Additional comments:

Question 1: Do you agree with the consumer harm identified from Communications Providers? ability to raise prices in fixed term contracts without the automatic right to terminate without penalty on the part of consumers?:

Yes.

Question 2: Should consumers share the risk of Communications Providers? costs increasing or should Communications Providers bear that risk because they are better placed to assess the risks and take steps to mitigate them?:

Consumers ultimately share in these risks, regardless of whether the current rules continue in force, because if permanent increases in costs arise, these can be passed through upon expiry of existing fixed-term contracts. After all, the average unexpired term of existing customer contracts is probably less than 12 months.

There might be a case for allowing in-contract price increases in truly exceptional circumstances, for example if there were a sudden inflationary shock of large proportions, although it is unclear to what extent such a shock would immediately flow through to mobile phone providers, given that most of their costs will be finance charges on existing infrastructure, or wages.

The behaviour under consideration can hardly be described as a response to an inflationary shock - in recent times inflation has been at relatively subdued levels.

Question 3: Do you agree with the consumer harm identified from Communications Providers? inconsistent application of the ?material detriment? test in GC9.6 and the uncertainties associated with the UTCCRs?:

Yes. "Material detriment" can for example arise if one intends prospectively to use services in a different way from how one has used them in the past. Existing tests focus only on actual historic usage, and even then only on average usage patterns that do not capture the full potential detriment, or opportunity costs.

Besides, it would be much simpler if mobile operators would just "grandfather" existing fixed-term tariffs, and impose any price increases only upon expiry of those fixed terms. In this way, a lot of pointless argument over material detriment could be entirely avoided.

Question 4: Should Communications Providers be allowed (in the first instance) to unilaterally determine what constitutes material detriment or should Ofcom provide guidance?:

No. As above, it would be much simpler if mobile operators would just "grandfather" existing fixed-term tariffs, and impose any price increases only upon expiry of those fixed terms. In this way, a lot of pointless argument over material detriment could be entirely avoided.

The operators have long experience of managing a huge variety of different tariffs - indeed, one of their oligopolistic practices is to confuse the market quite deliberately by offering a huge variety of different bundles and prices. Operators should be forced to apply a fixed price for all standard services for the duration of any fixed-term contract.

Question 5: What are your views on whether guidance would provide an adequate remedy for the consumer harm identified? Do you have a view as to how guidance could remedy the harm?:

Guidance would be wholly inadequate, because there is an imbalance in contractual power between individual consumers and the industry. In any case, as a whole, the industry has chosen to adopt essentially similar practices in this regard, therefore providing no choice to consumers to accept or reject any terms they regard as unfair.

Question 6: Do you agree with the consumer harm identified from the lack of transparency of price variation terms?:

Yes, but lack of transparency is a minor issue compared with the existence of the underlying practice.

Question 7: Do you agree that transparency alone would not provide adequate protection for consumers against the harm caused by price rises in fixed term contracts?:

Yes.

Question 8: Do you agree that any regulatory intervention should protect consumers in respect of any increase in the price for services provided under a contract applicable at the time that contract is entered into by the consumer? :

Yes.

Question 9: Do you agree that any regulatory intervention should apply to price increases in relation to all services or do you think that there are particular services which should be treated differently, for example, increases to the service charge for calls to non-geographical numbers?:

Yes.

Question 10: Do you agree that the harm identified from price rises in fixed term contracts applies to small business customers (as well as residential customers) but not larger businesses?:

Yes.

Question 11: Do you agree that any regulatory intervention that we may take to protect customers from price rises in fixed term contracts should apply to residential and small business customers alike?:

Yes.

Question 12: Do you agree that our definition of small business customers in the context of this consultation and any subsequent regulatory intervention should be consistent with the definition in section 52(6) of the Communications Act and in other parts of the General Conditions?:

Unable to comment.

Question 13: Do you agree that price rises due to the reasons referred to in paragraph 5.29 are outside a Communications Provider?s control or ability to manage and therefore they should not be required to let consumers withdraw from the contract without penalty where price rises are as a result of one of these factors?:

Yes.

Question 14: Except for the reasons referred to in paragraph 5.29, are there any other reasons for price increases that you would consider to be fully outside the control of Communications Providers or their ability to manage and therefore should not trigger the obligation on providers to allow consumers to exit the contract without penalty?:

Yes, e.g. war, act of terror, and so on, but it is unclear whether it is necessary to provide for these eventualities in the contracts under discussion, because the same would or could apply to any industry where there are fixed-term contracts that persist regardless of the state of the World.

Question 15: Do you agree that Communications Providers are best placed to decide how they can communicate contract variations effectively with its consumers?:

No. As an example, the practice under consideration has not been well communicated by the Providers.

Question 16: Do you agree with Ofcom?s approach to liaise with providers informally at this stage, where appropriate, with suggestions for better practice where we identify that notifications could be improved?:

No. Ofcom should specify how Providers should communicate in this area, to ensure the greatest possible transparency, especially regarding any right of early contract termination in the event of price increases in line with RPI.

Question 17: What are your views on Ofcom?s additional suggestions for best practice in relation to the notification of contractual variations as set out above? Do you have any further suggestions for best practice in relation to contract variation notifications to consumers?:

No comment.

Question 18: What are your views on the length of time that consumers should be given to cancel a contract without penalty in order to avoid a price rise? For consistency, should there be a set timescale to apply to all Communications Providers? :

Consumers should be allowed to cancel at any time during the continuation of their fixed-term contractual period. If "fixed" is to mean "fixed", the issue of cancellation should not arise, but if Ofcom wrongly believes that it is unable to prevent the imposition of price rises during fixed-term contractual periods, then as a minimum the right of cancellation should persist throughout the remaining duration of any contract.

Question 19: What are your views on whether there should be guidance which sets out the length of time that Communications Providers should allow consumers to exit the contract without penalty to avoid a price rise?:

Of course there should be - in fact there should be a fixed terms that applies to all Providers. Anything else would be ridiculously confusing and pointless.

Question 20: Do you agree that this option to make no changes to the current regulatory framework is not a suitable option in light of the consumer harm identified in section 4 above?:

Yes.

Question 21: Do you agree with Ofcom?s analysis of option 2? If not, please explain your reasons.:

Not entirely, but since Ofcom is minded to reject Option 2, which I agree with, I will not comment.

Question 22: Do you agree with Ofcom?s analysis of option 3? If not, please explain your reasons.:

Not entirely, but since Ofcom is minded to reject Option 3, which I agree with, I will not comment.

Question 23: What are your views on option 4 to modify the General Condition to require Communications Providers to notify consumers of their ability to withdraw from the contract without penalty for any price increases?:

I broadly agree, although I would actually much prefer it if operators were simply forbidden from increasing prices during minimum-term contractual periods.

Question 24: Do you agree with Ofcom?s assessment that option 4 is the most suitable option to address the consumer harm from price rises in fixed term contracts?:

No. Providers should not be able to increase prices during the minimum term of any contact. However, of the options under consideration by Ofcom, I prefer Option 4 to any others.

Question 25: Do you agree that Ofcom?s proposed modifications of GC9.6 would give the intended effect to option 4?:

No comment.

Question 26: What are your views on the material detriment test in GC9.6 still applying to any non-price variations in the contract?:

No comment.

Question 27: For our preferred option 4, do you agree that a three month implementation period for Communications Providers would be appropriate to comply with any new arrangements?:

Yes.

Question 28: What are your views on any new regulatory requirement only applying to new contracts?:

I think that would be absurd, since one of the main problems with contracts of this kind is the inequality of bargaining power between the parties. Consumers have little ability to influence the terms of these contracts, therefore contracts entered into in the past should be forcibly amended and the same rules should apply to them as to new contracts.