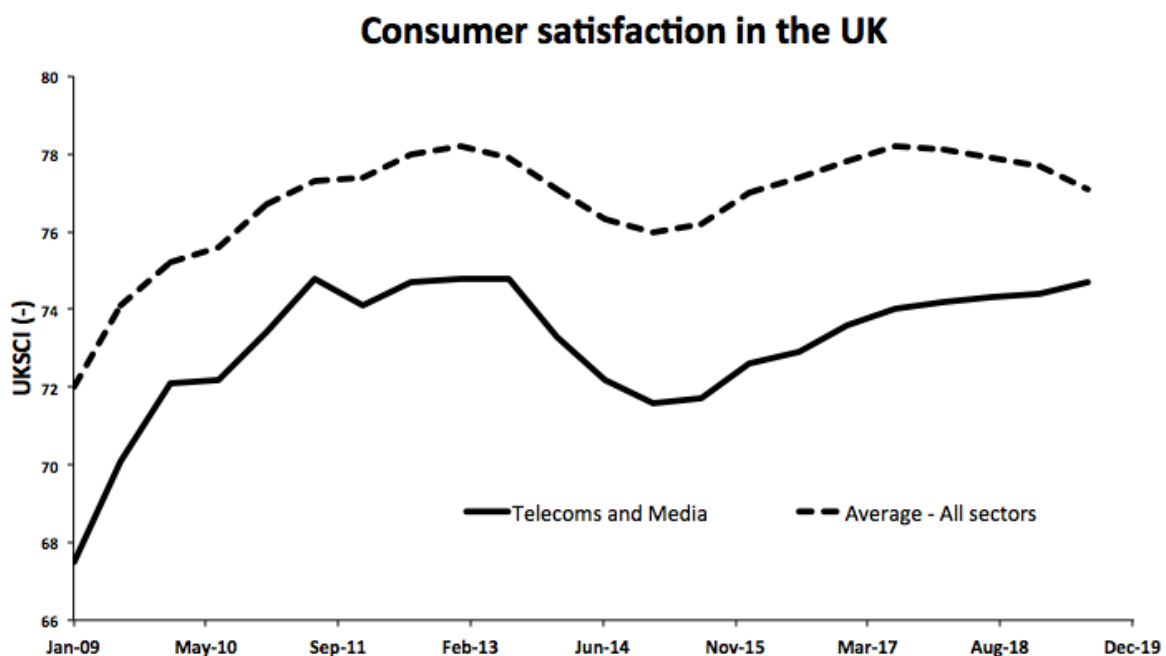


Figure 2: UK Customer Satisfaction Index<sup>10</sup>

<sup>9</sup> Institute of Customer Service data, July 2019. See here:

<https://www.instituteofcustomerservice.com/research-insight/uk-customer-satisfaction-index>

<sup>10</sup> Differential over time between consumer satisfaction in the telecoms and media sector (plain line) and average consumer satisfaction across all other sectors (dotted line), as expressed by the Institute of Customer Service (ICS) UK Customer Satisfaction Index (UKCSI)

Ofcom's 2018 Comparing Service Quality report<sup>11</sup> (April 2019) also shows that the majority of consumers are satisfied with their services, but a significant proportion are not. Consumers' satisfaction with mobile (93%) was similar to that for the current account market (94%), and that of landline similar to that for gas and electricity (87%). However, consumer satisfaction with broadband (83%) was lower when compared to these other markets.

There is also an issue with consumer complaints in the sector. Institute of Customer Service research published in 2019<sup>12</sup> showed that 15.4% of consumers in the Telecoms and Media sector had made a complaint or reported a problem in the previous three months, increasing from 14.8% in 2018. This compares to an overall UK average across all sectors considered by the institute of 11.1%. Ofcom data<sup>13</sup> also shows that, on average, only 49% of broadband customers who complained were satisfied with the way their complaints had been handled in 2018, rising to 51% and 56% for landline and mobile services, respectively. Overall, the most common reason for customer complaints in the mobile and broadband markets were service issues (e.g. slow broadband speeds), followed by billing, pricing or payment issues.

## **2.2 Consumer Engagement Levels**

The take-up of new and more advanced technologies such as full fibre broadband and 5G mobile phone technology is dependent upon the UK having well informed and engaged consumers, who are confident in their ability to engage in the market. However, in addition to some dissatisfaction among some consumers, there is also evidence that some are finding the telecoms markets increasingly difficult to navigate. Research published by Ofcom in 2018<sup>14</sup> highlighted that most consumers engage reactively in the communications market. The research cited issues such as "a lack of confidence, knowledge and understanding of the market" as well as "perceptions of complex deals and a lack of comparability" for not engaging. Ofcom's 2018 quantitative research also indicated that "a quarter (24%) of consumers are not confident they have the best deal for their needs, and around 30% of consumers across the telecoms markets do not think 'it is easy to understand the different options in the market', rising to 40% among those aged 55+".

One consequence of a lack of engagement in the market is that a significant proportion of consumers lack awareness of their contract status. For instance, Ofcom's research shows that 26% of consumers are "unaware of whether they are within or outside of their contract", or are aware that they are in contract but "lack clarity around when their contract ends". To address this issue, Ofcom are imposing new requirements on providers to send

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<sup>11</sup> See here:

<https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/quality-of-service/report>

<sup>12</sup> UK Customer Satisfaction Index - Telecommunications & Media Sector Report - July 2019

<sup>13</sup> See here:

<https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/quality-of-service/report>

<sup>14</sup> See here:

<https://www.ofcom.org.uk/research-and-data/multi-sector-research/general-communications/consumer-engagement-with-communication-services>

information to their customers when their contracts are coming to an end and on a regular basis after that.

Ofcom's Pricing Trends report, published in May 2018, found that consumers who do not effectively engage with the market typically pay higher prices and that one of the reasons for this lack of engagement could be the amount of choice in the market, making it more complex for consumers to understand the best deal for their needs.

In this report, Ofcom highlighted that a significant number of consumers on tariffs that include a handset continue to pay their full monthly charges after the end of the minimum contract period. Effectively, these consumers are continuing to pay for the costs of a handset that they have already paid off.

Ofcom also found that millions of consumers could be paying more than they need to for their broadband, by failing to switch to faster speeds or a cheaper deal after their initial contract deal has ended. As a result, Ofcom launched its *Boost Your Broadband* campaign<sup>15</sup> and a review of broadband pricing, which is expected to report in Autumn 2019<sup>16</sup>.

This 'loyalty penalty' in the broadband and mobile markets, as well as the insurance, mortgages and savings markets, was the subject of a super-complaint by Citizens Advice to the Competition and Markets Authority (CMA)<sup>17</sup>. Government is clear that providers should not deploy egregious and unfair practices to exploit consumer loyalty, as this diminishes trust in markets, and impacts on the effectiveness of markets and competition as a whole.

### **2.3 Government and regulator action**

Government and regulators have worked with providers over the years to improve the consumer experience in telecoms. For example, the Government has recently:

- Established a Consumer Forum<sup>18</sup>, to enhance collaboration and coordination between government and regulators to improve consumer outcomes across sectors;
- Conducted a Smart Data Review to support the development and use of new data-driven technologies and services to improve consumer outcomes. On 11 June 2019, Government published<sup>19</sup> the conclusions of the review and a consultation on a number of proposals, including an Open Communications initiative for the Telecoms sector; and

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<sup>15</sup> See here: <https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/ofcom-launches-campaign-to-help-boost-your-broadband>

<sup>16</sup> See here: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0022/130378/Consultation-helping-consumers-get-better-deals.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0022/130378/Consultation-helping-consumers-get-better-deals.pdf)

<sup>17</sup> See here: <https://www.gov.uk/cma-cases/loyalty-penalty-super-complaint>

<sup>18</sup> See here: <https://www.gov.uk/government/groups/consumer-forum>

<sup>19</sup> See here: <https://www.gov.uk/government/consultations/smart-data-putting-consumers-in-control-of-their-data-and-enabling-innovation>

- Enhanced Ofcom’s powers to protect consumers through the Digital Economy Act 2017. Ofcom has used these powers to improve the consumer experience in telecoms in a number of areas.

Ofcom is the independent regulator for telecoms. Ofcom perform their duties through a variety of means, including:

- The ‘General Conditions of Entitlement’ (the ‘GCs’), which set-out the regulatory rules that all providers of electronic communications networks and services operating in the UK have to comply with. A recent example of the use of general conditions to protect consumers’ interests include the introduction of a “text-to-switch” measure to make it easier for consumers to switch in the mobile market.<sup>20</sup>
- Voluntary initiatives to tackle specific areas of consumer detriment. For instance, Ofcom recently updated their voluntary code of practice on broadband speeds, to ensure consumers are given, at the point of sale, estimates of the broadband speeds they should expect, and strengthening their right to exit their contracts if their speeds fall below a minimum level.<sup>21</sup> Ofcom also set up a voluntary scheme so that fixed line and broadband consumers receive automatic compensation when things go wrong with their services<sup>22</sup>. In addition, Ofcom also recently announced an agreement with industry on six commitments to improve fairness for customers. Further information on these measures is below.
- Investigations, when Ofcom suspect breaches to consumer protection rules. As a result, Ofcom can impose penalties on providers, as was recently the case in relation to unfair charges broadband customers have to pay when exiting their contract early.<sup>23</sup>

### **Automatic Compensation**

Ofcom ensured providers introduced a voluntary automatic compensation scheme for broadband and landline consumers for when service falls short, that came into effect in April 2019<sup>24</sup>.

BT, Sky, TalkTalk, Virgin Media, Zen Internet, Hyperoptic and Vodafone, who serve more than 95% of broadband and landline consumers in the UK, have signed up to this scheme. As a result, these consumers will be automatically compensated by their providers for missed appointments (£25 per incident), delayed installations (£5 per day) and delayed repairs following loss of service (£8

<sup>20</sup> See here:

<https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2019/end-it-with-a-text-mobile-switching>

<sup>21</sup> See here:

<https://www.ofcom.org.uk/consultations-and-statements/category-1/broadband-speeds-codes-practice>

<sup>22</sup> See here:

<https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/costs-and-billing/automatic-compensation-need-know>

<sup>23</sup> See here:

<https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2018/ee-virgin-media-fined-overcharging-customers>

<sup>24</sup> Ofcom’s statement on automatic compensation is available here:

<https://www.ofcom.org.uk/consultations-and-statements/category-1/automatic-compensation>

per day).

Ofcom estimate that consumers will benefit from £142m in payments (around nine times more than what they would receive before the introduction of the scheme).

### **End-of-Contract Notifications and annual best tariff advice**

In May 2019, following a consultation, Ofcom published their statement on requirements for communication providers to inform their customers when they are nearing the end of their contracts, and to provide annual advice on better deals for those who are out of contract.<sup>25</sup> The new rules are designed to improve consumer information and engagement in the market.

The rules will go into effect in February 2020, and will require providers to send their customers of mobile, broadband, home phone, and pay TV services a standalone notification between 10 to 40 days before the end of the contract, with information about their contract and best available offers from the provider.

Providers will also need to send information to their customers who are out of contract, at least on an annual basis, including details about their current contract and offers available.

### **Ofcom's Fairness for Customers Commitments**

On 3 June 2019, Ofcom announced that it had developed six voluntary customer fairness commitments to strengthen how communication providers treat their customers, with the aim of helping to ensure consumers are always treated fairly by their providers.

All the major communications providers have signed up to these commitments, including BT, EE, Giffgaff, O2, Plusnet, Post Office, Sky, TalkTalk, Tesco Mobile, Three, Virgin Media and Vodafone.<sup>26</sup>

The six commitments are that customers:

1. Get a fair deal, which is right for their needs.
2. Get the support they need when their circumstances make them vulnerable.
3. Are supported to make well-informed decisions with clear information about their options before, during and at the end of their contract.
4. Services work as promised, reliably over time, and prompt action is taken by providers when things go wrong.
5. Can sign up to, change and leave their services quickly and smoothly.
6. Can be confident that fair treatment is a central part of their provider's culture.

Ofcom will be publishing a report on how well the companies are delivering against these commitments in 2020.

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<sup>25</sup> See here:

<https://www.ofcom.org.uk/consultations-and-statements/category-2/helping-consumers-get-better-deals>

<sup>26</sup> See here:

<https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2019/broadband-and-phone-firms-put-fairness-first>



Ofcom also provides a variety of resources to support telecoms consumers. This includes step-by-step guidance and advice on how to maximise benefits from phone and broadband services<sup>27</sup>, as well as a broadband and mobile checker app to check availability and speeds of broadband and mobile services across the country<sup>28</sup>. Ofcom also maintains an advice and complaints service for consumers.<sup>29</sup>

## **2.4 Not-for profit and commercial organisations**

Telecoms providers provide information on their individual websites on the range of fixed and mobile products and services consumers can get access to in their area.

Third party not-for-profit and commercial organisations also offer a number of resources to telecoms consumers. For instance, Which? provides advice and information to support consumers in finding the best broadband deals<sup>30</sup>. Other organisations, such as price comparison websites, provide consumers with tools to check the coverage and availability of mobile and broadband services in their areas, and compare offers from different providers.

Organisations like Citizens Advice and Which? regularly produce research and run campaigns on particular areas of consumer detriment. Examples of campaigns include Citizens Advice's work on telecoms contract exit fees,<sup>31</sup> and the Which? campaign to tackle broadband connection issues across the country.<sup>32</sup>

In addition, some organisations focus on particular consumer segments. For instance, the Rural Services Network champions the voice of consumers in rural areas, and Scope focuses on achieving equality for disabled people.

## **2.5 The role of the Communications Consumer Panel**

In addition to these organisations, there is a legislative requirement for Ofcom to establish and maintain a Communications Consumer Panel (CCP), to provide them with advice about the interests of domestic and small business consumers (as well as other functions). The Panel has nine members, including members for England, Scotland, Wales and Northern Ireland (as required under section 17 of the Communications Act).

The CCP advises Ofcom on post, aspects of broadcasting and digital exclusion, as well as telecoms issues. In 2017/2018, roughly a third of the CCP's actual expenditure was allocated

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<sup>27</sup> See here: <https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers>

<sup>28</sup> See here:

<https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/advice/ofcom-checker>

<sup>29</sup> See here: <https://www.ofcom.org.uk/about-ofcom/contact-us>

<sup>30</sup> See here: <https://www.which.co.uk/reviews/broadband-deals/article/guides>

<sup>31</sup> See here:

<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/exit-fees-an-analysis-of-the-cost-of-leaving-fixed-telecoms-contracts/>

<sup>32</sup> See here: <https://campaigns.which.co.uk/fix-bad-broadband/>

to panel member fees and expenses, and the remainder spent on other expenditure, including their advisory team (comprising Ofcom secondees), as well as research, consultancy, stakeholder relationship spend, and design and publications.

In their 2017/18 annual report, the CCP describe their role as essentially “behind the scenes”. It acts as a “critical friend” to Ofcom, and provides advice and influences Ofcom, communications providers and other stakeholders within the sector. Its unique relationship with Ofcom provides it with confidential access to early Ofcom policy thinking. It also regularly responds to consultations from Ofcom and other stakeholders, including Government.

### **Examples of recent work by the CCP**

Over the years, the CCP has been active in advising Ofcom and other regulators on a wide range of areas affecting consumers of communication services, and in particular, matters affecting the elderly and vulnerable.

As set out in their 2017/18 annual report<sup>33</sup>, recent work has included:

- Setting out their views on the broadband Universal Service Obligation;
- Calling for better information on broadband speeds, and advising Ofcom on the revised Broadband Speeds Code of Practice;
- Raising concerns on nuisance calls, and working to ensure that consumers are no longer being charged by providers for calling line identification.

Additionally, in 2018, the CCP published a final report on the experience consumers face when complaining to their providers, and how such complaints are handled, based on research it commissioned from an external body. The report, *‘Still Going Round in Circles: Complaints handling in telecoms’*<sup>34</sup> made a number of recommendations to communications providers and Ofcom, aimed at improving the standards for all consumers in the sector and improving the support available for people in vulnerable circumstances in relation to complaints.

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<sup>33</sup>See here:

<https://www.communicationsconsumerpanel.org.uk/downloads/workplan-2018-19-english-final-.pdf-march-2018.pdf>

<sup>34</sup> See here:

<https://www.communicationsconsumerpanel.org.uk/research-and-reports/still-going-round-in-circles-complaints-handling-in-telecoms>

## 3 The need for an enhanced Consumer Advocacy Function in Telecoms

Consumers have ‘choice’ in telecoms markets but there is room to improve their ‘voice’. Despite having ‘choice’ in mobile and broadband, consumer satisfaction levels are lower than they should be and many consumers find it hard to navigate these complex markets. The Government and Ofcom have taken steps, as set out in section 2.3, to address information failures, reduce barriers to switching and address harmful business practices where they arise. However, there is also a strong case for giving consumers a stronger ‘voice’ in how telecoms markets work in order to improve outcomes.

### **3.1 Consumer Green Paper**

In this context, the Government’s Consumer Green Paper<sup>35</sup> asked respondents to consider whether the current advocacy arrangements in telecoms are fit for purpose or whether there is a need for a different model. The Government received 54 responses to this question from a wide variety of organisations, including communication providers, consumer bodies, trade bodies, alternative dispute resolution (ADR) organisations, local government agencies and bodies, a price comparison website provider, and individuals.

Overall, 40 respondents (74%) agreed that there was a need for change, 9 (17%) were not opposed to continuing with the existing arrangements, but provided suggestions for improvement, and 3 (6%) were of the view that no change was needed, and 2 had no specific views. Respondents differed in their views on what changes should occur.

Those who said there was a need for change included all individual consumers and the price comparison provider, as well as the majority of consumer bodies, ADR bodies, academics, think tanks and experts. Communication providers and trade bodies had more mixed views.

Amongst those who were supportive of change, the growing complexity of the telecoms market was highlighted, as well as increasing levels of consumer harm in the sector. Some respondents referenced concerns about the independence of the CCP from Ofcom. One respondent noted that the current statutory advocates in other sectors have played important roles in challenging firms and ensuring consumers’ problems are addressed, and that the lack of an independent consumer advocate in the telecoms sector was a real problem.

The majority of respondents who put forward a proposal for a specific change - 17 respondents - were explicitly in favour of the creation of a new statutory consumer advocate, whilst 8 respondents suggested the role of the CCP should be improved in the first instance, with one other respondent suggesting Citizens Advice could help support the CCP.

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<sup>35</sup> See here:

<https://www.gov.uk/government/consultations/consumer-green-paper-modernising-consumer-markets>

Respondents also highlighted the need to provide extra support and advocacy for vulnerable, disabled and elderly consumers.

Of those who were less supportive, or opposed to change, some were of the view that the CCP is well established and appropriately protects the interests of consumers, and that there was no need for a new independent consumer advocate. One organisation noted that other bodies (such as consumer bodies and trade bodies) are already holding industry to account. However, some noted that the role of the CCP could be improved to allow them to give consumers a stronger voice.

A number of organisations also questioned how advocacy might work in Scotland, Wales and Northern Ireland.

### ***3.2 The advocacy landscape***

The consumer advocacy landscape in other regulated sectors has evolved substantially over the last decade or so. In 2004, there were a variety of consumer advocacy bodies, including the National Consumer Council, the Scottish and Welsh Consumer Councils, Energywatch and Postwatch. In 2008, all of these organisations were merged to form a new statutory body - the National Consumer Council, operating as Consumer Focus.

In 2010, the Government consulted on changes to simplify the consumer landscape and, in its 2011 response to the consultation, announced that it intended to abolish Consumer Focus. In April 2013, the work carried out by Consumer Focus on behalf of consumers in the general economy transferred to Citizens Advice and Citizens Advice Scotland. As part of that, Consumer Focus (rebranded as Consumer Futures) directed its activity to representing consumers in energy and postal services in Great Britain, water services in Scotland and postal services in Northern Ireland. On 1 April 2014, Consumer Futures was wound up and its remaining work was transferred to Citizens Advice and Citizens Advice Scotland, and, in the case of postal services in Northern Ireland, to the General Consumer Council for Northern Ireland (GCCNI).

As a result, as shown on Table 2 below, key regulated markets, including transport, water, energy and post now benefit from well resourced advocates. These are 'essential' markets that account for significant levels of household expenditure. The exception is telecoms.

**Table 2: Projected Spend on Advocacy v Average Weekly Household Expenditure<sup>36</sup>**

Sector	Projected Spend on Advocacy 2019/2020	Average Weekly Household Expenditure <sup>37</sup>
Transport Services	£5.7m <sup>38</sup>	£6.60 <sup>39</sup>
Water	£5.9m <sup>40</sup>	£7.50
Energy	£5.3m <sup>41</sup>	£22.50
Post	£1.1m <sup>41</sup>	£0.60
Communications	£0.5m <sup>42</sup>	£17.90 <sup>43</sup>

In contrast, since the CCP had its first meeting in February 2004, it has largely existed in its current form. The only significant structural change occurred in 2012, when cross-membership of the CCP and Ofcom’s Advisory Committee for Older and Disabled People (ACOD) was established. The other significant change has been to the CCP’s budget and its expenditure, which has declined significantly since 2011, in line with Ofcom’s objective at the time to significantly reduce their overall spending<sup>44</sup> (see Figure 3 below). In their 2019/2020 annual plan<sup>45</sup>, Ofcom announced they would increase the CCP’s budget from April 2019, to strengthen and broaden the CCP’s programme of work.

<sup>36</sup> These figures are indicative only, and not directly comparable, as for instance they do not account for the costs associated with the running of Ofcom’s Consumer Contact Centre in the Communication sector

<sup>37</sup> Source, ONS (Family Spending in the UK, April 2017 to March 2018), <https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/expenditure/bulletins/familyspendingintheuk/financialyearending2018>

<sup>38</sup> Only including grant in aid funding, see here: <http://d3cez36w5wymxi.cloudfront.net/wp-content/uploads/2019/04/30093946/Transport-Focus-workplan-2019-20-Making-a-difference-for-transport-users.pdf> (p. 11)

<sup>39</sup> Only including rail, tube, bus, coach and combined fares

<sup>40</sup> See p.4 here: <https://www.ccwater.org.uk/wp-content/uploads/2019/03/Operational-Business-Plan-2019-20.pdf>

<sup>41</sup> Funding for Citizens Advice England and Wales core consumer advocacy only. This includes £1.6m for the Big Energy Saving Week, but excludes costs towards the Extra Help Unit, Citizens Advice Consumer Service and Citizens Advice Scotland.

[https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Work%20plan%20-%20FINAL%20\(REVISED%2013\\_03\\_19\)%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Work%20plan%20-%20FINAL%20(REVISED%2013_03_19)%20(1).pdf) (p.32)

<sup>42</sup> Projected spend accounting for 50% increase in CCP’s budget from April 2019.

<sup>43</sup> Ofcom’s 2019 Communications Market Report also presents data on household expenditure in telecoms. However, we have only used ONS data in table 2 to allow like-for-like comparison between sectors. Ofcom’s report is available at: <https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2019>

<sup>44</sup> See here: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0018/3654/annplan1112.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0018/3654/annplan1112.pdf) (p.6)

<sup>45</sup> See here: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0020/141914/statement-ofcom-annual-plan-2019-20.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0020/141914/statement-ofcom-annual-plan-2019-20.pdf) (p.13)

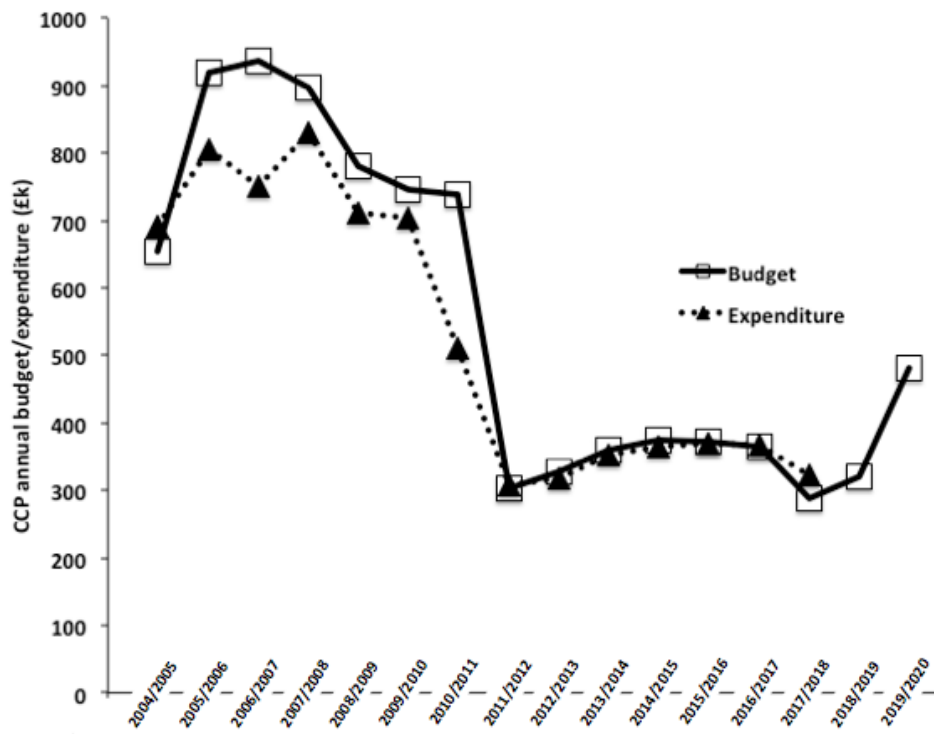


Figure 3: CCP's Budget and Expenditure<sup>46</sup>

<sup>46</sup> See here: <https://www.communicationsconsumerpanel.org.uk/annual-report-archive/archive>

## 4 Improving Advocacy in Telecoms

The disparity between the funding for the CCP and the funding of independent advocates in other sectors is striking, particularly given the relatively large average weekly spend on communications compared to water, transport and post, for example, and the significant challenges faced by some consumers in telecoms markets.

Our view is that the CCP does an excellent job, within the constraints of its current structure and funding, and that existing support to telecoms consumers provided by Ofcom, consumer groups and other organisations is also valuable. However, we believe that advocacy in telecoms would significantly benefit from being better resourced, to match the level of activity and consumer support achieved by consumer advocates in other similar markets.

We believe that consumer advocacy within the sector could be improved in three key areas, as detailed below. Government recognises that a number of organisations, including the CCP and consumer groups, already undertake some useful work in these areas. However, we would anticipate that a better resourced advocate would build on this existing work, significantly improving the existing advocacy landscape in telecoms by identifying priority issues, and seeking opportunities to collaborate with other organisations, to avoid duplication of effort and ensure their programme of work delivers good value for money.

We believe that a strengthened advocacy function is particularly needed at the current time with the rollout of gigabit capable fixed broadband networks, as well as 5G mobile technology. This is because:

- Significant investment is required to roll out faster and more reliable mobile and broadband infrastructure across the country. The roll-out of this new infrastructure will be supported by consumers upgrading to new technologies, and having active and informed consumers will ensure that operators face continued competitive pressure to invest and improve service quality. The new advocate could play a supportive role, for instance running campaigns to help inform consumers about these new technologies, and supporting them to engage in the market.
- In addition, with these new technologies, it is possible that new forms of consumer harm and detriment may arise, which consumers will need support to protect themselves against.

### **1. Provide direct support and advice to consumers, particularly the most vulnerable**

This function would complement what Ofcom and their Consumer Contact Centre (CCT) do at present, which includes providing information to consumers, as well as advice on queries and complaints (including additional engagement where vulnerable consumers are

involved). There is a particular role for the consumer advocate in providing individual support for consumers, especially given the complexity of telecoms products and services, and the evidence that a significant proportion of consumers find it difficult to navigate this market. Ofcom's CCT does not perform this role. It instead focuses on providing consumers with generic information on their rights. In addition, we would propose to set up a mechanism to enable the new advocate to share with Ofcom the data generated as part of this role, to supplement the data generated by the CCT. These data are key for Ofcom to assess consumer experience, and to support their regulatory work.

In the energy and postal sector, for example, Citizens Advice and Citizens Advice Scotland (including through Advice Direct Scotland) undertake a wide variety of activities to directly support consumer engagement in the market, including:

- Through the Citizens Advice Consumer Service which delivers telephone and online advice, and through their local networks, including the Big Energy Network<sup>47</sup>, that brings together local community groups and charities in England, Wales and Scotland, providing advice to consumers on energy issues.
- For those consumers who are vulnerable or at threat of disconnection of their energy supply, the Extra Help Unit (EHU) - a specialist team of caseworkers - acts on behalf of consumers every year across Great Britain to resolve their issues. Around 90% of cases are referred to the EHU by the Citizens Advice Consumer Helpline, and the remaining cases are from Ofgem, the Energy Ombudsman and other consumer groups<sup>48</sup>.

Evidence shows that such services generate significant benefits to consumers. For instance, in 2017/18,<sup>49</sup> Citizens Advice achieved the following:

- Dealing with 57,787 enquiries from energy consumers via the Citizens Advice Consumer Advice Service.
- In total, the Extra Help Unit handled 7,771 complaints on behalf of consumers, 1,154 enquiries and 2,950 contacts. As a result of the service, vulnerable consumers benefited from more than £2.4m, "in the form of goodwill payments, bill reductions and guaranteed standards payments".

Similarly, the Consumer Council for Water (CCW) provides advice and complaint handling support to water consumers. In 2017-18, CCW<sup>50</sup> notes that it:

- Helped to resolve almost 19,000 complaints and enquiries from consumers about

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<sup>47</sup> See here: <https://www.citizensadvice.org.uk/about-us/how-we-provide-advice/our-prevention-work/BESN/>

<sup>48</sup> See here: <https://ehu.org.uk/suppliers>

<sup>49</sup> See here: <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Citizens%20Advice%20Consumer%20Advocacy%20Annual%20Report%202017-18%20pdf.pdf>

<sup>50</sup> See here: <https://www.ccwater.org.uk/wp-content/uploads/2018/08/Annual-Review-England-and-Wales-2017-18.pdf>



their water and sewerage services.

- Secured almost £1.4 million in financial redress for customers with a complaint against their water company or retailer.
- Held the industry's worst performing water companies for complaints to account through the media and drove improvements in service.
- Supported non-household customers with more than 4,100 complaints and enquiries as they negotiated the new retail water market in England.
- Challenged poor performing water retailers with disproportionately high numbers of complaints to improve their service.
- Published areas of good practice from its company assessments on complaint handling and debt management, which it shared with the industry.

## **2. Conduct more research to better understand and highlight where the consumer experience can be improved**

Research on consumer harm and detriment, and on ways to improve the consumer experience, is central to strengthen the current evidence base and identify priority areas for government/regulator intervention. It can also help to develop industry-led solutions that best meet the needs of consumers, at a time when we expect significant upgrades to the UK's digital infrastructure.

Before their increase in budget, the CCP produced one piece of research per year, and consumer groups have limited funding to undertake further research. In comparison, Citizens Advice's website<sup>51</sup> lists 20 research pieces published in 2018 to improve consumer outcomes in the energy market. Similarly, the Consumer Council for Water's annual report for 2017-18 lists seven research reports "used to develop...policy lines, to advise or influence the water industry, regulators and governments, and to inform stakeholders about customers' views on water issues, including retail competition and resilience in the water industry".

## **3. Better represent consumers in key public debates, run public campaigns and support digital infrastructure investment**

A better resourced consumer advocate could more actively highlight areas of consumer detriment, represent consumers in public debates that emerge within the sector, and run campaigns to improve consumer outcomes. An advocate could also undertake consumer education and awareness programmes, for instance to provide guidance on the different technology options available to consumers in particular markets, and on ways to save money and/or upgrade to a higher quality service.

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<sup>51</sup> See here:

<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/>

The CCP maintains a useful dialogue with industry and consumer groups, and actively supports Ofcom in developing measures to improve consumer outcomes, but it mainly operates behind the scenes. Enhancing the public profile of advocacy in telecoms would strengthen the consumer voice in the sector, improve transparency and create a fairer balance between consumer and industry views. Ultimately, this would help Ofcom and Government to make better policy and regulation, and support achieving better outcomes for consumers.

In addition, the consumer advocate could also play a role in supporting communications providers directly by developing best practice. For example, a consumer advocate could have played a role in helping communications providers prepare for the implementation, by 1 October 2018, of Ofcom's new General Conditions in relation to vulnerable consumers and end users with disabilities. We see any new consumer advocate playing a key role in helping communications providers to improve their processes for dealing with more vulnerable consumers.

Evidence from other sectors show how consumers can benefit from well-resourced advocates. For instance, Citizens Advice's annual report of consumer activities in relation to their advocacy work in energy for 2017/18<sup>52</sup> includes the following achievements:

- Campaigning work on Ofgem's energy network pricing calculations, resulting in £287 million being returned to consumers by energy network companies, with other companies promising to reduce consumers' bills by a further £390m.
- Influencing government and regulators to improve safeguards and better protect vulnerable consumers, for instance by advocating for the extension of the Warm Home Discount (a social tariff for low-income households), saving a million households £120m a year in total.
- Monitoring issues with smart metering, and working with Energy UK, Government and Ofgem to strengthen consumer protections in this area.

Citizens Advice also runs the annual Big Energy Saving Week, a national campaign to support energy consumers save money on their bills and get financial support. Similarly, in the water sector, CCW's 2017/2018 annual report<sup>53</sup> highlights key achievements for consumers, including:

- Influencing Ofwat to set the 'lowest-ever cost of capital' for a water price review since privatisation of the water industry<sup>54</sup>, helping consumers save between £15 and

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<sup>52</sup> See here:

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Citizens%20Advice%20Consumer%20Advocacy%20Annual%20Report%202017-18%20pdf.pdf>

<sup>53</sup> See here:

<https://www.ccwater.org.uk/wp-content/uploads/2018/08/Annual-Review-England-and-Wales-2017-18.pdf>

<sup>54</sup> In the water sector, the price of water is set by Ofwat, the sectoral regulator through five-yearly price reviews. One of the key assumptions is the future cost of capital water companies will incur in raising investment capital, which influences the price that can be charged.

£20 a year from 2020 to 2025, equivalent to about £3 billion over 5 years.

- Working with water companies to increase the take-up of social tariffs by more than 50 percent compared to the previous year, ensuring lower bills for almost 400,000 low-income households.
- Helping 3,400 consumers identify welfare benefits through the CCW's Benefits calculator,<sup>55</sup> amounting to more than £9.3 million in benefits identified.

**Consultation questions**

**Q1a - Do you agree with the proposed remit and activities of the new telecoms advocate, as described above?**

**Q1b - Are there any additional activities that should be included in its remit?**

**Q1c - What are your views on how the new advocacy body should interact with other organisations, including Ofcom and the CCP?**

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<sup>55</sup> See here: <https://www.ccwater.org.uk/households/save-money/benefits-calculator/>

## 5 Options for Reform

We are seeking views on three main options for enhancing consumer advocacy in the telecoms sector:

- **Option 1:** Replicating the arrangements in energy and post and appointing Citizens Advice as the new statutory consumer advocate for telecoms;
- **Option 2:** Expanding the funding and remit of the existing CCP; and
- **Option 3:** Creating an Arm's Length Body to become the new statutory consumer advocate for telecoms.

### Option 1

Under this option, Citizens Advice would become the statutory consumer advocate for England and Wales, expanding their remit to cover telecoms, in addition to energy and post.

In Northern Ireland, consumer policy, advice and advocacy is devolved, except for postal and telecoms advocacy. Postal advocacy is undertaken by the General Consumer Council for Northern Ireland<sup>56</sup> (GCCNI), who are funded directly by BEIS through an industry levy. In reforming consumer advocacy in telecoms, we propose putting in place a similar arrangement in Northern Ireland, i.e. the GCCNI would become the telecoms advocate for Northern Ireland.

On 5 June 2019, the Scottish Government introduced a Bill to the Scottish Parliament to establish Consumer Scotland<sup>57</sup> as a public body with the purpose of providing consumer advocacy and advice for consumers in Scotland. The policy memorandum that accompanies the Bill<sup>58</sup> highlights the recommendations of the Working Group on Consumer and Competition Policy, established by the Scottish Government in 2015.<sup>59</sup> The Working Group recommended that Consumer Scotland should have responsibility for providing advocacy in all sectors of the economy, including telecoms. During the consultation, we will work with the Scottish Government to consider how our telecoms consumer advocacy proposals will work with their more general proposals for consumer advocacy in Scotland. We will also work with all stakeholders to explore how best the proposed advocacy bodies operating across the UK could work together for the benefit of telecoms consumers and industry.

We believe that Citizens Advice and the GCCNI are ideally placed to handle an enhanced consumer advocacy function in telecoms. Unlike the CCP, both organisations already have a significant public profile. In addition, they both have experience as the existing statutory

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<sup>56</sup> <https://www.consumercouncil.org.uk/>

<sup>57</sup> See here: <https://www.parliament.scot/parliamentarybusiness/Bills/111862.aspx>

<sup>58</sup> See here: [https://www.parliament.scot/S5\\_Bills/Consumer%20Scotland%20Bill/SPBill49PMS052019.pdf](https://www.parliament.scot/S5_Bills/Consumer%20Scotland%20Bill/SPBill49PMS052019.pdf)

<sup>59</sup> The Independent Working Group was established in 2015 to provide recommendations on new devolved powers in relation to 1) the provision of consumer advocacy by, or with the agreement of, a public body; and 2) the provision of consumer advice by, or with agreement of, a public body. See here: <https://www.gov.scot/publications/report-working-group-consumer-competition-policy-scotland/>

consumer advocates in energy and post, enabling them to bring a real cross-sector perspective to telecoms, as well as enhancing the value that they could add to their existing advocacy functions. There are also likely to be advantages to consumer awareness and confidence if there is a more visible and less disparate set of organisations representing consumer interests across sectors.

In addition, Citizens Advice and GCCNI already do some work on telecoms issues, and unlike the CCP, both organisations have the capacity and capability to engage directly with consumers through their networks on the ground. The number of contacts that Citizens Advice and the GCCNI have with consumers could significantly increase the depth and quality of consumer data available to Ofcom and industry. There would, however, need to be clear information sharing processes agreed with other organisations, including Ofcom, to ensure this data can be relied upon, for instance to support Ofcom regulation.

Finally, Citizens Advice and the GCCNI also conduct much more research than the CCP, supported by more developed research functions within both organisations. As such, they are likely to find it easier than CCP to handle a large research budget and to be able to use it to inform their advocacy work in telecoms.

The CCP currently plays an important role in providing early stage policy advice to Ofcom on telecoms, as well as on other issues relevant to Ofcom's remit. As such, we believe that it could continue to play a valuable role in the landscape, even were a new statutory advocate to be appointed. However, we accept that there is the potential for some duplication between both bodies and would be grateful for views from respondents as to how the potential for duplication could best be managed.

For the avoidance of doubt, we are not proposing any changes to Ofcom's existing advisory committees for England, Scotland, Wales and Northern Ireland (which represents the interests of consumers in those nations). Like the CCP, these committees have a wider role than simply telecoms, including post and content on television and radio.

## **Option 2**

The CCP has recently published plans to strengthen, through their work, the consumer voice in the communications sector<sup>60</sup>, and they have benefited from a 50 per cent increase in their budget for 2019/20<sup>61</sup> to support these changes. We welcome these enhanced activities and budget increase. However, mirroring the range of activities seen in other sectors would require more significant changes to the CCP's structure and remit, and a much bigger increase in funding. We are not convinced that expanding the remit and funding of the CCP

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<sup>60</sup> See here:

<https://www.communicationsconsumerpanel.org.uk/downloads/strengthening-the-consumer-voice-in-communications---statement.pdf>

<sup>61</sup> See here:

<https://www.communicationsconsumerpanel.org.uk/news-latest/latest/post/732-yours-views-wanted-on-strengthening-the-consumer-voice-in-the-communications-sector>

in this way is the best option for enhancing the consumer advocacy arrangements in telecoms for the reasons set out below.

Firstly, the role and staffing of the CCP in relation to Ofcom creates a perception about the independence of the panel. The CCP is primarily a non-executive body, and it has some executive support from Ofcom through Ofcom employees seconded into the organisation. This arrangement works for the CCP as currently arranged, albeit it does not meet the Government's ambition for the advocate to be the independent voice of telecoms consumers.

Secondly, in governance terms, it is unclear whether a non-executive panel such as the CCP could devote enough time to direct and control the functions of a much better funded organisation. The executive support provided by Ofcom to the CCP would likely need to be increased significantly to address this gap, increasing perception about the CCP's independence.

For these reasons, we do not believe that the remit and funding of the CCP should be expanded significantly.

### **Option 3**

The final option would be to create a new Arm's-Length Body (ALB) to become the statutory consumer advocate for telecoms. This would be a similar model to the current water consumer advocate, the Consumer Council for Water (CCW), which is an ALB of the Department for Environment, Food and Rural Affairs (DEFRA).

It is UK Government policy that "new ALBs should only be set up as a last resort, when consideration of all other delivery options have been considered".<sup>62</sup> Other delivery options would include other organisations performing similar functions like Citizens Advice and GCCNI.

Setting up an entirely new organisation would take more time and be much more resource intensive than expanding the role of an existing organisation. Even when set up, the new body would need some time to bed in and develop brand recognition with the public. This could detract from its ability to engage directly with consumers, at least in the short-term.

For these reasons, we do not believe that setting up an entirely new body is the right approach to enhancing consumer advocacy in the telecoms sector.

<sup>62</sup>See here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/686716/The\\_Aprovals\\_Process\\_for\\_the\\_Creation\\_of\\_New\\_Arm\\_s-Length\\_Bodies.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686716/The_Aprovals_Process_for_the_Creation_of_New_Arm_s-Length_Bodies.pdf)

## **Consultation questions**

**Q2a - Do you agree that option 1 should be the preferred option and with our analysis of:**

- **Option 1 (Appointing Citizens Advice)?**
- **Option 2 (Expanding the CCP)?**
- **Option 3 (Creating a new ALB)?**

**Q2b - Do you have views on other options we should consider, including for the period before new legislation is introduced and the new advocate is fully established?**

## 6 Funding

We propose that the new advocate would be funded through Ofcom's industry levy. The energy and postal advocates are similarly funded through industry levies. Further, we expect that the process for finalising the annual funding and assessing its reasonableness, would be based on the process that exists for similar advocates in other sectors.

This process involves the advocate publishing a draft work plan for the following financial year (i.e. April - March) before the end of the preceding calendar year (i.e. in the preceding December). The work plan would be subject to public consultation and would include the advocate's proposed level of funding. After the consultation period has ended, the advocate would amend the work plan (if required) in light of the consultation and then submit it to the DCMS Secretary of State for approval. Subject to their approval of the reasonableness of the plan and level of funding, the Secretary of State would then instruct Ofcom to levy industry accordingly.

### Consultation question

**Q3 - What are your views on the processes by which the funding of the enhanced consumer advocate would be raised and provided to the advocate on a year to year basis?**

The Government's intention is to ensure the new advocate will have appropriate funding to undertake its proposed activities, as detailed above. We estimate that the funding required, when accounting for the level of household spend, would be broadly similar to that available to advocates in other key markets.

The budget for a new telecoms advocate may differ from that of other sectors based on a number of reasons, including:

- The cost of including dedicated consumer support. Currently, in the energy market, funding for the Extra Help Unit for England, Wales and Scotland amounts to around £1.8m per annum, and that of the dedicated consumer helpline to around £0.9m per annum.
- The cost of running large scale campaigns, similar to Citizens Advice Big Energy Saving Week.
- The cost for funding the GCCNI in line with our proposals set out in option 1 above.
- A number of organisations, including Ofcom, the CCP and consumer groups already provide some advocacy, research and advice functions in telecoms. As described above, we would expect the new advocate to build on this existing work and avoid duplication. It is feasible that the introduction of the new advocate could lead to cost savings elsewhere.
- Telecoms products and services can be technically more complex than in other markets, and there are a wide range of deals and offers available to consumers. This



could result in greater costs, for instance to provide advice to individual consumers, or undertake market research.

- If Option 1 is taken forward, we would expect Citizens Advice to seek opportunities to generate economies of scale, given they already provide equivalent services in other markets.
- One-off implementation costs, including for staff training and setting up agreements for data sharing with other organisations.

### **Consultation questions**

**Q4a - Do you agree with our analysis of the likely scale of funding for the new advocate?**

**Q4b - Are you aware of any other reasons that would make telecoms advocacy more or less costly than in other sectors?**

## 7 Implementation

Subject to the outcome of the consultation, the Government intends to bring forward primary legislation to:

- Appoint Citizens Advice as the consumer advocate for telecoms in England and Wales;
- Appoint GCCNI as the consumer advocate for telecoms in Northern Ireland;
- Set out the functions and remit of the new telecoms advocates; and
- Amend Ofcom's levying power to make it clear that Ofcom will levy industry for the purpose of funding the newly appointed consumer advocate, following approval from the Secretary of State.

As set out above, we will also work with the Scottish Government to confirm the arrangements in Scotland, in the light of their proposals for a new Consumer Scotland.

# ANNEX A: Consultation Questions

**Q1a - Do you agree with the proposed remit and activities of the new telecoms advocate, as described above?**

**Q1b - Are there any additional activities that should be included in its remit?**

**Q1c - What are your views on how the new advocacy body should interact with other organisations, including Ofcom and the CCP?**

## Consultation questions

**Q2a - Do you agree that option 1 should be the preferred option and with our analysis of:**

- **Option 1 (Appointing Citizens Advice)?**
- **Option 2 (Expanding the CCP)?**
- **Option 3 (Creating a new ALB)?**

**Q2b - Do you have views on other options we should consider, including for the period before new legislation is introduced and the new advocate is fully established?**

**Q3 - What are your views on the processes by which the funding of the enhanced consumer advocate would be raised and provided to the advocate on a year to year basis?**

**Q4a - Do you agree with our analysis of the likely scale of funding for the new advocate?**

**Q4b - Are you aware of any other reasons that would make telecoms advocacy more or less costly than in other sectors?**

## ANNEX B: Privacy Notice

The following is to explain your rights and give you the information you are entitled to under the Data Protection Act 2018. Note that this section only refers to your personal data (your name, address, email address, telephone number and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer: The Department for Digital, Culture, Media and Sport (“the department”) is the data controller. The Data Protection Officer can be contacted at [dcmsdataprotection@culture.gov.uk](mailto:dcmsdataprotection@culture.gov.uk).

2. Why we are collecting your personal data: Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data: The Data Protection Act 2018 states that, as a government department, the department may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data: We will not share the personal data obtained through this consultation outside of the department. Copies of responses may be published after the consultation closing date on the Department’s website: [www.gov.uk/dcms](http://www.gov.uk/dcms)

5. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

6. For how long we will keep your personal data, or criteria used to determine the retention period: Your personal data will be held for three months after the consultation is closed. This is so that the department is able to contact you regarding the result of the consultation following analysis of the responses.

7. Your rights, e.g. access, rectification, erasure: The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- to see what data we have about you
- to ask us to stop using your data, but keep it on record
- to have all or some of your data deleted or corrected
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law.

You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

8. Your personal data will not be sent overseas.

9. Your personal data will not be used for any automated decision making.

10. Your personal data will be stored in a secure government IT system.

We can also provide documents to meet the specific requirements for people with disabilities. Please email [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)

Department for Digital, Culture, Media & Sport

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