

Making Communications Markets work well for customers: RNIB's response

About us

RNIB is the largest organisation of blind and partially sighted people in the UK and welcomes this opportunity to respond to the consultation.

With blind and partially sighted people at the heart of everything we do, our community of over 33,000 people brings together anyone affected by sight loss. More than three quarters of our Board of Trustees are blind or partially sighted. We support, empower and involve thousands of people affected by sight loss to improve lives and challenge inequalities. We engage with a wide range of politicians, organisations and professionals to achieve full inclusion through improvements to services, incomes, rights and opportunities.

We campaign for the rights of blind and partially sighted people in each of the UK's countries. Our priorities are to:

- Be there for people losing their sight.
- Support independent living for blind and partially sighted people.
- Create a society that is inclusive of blind and partially sighted people's interests and needs.
- Stop people losing their sight unnecessarily.

RNIB welcome the opportunity to respond to this consultation. As a member-led organisation fairness is an important issue for our members who regularly come across inequality.

Consultation Response

Question 1: Do you think our characterisation of what might constitute fair and unfair practices is appropriate?

RNIB agree.

Commitment 3 promises "Customers are supported to make well-informed decisions with clear information about their options before, during, and at the end of their contract."

When buying goods and services blind and partially sighted consumers often do not know how accessible they are until they try them. To enable consumers with sight loss to make an informed choice, service providers should be obligated to inform consumers of any aspects of their service which are not accessible and therefore not usable by the consumer. This ensures fairness, not only to the consumer who is able to make an informed choice, but also to service providers who have made efforts to make their services accessible.

Service providers will be aware of accessibility shortcomings through any accessibility testing they perform on their product as part of their obligations under the Equality Act. Any organisations that have not done accessibility testing will be aware of accessibility shortcomings through unresolved accessibility problems reported to them by consumers.

Any service provider should therefore be required to make known at point of sale any aspect or feature of their service which is not accessible. If a service is purchased but is then found to be inaccessible then commitment 4 should come into effect and consumers should be empowered to end the contract with no penalty.

Commitment 4 promises “Customers’ services work as promised, reliably over time. If things go wrong providers give a prompt response to fix problems and take appropriate action to help their customers, which may include providing compensation where relevant. If providers can’t fix problems with core services they have promised to deliver within a reasonable period, customers can walk away from their contract with no penalty;”

The requirement for a service to work reliably over time must also take into account that the accessibility of the service needs to work reliably as well. It is understood that accessibility provided through smartphone apps can break when the smartphone operating system is updated. When this happens service providers must act promptly, in line with commitment 4, to fix the issue, considering compensation if appropriate. Failure to fix these issues within a reasonable timeframe should give consumers the right to end the contract with no penalty.

The above recommendations run the risk that a service provider who does not want to provide accessibility could state that they are happy for consumers who require accessibility to walk away from the contract and

thus avoid having to make reasonable adjustment. There is an argument that this is resolvable through the Equality Act and therefore Ofcom may not get involved but this, itself, raises the question of fairness. Taking a company to court is expensive, difficult and risky since unsuccessful claimants may be required to pay the defendants legal fees. This is unfair. Ofcom have a duty under the Public Sector Equality duty (section 149 of the Equality Act 2010) to “advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it”. For these reasons Ofcom are empowered and compelled to ensure that service providers make reasonable adjustments so that their services are usable by people with accessibility needs. If a service is inaccessible then this constitutes unfair practice.

Question 2: Do you agree with the questions set out in our fairness framework? Are there any other questions that should be included? Please set these out in your response.

RNIB largely agree.

The question “Does the service depend on risky new investment?” may be interpreted by some to mean that new services need not be made accessible because of perceived costs of doing so. RNIB understands the requirement to avoid overburdening new entrants to a market but only requiring accessibility from established services risks postponing making a service accessible at launch. It can be socially isolating to exclude people with accessibility needs and retrofitting accessibility is more expensive than building it in at the start. For these reasons, aspects such as accessibility should need to be incorporated unless service providers can demonstrate that doing so would create an actual burden.

Question 3: What additional information or guidance, if any, would you like to see included in our fairness framework?

As stated above, service providers should be advised to make known at point of sale any aspects or features of their services that are inaccessible. The guidance should also state that if the accessibility of a service breaks then the service itself should be considered broken for people who require that accessibility and the stipulations in commitment 4 come into effect. Finally, the guidance should make it clear that none of the above excuses service providers from the requirement to make their

service accessible and a failure to make reasonable adjustments will constitute unfair practice under Ofcom's code.

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