The Consumer Experience
2009
Telecoms, Internet and Digital Broadcasting

Evaluation Report
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Section 1

Executive Summary

1.1 Underlying Ofcom’s work is the aim of improving, where necessary, the experience of consumers in the communications market and specifically the products and services within it. This aim reflects our principal duty, as set out in the Communications Act, to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition.

1.2 To help assess the experience of consumers in communications markets, each year we publish this evaluation of our work. The evaluation report considers the key findings and trends emerging from the accompanying detailed research report and uses these to assess the impact of our work. This enables us to assess whether our work is effective and focused on the right issues, to identify any new issues which need to be addressed and to prioritize our work for the future.

1.3 As in previous years, we are examining four central aspects of consumers’ experience of the communications market: choice and value; availability and take-up; empowerment; and concerns and protection.

1.4 In a separate and complementary document published in parallel, The Business Consumer Experience, we examine the experience of business consumers and set out our work programme in that area.

1.5 This year, we are publishing this evaluation report alongside Ofcom’s draft Annual Plan. In developing the Plan and our proposed priorities for 2010/11, we have examined the evidence to assess where the communications sector is delivering positive outcomes for citizens and consumers, and where new issues have arisen or further progress needs to be made to achieve our statutory duties and objectives. In doing this, the draft Plan draws from the Consumer Experience research findings and work evaluation.

Consumer choice and value

1.6 The consumer experience of communications services has continued to be affected by the increasing convergence between platforms and services and the growing take-up of new digital technologies.

1.7 The explosion in the number of UK communications providers which started in 2005 has continued, driven by the increasing availability of local loop unbundling and wholesale line rental products. Sustained competition between suppliers is increasing consumer awareness, in particular of bundled services.

1.8 The overall level of satisfaction with communications services has generally remained stable and at levels of at least 86% or above, while the mobile market has the lowest dissatisfaction levels, at 3%.

1.9 Household spending on telecoms and internet/broadband services has continued to fall: with a 6% reduction in spending on mobile and broadband services and a 5% fall for fixed lines. Mobile call charges have continued to fall, in particular because of the increasing popularity of low-cost SIM-only contracts. Broadband prices have been...
falling, driven by bundled services where broadband is included with fixed-line voice services, mobile services or TV services.

1.10 The UK continues to perform well compared to other countries with the cheapest prices for fixed, mobile, broadband and bundled services.

1.11 These are generally positive indicators about the level of choice and value for consumers. Ofcom’s programme of market reviews and investigations will monitor the development of competition in the markets and aim to ensure that these outcomes continue or improve. This programme will complement our work – described below – to ensure consumers can engage effectively and with confidence in the market.

Availability and take-up

1.12 The availability of most communications services has remained largely unchanged over the past year as many services approach near universal coverage. Most households in the UK now have access to the key broadcasting and telephony services, with at least 9 out of 10 consumers covered by fixed lines, basic broadband, mobile 2G, digital TV and radio. In addition, 3G mobile services, non-BT broadband infrastructure and superfast broadband are becoming increasingly available. However, ‘not-spots’ remain a concern for mobile and broadband, principally in some rural areas and particularly in Scotland and Wales.

1.13 Take-up of all communications services, except fixed line, has increased since 2008, with homes now more likely to have a mobile than a fixed line. There has been an encouraging rise in computer ownership and Internet access, in particular among low income consumer groups. However, consumers aged 75+ as well as those on low incomes remain the least likely to own mobile phones or multichannel TV services, to use broadband services or purchase bundles.

1.14 The rise in broadband ownership has been driven by the higher socio-economic groups and an increase in mobile broadband connections amongst the under 35s.

1.15 The mobile market continues to see a significant shift from prepay to contracts, in particular SIM-only contracts especially among the younger consumer groups.

1.16 Ofcom is looking closely into mobile network coverage, in particular persistent 2G ‘not-spots’ problems, and is working with industry to facilitate better coverage. During 2009 providers, working with Ofcom and the emergency authorities, introduced emergency mobile roaming. Mobiles now automatically switch to an alternative network for an emergency call if the user is outside their own provider’s coverage area. Also during the year a trial began which enables consumers with hearing or speech impairments to access the 999 service using SMS text messaging, which, if successful, will become a permanent feature of access to the emergency services.

1.17 Broadband ‘not-spots’ remain an important issue which Ofcom is examining alongside Government. In addition to those who cannot get any form of basic broadband, around one in ten households cannot get a 2Mbit/s or faster service. The Government’s Digital Britain Report includes a new broadband ‘universal service commitment’ to make 2Mbit/s broadband connections available to all UK residents who request the service by 2012, using a mixture of fixed and wireless technologies to plug gaps in current availability.
1.18 In our draft Annual Plan, we are proposing that making progress on ‘not spots’ should be a priority for us in 2010/11.

1.19 Also identified as a priority is our work with Government on supporting the Digital Participation Consortium, which aims to assist broadband take-up further, particularly amongst older consumers and those on lower incomes.

1.20 We set out our overall strategy on access and inclusion in our October 2009 Statement.

**Consumer empowerment**

1.21 For competition to be able fully to deliver effective outcomes in terms of choice and value, consumers need the information to be able to compare services and providers and to be able to switch easily.

1.22 Our research shows that 2009 has seen a decline in switching levels and consumer engagement in bundled services. Although the majority of consumers are finding it easy to switch their communications supplier, a quarter find it difficult to switch broadband and bundled services, despite an increase in the perceived ease of comparing the cost of bundles. The hassle of the switching process and, increasingly, the threat of additional charges were some of the reasons put forward for not switching.

1.23 We have started a major review of regulation in this area with the aim of making sure that a lack of information and difficult processes do not create undue barriers for consumers switching providers. Our draft Annual Plan is proposing that ensuring the effectiveness of switching processes should be a priority for 2010/11.

1.24 This year we have published a detailed research report on the performance of the UK’s largest internet service providers (ISPs), for cable and DSL broadband services, and in particular the actual download speeds that consumers receive. We also achieved widespread adoption by ISPs of a voluntary Code of Practice on Broadband Speeds so consumers are informed what maximum speeds they can expect and why actual speeds differ from headline speeds when they buy a broadband service.

1.25 However, awareness of broadband speeds amongst consumers has continued to decrease this year, and there has been little change in satisfaction with speed performance (81% satisfied compared to 79% in 2008). We intend to commission further research in 2010 and will also continue our programme of work to ensure that consumers are given relevant information to promote understanding of speeds.

1.26 Our series of consumer guides are intended to give practical advice on a number of key issues in the communications sector. We are considering options to improve distribution of the guides.

**Consumer concerns and protection**

1.27 Protecting consumers from scams and unfair practices is a continuing area of focus for us. This year we have seen improved outcomes in broadband migrations, mobile mis-selling and silent calls.

1.28 As part of our work on improving switching processes for consumers, we set new rules for ISPs to support consumers in the switching process for broadband, and we worked with industry to resolve technical problems. Since the introduction of these
rules, significant progress has been made on broadband migrations, where the number of complaints has continued to fall from over 5,000 a month at their peak to under 400 a month currently.

1.29 The same downward trend has been experienced in mobile mis-selling, particularly around cash-back schemes. We introduced new regulations which aim to prohibit mobile mis-selling and came into effect in September 2009. Complaints about cash-backs and mobile mis-selling are down from a peak of over 700 a month in 2007 to below 170 currently. Over the next year, we will continue to monitor the application of the new rules to ensure they are properly adhered to.

1.30 Complaints about abandoned and silent calls have fallen significantly since their peak in late 2008. We have been able to tackle this issue, investigating and fining several companies. Despite the decline, silent calls remain a particular concern to consumers and our enforcement programme continues. The Government is currently consulting on proposals to raise the statutory maximum financial penalty for persistent misuse.

1.31 In January 2009, new rules governing mobile phone paid services were introduced by PhonepayPlus - the agency which carries out the day-to-day regulation of the premium-rate services market on Ofcom's behalf. The rules were aimed at tackling the major harm incurred by consumers through premium rate services, particularly reverse-billed SMS. Since the introduction of these rules, complaints to PhonepayPlus have declined significantly, from a high of around 2,400 in April 2008 to about 800 in October 2009.

1.32 Despite these positive findings, other consumer protection issues remain of concern. These include fixed line mis-selling, early termination charges and complaints handling. Our draft Annual Plan identifies these as important areas of focus for us during 2010/11.

1.33 Since the introduction of new fixed line mis-selling rules in 2005, Ofcom has pursued an industry-wide investigation with the aim of securing compliance with the rules. We have recently confirmed our intention to introduce a new general condition for providers and a move away from codes of practice towards general prohibitions on mis-selling activity. Although complaints about fixed line mis-selling are down from their peak of 1,200 a month in 2005, they remain high and stood at 900 in October 2009. We believe these figures increasingly reflect industry process problems rather than deliberate mis-selling and we have started a programme of work with industry to seek improvements to these processes.

1.34 Allegations of unfair contracts and concerns over unduly high early termination charges have remained the third most common source of complaints by consumers in telecoms. We have been monitoring and enforcing compliance of the regulatory guidance that we published for providers in December 2008.

1.35 Poor customer service tops the list of complaints received by Ofcom and we are currently considering ways in which to improve consumers’ awareness of Alternative Dispute Resolution (ADR) and ensure effective complaints handling by providers. In September 2009 we reduced the time consumers have to wait to go to ADR from 12 to 8 weeks after they make a complaint. We plan to publish further proposals shortly.
**Next steps**

1.36 Ofcom’s draft Annual Plan published alongside this report reflects the findings of this evaluation of our work and the accompanying research in developing our proposed priorities for 2010/11.

1.37 We encourage anyone with an interest in Ofcom’s work to contribute and respond to the draft Plan. Our finalised Annual Plan for 2010/11 will then be published before Easter 2010.
Section 2

Consumer choice and value

2.1 Ofcom’s principal statutory duty is to further the interests of citizens in relation to communications matters and to further the interests of consumers, where appropriate, by promoting competition. In doing so we must have regard to a number of matters, including the interests of consumers in respect of choice, price, quality of service and value for money.

2.2 Effective competition can drive consumer benefits by increasing innovation and choice of available services, as well as lowering prices.

2.3 In this section, we report on the range of services and providers in the communications market, consumer awareness of suppliers, cost of services and the levels of consumer satisfaction. We also review our work and activities aimed at promoting competition in the communications markets in order to assess its impact on choice and value of services available to consumers.

Range of services and providers

Figure 1: Penetration of fixed-line suppliers, 2000-2009

Base: those with a landline phone at home

2.4 Since 2005, when local loop unbundling (LLU) obligations came into force, there has been a sharp decline in the proportion of UK households relying on BT for their fixed line services, while cable penetration has remained stable. The main reason has been an influx of LLU and Wholesale Line Rental (WLR) operators offering competitive services to BT.

2.5 For mobile services, consumers are able to access services provided by five different mobile network operators (MNOs) (Vodafone, Orange, T-Mobile, O2 and 3) and around 100 mobile virtual network operators (MVNOs) and service providers (SPs) who by securing a wholesale agreement with one of the five mobile network operators, are able to offer telephony services without having a spectrum allocation or their own wireless network. During 2008, there was a shift in the market, where the

market share of the largest MVNO, Virgin Mobile, was exceeded by the combined share of other MVNOs and SPs². A new range of MVNOs and SPs have recently launched services targeting specific customer segments, offering services such as low-cost international calls to customers from ethnic and immigrant groups. In terms of mobile broadband, which has seen increasing take-up over the past year, two MVNOs, BT and Virgin Mobile, are now offering services in competition to the five MNOs.

2.6 Digital television is available over satellite, cable, digital terrestrial television and IPTV, although the channels available vary by platform. There are now a total of 492 television channels available to consumers in the UK: a slight decrease from 2008. Thirteen of these are public service channels and the remaining 479 are commercial.

2.7 Digital radio is available over digital television, broadband and Digital Audio Broadcasting (DAB). There are now 216 stations available, up from 200 the previous year.

2.8 One of the key continuing trends affecting the consumer experience of communications services and shaping the evolution of the sector is convergence. Convergence is the availability of a range of content types and services distributed over different digital networks to a variety of consumer devices. These devices range from mobile phones and other hand-held devices to broadband-enabled PCs and flat-screen TVs. This affects the range of services available to consumers, how consumers use communication services, where they use services and the choice of platforms over which to use particular services.

2.9 Since 2005 and the start of LLU, there has been an increase in the packages of communications services offered to consumers, so called ‘bundles’, where consumers can purchase two or more of their digital communications services (fixed line, internet and TV services) from a single supplier. Many communications providers offer discounts to consumers when they buy bundles, making it an attractive and better value option for consumers.

Figure 2: Trends in purchasing multiple communications services from a single supplier

Source: Ofcom communication tracking survey
Base: All adults 15+ who bundle at least two services (Q1 2005, 640) (Q3 2005, 681) (Q1 2006, 686) (Q3 2006, 730) (Q1 2007, 914) (Q1 2008, 812) (Q1 2009, 6090)
Note: 2005-2007 broadband and multichannel TV bundle included in ‘other’ category

² Ofcom Communications Market Report 2009 (http://www.ofcom.org.uk/research/cm/cm09/)
QG1. Do you receive more than one of these services as part of an overall deal or package from the same supplier? QG3. Do you receive a discount or special deal for subscribing to this package of services?

2.10 As shown in Figure 2, the majority of the purchased bundles were either made of a mix of fixed voice and broadband double play (44%) or a mix of fixed voice, broadband and multichannel TV triple play (34%). The most significant increase has occurred in the take-up of triple play bundles. The popularity of the triple play offer appears to have largely been a consequence of consumers switching from dial-up broadband and choosing to use either their current or a new multichannel TV provider for landline, broadband and TV.

Awareness of suppliers

2.11 Spontaneous awareness of multiple fixed (52%), mobile (76%) and broadband (72%) suppliers has remained largely similar to 2008 levels. It remains lowest among older consumers and lower income groups. In comparison, awareness of multichannel TV providers has significantly increased, particularly among 65-74s (from 44% to 55%) and those with a household income of up to £17.5K. Awareness of bundled-service suppliers was higher than in landline and multichannel TV markets, with 72% aware of two or more suppliers.

Satisfaction with services

Figure 3: Satisfaction with overall services from communications supplier, over time

2.12 The overall levels of satisfaction with communications services have remained relatively stable, except for fixed-line and bundled services, where levels of ‘very’ satisfied have significantly increased. Satisfaction with value for money and service reliability has also remained stable.

2.13 However, even a low percentage of consumers can still present a significant number of customers across a large market. Between 3% and 10% of consumers (i.e. between 1.4 and 4.7 millions) are dissatisfied across the communications markets –
the highest dissatisfaction is for broadband and the lowest is for mobile. Dissatisfaction with value for money is highest this year for fixed line compared to last year when it was for broadband.

2.14 Overall dissatisfaction with services varies little between consumers of different ages, although consumers aged 45-64 are more likely to be dissatisfied with broadband and multichannel TV services and consumers aged 25-44 appear more dissatisfied with bundled services than other age groups.

Expenditure on services

2.15 The past year has seen a decrease in consumer spending on communications services, from £68.84 per month in 2007 down to £65.01 in 2008.

2.16 Spending on fixed voice services saw a 5% point fall in real terms during 2008, driven by a fall in the total number of lines and lower use per line, as consumers increasingly rely on mobile for voice services.

2.17 Spending on mobile services fell by nearly 6% during 2008, despite a 6% rise in the average number of voice calls per mobile connection. This is due to the average price spent per minute on mobile falling as more voice minutes and SMS messages were included within tariff plans.

2.18 Household spend on internet and broadband services fell for the second consecutive year, this time round by 6%. This was due to the increasing number of consumers taking advantage of discounted or even ‘free’ broadband bundled in with other services such as voice, television and mobile services.

Cost of services

Figure 4: Comparison of average fixed and mobile voice call charges

![Comparison of average fixed and mobile voice call charges](image)

Source: Ofcom / operators

2.19 For the second consecutive year, the average cost of a fixed voice call increased in 2008, to 7.4 pence per minute, despite the inclusion of more minutes in standard access tariff packages. The factors were higher line rental prices from some operators and rises in the prices of some types of call, together with the falling overall fixed call volumes.

2.20 By contrast, mobile call charges continued to fall from a peak of 15.1 pence per minute in 2004, down to 11.3 pence in 2007 and 10.4 pence in 2008. This is a result
of contract users taking advantage of more inclusive minutes, low-cost SIM-only contracts and ‘bonus’ minutes in pay-as-you go packages.

2.21 In addition, as the research has shown, the mobile market has recently been characterised by two trends – the emergence of SIM-only contracts and low-cost longer-term contracts with handsets included. In the middle of 2007, virtually every contract sold was for either 12 or 18 months\(^3\). However, by Q1 2009 24% of contracts were sold on 30-day contracts (these are overwhelmingly SIM-only deals), while 13% of contracts locked in consumers for a 24-month period. Some of these longer contracts are the product of lower-price contracts, which mean that operators need to recover the cost of contract subsidies over a longer period of time. However, 24-month terms are becoming increasingly common for higher priced contracts in order to subsidise high-end smartphones such as the iPhone.

2.22 Relatively low broadband prices in the UK, compared to other countries, are maintained by a competitive environment in which no single provider has more than 30% market share, and consumers are able to choose from a range of services provided by operators offering service via WLR (available to virtually 100% of the population), LLU (available to 84% of the population) and cable (available to 49% of the population).\(^4\)

2.23 In addition, in the UK, operators incentivise consumers to purchase other services along with their broadband connection (for example by including free calls packages) at discounted prices.

**Figure 5: Take up of bundles (with proportion of discounted bundles)**

![Image of Figure 5](source)

Source: Ofcom communication tracking survey
QG1. Do you receive more than one of these services as part of an overall deal or package from the same supplier?/ QG3. Do you receive a discount or special deal for subscribing to this package of services?
Note: Question asked all quarters in 2005-2007 but only Q1 and Q3 of 2008 and 2009. Percentages exclude people who did not know whether they were on a package

2.24 As shown in Figure 5, the proportion of purchased discounted bundles has increased significantly over the past year, which would indicate that consumers are becoming more aware of them and competitive forces are at work.

2.25 Our research shows that UK consumers can typically make savings by purchasing services in a ‘bundle’ rather than buying single-services. Our pricing analysis shows that a typical UK household can save £7 a month by buying ‘voice and broadband’

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\(^3\) [http://www.ofcom.org.uk/research/cm/cmr09/](http://www.ofcom.org.uk/research/cm/cmr09/)
\(^4\) See the Glossary for a definition of WLR and LLU
tariffs from one operator compared to the lowest prices available by buying the services separately.

2.26 In our research, we compared prices of communications services in the UK with France, Germany, Italy, Spain and the USA, based on the costs of different baskets of services for consumers in each country. The analysis considers both single service offers, weighted by the comparative market shares of the leading providers of fixed voice, mobile voice, broadband and television, and ‘multi-play’ offers which identify the prices consumers can achieve by buying services within a bundle (for example, a triple-play bundle including voice, broadband and television services). The full analysis can be found in the Research Report. The summary findings are outlined below.

2.27 Fixed voice services are cheaper in the UK in every basket, particularly for higher use baskets. The same applies to mobile services, with SIM-only contracts further driving down prices. Italy, however, has the cheapest offer for the low use basket. In general, mobile tariffs in the UK and Italy are lower than other comparator countries.

2.28 With fixed broadband, consumers in the UK and France benefit from the cheapest average tariffs. Having said this, comparisons should be treated with caution, as single-service offers are not easy to come by in each country, and broadband is frequently bundled with other services. For example, there is limited availability of standalone broadband in Germany and Spain.

2.29 TV price comparisons are problematical as the variations in the number and type of channels and different types of programme content make like-for-like comparison difficult. Licence fees are highest in Germany and the UK, which have the highest investment per head in public service broadcasting. Prices for basic pay-TV packages are higher in the UK than in the other comparator countries, but include more channels.
Ofcom’s work

2.30 We have a wide range of work aimed at promoting competition in the communications market, ranging across both telecoms and broadcasting. For all of this work our underlying objective is to drive consumer benefits by facilitating the availability of wider choice, innovation and lower prices.

2.31 Four years ago, as a result of our Telecoms Strategic Review[^5], BT was required through legally binding Undertakings to deliver Equality of Access between BT and its competitors through the operation of two principles: i) operational separation (essentially the creation of Openreach) and ii) equivalence of inputs (essentially the requirement for BT to provide the same products to all providers on the same terms and conditions that it provides itself). We also introduced LLU which encouraged other operators to deploy their own infrastructure to deliver services to consumers. This has resulted in a significant increase in the number of unbundled lines (from 123,000 in September 2005 to over 6 million last year). In addition, consumers can now purchase their fixed services from over 30 providers who are marketing their services at competitive prices for consumers.

2.32 In our retail market review statement[^6] in September 2009, we found that the level of competition was sufficiently high in the retail telecoms markets to warrant the removal of remaining regulatory obligations on the incumbent operator, BT[^7]. We have found that other providers provide effective competition to BT in this part of the market. Today, more than 12 million UK households and small businesses use a telecoms provider other than BT in these markets. We expect that our decision to deregulate the retail telecoms market will extend choice in the fixed telephone market and bring lower prices for consumers. We have therefore removed regulation in the market. BT will now be able to offer discounted telephone lines and calls as parts of new, comprehensive bundles of other services (such as broadband or pay TV) as other communications providers already do.

2.33 In 2008 we started a review of the mobile sector in order to assess current and possible future developments of the mobile market and map out our strategic approach to the mobile sector.

2.34 The first and second phases have now been completed and our analysis highlights that the UK enjoys a particularly high level of competition and, as a result, a great majority of people in the UK use mobile services. However, we found that the market environment is very challenging for new entrants as they are faced with high barriers to entry in the market. – and we identified a number of critical trends which are affecting the market: increasing convergence between fixed and mobile networks, the advent of new 3.5G and 4G technologies, the increasing scope for innovation and competition, the challenging economic environment and the growing trend towards market consolidation.

2.35 Overall, we concluded it appropriate to build on the consumer and economic benefits that have been driven by the mobile sector rather than to adopt a new regulatory approach. As a result, our work will focus on helping promote competition and

[^7]: Except for the retail ISDN30 market where the 2009 review has not yet concluded and the retail ISDN2 market where although we did not impose any retail level regulatory obligations, we concluded that BT retained significant market power
innovation, safeguarding consumer interests, and addressing, where possible, those areas where the market fails to deliver (such as mobile not spots).

2.36 We will therefore ensure that consumers continue to enjoy the benefits of competition and have already initiated a review of the market for mobile call termination. This considers how the regulatory regime needs to evolve, whether the rates should be reduced, and if so how quickly, following the expiry of the current charge controls. We also intend to take an active approach to reducing the barriers facing new entrants, but we do not propose to undertake a wider formal market review of the mobile sector (unless there is a material change in the market).

2.37 Ofcom’s work on consumer protection and empowerment explored in later sections can also impact on the effectiveness of competition. For instance, if the result of a prevalence of mis-selling is that the market acquires a bad reputation and consumers as a whole desist from switching, then all consumers will ultimately suffer as competitive pressure on suppliers is diminished and the ability of new entrants to offer new services is also reduced. In the same way, if consumers do not switch because of high informational or process barriers to switching, competitive intensity may be reduced and all consumers may then suffer.

2.38 In the broadband market, as consumers' bandwidth usage and expectations have increased, telecoms providers have focussed their attention on improving existing networks by investing in new technologies and infrastructure, called Next Generation Access (NGA) networks.

2.39 NGA technology has the potential to bring significant benefits to consumers through new and improved services, and lower prices due to the likely greater efficiency of a multi-service network. It also has the potential to alter the prevailing model of competition in the telecoms sector. For these reasons, understanding NGA developments continues to be of vital importance to consumers and industry, and to the design and implementation of effective and sustainable regulation.

2.40 We published consultations on NGA in 2007 called “Future Broadband” and in 2008 called “Delivering super-fast broadband in the UK”, to encourage debate and outline our regulatory approach to such networks.

2.41 In our March 2009 “Super-fast broadband” statement, we stressed our support for rapid and widespread investment in superfast broadband and the continued, critical role of competition in meeting consumers’ needs. This is important because, just as with current generation broadband, competition in super-fast broadband services and infrastructure will mean more investment, innovation, differentiation and choice as well as competitive prices for consumers.

2.42 We also recognised that super-fast broadband requires major new investment, carrying with it uncertainty and risk, more so than in the case of first generation broadband. As a result, we need to find the right balance of regulatory policies to deliver investment and foster competition in the interests of consumers. To make our regulatory approach work, we need to make sure existing regulation is relevant to rapidly changing market circumstances. This is why we recently consulted on a

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related change\textsuperscript{12} to the Undertakings agreed by BT with Ofcom in 2005 that is designed to promote efficient investment in superfast broadband networks and services. The consultation closed on 20\textsuperscript{th} November and we will issue our conclusions in due course.

2.43 In the area of digital broadcasting, in March 2007, we announced the start of our market investigation into pay TV. This was prompted by our receipt on 16 January 2007 of a preliminary submission from BT, Setanta, Top Up TV and Virgin Media, which alleged that competition in the UK pay TV sector was not working properly, and that Ofcom should refer the industry to the Competition Commission for investigation. Further details and progress is outlined in the spotlight below.

\textbf{Spotlight - Pay TV}

Since the start of our pay TV investigation we have published three consultation documents\textsuperscript{13}. Our first consultation, published on 18 December 2007, set out some initial concerns relating to the manner in which premium content is distributed. Our second consultation, published on 30 September 2008, explored these concerns in more detail and set out, for consultation, our proposals for addressing them. On 26 June 2009, Ofcom published a further consultation that closed on 18 September 2009.

In the latest consultation document, we confirmed our view that some content – various sporting events and first-run Hollywood movies – is of particular importance to consumers. We believed that channels including this content are in separate wholesale markets. We also set out the view that packages containing these channels are in narrow retail markets.

We considered that Sky has market power in the wholesale supply of channels containing this attractive content, and that it is acting on an incentive to limit the distribution of these channels to rival TV platforms, reducing consumer choice and dampening innovation. The consultation therefore set out details of a proposed ‘wholesale must-offer’ obligation, including a range of regulated wholesale prices. We are now in the process of analysing consultation responses.

This is designed to address our concerns about the restricted distribution of premium sports and movies channels operated by BSkyB.

In addition, the consultation noted that there may be a case for specific targeted interventions in relation to subscription video on demand movie rights and to the next FA Premier League auction of live broadcast rights.

Ofcom has received a large number of responses to its latest consultation and will publish its conclusions in early 2010.

2.44 We have also focused on establishing a market-based approach to spectrum management that maximises the benefits from competition and innovation in wireless services for the UK society and economy. We believe that, where appropriate, letting the market decide how spectrum is used, what services to provide over available spectrum and what technologies to use for this, safeguards competition and consumer interests and creates major opportunities for innovation in wireless services.

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2.45 We are continuing our work to free up spectrum that can be used for a wide range of new and growing consumer services, such as mobile broadband and High Definition (HD) TV. In addition, we have an ongoing role to manage the frequencies that are used for broadcast radio and TV and we will ensure that this is done to ensure that consumers continue to benefit from efficient competition in this market.
Section 3

Availability and take-up

3.1 Ofcom has a duty to ensure that a wide range of electronic communication services, including high-speed data services, and television and radio services are available throughout the UK.

3.2 In performing this duty we must have regard to, amongst other things, the needs of:

- people with disabilities;
- older consumers;
- those on low incomes;
- people in the different parts of the United Kingdom;
- different ethnic communities within the United Kingdom; and
- people living in rural and in urban areas.

3.3 This section considers the availability of communications services and the take-up and use of these services by consumers. It also outlines Ofcom’s role in addressing availability issues and in promoting take-up of services across the UK.

Availability

Figure 6: Availability of communications services

![Figure 6: Availability of communications services](image)

**Sources:** Ofcom and:
1. Proportion of population living in postal districts where at least one operator reports at least 90% 2G area coverage. Sourced from GSM Association / Europa Technologies (Q1 2008). Note we have raised this threshold from 75% in 2008; as a result we do not have time series data.
2. Proportion of premises connected to a DSL enabled local exchanges (as reported by BT), but not all premises will be able to receive basic broadband services.
3. Proportion of population living in postal districts where at least one operator reports at least 90% 3G area coverage. Sourced from GSM Association / Europa Technologies (Q1 2008). Note we have raised this threshold from 75% in 2008; as a result we do not have time series data.
4. DAB digital radio coverage figure based on a Digital One estimate

3.4 The availability of most communications services has remained largely unchanged over the past year as many services approach near-universal coverage. Most households in the UK now have access to the key broadcasting and telephony services, with at least 9 out of 10 consumers covered by fixed lines, basic broadband, mobile 2G, digital TV and radio as well as the internet.
Fixed Line

3.5 Fixed line services continue to be universally available to all consumers across the UK. BT and Kingston Communications (the incumbent fixed telephony operator in Kingston upon Hull) are subject to Universal Service Obligations (USO) which effectively make access to voice services over the public switched telephone network (PSTN) available to the whole UK population at a standardised charge.

3.6 However, where the installation of a fixed line from BT costs the provider over £3,400, which may be the case for homes in remote rural areas, consumers may have to pay an additional connection charge, above the standard charge for the provision of the line.

Mobile

Figure 7: Availability of mobile

Source: Ofcom
Note: Data covers proportion of population living in postal districts where at least one operator and four plus operators report at least 90% 2G and 3G population coverage. Sourced from GSM Association / Europa Technologies (Q1 2008). Note we have raised this threshold from 75% in 2008; as a result we do not have time series data.

3.7 Both second generation (2G) and third generation mobile services continue to be available to the majority of the UK population – 98% of residents live within a postcode district with at least 90% coverage by one or more 2G and 87% of the UK population live in a postcode district with at least 90% area coverage from one 3G operator.

3.8 When we look at 2G mobile phone geographic coverage, there are variations across the UK nations and English regions. As shown in Figure 8 below, geographic 2G coverage in England was the highest among the UK nations at 98%, far higher than the lowest Scotland (68%) where large areas of the sparsely populated Highlands and Islands are without coverage.

3.9 Findings of research published by the Communications Consumer Panel in October14 also highlighted the issue of areas without 2G coverage (‘not spots’). The research found that although overall satisfaction with mobile phone coverage is relatively high, the most common problem people experience is not-spots.

14 http://www.communicationsconsumerpanel.org.uk/smartweb/research/mobile-coverage
The Consumer Experience: Telecoms, Internet and Digital Broadcasting 2009

Figure 8: 2G mobile phone geographic coverage across UK nations and regions

Source: GSM Association / Europa Technologies; Q1 2009
Note: Figures show the percentage of population within postcode districts where at least one or four operators had at least 90% 2G area coverage; data not directly comparable to that published in the 2008 report

Internet

3.10 Narrowband internet services achieved by means of dial-up over a twisted pair or coaxial cable at download speeds of less than 128.8kbit/s, are covered by the Universal Service Obligation (USO) which requires BT and KCOM to meet all reasonable requests for “functional internet access” or dial-up connections with a minimum speed of 28.8kbps.

3.11 Internet connections of this type have largely been superseded by higher-bandwidth broadband connections and according to the Office of National Statistics\(^\text{15}\), less than 5% of UK internet connections were narrowband in December 2008, down from almost 75% five years previously.

Figure 9: Availability of broadband internet

Source: Ofcom/operators
Note: Data refers to availability in December of each year

3.12 The availability of broadband internet connections and the choice of providers have continued to improve for consumers. Local loop unbundling (LLU), digital subscriber line (DSL), cable and wireless technologies offer consumers a wide array of possibilities to access the internet.

\(^{15}\) http://www.statistics.gov.uk/pdfdir/intc0209.pdf
3.13 The percentage of premises that have access to unbundled local loop lines (LLU) has increased from 67% to 84% between 2006 and 2008. In comparison, cable and ADSL availability have remained unchanged at 49% and 99.6%.

3.14 In the Government’s Digital Britain Report, it was estimated that around 89% of homes can readily get a 2Mbps (or higher) broadband service from cable, ADSL or wireless means. This means that around 11% or about 2.75m homes, cannot readily get a 2Mbps (or higher) broadband service today. The main reasons that prevent these homes from getting a 2Mbps broadband service are: problematic home wiring (around 1.9m homes); random network effects (around 300k homes) and telephone line too long (around 550k homes).

3.15 In respect of faster speeds, service providers are now working on offering consumers ‘super fast’ broadband. Super-fast broadband was made available to some UK homes for the first time in 2008, as operators responded to demand for higher-bandwidth products and faster broadband connections. Since then, the industry has made a number of announcements including:

- Virgin Media’s launch of a 50Mbit/s fibre-based broadband, which was rolled out across its cable network and available to just under half of UK households in July 2009

- BT’s plan to make its super-fast broadband available to 40% of the UK, around 10 million homes, by 2012, at a cost of £1.5bn and covering 1.5 million homes by the summer of 2010.

Digital Broadcasting

Television

3.16 As shown in Figure 10, the availability of the main digital television platforms, namely digital terrestrial, digital satellite and digital cable, has remained unchanged over the last few years, with 98% of households across the UK having access. Homes who are not able to receive services are generally affected by specific local geographical factors or housing agreements.

Figure 10: Availability of digital television

![Figure 10: Availability of digital television](image)

Source: Ofcom

3.17 Currently at least 73% of UK households are covered by digital terrestrial television services, with variations across regions. By the time the programme of digital
switchover is complete in 2012, coverage by the three public service multiplexes is expected to rise to at least 98.5%. Coverage of services from both public service and commercial multiplex providers (over all 6 multiplexes) is expected to be around 90% after switchover, again varying by region.

3.18 Digital satellite broadcasting is available to 98% of homes and cable broadcasting to 48% of homes.

Radio

3.19 Digital radio is widely available with nine in ten consumers covered by digital audio broadcasting (DAB) services on offer from the two national DAB network operators, BBC and Digital One. Digital radio can also be accessed over the internet and via digital television.

3.20 The BBC is currently expanding its national network and expects to launch a number of new transmitters over the coming year.

3.21 In addition, local commercial multiplexes provide local DAB services to regions across the UK and also carry the relevant local BBC service, bringing the total number of stations broadcasting over DAB to 216 (out of which 38 are digital only). Further developments in this area will depend on the outcome of the Digital Economy Bill currently before Parliament (see spotlight below) and the proposals concerning the re-planning and extending of DAB multiplex transmission areas.
Ofcom’s work

3.22 We believe that Ofcom’s duty to promote “the availability throughout the UK of a wide range of electronic communications services” has grown in importance as these services are playing an ever greater role in citizens’ and consumers’ lives.

Fixed Line

3.23 The USO ensures that basic fixed line services are available at an affordable price to all consumers across the UK.

3.24 The scope of the USO is defined by the European Universal Service Directive\(^{16}\). The UK Government specify the services which must be provided throughout the UK in the Universal Service Order (the Order)\(^{17}\). The Order has been implemented by Ofcom through specific conditions on the current Universal Service Providers, BT and KCOM in Hull.

3.25 Ofcom’s last review of the USO was in 2006, which resulted in some minor amendments to the obligations. We are now undertaking a new review of the USO and intend to consult on this with stakeholders next year. Our aim is to ensure that the USO is sustainable in the future and delivers the best possible value for society whilst not imposing an inappropriate cost burden on industry or consumers.

3.26 The European Commission published a paper on the future scope of universal service in September 2008. Among the questions raised in the paper was the degree to which the scope of USO should be determined at a national, rather than pan-European, level, whether mobile telephony should be included within the scope of the USO and whether USO should be extended to cover broadband.

Mobile

3.27 We examined the issue of mobile coverage in Phase 2 of our Mobile Sector Assessment, published in July\(^{18}\). We noted that:

- 2G coverage is unlikely to be extended further than today on commercial grounds, leaving a number of ‘not-spots’ across the UK;
- For 3G coverage there is still a noticeable difference between rural and urban areas, and also between different parts of the UK. Coverage is a particular issue in the devolved nations.

3.28 We are committed to examining mobile 2G ‘not-spots’ issues further. We have made available on our website links to mobile operators’ coverage checkers. In July 2009 we published, for the first time, UK maps of 3G network coverage.\(^{19}\)

3.29 We are embarking on research in order to understand better the causes of ‘not-spots’ and the quality of service delivered by mobile broadband networks. We will also be


\(^{17}\) The Electronic Communications (Universal Service) Order 2003 (SI 2003 No 1904), see: http://www.opsi.gov.uk/SI/si2003/20031904.htm

\(^{18}\) Mostly Mobile - Ofcom’s mobile sector assessment - Second consultation, Section 8 – Coverage, http://www.ofcom.org.uk/consult/condocs/msa/

\(^{19}\) http://www.ofcom.org.uk/radiocomms/itilicensing/classes/broadband/cellular/3g/maps/3gmaps/
liaising with mobile operators and public bodies to explore the contribution we could make to facilitate better coverage.

3.30 In its Digital Britain Report (see spotlight below), the Government underlined the importance of mobile service coverage and raised the option of 3G mobile networks having a potential role in delivering universal access to broadband in the UK.

3.31 Although our research has shown rapid take-up in mobile broadband, 3G networks roll-out have been concentrated in urban areas. There are still areas with low population density where 3G services are not available.

3.32 We are assisting the Government on its proposals to make more spectrum available for mobile broadband as well as its work to improve 3G coverage on key transport routes. Through our digital dividend review20 (DDR) we are looking at what should happen to the spectrum freed up in the 470-854 MHz band by the transition to digital TV. We are also seeking to award spectrum in the 2500-2690 MHz band. Both these bands can be used for the provision of next generation mobile broadband services and Government favours a co-ordinated approach to these bands.

**Broadband**

3.33 Broadband is not currently covered by the legislation determining universal service. Unlike narrowband services, we therefore do not currently have any powers to directly require broadband provision.

3.34 However, we have competition and consumer tools, and a wealth of information and expertise to contribute to a market environment that delivers widely available, affordable services to citizens and consumers. We can also work to inform, disseminate best practice and provide advice to government and industry stakeholders where appropriate.

3.35 The wide availability and affordability of broadband services today, and the benefits this delivers to citizens and consumers, have to a very large degree been driven by commercial investment and competition. We are contributing to this environment through our work on competition and consumer protection:

- We aim to create a competitive environment that allows investors who see a case for deploying networks to do so, encourages players to innovate and provide access to wholesale services at levels where competition can be effective and sustainable. This is the case for both current and next generation broadband.21 As a result, many areas of the UK have access to broadband at 2Mbit/s or more as competing networks deploy new infrastructure to serve those areas.

- We aim to ensure that consumers can make informed choices as regards services and providers. Recently we published research on broadband speeds providing information to consumers about the actual speeds that they are getting from their broadband providers (see section 4).22

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22 [http://www.ofcom.org.uk/media/features/broadbandspeedsjy](http://www.ofcom.org.uk/media/features/broadbandspeedsjy)
Spotlight – Government’s Digital Britain Report\textsuperscript{23} & Digital Economy Bill\textsuperscript{24}

Ofcom’s work over the next few years will be directly influenced by the outcome of the Digital Economy Bill which was introduced in Parliament in November 2009 and gives effect to proposals in the Government’s Digital Britain White Paper which was published in June 2009.

Digital Britain Report
The Digital Britain Report is the Government’s strategic vision for ensuring that the UK is at the leading edge of the global digital economy. The report contains actions and recommendations to ensure first rate digital and communications infrastructure to promote and protect talent and innovation in our creative industries, to modernize TV and radio frameworks, and support local news, and it introduces policies to maximize the social and economic benefits from digital technologies.

Digital Economy Bill
The Digital Economy Bill was published on 20 November 2009 and introduced into Parliament in the House of Lords. Debates have now begun. It is the first piece of primary legislation in Ofcom’s areas since the Communications Act in 2003.

In terms of Ofcom’s duties, the Bill proposes to:
- Give Ofcom new general duties to promote investment in infrastructure and content;
- Require Ofcom to report on the state of communications infrastructure, networks and services and domain names every two years;
- Require Ofcom to review on public service content alongside public service broadcasting.
- Requires Ofcom to report on levels of copyright infringement, and empowers the Business Secretary to direct Ofcom to assess whether technical measures are required. The Secretary of State may then choose to impose them, and Ofcom would be required to oversee a technical measures code of conduct;

In relation to Channel 4 and Channel 3 the Bill proposes to:
- Amend Channel 4’s remit, including to cater more explicitly for older children;
- Requires Ofcom to review whether Channel 4 is meeting its purposes as set out;
- Enables Ofcom to change Channel 3 licence areas;
- Amends Ofcom’s powers in relation to Teletext.
- Enables Ofcom to award Independently Funded News Consortia contracts.

On Radio, it is proposed to:
- Empower the Secretary of State to set a date for digital switchover for analogue services, triggering a duty for Ofcom to terminate relevant analogue licences by giving two years’ notice;
- Renew certain analogue licences in exchange for providing DAB services;
- Enable Ofcom to change multiplex licences, by changing the frequency they apply to and/or the licensed area they cover;
- Empower the Secretary of State to change multiplex renewals;
- Amend requirements on co-location and local production.

\textsuperscript{23} http://www.culture.gov.uk/what_we_do/broadcasting/5631.aspx
\textsuperscript{24} http://www.publications.parliament.uk/pa/ld200910/ldbills/001/10001.i-ii.html
3.36 Despite the extensive roll out of broadband in the UK, as explained above in certain areas broadband access remains limited and around 11% of households do not have access to a broadband connection that meets the Government’s 2Mbit/s target. To help facilitate solutions, where broadband is not being provided by the market, we provide advice and expertise to public bodies considering public investment in broadband schemes in a joined effort with government as in the case of the Government’s proposed Universal Service Commitment (USC).25

3.37 The USC will make 2Mbit/s broadband connections available to all UK residents who request the service by 2012, using a mixture of fixed and wireless technologies to plug gaps in current DSL broadband availability.

**Super-fast broadband**

3.38 In respect of faster speeds, as described above, service providers are already investing in new generation networks. In addition, public sector and local community bodies have also been involved in delivering super-fast broadband to their areas. At the beginning of 2009, more than 30 local projects were active on super-fast broadband the UK, even though the majority of them are still going through their initial stages.

3.39 Ofcom has been concerned for some time to set out an effective framework for super-fast broadband. We set out in our March 2009 superfast broadband statement, an approach which we believe will encourage both competition and investment. As explained above, we have already seen availability of superfast broadband reach around 50% of UK households through a mixture of private investment and targeted public sector intervention.

**Wireless broadband**

3.40 We are also supporting the availability of broadband wireless access (BWA) services. The release of spectrum and introduction of liberalisation and trading will facilitate the introduction of new technologies and players into the market. Three key developments are: the award of 2.6 GHz, award of the Digital Dividend resulting from the switchover, in particular the 800 MHz band, and the liberalisation of 2G spectrum. In relation to 2.6 GHz, Ofcom was ready to start the award process in 2008, but this was delayed by legal challenges and then became part of the Government’s Digital Britain Report proposals. Similarly, Ofcom’s work to progress the other two issues has become part of the Government’s Digital Britain process.

3.41 The Government’s Digital Britain Report set out for consultation a series of proposals designed, in particular, to promote investment in next generation mobile networks and consequently promote the availability of mobile broadband services for consumers. The proposals followed the report by the Government’s Independent Spectrum Broker (ISB)26. The proposals include the making of a Government Direction which would in summary direct Ofcom to: award 2.6 GHz and 800 MHz spectrum; liberalise the 900 and 1800 MHz spectrum and modernise the 3G licences. There are additional proposals which would dictate in detail how each of those policies would be implemented. The Government’s consultation will close on 8 January 2010. Ofcom’s work in this area will largely depend upon the outcome of the Government’s consultation.

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3.42 In addition the report of the Government’s ISB recognises the potential of WiMAX BWA services as already available and recommends the timely release of the 2.6 GHz time division duplex (TDD) spectrum that may be suitable for WiMAX.

3.43 Another development that could encourage further use of the band for BWA is our proposal to facilitate commercial use of that part of the band currently managed by the Ministry of Defence. We set this out in a consultation published in September 2009, “Crown Recognised Spectrum Access at 3400 – 3600 MHz”.

3.44 Separately, the European Commission has published a number of documents in relation to spectrum since the summer.

- On 20 October 2009, a new Decision and a Directive modernising the 1987 GSM Directive were published in the EU’s Official Journal, becoming EU law and must now be applied in all 27 EU countries. The new rules open the “GSM” radio spectrum band to more advanced wireless communication devices. The measures will make it easier to adapt spectrum allocation in the 900 MHz frequency band to allow even newer 4th generation high-speed broadband technologies to be deployed.

- On 28 October 2009 the European Commission adopted a proposed roadmap for a coordinated approach to the digital dividend.

**Broadcasting**

**Television**

3.45 In the digital switchover process, Ofcom has the responsibility to address consumer issues that arise from our spectrum planning work and the related coverage and reception issues of digital terrestrial television. Digital UK, meanwhile, is leading on other issues affecting consumers in relation to the switchover process.

3.46 The switchover from analogue to digital television started on 17 October 2007 when the analogue signal in Whitehaven, Cumbria was switched off. The digital switchover is now well under way and will be completed at the end of 2012. The Border region was the first region to start the switching process in November 2008. 2009 has been the first full year of switchovers with Exeter in the West Country becoming the UK’s first digital city in May 2009. By the end of 2009, approximately 4.8 million homes will have been switched, which represents nearly 18% of all UK homes.

3.47 Progress has continued towards the launch of HD services on DTT by introducing a new transmission standard which provides greater capacity by allowing initially 3 and eventually up to 5 HD channels to be available on one Multiplex. HD services on DTT will start to become available across the UK as digital switchover happens in each region.

27 [http://www.ofcom.org.uk/consult/condocs/3_4ghz/](http://www.ofcom.org.uk/consult/condocs/3_4ghz/)
31 [www.digitaluk.co.uk](http://www.digitaluk.co.uk)
Radio

3.48 The Government’s Digital Britain Report set out a new regulatory programme for radio. The report focused on a proposed “digital upgrade” and recommended the digital migration of the majority of radio services in the UK, with a proposed target of 2015. It specified an interim 2013 milestone of 50% of all radio listening to be through a digital platform, and targets for national DAB coverage to be comparable to FM and for car manufacturers to be installing DAB sets as standard. Legislative changes are proposed in the Digital Economy Bill currently before Parliament.

3.49 Once the necessary legislation has been passed, Ofcom anticipates working with Government to facilitate delivery of the regulation. The Government has signalled its intention to perform a full cost benefit analysis, including an analysis of the impacts of digital upgrade on vulnerable consumer groups.

3.50 The Government has also proposed legislative change which would give Ofcom new responsibility in the regulation of localness on radio, as part of the Digital Economy Bill. On 31st July 2009 we published a consultation “Radio: the implications of Digital Britain for localness regulation” which makes a number of proposals, most conditional upon this legislative change. These proposals are aimed at making local radio stations more sustainable in the light of economic pressures, while protecting the localness valued by audiences. We also propose to allow current regional stations to become national stations on DAB, which will potentially increase choice of services across the country.

3.51 We have also continued to license new community radio services. Since 1 November 2008 we have awarded 29 community radio licences, bringing the overall total to 214. Ofcom estimates that around 7.5 million adults (or 9.4 million people including children) are now able to receive a community radio station relevant to them.

Take-up

3.52 Over the past year, there has been a significant increase in the level of take up in mobile, internet, broadband and digital TV. There has been a particularly high increase in take up levels for internet access and broadband connections, which were mirrored by a significant rise in PC ownership over the same time period. Digital TV penetration has continued to increase and now stands at 90% of the population.

Figure 11: Take-up of communications services

![Figure 11: Take-up of communications services](source: Ofcom Communication Tracking Survey)

3.53 Although low income consumers continue to have the lowest levels of internet and broadband ownership, these groups have experienced above average year on year rise in both areas as well as in PC ownership. Just under half of those in the low socio-economic group and 42% of those in households in low income groups now have internet access at home, an increase of 6% and 10% respectively.

3.54 Voluntary non-ownership of communications services continues to be highest amongst the over 75s and in the lower socio-economic groups who cite a lack of perceived need and satisfaction with alternative services as the main reason for not taking up services.

3.55 There has been no significant change in the percentage of consumers who do not own communications services for involuntary reasons. Affordability remains the main involuntary reason for not taking up a communications service.

3.56 In terms of usability, the percentage of consumers experiencing difficulties using communications technologies has remained largely unchanged over the past year although the percentage citing difficulties in using mobiles rose again slightly (from 12% to 15%).

3.57 Across all demographic groups, the mobile phone is the communications service consumers are most likely to experience difficulty with.

3.58 Difficulty in using communications services and devices is strongly correlated with age, in that consumers aged over 45 are more likely than others to have problems using a mobile phone and consumers aged 75 and over are more likely to experience difficulty using the television than any other age group. In addition, consumers in lower socio economic and lower income groups are most likely to experience problems than in other groups across all communications services.

**Fixed line**

3.59 Following a steady decline between 2006 and 2008, the proportion of households that take fixed line services has stabilised in 2009 at 87%, with consumers aged 15-24 and consumers on lower incomes remaining the groups with the lowest fixed-line ownership.

3.60 In the UK, 17% of adults said they had access to Voice over Internet Protocol (VoIP), which is an alternative to fixed line voice communication, with consumers under 45 and earning £17.5k and above driving its use. Awareness of VoIP rose from 58% to 65%, driven by consumers aged 15-54 years and higher income earners (£30k+).

3.61 As shown in Figure 12, the UK had the third highest take-up rates of fixed-line services in 2008, behind Canada and Germany.
3.62 The proportion of homes with mobile phones remains higher than the proportion with a fixed line. Personal use of mobile phone has risen to 89% and remains highest amongst consumers aged 15-44.

3.63 The percentage of adults who live in a household with access to a mobile phone but no landline has increased steadily between 2005 and 2009, from 8% to 13%, driven by the lower socio-economic and low income groups.

3.64 There has been a change in the proportion of consumers using different types of mobile packages.

3.65 The proportion of mobile customers opting for contract packages has been gradually increasing since 2005, and is now at 42% of mobile users. This growth has been driven by consumers aged 25-44 years and females as well as those in higher socio-economic groups, although the highest rise year on year took place amongst the low socio-economic (C2) group (13% increase).

Source: Ofcom communications tracking survey
* QD1. How many mobile phones in total do you and members of your household use?/ QD2. Do you personally use a mobile phone?
3.66 Three percent of mobile phone users (i.e. 7% of those on a contract) have SIM-only contracts. These provide greater flexibility than contracts including new phones and lower prices than pre-pay (pay-as-you-go), allowing consumers to retain some level of control over their spending, while potentially benefiting from the lower call charges associated with contract phones. It is expected that higher-spending pre-pay customers will switch to these packages as awareness rises.

Figure 14: Socio-economic and Income profile of users of mobile-only telephony

Source: Ofcom communications tracking survey
QC1. Is there a landline phone in your home that can be used to make and receive calls? QD1. How many mobile phones in total do you and members of your household use?

3.67 Linked to the rise in contract subscriptions and the emergence of low cost SIM-only packages, there has been a steady decline in the number of consumers using pre-pay mobile phone packages, from 68% in 2005 to 57% in 2009.

3.68 Consumers over 45, female consumers and those in the lower socio-economic groups continue to be more likely to be pre-pay users than other consumer groups.

Figure 15: Take-up of mobile services – international comparisons

Source: IDATE/industry data/Ofcom
Base: total population

3.69 As shown in the above figure, all countries have seen a rise in mobile ownership since 2003. With over 75 million active mobile connections in the UK at the end of
2008, the UK shared fourth place with Sweden, behind Italy, Germany and Ireland. High levels of mobile penetration are partially a result of multiple device ownership, but are also closely connected to the uptake and availability of pre-pay SIM cards.

Internet

Figure 16: Take-up of the internet at home

![Graph showing take-up of the internet at home from 2000 to 2009.](image)

Source: Ofcom communications tracking survey  
*Note: Data for 2006-2009 based on Q2, all other data based on Q4.

3.70 As Figure 16 illustrates, there has been a significant increase in the take-up of the internet over the past year (from 65% to 73%). This was mirrored by a six percentage point rise (to 76%) in PC/laptop ownership over the same time period, in particular amongst the lower socio-economic groups.

3.71 Our research shows that 11% of consumers do not have internet access at home for voluntary reasons, such as lack of need. At the same time, 10% of consumers do not have internet access at home for involuntary reasons, primarily for reasons of affordability. As shown in Figure 17, there are regional variations in the levels of non-ownership of broadband, with Wales and Scotland having the two highest levels of non ownership and in particular high levels of involuntary reasons.

Figure 17: Non-ownership of broadband across UK nations and regions

![Bar chart showing non-ownership of broadband across UK nations and regions.](image)

Source: Ofcom research, Quarter 1 2009  
Base: All adults aged 15+ (n = 6090 UK, 3437 England, 1014 Scotland, 987 Wales, 652 Northern Ireland)  
QE26. How likely is it that your household will get a broadband internet access at home in the next 12 months?  
QE27. Why are you unlikely to get broadband at home in the next 12 months?
3.72 As shown in Figure 18, the rise in take up of broadband at home has been experienced by consumers in all socio-demographic groups with the largest growth amongst those living in households with lower annual incomes. These groups, though, are still less likely than average to have broadband at home.

**Figure 18: Age and income profile of those who have broadband access at home**

Source: Ofcom communications tracking survey Base: All adults 15+ (Q2 2005, 2206) (Q2 2006, 2439) (Q2 2007, 2265) (Q2 2008, 2109) (Q2 2009, 2085) QE9. Which of these methods does your household use to connect to the Internet at home?

3.73 As shown in the figure below, more consumers are connecting to the internet using broadband. The proportion of dial-up users has been in continuous decline and almost a third of dial-up customers said they were likely to upgrade to broadband in the next 12 months. The main reasons given by the remainder for not planning to upgrade were “satisfaction with current connection”, “too expensive” and “don’t use the internet enough”.

3.74 Mobile broadband take-up has been on the increase, with the roll-out of 3G networks and the developments in new products and services.

**Figure 19: Trends in main connection methods**
3.75 For the first time, this report includes analysis of mobile broadband users. Figure 20 shows the proportions using fixed and/or mobile broadband connections. Forty one percent of those using mobile broadband consider it to be their main method of internet connection at home. As with broadband in general, mobile broadband is most popular among adults aged 15-34 and its use is driven by more affluent demographic groups.

**Figure 20: Type of broadband connection**

![Graph showing proportions of broadband connections](source)

3.76 Figure 21 below shows that in 2008 the UK had the third highest number of broadband connections per household (up from 5th last year – overtaking US and Sweden). Wide availability of broadband services and an increasing number of providers offering local loop unbundled services have generated a substantial increase in broadband penetration in the UK.

**Figure 21: Take-up of broadband – international comparisons**

![Graph showing broadband connections per 100 households by country](source)
Television

3.77 Take-up of digital television has continued to rise, spurred on by DSO, and is now at 90%. This increase has been driven by the growing popularity in digital terrestrial (Freeview) and a small rise in satellite ownership during the same period. 38% of households were using Freeview on their main television at the end of 2008, which made it the largest platform in the UK.

Figure 22: Take-up of digital TV services, by platform

![Figure 22: Take-up of digital TV services, by platform](image)

Source: Ofcom Digital Television Update, figures rounded up to whole %.

3.78 Although take-up of digital television has grown across all demographics and income groups, the biggest rises have taken place amongst the 45-64s and high income groups. In comparison, those living in lower socio-economic group continue to be more likely to only own analogue terrestrial TV. In addition, while the over 75s have experienced a rise in digital ownership over the past year, mainly driven by Freeview, they still remain the least likely to have any digital TV platform, with 28% owning only analogue terrestrial TV.

3.79 Consumers mentioned ‘no need’ and ‘happy with existing service’ as reasons for not owning access to digital television services.

Radio

3.80 There has been a continuous growth in the take-up of digital services that can deliver digital radio (DTV and internet) with a three percentage point rise over the past year to 93%. At the same time, the percentage of consumers aware that they have access to digital radio has also increased significantly, from 39% to 48%, across all socio-economic groups.
3.81 At the time of writing, the Government is proposing new legislation which will allow re-planning of local DAB multiplex coverage areas, and the build out of coverage, in line with the proposed policy of matching FM coverage to enable Digital Upgrade (migration of services to DAB). This will likely drive digital radio take up further, in the same way as DSO has driven up digital TV take up.

Disability Research

3.82 The research report provides the detailed findings of Ofcom’s upper-body dexterity and mobility impairment research, while the spotlight below gives an overview of Ofcom’s disability research findings over the past three years.
Spotlight - Ofcom disability research

Ofcom has carried out an extensive programme of research examining the communications experiences of a variety of different groups of disabled people. Over three years, qualitative research has been conducted amongst people with visual impairments, hearing impairments and individuals with learning difficulties. This work has attempted to move beyond the limitations of single studies carried out amongst people with a broad range of disabilities and to produce detailed insights into the experiences of people with particular impairments. We are now publishing the fourth and final of our current series of pieces of disability research, into the needs and experiences of people with mobility and dexterity impairments.

The research found that while people’s experience of using communications services varied with the nature of their disability, there were some common issues. For example, some people with visual impairments found shopping and banking online easier than using the high street, but people with mobility and dexterity impairments also reported this, noting that they would otherwise struggle to walk around a shop or carry heavy bags. Similarly, people with visual impairments found many numbers (e.g. to top up a PAYG mobile phone) difficult, and so did a number of people with dexterity impairments and learning disabilities.

Levels of take-up of telephone services (fixed and mobile) were consistently high across the four strands of research; levels of internet use were variable. Household internet use was fairly high in the research amongst people with visual, hearing and mobility and dexterity impairments. However, it appears to have been lower in the research amongst people with learning disabilities, possibly due to lower literacy levels and the impact of the costs.

Visually impaired respondents were most aware and most likely to use adaptive technologies to help them access the internet (such as magnifying and voice-activated software). However, cost was a major barrier to accessing these technologies. Those with mobility and dexterity impairments appeared most reluctant to use such adaptations. Respondents in all four strands of research were using the internet for entertainment (watching videos, looking at photos, etc.) and social networking.

Levels of independence varied greatly across the sample, from those living relatively independent lives to those who required assistance with a large number of tasks. However, most respondents required assistance at some stage in accessing and using communications services.

Amongst people with learning disabilities and mobility and dexterity impairments, there was limited awareness of adaptations that may have helped them use communications technology more easily. However, those with visual impairments and hearing impairments tended to be more aware and were more likely to be accessing services such as subtitles or audio description on television33, or keyboard stickers34.

Being part of a wider network supporting people with similar impairments (schools, community groups, etc.) affected respondents’ awareness of the services and adaptations available to them. Those who were not part of a wider network typically had more limited access to this information. The research shows that those with visual and hearing impairments were more likely to belong to these kinds of networks than people with learning disabilities or mobility and dexterity problems.

33 Audio Description is a service on digital TV designed to improve the enjoyment of TV for people who have difficulty seeing what's happening on the screen. An additional commentary describes body language, expressions and movements.
34 These are high visibility stickers that help people with low vision use a keyboard more easily.
Ofcom’s work

3.83 Examining take-up and use of services by all consumers and potential barriers remain a key priority for us and falls under our work programme focused on access and inclusion. In some cases, we have been given specific powers and duties, and, in others, the Government has taken the lead and we have provided advice and support.

3.84 In October 2009 we published a statement 35 outlining the progress made so far in the access and inclusion priority areas identified in our consultation in March 2009 and put forward two emerging priorities, namely mobile ‘not-spots’ and digital radio.

3.85 We have outlined below the latest progress made on the priority issues identified in the statement.

Digital Participation and Media Literacy

Digital Participation

3.86 Ofcom was asked by Government in its Digital Britain Report to set up and lead a Consortium of stakeholders for the promotion of Digital Participation 36 whose mandate is to increase the reach, breadth and depth of digital technology use across all sections of society, to maximize digital participation and the economic and social benefits it can bring.

3.87 The Consortium, which was launched on 15 October, has members from over 50 organisations who will contribute expertise, support networks and communications channels to promote Digital Participation. The Consortium will develop and deliver a Social Marketing Programme and Targeted Outreach which will form part of a National Plan for Digital Participation. Funding will be made available of up to £12m over three years from the Universal Service provision announced in Budget 2009. It will support a new programme managed by members of the Consortium.

3.88 The work of the Consortium will be evaluated by Government after 12 months using the following metrics:

- **Reach**: access; number of households online, and numbers using the Internet outside the home;
- **Breadth of engagement**: modes of usage and consumption (communication, retail, content consumed, public services used);
- **Depth of engagement**: user contributions, comments, joining networks, user generated content, self publishing, content creation, photos uploaded and shared 37; and
- **Social and economic impact**: particularly the impact on economic recovery and benefits for disadvantaged groups and communities.

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37 We have added to the list in the Final Digital Britain report by including issues around safety and security under “depth of engagement”. 
Media Literacy

3.89 Our duty to promote media literacy (section 11 (1) of the Communications Act) requires us to bring about a better public understanding of the nature of content, how it is selected and made available and how it can be controlled and regulated. Under section 14 (6) of the Act we have a duty to make arrangements for the carrying out of research into the matters mentioned in section 11 (1).

3.90 Building partnerships and supporting existing partners forms a central part of fulfilling our Media Literacy duties. We work with a wide range of stakeholders including from education, industry and the voluntary sector.

3.91 We are pleased that, jointly with our partners Mencap, we have developed a Media Literacy education resource (Switch On!) for practitioners working with people with learning difficulties and disabilities. We are delighted that the National Open College Network (NOCN) Media Literacy Entry level qualifications have been approved and were made available in August. This is the first media literacy qualification for people with learning difficulties and disabilities.

3.92 In partnership with the Home Office and industry, we have developed a British Standards Institution (BSI) Standard for internet content control software. The UK Council for Child Internet Safety (UKCCIS) is now actively taking the project forward and discussions with industry continue. We hope the first kite-marked product will be available shortly.

3.93 We have also provided financial support for a range of media literacy initiatives including:
- Text UK online centres (http://www.ukonlinecentres.com/) – ‘Older learner community champions’ project;
- NIACE (http://www.niace.org.uk/) – Adult Learners’ Week and TV Clubs pilot project;
- Get Safe Online (http://www.getsafeonline.org/) – ongoing campaign;
- Community Media Association (http://www.commedia.org.uk/) – Your Tools, Your Media project; and

3.94 In order to promote media literacy across the UK, we have developed active Media Literacy networks in Scotland, Northern Ireland and Wales, which develop and deliver a range of activities and events.

3.95 Our media literacy work is closely aligned to, and supports, the digital media literacy work of the Consortium for the promotion of Digital Participation.

3.96 During the year we published several reports and guides about people’s attitudes and behaviours relating to communications technologies and media literacy. We have continued to publish our monthly Media Literacy e-bulletin and have helped a wide range of organisations promote their media literacy work.

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38 www.mencap.org.uk
39 Internet safety – Access control systems for the protection of children online (PAS74:2008).
40 Including: http://www.ofcom.org.uk/advice/media_literacy/medlitpub/medlitpubrss/uk_childrens_ml/;
http://www.ofcom.org.uk/advice/media_literacy/medlitpub/medlitpubrss/uk_adults_ml/;
Services for disabled users

3.97 We have a duty under the Communications Act 2003 to have regard to the needs of older people and people with disabilities. We have specific duties regarding television access services (discussed further below) and to ensure (insofar as is reasonable and practicable) people with visual impairments can use the public teletext service and electronic programming guides. Also, as part of the USO, we are required to ensure equivalent access to fixed voice telephony services for people with a disability. This includes the provision of and access to a text relay service, access to directory information facilities, and a priority service to repair faults.

3.98 We are reviewing the television access services and the text relay service available under the USO, to ensure they fulfil their purpose in a changing market.

Television Access Services

3.100 Television access services comprise subtitling, sign language and audio description, and are provided on some TV programmes for use by deaf or hard of hearing and blind or partially sighted viewers. Ofcom is required to set quotas for the percentage of programmes that need to include television access services. Different broadcasters have different quotas. The aim of these access services is to assist television viewers with sight or hearing impairments to enjoy television.

3.101 In September 2009 Ofcom published the 2009 Review of Television Access Services. The consultation considered:

- whether the criteria for selecting which channels provide access services remain fit for purpose;
- if current exemption from providing access services, which is applied to channels targeting areas outside the UK, should be re-examined; and
- whether there is a case for recommending an increase in the audio description quotas to Government.

3.102 The consultation closed on 12 November 2009 and Ofcom expects to publish a statement in early 2010. Ofcom also published a related research report: 2009 Research into the awareness and usage of Audio Description, the key findings of which are summarised in the review.

Video on Demand Services

3.103 Ofcom recognises that on-demand access to content is becoming increasingly popular. However, these services cannot be considered as part of the current TV Access Services review as the Act does not provide Ofcom with any powers to require Video on Demand (VOD) providers to supply access services.

3.104 However, the European Audio Visual Media Services (AVMS) Directive, which comes into force at the end of 2009, extends minimum content standards regulation to cover television-like VOD services for the first time. The AVMS Directive includes a requirement for Member States to:

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42 http://www.ofcom.org.uk/consult/condocs/access_services/
43 http://www.ofcom.org.uk/research/tv/reports/research_audio_description/
“[E]ncourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing difficulty.”[^1] (“the Access Duty”).

3.105 The AVMS Directive also requires that the UK regulates VOD editorial content and VOD advertising either directly or, at a minimum, through a co-regulatory system. In March 2009, following its consultation into implementation of the AVMS Directive, the UK Government announced its strong preference would be for regulation of VOD content to be achieved through co-regulation, with Ofcom retaining back-stop powers. As a consequence, the Government has introduced Regulations to implement the AVMS Directive to take effect from 19 December 2009. Under these Regulations, Ofcom will be given a number functions relating to the regulation of television-like VOD services, including the power to designate some or all of these functions to a co-regulatory body or bodies.

3.106 Following extensive discussions during 2009, with industry stakeholders, Ofcom received: a proposal from the Association for Television on Demand (ATVOD) to be designated as the co-regulator for editorial content. Ofcom also discussed with the Advertising Standards Authority (ASA) the Government’s suggestion that it be designated as the co-regulator for VOD advertising. In September 2009, Ofcom issued a consultation paper[^44] asking stakeholders for their views on whether or not Ofcom should designate ATVOD and the ASA as co-regulatory bodies. The consultation closed on 26 October 2009.

3.107 We are in the process of analysing and considering the responses we received to the consultation on this point and will be publishing a regulatory statement on the regulation of VOD services in December 2009.

Text relay service

3.108 Under its USO, BT is required to provide a text relay service for hearing- and speech-impaired people. All companies providing telecommunications services to the public must provide access to this service.

3.109 In the Access and Inclusion consultation, we signalled our intention to review the regulatory case for introducing new or improved relay services, in light of technological developments. We commissioned a study from Plum Consulting[^45], which suggested that new services - captioned telephony and video relay - could bring both economic and social benefits.

3.110 We said in the Access & Inclusion statement that we would take this work forward as part of the USO review. We are now also looking at options in the light of the recent adoption of the EU package on telecoms reform which may be faster.

3.111 An agreement on the EU Telecoms Reform Package was reached by the European Parliament and Council of Ministers on 4 November 2009. The Universal Service Directive will be amended to refer to ‘functional equivalence’ and to choice for disabled end-users. The UK Government, supported by Ofcom, argued for this wording, which has now been agreed and must be transposed into UK law within eighteen months from publication date.

Emergency mobile roaming

3.112 In last year's Consumer Experience report, we highlighted that mobile access to emergency services, especially in underserved rural areas would be enhanced by enabling emergency calls to be carried over any available mobile network when a customer is out of range of their “home” network. We have been working closely with mobile operators to develop a solution to achieve this objective and report the outcome in the spotlight below.

Mobile not-spots

3.113 Mobile networks are an important delivery platform for voice services and text messaging and are becoming of growing importance for the delivery of broadband access.

3.114 As we mentioned in section 3, we looked at the issue of mobile coverage in Phase 2 of our MSA published in July 2009 and concluded that mobile ‘not-spots’ were an issue that required our further attention. We will work towards addressing the persistent 2G not-spots in liaison with industry and will work with Government in making more spectrum available for mobile broadband services.

Spotlight – Emergency services mobile roaming and SMS

Following a successful trial, emergency (999/112) mobile roaming was launched nationally in the UK on 14 October 2009. Mobile phones will now automatically switch to an alternative network for an emergency call if the user is outside of their own service provider’s coverage area. The successful launch of emergency mobile roaming is the result of a joint effort of the mobile network operators, emergency authorities and the fixed operators who act as call handling agents and Ofcom.\(^{46}\) We believe that it will bring UK citizens significant benefits by extending the accessibility of the emergency services.

A further extension to the accessibility of the emergency services has been initiated by the ‘999 Liaison Committee\(^ {47}\). A national trial of SMS access to the emergency services began on 14 September 2009, which involves people who have registered in advance sending genuine emergency text messages. People who are not registered but who send a text message to 999\(^ {48}\) will receive an automated reply saying that they are not registered. This service is intended for users with hearing or speech impairments who would find it difficult to make a conventional call. However, users are not required to provide any details of disability when they register.

The trial is supported by the emergency services, Government, the RNID, 3, BT, C&W, O2, Orange, T-Mobile, Vodafone and Ofcom. The mobile network operators have each contributed to the necessary upgrade to BT’s existing text relay platform.

We are working with Ofcom’s Advisory Committee on Older and Disabled People (ACOD) to help ensure that potential users of the service are aware of the trial and of the need to pre-register. We hope that emergency SMS will be made permanent in early 2010.

\(^{46}\) We have regulatory oversight of the operation of emergency calls up to the point where the call is handed over to the emergency authority.

\(^{47}\) The 999 Liaison Committee brings together the emergency authorities (police, fire, ambulance and coastguard), the call handling agents for emergency calls (BT, Cable & Wireless) and fixed and mobile operators.

\(^{48}\) 112 is not currently included within the scope of the service.
Digital radio

3.115 With regards to radio we have the specific duty to under the Act to secure the availability of a wide range of TV and radio services.\(^{49}\)

3.116 As we outlined in section 3, the availability of both analogue and digital radio platforms is near ubiquitous, with DAB digital radio available to 90% of the UK population.

3.117 The Government’s Digital Britain Report proposed the transition of national and large local AM and FM radio services to digital by 2015. It also proposed that a Digital Radio Delivery Group be created to work to increase both availability and take-up. In its Digital Britain implementation plan published in August 2009, the Government also proposed to make a number of legislative changes to the licensing regime for radio to facilitate digital radio upgrade.\(^{50}\)

\(^{49}\) Section 3(2)(c)

Section 4

Consumer empowerment

4.1 The extent to which consumers actively engage and participate in markets influences the level of competition in that market. Active engagement and participation may involve consumers knowing what services, providers and technologies are available, consumers comparing services in terms of price and quality and consumers seeking out new services and technologies. We consider consumers that do some or all of these things as empowered.

4.2 In the following section we consider the level of consumer engagement and participation in the communications market, switching suppliers, awareness of information sources and ease of making cost comparisons. We also outline our work in this area.

Ofcom research

Participation

4.3 In our research we measure participation in the communications market by taking into account a wide range of ways a consumer can participate including: switching suppliers, negotiating with current suppliers, staying informed, and awareness of changes in the markets. We consider both past and present behaviour. Consumers are allocated to the following segments:

- **Inactive consumers** - consumers may have had some past involvement, but have low interest in the market. This group does not keep up to date with the market.
- **Passive consumers** – more likely than inactive consumers to have participated in the past and indicate some current interest in the market.
- **Interested consumers** – while broadly similar to passive consumers in terms of their past behaviour, they are more likely to keep an eye on the market, looking out for better deals.
- **Engaged consumers** – the most active group in terms of past behaviour and current interest.

4.4 The levels of participation across the fixed, broadband and bundled services segments of the communications market have decreased over the past year, with fixed lines and bundled services having experienced significant declines in the proportion of ‘engaged’ or ‘interested’ consumers. The largest decline in ‘engagement’ was in bundled services, although compared to other services, they continue to have the highest levels of engagement and the lowest proportion of ‘inactive’ consumers.
Switching

4.5 Switching levels have remained broadly stable across all communications services, except in bundled services, which in line with the declining level of participation, have seen the largest decrease in the proportion of consumers switching supplier in the past 12 months (from 24% to 13%). As with bundled services, there has been a decline, over the past year, in the number of broadband decision-makers who say they were ‘actively looking’ at alternative suppliers. Despite the year on year decline, the proportion of consumers considering, starting or actively looking at switching continues to be largest for broadband and bundled services.

4.6 The age, socio-economic or income level group of consumers that show the highest switching behaviour varies from market to market and no trends or consistent differences are evident based on the samples. Low income groups are less likely to
have switched fixed line supplier, but are more likely to have changed broadband supplier over the last 12 months. Those on pre-pay mobile are less likely to switch than those on mobile contracts, and that is particularly true for older consumer groups.

4.7 The main barriers to switching supplier were a lack of perceived cost benefit and the hassle involved in switching. One additional barrier to switching mentioned by at least one in ten consumers who had considered switching in each market but did not proceed, was terms and conditions, in particular the additional charges incurred when switching mid-contract. These charges account for some of the complaints that Ofcom receives about additional charges and are covered in more details under consumer protection in section 5.

Negotiating with suppliers

4.8 The majority of consumers have never negotiated with their current suppliers of communications services and there has been little change between 2008 and 2009 in the proportion of consumers who have negotiated with their providers.

4.9 Negotiating behaviour was highest in the mobile sector (11%) – and with higher success rates – compared to bundled services (7%), broadband (5%), multichannel TV (4%) and fixed line (3%). Compared to last year, fewer broadband decision-makers negotiated actively with their supplier and those who did had significantly lower success rates.

4.10 Despite the majority of consumers believing that it is easy to switch providers, there has been an increase in the perceived difficulty in switching fixed-line suppliers and broadband ISPs.

Cost comparison

4.11 Being able to compare costs enables consumers to find the best deals for themselves and supports switching of suppliers.

4.12 Around one third of mobile, internet and multichannel TV consumers find it difficult to make cost comparisons of these services, while around half of consumers of fixed line services think it is easy to compare costs in that market. Compared to last year, the proportion of consumers who find it easy to compare costs in bundled services has increased by 11%. Older consumers aged 65+ find it more difficult to make cost comparisons of all communications services, while consumers in lower socio-economic groups are more likely to find it difficult to compare the costs of fixed-line and broadband services.

Broadband speeds

4.13 In recent years consumers have become more concerned about their internet service, and some have noted that their broadband speeds are not as fast as they had expected when they purchased the service. The following chart illustrates that to date, there has been little change in satisfaction with broadband speeds, with 81% satisfied in 2009 compared to 79% in 2008.
4.14 There are a range of sources of information about communications services available to consumers. The internet is still considered the most trusted source of information, in particular for information relating to the internet and bundled services. This year consumers appear to be relying more on personal rather than supplier sources for their information requirements, except for mobile services.

4.15 As discussed in section 3, Ofcom’s starting point is that competition delivers the best deal for consumers. However, in order for consumers to benefit from competition, it is important they have confidence to exercise choice and derive benefit from doing so. Further, a lack of consumer confidence in switching processes could dampen the wider competitive process, and consumers will not receive the benefits from competition they should be able to expect.

4.16 Ofcom is currently working on a number of areas in relation to consumer engagement, in particular, around barriers to switching where they may materially affect the ability of consumers to change providers. This work encompasses understanding and tackling barriers to switching arising from:

- A lack of appropriate information; and
- Process obstacles.

4.17 Consumer information plays a critical role in competitive markets. If consumers are not fully informed about the services available to them, consumers may make incorrect decisions and be reluctant to switch. Some consumers do not find it easy to make informed decisions and compare services. This may be because appropriate information does not exist or because the information they are presented with is
complex, not easy to interpret and in a number of different places. Where this problem occurs, Ofcom has a role in supporting consumers to help them make effective choices based on easily available and accessible information.

Price Accreditation Scheme

4.18 As reported above, around a third of mobile, internet and pay TV consumers find it difficult to make cost comparisons. Alongside this, the internet is considered the most trusted source of information.

4.19 To help consumers get accurate, transparent and comprehensive advice in an accessible way, we launched a new Accreditation Scheme in December 2006 for calculators used by price comparison companies. We have redesigned the Scheme logo (below) to increase advertising impact and have allowed companies to advertise their accreditation with Ofcom.

4.20 In July 2008, we accredited the first two price comparison companies—Simplify Digital\(^{51}\) and BroadbandChoices\(^{52}\)—and in August this year we renewed their accreditation for another year. In addition, in May this year, we accredited BillMonitor, a mobile price comparison service which provides consumers with the best available mobile plan based on their previous usage.

Quality of service (QoS)

4.21 Quality of customer service information is another key type of information which can help consumers to make effective decisions when choosing their providers.

4.22 Given the take up of new communications services and developments in consumer expectations of quality of service, we have been reviewing our approach to the provision of quality of service information to consumers.

4.23 In July 2009, we decided to withdraw an industry scheme called TopComm\(^{53}\) as it was found to be ineffective in fulfilling its original regulatory aims of providing relevant and directly comparable information about QoS to consumers.

4.24 However, we continue to believe that consumer information plays a crucial role in promoting healthy competition. We will therefore be carrying out a wider review, and more research, to help us understand what consumers need to know about quality of service.

4.25 We will be sharing the output of this work with stakeholders over the coming months and signalling next steps.

\(^{51}\) http://www.simplifydigital.co.uk
\(^{52}\) http://www.broadbandchoices.co.uk
\(^{53}\) http://www.topcomm.org.uk
Broadband Speeds

4.26 As more people use broadband services, and competition in the market has increased, a rising number of ISPs have advertised their services by claiming to provide faster broadband speeds than the competition. However, few customers actually receive these advertised headline speeds in practice and some have therefore become increasingly concerned about their broadband service.

4.27 Over the past few years, Ofcom has taken a number of measures to improve the outcomes for broadband consumers,

4.28 During 2008 Ofcom worked with ISPs to develop a voluntary Code of Practice on Broadband Speeds, which came into force in December 2008, and requires ISPs to provide clearer information to consumers about the maximum speeds they will receive. The intention is that when consumers have more accurate information about the services they will be getting, they will have a more realistic expectation of the service they are likely to receive.

4.29 However, as we have mentioned above, the current research shows, that to date, there has been little change in satisfaction with broadband speeds. In addition, in July 2009 we published the findings of research we carried out into fixed line broadband speeds (see spotlight) which highlighted issues around performance by the largest ISPs in the UK.

4.30 We will therefore continue to monitor the effectiveness of the Code of Practice and may consider alternatives, including formal regulation, if the current arrangements do not prove sufficiently effective. We also intend to commission a further round of research in 2010 and will continue our programme of work on broadband speeds with the overall objective of ensuring that consumers are given the information they need to promote consumer awareness and informed decision-making. With this in mind, we have published consumer guides to broadband speeds and choosing a broadband service which are available on our website54.

Consumer Guides

4.31 Last year we launched a series of consumer guides to give practical advice to consumers on a number of key issues in the communications sector. These included guides on slamming, nuisance calls and how to make a complaint.

4.32 We have also published a number of consumer guides and demos on topical issues alongside the publication of key documents. Topics covered in the guides have included broadband speeds, mobile roaming charges, additional charges, mobile number switching, advice for disabled people and mobile broadband.

4.33 The consumer guides are easily accessible on our website, which was re-launched in August this year with improved consumer facing pages as well as a telephone advice line for consumers with no internet access.

4.34 We are also considering co-branding these with stakeholders and options for distribution to increase dissemination of the information. We would also welcome feedback from stakeholders on any other issues they think might be important for us to highlight.

**Spotlight – Broadband speeds**

In July 2009, Ofcom published the results of its research into fixed-line broadband speeds in the UK. The research provides independent, data on the actual speeds that UK consumers are getting from ISPs. Over 60 million separate service performance tests were carried out between November 2008 and April 2009, to allow a comparison of the performance of the UK’s nine largest ISPs by retail market share. A consumer perceptions survey conducted alongside the research found that speeds were a key issue for broadband consumers as they increasingly use the internet for bandwidth-hungry applications such as downloading video and audio. The majority of consumers were happy with the speeds they received, although over a quarter said that the speed they received was not what they expected when they signed up to the service.

The research found that there were significant differences in the download speeds offered by ISPs, with speeds depending on the technology used to deliver broadband and the capacity of the provider’s network. Ofcom’s findings from the research were:

i) The average broadband speed in the UK in April 2009 was 4.1Mbit/s. This compares to an average 'up to' headline speed of 7.1Mbit/s.

ii) The actual speeds received varied widely: 9% of our sample on 8Mbit/s headline packages received actual average speeds of over 6Mbit/s and around one in five received, on average, less than 2Mbit/s.

iii) Slower speeds were also experienced at peak hours (between 8-10pm) and by those consumers in rural areas.

iv) ISP performance varies according to the technology used and their network capacity, with cable customers receiving significantly faster speeds than those on ADSL technologies.

**Tackling process barriers to switching**

4.35 In addition to tackling informational and other barriers to switching, Ofcom has an ongoing programme of work to ensure that switching processes do not prevent consumers changing provider.

4.36 Over recent years, Ofcom has invested significant resource in tackling residual issues with today’s switching processes, including our work on fixed-line mis-selling, broadband migrations and mobile number portability. These initiatives have had some success, most notably on broadband migrations through the introduction of General Condition 22 (GC 22) which resulted in a significant reduction in complaints from consumers trying to switch.

4.37 However, with an increasing move towards the sale of products by bundle, it is becoming increasingly important that Ofcom looks to the future, to ensure that regulations and processes in place do not inhibit consumers’ ability to switch in a world of bundled product offerings as well as for switching single communications services. Our work has focussed on separate initiatives around fixed, broadband and mobile switching and more recently on a strategic review of switching across services.

4.38 Ofcom has started a strategic review of consumer switching to ensure that there are no undue process barriers to consumers switching now or in the future. This will also aim to address concerns raised by industry stakeholders.

4.39 We are currently undertaking evidence gathering and analysis. As part of this, Ofcom held a workshop with consumer and industry stakeholders in October 2009. There was general consensus that existing arrangements do not deliver best outcomes for consumers and that there is an urgent need for change, particularly with the increased popularity of service bundling.

4.40 We are also liaising closely with the Office of the Telecommunications Adjudicator (OTA) as part of an industry-led work, being facilitated by the OTA, to develop a shared view of the strengths and weaknesses of the current processes and to develop an improvement plan (including costs).

4.41 In addition, Ofcom has been leading the work on best practices to facilitate switching which is being carried out by the European Regulators Group (ERG). This project will aim to establish best practices in respect of removing obstacles to switching and ensuring consumers are adequately protected from abuses. The project will culminate with a report in spring 2010, following consultation with the European Commission as well as industry and consumer stakeholders.

4.42 We plan to publish a consultation document on our strategic approach to switching during 2010 setting out next steps in this area.

Fixed-line

4.43 Fixed-line voice switching (including full LLU) is a ‘gaining provider’-led process and uses a ‘letter facilitation’ process. This works on the basis of the customer being notified by letters from their losing and gaining telephone companies that the switch is happening. There is a 10-day switchover period during which time the customer is able to stop the order going ahead, where they simply change their mind or in cases of slamming.

4.44 A key benefit of the fixed-line switching process therefore is that switching between companies is relatively easy. However, due to a lower level of upfront validation (compared to broadband), the process is potentially more open to abuse of particular types of mis-selling such as ‘slamming’ (which is where customers are simply switched from one company to another without their express knowledge and consent) and other forms of dishonest selling (such as claiming to be from BT).

4.45 We are currently reviewing existing safeguards and published a consultation document on 10 September aimed at strengthening safeguards in this area. The proposals confirmed a new GC to stop fixed-line mis-selling, a move away from codes of practice towards general prohibitions on mis-selling activity, extending Cancel Other rules to all providers and ensuring that providers are keeping better records of any sales activity. We intend to publish a statement on this shortly.

4.46 We are also considering the merits of introducing other measures, including better information to consumers on the potential consequences of switching as well as the case for mandatory call recordings. We intend to come back to these measures during 2010.

56 http://www.ofcom.org.uk/consult/condocs/protecting_consumers_misselling/
4.47 In section 5, we review complaints data and set out our approach to compliance, including details on our industry-wide investigations programme to monitor compliance with the rules.

Broadband

4.48 Switching broadband services (including shared LLU) follows a Migration Authorisations Code (MAC) process—this requires the consumer to actively obtain an authorisation code from their existing ISP and then submit it to their new ISP before the switch can take place. It requires more customer contacts but, due to higher levels of upfront validation, it does provide good protection from slamming.

4.49 In the broadband market there are two main obstacles to consumers being able to easily switch their broadband services providers. These are the failure of ISPs to provide MACs and the presence of a ‘Tag’ on the line that prevents consumers from being able to order broadband on their line.

4.50 These two issues resulted in high levels of complaints during 2006/07, leading to Ofcom introducing new rules in February 2007. The rules, introduced through GC22, are aimed at preventing ISPs from using this process to frustrate switching. The rules required wholesale and retail providers to supply MACs to customers wanting to switch providers. We:

- obliged ISPs to give consumers their MAC on request, free of charge, within 5 working days;
- introduced a new requirement to oblige ISPs to do all that is fair and reasonable to ensure customers can switch with minimum disruption (including in those scenario where a MAC is not required); and
- commissioned the OTA to work with industry to secure improvements in back office switching processes.

4.51 In section 5, we review complaints data and set out our approach to compliance, including details on our industry-wide investigations programme to monitor compliance with the rules.

Mobile

4.52 Mobile services follow a Porting Authorising Code (PAC) – this works along similar lines to broadband switching as it requires the consumer to actively obtain an authorisation code from their existing provider and then submit it to their CP before the number port can take place. Again, as it requires multiple customer contacts, it does introduce additional complexity to the porting and switching process.

4.53 We initiated a fresh internal review of the mobile number porting (MNP) process following Vodafone’s successful appeal against our decision published in November 2007, which had required mobile providers to implement a ‘gaining-provider’ led porting process and reduce the porting lead time from two working days to two hours.\(^{57}\) The aim of the current review is to reconsider and identify what, if any, changes should be made to ensure that MNP arrangements meet the needs of UK consumers in terms of facilitating consumer choice and effective competition.

4.54 We published a consultation document\textsuperscript{58} in August this year which set out the initial results of our review. We noted that, although the current process seems to work well for many consumers, there is evidence that it can cause difficulties and delays for a significant minority of consumers. We also noted that changes may need to be made to ensure that the UK process is aligned to European proposals for one day porting across the EU.

4.55 The consultation therefore set out options for faster porting including completing the process within two hours or within one working day. In addition, the consultation sought views on whether to continue with the current ‘donor-led’ MNP process or change to a recipient-led process, which would be managed by the customer’s new provider. We will aim to consult on our final decision in 2010.

4.56 In addition, new rules on the sales and marketing of mobile services to protect customers against mis-selling, including ‘slamming’, came into force in September 2009. These are described in more detail under consumer protection in section 5.

\textsuperscript{58} \url{http://www.ofcom.org.uk/consult/condocs/gc18_mnp/}
Section 5

Consumer concerns and protection

5.1 Protecting consumers from harm in the communications market is a central role for Ofcom. Our aim is to ensure our policies protect consumers from scams and unfair practices that can result in anxiety and financial harm, but where it does occur, to ensure it is dealt with effectively.

5.2 This section outlines the types and levels of complaints that consumers are making to us through the Ofcom Advisory Team (OAT), consumers’ personal experience of issues in the communications sector, the types of concerns consumers have about the communications market and their awareness of who to complain to. We then discuss our work and policies in this area.

Ofcom Advisory Team cases

5.3 The OAT is the main point of contact for consumers wishing to seek advice or make complaints to Ofcom about issues in the communications market. Consumers can contact the OAT by phone, internet or post.

5.4 The number of complaints received by Ofcom between 2008 and 2009 overall has decreased from around 20,000 per month down to around 16,000 per month.

Figure 27: Number of monthly complaints received by Ofcom, 2008-2009

Source: Ofcom, OAT data

General = ‘General Enquiries’, these could relate to broadcast, spectrum or telecoms issues

5.5 Broadcasting complaints continue to be dominated by issues around content and were particularly high between August and November 2008 due complaints about the television programmes - X Factor, We are not amused, Top Gear - and the BBC
Radio 2 Russell Brand Show. More information can be found in Ofcom’s Broadcast Bulletins which are published on Ofcom’s website.

Figure 28: Trend in complaints about telecoms issues received by OAT, over time

Complaints to Ofcom about telecoms services related to a variety of issues and varied from month to month between 2008 and 2009.

For most of the year, mis-selling/slamming in the fixed-line market and customer services dominated the telecoms complaints:

Complaints about mis-selling/slamming in the fixed line market have steadily decreased since their October 2008 peak of 1,100. They now stand at about 700 per month, although September saw the number of complaints rise to just over 800.

OAT receives around 900 complaints a month specifically about poor customer service: these include categories such as complaints being ignored, refusal to escalate complaints to managers and incorrect information being given. In addition, around 50% of all complaints (about 5,000/6,000 a month) received by OAT relate to a wider range of issues around the customer/supplier relationship, which, although they may not directly tell us about complaint processes, are an indirect indicator of providers failing to deal with complaints promptly and adequately.

Complaints about other issues have reduced:

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59 http://www.ofcom.org.uk/tv/obb/
60 These issues account for over half of all telecoms complaints received by Ofcom – others not shown include ‘supplier customer relationship’
61 The term mis-selling covers a range of sales and marketing activities that can work against the interests of both consumers and competition and can undermine confidence in the industry as a whole.
Following a peak early in 2008 of around 900 a month, the number of complaints about additional charges – principally about charges for not paying by direct debit and for leaving contracts early - has fallen to around 500.

Despite a sharp rise between August and October 2008, reaching a peak of 1,300, the number of complaints about silent calls has decreased from around 600 in May 2008 down to around 400 per month.

The other telecoms issues like premium rate services, broadband migrations and mobile mis-selling have all experienced a downward trend in the level of complaints year on year, with slight fluctuations throughout the year.

5.11 We explain and discuss these complaints in greater detail in our assessment of Ofcom’s work below.

Experience of issues

5.12 We have carried out research designed to understand how many adults had personally experienced particular issues in each of the communications market in the last six months, regardless of whether or not they had complained about it.

5.13 There has been a general decline in the proportion of adults experiencing particular issues in each of the communications market and there has also been a decline in the number of people who has had difficulty resolving an issue with a supplier of communications services in the last six months, from 10% in 2008 to 6% in 2009.

Fixed

5.14 Our research shows a decline in personal experience of silent calls with a high proportion of consumers not complaining about silent calls. Personal experience of abandoned calls, incorrect charge on bill, slamming and bill shock have remained stable.

Mobile

5.15 In the mobile market the largest proportion of consumers, 10%, say they had received an abandoned call with a recorded message on their handsets. The proportion of mobile users who claim to have been misled when taking out a contract has declined from 6% in 2008 to 3% in 2009, which is in line with the decline in the number of consumers who said they were provided with incorrect information about mobile tariffs, packages or coverage in the last six months.

5.16 Overall, contract customers are more likely to have experienced these issues than pre-pay users.

Internet

5.17 As last year, a quarter (23%) of UK adults said they had personally experienced broadband speeds that were slower than they expected, making it the most commonly experienced issue in the internet market. Other issues, such as difficulties switching, identity theft and incorrect bills, were experienced by only a very small proportion of consumers – 5% or less, although difficulties with switching broadband supplier (by obtaining a MAC code) increased year on year.
Broadcasting

5.18 There has been a slight decline in the proportion of consumers who have personally experienced poor TV reception and poor radio reception in the last six months. Poor TV reception was experienced by 18% of consumers (vs 21% in 2008) while poor radio reception was experienced by 8% (vs 12% in 2008).

Concerns

5.19 In our research, we asked consumers to mention concerns they have about different communications markets.

5.20 Levels of concern in all communications sectors have remained broadly stable over the past year, with slight fluctuations.

Figure 29: Any spontaneous concerns mentioned by consumers

Base: All adults 15+ who have each service, June 09 - Fixed (964), mobile (947), Internet (725), TV/Radio (1102)
Source: Ofcom consumer concerns tracking survey

5.21 The percentage of consumers mentioning spontaneous concerns has remained relatively unchanged over the course of the year.

5.22 Concerns about fixed line services were driven by a rise in the reports of nuisance and unwanted calls, and in the mobile sector, the most commonly mentioned concerns related to signal or reception problems and call costs. The highest level of concern in the internet market continues to be about service issues, driven by concerns over slow connection speeds. Concerns in the broadcasting sector related to poor reception on TV, too many repeats and bad quality programming.
Ofcom’s work

5.23 We have a wide range of work aimed at protecting consumers from scams and unfair practices. These tend to take the form of three types of harm around:

- **Entering contracts.** Consumers entering into contracts or service they have not fully consented to. Examples here include our work on fixed and mobile mis-selling.
- **In service issues.** Harm from process problems and once service is being provided. Examples here include problems with tags and silent calls and complaints handling.
- **Exiting contracts.** Consumers facing difficulties in leaving providers. Examples here include our work on early termination charges and mobile number portability.

5.24 Our work examining these areas is set out in more detail below.

**Entering contracts**

**Fixed-line mis-selling**

5.25 In light of evidence of rising complaints about mis-selling of fixed-line voice services, we introduced rules to protect consumers in May 2005. These rules require all providers supplying fixed-line voice services to establish, and comply with, sales and marketing codes of practice, which are consistent with published Ofcom guidelines.

5.26 Since the introduction of the rules, we have pursued an active monitoring and enforcement programme through an industry-wide investigation with the aim of securing compliance with the rules. We have been monitoring allegations of mis-selling in order to identify companies who are engaged in mis-selling, so that we can take action to protect the interests of consumers. We measure fixed-line voice mis-selling issues using two different measures:

- Ofcom’s own mis-selling complaints data; and
- The volume of orders cancelled by providers following allegations of slamming by customers (i.e. Cancel Other)

5.27 Since opening the programme, we have conducted 14 investigations into mis-selling and related issues. As a result of those investigations, we have issued ten enforcement notifications, fined two companies (Lo-Rate Telecom and most recently Telephonics Integrated Telephony) the maximum 10% of their relevant turnover and resolved problems with several providers publicly and without the need for formal notification.

5.28 The chart below shows that there has been a downward trend in the volume of complaints received, with Cancel Other use notably, having fallen significantly over recent years, from monthly volumes of 30,000 back in early 2006, to around 8,000 in recent months. We consider that this fall indicates both a better understanding by industry of appropriate use of the Cancel Other and the effects of our active monitoring and enforcement of the mis-use of Cancel Other.

5.29 There is also a positive downward trend in relation to Ofcom mis-selling complaints volumes, albeit less stark than with Cancel Other. However, as the chart shows, following a positive downward trend after the introduction of the mis-selling rules, there was a marked increase in relation to mis-selling complaints received during
2007/2008, but that this has been reversed over the last 12 months – and these have steadily decreased since their October 2008 peak of 1,100 to 700 per month in August 2009.

**Figure 30: Comparison of Ofcom fixed-line voice mis-selling complaints vs Cancel Other (slam) volumes [Note different scale in annex]**

5.30 Our analysis of recent complaints suggests that a significant proportion of alleged ‘slamming’ complaints are potentially the result of process deficiencies, rather than deliberate mis-selling. Consequently, we are working closely with OTA, Openreach and the industry to analyse the cause of the problem further and identify solutions.

5.31 We are currently reviewing the existing regulations to protect consumers from fixed-line mis-selling and abuse of ‘Cancel Other’, and we have published two consultation documents over the last year aimed at strengthening safeguards in this area. While, as above, our analysis suggests that there are current process difficulties, we believe that further improvements are achievable, and we are still not persuaded that sufficient progress has been made in reducing levels of mis-selling.

5.32 On 10 September 2009 we confirmed our intention to:

- introduce a new GC to stop fixed-line mis-selling;
- introduce an explicit prohibition on mis-selling activity;
- extend Cancel Other rules to all suppliers offering fixed-line voice services; and
- ensure that suppliers are keeping better records of their sales activity.

5.33 We are aiming to publish a statement on the above shortly which will specifically deal with implementation periods. During 2010 we are also planning to further consider proposals that we previously consulted on, including information provided to the

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consumer at the point of sale on the potential consequences of switching as well as exploring the case for mandatory sales call recordings.

Mobile

Figure 31: Mobile mis-selling complaints

From late 2006 mobile mis-selling became a significant area of concern particularly around sales incentives where some consumers were unable to receive cash-backs offers they signed up for. Working with Ofcom, the five mobile service providers developed and signed up to a voluntary code of practice which set out best practice on sales and marketing for mobile services. The code came into force in July 2007. We made clear that unless the code resulted in a significant and rapid reduction in consumer complaints, formal regulatory intervention would be considered.

By October 2007 there had been no significant improvements in complaint volumes and we commenced a review to consider the case for further action. On 18 March 2008, we published a consultation document63 with our initial assessment of mobile mis-selling and cash-back issues and proposed to introduce new mandatory rules – a GC on sales and marketing practices that would apply to all mobile service providers.

We concluded our review in March 2009 and decided to proceed with the introduction of a new GC (“GC23”) which requires mobile providers to ensure that they do not engage in dishonest, misleading or deceptive conduct at the point of sale. Providers who breach the rules could be fined up to 10% of relevant turnover.

The new rules state that providers must:

- not mis-sell mobile phone services;
- make sure the customer intends and is authorised to enter into a contract;
- make sure consumers get the information they need at the point of sale;
- make sure that the terms and conditions of cash back deals offered by their retailers are not unduly restrictive; and
- carry out certain due diligence checks in respect of their retailers.

63 http://www.ofcom.org.uk/consult/condocs/mobmisselling/statement/
5.38 GC23 came into force on 16 September 2009. Since Ofcom proposed to introduce new rules in its consultation in March 2008, complaints about cash-backs have now virtually ceased while mis-selling complaints have fallen from over 600 to fewer than 200 per month. Ofcom is keen to reduce harm further and we will monitor closely the application of GC23.

**In service issues**

**Abandoned and silent calls**

5.39 Abandoned and silent calls are mostly caused by automated calling systems programmed to generate more calls than their agents can handle. When a consumer answers such a call and no agent is available, the call is automatically terminated or the consumer either hears silence (a silent call) or an information message. Despite the likely cause of their origin, these calls can still understandably cause annoyance, inconvenience or anxiety.

![Figure 32: Complaints about silent calls](image)

Source: OAT & BT NCB

5.40 The number of complaints recorded by the OAT and Providers has shown a steady decline in silent calls (despite a sharp increase in October 2008 which may have resulted from the publicity surrounding the Barclaycard case). However, the latest research findings reveal that abandoned and silent calls remain a concern for consumers and continue to be an important area of focus for us.

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64 In April 2008, BT identified that they were under-reporting on silent calls volumes. From April 2008 BT has been reporting on a true level of silent calls received by their Nuisance Calls Bureau.

5.41 In 2006 we published a statement on the persistent misuse of an electronic communications network or service\(^{66}\), setting out the factors that we would take into account when deciding whether or not to take action in relation to abandoned and silent calls. We then began a programme of monitoring and enforcing compliance with the rules and have imposed financial penalties on nine companies since June 2006. In January 2009, Ofcom imposed a financial penalty of £45,000 on Ultimate Credit Services Ltd (UCS)\(^{67}\) under section 130 of the Act.

5.42 In September 2008 we published a revised statement on the persistent misuse of an electronic communications network or service\(^{68}\). In October 2009, we amended a requirement and we have started a review to determine whether it is appropriate to modify the rules on guidance to make them more effective. We plan a consultation and statement in 2010.

5.43 In the intervening period, Ofcom will maintain its monitoring and enforcement programme with the goal of improving compliance and reducing the consumer harm generated by silent and abandoned calls. Ofcom has been working with the Government on a proposal announced in the Digital Britain Report (Chapter 7) to raise the maximum statutory financial penalty for persistent misuse of an electronic communications network or service. It is hoped that a higher penalty would increase deterrence for those companies who persistently misuse a network or service and cause harm to consumers by making excessive silent and abandoned calls.

5.44 Ofcom has also produced a consumer guide on dealing with nuisance calls\(^{69}\) which is available on our website and outlines the steps that consumers can take if they receive silent calls.

**Sales and marketing calls**

5.45 Under the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("PECR"), Ofcom is required to maintain registers of the phone and fax numbers of people who do not wish to receive unsolicited direct marketing telephone or fax calls. Ofcom may arrange for a third party to discharge these functions.

5.46 The Telephone Preference Service Ltd (TPSL), a subsidiary of the Direct Marketing Association (DMA), won the Ofcom tender to provide the Telephone Preference Service (TPS), Corporate Telephone Preference Service (CTPS) and Fax Preference Service (FPS) until 2009. The contract, which was due to expire at the end of April, was recently extended to July 2010 to allow Ofcom time to conduct an effective tender process.

5.47 It is a legal requirement that companies do not make direct marketing calls to numbers registered on the TPS list. Although Ofcom (or its designated third party) is required to maintain the list, the Information Commissioner’s Office (ICO) is the primary enforcer.

5.48 The number of complaints about TPS received by Ofcom was on average below 250 per month over the past year, with no trends involving significant increases or decreases.

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\(^{67}\) [http://www.ofcom.org.uk/bulletins/comp_bullet_index/comp_bullet_ocases/open_all/cw_905/UCSs129s130010409.pdf](http://www.ofcom.org.uk/bulletins/comp_bullet_index/comp_bullet_ocases/open_all/cw_905/UCSs129s130010409.pdf)

\(^{68}\) [http://www.ofcom.org.uk/consult/condocs/persistent_misuse/statement/](http://www.ofcom.org.uk/consult/condocs/persistent_misuse/statement/)

5.49 The ICO, as the primary enforcer, has responsibility for enforcement action in most cases. It informs us that it systematically targets all companies who appear in the top TPS and FPS offenders lists.

TAGs and MACs

5.50 As mentioned in section 4, we opened an own-initiative industry-wide investigation to monitor compliance with new broadband migration rules in February 2007. As part of this, we have targeted those ISPs who have not improved enough and enforced where appropriate. As a result, we have taken action against two companies and we have worked with the industry to get them to change their procedures so that they comply with the rules.

5.51 Broadband migration was a significant but declining driver of complaints to the OAT during 2007 and 2008, and into early 2009, as the figure below shows. In the past 6 months total broadband migrations complaints have continued their general downward trend, driven by reductions in complaints around both MACs and Tags.

**Figure 33: Broadband Migration Complaints**

![Graph showing broadband migration complaints]

Source: Ofcom (OAT)

5.52 During the last year, our industry-wide investigation has focussed on monitoring compliance with the MAC process by the major ISPs. Since peaking in March 2007 at 825 complaints, there has been a significant reduction in complaints to the OAT. In September 2009, as shown in the chart below, we received only 147 complaints, the lowest number since the onset of the enforcement programme.
5.53 Fair, transparent and effective complaints handling processes both protect consumers and empower them in their dealings with providers. All Providers in the UK are required under GC14 to publish a complaints code of practice and provide access to an alternative dispute resolution (ADR) service, both of which have to be approved by Ofcom.

5.54 ADR is therefore an important part of the consumer experience in communications market. ADR schemes consider cases referred to them by consumers who have unresolved complaints with their Providers, examine both sides of the dispute and make a judgment, which could include a financial award and/or requiring the provider to take appropriate action. ADR can improve the outcome for those consumers whose complaints might otherwise be unduly lengthy or remain unresolved. It also gives Providers additional incentives to improve their own complaints handling procedures and to resolve complaints quickly and effectively. There are two Ofcom-approved schemes: the Office of the Telecommunications Ombudsman (Otelo) and the Communications and Internet Services Adjudication Scheme (CISAS).

5.55 In 2008, in view of the increasing trend in the percentage of consumers who did not progress a complaint, we started a review of complaints handling procedures and the ADR systems in order to explore ways of achieving faster dispute resolution and better consumer awareness.

5.56 In July 2008 we set out proposals to improve access by reducing the period that consumers have to wait before they can take complaints to ADR from 12 to 8 weeks.
5.57 In our May 2009 statement, we confirmed our decision to proceed with the proposed reduction from 12 to 8 weeks. The new arrangements came into effect on 1st September 2009. We believe that, by enabling customers to take their unresolved complaints to ADR earlier, consumers will benefit from a reduction in the stress and anxiety which often accompany prolonged disputes.

5.58 In our statement, we also confirmed the criteria we will use in our review of the approval of the two ADR schemes next year. These include accessibility, independence, fairness, transparency and effectiveness.

5.59 In the 2008 consultation, we also made other proposals: improving awareness of ADR by requiring providers to notify their customers about the schemes; setting minimum standards for complaints handling; and requiring providers to keep appropriate records of contacts with their customers. Responses from Providers expressed concerns about the impact and costs of changes that would be needed to implement these proposals. We are currently reviewing our proposals and will be consulting in the near future.

Scams

5.60 Scams, frauds and other abuses carried out by individuals and/or companies come and go and differ in nature. They can cause significant consumer harm:
- Direct financial harm (through intent to defraud);
- Inconvenience, anxiety and distress; and
- Threatening consumer confidence and thereby bringing all services offered into disrepute.

5.61 Scams complaints overall currently account for about 1% of total complaints to the OAT (around 80 a month) and the biggest issue in September 2009 was reverse billed SMS scams.

5.62 From the start of 2009 we restricted how 070 personal numbers, 0871/2/3 special service higher rate numbers and 09 premium numbers are allocated. We stopped issuing numbers in these ranges to companies and individuals who have previously used telephone numbers to cause serious or repeated consumer harm or to companies and individuals we are investigating. The list of companies and individuals encompassed by this is published on our website. We also strongly encourage providers that sub-allocate telephone numbers to introduce similar measures to ours, when allocating numbers themselves.

Premium rate services

5.63 Premium rate services (PRS) are a form of micro-payment for content, data services and value added services that are charged to your telephone bill. There are a diverse and growing number of services which include:
- fixed line services, such as live chat, information services (including directory enquiries), TV vote lines, internet PRS services and Pay TV; and
- mobile services such as ring tones and media content including music downloads.

PhonepayPlus is the agency appointed by Ofcom for the regulation of all premium rate-charged telecommunications services, and has responsibility for day to day regulation of the content, operation and promotion of services through its Code of Practice. PhonepayPlus receives and investigates complaints about premium rate services. It has powers to give directions to, and impose sanctions on, PRS providers so as to protect consumers and ensure that the Code is upheld.

The complaints received by PhonepayPlus vary significantly from year to year. Over the past year, complaint volumes to PhonepayPlus have continued to decrease. PhonepayPlus introduced new rules governing mobile phone-paid services in January 2009 and mobile complaints fell by 42% between January and August 2009.

A key development in PRS regulation has been the new rules coming into force for 087 numbers. From 1 August 2009 PhonepayPlus has had responsibility for the day-to-day regulation of 0871 numbers, which are typically charged between 5p and 10p per minute. Organisations using and providing 087 numbers now face a number of new obligations, including requirements to include the price of calls in advertisements and promotional material, taking steps to limit the harm to consumers from unfair delays on calls, providing a complaints telephone number for users, and in some situations requiring prior permission from PhonepayPlus before operating.

In October 2009 Ofcom published a statement on its review of the scope of PRS regulation. The statement contained the analytical framework which Ofcom will apply in future assessments of whether the scope of regulation should be widened or narrowed, and also included a number of recommendations for PhonepayPlus to adopt when it revises its Code of Practice.

Exiting contracts

Early Termination and Additional Charges

On 19 December 2008, Ofcom published new guidance (‘the Guidance’) for Providers setting out Ofcom’s interpretation of how the Unfair Terms in Consumer Contract Regulations 1999 (‘the Regulations’) apply to protect consumers from unfair terms in consumer contracts specifically in relation to ‘additional charges including early termination charges’.

Consumers often face additional charges from their CP over and above those they already pay for a service – whether home phone, mobile, broadband or pay TV.

These additional charges can be due to a number of factors, including:

- Not paying by direct debit;
- Late payment or costs associated with having service restored after it has been restricted or suspended following late payment;
- Minimum Contract Periods (MCPs), subsequent MCPs and Early Termination Charges (ETCs) (terminating a contract within the specified minimum contract period);
- Not complying with the minimum notice period where a consumer intends to terminate a contract
- Receiving a fully itemised or paper bill; and
- Cease charges (when the consumer ceases its service from the supplier)

http://www.phonepayplus.org.uk/
www.ofcom.org.uk/consult/condocs/prs_scope/prs_statement
5.71 Consumers potentially suffer financial harm if they do not take these charges into account in choosing their CP, and as a result do not make the best choice for them. In addition, competitive pressures may not act to reduce these charges, which can then be set significantly above cost and consumers who are not aware of these charges cannot take measures to avoid them.

5.72 The financial harm may be particularly high for low income consumers because they may be more likely to incur charges in some cases (for example, because they don’t have a bank account from which to make direct debit payments or because they sometimes pay late) and they are least able to pay them.

5.73 In April we opened an enforcement programme and conducted an extensive analysis of the terms and conditions of 12 major providers to check their compliance with the Guidance. Having extended the enforcement programme for a further six months from 30 September 2009, we have continued to engage with providers to ensure that they take the relevant steps towards compliance with the Guidance. Some providers have made changes to their terms and conditions since publication of the Guidance. However, where impasses have been reached with certain providers, our next step, subject to considering the implications of the Supreme Court’s November 2009 judgment in the Office of Fair Trading’s action relating to bank charges, is likely to consist of enforcement action.

Automatically renewable contracts

5.74 Automatically renewable contracts (ARCs), sometimes referred to as ‘rollover contracts’, are being used increasingly in fixed line communications markets. Under ARCs, consumers sign up to a minimum contract period (MCP) that is automatically renewed unless the consumer explicitly tells the provider they do not want this to happen. If a consumer wants to leave during an MCP, they usually have to pay an early termination charge (ETC) under the terms of their contract.

5.75 A number of stakeholders have expressed concern to Ofcom about ARCs. We have undertaken research this year to understand the impact of ARCs in residential markets. We are continuing this research and plan to publish a document setting out our approach to ARCs early in 2010.

5.76 If we find that ARCs are creating a barrier to switching which is harmful to consumer welfare and/or the competitive process, we will take action to correct this.

Mobile number portability

5.77 Ofcom requires MNOs and MVNOs to provide number portability to customers seeking to leave their contracts and switch to another provider, as soon as it is reasonably practicable on reasonable terms to the customers making the request (General Condition 18.1).

5.78 In June this year, Ofcom launched a pre-enforcement programme to monitor compliance. We will examine complaints received by OAT. Where there is evidence of potential non-compliance, we will take appropriate and proportionate action under this programme. If necessary, we will take action through separate investigations of named MNOs and MVNOs, which will be announced via Ofcom’s Competition and Consumer Enforcement Bulletin.
Section 6

Conclusions and next steps

Conclusions

6.1 We believe that the interests of consumers are, in general, best served by promoting effective competition in the provision of communications services. The research indicates that this approach is delivering significant benefits to consumers in terms of a wide range of choice, falling prices and high levels of satisfaction. Our programme of market reviews and investigations aim to ensure competition continues to be effective and to deliver benefits to consumers.

6.2 The research also shows high levels of availability of services. While at least 9 out of 10 consumers have fixed, mobile internet and broadcasting service available to them, 'not-spots' continue to exist particularly for mobile and broadband. We will continue, as a priority, to improve our understanding of the occurrence and extent of these 'not-spots' and work with industry and Government to consider possible actions that can be taken to address them.

6.3 Take-up of all communications services, except fixed line, has increased since 2008. There has been a positive rise in computer ownership and internet access amongst low income consumers. However, consumers aged 75+ as well as those in the lower socio-economic groups remain the least likely to own mobile phones or multichannel TV services, to use broadband services or purchase bundles. We propose to make our work supporting the Digital Participation Consortium a priority.

6.4 Although the majority of consumers are finding it easy to switch their communications supplier, there has been a decline this year in switching levels and consumer engagement in bundled services. We have started a major review of regulation in this area with the aim of making sure that a lack of information and complex processes do not create undue barriers for consumers switching providers. This work is a proposed priority for Ofcom for 2010/11.

6.5 Consumer concerns and protection issues have reduced in some areas, notably around broadband switching, mobile mis-selling and premium rate services over the past year. However problems continue in other areas, in particular around fixed-line mis-selling, additional charges and consumer service. We will continue our efforts to protect consumers from harm and ensure that the existing rules are adequate and industry complies consistently with regulations and guidelines.

Your views on the report

6.6 Ofcom’s draft Annual Plan published alongside this report reflects the findings of this evaluation report and the accompanying research in developing our proposed priorities for 2010/11. We encourage anyone with an interest in Ofcom’s work to contribute and respond to the draft Plan.
Annex 1

Glossary of terms and definitions

2G  Second generation of mobile telephony systems. Uses digital transmission to support voice, low speed data communications, and short messaging services.

3G  Third Generation Cellular Mobile.

ADSL  Asymmetric Digital Subscriber Line. A digital technology that allows the use of a standard telephone line to provide high speed data communications. Allows higher speeds in one direction (towards the customer) than the other.

Bandwidth  Measure of maximum capacity of a data link in a telecommunications network. Usually expressed in Kbps or Mbps.

Broadband  A service or connection that is capable of supporting always-on services which provide the end-user with high data transfer speeds. A large-capacity service or connection that allows a considerable amount of information to be conveyed - often used for transmitting bulk data or video or for rapid Internet access.

Bundling  Tying one service or product to the supply of others including some situations where the supply of services are linked through the use of discounts.

Cancel other  Industry term for a customer’s current provider cancelling the request from a new supplier to switch their customer account, due to the customer being slammed.

Cashback  A form of promotion offered to customers, in which a customer signs up for a mobile phone network, and in return is reimbursed for a proportion of the line rental payable under that contract.


Complaints code of practice  Document required of all communications providers that is easily accessible to consumers and sets out the correct procedures for consumers to follow should they need to make a complaint.

Connection speed  The rate information can be transferred from the Internet to a computer. Dependent on the type of connection, i.e. modem, cable, DSL, etc.

Contention ratio  An indication of the number of customers who share the capacity available in an ISP's broadband network. Figures of 50:1 for residential broadband connections and 20:1 for business are typical).

CPs  Communications Providers.

DAB  Digital Audio Broadcasting. A set of internationally accepted standards for the technology by which terrestrial Digital Radio multiplex services are broadcast in the UK.

DSL  Digital Subscriber Line. A family of technologies generally referred to as DSL, or xDSL, capable of transforming ordinary phone lines (also known as 'twisted copper pairs') into high-speed digital lines, capable of supporting advanced services such as fast Internet access and video-on-demand. ADSL, HDSL (High data rate Digital Subscriber Line) and VDSL (Very high data rate Digital Subscriber Line) are all variants of xDSL.)
DSO Digital switchover. The process of switching over the current analogue television broadcasting system to digital, as well as ensuring that people have adapted or upgraded their televisions and recording equipment to receive digital TV.

DTT Digital Terrestrial Television. Currently most commonly delivered through the Freeview service.

Free to Air Television service which can be received in a given area without charge to the viewer. Some free-to-air services may be broadcast in scrambled form in order to limit access to viewers in a specific geographic area. Other free-to-air services may be broadcast in the clear – i.e. unscrambled.

Freeview Free digital service giving access to over 30 TV channels, over 20 radio stations plus a new whole world of interactive services

Internet A global network of networks, using a common set of standards (e.g. the Internet Protocol), accessed by users with a computer via a service provider.

Involuntary non-ownership Where potential consumers are without access to a service but not through choice

ISP Internet Service Provider. A company that provides access to the internet

Kbps Kilo bits per second (1,000 bits per second). A unit of measurement of data transmission speed

LLU Local Loop Unbundling. Process by which a dominant provider's local loops are physically disconnected from its network and connected to competing providers' networks. This enables operators other than the incumbent to use the local loop to provide services directly to customers.

Local Loop Access network connection between the customers premises and the local PSTN exchange, usually a loop comprised by two copper wires twisted together.

MAC Migration Authorisation Code. Unique identifier used by broadband customers when they wish to switch broadband service provider

Mbps Mega bits per second (1,000,000 bits per second). A unit of measurement of data transmission speed

Micro-payment Electronic payment method for small transactions

Mis-selling A term that covers a range of sales and marketing activities that can work against the interests of both consumers and competition and can undermine confidence in the industry as a whole

MMS Multimedia Messaging Service. The next generation of mobile messaging services, adding photos, pictures and audio to text messages.

MNO Mobile Network Operators

Mobile termination The charge operators which originate calls have to pay to mobile operators to deliver calls to their mobile customers
MP3 A standard technology and format for compressing a sound sequence into a very small file (about one-twelfth the size of the original file) while preserving the original level of sound quality when it is played.

Multichannel In the UK, this refers to the provision or receipt of television services other than the main five channels (BBC ONE & TWO, ITV1, Channel 4/S4C, Five) plus local analogue services. 'Multichannel homes' comprise all those with digital terrestrial TV, satellite TV, digital cable or analogue cable, or TV over broadband. Also used as a noun to refer to a channel only available on digital platforms (or analogue cable).

MVNO Mobile virtual network operator. An organisation which provides mobile telephony services to its customers, but does not have allocation of spectrum or its own wireless network.

Multiplex A device that sends multiple signals or streams of information on a carrier at the same time in the form of a single, complex signal. The separate signals are then recovered at the receiving end.

Narrowband A service or connection providing data speeds up to 128kbit/s, such as via an analogue telephone line, or via ISD.

OAT Ofcom Advisory Team (previously known as the Ofcom Contact Centre)

OTA Office of the Telecommunications Adjudicator (http://www.offta.org.uk/)

Off-net mobile calls Calls to mobiles on a different network

Omnibus Quantitative market research survey carrying questions on different topics

PC Personal computer

Platform The device on which a technology runs

Postcode The geographic area identified by letters and numbers which appears as the first part of a post code, e.g. SW8

PhonewayPlus Formerly known as ICSTIS. The regulator for premium rate charged telecommunications services.

PRS Premium Rate Service Services including recorded information and live conversation, run by independent service providers. All calls to these companies are charged at a higher rate than ordinary calls to cover the companies' costs in providing the content of the call and the operator's cost for the special network facilities needed.

PSTN Public Switched Telephone Network. Such as BT’s current copper telephone network

Silent call Telephone call generated by a dialler which does not have an agent immediately available to handle the call

Slamming Unauthorised switching of a customer's phone service to another carrier

SMS Short Messaging Service

Socio Economic Group (SEG) A social classification, classifying the population into social grades, usually on the basis of the Market Research Society occupational groupings (MRS, 1991). The groups are defined as follows.
A. Professionals such as doctors, solicitors or dentists, chartered people like architects; fully qualified people with a large degree of responsibility such as senior civil servants, senior business executives and high ranking grades within the armed forces. Retired people, previously grade A, and their widows.

B. People with very senior jobs such as university lecturers, heads of local Government departments, middle management in business organisations, bank managers, police inspectors, and upper grades in the armed forces.

C1. All others doing non-manual jobs, including nurses, technicians, pharmacists, salesmen, publicans, clerical workers, police sergeants and middle ranks of the armed forces.

C2. Skilled manual workers, foremen, manual workers with special qualifications such as lorry drivers, security officers and lower grades of the armed forces.

D. Semi-skilled and unskilled manual workers, including labourers and those serving apprenticeships. Machine minders, farm labourers, lab assistants and postmen.

E. Those on the lowest levels of subsistence including all those dependent upon the state long-term. Casual workers, and those without a regular income.

**Tag-on-line** When an internet connection with one supplier has not been removed from a fixed-line. A new supplier cannot be used on the line until the previous suppliers ‘tag’ has been removed from the line

**Tariff** Schedule of rates and charges for a service

**Unbundle** See LLU.

**Usage cap** Monthly limits on the amount of data which broadband users can download, imposed by some ISPs.

**USO** Universal Service Obligation. The set of Universal Services that Universal Service Providers are required to supply.

**Voluntary non-ownership** Where potential consumers are without access to services, primarily due to a perceived lack of need for a service or satisfaction with using alternative methods

**Wholesale Line Rental** A regulatory instrument requiring the operator of local access lines to make this service available to competing providers at a wholesale price.