

Executive summary

BT is pleased that Ofcom is reviewing its consumer policy and is unequivocally in favour of any steps taken which further the interests of consumers and ensure that their views are taken into account. BT has concerns about some of the proposals themselves, which will need to be addressed if the proposals are to be fully effective in furthering consumers' interests. The key points in BT's response are as follows:

- In taking account of the consumer interest, Ofcom should ensure that it consults with a wide range of bodies to ensure a balanced perspective, and should state publicly how it has done so when setting policy – including competition policy
- Ofcom's proposed high level objectives for consumer policy are sensible but achievement against these objectives must be measured for them to be meaningful
- Ofcom must have the inclination and ability to take far swifter regulatory action when consumer harm, e.g. "scams", or mis-selling are identified, despite their general "bias against intervention". BT wants to see more vigorous enforcement of fines to act as a deterrent to unscrupulous operators
- The current PASS accreditation scheme for online price comparison websites is flawed and BT is in favour of reviewing and re-launching the scheme - with major improvements. The model must be transparent and, crucially, there must be publication of the commissions earned for switching. These are hidden from consumers now.
- BT supports the industry-led approach to the provision of quality of service information, but Ofcom should ensure that *all* qualifying Communications Providers are participating in the TopCom initiative as required by Ofcom's Direction. This data should also be integrated with price comparison data in a new, improved PASS scheme
- BT agrees with the proposal to publish a report on the consumer interest, but it should be published more frequently than annually. The measures reported against should be discussed further with industry and consumer organisations.

BT's general comments

It is essential that regulatory policies are grounded in the best interests of UK consumers. BT recommends that Ofcom assesses the consumer interest as part of its evidence-based decision making process to ensure that all decisions are made having taking account of the impact on consumers.

Whilst recognising that this is an "umbrella consultation" pulling together aspects of Ofcom's pre-existing work into a cohesive strategy, BT would like to see clear success

measures set. It is important that all parties understand how Ofcom proposes to measure success against its objectives and BT would welcome clarification in this regard.

Consumer policy objectives

Ofcom's obligation under the Communication Act is to further the interests of consumers "where appropriate by promoting competition" and we note that Ofcom believes "consumer interests can in general best be served by promoting effective competition". In a well-functioning market it would be difficult to dispute this, but timing is key. Whilst such an approach will be likely to prove beneficial to consumers in general in the long term, the impacts on individual consumers in the short to medium term may not be so positive, and in some cases may result in individual consumer detriment. The opening of the Directory Enquiries market is a good example of regulatory intervention in the interests of competition despite a clear consumer lobby that this was not in the interests of individual consumers.

Ofcom talks about taking explicit account of the relevant consumer interest when carrying out competition policy projects. BT agrees that this should be an integral part of Ofcom's policy making. The weighting given to this area is critical: how much short term consumer detriment is acceptable in the interests of competition going forward? Transparency in the associated decision making process is essential and we will be very interested to see how Ofcom makes this work in practice.

How Ofcom proposes practically to take account of the consumer interest is also key. Organisations that represent consumers can provide insight that may be of use to Ofcom in this area, but these are not the only sources of information. Ofcom needs to draw widely for evidence of consumer harm. BT urges Ofcom to give this area further consideration. It may be appropriate to consider a stakeholder focus group to discuss how Ofcom could better take account of the consumer interest.

Consumer protection

Consumer protection is proving to be an area of significant concern across the communications industry as unscrupulous organisations look for loopholes to exploit consumers. It would be unrealistic to expect Ofcom or indeed any other regulator to anticipate what the next "scam" might look like. However, it is essential to have both the inclination and ability to take swift action as soon as a new problem is identified if consumer harm is to be minimised. This action must also act as a suitable deterrent for other unscrupulous operators. BT urges Ofcom to ensure it uses all the considerable powers at its disposal to take action against rogue operators accordingly.

BT agrees with Ofcom that effective communication to consumers on scams is vital. Consumers need to be made aware of new scams including how to take action to protect themselves and they also need to have a clear route to report scams. An "Early Warning System" therefore appears a sensible priority. However BT believes more discussion is needed about the implementation of such a system, particularly regarding the sources of information available to Ofcom. BT would willingly work with Ofcom to share information on developments in this area. Ofcom also has powers to require companies to supply information in certain circumstances and this should be used where necessary.

Whilst BT is aware that both Ofcom and ICSTIS as Premium Rate Services (PRS) regulator can and do levy fines on providers found to be in breach of the Code of Practice, BT is extremely disappointed that often these fines are not collected. BT urges Ofcom and ICSTIS to do more in this area, including reporting on fines levied and being far more active in pursuing payment of the fines. If this aspect is not strengthened it will not act as a deterrent to unscrupulous activity.

BT is concerned that Ofcom's current bias towards the internet for communicating consumer protection information is not an inclusive approach. Even for those consumers with access to the internet it is questionable whether good enough understanding of Ofcom exists to enable them to search out Ofcom's web presence. Greater innovation is needed in this area.

BT was pleased that Ofcom took action to require providers to establish sales and marketing codes of practice to help combat mis-selling, but this is an area where a different approach would have delivered more in the consumer interest. A single industry code for sales and marketing, rather than individual codes with scope for discretion on content, would have proved both easier to promote and easier for consumers to understand and report failings.

Ofcom's proposal to undertake a review of the consumer related General Conditions to reduce the burden on compliant service providers appears at top level to be a positive way forward. However, greater detail is needed on what this might mean in practice and the associated timescales before BT can comment further.

BT supports Ofcom's view that the standard process for the investigation of competition process complaints is too slow for the effective enforcement of consumer focused regulation. BT welcomes the activity taken to improve the timescales for dealing with complaint referrals from ICSTIS and notes Ofcom's proposal to extend this approach to referrals from the ADR bodies and also consumer complaints from Ofcom. This is imperative. For any early warning system to be truly effective it needs to draw from a wider source than just reported complaints and BT believes industry should also have a voice here. The ICSTIS alert process works well in this regard. Ofcom also talks about the various organisations with a complaint handling role in this sector and the fact that no single organisation has an overall perspective on potential consumer harm. BT believes that this may be an area where Ofcom could seek to take action in the interests of consumers, specifically working with organisations such as Consumer Direct and the accredited ADR providers to identify areas of potential consumer detriment. In terms of consumer complaints made direct to Ofcom, BT remains concerned at the use of this data. Quite apart from the lack of transparency in this area, Ofcom has made clear that it has no role in complaint handling and that responsibility for this sits with ADR providers. It therefore follows that Ofcom's data is unlikely to tell the whole story.

Consumer empowerment

Consumers need to be able to make rational, informed choices between suppliers and to switch between suppliers without constraint. BT therefore agrees in general with Ofcom's approach on consumer information.

Whilst information flows between suppliers and consumers should largely be left to the market, it is vital that Ofcom takes action where there is potential for consumer harm, e.g. in relation to mis-selling by certain suppliers, or other forms of misleading practice, such as comparison websites that are not transparent about the models they use or the commissions they receive from suppliers.

Although general awareness of the existence of alternative suppliers and the ability to switch between them is high, BT believes that it would be right to give further consideration to those in the 65+ age bracket so that they understand their options and are not misled. This means that publication of comparison information and other consumer information solely on websites is unlikely to be sufficient given low internet penetration in this consumer group.

BT is in favour of retention, review and re-launch of the Ofcom PASS scheme, with improvements to be made in the areas of enforcement of the criteria, transparency of models and commission structures, better publicity and an extension to cover quality-of-service comparators (rather than treating this information discretely) as well as price. Promotion to all consumer groups, not just those with internet access, of the availability of price and QoS comparison information such as TopComm data, as well as accessibility of the data itself, will be key.

Further detail on BT's views on these issues is provided in response to the specific questions below.

Responses to Ofcom's specific questions

Question 1: Do you agree with the proposed distinction between citizen and consumer interests?

Whilst recognising that there is a distinction between citizens and consumers, BT believes that in practical terms when determining consumer policies this distinction is less critical.

Question 2: Do you agree with Ofcom's position on vulnerable customers?

BT supports Ofcom's view that it may appropriate to give additional weight to the interests of the vulnerable. The existing regulatory provisions, both within the General Conditions and Universal Service Conditions, are comprehensive and reflect this position.

Question 3: Do you agree with the proposed high level objectives for consumer policy?

Yes, but BT would like explicit information from Ofcom on the weight that will be given to consumer policy compared with, for example, competition policy. BT is of the opinion that further consideration needs to be given to associated measurement criteria and in the interests of stimulating subsequent debate has suggested (in italics) potential measures after each of the proposed high level objectives.

Specifically:

- It is right to take the consumer interest into account when developing and evaluating policy and this must be a transparent process. *Proposed measure: a regular survey measuring what percentage of the population agrees that overall, Ofcom's policies reflect consumer interest and identifying any areas where consumers feel this objective is not being fulfilled (e.g. they could potentially agree they are protected from harm but do not agree as strongly that they have the information and tools necessary to make informed choices)*
- Consumers should be equipped with information, skills and confidence to obtain a good deal. Whilst agreeing that it is important that customers have the skills and confidence to shop around for their communications services, it is difficult to define what a 'good deal' means in practice as it will vary according to the requirements of the individual customers. For many customers, particularly those who are older or disabled, elements such as service reliability will be of equal or maybe greater importance to price. This should be taken into account by Ofcom. *Proposed measures: - what % of customers say it is easy to understand the benefits and disadvantages of different offers in the different market sectors (e.g. fixed telephony, broadband etc), what % of consumers agree that it is easy to compare different offers to identify a good deal, what % of consumers agree that*

they are confident they have got a good deal either in their recent choice of supplier or from their existing service/supplier (again, it would be interesting to compare results in fixed voice, mobile, broadband etc market sectors).

- Consumers should have access to clear information on their rights and to effective complaint handling procedures and redress. BT believes that the existing regulatory obligations in this area are comprehensive, although greater emphasis should be placed on enforcement. *Proposed measure: Service Providers' compliance with and adherence to an effective complaint handling Code of Practice and Dispute Resolution Scheme as required by General Condition 14).*
- Regulatory obligations should provide an adequate level of consumer protection without imposing an undue burden. *Proposed measure: what % of consumers agree there is an adequate level of consumer protection in place in the different market sectors.*
- Compliance monitoring and enforcement should be fair, consistent, effective and proportionate
- The needs of vulnerable customers should be given due consideration to ensure they are not disadvantaged in the market. However, clarification is required as to what is meant by “due consideration to vulnerable customers”. BT is proud of the work it does to ensure that vulnerable customers, by virtue of their age, health or income, have access to communications services, but believes it is inappropriate to use “the vulnerable” as a sweeping term. *Proposed measure: specific research could be done amongst this group to help Ofcom understand if they face different / additional difficulties compared to the rest (i.e. non-vulnerable sections) of the market.*

It is essential that going forward all projects specifically assess and report on the likely consumer impact and associated industry burden prior to finalising policy.

Question 4: Do you agree that the proposed indicators provide an appropriate basis for monitoring consumer interests? Are there any other indicators which should be used?

BT has found it difficult to understand the relationship between the indicators proposed in annex 7 and the actual reporting measures used in the research at annexes 5 and 6. However we assume Ofcom's proposal is that the annual report would be based on the indicators suggested in Annex 7 (and that the reference to Annex 6 in paragraph 3.64 is a misprint).

In addition to commenting on Ofcom's specific proposals, BT has suggested some more tangible measures (in italics). As a top level measure, BT would wish to see Ofcom reporting on any activity it has carried out in the interests of consumers: for example, including its consumer thinking on each project, complaint or dispute reported in its regular Competition Bulletins.

1. Competition Policy

BT has no further comments regarding the proposed measures for competition policy other than to suggest one additional measure: *how easy customers feel it is to choose between suppliers.*

2. Consumer Protection

BT does not agree that the following measures represent an appropriate basis to measure consumer protection.

- **Number of monthly complaints received by Ofcom and Satisfaction with Ofcom.** Ofcom has a very limited role in consumer complaint handling and so it is unclear what conclusions could/should be drawn from such a measure. For example, does Ofcom believe that fewer consumers should contact the Ofcom Contact Centre year on year? BT suggests *it would be more appropriate to draw on information published by the industry ADR schemes on complaint volumes.* If Ofcom concludes it remains appropriate to report this measure, BT believes it should be complementary to reporting on ADR scheme complaint handling and supported by *additional measures on consumer awareness of Ofcom and consumer understanding of Ofcom's role.*
- **Awareness of right to receive a Code of Practice.** Whilst Communications Providers are obliged to publish a Code of Practice for Consumers it does not necessarily follow that consumers need to be, or indeed should be, spontaneously aware of this. The existence of a Code of Practice is predominantly of interest to consumers in relation to complaints and, therefore, as for per Question 3, it is not meaningful to measure consumer awareness of the right to receive a Code. It would be more appropriate for Ofcom to report on *CPs' compliance with the obligation to have a Code of Practice* rather than end customer awareness of their rights to receive such a Code.
- **Awareness of complaints procedures.** As with all these measures, it is unclear what degree of awareness Ofcom is proposing would be appropriate. This measure should relate only to those having gone through the complaint process rather than all consumers. *It would be more appropriate for Ofcom to report CPs' compliance with the obligation to have a complaint handling Code of Practice and an accredited ADR service than end customer awareness of complaint handling procedures.*

For some of these measures Ofcom has proposed to report combine figures across the telephony, internet and mobile sectors, so that it is not possible to see where problems may lie. It would be more meaningful to also report separate as well as combined figures.

BT also proposes the following measures:

- *Number of investigations instigated by Ofcom in the consumer interest*
- *Length of time taken to conclude investigations and targets should be set. BT suggests two months as an appropriate timescale.*
- *Customer satisfaction with Ofcom's performance in investigating complaints in the consumer interest*
- *Number/percentage of fines collected*

- *Consumer awareness of and satisfaction with www.ofcom.org.uk as a method of communication.*

Consumer Empowerment

Ofcom has proposed that consumer empowerment should be measured via:

- **Awareness of technology terms and**
- **Understanding of technology.** It is not clear what level of awareness or understanding Ofcom expects here. Whilst the average consumer could be expected to understand the basic differences between fixed and mobile, or broadband and other forms of internet access, it seems much less reasonable to expect an awareness or understanding of the terms “3G” or “VoIP” and how they work. A lack of understanding of such technology does not, in our view, indicate a lack of consumer empowerment, as long as consumers are advised what these technologies can do for them in layman’s terms.
- **Keeping informed about developments.** This is rather a vague measurement and it is not clear what Ofcom intends here or how the measurement would be applied. Would consumers be asked to name a single development in relation to each technology, or more? How would this be measured over time? What would qualify as a development?
- **Switching (% ever).** This measurement is reasonable as a starting point, but is not informative in itself as an indicator of potential consumer harm or lack of empowerment, since there are numerous reasons why consumers do not switch supplier.
- **Perceptions of ease of switching.** This is useful, and, whilst perception does not necessarily reflect reality it would highlight areas for improving communications.
- **Ease of making cost comparisons and ease of making quality of service comparisons.** BT would agree that these are useful measures, although consumers’ “ease” in these respects will depend a lot on how well the availability of comparison information is publicised.
- **UK residential fixed voice price trends and average UK mobile unit revenue indices.** These would appear to be measures of the results of competitive market forces rather than of consumer empowerment per se.

Additional measures that BT suggests are appropriate to monitor consumer empowerment include:

- *awareness of ability to transfer service to another provider without changing telephone number*
- *awareness of ability to get service from more than one provider*
- *consumer awareness of the benefits of new services (rather than the industry names for the technology).*

More generally, BT believes that it is essential that all measures have a reference point. For example, as a percentage of the market base complaining. Absolute volumes in isolation have no meaning.

Whilst accepting that factors influencing the outcome for the final set of indicators may be beyond Ofcom's control, BT believes it is essential to give an indication of the desired state or target for each of the final measures. Apart from being necessary in terms of evaluating success, this would also provide a useful cross-reference to assess whether these are the right indicators. See further comments in response to Question 5 regarding the need for performance to be set in context.

Frequency of reporting is also of concern to BT. Ofcom's proposal that these measures be reported annually is not appropriate or sufficient if timely action needs to be taken, and BT recommends quarterly publication as a more suitable timeframe.

BT believes that further discussion is needed between Ofcom, industry and organisations representing consumers prior to formalisation of proposals both in terms of the proposed indicators and the general purpose of the Annual Report.

Question 5: Do you agree that Ofcom should publish an Annual Report on the Consumer Interest?

BT agrees that Ofcom should report on the consumer interest and believes that this reporting should predominantly consist of the publication of findings against the indicators agreed for monitoring the consumer interest. BT has proposed other measures to monitor the consumer interest and assumes that other parties will also offer their views. As a result, we believe that further discussion is needed between Ofcom, industry and organisations representing consumers prior to formalisation of proposals both in terms of the proposed indicators and the function and content of the Consumer Interest Report, including publication frequency.

This report should be used to inform Ofcom's thinking on consumer policy issues and for imperatives for the coming months. For it to effectively assess how well consumers are being serviced by the communications market in the UK, it is essential that the Report is set into context. Sources should include the historical UK position (comparing the past year to five years), the UK position compared with the EU, and also the rest of the world.

When analysing data Ofcom will need to take care to ensure that the background context is understood. The differences between consumer behaviour in fixed and mobile telecommunications also need to be explored; for example in the mobile arena the commercial model is not directly comparable with the fixed voice arena as consumer behaviour is influenced by incentives relating to the mobile handset which are subsidised by high mobile termination rates.

Consumer Protection

Question 6: Do you agree with the characteristics identified of effective consumer protection?

BT agrees with Ofcom that:

- well designed regulations,
- access to information about rights and risks,
- effective complaint handling processes, and
- active monitoring and enforcement

are characteristics of an effective consumer protection regime.

Additionally, we note Ofcom's regulatory principles that apply in this area, specifically the bias against intervention. BT questions whether this approach is appropriate in areas relating to consumer protection and would prefer to see a bias towards intervention in cases of serious consumer detriment or possible detriment.

To date, the premium rate services (PRS) sector has emerged as an area with a need for greater levels of consumer protection. It has a very complex value chain where there can be a number of different companies involved in premium rate calls, e.g. an Originating Communications Provider (OCP), a Terminating Communications Provider (TCP), a Service Provider (SP) and even an Information Provider (IP), all of whom participate in revenue share. An OCP retains only a very small portion of revenue; for example on a £1.50 call an OCP could retain as little as 3p. The remainder of the money passes quickly from the OCP through to the TCP and onward to the SP.

This complexity reinforces BT's belief that there is a need for greater levels of consumer protection and clear focus on those who are actually causing harm.

Whilst to date, the PRS sector has caused greatest concern, it is not unrealistic to assume that consumer protection issues will emerge elsewhere in the future. It is essential that the associated regulatory regime gives the power to take action and is backed with the inclination to do so.

BT notes the inclusion of OCC data in this section of the consultation and questions the appropriateness of this data (see our comments in Q4).

Question 7: Do you agree with the assessment and priorities for rights and regulations?

BT agrees that the priorities should be:

- to reduce the time it takes to deal with new consumer protection issues as they arise,
- to develop an early warning system for complaint handling organisations,
- to agree criteria for classifying complaints and
- to look for opportunities to fast-track changes in regulations in cases of consumer harm.

The effectiveness and success of the proposed early warning system is dependent on customers using ICSTIS, Otelo and CISAS to complain. An early warning system based on complaints data alone may not be representative and waiting for a body of complaints

to build up is not necessarily the best approach. For example, whilst the level of 0871 dialler complaints was not very high, BT foresaw that there was potential underlying customer harm and highlighted this to ICSTIS and Ofcom to enable them to act.

On a point of detail, BT believes there should be strict guidelines agreed between ICSTIS, Otelo, CISAS and Ofcom to ensure that the independence of these organisations is maintained and that information sharing and its onward use is transparent.

Whilst BT unequivocally supports Ofcom's desire to fast-track changes in regulation and supports the need to review the General Conditions to ensure regulation is appropriately targeted at offenders, new and/or amended regulation may not always be necessary. It is essential that existing legislation is recognised and used to the maximum potential, for example on the allocation of numbers to known abusers of the numbering system.

Further dialogue with industry is needed in this area before finalising the way forward.

Question 8: Do you agree with the assessment and priorities regarding consumers' awareness?

BT agrees with Ofcom's assessment that the priorities for the coming year are to:

- improve awareness regarding scams
- provision of improved information on consumer rights and how to complain

However, we have some concerns regarding Ofcom's proposed approach.

A greater degree of innovation is needed to improve awareness. Continued reliance solely on the Ofcom website is inappropriate for some consumers, particularly the elderly. Added to which the Ofcom website is not well signposted for consumers from search engines at present and at minimum this needs to be addressed as a matter of some urgency. BT would wish to see Ofcom asking consumers, or organisations representing consumers, how best to improve awareness in these areas before finalising the approach. Ofcom could also undertake research with consumers to establish levels of awareness and use of the Ofcom website.

BT agrees that Ofcom should share actively information on scams with industry in the way suggested. This is similar to the ICSTIS alert system.

More generally, BT believes that it is essential to set success criteria and these should be reported against.

BT also notes Ofcom's intention to offer training for service and call centre staff from other regulatory bodies on recognising and managing complaints. BT is surprised to see this proposal, in view of Ofcom's ceding of their role in complaint management in communications to ADR schemes. We would like more information prior to making further comment. In particular, we seek clarity on the rationale for such a proposal, the extent of the training and the level of Ofcom resource this will take.

Question 9: Do you agree with the assessment and priorities regarding complaints handling and redress?

BT supports the proposed priorities in this area and recognises that they mirror the outputs of the Alternate Dispute Resolution (ADR) Statement published by Ofcom in

December. BT is, however, somewhat disappointed by Ofcom's stance. The DTi has recently published its consultation on consumer advocacy which commends the Ombudsman service operating in the electronic communications sector, saying, inter alia, that Otelo provides a real incentive for companies to deal effectively with consumer complaints. Whilst recognising that this document is forward looking, Ofcom could have taken the opportunity to recognise in a similar manner the gains that have already been achieved in this area by communications providers. BT notes Ofcom's proposals regarding ADR scheme Key Performance Indicators. We would like clarity on the definition Ofcom believes ADR schemes should use to measure staff competence.

With regard to premium rate services, BT has played its full part in implementing the DTI/Ofcom recommendations and awaits with interest the outcomes of the many subsequent consultation documents in the PRS area. On refunds and redress specifically, it must be the service provider responsible for consumer harm that organises redress (see BT's response at <http://www.btplc.com/Thegroup/Regulatoryinformation/Consultativeresponses/DTI/2006/ICSTISconsumerrefunds.htm> for more information on BT's views).

Question 10: Do you agree with the assessment and priorities regarding monitoring and enforcement?

BT supports the priorities:

- to monitor evidence on consumer problems
- to develop Ofcom's skills and expertise on the enforcement of consumer rights
- to streamline processes for handling cases referred from co-regulatory bodies

identified by Ofcom and in particular believes that setting up a dedicated investigations team focused on the enforcement of consumer rights is the right course of action.

BT would wish to see the more vigorous enforcement of fines. Both Ofcom and ICSTIS as premium rate regulator can and do levy fines on providers found to be in breach of the regulatory regime, but often these fines are not collected. BT urges Ofcom to do more in this area, including reporting on fines levied (by operator) and fines collected.

As per our comments in Question 7 BT believes there should be strict guidelines agreed between ICSTIS, Otelo, CISAS and Ofcom to ensure that the independence of these organisations is maintained and that information sharing and its onward use is transparent.

Consumer Empowerment

Question 11: Do you agree with Ofcom's approach to the provision of consumer information?

BT agrees that in general the provision of consumer information should be left to the market. However it is important that consumers have access to impartial information about price and quality of service, or at least that it is clear when information may not be

impartial. Where suppliers or third parties cause consumer harm by providing misleading or inaccurate information, regulatory intervention is vital.

The development of the Consumer Advice section of Ofcom's website to present advice on where to find further information and how to choose between suppliers would be welcome and would benefit many consumers, but not all. Firstly, the website itself would have to be better publicised in order to make a real difference, since many consumers are unlikely to be aware of it. Awareness of the website and consumers' satisfaction with it as a useful source of information should be measured and reported on. Secondly, Ofcom's own research shows that vulnerable and/or "uninvolved" customers are less likely to have access to the internet at home and predominately keep informed through family and friends. Thus Ofcom needs to consider alternative means of communication with consumers, such as provision of advice via representative consumer bodies, Citizens' Advice Bureaux, in libraries etc, since the website alone is not an adequate way to reach these customers.

Question 12: Do you agree with Ofcom's conclusion on consumer awareness of suppliers and services?

BT agrees with Ofcom's conclusion that in general, consumer awareness of alternative suppliers and services is between 86-97% depending on the market. BT's own recent research shows results consistent with Ofcom's findings, although awareness of fixed telephony suppliers is slightly higher in BT's research at around 90%. BT therefore agrees with Ofcom's conclusion that there does not appear to be any evidence of a need to increase general awareness of alternative suppliers and services. However, as in Ofcom's research, awareness of alternative suppliers reduces significantly in the 65+ age bracket and we believe this must be addressed in order to avoid the potential for consumer harm to this vulnerable group. For example if older consumers are unaware of the names of alternative suppliers, the nature of their service and the full implications of switching, they might be more likely to be misled by less reputable suppliers. BT will be interested in the results of the Consumer Panel's second wave of research in this respect.

Question 13: Which of the options on comparative price information, if any, do you favour? Are there other options Ofcom should consider?

Pricing of communications services, and comparisons between different providers of services, is a much more complex area than comparisons of, say, energy suppliers or suppliers of electronic goods, due to the infinite range of potential customer usage patterns. It is therefore particularly important in this market to ensure that comparison services do not have the potential to mislead consumers. Overall, BT is broadly in favour of Option 3 – 'Retain, review and re-launch the scheme'. Each Option is discussed below.

Option 1 – Withdrawal of the PASS scheme

The market for comparative pricing services is already seeing dramatic growth and withdrawal of the accreditation scheme completely would be likely to lead to a free-for-

all. An accreditation scheme gives reassurance to consumers that the models used to provide comparison information have been properly audited. Whilst such a scheme exists and is suitably publicised, there is less likely to be a proliferation of unaudited sites as these are less likely to be successful. A free-for-all, on the other hand, could lead to misleading information being presented to customers from less accurate and less trustworthy sites, causing customer confusion and potential harm.

In order for an accreditation scheme such as the PASS scheme to have a positive impact, however, it is essential for it to be completely impartial, transparent, and properly publicised.

Option 2 – Maintain the scheme as it stands

The current scheme, or the way in which it has been enforced, has proved to be inadequate in a number of respects. Ofcom is well aware that for some time BT has had serious concerns about several aspects of the sole PASS accredited price comparison site provided by uSwitch. . For example, the commissions structure and announcements made by uSwitch which could be considered to be both inaccurate and misleading, as well as call their impartiality into question, run counter to the principles behind the PASS accreditation scheme. It is essential that the organisations behind Ofcom approved sites can be trusted by consumers to be accurate and impartial. This is discussed further in the following section

Option 3 – Retain, review and re-launch the scheme.

We favour this option. BT believes that having an accreditation scheme benefits consumers, for the reasons explained above. However any re-launch of the scheme should result in:

- proper enforcement of existing PASS scheme rules;
- introduction of new transparency rules;
- better publicity in order to raise consumer awareness of the scheme; and
- a more holistic approach.

Enforcement

It is not enough for a comparison site to be audited once to gain accreditation. PASS scheme rules must continue to be enforced and compliance with them audited on a regular basis. Our understanding is that annual audits currently take place but, given the speed of change of telephony pricing, resulting in the need for comparison models to change, BT believes that more frequent audits should be carried out.

BT accepts that it is inevitable that third party comparison sites will often work on a commission basis, and we do not see any need to change the existing rule to allow users to be charged for comparison data because it seems likely that consumers would then “shop around” for alternative free services (whether accredited or not), which could be to their detriment in terms of reliability of data. However one example of the need for more effective enforcement of the PASS scheme rules is in relation to commission payments –

and this has come under intense media scrutiny recently. Under the current scheme, an accredited company is able to enter into commercial arrangements with service providers to earn commission for each switch, comparison or display of logo carried out. The PASS scheme states that "The Website must be independent of telecoms suppliers. If a Website earns commission or some other remuneration from suppliers of telecoms services, it must disclose this clearly to users".

Presumably this is a requirement so that the consumer is able to make a fully informed decision. However, the uSwitch site merely states "uSwitch.com has agreed deals with some home phone suppliers to receive a small commission payment when a customer chooses to switch through us" and goes on to reassure consumers that this makes no difference to their impartiality. There is no detail about which companies have entered into arrangements, quite apart from the amount of commission earned, which we believe to be anything but "small". Furthermore, there is constant promotion of offers from companies with whom uSwitch presumably has commercial relationships, but customers are completely unaware of these arrangements. This apparent non-compliance has not been rectified and the new scheme will need much stronger enforcement.

In the event of serious and/or repeated breaches of PASS scheme rules, thought should be given as to how Ofcom would withdraw accreditation quickly.

Transparency

BT is convinced that there should be a requirement to display the actual commission earned by the accredited company for each switch, rather like the rules for commissions paid on insurance, mortgages etc. in the financial services industry. This is imperative if consumers are to make fully informed decisions. We do not accept that commercial issues should override the need to ensure that consumers are fully informed in this respect and this is one extremely important area where Ofcom can show that they are truly putting the needs of consumers at the heart of policy making.

Transparency of the comparison models used should also be a requirement of a re-launched scheme. There is a lack of transparency in relation to the call profiles in the uSwitch model. Several aspects of the model, such as the exclusion of non-geographic numbers until very recently, caused BT great concern as this led to savings with other suppliers being overstated.

At present, no organisation has any way of replicating the model used, and we suspect that the assumptions made will have quite an impact for companies (like BT) which have a fixed price for certain call durations. There are also a number of what we believe to be exaggerated claims made about potential savings for BT customers in recent publicity. The "average" annual savings figure claimed by uSwitch, which is widely quoted (even by Ofcom in this consultation), can only be true in very exceptional circumstances, particularly when you consider that 60% of BT's customers do not even make calls of £120 a year to start with. This is all the more important as we know that consumers often overestimate the savings to be made by changing supplier, and this is one of the main causes of customer dissatisfaction with switching. Transparency of models and claims must be a requirement of any re-launched scheme, and Ofcom should have powers to insist on changes being made to the model if and when limitations in its accuracy or scope are identified.

Publicity

BT is fully in agreement that greater awareness and promotion of the PASS scheme needs to be carried out, not just amongst consumers (which is discussed further in response to Question 14 below) but amongst other prospective price comparison providers. BT would encourage the emergence of more PASS accredited sites, and we question why there is currently only one scheme that has gained accreditation. There is a cost to gaining accreditation and we question whether this is too high.

Holistic approach

In order for consumers to be given a comprehensive picture of the benefits of one supplier over another, the PASS criterion requiring consideration to be given to other measures, like Quality-of-Service, must be made central to the model, rather than mentioned in passing. Ofcom has recognised that such measures are an important driver of switching – in some cases they may well be as important, or even more important, than price. See general comments at the beginning of this document, and our response to question 15 below.

Option 4 – Establish closer links with a single price comparison provider

Although there are benefits associated with a single price comparison provider in terms of simplicity, within a competitive and free market there is likely to be consumer benefit from there being a choice of sites. We disagree with Ofcom's suggestion that potential customer confusion as a result of receiving different advice from different websites is a reason for not encouraging more websites to seek accreditation. More competition should lead to higher standards of accuracy (e.g. with respect to different usage patterns) and greater ease of use.

Question 14: What is your opinion about the ideas for generating awareness of price comparison information?

As with the proposed Annual Report on the Consumer Interest (question 5), BT would not be in favour of an annual report that contained a “snapshot” of price comparison information, since this would quickly become out-of-date. Whilst an annual report listing ways to acquire price comparisons might be of some use, a much more timely and effective means of publicity is required to ensure that awareness of the PASS scheme and of the availability of comparison information is raised.

Up-to-date information focusing on consumers' rights and potential ‘scams’, as well as on the availability of comparison information, would be more effective if provided through agencies such as Trading Standards, Citizens' Advice Bureaux, consumer organisations and libraries rather than free media. BT would encourage Ofcom to liaise more actively with such organisations for this purpose. Regular press releases from Ofcom would also be useful. Focus needs to be placed on social inclusion, so that all consumers, including the “uninvolved” and those who do not have access to the internet, are enabled to benefit if they want to.

Question 15: Do you agree with our proposed approach regarding the Quality of Service initiatives?

BT is fully supportive of an industry-led approach to the provision of Quality of Service (QoS) information, for which there is legitimate consumer demand. We also agree, at this stage, that this should not be on a voluntary basis as it has been proven that there are insufficient commercial drivers for companies to participate unless it is a mandatory requirement. We believe that Ofcom should take steps to ensure that all service providers that fall under the definition of “communications provider” within the Direction on Fixed Voice Service Providers are participating in the TopCom initiative as they should. In other words, the Direction should be enforced equally for all qualifying service providers.

As with price comparison information, an effective means of publication and promotion of the availability of QoS information is important - to those with and without internet access. Whilst those service providers with good quality of service are likely to do their own publicity, those whose service is poor clearly will not. Accessibility of the data itself to all consumer groups will also be critical. As Ofcom has pointed out, better availability of QoS information should encourage suppliers to improve their service, for the benefit of all consumers whether or not they wish to switch.

As QoS data is developed consideration should be given to encouraging initiatives that allow for a holistic approach that combines pricing information with QoS data. This would enable consumers to be given a more balanced and comprehensive view of different suppliers’ strengths, enabling a more informed decision to be made. This holistic approach should be considered as part of any review and re-launch of the PASS scheme (see response to question 13 above).

As VoIP services continue to proliferate, consideration should also be given to the inclusion of these services in any comparison initiative in order to ensure that consumers are aware of what features are available with these services and any differences from “standard” fixed voice telephony services. Ofcom’s current consultation on the Regulation of VoIP services proposes guidelines for providers of VoIP services in relation to the provision of consumer information. Whilst this is a positive move, such information is likely to be contained on service providers’ websites or in product literature and so not readily available in one place for comparison purposes. Although we do not wish to overload consumers with information, we believe Ofcom could usefully encourage the inclusion of some general information about VoIP services (and what to look for when buying such a service) on PASS accredited websites, in the proposed publications on QoS and through any other awareness initiatives.

Question 16: Do you agree with our proposed approach regarding switching processes?

BT agrees with Ofcom’s overall approach regarding switching processes, i.e. that action should only be taken based on evidence and that otherwise there should be no regulatory intervention. However where suppliers are mis-selling to consumers, BT urges Ofcom to take swift action. Ofcom is also consulting on Migrations, Switching and Mis-selling at this time, and BT will be responding in full to that consultation. Our overriding concern

will be to put the power back into the hands of the consumer, so that their consent is required to switch, rather than this consent being assumed, as is the case today.

Ofcom's research on consumer searching and switching behaviour and the perceived/actual costs and benefits of switching is interesting. We look forward to seeing the results of Ofcom's proposed further research in due course.

Ofcom discusses its particular concerns about "uninvolved consumers". BT agrees that, since a large share of this group is made up of people in the 65+ age bracket, there is a need to ensure that sufficient information about the nature and availability of alternative suppliers is easily accessible to these people to minimise the scope for mis-selling. However it should also be recognised that many of the "uninvolved" consumers are simply not interested in shopping around because they are happy with their current supplier, regardless of whether savings could be made by going elsewhere. They are not "uninvolved" because their *ability* to participate in the market is reduced in any way, but because they simply have no *desire* to switch. In such cases there is no real consumer harm to be addressed.

END