



Prohibiting inflation-linked price rises

Response to Ofcom's consultation on proposals for new rules
and guidance

February 2024

Introduction

Sky supports Ofcom's proposal in its Consultation on new rules and guidance regarding prohibiting inflation-linked price rises ("Consultation") to prevent 'agreed' in-contract price rises linked to inflation.

Ofcom has expressly excluded prices may vary terms from its review¹ – we support this exclusion.² The General Conditions make provision for electronic communications services contracts with prices may vary terms.³ Although future prices are not expressed in pounds and pence, customers are entitled to exit these contracts without penalty before the end of their minimum term if the price of their service increases. This gives customers an effective way to understand and manage their costs: we communicate new prices to them, and they can elect to cancel their service if the new price is not in line with their expectations or ability to pay. Thus, a balance is struck, providers get flexibility over future price changes and customers get the ability to exit at no cost and enjoy a better deal elsewhere.

This is consistent with Ofcom's longstanding objective to protect customers from unfair burdens and risks and contrasts with inflation-linked price variation terms which require customers to assume the risk and burden of financial uncertainty, and which do not allow customers to leave, regardless of the actual price of the contract at some future date.

Because prices may vary terms contracts are excluded from the review, we do not propose to respond exhaustively to all the questions posed by Ofcom. Rather, we set out our comments and suggestions where this will assist Ofcom in achieving its objectives while ensuring that its interventions are effective and proportionate.

Proposed additions and amendments to GC C1 and to existing GC 1 Guidance

The proposed amendments to the General Conditions are clear in requiring providers to express a Core Subscription Price in pounds and pence. However, the amendments are broadly drafted, with the likely inadvertent effect of applying also to prices may vary terms. As written, the proposed amendments would require us to present our price variation clauses in pounds and pence. This is not possible (and clearly not Ofcom's intention since it explicitly excludes prices may vary pricing mechanics from its consultation). Prices are reviewed each year and Sky would be unable to declare them upfront in pounds and pence because, at point of sale, we will not yet know what the price increase is going to be.

We therefore suggest that the drafting in the proposed new rules be amended to ensure that providers who use prices may vary terms, and who are accordingly

¹ Described at footnote 5 of the Consultation as "contract terms that enable providers to implement price rises for which the value and frequency are not specified in a customer's contract. Our rules do not prohibit prices may vary terms, but providers are required to give customers at least one month's notice of the price increase and the right to exit their contract without penalty, as they constitute contractual modifications."

² Para 2.26 of the Consultation

³ General Conditions C1.14 to C1.20

subject to Conditions C1.14 to 1.20, are expressly excluded from the new rules. We propose the following:

1. The addition of the phrase “, *unless the customer is given a right to exit their contract without penalty*” in the preamble to GC C1, immediately after the words “*in order to provide them with certainty as to the amounts they will be required to pay*”
2. The addition of the words “*without the customer receiving a right to exit without penalty,*” immediately after the words “*the Commitment Period,*” in proposed GC C1.3(a)(ii)
3. The addition of the words “*without the customer receiving a right to exit without penalty,*” immediately after the words “*the Commitment Period,*” in proposed GC C1.5(b)(ii)

Where these General Conditions are repeated in the Guidance, at paragraphs 1.20, 1.40 and 1.49, these proposals should be replicated.

Our marked-up drafting suggestions are annexed to this response.

Sky

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