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Which? response to Ofcom's proposed Plan of Work 2024/25

Which? welcomes the opportunity to respond to Ofcom's proposed Plan of Work for 2024/25. We continue to value the collaborative relationship between our organisations.

We are pleased to see there are a number of areas of alignment between Ofcom and Which?'s 2024/2025 work to tackle consumer harm. The majority of our shared interests fall under Ofcom's priority outcomes of 'internet we can rely on' and 'we live a safer life online'. We suggest further consumer considerations under each of these areas.

We have submitted a number of consultation responses over 2023 and we envisage a continued conversation with Ofcom throughout 2024/2025. These are highlighted below.

Ofcom priority outcome: Internet we can rely on

Consumer protection

Which? supports Ofcom's efforts to ensure consumer protection for digital connections through monitoring compliance with consumer protection rules. We agree that it is important to ensure consumer protection interventions and voluntary initiatives are being properly implemented and having the intended positive impacts for consumers.

Which? has previously supported Ofcom's consumer protection work, particularly work to encourage telecoms providers to sign up to Ofcom's various voluntary codes of practice, including automatic compensation for broadband customers. It is positive that Ofcom continues to review initiatives like these and we hope to see Ofcom consider making them mandatory. We believe universal implementation by providers would have a positive impact for consumer protection in this essential sector. We encourage Ofcom to consider whether the voluntary nature of such initiatives is still appropriate.

We support Ofcom's plans to monitor providers' treatment of vulnerable customers. We agree that it's important to ensure all consumers, including vulnerable consumers, are treated fairly and get the support they need. We note that, since Ofcom updated its best practice guide in 2022, no update on the treatment of customers at risk of debt or disconnection has been published.¹ A published review of industry alignment with this guide would benefit efforts to ensure fair treatment for vulnerable customers and evaluate the guide's effectiveness. This also

¹ Ofcom (2022) [Treating vulnerable customers fairly: a guide for phone, broadband and pay-TV providers](#)

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has clear links to Ofcom's monitoring of affordability and the provision and take up of social tariffs.

Affordability

It is positive that Ofcom will continue to monitor the availability, promotion and take up of social tariffs, but it is not clear what Ofcom intends to do with the data and information it will gather. Despite increasing awareness of social tariffs, take up remains low and on a trajectory that does not reflect awareness increases: 8.3% take up and 45% awareness amongst eligible consumers.² Our research has shown there are other barriers for consumers - for example, perceptions that social tariffs cannot meet the connectivity needs of the household and that they are "not for me".³ To ensure eligible consumers in need can benefit from affordable digital connections, all barriers to take up need to be considered. In the meantime, Ofcom should maintain pressure on providers to make the availability of social tariffs clear at the point of need.

Having access to digital services is essential to be able to fully participate in the modern economy. It is critical that consumers are protected, but also that they can engage positively with the market to fully realise the benefits of this essential service.

Consumer engagement in the market

A number of issues addressed by projects in Ofcom's Plan of Work are related to how consumers engage in the telecoms market. In particular, mid-contract price rises and switching currently reflect the barriers that can prevent effective engagement in the market for consumers.

Mid-contract price rises

Having campaigned heavily on the issue of unpredictable mid-contract price rises, Which? is supportive of Ofcom's plans to intervene to protect consumers from this unfair practice.⁴ Our research supports Ofcom's assessment that inflation-linked price variation terms cause 'substantial consumer harm'.⁵ We believe Ofcom's proposals will provide consumers with better pricing certainty to make effective decisions when choosing a contract. The change to rules must be implemented as soon as possible and Ofcom should reject any arguments to delay.

We remain highly concerned for consumers who are bound by contracts with unpredictable price rises and will still experience harm for up to 24 months after these new rules take effect. We hope Ofcom concentrates efforts to work with the providers to support those in legacy contracts.

To support Ofcom's intended outcome, we recommend that it work towards ensuring that providers list total costs upfront, alongside the proposed "pounds and pence" (£/p) requirement. The ability of consumers to effectively compare prices will be undermined without this.

It is also vital that Ofcom prioritise combatting the practice of unspecified discretionary price increases, and 'prices may vary terms'. There is a high risk that providers may move to this

² Ofcom (2023) [Pricing trends for communications services in the UK](#)

³ Which? (2023) [Are social tariffs in connectivity up to scratch?](#)

⁴ Ofcom (2023) [Prohibiting inflation-linked price rises](#)

⁵ Which (2023) [The benefit of certainty](#); Which (2023) [Customer knowledge and understanding of mid-contract price rises](#); Which? (2023) [The Right to Connect: Ensuring the price you see is the price you pay](#)

alternative model in place of inflation-linked price rises. Allowing this to happen would undermine Ofcom's proposals, leaving consumers still at risk of harm from uncertain and unpredictable price rises.

Which? wrote to Ofcom in August 2023, to express our view that the contractual terms that enable unspecified discretionary price rises can risk breaching consumer protection law.⁶ We recommend that Ofcom undertake a full legal analysis of these terms against its obligations to enforce the Consumer Rights Act, and the Consumer Protection from Unfair Trading Regulations, as part of its overall efforts to combat the consumer harm of unpredictable price rises.

Which? also recommends that Ofcom introduce new rules, such that the only permissible reason for providers to apply a discretionary price increase during a customer's minimum term is for changes imposed by law (e.g. changes in VAT). We recognise that such a change will take time, so in the first instance, Ofcom should use its final statement on inflation-linked price rises to announce a review of discretionary price rises.

Switching implementation

The further delay to the implementation of One Touch Switch is very disappointing. The original deadline of April 2023 was extended to March 2024, but we understand that this new timeline will not be met.⁷ Gaining provider led (GPL) switching is a positive intervention for consumers. It should make switching easier, help people get onto better connections and align with other proposals for the future, such as plans for an open communications scheme. The One Touch Switch initiative will now be delayed by over a year. We would like to see Ofcom take action to ensure providers roll this out so the benefits of the initiative can be realised by consumers as soon as possible. We support Ofcom's plans to work with industry after the launch of One Touch Switch to ensure it is working effectively for consumers.

Migration from legacy services

Ofcom's work with industry on the migration from legacy services is positive. However, we want to emphasise that consumers will continue to need support through the transitions as legacy services (including the PSTN, copper network and 2G/3G mobile networks) are switched off. We are aware that the industry is taking steps to minimise the impact and harm to consumers, but we will continue to monitor industry's progress and the impact it is having on consumers. We expect Ofcom to monitor this as well and take action if new consumer harms arise in the process.

UK wide access

Ofcom collects and reports on a lot of data about signal coverage and infrastructure access, which has the potential to offer useful insights to inform policy decisions, both within and outside of Ofcom. Some of the data collected appears not to be fully utilised at the moment. We would encourage Ofcom to consider what more it can do with the data it collects, including sharing it with organisations like Which?, who may be able to use it effectively to inform consumer policy.

⁶ Which? (2023) [Which? asks Ofcom to investigate Virgin Media contracts over fears they could break the law](#)

⁷ TOTSCo (2023) [Change to planned One Touch Switch go-live date of 14 March 2024](#)

Mobile coverage data

In several Plans of Work in recent years, Ofcom has included plans to improve the accuracy and consistency of mobile coverage and performance information. This same aim is included again in the Plan of Work for 2024/25. This raises the question of whether accuracy of this data continues to be an issue. Mobile coverage data is critical to monitor progress of the Shared Rural Network and rollout of 5G, so it is important that this data is accurate and consistent.

Broadband USO delivery

As we approach the review trigger threshold for the Broadband Universal Service Obligation (USO), Which? wants to ensure the USO is able to continue to act as a safety net for consumers' access to good quality and affordable connectivity across the whole of the UK. As detailed in our response to DSIT's 2023 consultation, we believe the minimum service requirements should be reassessed and adjusted where appropriate.⁸ To determine this, Ofcom must commission a full new technical analysis of household dependency and usage, which has increased dramatically in the years since the last analysis was completed in 2016.

Which? also believes the reasonable cost and aggregate demand thresholds of the USO should be raised to reflect the impact of inflation and growth in demand for fast broadband services since the introduction of the USO.

More also needs to be done to overcome barriers to take up, ensure that establishing eligibility is straightforward, and improve the transparency of quotes. Accuracy of the data held by Ofcom related to the USO will be critical to these objectives.

Gigabit-capable broadband

We note that Ofcom also intends to report on the forward-looking plans of providers to deploy gigabit-capable networks. Which? is clear that delivering these more reliable connections to households across the UK is just part of the challenge. As with the rollout of superfast connections, take up is likely to lag behind availability unless consumers are provided strong incentives to adopt them.

Following the recommendations of the GigaTAG, chaired by Which?, we were pleased that Ofcom announced new rules in December to tackle consumer confusion about broadband technology.⁹ This will make it somewhat easier for consumers to understand the technology behind the connection they are taking, and prevent understandable confusion around the use of the word 'fibre'. However, we are disappointed that these rules will not take effect until September 2024. Once the rules are implemented, Ofcom should assess the effectiveness of this intervention. If the changes do not deliver the desired consumer outcomes, Ofcom should reconsider the merits of GigaTAG's recommendation to introduce a gigabit labelling scheme.¹⁰

⁸ Which? (2023) [Response to DSIT's consultation on reviewing the broadband Universal Service Obligation \(USO\)](#)

⁹ Ofcom (2023) [Statement: Improving broadband information for consumers](#)

¹⁰ GigaTAG (2021) [Gigabit Take-up Advisory Group: Final Report](#)

Ofcom priority outcome: We live a safer life online

Implementing the online safety regime and engaging with online services within scope of the new regime

Which? supports Ofcom's work to implement the new Online Safety Act regulatory regime. We continue to engage with Ofcom as it consults on the codes of practice on illegal harms and develops the codes of practice on fraudulent advertising. It is crucial for Ofcom to ensure its Online Safety regime places robust obligations on online services to tackle fraud effectively, resulting in a safer experience for consumers online and a systemic change in how fraud is managed across all online services.

The Online Safety Codes of Practice and Guidance provides the opportunity to achieve this by:

- Setting stretching measures in the codes of practice that show how services should be continuously improving methodologies to tackle fraud
- Producing clear guidance that will help services identify fraud
- Engaging with services to ensure that they have an adequate understanding of the problem of fraud on their service and how that can be mitigated

Which? has recommended the following remedies that will align to each of the elements of Ofcom's Online Safety regime described above. Our research and stakeholder engagement shows that these are necessary to ensure that online services are taking effective action to limit the levels of fraud on their platforms. Services should be required to:

- Implement due diligence checks for their advertising services to ensure that adverts are from legitimate actors
- Undertake data sharing and consumption across platforms and other sources to ensure that platform services develop a better understanding of fraud
- Use data acquired from data sharing and consumption to improve their content moderation systems

Due diligence

In its codes of practice on fraudulent advertising, Ofcom should obligate online services to carry out due diligence checks to prevent fraudsters from using online services. This should be to meet a level of satisfaction that the service is not being infiltrated by bad actors using fake identities, fraudulent websites, or who may have a history of fraud. By introducing effective checks on those wishing to place online adverts, platforms will be disrupting fraudsters from reaching consumers before harm can occur.

Data sharing

A key element in achieving this systemic change will be ensuring that services are using the best available data to detect fraud and train systems to remove it. Ofcom's codes should set out that platforms should be using available data such as lists of fraudulent URLs to detect fraud on their platforms. The associated guidance should make clear the types of data that can be useful in helping online services determine if content is fraudulent. We also encourage Ofcom to use its supervision and softer powers to guide platforms toward taking part in data sharing initiatives.

Improved content moderation

Which? believes Ofcom should be using its codes, guidance and supervision to help instil a culture of continuous improvement in services. Through its draft codes and guidance on risk assessment Ofcom has set out requirements for services to thoroughly assess the risk they face using a wide range of available data. Ofcom should hold platforms to account through its supervision making sure they continuously seek to speed up detection, improve rates of take down and reduce consumer harm. This should mean that services develop a better understanding of fraud and bad actor tactics thus improving their barriers against them.

Online safety across the digital landscape

Alongside its work on implementing the Online Safety Act regime, Ofcom will need to consider its interconnection with other related sectors. In the coming year, Which? will continue to advocate for the need for regulation against fraud in online advertising across the open display market. As the Government puts forward proposals as part of the Online Advertising Programme, Ofcom should work with DCMS to ensure they are complementary to their proposals in the Fraudulent Advertising codes of practice.

Which? will also be looking at ways to better tackle fraud in internet infrastructure providers (including domain registrars and registries). We responded to DSIT's consultation 'Powers in Relation to UK-related Domain Name Registries',¹¹ where we highlighted the gaps fraudsters exploit and urged greater collaboration between DSIT and Ofcom exploring the problem. Harms in this space are currently being tackled indirectly by blocking in Internet Service Providers and to a lesser extent in user-to-user and search services. There was a concerning 121% increase in the use of domain names for malicious purposes in the last quarter of 2022.¹² Ofcom should monitor this sector and how it affects the services Ofcom regulates.

About Which?

Which? is the UK's consumer champion, here to make life simpler, fairer and safer for everyone. Our research gets to the heart of consumer issues, our advice is impartial, and our rigorous product tests lead to expert recommendations. We're the independent consumer voice that works with politicians and lawmakers, investigates, holds businesses to account and makes change happen. As an organisation we're not for profit and all for making consumers more powerful.



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¹¹ Which? (2023) [Response to DSIT's consultation on Powers in Relation to UK-related Domain Name Registries](#)

¹² Interisle (2023) "Malware Landscape 2023"