



Ofcom's review of measures to
protect people in debt or at risk of
disconnection

Response to call for inputs

September 2021

Introduction

Sky welcomes the opportunity to provide our initial observations to Ofcom's call for inputs in its review of measures to protect people in debt or at risk of disconnection published 22 July 2021 (the "CFI").

In the CFI Ofcom states that making sure customers, especially those in vulnerable circumstances, are treated fairly is a priority. The same is true for Sky. Indeed, Sky prides itself on great customer service, not least because this is a key differentiator for Sky in an extremely competitive sector. Therefore, a central tenet of our customer service is "Selling Well" and doing the right thing. This means ensuring each Sky customer has the right package of products and services to suit their individual needs, including their financial needs. We consider that this is the best way of mitigating financial concerns and helping us to have satisfied customers with access to the products and services that they love – and importantly – can afford.

We recognise that sometimes our customers' financial circumstances can change, including when they are facing unprecedented events or crises (such as Covid-19 [§]), and that, those customers will need further support. We are continually reviewing the numerous measures on debt and disconnection that we have in place to ensure they provide the necessary support without putting customers at risk of accruing debts that they may not be able to afford – this is a delicate balance.

Mindful of the impact of Covid-19, Sky has implemented numerous measures to assist those customers who were struggling financially (often going above and beyond the scope of the Government's original requests). [§].

Sky agrees it is important that individuals who are in debt, or are struggling to pay, are treated fairly. Furthermore, as this is an evolving area, a collaborative and open environment between Ofcom and the industry is in the best interests of consumers and is to be encouraged.

In the CFI, Ofcom considers the case for whether the existing protections for people in debt or struggling to pay remain appropriate and considers whether there is evidence that changes are required.

In Sky's view, there is insufficient evidence of harm to consumers that would justify any changes at this time. Sky strongly agrees with Ofcom's "*initial view...that [Ofcom] have not seen evidence of significant consumer harm that would warrant amending [the] General Conditions or introducing new ones*".¹ Whilst there is simply no case for amending the General Conditions (the "GCs"), we also do not consider that changes to Ofcom's *Treating vulnerable customers fairly* guide (the "Guide") are justified or needed, for three main reasons.

Firstly, as stated in the CFI, the proportion of customers in arrears has remained relatively stable and the number of individuals affected remains relatively low.² In circumstances of relative continuity and absent compelling evidence of any harm to

¹ CFI, paragraph 4.51.

² CFI, paragraph 4.2.

be addressed, Sky does not consider changes to either the GCs or the Guide are necessary or justified.

Secondly, Communications Providers (“CPs”) must have the flexibility to explore and deploy innovative methods to best serve their customers (vulnerable or otherwise). Too rigidly prescribed rules and guidance risk undermining this flexibility and the ability of CPs to react quickly and effectively to ensure the right support is being delivered for customers’ individual needs.

This is epitomised in the fine balance between supporting customers in debt by continuing to provide unrestricted services and enabling further accrual of debt. Sky (with its focus on customer service) and other CPs are best-placed to tread this fine line between supporting a customer and guarding against the accrual of further debt in circumstances where we know the customer is unlikely to be able to pay. In fact, it would be irresponsible of an operator to continue to provide a full service, allowing the customer to incur further charges, for too long if it were aware that the customer was unlikely to be able to pay for them. Blanket rules and prescriptive guidance can undermine this nuanced, individualised assessment and, as such, risk encouraging the very outcomes they were intended to prevent.

Thirdly, while Sky – like Ofcom – is concerned by the CFI’s findings that total debt levels have increased amongst customers [REDACTED].³

[REDACTED].

Therefore, Sky considers that the increase in the level of debt that Ofcom is now reporting during the Covid-19 pandemic was entirely predictable, should not be used as a justification for changes to the Guide or GCs.

Finally, if Ofcom disagrees with Sky and does ultimately decide to amend the Guide, it is important that these changes are limited in nature and only implemented following further consultation with stakeholders.

³

[REDACTED]

Sky prides itself on great customer service

Sky has a strong commitment to providing excellent customer service and a proven track record in customer satisfaction. This is reflected in, among other things, Sky having been consistently the best-performing major pay TV, broadband, landline and now, mobile provider in Ofcom's own quarterly complaints data.⁴ Ofcom's recent CSQ report has also reconfirmed that Sky's broadband customers are the most satisfied when it comes to complaint handling (as in 2017 and 2018).⁵

Customer service is a core pillar of Sky's business strategy, and permeates every aspect of our customer service operations, directed and overseen by all layers of our senior management team. Indeed, Sky believes that treating each customer as an individual and delivering excellent customer service for *all* customers, is the best way to ensure that all customers, including vulnerable customers, are treated fairly and receive the appropriate help, support, and service they need.

A focus on vulnerable customers

Sky's response to the Covid-19 pandemic reflects our commitment to excellent customer service and the importance we place on delivering the right support for our customers' individual needs, particularly prioritising the needs of those who are most vulnerable. [REDACTED].⁶

Furthermore, consistent with our long-standing commitment to work with customers who may be struggling to pay their bills and ensure they are treated fairly, Sky put in place a number of additional measures to support customers who were experiencing financial difficulties as a result of the Covid-19 crisis. We have been fully supportive of Government initiatives to support vulnerable customers and those at risk of becoming vulnerable during the pandemic. As part of this we swiftly implemented Government requests, in many cases going beyond minimum requirements:

- [REDACTED].
- We gave customers the ability to pause their Sky Sports subscription until live sport began to return to our screens.
- We gave Sky Mobile customers an extra 10GB of data in their Piggyback to help them stay online.

Furthermore, consistent with Ofcom's encouragement to operators during the Covid-19 pandemic,⁷ which was repeated in the CFI, for CPs to build on these temporary

⁴ See, for example, 'Telecoms and pay TV Complaints data for Q1 (January - March) 2021', published by Ofcom published 6 September 2021 (https://www.ofcom.org.uk/__data/assets/pdf_file/0026/223955/Telecoms-and-pay-TV-complaints-Q1-January-March-2021.pdf)

⁵ 'Comparing customer service: mobile, home broadband and landline', published by Ofcom on 7 May 2021 (<https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/quality-of-service/report>)

⁶ [REDACTED]

⁷ See, for example, Ofcom's press release "Support for customers struggling to pay their phone or broadband bill during the pandemic" dated 2 July 2020 <https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/support-for-customers-struggling-to-pay-their-bills-during-pandemic>

measures, we have continued to keep many of these measures in force (as described in further detail below).

Outside of the COVID-19 crisis, there are times when other tragic or challenging events affecting our customers need a proactive and efficient approach to ensure that their needs are met in difficult circumstances. [redacted].⁸

The importance of flexibility in responding to customers' individual, and changing, needs

There are numerous examples of Sky reacting quickly and effectively to go above and beyond in delivering for its customers (in particular those who are – or were temporarily – vulnerable due to their financial circumstances or otherwise). However, these examples highlight another important point: the potential transitory nature of vulnerability which requires a flexible response. As shown in the examples above, this flexibility – rather than rigid rules and guidelines – best facilitates the ability of each CP to respond rapidly and innovatively to customer's individual needs, regardless of whether they are vulnerable.

Sky has every incentive to do this, regardless of regulatory intervention. We see our performance on customer care as a key differentiator against our competitors in a highly competitive sector. Ofcom itself notes in the CFI the *“extent of variation in provider practices, which could cause some customers to receive less support than others depending on which provider they are with”*.⁹

However, this variety is not evidence of consumer harm. Rather, the current ability of CPs to differentiate from one another on customer services (as they can choose to do on price, quality and other parameters of competition), can lead to positive outcomes for consumers – it is evidence of a competitive sector with a range of differentiated offerings to take account of individual's different preferences. Ofcom should, therefore, be wary of promoting standardisation for customer service when, in fact, the current flexibility is driving competition and delivering better outcomes.

⁸

[redacted]

⁹

CFI, paragraph 1.2 ('What we have found' box).

Specific areas identified in the CFI

Identification, engagement and communication with customers in debt or struggling to pay

At Sky we treat all customers as individuals and understand that distinct from accessibility needs, which are predominantly enduring or long-lasting, customers may become vulnerable, because of their circumstances (such as financial changes), at any moment in time. Therefore, we firmly believe that the most effective way to support the needs of vulnerable customers is for our advisors to listen and understand a customer's individual situation, to have the knowledge of the options available to best support them (e.g., payment holidays or 'right sizing' customers to a product set they can afford) and to be empowered to take the necessary actions or know where to go if they need the help of others (including signposting debt support charities to customers).

The first step to protecting vulnerable customers is identifying customers who are at risk. We appreciate that vulnerability can be a sensitive subject. Many customers may not want to disclose issues with us directly, so we need to use our judgement, listen actively, and ask the right questions in an empathetic way without making any presumptions about a customer. Sky staff are trained to listen out for the warning signs of vulnerability (including financial vulnerability).

That being said, the main indicator we have to identify customers who have or may have difficulty paying their bills is where customers have, in fact, failed to pay their bills on time. [§].

Through our website, we provide information and articles to help our customers proactively manage their Sky account and stay up to date with their bills and payments. This includes a number of self-service options to help customers stay in control of their finances.¹⁰ For example, where customers want to complete payments and resolve payment issues, they can do so via the MySky app, online, telephone (automated IVR and through an advisor), and via the set top box (for dual or triple-play customers).

Sky encourages any customer who is experiencing financial difficulties to contact us so that we can help find a resolution. We currently provide a wide range of communication channels to our customers to contact Sky:

- Email;
- Web messaging;
- Telephone;
- Self-serve help and support online at Sky.com; and
- Via the MySky app.

As a result, customers can access help and support in the way that works best for them and their individual needs. For example, if a customer is not comfortable on the

¹⁰ See, <https://www.sky.com/help/articles/billing-and-debt-management>.

internet, they can contact us via the phone. This is consistent with Ofcom’s statement in the CFI that it is important to offer a range of communication channels, as 6 out of 10 people may have serious difficulties with at least one communication channel.¹¹ In particular, Sky notes that it was not in the c.60% of CPs that do not allow customers who are struggling to pay to contact them via email.¹²

While we do not agree with the CFI that letters “*may be a particularly important*” communication channel for some customers, we do nonetheless offer initial communication via letter to our Customer Complaints department – upon receipt we will then try and contact the customer by phone (in the interests of accounts security).¹³ In any event, Sky notes that the Guide currently states that the channels “*should include, where appropriate, telephone, post, email, webchat and video and text relay*” (emphasis added).¹⁴ The Guide, therefore, implicitly recognises that certain communication methods may be less “appropriate” than others and, as such, it is not suggested that CPs should exhaustively offer all these communication channels for all communications.

[§]. Our Vulnerable Customers Guidelines also highlight that we will do our best to help financially vulnerable customers and signposts links to debt support charities (see further below).

For those customers experiencing difficulties paying their bills, we implement debt processes which are tailored to the customer’s needs to ensure that any debt accrued is manageable. [§].

As Ofcom recognises in the CFI, “*providers generally communicate in a timely way after a customer goes into arrears, and we recognise that they have commercial incentives to do so*”.¹⁵ Indeed, to ensure customers are kept well informed throughout the debt journey – and to increase the likelihood of successfully engaging with the customer – we send notifications to customers through a combination of one or more of the following methods: [§].

Ofcom also noted in the CFI that “*it may also approach providers to explore the possibility of working together to test the effectiveness of behaviourally informed communications in future, so that we can develop our understanding of how people respond to different messages*”.¹⁶ Sky already uses behavioural insights across its business, in particular in respect of product recommendations. [§]. Advisors are also empowered to respond to each customer’s needs in a flexible way. Similar methods for delivering tailored product recommendations already exist across industry.

While Sky would be open to discussions regarding the effectiveness of behaviourally informed communications, Sky considers that behaviourally informed product recommendations before a purchase are a more effective tool at addressing financial vulnerability than behaviourally informed communications sent after the product has

¹¹ CFI, paragraph 4.42.

¹² Figure 12, Ofcom CFI.

¹³ CFI, paragraph 4.18.

¹⁴ Guide, paragraph 4.12.

¹⁵ CFI, paragraph 4.19.

¹⁶ CFI, paragraph 4.20.

been purchased (and a debt potentially accrued). This is because one of the most important ways to mitigate financial concerns is to ensure that customers purchase products they can afford. Moreover, our advisors are trained to recognise the differing needs of customers [§].

Links with organisations and charities that can provide free debt advice and support

To support our customers, Sky publishes details of a number of debt advice organisations on Sky's Vulnerable Customer Guidelines webpage. These include:

- Step Change;
- Money Advice Service;
- Pay Plan;
- Citizens Advice; and
- The National Debtline.¹⁷

We also include a link to this information in customer communications regarding debt. Therefore, Sky has already achieved Ofcom's suggestion of *"including clear and prominent information about sources of free debt advice in their payment and collection related communications to customers in arrears"*.¹⁸

However, as set out above, some flexibility here is key – Sky considers that the best way to make customers aware of the support available is through signposting the link to our Vulnerable Customer Guidelines in our communications. Sky's approach means customers can then easily click on the hyperlink to websites of individual agencies that are listed on the Sky vulnerable customers guidelines webpage.

On the same webpage, customers are encouraged to get in touch with Sky through links to a range of communication channels on the same page, with support often only a few clicks away (see screenshot at Annex 1). Therefore, Sky considers that Ofcom should avoid being too prescriptive in terms of any recommendations for how CPs can achieve prominence of signposting in debt-related communications. As evidenced by the example above, a link to a data-rich and user-friendly webpage can be more effective than exhaustively listing this information in the communication itself; an approach which, incidentally, would make existing communications longer and more detailed. As Ofcom will recall, industry has long voiced concerns about 'information overload' and 'T&Cs fatigue': communications are less effective when customers are overloaded with information.

Ofcom also suggests in the CFI that it is *"minded to increase the prominence of the recommendation in the guide...[to offer]...consumer organisations a direct way to contact them on the customer's behalf rather than via general customer service contact channels"*.¹⁹ This proposal is ill-judged and should not be adopted.

¹⁷ See <https://www.sky.com/help/home/accessibility-information/accessibility-info-policies/vulnerable-customers/supporting-vulnerable-customers/articles/vulnerable-customers-guidelines>

¹⁸ CFI, paragraph 4.30.

¹⁹ CFI, paragraph 4.31.

As illustrated above, Sky is pleased to raise awareness and signpost to relevant charities. We also provide third party bill management which supports those who are managing a vulnerable customer's account on their behalf through our password process by allowing them to manage the majority of aspects of the account, including billing matters. This means, for instance, that a third party (such as a consumer organisation) with power of attorney or deputyship over an account will be fully able to deal directly with Sky on behalf of the customer. Sky's accessibility team manage the accounts of customers with a power of attorney. Therefore, consistent with the Guide, these customers (and third parties) can contact Sky directly and easily via the dedicated accessibility team telephone number.

Measures taken to effect payment

[REDACTED]

Sky implements a proportionate and responsible approach to disconnection

Sky's exact approach to disconnection varies according to the package a customer holds and has been adjusted in light of the Covid-19 pandemic.²⁰ However, in all cases Sky has considered the customer's individual needs (including not continuing to incur further debt).

[REDACTED]

Furthermore, formalising the extension of disconnection timelines to three months or beyond in either the Guide or GCs is unlikely to be in consumers' best interests. As noted above, there is a fine balance to be struck between extending timeframes and letting customers continue to have access to a service (subject to any phased restrictions) whilst incurring extra debt.

Similarly, failing to apply any restrictions before the three-month mark would likely be irresponsible and worsen the financial position of customers that are already in debt. [REDACTED].

Sky supports customers before, during and after their referral to a debt collection agency

Our Vulnerable Customer Policy explains how we can help a customer manage their bills, with details on how to contact us for support (which could include a payment holiday or moving to a less costly product). Included in this is contact information for debt charities and Citizens Advice. These resources can assist customers in managing their debt to avoid it being referred to a collection agency.

²⁰ By disconnection, we mean the complete suspension of all services. [REDACTED]. Sky considers this to be consistent with Ofcom's use of the term "disconnection" given that is used as a contrasting concept to "service restrictions" in the CFI.

[§]. It is worth noting too that, even following any referral, the debt collection agencies have introduced additional specific Covid-19 measures, including 120 days extra breathing space, if required.

In addition, we are compliant with the Debt Respite Scheme regulations, whereby we stop the pursuit of debt for up to 60 days. If the debt has not been placed at an agency or sold, then we will pause the debt cycle which will prevent the debt from being transferred to an agency, until the end of the respite period.

Furthermore, once a customer is referred to a debt collection agency, Sky continues to support the customer through creating a fair process which is subject to a number of safeguards, including monitoring and auditing.

Measures designed to support customers who are in debt or struggling to pay

As set out above, the most important way to mitigate financial concerns is to try to make sure customers purchase a product that they can afford. We therefore aim to ensure that each Sky customer has the right package of products and services to suit their individual needs.

We seek to achieve this in a large number of ways, from how our prices are clearly displayed and explained on our website, to our focus on fairness and 'Selling Well' when training our advisors to promote Sky's products and services [§]. Furthermore, in addition to the fact that all Sky staff are trained to support our customers with their bills, our accessibility team have additional training to help our most vulnerable customers (including those may be financially vulnerable).

Sky also enables its customers to be able to set limits on their usage of a particular Sky product or service so that they can keep their finances and budget under control. For example, to help Sky customers avoid unexpected charges, call spend caps can be configured on Sky Mobile at point of sale, while customers can also opt-in to receive usage texts. Similarly, to help Sky's customers avoid unexpected charges for data usage, our Sky Mobile plans prevent customers from using more than their allowance (although they can make use of any data stored in their Piggybank instead).

In scenarios where customers find themselves struggling financially and are unable to pay for their Sky services, we are also able to offer advice and guidance on how best to manage Sky payments and debt. Where appropriate, advisors are able to offer a range of options which may help, such as by offering payment plans or payment holidays or switching to a lower cost product. For example, all Sky Mobile customers have the ability to change their mobile tariff in-life as part of the Sky Mix proposition.

For those customers experiencing financial difficulties who have missed a payment, we have the option to offer payment holidays on their Consumer Credit Agreements

of up to three months. [REDACTED].²¹ Furthermore, if a customer has had a device for less than 31 days, they also have the option to return it and request a refund (thereby avoiding accruing debt over the term of the agreement).

[REDACTED].

Sky agrees that any proposed amendments to the Guide do not amend or replace CP's legal obligations

Ofcom's confirmation on the status of the Guide

Regulatory certainty regarding the scope of legal obligations is critical to any business. Our understanding is that the Guide cannot be used to extend the reach or scope of GCs C5.1 – 5.5. It follows that the same logic would apply to any amendments to the Guide resulting from the CFI.

For example, we welcome Ofcom's recent confirmation that, while "*General Condition C5 sets out the requirements for providers to meet the needs*" of vulnerable customers, the Guide merely sets out "*practical measures providers can adopt to make sure people who may be in vulnerable circumstances are treated fairly and get the help and services they need*" (emphasis added).²² It follows, therefore, that any proposed amendments to the Guide as a result of the CFI would similarly not be mandatory.

This is further reinforced by Ofcom's statement in the CFI, which mirrors the introductory language in the Guide itself, that it is considering: "*setting best practice recommendations to providers regarding further practical measures they could adopt to treat financially vulnerable customers fairly*" (emphasis added).²³

Therefore, we understand that a provider could meet its legal obligations without necessarily adopting any of the specific measures currently in – or later added to as a result of the CFI – the Guide.

In any event, as set out above, Sky, does not consider that changes to the GCs and/or the Guide are justified. Moreover, even if Ofcom does ultimately decide to amend the Guide, there is certainly no case for amending the GCs.

The GCs do not apply to Sky TV

Ofcom asserts that "*the importance of communications services such as phone, broadband and pay TV has been underlined by the coronavirus (Covid-19) pandemic*" (emphasis added).²⁴

²¹ The possibility of further extension is flagged to customers at <https://www.sky.com/help/articles/sky-mobile-payment-holiday> ("if you've already requested a payment holiday but you're still struggling, get in touch to discuss your options, including extending your payment holiday").

²² [REDACTED].

²³ CFI, paragraph 1.2; the Guide, paragraph 1.1.

²⁴ CFI, paragraph 1.1.

As Ofcom is aware, Sky disagrees with any assertion by Ofcom that the obligations in GCs C5.1-5.5 apply to pay TV services, and specifically, Sky's pay TV service (Sky TV) as it is not an Electronic Communications Service. For the avoidance of doubt, Sky expressly disputes the application of the GCs to Sky TV.²⁵

Moreover, the CFI notes that *"the majority of customers consider their broadband and mobile services to be important and that disconnection from these services can leave people isolated...[and] limit their ability to work from home, access education, support or advice services"*.²⁶ Sky notes the absence of pay TV services.²⁷

Furthermore, there is no pay TV lacuna for the Guide or GCs to address in respect of vulnerable customers: Sky's voluntary fairness commitments apply across all of Sky's products (including Sky TV) and specifically include a commitment that *"customers get the support they need when their circumstances make them vulnerable"*.²⁸ Therefore, attempts to bring pay TV within the scope of GCs C5.1-5.5 and the Guide are unlawful, wholly unjustified, and unnecessary.

Sky

September 2021

²⁵ Sky's arguments on this issue are set out in the written submissions of 9 July 2021 in response to the Section 96A Notification received by Sky on 14 May 2021 (case CW/01254/03/20).

²⁶ CFI, paragraph 4.2.

²⁷ Sky notes that, notwithstanding the use of *"inclusive of but not limited to"* Ofcom's methodology suggests that pay TV data is only included and relevant where pay TV services are provided in combination with fixed telecoms services: see for example paragraph A5.2.

²⁸ Fairness Commitment 2, 'The Fairness Commitments and our Covid 19 Response', September 2020.

Annexes

Annex 1

Here are some advisory organisations that give free advice to help you get back on track:


Step Change	▼
Money Advice Service	▼
Pay plan	▼
Citizens advice	▼
Citizens advice Scotland	▼
National Debtline	▼

Get in touch

Thanks for using our online services.

If you still need to get in touch, wait times might be longer than normal due to social distancing in our contact centres, but we're prioritising calls from customers who've already been online and will get to you as soon as possible.

We know it's challenging for everyone right now, so thanks in advance for showing kindness and consideration to our team as they do their very best to help you 😊



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● Open


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Message online with one of our agents.

Once you're connected, responses may not be immediate.

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Opening hours: Mon-Fri **09:00-17:00**, Sat **09:00-16:00**

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