

Consultation response form

Please complete this form in full and return via email to improving.engagement@ofcom.org.uk or by post to:

Sukh Walia-Chahil
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Consultation title	Call for inputs: Helping consumers to engage in communications markets
Full name	[X]
Contact phone number	[X]
Representing (delete as appropriate)	Organisation - please provide the organisation's name below
Organisation name	Advertising Standards Authority
Email address	[X]
We will keep your contact number and email address confidential. Are there any additional details you want to keep confidential? (delete as appropriate)	Your name
For confidential responses, can Ofcom publish a reference to the contents of your response?	Yes/No

Your response

This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the ‘ASA system.’

The ASA is the UK's independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for over 50 years and the broadcast Advertising Code (written and maintained by BCAP) for over ten, with our remit further extended in 2011 to include companies' advertising claims on their own websites and in social media spaces under their control. We are pleased to work closely with Ofcom through our co-regulatory partnership to regulate broadcast advertising, which has seen Ofcom delegate the regulation of broadcast advertising to the ASA system since 2004.

We are responsible for ensuring that all advertising is legal, decent, honest and truthful and our work includes undertaking proactive projects and acting on complaints to take action against misleading,

harmful or offensive advertisements. We are committed to evidence-based regulation and we continually review new evidence to ensure the rules remain fit-for-purpose.

In addition to investigating ads, we also provide a wealth of training and advice services for advertisers, agencies and media (most of which are free) to help them understand their responsibilities under the Codes and to ensure that fewer problem ads appear in the first place. CAP and BCAP provided over 281,000 pieces of such advice in 2016.

We welcome the opportunity to respond to Ofcom's Call for Inputs on helping consumers to engage in communications markets.

Question 1: Do you agree that we should include SMEs in the scope of our work?	Confidential? – Y/N
Question 2: What are your views on whether consumers not knowing when to engage is a barrier to their engagement? What impact do you think this has on them and to competition in the various communications markets? Please provide evidence supporting your views, including any research you have conducted or have access to.	Confidential? – Y/N
Question 3: What are your views on the suggested possible solutions to help address consumers not knowing when to engage? What could be their positive or negative effects? What other possible solutions might there be?	Confidential? – Y/N
Question 4: What are your views on whether consumers not understanding their own needs, or having difficulties navigating available information, is a barrier to their engagement? What impact do you think this has on them and on competition in the various communications markets? Please provide evidence supporting your views, including any research you have conducted or have access to.	Confidential? – Y/N

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

Confidential? – N

Our brief response to this Call for Inputs addresses only the elements of the proposals and considerations that relate to our role as the advertising regulator. More broadly, however, given our role as a consumer protection body, we welcome action taken by Ofcom to improve levels of consumer engagement and ensure that consumers are not being misled or misinformed.

The ASA in particular welcomes Ofcom's focus on ensuring that consumers know when to look for better offers and in particular proposals to ensure consumers are aware of when their contracts are nearing an end. This is particularly important in relation to post-contractual pricing. Many aspects of providers' pre-contractual communication with potential customers constitute advertising and therefore fall within the remit of the ASA. However, most aspects of post-contractual communication, including on pricing and ongoing terms of the contract, would not constitute advertising and fall outside of our remit.

As Ofcom identifies in the Call for Inputs document, the ASA (together with Ofcom) has undertaken work to improve the transparency and clarity of pricing offers for broadband services where they appear in advertising, including on companies' own websites. More broadly, wherever misleading pricing information appears in advertising of communications services then we would take action. We believe that our intervention in the advertising of broadband price claims has resulted in consumers being able to benefit from substantially clearer information in broadband ads, ensuring that they enter into contracts with a far better understanding of the financial commitment that they are making than was previously the case.

However, as stated above, our rules in this area only predominantly apply to pre-contractual marketing material, as much of the subsequent communication between the provider and the customer on subsequent pricing and terms and conditions would not be considered advertising.

	<p>Although information about what might happen at the end of the contract could be included in advertising, we do not consider this would best serve consumers, who are likely to have seen advertising for the product a long time before the end of their contract arrives. The issue is therefore more helpfully dealt with in correspondence during the contract, and this would fall outside the ASA's remit for the reasons set out above.</p>
<p>Question 6: What are your views on whether these (or other) particular contract terms and conditions, or industry practices, are a barrier to consumer engagement? What impact do you think this has on them and on competition in the various communications markets? Please provide evidence supporting your views, including any research you have conducted or have access to.</p>	<p>Confidential? – Y/N</p>
<p>Question 7: What are your views on the suggested possible solutions to help address the impact on consumer engagement of particular contract terms and conditions, or industry practices? What could be their positive or negative effects? What other possible solutions might there be, and what might be their effects?</p>	<p>Confidential? – Y/N</p>
<p>Question 8: Are there other barriers to engagement that you think our work should seek to address? What impact do you think these have on consumers and on competition in the various communications markets? What possible solutions might there be to these barriers, and what might be their effects? Please provide evidence supporting your views, including any research you have conducted or have access to.</p>	<p>Confidential? – Y/N</p>
<p>Question 9: What are your views on the need to trial or test potential solutions? To what extent might you be willing and able to participate in or facilitate field trials or other testing of possible solutions?</p>	<p>Confidential? – Y/N</p>

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