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Date: 26th February To: Annual Plan Team, Ofcom

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Consultation Response

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Ofcom Draft Annual Plan 2015/16

Which? is the largest consumer organisation in Europe with more than 800,000 members. We operate as an independent, a-political, social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.

Which? welcomes the opportunity to comment on Ofcom's draft annual plan. Broadband and mobile phone communications are increasingly seen by consumers as essential to their lives, yet consumers consistently report worryingly low levels of trust and confidence in the telecoms industry and there are areas of significant consumer frustration and detriment. Our response to Ofcom's proposed priorities within its draft annual plan are outlined below.

Promote effective competition and informed choice

Which? welcomes the continued focus on improving the process of switching providers for consumers, and we await the publication of its response to its Call for Inputs on consumer switching. Our recent research showed that 72% of mobile phone customers are on the wrong contract for their usage, collectively overpaying by £5.42bn a year. Ofcom's own research has shown that there are low levels of switching in the telecoms sector, finding that nearly half (48%) of people on a mobile contract have never switched supplier. Of those that have switched, 46% switched over 4 years ago. Which? believes there are several reasons for this, from the way tariffs and information are presented, to the overall switching process that does not currently work in the interest of consumers.

As we have stated previously, Which? believes that switching processes across telecommunications markets are in need of urgent reform, and we urge Ofcom to implement gaining-provider-led switching quickly and uniformly across the entire market. This would

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promote effective competition by giving suppliers an incentive to focus on retaining customers at all parts of the journey, rather than simply at the end-point.

In addition to looking at the wider system of switching, we also welcome Ofcom's decision to investigate non-process barriers to switching, with the aim of making it easier for consumers to engage and choose their provider. A key non-process barrier in the mobile sector is the policy of locking handsets. Which? believes mobile phone companies should unlock handsets for free: either by selling handsets unlocked, or by automatically unlocking them for free at the end of a contract or minimum period. Currently, the inconsistency between different operator's unlocking policies is confusing, and Which? would welcome a stronger intervention from Ofcom on this issue.

A further barrier that needs to be addressed is the structure of tariffs. More needs to be done to make tariffs clearer and more comparable, including the separation of mobile handset and service charges. In addition, Which? is calling on providers to improve their end of contract notification practices. This is an issue that has been considered by other regulators and we urge Ofcom to include this as part of its wider work on switching and promoting informed choice.

Promote opportunities to participate

Which? is pleased that one of Ofcom's priorities is to promote participation, as consumers increasingly view telecoms services as essential. Promoting better coverage of fixed and mobile services for consumers must continue to be treated as a priority.

In regard to Ofcom's proposal to promote better coverage of mobile services, last year Which? welcomed the Government's announcement of a voluntary deal with the mobile operators to tackle partial 'not-spots' and improve coverage. Ofcom should keep a close eye on progress and issue financial penalties if companies fail to deliver their commitments by 2017.

Ofcom also states that it intends to ensure consumers have access to redress for service failures and poor quality of service. Which? believes the regulator must explore problems associated with how broadband is advertised. Which? is calling for broadband providers to improve their practices around the advertising of broadband speeds. We want providers to quantify speed claims like 'superfast', and we want the majority of customers to be able to get the maximum headline 'up to' speed advertised, not just 10%. Whilst we recognise that this comes under the Advertising Standards Authority, the ASA is acting under powers delegated by Ofcom. We welcome improvements to Ofcom's code on broadband speeds and we continue to call for CAP/BCAP to commit to a review of their guide on broadband speed advertising.

Protect consumers from harm

Ofcom is right to continue to view protecting consumers from harm in areas including nuisance calls as a priority. There has been significant progress made on nuisance calls in recent years, particularly with the publications of the Government's Nuisance Calls Action Plan, as well as ICO and Ofcom's Joint Action Plan on Tackling Nuisance Calls and Messages. Ofcom and ICO were also represented along industry and Which? on the Nuisance Calls Taskforce on Consent and Lead Generation. In December 2014, the taskforce set out 15 recommendations which were welcomed by Government. We welcome Ofcom's commitment



to take action against instances of nuisance calls through its joint action plan with the Information Commissioner's Office.

We welcomed the Government's recent announcement of its intention to introduce mandatory Caller Line Identification (CLI) for marketing calls, in order to enable consumers to report unwanted nuisance calls. Key to ensuring that this is successfully implemented will be Ofcom's work with UK and international bodies to promote improvements in CLI and to improve means of tracing nuisance calls across networks, as well as delivering CLI assurance in the UK.

Another area outlined in Ofcom's plan is its intention to work with industry and government on introducing a liability cap for unauthorised use of lost and stolen mobile phones. Which? believes that consumers should not have to foot the bill if criminals run up expensive charges when their phone is lost or stolen.

Our research found that a third (32%) of people with a mobile phone contract would find it difficult to cope with an unexpected expense of £100, and six in 10 (59%) think they should not have to pay any of the costs incurred from fraudulent use when their phone is lost or stolen. We believe that mobile firms should also give consumers a reasonable length of time to report a lost or stolen phone. We found a quarter (23%) of people said they have accidentally left their phone somewhere for a whole day or overnight in the last two years.

Mobile firms agreed to introduce a limit on excessive costs over a year ago but they are yet to implement safeguards that really protect their customers. Which? supports the work that Ofcom has done with Government in this area to date. However, we urge Ofcom to continue to put pressure on the mobile providers to swiftly introduce a cap and ensure consumers are protected from 'bill shock'. We believe that consumers should not be liable for a charge if mobile phones are reported as lost or stolen within 48 hours.

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