



Vodafone response to Ofcom's consultation on end-of-contract and annual best tariff notifications.

Summary

Vodafone UK ('Vodafone') welcomes the opportunity to respond to Ofcom's Consultation on End of Contract ('EoC') and Best Tariff notifications. We agree with Ofcom on the importance of consumer engagement to ensure consumers get the best deal in the marketplace. Vodafone engages with all its customers from the moment our relationship with them begins, all the way through their contract life cycle. We invest heavily in systems and processes to ensure that this engagement is positive and valued by our customers.

The importance of clear and simple notifications

We currently send all our consumer Pay Monthly and SIMO customers EoC notifications. These notifications make customers aware that they have reached the end of their minimum term, and make them aware of their options, with equal prominence for bundled handset deals and SIMO deals. We are therefore supportive of the principle of sending customers EoC notifications.

Our experience from sending these messages shows that simplicity is key. The shorter the message, and the easier it is to understand, the more likely customers are to engage with it. By contrast, Ofcom's proposals to include a significant amount of detail in the notifications are likely to have a negative impact on the customer's ability to absorb the information and on the likelihood that they will act upon it. In addition, the detailed information requirements make implementation unnecessarily costly and complex. We consider the same objectives can be achieved in a more efficient way, and we urge Ofcom to simplify the information to be included. In our response to the consultation questions, we set out where we consider the information should be reduced, and what is essential for a customer at that point in their lifecycle.

We have the same concerns about the Best Tariff proposals. Again, Ofcom proposes a huge amount of detail and information. This includes providing information about



lots of tariffs, including tariffs the customer may not be eligible for and bundles that customers may not be familiar with. Ofcom considers that the more information is provided to the customer, the better their decision-making will be. We have commented on several occasions in the past on information remedies, that behavioural economics shows this not to be the case, and that information overload can have a detrimental effect on decision-making. Our response sets out where we consider the requirements to be too detailed, and potentially confusing.

The proposed inclusion of all business customers

We are very concerned about Ofcom's proposal to expand the scope of the regulation to include all business customers. In its first consultation, Ofcom proposed that EoC and then Out of Contract ('OoC') notifications should be sent to consumer and small business customers only. Ofcom's argument was that small business customers were similar to consumer customers in terms of awareness of contract end dates, and therefore that they needed the same type of notifications. Ofcom referred to research from 2016 and 2017 on the subject. In our response to the first consultation, we commented on the inclusion of small business customers in the scope, and the rather limited and outdated evidence base for this. We suggested Ofcom carried out further research into this segment to increase its understanding of business customers' awareness and needs. Other respondents made similar comments.

The current proposals cover all end-users, including large business customers. Ofcom's reason for the expansion stems from its decision to go early with implementing the EoC and Best Tariff provisions from the new European Telecoms framework, the European Electronic Communications Code ('EECC')¹.

Whilst we appreciate that the UK Government has decided to implement the EECC irrespective of the Brexit outcome, Ofcom is unilaterally proposing to implement these provisions early. We agree that from a consumer point of view, it makes sense to partly align Ofcom's original proposals with those in the EECC, because Ofcom's original EoC notification proposals were planned to be introduced before the EECC takes effect. However, there is no reason to do so in relation to business customers. As an evidence based regulator, Ofcom should have carried out research into the needs of these other business customer segments, and should have demonstrated

¹ The relevant provisions of the EECC apply to all end-users, including large business customers and have to be transposed in national law by 31 December 2020. They are subject to a maximum harmonisation requirement, which means that national regulators cannot deviate from the rules



there is a need for an early inclusion of these additional segments. Such research would also clarify what needs these segments have in this area and should have driven the proposed timeline (in terms of priorities) and requirements for the business customer segments. Instead, Ofcom assumes they know what these customer segments need, and have drafted requirements in the absence of any evidence. There is a real risk that the rules will not be effective and will be unnecessarily expensive to implement.

We urge Ofcom to commission research into the needs of the business customers in relation to engagement, and use that as an input to define any requirements. The research will also enable Ofcom to decide what the priority areas and segments are, and what the best way is to phase in any new requirements. Rather than rushing through new requirements for all segments, we propose Ofcom carries out proper research, and concentrates on implementing its consumer and small business proposals first.

Ofcom's consultation includes a reference to the UK Competition Network report, which sets out lessons learned by regulators about the selection, design and testing of different types of consumer facing interventions. Interestingly, it identifies a set of principles that are relevant when designing and monitoring interventions. Two principles in particular stand out:

1. **Test the remedy** – The process of identifying and designing effective remedies benefits significantly from testing. Initial assumptions about what is likely to work may be incorrect.
2. **Good analysis is not enough** – Take account of real-life behaviour, pay careful attention to detailed implementation, use effective communication, demonstrate sound judgement in balancing needs of different groups, and act as advocates for policy reform.

Brexit and Impact Assessment

In terms of testing the remedy, we consider that on the consumer side this has been limited, and that no testing has been carried out at all in relation to business customers. The second principle also emphasises the need to take account of real-life behaviour. We would be interested to understand how Ofcom has applied these principles in this programme, in particular in relation to business customers.



As set out above, the UK Government has said it will implement the EECC. For reasons of regulatory certainty and business continuity, we are interested to see how closely Ofcom will align its policies and regulation to the EECC. Last year, the Prime Minister made it clear that the UK would leave the Digital Single Market after Brexit:

*'On digital, the UK will not be part of the EU's Digital Single Market, which will continue to develop after our withdrawal from the EU. This is a fast evolving, innovative sector, in which the UK is a world leader. So it will be particularly important to have domestic flexibility, to ensure the regulatory environment can always respond nimbly and ambitiously to new developments.'*²

She specifically mentions domestic flexibility and responding nimbly and ambitiously. Simply copying the EECC is likely to fall short of this ambition. Ofcom currently has a number of existing and new policies, which diverge from the relevant ones in the EECC. Some go beyond the EECC (e.g. Ofcom's proposal in the Bundled Contract consultation), some are less strict (Ofcom's new mobile switching process). We encourage Ofcom to continue to use evidence as a basis for intervention, and not to use existing or future European Union legislation as an excuse for policy decisions.

Our final comment is in relation to Ofcom's impact assessment. Despite the size and scope of the proposed intervention, Ofcom's impact assessment is qualitative only. In its previous consultation, Ofcom considered the proposals proportionate because even only a small percentage of consumer and small business customers engaging following an EoC or OoC notification would justify the costs. Ofcom does not put forward any analysis in relation to business customers. Neither implementation costs nor benefits for these customers are quantified. This is a serious omission and we question based on which information the early implementation for business customers is justified by Ofcom.

Response to consultation questions

² <https://diginomica.com/2018/03/03/brexit-uk-will-leave-eu-digital-single-market-wants-strong-data-relationship/>



Our responses to the questions below are mainly in relation to consumer customers only. In the summary, we set out the reasons why we disagree with Ofcom including business customers in the scope of its proposals and a suggested way forward in relation to business customers.

Question 1: Do you agree with the way we propose to implement the requirement to provide end-of-contract notifications in terms of the services they should cover?

We agree that EoC notifications should include fixed line, fixed broadband and mobile services.

Question 2: Do you agree with the way we plan to implement the requirement to send end-of-contract notifications and annual best tariff notifications to residential consumers and businesses?

We agree that EoC and Best Tariff notifications should be sent to consumer customers. Ofcom's research in relation to consumers demonstrates there is a need for such notifications. As per our response to the first consultation, we consider the evidence in relation to small business customers is limited and outdated. In relation to the larger business segments, as per our comments in the summary, we urge Ofcom to carry out research into the needs of these segments. Sending EoC notifications to large business customers could lead to an account holder receiving EoC notifications on a daily basis. This may not be a good customer experience and shows that more research needs to be carried out into the needs of larger business customers, both in terms of the type of information, and the format and frequency.

Question 3: Do you agree that end-of-contract notifications should be sent to end-users before the expiry of a fixed commitment period, if the contract will be automatically prolonged after that point?

Yes.

Question 4: Do you agree with our proposal not to specify in a prescriptive way the words and language used in end-of-contract notifications?

Yes.



Question 5: Do you agree with our implementation proposal for the end-of-contract notification to include the date on which the fixed commitment period will end?

Yes.

Question 6: Do you agree with our implementation proposal for the end-of-contract notification to include details of the services, which the provider currently provides to the end-user under the relevant contract?

We agree that only services provided as part of the same contract, and billed for by the provider should be included for consumer customers.

Question 7: Do you agree with our implementation proposal that the end-of-contract notification must include information regarding notice periods?

We question whether all consumers, in particular vulnerable ones, are familiar with the concept of notice periods and early termination charges. If these terms lower their engagement, for instance because some consumers do not understand and stop reading the message, more understandable wording should be considered.

Question 8: Do you agree with our implementation proposal that the end-of-contract notification must include information regarding early termination charges?

Please see our response to question 7.

Question 9: Do you agree with our implementation proposal that the end-of-contract notification must include information regarding other contracts, which the provider currently provides to the end-user?

We agree that only interdependent or financially linked contracts should be included and we welcome Ofcom's clarification that services provided as part of the linked contract do not have to be specifically mentioned.

Question 10: Do you agree with our implementation proposal that the end-of-contract notification must include information regarding how to terminate the contract?



We consider that rather than setting out the ways in which customers can terminate a contract, providers should be able to include a link to a webpage that makes this clear ('How to cancel your contract'). There could be a number of ways for customers to terminate their contracts, and including a long list with the various options for customers is likely to distract from the message, and makes the message unnecessarily long.

Question 11: Do you agree with our implementation proposal that best tariff advice should include the monthly price currently paid, and any changes after the end of the fixed commitment period?

With the added requirement to include a best tariff, we agree that the customer's current tariff should be included in the message. Originally, we considered that customers should only be made aware of tariff changes at the end of their contract. In order to put that Best Tariff information into context, we agree that the current tariff should be included.

Question 12: Do you agree with our implementation proposal that best tariff advice should include changes to the service provided because the fixed commitment period is ending?

We agree that changes to the services provided under the same contract should be included.

Question 13: Do you agree with our implementation proposal that best tariff advice should include the date on which the fixed commitment period ends for financially linked or otherwise dependent contracts taken with the same provider, for subscribers on residential contracts?

We consider that this is one of the areas where the message can be simplified. Instead of including contract end dates, we consider it is sufficient for a provider to include a link to the customer's online account, which will include contract end date information of all services taken out by the customer.

Question 14: Do you agree with our implementation proposal that best tariff advice should include the options available to the subscriber after the fixed commitment period has ended?



Whilst we agree that it is good to make customers aware of their options, the list proposed by Ofcom is very long. We question whether the majority of consumers need this level of information. It seems obvious that when a contract ends, customers can shop around and compare offers from their current provider with offers from other providers. Including a mandatory statement about bundled offers with current or other providers feels very prescriptive. Considering the amount of advertising in newspapers, on television and through direct marketing, we question whether this will increase customers' awareness, or whether customers will switch off.

We currently include SIMO as an option for handset customers in our EoC notifications. Although Ofcom set out its research showed that 25% of handset customers were unaware of SIMO as an option, we are surprised about this finding. SIMO plans have seen a strong increase in take-up over the past 5 years, and all providers heavily advertise their SIMO plans. Currently, 38%. We suggest Ofcom carries out research to ascertain if the level of awareness of SIMO is still low to ensure the requirements are a true reflection of the customer needs in the market.

Ofcom mentions that additional information will provide customers with a more complete picture, but there is a point where additional information will stop customers from engaging. Rather than asking participants in focus groups if they will use additional information, Ofcom should carry out a pilot and assess the relationship between the amount of information or length of the message and its effectiveness. Analysis of messages sent to Vodafone customers shows that shorter messages are significantly more effective than longer ones. We recently carried out a trial comparing a number of permutations of 'long' emails with 'short' emails. The long versions included up to 300 characters, and the short version 100 characters. The effectiveness of the short version was almost 50% in response rate.

Question 15: Do you agree with our implementation proposal that best tariff advice should include the provider's best tariff and with our draft guidance for subscribers on residential contracts that:

a. providers should give residential consumers at least one and up to three best tariffs;



- b. the tariffs should be based on similarity to the consumer's previous usage where relevant, and otherwise based on service packages that are most similar to what the consumer currently receives;
- c. one tariff should be the cheapest tariff available to the consumer receiving the advice;
- d. one tariff should be the cheapest tariff available to any consumer (if not the same as in (c));
- e. one tariff can be the cheapest upgrade tariff;
- f. one tariff should be a SIM-only tariff where the consumer has a bundled handset and airtime contract; and
- g. tariffs should be for a bundle of services where the consumer receives them under a single contract with the provider or has financially linked or interdependent contracts with the same provider and where the fixed commitment period(s) is about to end or has already ended.

It is unclear how this is meant to work in practice. If providers were to provide only one tariff, which is the one they should provide, i.e. is there an order of priority? If a customer has a Pay Monthly plan, and a provider decides to include one tariff only, should that be the SIMO tariff?

In addition, there is a risk this becomes confusing for customers. Three tariffs, a few of which consumers may not be eligible for is a lot of information to take in. Customers who are used to shopping around will not need this information, but the target group is the less engaged group. In order to get this group to engage, information needs to be short and simple.

We understand the logic of basing a Best Tariff on a customer's previous usage, but there is a risk that this results in a situation where mobile customers' past usage (from a plan they took out generally over two years ago), and potentially self-constrained usage, makes them take out a plan that is too limited in terms of allowances and which is not good value for money. Ofcom's Communications Market report³ shows a huge increase of average data usage per subscriber over time with customers using on average 0.2Gb per month in 2012, to 1.9Gb in 2017. This growth is expected to continue, with 5G being introduced over the next few years. The price of data has continued to decrease and for a relatively small additional amount of

³ <https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2018/interactive>



money, customers are typically able to get significantly more data. Customers may feel mis-sold if they find out there was a plan that had more data, for only a little extra money. We propose Ofcom changes this requirement and explicitly recognises the growth in data usage, allowing providers to advise customers of plans which include more data than their current ones.

Less engaged customers may not be aware that some Best Tariff deals are less rich than others. Handset deals may include certain content deals, or roaming deals that SIMO plans do not. It is difficult to get all these nuances across in a simple message, but Ofcom should be aware of the risk that some consumers may not be aware that they may lose certain inclusive benefits if they move to a different type of plan. These benefits may not be specified in the EoC notification if they are not billed by the provider, or may not come as a separate service.

[It would be helpful if Ofcom could clarify that the Best Tariff notification does not include bespoke customer related tariffs.]

In the consultation, Ofcom explains that some elements of the EoC notification and Best Tariff advice could be considered direct marketing. I would be helpful if Ofcom can clarify if that means that any specific tariff offer from a provider is considered direct marketing. This would mean that a decent (and growing) minority of customers would not receive the Best Tariff component of the EoC notification, affecting the effectiveness of the notification and the cost benefit analysis.

Question 16: Do you agree with our proposed implementation on the timing of the end-of-contract notification?

We consider the notification should be sent when a customer can act upon it, so within the last billing period of their contract. If they are not within their last period, depending on the service and the termination process, they will be told that they need to wait. Mobile customers for instance will need to request a PAC (or N-PAC, going forward) which is valid for 30 days. By lengthening the period between notification and EoC / Best Tariff notification, there is a risk customers switch to early and incur an Early Termination Charge.

Question 17: Do you agree with our proposed implementation regarding the form of the end-of-contract notification?



Yes.

Question 18: Do you agree with our proposals to ensure accessibility of the end-of-contract notification?

Yes.

Question 19: Do you agree with our implementation proposal for annual best tariff notifications to be sent only to end-users who are outside of their fixed commitment period?

Yes.

Question 20: Do you agree with our proposed implementation of the requirement to send annual best tariff notifications by specifying that providers must inform end-users of:

- a. the fact that they are not within a fixed commitment period for the relevant contract or contracts;
- b. the services which the provider currently provides under that contract or contracts;
- c. any applicable notice period(s);
- d. details of other contracts the end-user has with the provider;
- e. the monthly subscription price(s); and
- f. the options available.

Please refer to our comments in relation to EoC notifications in our responses above.

Question 21: Do you agree with our proposed implementation of the requirement to send annual best tariff notifications by specifying that providers must inform end-users of the provider's best tariffs and with our draft guidance for subscribers on residential contracts that:

- a. providers should give residential consumers at least one and up to three best tariffs;



- b. the tariffs should be based on similarity to the consumer's previous usage where relevant, and otherwise based on service packages that are most similar to what the consumer currently receives;
- c. one tariff should be the cheapest tariff available to the consumer receiving the advice;
- d. one tariff should be the cheapest tariff available to any consumer (if not the same as in (c));
- e. one tariff can be the cheapest upgrade tariff;
- f. one tariff should be a SIM-only tariff where the consumer has a bundled handset and airtime contract; and
- g. tariffs should be for a bundle of services where the consumer receives them under a single contract with the provider or has financially linked or interdependent contracts with the same provider and where the fixed commitment period(s) has ended.

Please refer to our comments in relation to EoC notifications in our responses above.

Question 22: Do you agree with our proposed implementation on the timing of the annual best tariff notification?

Yes.

Question 23: Do you agree with our proposal to implement the annual best tariff requirements by specifying that providers should combine the best tariff information in a single notification for those end-users who have two or more contracts outside of their fixed commitment period?

This would only work if a customer takes out a limited number of services. The more services are included in the message, the longer the message and the less likely customers are to engage with it.

Question 24: Do you agree with our implementation proposals regarding the form of the annual best tariff notification?

We are happy to send Best Tariff notifications via SMS and / or email, with a link to customer's online account.



Question 25: Do you agree with our implementation proposals for the timescale within which providers must comply with the end-of-contract and annual best tariff notification requirements?

The proposed time-scale of six months to implement the changes is too short. The Best Tariff notifications require the development of a number of systems on the consumer side. On the business side, we have a number of new and legacy systems that will require developments to cater for this. We estimate we need at least nine to twelve months to be able to deliver this level of change. All these changes will use up capacity on our systems roadmap, which would otherwise be used for improvements to customer service, network and propositions.

Question 26: Do you agree with the way we plan to monitor the effectiveness and impact of end-of-contract and annual best tariff notifications?

It seems disproportionate to keep a record of the EoC and Best Tariff notifications for at least 12 months. Records of mobile contracts need to be retained for six months, and it appears odd that notifications should be kept for a longer time period than the actual contract information. We propose that six months is sufficiently long, and that the requirement to store this information falls away when a customer switches their service to a different provider.

Question 27: Do you agree with the impacts from the introduction of end-of-contract notifications we identify in our assessment?

The impact assessment is only qualitative in nature and therefore hard to comment on. For an intervention of this scope and size, we would have expected Ofcom to carry out more analysis on costs and benefits, in particular in relation to the larger business customers. It is unclear how many larger business customers would benefit from an EoC and best Tariff notifications or what the additional implementation costs for business customers would be. Vodafone business customers are on a number of different IT systems. Implementation would be resource intensive and costly.

In addition, Ofcom suggests that adding Best Tariff advice to the EoC notifications should not result in big increase in additional costs. The complexity of Best Tariffs notifications is related to the customer's usage, and usage information is held in a



different system from the CRM system. This means additional development to a larger number of systems.

We consider Ofcom should do further work to assess and include more quantitative information.

Question 28: Do you agree with the impacts from the introduction of annual best tariff notifications we identify in our assessment?

Please see our response to question 27.

Question 29: Do you have any comments on the draft general conditions, set out in Annex A6 to this document?

The draft additions to General Condition C1 are substantial. The current version of the Condition includes nine articles, and is focused on general contract requirements. Ofcom's proposals add twelve more articles to that condition, focused on EoC and Best Tariff notifications alone. Furthermore, the condition comes with a substantial amount of guidance. This appears to be the wrong balance in this General Condition, and demonstrates the huge level of detailed requirements Ofcom proposes to include. We consider a more principle-based approach could be equally effective and would have simplified compliance.