

MODERNISING CONSUMER MARKETS – CONSUMER GREEN PAPER

BT's response – July 2018

1. Executive summary

- 1.1 The Government's commitment to competition, underpinned by high regulatory standards and strong consumer rights, is welcome. The communications markets in which BT operates are fiercely competitive and consumer demand for digital connectivity and content continues to grow and evolve.
- 1.2 Customers' expectations of their communications services and how they engage with them is changing rapidly as more and more aspects of their lives become digitally connected. Data use, over both fixed and mobile networks, increases significantly each year, whilst the proportion of household income spent on communications services has fallen over the last decade. And consumers spend a great deal of time interacting with their mobile devices and other connected services every day. But we also recognise that there are differences in the pace of change across the population, with a proportion (albeit small and decreasing) continuing to see little value in products and services beyond basic telephony and internet connectivity. It is important that communications markets work for all.
- 1.3 This presents communications providers (CPs) with huge opportunities and challenges. Whilst our products and services are in ever-more demand, the market is becoming more competitive – from traditional and non-traditional sources (such as 'Over-The-Top' (OTT) players) – and characterised by increasingly varied consumer needs and higher customer service expectations.
- 1.4 BT is focused on meeting these demands, improving our engagement with customers and making it simpler and easier for them to get the products and services that they want. We have recently announced a new Consumer strategy, with the aim of enabling us to deliver to these trends, satisfy a diverse range of demands and put greater control in the hands of the customer to meet expectations of increasingly personalised service and seamless digital connectivity.
- 1.5 The vast majority of consumers are able to identify when to act (e.g. know when their contract is due to come to an end), understand their usage patterns and compare services, and have access to effective tools to exercise choice (e.g. improved switching regimes for broadband and mobile services). Competition is working well and routes to redress, when needed, are generally effective. As a result, consumer outcomes across communications markets are good.
- 1.6 We are also very conscious of ensuring that those unable to engage effectively in the market are not disadvantaged or exploited. We therefore invest significantly in products, services and policies that target consumers who may be vulnerable (for a range of temporary or longer-standing reasons). We also note that, where potential concerns emerge, Ofcom has been very active, undertaking over twenty consumer reviews/consultations in the past three years. We are keen to explore whether there is scope to work across the sector to further improve the identification of vulnerable customers and believe this could be a valuable objective for the new Consumer Forum to support.
- 1.7 The increased and more sophisticated use of personal data also has the potential to offer huge benefits to consumers. The Government is right, however, to be conscious of the potential risks and concerns around customer control, security and privacy. We aim to be increasingly clear with our customers and stakeholders regarding our use of data and we want to work closely with the Government and regulators – via the forthcoming Smart Data review and beyond – to ensure practices work in the interests of competition and consumers.
- 1.8 Given the rapid change in communications markets, it is sensible to review whether the current competition and regulatory frameworks are and will remain fit-for-purpose. However, we see no evidence to suggest fundamental changes are warranted. Whilst digital communications play an ever-growing and ever-changing role in consumers' lives, this does not mean that they should or need to be matched by an ever-growing raft of policy and regulatory interventions. On the contrary, we believe that the proof of a world-class consumer protection regime is one that is sufficiently effective, efficient, clear, stable, principles-based, light-touch and practical to stand the test of time and deliver benefits to consumers, encouraging innovation and differentiation, without the need for constant modification

and expansion. The Green Paper's focus on ensuring effective competition and Ofcom's Regulatory Principles, equally valid and valuable now as they were when first introduced, stand up to these rigorous criteria. We would therefore encourage a laser-focus on this approach, with an objective of reducing rather than increasing the regulatory burden on firms.

1.9 We note, however, that the Green Paper advocates an approach by Government and regulators to "safeguard consumers who, for whatever reason, remain loyal to their existing supplier so that they are not materially disadvantaged". It is hugely important to be able to distinguish supplier conduct designed to exploit customer inertia (or other biases) from straightforward competition for market share. We seek to enhance customer engagement because customers are more satisfied and loyal if they choose the services which best suit their needs – this provides an opportunity to deepen customer relationships and reduce churn, which is fully consistent with normal competitive dynamics. The loyalty shown by satisfied customers should not, therefore, be confused with disengagement. Nor should metrics like tenure be misinterpreted given that long-standing customers may nonetheless be engaged (e.g. by switching tariffs to get the best value based on usage needs).

1.10 A sophisticated assessment is therefore required of why consumers may choose to remain with the service providers beyond ostensibly price-related factors. This is particularly important in communications markets, where non-price factors greatly differentiate many products and services, and does not necessarily mean that there are market failures.

1.11 Only where competition can be demonstrated to have failed, should targeted, appropriate and proportionate intervention be considered (and we have worked and will work constructively with the regulator and other stakeholders to deliver that). Indeed, operators' ongoing and significant network investment (extending 4G coverage and introducing 5G to the UK, and moves to a full fibre future) is enabled through a consistent and fair regulatory environment, delivering certainty and confidence, and relying on competition to deliver good consumer outcomes.

1.12 Our response therefore sets out that:

- **Competition is driving good consumer outcomes in communications – the markets are dynamic, with customers' demands rapidly changing** (section 2).
- **Communications markets are fundamentally different from utilities and financial services** (section 3).
- **BT is responding to customers, alive to the concerns raised in the Green Paper and elsewhere, and making strategic changes** (section 4).
- **A pro-competition regulatory agenda is therefore the right approach – any intervention in the market should be very carefully considered to avoid unintended consequences** (section 5).
- **There are no barriers to engaging for the vast majority of customers – but truly vulnerable customers should be properly looked after and we invest heavily, leading the sector** (section 6).
- **The consumer voice in communications is strong – Alternative Dispute Resolution (ADR) works effectively, social media has given customers a powerful further channel and consumer groups are very active** (section 7).
- **The increasing use of consumer data could deliver significant customer benefits – but we recognise emerging risks and want to work closely with the Government to build consumer trust.** (section 8).
- **We believe that the current regulatory and competition regime remains fit-for-purpose** (section 9).

1.13 We look forward to working closely and constructively with the Government, Ofcom and other stakeholders across all the themes raised by the Green Paper.

2. Competition is driving good consumer outcomes in communications – the markets are dynamic, with customers’ demands rapidly changing

2.1 UK communications consumers benefit from some of the most competitive markets in the world, delivering significant choice and value. Data use over both mobile and fixed networks continues to grow significantly – just in the year to June 2017, fixed data use increased by 44% and mobile use by 46%. This is despite average monthly household expenditure of communications services remaining flat over the past decade (see Figure 1).

Figure 1: Average household spend on communications services: 2006-2016¹



2.2 And the benefits of competition are widespread:

- **Ofcom finds that since 2014, mobile prices have declined 4% whilst data used has increased 217%.²** These benefits have been felt by all types of mobile consumers, from heavy data users to those who use only mobile voice services occasionally – in each of the six mobile usage types that Ofcom explored, all saw weighted average monthly price reductions of between 4% and 52%. The UK mobile market continues to be among the most competitive in the world. Ofcom notes that “compared to the average of the 28 EU member countries, the UK handset plan prices are between 24%-64% cheaper...[and] the UK’s ‘weighted average’ stand-alone price is still significantly below that of most other comparator countries”.³ Ofcom goes on to state that “the market is operating well for consumers at present, with strong competition between suppliers, relatively low prices for UK consumers, and continued investment in new services.”
- **Purchasing of bundled services continues to grow in popularity, leading to significant cost savings for consumers.** Dual play, triple play and quad play customers can on average save 12%, 34% and 44% respectively compared to the aggregate prices of standalone services. There is also a strong positive correlation between levels of consumer engagement and the purchase of bundled services,⁴ with the prevalence of bundles continuing to grow and now standing at 80% of households.⁵
- **The number of traditional pay-TV subscriptions increased significantly, whilst service quality has improved⁶ and prices have fallen.** There has been a proliferation in the number of HD channels that are on offer, and the inclusion of on-demand/catch-up services with pay-TV subscriptions. Most pay-TV subscribers buy it as part of a triple-play bundle, with prices falling by 14% in real terms between Q1 2013 and Q3 2017.⁷

¹ Ofcom (2018), [Pricing Trends for Communications Services in the UK](#)

² Ibid.

³ Ofcom (2016), [Award of the 2.3 and 3.4 GHz spectrum bands](#)

⁴ Ofcom (2017), [Helping consumers to engage in communications markets](#)

⁵ Ofcom (2018), [Pricing Trends for Communications Services in the UK](#)

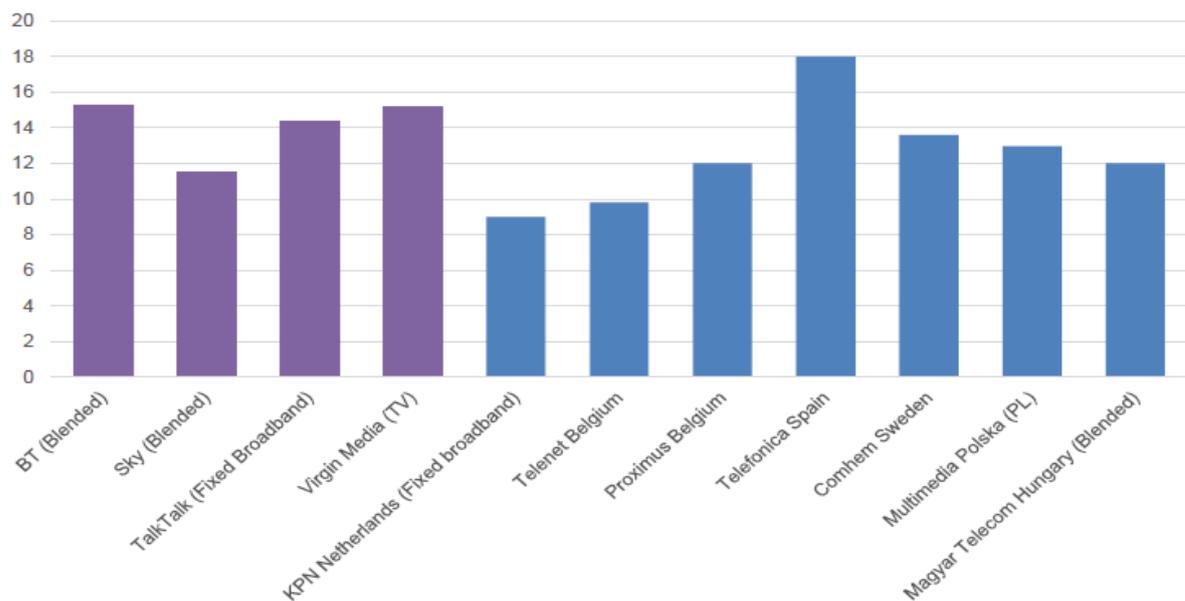
⁶ Ofcom (2017), [Helping consumers to engage in communications markets](#)

⁷ Ofcom (2018), [Pricing Trends for Communications Services in the UK](#)

- **4G and superfast broadband coverage and speeds have also grown significantly.** EE has the largest 4G footprint, now covering over 90% of UK geography, with UK consumers able to access the fastest average mobile download speeds in the world.⁸ Other providers also continue to improve their coverage. And superfast broadband is available to over 95% of premises – more than in Germany, France, Spain and Italy.⁹ The average speed of a UK residential fixed broadband connection now stands at over 44Mbps.¹⁰

2.3 Evidence on churn and switching rates (as an indicator of customer engagement) also suggests that the UK telecoms market is performing better in this respect than in other European markets. Three of the four main fixed broadband providers have higher churn rates than comparator firms (except for Telefonica in Spain) – see Figure 2.

Figure 2: Annualised churn rates (%) for UK and other European fixed operators (different periods, 2015-17)¹¹



Consumer behaviours and needs are rapidly changing as ubiquitous and ‘always on’ connectivity becomes increasingly important – but communications markets remain characterised by differentiated demand

2.4 Given the fundamental changes in the role of the internet in our everyday lives – both within and outside the home – digital connectivity is now viewed as an essential service¹² and is being used much more extensively and in more innovative ways. We know that our customers’ needs are changing significantly. They increasingly want ubiquitous connections supported by flexible service channels to manage and control their services.

2.5 The UK is at the forefront of this digital change. We have the biggest internet economy by share of GDP in the G20¹³ and a greater proportion of our purchases are online (see Figure 3).

⁸ Akamai (2017), [State of the Internet Report Q1 2017](#)

⁹ European Commission (2018), [Digital Scorecard](#)

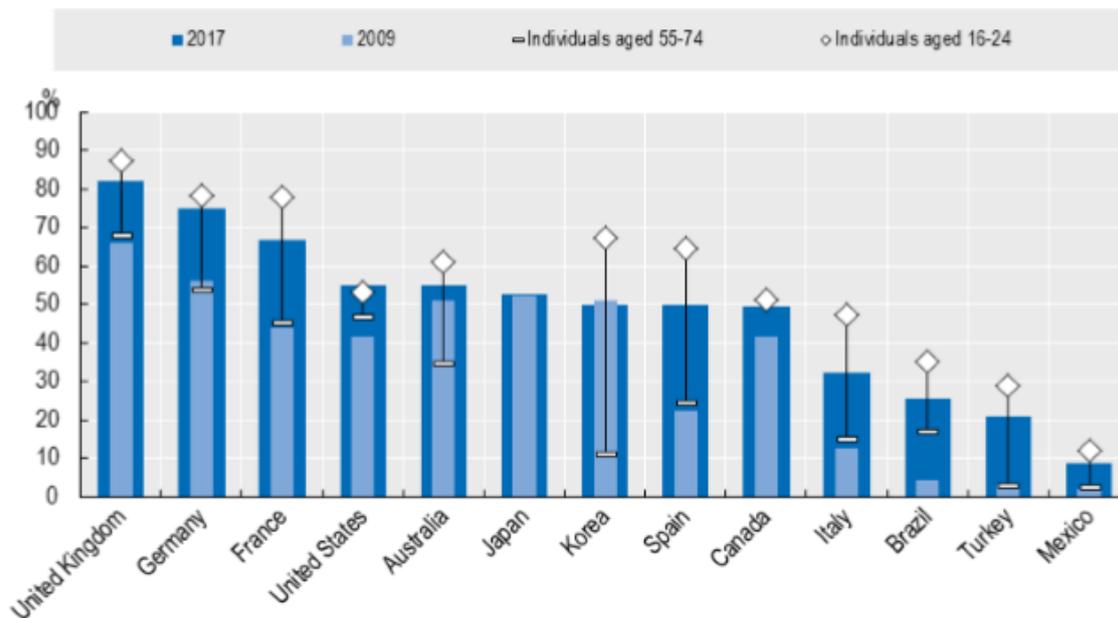
¹⁰ Ofcom (2017), [Connected Nations 2017](#)

¹¹ BT analysis

¹² See, for example, Which? (2016), [Broadband now seen as one of top five modern day essentials](#)

¹³ Boston Consulting Group (2015), [Press release – The Internet Now Contributes 10 Percent of GDP to the UK Economy, Surpassing the Manufacturing and Retail Sectors](#)

Figure 3: Consumer participation (%) in e-commerce¹⁴



2.6 Digital use continues to grow and change. We expect the average IP traffic per user to reach 120GB by 2019 (up from 38GB in 2014). IP video traffic will be 82% all consumer internet traffic by 2021, up from 73% in 2016.¹⁵ We forecast 615m UK Connected devices by 2019 (up from 317m in 2014) and that 5.5m households will be using OTT video services by 2019 (up from 2.2m in 2014). And as the Department of Digital, Culture, Media and Sport recognises, telecoms is a rapidly developing market, which is soon to undergo further significant change with the introduction of 5G services.¹⁶ This will change the way people communicate, providing new opportunities for businesses and improving lifestyles.

2.7 Tomorrow's connected customer will have needs and expectations way beyond anything we provide today, with much greater demand for ubiquity of coverage, flexibility and ease of service:

- High speed connectivity wherever they are to support new experiences, high resolution and complex content, with personalised interactive and immersive services.
- Media which follows them from one context to another (i.e. from smartphone to home smart speaker or multimedia display) without ever having to think to which network they are connected.
- The blurring of the physical and digital world e.g. simple, secure and seamless authentication to allow payments and service access seamlessly across digital and physical world around them.
- Personalised, quick, helpful, and friendly service – whether interacting face-to-face in store, live online interactions with staff online, or using our apps and self-service tools, increasingly powered by AI.
- Straightforward and clear account information, controls, online safety and security – from billing to sharing connectivity and content with family and friends.

2.8 These will represent major, and increasingly mainstream, changes to consumer behaviours and demands that, to remain successful and competitive, we will need to meet. However, we recognise that different groups of consumers will see change their behaviours at different rates. We are conscious of and committed to delivering for this differentiated demand, providing customers with increasingly flexibility and personalisation of the services they purchase, and addressing the specific needs of vulnerable consumers.

2.9 We also acknowledge that this evolution creates risks for all consumers, which, as the UK's leading digital communications provider, we take very seriously. The Green Paper is right to draw out as a key theme the role of personal data, emphasising the benefits and risks. Section 8 of our response explores

¹⁴ OECD (2018), [Toolkit for Protecting Digital Consumers](#)

¹⁵ Cisco (2017), [Visual Networking Index: Forecast and Methodology, 2016–2021](#)

¹⁶ DCMS and HM Treasury (2017), [Next Generation Mobile Technologies: A 5G Strategy for the UK](#)

this further. We also invest heavily in helping people overcome barriers to digital inclusion¹⁷, working with a range of stakeholders, in supporting vulnerable customers access affordable services (see section 6), and providing resources and advice for all internet users to stay safe online.¹⁸

3. Communications markets are fundamentally different from utilities and financial services

3.1 The Green Paper focuses on communications, utilities and financial services markets. However, the extent of competition, market structures, the level of consumer engagement and consumer outcomes vary significantly across each of these. The Green Paper risks conflating them as it explores various themes and we believe a more bespoke assessment of communications markets is required.

3.2 For example, whilst broadband and mobile coverage are increasingly treated as essential services, they are not classic utility markets, in that the nature of the markets gives significantly more scope for effective sustainable competition:

- **Unlike in energy and water, the scope for competition along the supply chain (notably for mobile and increasingly so for fixed broadband) is significant.** There have long been four mobile network operators (MNOs) in direct competition with each other, making available wholesale access to Mobile Virtual Network Operators (currently numbering over fifty) who compete for personal and business customers. In fixed telecoms markets, which has long-seen strong competition at the retail level with over 500 Internet Service Providers (ISPs) in the UK, there has been increasing competition with other vertically integrated network providers – principally Virgin Media rolling out to cover 60% of UK premises, but also other ‘altnets’. This provides consumers with significant choice of providers and plans.
- **Billions of pounds of private investment continues to be made each year to extend and upgrade networks to meet increasing consumer demand.** Superfast broadband roll-out continues to extend beyond 95% of premises and the deployment of fibre to the premise is gathering pace. 4G mobile coverage now covers over 90% of UK geography and BT plans to launch 5G commercially in the UK in 2019. Unlike in energy and water, communications companies have made these investments largely at their own commercial risks, without being able to rely upon certain future regulated returns.
- **Innovative technologies have been emerging over recent years, disrupting the traditional telecoms model – resulting in strong competition provided by a range of OTT competitors.** For example, apps on smartphones enable consumers to switch easily between voice, video calls (e.g. FaceTime), instant messaging and social media – and content providers, such as Netflix, are increasing share in the pay-TV market.¹⁹ As a result of the shift towards voice and messaging services provided by OTT competitors, mobile operators are seeing falling SMS and MMS volumes and revenues with, for example, WhatsApp and similar services’ share of messaging now estimated to be more than 75%.²⁰

3.3 The nature of communications services and products also differs from utilities and finance. There is less scope for known consumer biases to lead to significant consumer harm:

- **The services provided are more differentiated.** A key difference between utilities and communications is the latter has packages of different services, with providers offering products and services that vary by much more than price alone – for example, service levels, mobile coverage, average data speed differences and choice of content – and are relatively easy to understand.

¹⁷ See, for example, BT (2018), [Delivering our Purpose report](#)

¹⁸ For example, we are partners of [Internet Matters](#), provide parental controls for our fixed and mobile customers, and through our collaboration with [Doteveryone](#), we continue to research public attitudes towards digital technologies, using the results to help get more people online and develop the skills to make the most of technology safely.

¹⁹ Ofcom (2017), [Communications Market Report](#)

²⁰ Statista (2018), [Instant messaging app share of mobile messaging traffic and revenues worldwide in 2018](#)

- **The cost of an ‘irrational’ consumer decision in communications is generally limited and more frequent engagement allows consumers to ‘learn’ over time.** While there have been reports about consumers unknowingly incurring very high and unexpected telecoms bills (e.g. unchecked data roaming), these are few and far between and in decline, and become obvious to the consumer relatively quickly. In finance, however, a bad decision may never become obvious to the consumer but have severe long-term consequences, such as the choice of pension or life insurance product. The inherent complexity of many financial products may also mean effective assessment and comparison is more difficult than for communications. Furthermore, given that communications services are often used on a daily basis, consumers have a better sense of their usage patterns, and repeated and regular contract renewals/switching makes consumers more sophisticated in understanding the services on offer.

3.4 And, whilst we acknowledge that the sector has progress to make on improving customer service performance, consumers are far more engaged and satisfied with communications services:

- **Customer adoption is increasing.** A typical household now has around 25 connected products, and this is expected to increase to over 50 by 2022.²¹ We would argue that much of the dynamic associate with increased access to finance is not driven by a greater level of engagement in the products or services per se, but by a necessity to access funds in a changing economic climate.²² In addition, the vast majority of consumers actively engage with their telecoms services every day and are frequently in contact with their provider (to monitor data usage, for example), whereas for, say, insurance, the level of interaction is perhaps once a year at policy renewal.
- **Customer churn rates in communications are higher.** For example, Ofcom reports that customers continue to switch between pre-pay and post-pay products mainly due to the increasing popularity of SIM-only deals. Prepay customers continued to fall by 3.5m and post pay customers continued to increase by 3.4m over the same period.²³ In the mobile sector, the level of churn in the industry is 24% according to BT/EE estimates across both PAYM and PAYG services. For fixed broadband, we see the level of churn at c.15%. For comparison, the CMA has concluded that customer engagement in financial services is low²⁴, with only 3% of private current account holders switching in the past year. In energy, a CMA survey found that 56% of respondents had never switched supplier, did not know it was possible or did not know if they had done so; and 72% had never switched tariff with an existing supplier, did not know it was possible, or did not know if they had done so.²⁵
- **Customer satisfaction is generally better.** According to Ofcom, 92% of mobile phone users said they were very or fairly satisfied with their mobile service, with 84% satisfied with their fixed broadband provision and 88% with their fixed voice services.²⁶ According to the CMA, 90% of personal current account customers were satisfied or very satisfied with their existing provider.²⁷ Satisfaction with energy and gas suppliers is far lower at 72% and 71% respectively.²⁸
- **There is no identifiable link between consumers’ financial circumstances and their engagement in communications markets.** Ofcom analysis has shown that the proportion of inactive customers, for any service, does not exceed a third and that there is no clear relationship between socio-economic group and the level of inactivity (see Figure 4). In addition, consumers can, and do, vary their spend on communications services to fit their household budget more than for utilities. ONS data shows that the lowest income centile households pay 8% of their household expenditure on energy, with the highest income centile households paying only 3% (just over a third of the lowest

²¹ GSMA (2015), [The Impact of the Internet of Things](#)

²² See, for example, The Money Charity (2018), [The Money Statistics, June 2018](#)

²³ Ofcom (2017), [Communications Market Report](#)

²⁴ CMA (2016), [Retail Banking Market Investigation Final Report](#)

²⁵ CMA (2016), [Energy Market Investigation, Final report](#)

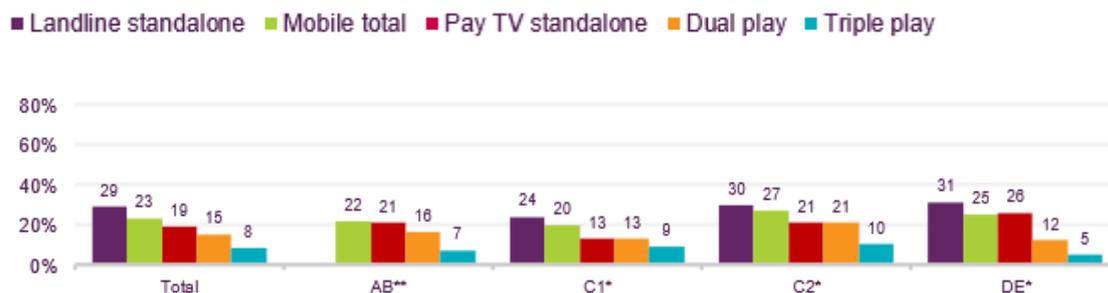
²⁶ Ofcom (2017), [Communications Market Report](#)

²⁷ CMA (2016), [Retail Banking Market Investigation Final Report](#)

²⁸ Ofgem (2018), [Retail Market Indicators](#)

income centile's relative spend). For communications, the figures are 4% and 2% respectively (just over half of the lowest income centile's relative spend).²⁹

Figure 4: Proportion of inactive consumers, by socio-economic group³⁰



4. BT is responding to customers, alive to the concerns raised in the Green Paper and elsewhere, and making strategic changes

- 4.1 The Green Paper rightly argues that “no incumbent – however large or longstanding – should feel immune from [competitive] challenge”. We do not. The extent of competition across the markets in which we operate and the rapidly changing nature of what consumers demand and expect means we cannot afford to be complacent. We recognise that we have to change and continue to innovate to meet customers’ evolving and differentiated needs.
- 4.2 Our customer service performance must also continue to improve and meet ever-growing expectations regarding the connectivity and content experience we provide. We continue to invest heavily here but we have much more to do. We are also working hard to ensure all our practices have the needs of new and existing customers central to them and where we find issues or legitimate concerns are raised, we will act swiftly to address them.
- 4.3 We therefore set out, in May 2018, a clear and ambitious new strategy, with the customer firmly at the centre. It is based on four key elements (see Table 1).

²⁹ BT calculations based on 2016/17 ONS data taken from ‘[Detailed household expenditure by equivalised disposable income decile group](#)’ and ‘[Detailed household expenditure as a percentage of total expenditure by equivalised disposable income decile group](#)’.

³⁰ Ofcom (2017), [Access and Inclusion in 2016](#). We note that Ofcom’s definition of ‘inactive’ consumers are those least likely to have had past involvement (i.e. they may have switched, considered or negotiated but not in the past two years). This group tends to state “no interest in changing provider”. We would emphasise that these customers are not necessarily ‘inactive’, they may just be happy with their current provider. Having “no interest in changing provider” is not necessarily a concern, as we explore in section 5.

Table 1: Overview of the BT Consumer strategy

What are we doing?	What does this mean for customers?	What will we deliver?
Bringing our networks together	We are bringing together the best of mobile, broadband and WiFi so that customers always have a connection when they want it, with no need to worry which part of the network they are on and they will move seamlessly between them	<ul style="list-style-type: none"> • Already introduced new fixed/mobile converged products – BT Plus and EE Home Move • Continue to expand our 4G coverage and capacity – with customers’ ‘Time on 4G’ to hit 98% by 2020 • Launch 5G commercially in 2019 • Make ultrafast broadband available to millions more homes by 2020 • Deliver one core network for fixed and mobile by 2022
Delivering personal, local service	We are improving our service to provide better and more personal support for customers, with a choice of effective channels and greater control over their products and services	<ul style="list-style-type: none"> • 100% EE and Plusnet customer calls are already answered in the UK – we are doing the same for BT by 2020 to deliver a better customer experience • We will continue to improve our MyEE and MyBT app experiences, and introduce a self-service app for Plusnet customers • Introduce AR customer service tools, video call services for remote support and a new in-home set up service • We are enhancing our commitment to the high street, bringing BT products and advice in our 600+ EE stores • Retain Plusnet’s NPS leadership in the broadband market and, by 2020, bring BT into positive NPS territory and see EE leading the mobile sector • Increasingly benchmark performance against high performing firms in other sectors, not just our competitors in telecoms
Meeting differentiated demand	Greater choice, whether customers want the latest technology or something simpler	<ul style="list-style-type: none"> • We will retain each our three strong brands – BT, EE and Plusnet – to cater for different customer types
Developing strong partnerships with the best product, service and content providers	They will be able to access increasing consumer choice and flexibility, providing the diversity of capability they now expect	<ul style="list-style-type: none"> • We will introduce new products and services, including the latest smartphones and smart home technology • We will provide greater flexibility for customers in personalising their services • Open super aggregator TV strategy to deliver widest choice of content

4.4 This strategy will be the central driver of BT activity and how we intend to evolve the consumer business. We are confident that this approach will promote increased consumer engagement and satisfaction – and have set ourselves ambitious targets. We believe it also reflects a recognition of the need to address a number of the issues raised in the Green Paper.

4.5 We want to be judged on our delivery of these strategic objectives and we will provide regular and transparent updates to Government, Ofcom, other stakeholders and, most importantly, our customers

on the progress we are making. We want to work closely with them to tackle existing or emerging issues, proactively and appropriately.

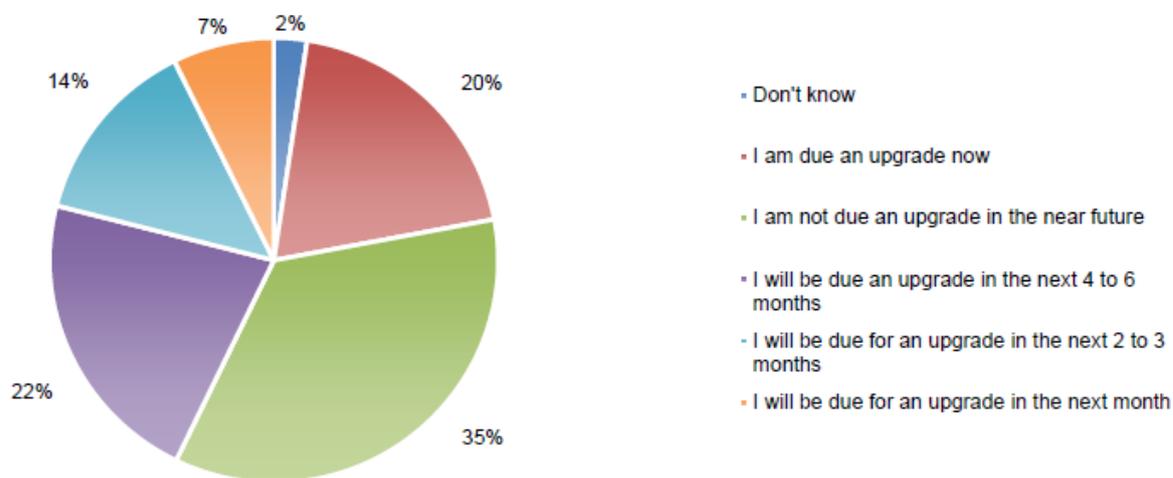
- 4.6 We are committed to continued progress, but we are building from a strong base with respect to the tools and measures we already have in place to enhance customer engagement.

Prompting customers to act – ensuring they know when to review their services

4.7 The Green Paper focuses on “putting consumers in control” and how to “prompt [them] to think about switching”. We fully recognise the importance of ensuring customers know when their existing deal is coming to an end and are aware of the options open to them. For EE post-pay mobile, we proactively communicate to our customers regularly and extensively on their end-of-contract options, from 90 days before contract-end and beyond, clearly outlining all the options open to them. The vast majority of customers are very engaged and take action to move to a different plan. A minority of customers choose to remain on their current terms beyond their minimum contract term; it is important to recognise that this may be through choice because, for example, they are on tariff plans they prefer and which may no longer exist in the market and hence would see no benefit from re-contracting or switching.

4.8 A survey of EE’s post-pay customers found that 98% said that they were aware of when they were eligible to upgrade or switch (Figure 5). Furthermore, 91% sought information about EE’s plans and services before deciding to upgrade. Customers sought information from a wide range of sources including EE’s website, stores and call centres as well as price comparison websites. Before deciding, over 50% of customers started thinking about the mobile options available to them at least a week in advance of making their decision to upgrade. This evidence clearly suggests that EE’s post-pay mobile customers, which make up more than 30% of UK handset post-pay mobile subscribers are fully aware of when they can upgrade or switch and even when they decide not to switch they do shop around for information from a wide range of sources.

Figure 5: EE post-pay mobile customer awareness of contract stage³¹



4.9 We are proactive in making customers aware of discounted prices, new deals and offers – so that even those not actively seeking information do know of the opportunities. On customer prompts more broadly, we use many other reminders and tools across BT, EE and Plusnet (see Table 2).

³¹ EE survey data

Table 2: Recent tools and campaigns to encourage customers to review their deal, upgrade or recontract

Customers targeted	Reason to contact	Prompt
BT fixed broadband customers without BT TV	Offers subscription to BT TV with exclusive existing customer discounts	E-mail
Plusnet landline and fixed broadband and mobile - customers at end of contract	Contacting customers at end of contract, when they are eligible for an upgrade or new product e.g. become fibre enabled	E-mail SMS Outbound call Direct mail
Plusnet landline, fixed broadband and mobile – in contract	Contacting, when they are eligible for new offers e.g. new mobile offers, BT Sport app launch, Plusnet Mobile mates’ rates, BT Call Protect	Email SMS Outbound call Direct mail
EE mobile – customers that have BT Sport on mobile	Reminder when customers have 16-30 days left until their free BT Sport offer ends.	SMS
EE mobile – customers that regularly purchase more data	Suggest upgrade monthly data allowance	Outbound call
EE mobile – handset customers in contract who roamed Apr-Mar 2017 (pre-EU roaming regulations)	Prior to EU roaming regulations – offered customers roaming data and calling packs	SMS

4.10 Regarding fixed broadband services, whilst we regularly communicate with customers, we recognise that we, and the wider industry, can do more to improve our customer prompts and information. We are engaging constructively with Ofcom and other CPs to develop the most effective way forwards in the coming weeks.

4.11 The use of API in telecoms to undertake third party automation of end-of-contract switching, as highlighted in the Green Paper, also needs to be explored carefully. Whilst it may lead to an easier process for the consumer, it may not necessarily deliver them the best deal. As discussed above, the non-price differences across telecoms services are significantly greater than in other sectors, such as energy or insurance. There are significant extra benefits offered with plans that customers value and on which they base their purchase decision – cost is not the only driver. For example, EE Max Plan customers benefit from faster data speeds, extended international roaming, BT Sport access and insurance.

Putting customers in control – helping them understand their usage, assess the options available and make the right choice

4.12 Customers have a wide range of channels and tools to access information on their usage patterns, monitor and manage their expenditure, resolve problems or queries when they arise and assess the value of purchasing new services:

- **Digital self-serving has become the most popular means of ordering, consuming and managing services.** The MyEE and MyBT apps and online portals are now used by 10m and 1m customers respectively, putting them in control of their usage, spend and any additional services they have bought. These tools provide customers accurate and instant data on their usage patterns, minimum term and any additional services taken.
- **But we do ensure that customers are able to speak to a real person either over the phone or face-to-face, a vitally important driver of customer satisfaction.** And we recognise that, for some

customers, purchasing decisions are becoming increasingly complex and many customers want the option of coming into store to see the latest products and receive expert advice. It is with these consumer needs in mind that we are enhancing our presence on and commitment to the high street, bringing BT products and advice into the 620 EE stores across the country.

- **We recognise the importance of providing consumers with easily comparable information at point of sale.** We agree that an important part of enabling customers to make the right choice for them is ensuring that providers are clear and transparent about the products they offer. One of the ways BT does this is through easy to understand terms and conditions. We have been awarded the Plain English Crystal Mark award for our suite of terms and conditions for Home Phone and Broadband, TV, Sport and Mobile. We provide FAQs and have also developed a short video clip that users can watch to understand the key parts of their terms and conditions. We already use 'key facts' summaries to make the detail of terms simple. Furthermore, in our effort to improve transparency, before a customer takes out a new contract we make it very clear upfront what the price will be once they are out of their contract period. We continue to explore further ways of enhancing the clarity, communication and understanding of our terms and conditions.
- **We aim to minimise instances of 'bill shock'**, particularly regarding mobile data usage where finite allowances are most prevalent, by contacting all our customers before they reach their limit. For example, EE customers will receive an SMS alerting them when they have used 80% of their allowance and they will only be able to go beyond this limit by proactively purchasing a data add-on. More widely, the prevalence of unlimited voice minutes and SMS on mobile plans and roam-like-at-home, together with unlimited data usage on fixed broadband plans, means the incidence of 'bill shock' has declined significantly.
- **We have put in place clear and effective controls to mitigate the risk of customers falling into 'subscription traps' or inadvertently signing up to unwanted digital charge-to-mobile services.** As the Green Paper notes, many consumers value subscription services and free trial periods offer excellent opportunities to test a service before making a financial commitment. We do, however, recognise the frustration and impact of inadvertently paying for unwanted services. We have put in place clear safeguards for our customers, both for those subscription services that we directly market (such as Apple Music or BT Sport, where EE customers receive a text 14 days before the free trial ends with an easy process for unsubscribing) and 'charge-to-mobile' services whereby the customer pays via their mobile bill (see Box 1).

Box 1: Leading the industry on charge-to-mobile services

We have taken proactive steps to go above and beyond the Phone-Paid Services Authority's (PSA's) minimum requirements to make paying for services on their bill even clearer for our customers.

In February 2018, we became the first UK operator to make it mandatory for all our third party content providers to require either an account set-up (with username and password) or four-digit PIN from customers when they sign up to any third party subscription service – and we remain the only operator with this extra level of protection. All EE customers can also choose to have a bar placed on their account which would prevent any future third party billing.

To promote transparency and reduce accidental sign-ups, EE works in conjunction with other operators to improve standards beyond the minimum levels outlined by industry regulators. The Payforit initiative adds additional consumer protection and mutually agreed upon codes of practice, which all major operators abide by. Any content and pricing is decided independently by the third parties themselves, and EE employs independent auditors to ensure that our registered partners and merchants are compliant with our own service standards, as well as those of the PSA.

- **We enable customers to flex and personalise many of the services they receive.** For example, EE is launching the UK's first mobile plans that allow families to gift their data to anyone on their

account. The My EE app also allows parents and carers to monitor and control how much their children are online and what they are accessing with easy-to-use content filters.

- **We are ‘clear on coverage’ with our mobile customers.** EE has led the mobile industry in only describing our network’s reach using geographic coverage metrics, rather than the traditional and misleading population coverage measures. We publish regular coverage updates and we are committed to going further. We will increasingly use the ‘Time on 4G’ metric, based on actual network data, to provide an even richer understanding of the connectivity experience customers can expect.
- **We are transparent regarding our customer service performance.** For both BT³² and EE³³, we have dedicated webpages providing up-to-date information on issues such as time taken to answer calls and speed of complaint resolution. Ofcom also publishes extensive data on providers’ quality of service and complaints levels.

Ensuring a clear and effective process to exercise customer choice – whether purchasing, switching or retaining services

4.13 The market mechanisms that exist to enable communications consumers to exercise choice are effective. Once a customer has decided to switch or to change their plan, it is in the interests of the new (and, to some extent, old) provider to make this process as quick and easy as possible. Ofcom has already undertaken major reforms to the switching process for services provided across Openreach’s network, enabling customers to switch by contacting their new prospective provider. Ofcom is also taking forward reforms to the switching process for mobile and triple play services, with the intended aim of making switching easier.

4.14 The results of Ofcom’s latest 2017 Switching Tracker survey suggest that there are few barriers to consumers exercising their choice. For example, just 7% of standalone mobile phone users felt that the process had been difficult (with only 10% of those customers Ofcom categorises as ‘inactive’ as experiencing difficulties). For broadband customers, only 16% felt the switching process had been difficult (with 17% of ‘inactive’ customers reporting difficulties). Just 3% of mobile customers and 4% of broadband customers who had not switched in the past year said that it was because the process would be too time-consuming.

4.15 The Green Paper argues that “we must guard against the risks that, for instance, bundled services across markets make it more difficult for meaningful comparisons and reduce the willingness of consumers to switch”. In terms of specific barriers to switching, Ofcom has previously suggested, for example, that a lack of alignment between contract dates of different services may make it more difficult for consumers to leave their current service. But Ofcom survey data³⁴ indicates that only a small minority (8%) of consumers taking a bundle have different contractual periods for the services in their package and a smaller proportion (5%) report that all the services in the bundle have different contract lengths. This is consistent with our own customer data – of those customers who have more than one contract with us, fewer than 5% have contract end dates that are not aligned, which we expect to reduce further as we review and revise our practices.

4.16 Furthermore, in Ofcom’s Switching Tracker not a single customer listed the fear of splitting up their bundles (as defined in the survey) as a reason not to switch their broadband provider and only 2% said it was the reason they chose not to switch their landline provider. We would also highlight Ofcom data to indicate that customers taking bundled services are more engaged than those taking standalone services. Finally, in relation to bundles, the extent to which consumer laws and regulation applies equally to all elements of a bundle should be explored so that consumers have confidence that their consumers rights are protected, whatever combination of products they choose. This may be undertaken most effectively once the UK’s position on the European Electronic Communications Code is developed.

³² <https://www.bt.com/help/home/customer-service-performance/>

³³ <https://ee.co.uk/our-company/about-us/customer-service-results-2018>

³⁴ Ofcom (2018), [Switching Tracker 2017](#)

4.17 Price comparison websites are also seen as increasingly important consumer tools, with the Green Paper citing research to suggest that 85% have used one. The services offered are becoming increasingly sophisticated, such as allowing customers to select their preferred plan, then directing them straight to the checkout page of the chosen provider's website, making the purchase quick and hassle-free. Whilst they play a valuable role for many consumers, and one that is only likely to become more important as they make greater use of customers' personal data, it will be vital that in communications at least, care needs to be taken that data is not used to commoditise markets and neutralise differentiation. Inherently, price comparison websites have to 'over-simplify' to allow for comparisons but this may be damaging to innovation and the consumer – particularly given the non-price differences across providers, such as the geographic extent of mobile coverage or service reliability. We are keen to work with Government, Ofcom and providers to address these concerns and ensure customers have access to the most effective comparison information.

4.18 In addition to the market mechanisms that exist, we are also focused on ensuring that customers can easily tailor and change their service package with us – adding services when they need them, or removing them if they no longer see value in them. BT makes it easy for customers to remove services from their plan. For example, EE customers that take BT Sport on their mobile handset can opt out of this service by simply texting '150' (customers can also remove other 'add-ons' via the EE app).

4.19 Whilst handset locking remains a key fraud prevention measure, we have taken significant steps to reduce the time and cost for customers wishing to unlock their mobile handset to facilitate switching. EE's pre-pay customers and out of contract post-pay customers can unlock their handset online or instore (same day) free of charge. We understand that other MNOs make it similarly easy for customers to unlock their handsets.

5. A pro-competition regulatory agenda is the right approach – any intervention in the market should be very carefully considered to avoid unintended consequences

5.1 The fact that communications markets are generally competitive and dynamic does not of course mean that the regulator and Government do not have legitimate roles to play in ensuring consumers are protected. However, it does not follow that the ever-growing and ever-changing role in consumers' lives played by digital communications needs to be matched by an ever-growing raft of policy and regulatory interventions. On the contrary, we believe that the proof of a world-class consumer protection regime is one that is sufficiently effective, efficient, clear, stable, principles-based, light-touch and practical to stand the test of time and deliver benefits to consumers, encouraging investment, innovation and differentiation, without the need for constant modification and expansion. The Green Paper's focus on ensuring effective competition and Ofcom's Regulatory Principles, equally valid and valuable now as they were when first introduced, stand up to these rigorous criteria. We would therefore encourage a laser-focus on this approach, with an objective of reducing rather than increasing the regulatory burden on firms.

5.2 This is particularly important in telecoms as operators' ongoing and significant network investment (in order to deliver the shared ambitions of a full fibre and 5G future for the UK) is enabled through a consistent and fair regulatory environment, relying on competition to deliver good consumer outcomes. There are risks that poorly targeted, unsophisticated pro-consumer interventions can create uncertainty and weaken investment cases for operators, particularly if the impact on the market is not properly assessed in advance, and may also have unintended detrimental consequences for consumers given the interplay of markets.³⁵

5.3 Communications markets currently exhibit a high level of customer engagement reflecting the gains from engaging, the variety of triggers which prompt engagement and the existing tools for understanding usage and making accurate comparisons. These, together with improvements to switching processes, have lowered barriers to search and switching.

³⁵ For example, we are concerned that a possible requirement to automatically discount mobile handset plan prices down to an 'equivalent' SIM-only level at the end of the minimum contract period may have negative consequences for the increasingly popular and competitive SIM-only market and more generally dampen competition for out-of-contract customers.

- 5.4 We note that the Green Paper advocates an approach by Government and regulators to “safeguard consumers who, for whatever reason, remain loyal to their existing supplier so that they are not materially disadvantaged. Exploitation of these customers by charging them significantly higher prices and providing poorer service is a sign that the market is not working well and should be tackled vigorously”. We believe that it is hugely important to be able to distinguish supplier conduct designed to exploit customer inertia (or other biases) from straightforward competition for market share. Indeed, we consider that competitive pressures drive firms to help their customers engage and make better choices, and to devise channels for interaction which offer a better customer experience or are cheaper to use.
- 5.5 Any decision to intervene must be made very carefully to avoid adverse consequences. Intrusive interventions such as price controls and forced migrations which directly control market outcomes and/or over-ride customer choices are very unlikely to be welfare-enhancing. Targeted action may be warranted for those truly vulnerable, but we are concerned that broader measures which effectively remove the need for customers to engage with the market should only be considered based on evidence of substantial and enduring consumer detriment with no prospect of a market solution.
- 5.6 We would therefore urge the Government (and Ofcom) to be mindful of the following issues when assessing communications markets and the extent to which consumers are getting a good deal:
- **Product and price complexity is to be expected (and is pro-competitive) in markets with differentiated demand.** The enhancement of engagement should not prevent or dis-incentivise competition (whether focused on price or non-price factors). We have consistently argued, for example, that the regulation of compensation schemes should not stifle competition between operators on service dimensions (in particular compensation arrangements) above a minimum level of consumer protection.
 - **The prevalence of introductory offers and discounting is also pro-competitive.** The Green Paper implies that, in the broadband market, the widening gap between list and promotional prices increases the costs of not engaging with the market. Looked at the other way, our view is that strong competition based on highly attractive acquisition prices increases the benefit to consumers of engaging. With bigger gains, engagement becomes more likely because the gains are more likely to outweigh the costs associated with a change of contract. This is also recognised by Ofcom, which notes that “perceptions of low potential gains from switching or costs of the switching process may deter consumers from beginning the process of engaging in these market”.³⁶ Furthermore, customers may pay higher prices for reasons that are not immediately apparent, but which exist, and have nothing to do with inertia, inactivity or weak customer response – for example, those who purchase landline and broadband separately because they value having two service providers over the benefits from bundling, or customers who value the certainty of a fixed price “all you can eat” package even though their usage level might make a cheaper “pay as you go” package more economically rational. In other words, the Government should not assume that customers are necessarily disengaged or indeed having their loyalty exploited when all the dimensions of value (reflecting individual customer circumstances) may explain their choices. Even where no such reasons exist, customers are not disengaged if they regard the gains from engagement as insufficient to make it worthwhile (notwithstanding the efforts of operators and improvements to regulation in reducing search and switching costs).
 - **We seek to enhance customer engagement because customers are more satisfied and loyal if they choose the services which best suit their needs – this provides an opportunity to deepen customer relationships and reduce churn (consistent with normal competitive dynamics).** The loyalty shown by satisfied customers should not, therefore, be confused with disengagement – customers who are happy with their service and their supplier may not be very active in regularly ‘shopping around’. Nor should metrics like tenure be misinterpreted given that long-standing customers may nonetheless be engaged (e.g. by switching tariffs to get the best value based on usage needs).

³⁶ Ofcom (2017), [The review of the market for standalone landline telephone services – provisional conclusions](#), paragraph 7.6.1.

- **A dynamic view is required.** If pockets of concern are identified, policy-makers and regulators must assess whether they are likely to be enduring. Segments which are more highly engaged (namely consumers taking dual and triple play services) account for an increasingly larger proportion of the overall market (currently around 80% according to Ofcom³⁷), and segments which Ofcom identifies as relatively less engaged (e.g. standalone fixed voice customers) are declining (at a rate of 15-20% per year).³⁸
- **There are vulnerable consumers (e.g. consumers in financial distress or with disabilities) that may inherently find it difficult to engage in the absence of assistance.** A tailored approach for these consumers is therefore required to help ensure they receive the services that meet their needs.

5.7 Whilst Ofcom agrees that “there’s no doubting the strength of competition in the UK, we have the most competitive markets in the EU”³⁹ and that “most communications customers benefit from choice and value”,⁴⁰ it is already very active in ensuring the benefit extends to all consumers. For example:

- Ofcom accredits comparison sites that provide accessible, accurate and up-to-date information to consumers.
- It publishes data and maps on broadband and mobile coverage availability.
- It publishes extensive information on providers’ quality of service and complaints levels.
- It has an ongoing programme of work exploring why some customers have difficulties in engaging in telecoms markets, with an initial focus on end-of-contract notifications.

5.8 Ofcom clearly has the necessary tool-kit to fulfil its objectives and those of the Government, as outlined in the Green Paper. We aim to work constructively with Ofcom to address potential areas of concern to develop more effective and appropriate responses, which in some cases may be more effective through voluntary codes of practice rather than regulation. For example, an automatic compensation scheme was voluntarily proposed by BT, Sky and Virgin Media for residential customers who suffer quality failures with their landline or broadband services – constructive dialogue with Ofcom avoided unnecessary regulation.

6. There are no barriers to engaging for the vast majority of customers – but truly vulnerable customers should be properly looked after and we invest heavily, leading the sector

6.1 Given the level of competition, the extent of consumer outcomes and the market- and firm-specific tools which consumers can access, we do not believe there are any barriers to engaging with the market for the vast majority of customers. Where we can improve our practices and tools to enhance consumer engagement further, we do, and this response has outlined a number of ways in which we have taken or are taking action.

6.2 However, we fully recognise that there are customers who may not be in a position to exercise choice effectively as a result of being vulnerable (for one or a variety of permanent or temporary reasons). BT has a long history of ensuring inclusion through our product offerings, through our service channels and through practices to identify and support vulnerability. Table 3 provides an overview of the range of activity we currently offer and approaches we take.

³⁷ Ofcom (2017), [Communications Market Report](#)

³⁸ Ofcom (2017), [The Review of the Market for Standalone Landline Telephone Services – Provisional Conclusions](#)

³⁹ Ofcom (2015), [Effective competition is key to progress with telecoms](#)

⁴⁰ Ofcom (2018), [Pricing Trends for Communications Services in the UK](#)

Table 3: Selected BT initiatives to support vulnerable customers

Products	BT Basic	<ul style="list-style-type: none"> • Provides low line rental, an inclusive call allowance and a ‘price cap’ of £10pcm. • Available for customers receiving at least one of the following: Income Support, Income-based Jobseeker’s Allowance, Pensions Credit (Guaranteed Credit), Employment Support Allowance (Income related), Universal Credit and are on zero earnings.
	Call Protect	<ul style="list-style-type: none"> • A free service for landline customers which diverts up to 30m unwanted calls a week to junk voicemail.
	Choose to Refuse	<ul style="list-style-type: none"> • Bars the phone number of the last answered call when it has ended. Customers can also bar, at any time, a known phone number.
	Anonymous Call Rejection	<ul style="list-style-type: none"> • Callers who have been blocked will hear a voice announcement informing them that the customer is not accepting anonymous calls and will then cut off. There are no charges for the blocked call.
	Free Priority Fault Repair	<ul style="list-style-type: none"> • Available for those who have service with Consumer and have are Registered Chronically Sick & Disabled. • Managed by the local Council who may also fund some of the customers installation and telephone service costs • All faults automatically get priority repair level with Openreach.
Customer service channels and policies	Multi-channel approach	<ul style="list-style-type: none"> • Customers can use a range of contact methods, including email and Instant Messenger – useful if they find it difficult to speak or have an impairment/illness, needing time to reflect on a discussion. • The ‘Including You’ pages of BT’s website are Browse Aloud-enabled, a program that reads web pages aloud. • Sign language service via webcam (the first FTSE 100 to do so). • Alternative bill formats – braille, large print, audio.
	Customer identifications and specialist advisers	<ul style="list-style-type: none"> • Customers already set up with a vulnerability marker are routed straight to the Vulnerability Centre when calling. • Call routing will pick up preset vulnerability flags and a wide range of vulnerability indicators and route calls to the Vulnerability Centre. • Services are developed with insights from customers and carers.
	Bereavement	<ul style="list-style-type: none"> • Services can be ceased without being held to term. If required, the service can be left open for a maximum of 30 days. • If an immediate family member wishes to take over the account, they can do so without charge or setting a new contract term.
	Terminally ill	<ul style="list-style-type: none"> • Assistance in managing bills and opportunity to cancel services without being held to term. • Specific process guidance provided for advisors.
	Power of Attorney	<ul style="list-style-type: none"> • Best practice guidance for acting on behalf of a person with dementia. Can be downloaded from our website www.bt.com/poa
Partnering with third parties	<ul style="list-style-type: none"> • Alzheimer’s Society – training specialist team advisors in becoming ‘dementia friends’. • Money Advice Trust – working to improve support mechanisms for vulnerable users. • MIND – providing tailored Mental Health awareness training. • Scam prevention – bt.com/scams tells customers about the latest scams, how to protect themselves and what to do if they are a victim. We work with the Police and other Government bodies to detect, prevent and stay at the forefront of scam trends. 	

- 6.3 We want to maintain our leadership in the sector and plan to go further across our consumer brands.
- 6.4 The plans set out in the Green Paper to establish a new Consumer Forum and for it to have a particular focus on vulnerable customers are welcome in principle and may support the raising of standards across the sector. Activity should be focused on those unable to engage effectively in communications markets and the Forum should be conscious of avoiding unintended consequences for the wider market that may arise from any proposed initiative.
- 6.5 It will be vital that the Forum concentrates on adding value to the wide range of activity already being undertaken in this space by companies, sectoral regulators and consumer groups, and avoid duplication and confusion. One area where it could potentially add value, and where we would be keen to explore further, is supporting identification of vulnerable customers across sectors and companies. This would of course require careful consideration, not least to ensure the appropriate use of customer data across organisations, but may deliver benefits for vulnerable customers in alerting companies from the outset that they may require additional support to engage and realise good outcomes.

7. The consumer voice is strong – ADR works effectively, social media has given customers a powerful further channel and consumer groups are very active

- 7.1 We work hard to get things right first time for our customers. We are making good progress across all our consumer brands in improving customer experience and resolving issues before customers feel they need to seek external support. We have built on earlier progress and have delivered seven quarters of continuous growth in customer perception to year end 17/18. We saw an 8.3 point improvement on last year's result and our Right First Time performance has improved by 4.3%. We have also seen a reduction in complaints made to Ofcom over the last year – EE saw complaints fall to their lowest level while complaints about BT Consumer broadband have fallen by 18%.
- 7.2 It is also worth emphasising that customers now have a level of access and interaction with their providers via social media that they not enjoyed in the past. Social media channels offer customers the ability to directly, and often publicly, highlight issues or concerns – and they often enable customers to find out whether others may have similar questions. It is a customer service channel that BT takes very seriously, seeing a growing proportion of queries being raised through Twitter and Facebook in particular. BT Consumer CEO Marc Allera also has a social presence which enables him, as the business's most senior representative, to engage with customers and be the corporate voice to customers (in a forum in which they feel comfortable).
- 7.3 In addition, we have also begun interacting with customers that present their issues on forums such as MoneySavingExpert.com and app stores (specifically regarding the MyEE App) as part of a commitment to help customers in whichever forum in which they feel most comfortable.

ADR in communications is generally effective but there is room for improvement

- 7.4 Where we are unable to resolve complaints with customers, we agree that ADR can be effective. BT and EE are members of Ombudsman Services (OS) and Plusnet is a member of the Communications and Internet Services Adjudication Scheme (CISAS).
- 7.5 We work closely with our ADR providers to ensure that the schemes are administered correctly and that they provide an effective alternative to court proceedings – and we aim to act upon feedback received regarding specific customer cases and/or where our processes and approach can be improved.
- 7.6 BT and EE have established a collaborative working relationship with OS to ensure that consumers who use the ADR scheme have a good experience. Plusnet has also established similar with CISAS and holds quarterly reviews. Plusnet and CISAS perform case collaboration, reviewing cases and understanding why decisions were made. This allows Plusnet to improve its customer experience and gain a greater understanding of what drives customer complaints.

- 7.7 We consider that consumers' access to the current ADR providers is generally good. We note that Ofcom's recent review of ADR schemes⁴¹ found that both schemes "meet the requirements around accessibility", "have structures and processes in place to provide a suitable environment for adjudicators and investigation staff to manage cases independently from interference from member CPs", meet the requirements of the 'fairness', 'efficiency' and 'effectiveness' criteria, and that "the current KPIs and reporting mechanisms in place allow Ofcom to adequately hold both Schemes to account".
- 7.8 We do believe, however, that there is some room for improvement. Access to the ADR scheme rules should be made better to ensure that consumers have a greater understanding of the types of matters covered by the ADR provider and the scheme rules which apply. This may improve consumers' understanding of the remit of the ADR providers and would be particularly helpful to consumers with disabilities and those in vulnerable circumstances.
- 7.9 OS and CISAS have different approaches to dispute resolution – we believe that such differences add value to the respective schemes and should not be discouraged. However, there should be parity in the way that customers and communications providers are treated. This will offer consumers equal protection and ensure that the ADR providers remain incentivised to constantly review and improve standards.

The Communications Consumer Panel (CCP) is a well-established, statutory body – but there may be scope for industry and Citizens Advice to work more closely to target specific needs of vulnerable customers

- 7.10 The CCP is an independent body set up under the Communications Act 2003. Its remit is to ensure the citizen and consumer voice is represented in communications policy development, paying attention to the needs of people whose circumstances make them permanently or temporarily more vulnerable.
- 7.11 The panel sees itself as a "critical friend" to Ofcom⁴², rather than a campaigning organisation. It considers that its unique relationship with Ofcom, made possible by a Memorandum of Understanding, gives early, confidential access to the regulator's thinking and means it can proactively influence decisions. The Panel publishes a work plan each year⁴³ and CPs fund its work. In addition to the CCP, organisations such as Citizens Advice and Which? are very active in telecoms and influential consumer advocates.
- 7.12 We would therefore urge caution in reforming the current consumer advocacy arrangements from a statutory perspective without a considered review. Whilst Citizens Advice, for example, do have statutory powers in energy and post, these sectors differ significantly from communications. This, together with Ofcom's extensive activity in addressing areas of concern for consumers, makes us question the value of putting, for example, Citizens Advice on a statutory footing. The Government must also consider carefully increasing further the regulatory burden on the sector.
- 7.13 However, we do believe that there may be scope to enhance the role of Citizens Advice in the sector and deepen its engagement with CPs. We already engage closely with Citizens Advice and view them as a valuable channel to support us in addressing the needs of vulnerable customers.⁴⁴ We would be keen to explore a voluntary approach to put this on a more formal footing, which may include enabling CPs to make better use of data and insights from their advisers to ensure a deeper understanding of the issues faced by Citizens Advice clients and more effective action to be taken. This approach would reduce red tape, minimise the financial cost on the sector and engender a more constructive relationship – which would ultimately be better for consumers. This solution would be able to be acted on much faster than a change to legislation and we would be very pleased to develop this thinking in conjunction with the Government, Citizens Advice, Ofcom and other CPs.

⁴¹ Ofcom (2017), [Review of Ofcom's approval of Alternative Dispute Resolution Scheme](#)

⁴² <https://www.communicationsconsumerpanel.org.uk/about-us-introduction/about-us>

⁴³ Communications Consumer Panel (2018), [Our Draft Work Plan](#)

⁴⁴ For example, last year we agreed to provide dedicated customer service lines for Citizens Advice staff representing their clients with debt and missed payments problems.

8. The increasing use of consumer data could deliver significant customer benefits – but we are alive to emerging risks and want to work closely with the Government to build consumer trust

8.1 BT believes in the positive value that can be created for consumers through the use of their data. In BT's case, by data we mean information such as:

- customer segments (demographic information).
- their relationship with our business (product and customer service history).
- their activity (call history, online activity, mobile location).
- their connectivity (e.g. line speed or 4G coverage).

8.2 Intelligent use of this data across our different brands will help BT itself to design better products and services that are better tailored to individuals and the way they live their lives.

8.3 We also believe there may be potential to do more in future to help customers to understand how to access and control their own data, in a way that, for example, could help them to make their own decisions about what the best deal is for them. To that end, we are keen to work with Government to examine the options for data portability in more depth as part of its forthcoming Smart Data review.

8.4 Finally, but only where people give their permission, we may continue to look for ways in which we can share data with other companies (outside the BT Group) on a commercial basis – in a way that helps us and them to innovate and create new and better products. As we consider options in this area, we will also look for ways to provide a 'fair value exchange' for consumers – the principle being that some benefits should be created for consumers, either directly or indirectly, from the use of this information.

8.5 We will be very careful in how we go about pursuing those commercial opportunities. Trust in our brand is fundamental to our success as a company. We want to ensure that the nature of our customer relationship, and the lawful basis on which we are using information or sharing it with another company, is clearly understood by our customers, in order to avoid any risk of damaging that trust.

8.6 As we develop our approach, we will of course abide by the legal requirements set down by GDPR. But there are some broader considerations that will be part of our decision-making. We set out here our current view of what we think will be important under three headings – although it is important to note this remains work in progress, rather than a formal or final policy:

- **Transparency.** If we are using a customer's information, the basis on which we are doing so will be set out at the point when we commence their service. We will use clear simple language to inform customers about what we will do, whether they have any options, and exactly what this will mean for them on a day-to-day basis. We will make sure we keep them informed of any significant changes to our approach.
- **Customer control.** We want to make sure that customers make an informed choice, when they sign up for a service, about the consents they are giving for use of their personal data. There may also be some situations where we also think it is necessary or proportionate to seek further consent in future. If, at any stage, a customer wants to have their own access to the data we hold about them, we will make that available in an easy-to-use form. We will pay particular attention to the needs of vulnerable customers, who may need additional support or advice.
- **Protecting personal information.** If we share data with a partner or third party company, our default approach will be to do so on an anonymised basis. However, there will be some situations where we need to share personal information, in order for a service to work properly (for example, an anti-fraud service for a bank may require sharing of a unique identifier). In such cases we will take all reasonable measures to protect the identity of our customers.

9. We believe that the current regulatory and competition regime remains fit-for-purpose

9.1 BT agrees that it is important that regulators' powers are kept under review. We do not, however, believe that now is the right time for a further overhaul of competition law regime.

- 9.2 First, in relation the changes to the competition regime implemented via the Enterprise and Regulatory Reform Act 2013 (“ERRA”), we consider that it is too early to ascertain whether further measures are required. Not all changes have had sufficient time to bed in and generally there is not a sufficiently large body of practical examples to judge the efficacy of the changes. Furthermore, where there is a sufficient body of practical examples, experience suggests that the reforms are working well. For example, there has been a significant swell in private action enforcement of competition law (both follow-on damages actions and standalone actions). More generally, the CMA also appears to be taking on more cases, including complex and ground-breaking cases.
- 9.3 Second, the regulatory and competition law framework continues to support high levels of competition in the UK telecommunications markets, to the benefit of consumers. Indeed, competition law and telecommunications regulation in the UK is highly respected and other jurisdictions seek to replicate EU law on which the UK regime is based. The competition regime is based on a rich set of UK and EU legal precedent developed over a long period of time.⁴⁵ That case law demonstrates how the competition law framework adapts to be applied to technological developments, including for example operating systems, internet platforms and algorithm-based pricing.
- 9.4 Third, competition authorities across the world are already developing competition law theories on harm in relation to the use of data. We firmly believe that the existing competition regime is fit-for-purpose and will be applicable to current and future technological developments. We also believe that the regime provides the CMA and sectoral regulators with the tools they currently need to tackle anti-competitive behaviour and promote competition.
- 9.5 Fourth, there is already significant uncertainty due to Brexit, including the impact it might have on regulatory regimes and investment decisions. We think that further changes at this time risk compounding that uncertainty. This is particularly important in relation to fast-moving, investment-heavy industries such as telecommunications. Related to this, it can also be expected that Brexit will lead to changes to the UK merger control regime where the CMA’s merger caseload is expected to increase by up to fifty percent.⁴⁶ The Government should consider whether, in light of disruption these changes will cause, further changes are appropriate.
- 9.6 Finally, to the extent that there are concerns about, for example, the protection of vulnerable consumers, it is important first to ascertain the extent to which those concerns are competition concerns or consumer rights concerns. The former should be dealt with by competition law and the latter by consumer law. We consider shoe-horning consumer policy concerns into a competition law framework is inappropriate and could lead to unintended negative consequences, including perverse dampening of competition. We also consider it inappropriate to amend the stable, well-respected competition law framework to protect specific consumers. This would risk diluting the efficacy, stability and predictability of the competition law framework generally.
- 9.7 Rather, we would highlight that the CMA and sectoral regulators do have significant consumer protection tools and would urge regulators to use those tools or work closely with industry to resolve consumer rights concerns. In this regard, it is not clear to us whether there is any need to extend the current consumer rights toolkit, in particular in advance of a proper review of the current toolkit and the extent to which regulators are effectively using those tools.
- 9.8 We also seek clarity from the Government regarding its approach to introducing legislation to give civil courts the power to impose financial penalties – up to ten percent of a firm’s worldwide turnover – for consumer law breaches. Ofcom already has the power, through the Communications Act 2003, to impose financial penalties, at the same level as proposed here, should firms breach conditions. Firms should not face the prospect of being fined twice for the same offence and we would urge that the Government ensures a joined-up, non-duplicative approach.

⁴⁵ The full merits review of Chapter 1 and Chapter 2 infringements of the Competition Act 1998 is fundamental to the success of the competition law framework – it promotes good decision making by competition authorities and ensures that the rights of relevant parties are appropriately protected, especially given the quasi-criminal nature of the infringements.

⁴⁶ [Oral evidence given by the CMA’s Chief Executive Andrea Coscelli](#) to the Lords Internal Market Select Committee, Brexit: Competition inquiry (2017)