Telecommunications

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The Communications Sector

This section focuses on fixed and mobile telephony and on access to the Internet via broadband. At their simplest, the three key products/services – namely a telephone (voice) call, text message, or broadband access to the Internet - are standardised. For many consumers there may be little or no conceptual distinction made between a call on a mobile network or on a landline system although, at present, it would be unrealistic to say the same about VOIP calls – simply because it is unclear as yet whether this platform will become anything like as commonplace as the others. Meanwhile, technological and marketing-based bundling is removing distinctions between voice calls, SMS and Internet access, so that the latter is generally becoming less distinctive.

In terms of problems faced by low income consumers in this sector, one of the most striking features is the sheer complexity and rapidly changing nature of the services, products, tariffs and deals. While this is a problem facing most consumers, it is likely to have more serious consequences for people without much money if they choose the 'wrong' deal. People on low incomes are also less likely to have easy and affordable access to the internet and thus to web-based comparison sites. Moreover, people need to possess basic numeracy and literacy skills in order to have much hope of understanding and comparing the various offers.

Although average household expenditure on communications services is relatively modest compared with spending on other sectors, such as energy, there is increasing marketing/social pressure on individuals and families to 'join the digital revolution'. There is a rising expectation that people will have internet access and digital TV services to access information and other services.

Another feature of this sector is that the real costs of entry for service providers have declined and it is also easier for retailers to provide some form of third-party access to communications networks and infrastructures. While this has widened the choice for consumers, the churn of service providers can have adverse consequences, especially for lower income consumers searching for cheap deals. This is illustrated in this paper by reference to the problems experienced by some consumers who have lost out on cash-back deals offered by some mobile phone retailers and who have then been locked into contracts they may not be able to afford.

Despite the existence of universal service obligations on BT as the national fixed line telephony provider (and on Kingston Communications in Hull), disconnection levels for residential consumers continue to be extremely high. It is yet to be seen whether actions taken by Ofcom to reduce the number of disconnections will be adequate, in particular, whether the new BT Basic scheme will be effective to any significant extent, and what action Ofcom may take in the future on this issue.

Need for the service

For the vast majority of people for all or most of the time, 'essential need' can be broadly defined as a product or service which materially aids health, safety, well-being, and economic/social inclusion. To all intents and purposes having access to some form of telephony or other arms-length contact is an essential need for most, if not all, of the time. Also, a critical feature of the telephone service is its two-way nature, which means it is of benefit to other people and organisations for someone to be connected to the network (for instance, to enable a home care assistant, social worker or medical professional to call a client or patient).

In theory there is no *a priori* reason why low income consumers should be different to others regarding these communication needs. Indeed, having less disposable income makes it far less likely that a consumer has private transport and may also mean that they are less able than others to afford public transport. Consequently telephony services in particular (voice calls and text messages) are likely to be more suitable means of communication than the alternatives for many on low incomes.

Similarly, whilst there is some evidence to suggest that older people in particular value highly the opportunity to deal with many matters on a face to face basis, this is not necessarily true for others. Indeed there may not be any alternative option as so many services are wholly or largely interfaced through telephony and/or the Internet. There is no reason to suppose that low income consumers are any different to others in needing or wanting to use telephony in particular to access services. Research carried out for Ofcom found that having a low income, in itself, did not have a significant impact on whether or not consumers used telephony though, as noted elsewhere, the amount and payment methods used by those with lower incomes tended to be different to other consumers. The same research did find that Internet access was affected by affordability among low income consumers, though being older was much more likely to be a determinant of Internet access along with a number of other factors (*Low income consumers and the communications market: An attitudinal study into people living on a low income and their experience of communications services,* Ofcom, 2007).

However, some low income consumers are more likely than others to have a key reliance on affordable telephony. The most obvious example is afforded by those living on their own and having a medical condition or other set of vulnerable circumstances. There have been numerous studies establishing that being a disabled adult, and/or living in a household with one or more disabled members, increases substantially the likelihood of living on a low income. (For a very brief overview see, for example, *www.poverty.org.uk/24/index.shtml?2*). Similarly, being in a single person household almost automatically tends to increase both potential vulnerability and the likelihood of living on a low income, especially among pensioners and lone adults with children (*Households Below Average Income 2005-06*, DWP, 2007).

There is, in addition, an increasing emphasis by the Department of Health and others on the application of 'telecare' products and systems, ranging from simple alarm systems to automated pill alerts – almost all of which require a landline. More than 1.5 million people already access these services, and all or most are likely to regard this connection as a necessity. Also, the telephone is the primary means of contacting services such as NHS Direct.

Some elements of essential need may be more pronounced in rural areas. Recent Ofcom research has found that take-up both of residential fixed line (93%) and broadband services (59%) was higher than the UK averages, suggesting that people living in rural areas use telecom services to keep in contact with others and access information more than those in urban areas (Nations and Regions 2008, Ofcom, 2008).

Finally, losing access, for example because of a fault on a landline, or sudden withdrawal of service because of arrears or a billing error, may be a critical event and create serious consequences. For example, someone may need to contact the emergency services urgently, or they may have relatives or friends in hospital, or they may have social care needs and rely on telephony to access services.

Nature of service/product

The actual and perceived nature of telephony products and services is in many respects contradictory. For those (often older people) whose only interest is in having a landline, relatively little has changed over the years. The exception of course is that, as a result of the opening up of the fixed line market, there are now up to 170 licenced telecoms companies to choose from – though the amount of choice varies from area to area.

BT's share of the landline market in terms of call volumes has declined significantly and fell below 50 per cent for the first time in 2006 (to 48 per cent).

The total number of fixed lines was 33.7 million in 2007, compared to 35.2 million in 2002, according to Ofcom's most recent annual report on the communications market. At the end of 2007, 38 per cent of UK fixed lines were taking a fixed access or call service from an operator other than BT. Average monthly access and voice call revenues were £23.32 per line compared to £28 per line in 2002, primarily due to lower call volumes and lower prices (*The Communications Market 2007*, Ofcom, 2008).

The landline sector, whilst declining gently in absolute terms, is now characterised by a considerable amount of market activity and churn as different suppliers strive to push different call packages and tariffs, so in this important respect the nature of this 'product' has changed substantially. For example, the bewilderingly-wide range of monthly rental charges on offer at any one time, the range of call tariffs and free minutes per month for example, and even the lack of a minimum contract period offered by some, has altered substantially the 'old reality' of call charges versus line rental (though some, mainly older, consumers still complain about the expense of rental charges compared to their light call usage).

While competition has clearly developed in the landline sector, giving consumers choice not only of provider but also between tariff arrangements, it is impossible to be confident that competition is truly effective and that consumers are benefiting as much as they could. The main problem is that it can be very difficult for consumers to draw comparisons and make informed choices that suit their needs.

The other major change is that many of these telecom companies offer packages or bundles which include a landline service, alongside mobile and broadband services. Consequently, in marketing terms, landline telephony is less distinct or distinctive than was previously the case.

Ofcom, and others, have for several years noted not just the enormous growth in the number of mobiles in the UK, but also a significant increase in the extent to which they are substituting for landlines. In 2007, revenues from mobile telephony services were for the first time greater than those from fixed telephony, internet and corporate data services combined. There were around 73.5 million mobile subscriptions in the UK (both contract and Pay As You Go), compared with less than half of that number of fixed line subscriptions.

For some consumers, the mobile phone is an additional communication service, rather than a replacement for their landline. But recent Ofcom research found that 12 per cent of households rely on mobile telephony (*Nations and Regions 2008,* Ofcom, 2008). Other Ofcom research revealed that mobile-only households tend to be in the lower socio-economic groups; for example, Quarter 1 2008, 5% of ABC1 households were mobile-only, compared to 35 per cent of C2DE households. Ofcom argued that this may have been partly caused by the higher penetration of broadband in ABC1 households (63 per cent compared to 38 per cent of C2DE households), but added that other contributing factors include the higher numbers of tenanted and shared accommodation among C2DE groups (which are less likely to have a household fixed line) and the desire among lower socio-economic groups to have greater control and flexibility over spending, as is offered by pre-pay mobile. Moreover, Ofcom has referred to the particular prevalence of mobile-only households in urban areas and among younger people (*The Communications Market 2007 and 2008,* Ofcom, 2007/2008).

It could be argued that this differentiation in behaviour by a considerable proportion of lower income consumers might suggest strongly that, for some consumers, it is access to the service that matters, not necessarily the type of connection.

Furthermore, the increasingly-heavy use of text messaging on mobiles (providing revenues of £2.7 billion in 2008 according to Ofcom) appears at present to be more prevalent than messaging through a PC or other means. Ofcom figures for the first quarter of 2008 found that 44 per cent of UK adults use text messaging on a daily basis, compared to 36 per cent who use the internet (*The Communications Market 2008,* Ofcom). The total number of messages doubled between 2006 and 2007 (*'One billion texts per week in the UK: more of the* *same (amazingly)*,' John Delaney, Ovum news item, 2007). This highly significant feature of the use of mobiles does tend to reinforce the evidence behind a separation of mobile and landline telephony.

In terms of consumer behaviour, there is a clear market separation of contract-based mobile services and products and Pay As You Go (PAYG) arrangements. This distinction is reinforced by Ofcom's finding that the average monthly bill for those on contract was £33.06 in 2007, against £9.10 for PAYG: the available evidence suggests that a considerable proportion of PAYG mobile users are children and young people (who appear to be major users of the, cheaper, SMS facility), and those on low incomes. Other PAYG mobile users seem likely to be those who use a mobile service infrequently.

In addition, the rapid and large scale adoption of 3G mobile handsets and services has introduced a whole new dimension to the mobile market. New functionalities and applications reach, and in some respects reach further, than web-based and other uses of home computing with Internet access. It is as yet unclear whether these enhanced products and services will come to dominate the mobiles market, or be a sub-set of the mobiles market (i.e. with many continuing to use only voice calls and texting). With respect to low income consumers it might be surmised (as there is no independent evidence about this) that they are far less likely than others to buy these more expensive services and products.

On the other hand, the 3G mobile options may, in time, prove to be more attractive for lower income consumers than conventional computer based broadband access and its subsequent applications and uses. The latter usually require a desktop or laptop, often a modem or router, and software may have to be purchased as well.

At present, broadband tends to be a separate product though, as indicated, this distinction may become less evident over time as 3G mobile capabilities and usage increase. It has also rapidly become a fairly 'mature' market. This is not to deny the enormous amount of marketing activity by rival providers - each of which continues to strive for a higher market share and better profit margin (perhaps especially those companies which are financing the costs of acquiring the spectrum used by 3G). The cable infrastructure appears to be more or less fixed (i.e. there is little sign that significant new cabling will be rolled out, though speeds may well increase substantially), and land-line based ADSL delivery systems continue to be rolled out at a reasonably rapid pace – meaning that within a year or two there are unlikely to be many areas in the UK without any form of physical access to broadband.

In addition, it is reasonable to assume that 'conventional' email and web-based activities will continue to experience innovations in applications and uses, and that many consumers will still use computer-based access for a wide range of uses – even though they also have a 3G mobile, a PDA, Blackberry, etc.

Therefore, broadband accessed by means other than mobiles and PDAs etc., seems set to continue to be a distinctive product/service. But like telephony services, broadband is sold through a vast array of schemes involving different rental prices, at different speeds and differing download limits (or none at all). For instance, among the current top ten ADSL sellers are AOL Broadband Wireless with a speed of up to 8Mb and a 10Gb monthly limit on an 18-month contract, starting at £4.99 per month (prices can vary according to area), to O2 Broadband Standard with a speed of up to 8Mb and unlimited downloads for £12.50pm (£7.50 for existing O2 customers) on a 12-month contract. (for example, see comparison site: *www.top10broadband.co.uk/types/adsl_broadband/).*

Bundling of services

The multitude of broadband deals currently available feature not only different speeds and download limits, but also a wide range of bundles of free or cheaper phone calls, VOIP calls, and various TV and/or mobiles services. Consequently, this ever increasing convergence and bundling further undermines the distinctiveness of broadband as a specific product/service.

Bundled services are usually cheaper than buying services separately, especially broadband (*The Communications Market 2007*, Ofcom, 2007). Another Ofcom research report highlights the fact that those in lower socio-economic groups are no more nor less likely than those in higher groups to switch bundled services (Consumer decision making in the telecoms and TV broadcast markets, Ofcom, 2007). It may be that some low income consumers prefer bundled services (note: this usually includes TV services) because it is less hassle than having to deal with a number of different providers and, for some, there is the perception and possibly the reality of obtaining some additional services and/or cheaper deal. However, although consumers can choose between bundled packages, they do not normally have any choice about what specific services are included: it's a matter of take it or leave it. Providers also can and do unilaterally change the make-up of packaged services.

Although in general the single most important reason for switching cited by consumers as a whole is affordability and/or the price issue, those who say they are not interested in changing supplier are more likely to consist of low income consumers (and over-55s). It may be that people on low incomes and in other vulnerable situations find it too much hassle to deal with on top of other problems they may have.

An important underlying theme, which may be of particular relevance to low income consumers, is substitutability of different services and products. There is, in theory, some degree of substitutability across the three, with the most likely exception being the non-contract status of pay-as-you-go mobile phone calls and texts, to which might be added the small number of non-contract based broadband services. Obviously, this distinction is not based on the product/service in itself, but on the terms through which the consumer accesses and uses the product/service.

As indicated previously, it could be argued that Internet access through newer generation mobile phones might lead to complete substitutability between ordinary voice/text telephony and email, blog, VOIP and other 'Web 2.0' communications media or formats. On the other hand, there are at present likely to be some significant cost barriers for some consumers associated with 3G(+) mobile use, and perhaps other barriers such as the technical knowledge to be able to use new applications, or the size of mobiles' screens for those with a wide range of sight 'deficiencies', etc.

Moreover, some types of communications packages are also being tied into store card loyalty and voucher schemes (e.g. for discounts on everything from food to holidays), and these may be of particular importance to some low income consumers. For example, low income consumers who already do most of their shopping through one of the big supermarket chains may consider that also buying their communications service(s) there represents best value for money. In this instance there is unlikely to be much substitutability.

Indeed, there is considerable activity, especially in the mobiles sub-sector, involving 'add on' services, and special 'extra' deals. Some of these could be of particular interest to low income consumers, though they are not necessarily targeted by the companies. For example, Vodaphone UK recently made exclusive tracks from Madonna's 'Hard Candy' album available to its customers for a week. The relatively new ad-funded mobile network, Blyk, gives members free texts and minutes every month, with no contract, hidden costs or fees, in return for receiving up to six highly targeted advertising messages per day from brands including Xbox, Adidas, STA Travel, Penguin, Brylcreem, Boots, COI and RSPCA. Meanwhile, 02 UK has announced the launch of a

Mobile Broadband service, offering 3GB of data per month for £20, plus free access to 7,500 wi-fi hotspots on The Cloud, UK-wide network (*On Your Marks, Get Set…*', Mobile Marketing Magazine, 29 April 2008 *http://mobilemarketingmagazine.com/*).

Substitutability

The rapidly expanding nature of convergence, combined with differentiation and segmentation in telephony and broadband, makes it particularly difficult to define and identify what substitutability means. At its simplest, a 2G mobile phone can often be substituted for a landline, or vice versa – unless the consumer needs to send text messages, in which case this may not be possible through fixed line handsets, although some newer handsets now have texting capabilities. Some 3G mobiles and associated applications can substitute for 'conventional' broadband access at home, and vice versa – there are even some mobile-based applications which enable the consumer to use instant messaging, for instance.

But beyond these obvious types of examples, so much depends on what the consumer wants and needs of telephony and broadband, at any one time, and over time, and also on what 'deals' suppliers and retailers roll out and over what period (many are time-limited, or only apply for the first three months' use for example).

It is conceivable that mobile networks could become close substitutes for fixed networks, particularly in voice services. There is some evidence to show that for substitution to develop to the point where mobile companies exerted effective competitive pressure on fixed services, the differences in prices between these services would need to decline significantly. Furthermore, this appears to be happening – though depending, of course, on a customer's patterns of use, and on their willingness or motivation to switch from a 'conventional' phone to a new one (e.g. one which will only work if its batteries are charged).

Transparency

One way of looking at the issue involves the choices that face consumers, basically the ease and affordability of switching to another service or product and, particularly in this sector, of having confidence that the new product or service and the attached terms and conditions are advantageous or not disadvantageous (switching is discussed in more detail later in this section). Ofcom research concluded that, *'although the majority of consumers perceive it is easy to find information about suppliers, they also believe it is difficult to make comparisons' (Consumer decision making in the telecoms and TV broadcast markets,* Ofcom, 2007).

Other research has tended to confirm that transparency and straightforward comparisons can often be a problem in large parts of this, admittedly-complex, sector. For example, a recent Onecompare.com customer service rating report on the six major mobile network providers concluded from its mystery shopping research that: 'Many staff were unable to give correct information meaning customers would incur unnecessary costs.'

Onecompare added:

> *The mobile company with the least knowledgeable staff were O2 (35%) followed by Vodafone (20%) and Orange (15.4%). O2 was particularly startling as it boasts about service standards in its exclusively British call centres, sliding further down the table from last year's survey. In fact, O2 staff were unable to provide correct answers or solutions to over a third of the questions asked. O2 and Virgin scored particularly poorly on the international roaming rates question with O2 answering almost four in ten questions (39%) incorrectly and Virgin answering over three in ten(35%) incorrectly. (2006/2007 Customer Service Rating Report,* Onecompare.com)

Staying with mobiles, Moneysupermarket.com states that users often do not know how many minutes or texts are included in their monthly package, or how many they actually use. It added that this leaves them prone to incurring extra charges, which could add up to £130 each per year. In addition, it said that many users did not know the terms of their deals.

In general, mobile tariffs and deals can be complex and untransparent for consumers. For instance, *Which?* recently recommended Tesco's 'Value' pay-as-you-go basic mobile tariff. At the time of writing, texts cost 5p per message and calls 15p per minute, with no extras or frills. But Tesco also offered other PAYG tariffs: for example the Extra tariff, where texts cost 5p and calls 10p but you have to top-up the card by at least £15 per month; the Standard tariff featured texts at 10p, calls at 20p, plus half price calls to a customer's favourite three numbers; the Standard Plus deal offered texts at 10p, calls at 20p, plus a free monthly bonus of either 500 UK texts or 150 UK call minutes (excluding calls to premium rate numbers), and half price calls/texts to three favourite numbers, but again dependent on minimum £15 per month top up. Customers can also collect Tesco's Clubcard points when the phone is topped up, especially if it's done in a Tesco store (which is a fixed term offer at the time of writing). It should be noted, of course, that other retailers offer a range of tariffs and deals that may be similarly difficult for consumers to compare to work out the best one for their own situation.

Tesco, like other providers, also features a wide range of deals on many different handsets, which can make price comparisons even more complex. The Moneysupermarket website says that it compares over 30,000 separate deals on contract-based mobiles, and over 500 PAYG deals.

For some, especially consumers with little disposable income, the detail of terms and conditions will also be important when trying to compare costs. But again, this is not necessarily a simple exercise.

For example, see the box below regarding BT's mobile terms and conditions, from BT's website:

> Most calls will be rounded up to the next minute. Unlimited Weekend Plan customers will receive free Weekend calls to all UK geographic numbers beginning with 01, 02 and 03, excluding the Channel Islands. Pence-per-minute charging applies in the day and in the evening. A 6p (incl. VAT) call set-up fee applies to most calls except zero-rated (inclusive) calls and fixed price calls for the first hour. A 3p call set-up fee applies to BT Fusion, Light User Scheme, In-Contact Plus and BT Basic customers. In order to benefit from free UK Weekend calls, Unlimited Weekend Plan customers must make at least one chargeable call a month with BT. BT reserves the right to move customers from the Unlimited Weekend Plan to the Line Rental Plan if they make less than one chargeable call a month. Unlimited Weekend Plan zero-rated calls apply at weekends (Friday midnight – Sunday midnight) only. Unlimited Evening & Weekend Plan zero-rated calls apply in the evening (6pm – 6am) and at weekends (Friday midnight – Sunday midnight) only. Pence-per-minute charging applies in the daytime and evening for Unlimited Weekend Plan customers, and in the daytime for Unlimited Evening & Weekend Plan customers. Pence-per-minute charging also applies at evenings and weekends after one hour on each zero-rated call. Zero-rated calls apply to voice calls only. Free calls apply to UK geographic calls of up to one hour in duration. Calls beyond one hour are charged at 4 pence per minute. No set-up fee applies. Redial before an hour to avoid call charges.

Landline terms and conditions are usually no less detailed and complex, though there are fewer deals (i.e. when compared with both 2G and the ever increasing 3G services and applications).

There is, of course, a large number of broadband-only deals. The 'thinkbroadband' site lists nearly 70 prime suppliers (some of whom operate through more than one brand or in association with another supplier, such as a supermarket chain). Each prime supplier has anything from three to 15 deals. Some, though by no means all, of these may or must be purchased as part of a bundle.

As with mobiles, some deals are on offer for a limited period only. Some (like Sky Broadband Base) are only available to existing customers of the company, terms and conditions may be changed and, as the various broadband discussion groups testify, what actual broadband speeds are delivered is a fraught and often quite technical issue. These sorts of features, and the sheer variety of products and services, make comparisons difficult unless a fair amount of time is devoted to the subject.

Low income consumers may also be more affected than others by early termination fees. Costs and terms vary across services and suppliers, and can be quite difficult to find out about.

It is worth noting that, according to the latest OFT report on consumer detriment, telecommunications are among the top three goods or services for which consumers have reported the highest proportion of problems, alongside domestic fuel and personal banking. In terms of the type of problem experienced, poor service quality and defective goods are the most common causes of detriment (*Consumer detriment,* Office of Fair Trading, 2008). Complaints about mobile phone service agreements came second in the total number of complaints received by Consumer Direct in 2007, after second-hand cars. This was a rise of 49 per cent on the previous year (Consumer Direct press release, 14 January 2008).

Mis-selling

Mis-selling continues to be a significant problem, particularly regarding mobile phones. Complaints to Ofcom about mobile mis-selling have risen sharply since 2006. Problems experienced by consumers include being given false or misleading information when purchasing services and 'slamming' where consumers found themselves with a new contract without their knowledge and consent. Ofcom worked with the companies and introduced an industry code of practice in July 2007 aimed at tackling misleading sales and marketing practices, including the fairness of the terms of cashback deals being offered.

However, it became clear that the voluntary code was not working. Following a review, Ofcom concluded that, in light of the continuing levels of complaints, the varying levels of monitoring and enforcement of the code by the mobile service providers and the extent of consumer harm involved, reliance on the code did not provide adequate protection for consumers. The result is that Ofcom is proposing to introduce formal regulation through a new General Condition on sales and marketing practices that will apply to all mobile service providers (Protecting consumers from mis-selling of mobile telecommunications services, Ofcom, 2008). Among other matters, mobile service providers will be required to adhere to the following rules:

- not to engage in dishonest, misleading or deceptive conduct and to ensure that those selling their products and services do not mis-sell;
- to make sure the customer is authorised to, and intends to, enter into a contract;
- to make sure customers get the information they need when they buy the product;
- to ensure that the terms and conditions of all sales incentives offered by their retailers are not unduly restrictive; and
- to carry out due diligence and a number of checks in respect of their retailers to ensure the soundness of the company and its directors.

Independent retailers must comply with contract terms stipulated by mobile service providers. This means that, although these retailers cannot be directly regulated by Ofcom (where they are not a provider of electronic communications services or networks), the regulator can indirectly influence their actions by regulating mobile service providers.

These Ofcom proposals also include measures relating to a number of ‘cashback’ schemes which are sold by independent retailers of mobile service providers’ services. In these schemes, an independent retailer undertakes to pay an amount of money to the customer when they take out a mobile phone contract from a mobile service provider. According to Ofcom – and numerous press articles - problems have arisen where the consumer has been unable to obtain the cashback, typically either because the terms for claiming are too onerous or because the independent retailer has gone out of business. These practices have been described as *‘… the Wild West antics of the cowboys currently infecting the mobile phones sector’* (Site Editor, moneysupermarket.com website).

As Ofcom’s consultation stated:

> *Consumers who are mis-sold services can suffer significant anxiety, distress and inconvenience. Financial harm can also occur if consumers find themselves on inappropriate price or service packages. Where the consumer is unable to redeem the cashback deal, significant financial loss can occur, particularly if the consumer isstill bound by the separate monthly contract for the mobile service.*

Although Ofcom’s research into cashback deals found the majority of consumers were happy with the offers and ease of claiming, a significant minority of customers have experienced problems with certain deals where making claims is complex or where the retailer has ceased trading. In many of these cases, the amount the customer has not been able to redeem has been large resulting in a significant level of overall harm, according to Ofcom.

Ofcom’s consultation on the above proposals ended on 29 April 2008 and its final statement is awaited. It remains to be seen to what extent its proposed action is effective in protecting consumers’ interests with regard to mis-selling and cashback deals. However, at least the regulator has decided to intervene and introduce formal regulation, instead of continuing to rely on a voluntary industry code that was clearly ineffective.

Tied into insurance

Meanwhile there continues to be a significant level of concern about the practice of some suppliers (and separate retailers) of pressing consumers to take out specific insurance against the theft or loss of the mobile phone. For instance, Mike Naylor of *Which?* concludes that: ‘This insurance tends to be expensive and complicated, and the level of cover varies widely’ (Quote from ‘Mobiles: is cover worth it?’, Helen Loveless, *Mail on Sunday,* 25 September 2006).

The author of the article added that: ‘Retailers such as The Carphone Warehouse often offer three months “free” insurance when you take out a phone, but consumers need to sign up for direct debit payments first, and the retailers count on the majority of users forgetting to cancel this after the initial period is up and you start paying.’

In 2006-2007 the CAB service estimated that it received 88,000 enquiries about problems with utilities, of which 23,000 related to communications (including landline and mobile phones plus cable and satellite TV). While all communications areas have witnessed a rise in the number of enquiries dealt with by CABx, certain areas – such as mobile phones – have seen a dramatic rise. Specifically, enquiries about landline telephones for 2006-07 were up by 31% on the previous year, enquiries about mobile phones had increased by a worrying 93% and those relating to satellite and cable TV had increased by 29%. (Citizens Advice Press Notice, October 2007)

Extent and ease of switching

As outlined previously, for most consumers there is in theory a considerable degree of choice of product and service (including tariffs and terms and conditions). In practice, there is more choice in some areas than in others, and none at all for landlines in those areas where local loop unbundling has yet to be enabled and there is no cable coverage.

In practice, choice is also highly conditional on the existence or otherwise of a contract, and on the length and terms of contracts; for example, substantial penalty charges associated with early termination of a contract may well restrict or eliminate choice for many, especially low income consumers.

Research for Ofcom found that the majority of landline consumers considered it difficult to compare and choose between different providers, and felt there was some considerable risk attached to switching (*Consumer decision making in the telecoms and TV broadcast markets,* Ofcom, 2007).

According to the same research, a slightly lower proportion of mobile consumers considered it difficult to compare and choose, and a slightly smaller proportion considered that switching constituted a big risk. By comparison, a much lower proportion of single broadband consumers considered it difficult to compare and choose, but a much higher proportion considered that there could be a big risk in switching. An even lower proportion of consumers with bundled services considered it difficult to compare and choose, but a higher proportion considered that there was a big risk in switching.

Obviously, these were perceptions or judgements and, as with most such attitudinal surveys, they do not represent an 'objective' measure of just how easy or confusing it was to navigate through product and service markets. In addition, there could well be a difference in perceptions between those with easy access to switching websites and those without any access.

Evidence about the exercise of effective choice, for instance from the same Ofcom research outlined above, indicates that, although the majority of consumers perceive it to be easy or fairly easy to access information about suppliers, the majority also believe that it is difficult to make comparisons. Broadcast media, magazine and other print media, and the Internet all provide consumers with a great deal of advertising-based information, as do retail outlets, but it can take some effort to distinguish between what is on offer in terms of features and functionality. This task may be particularly challenging for consumers who experience problems with literacy and/or numeracy, and/or for consumers who find it difficult to cope with pressure from sales staff. In addition, much of the sector is likely to be difficult to negotiate for consumers with sight or hearing impairment, for example.

This Ofcom research highlighted the fact that in the landlines sub-sector there continues to be a substantial minority (28 per cent at present) who exhibit no interest in changing suppliers. Some of this may be because some are genuinely satisfied, some because switching is perceived too difficult or not worthwhile, some because they are generally unaware of alternatives. Low income consumers are slightly less likely to have switched landline provider than those in higher socio-economic groups.

There has been little change in recent years in the proportions of consumers who have switched between mobile operators or are interested in switching, and those that are not – though the proportion evincing absolutely no interest in switching has increased to a third. Again, any of the above reasons may apply. There is no significant difference between lower socio-economic groups; there is, however, a marked increase in switching interest among higher-use consumers.

In general, according to an attitudinal study for Ofcom on people living on low incomes, switching activity was somewhat limited due to a general lack of interest, rather than problems relating to financial status; only a tiny minority of those on the lowest incomes had avoided switching due to potential difficulties with credit checks (*Low income consumers and the communications market,* Ofcom, 2007).

Probably because of Local Loop Unbundling (LLU) and exchange enhancements, there has been a marked increase in the switching interest rates for broadband, though there remains a significant minority (25 per cent) who evince no interest in broadband. (LLU is the process whereby BT and Kingston make their local networks available to other companies.) Those in lower socio-economic groups who are not interested in broadband or switching are only slightly less interested proportionately than those in higher groups. As with mobiles in particular, lack of interest is quite strongly associated with age (older consumers tend to be less interested in doing so).

There is a higher proportion of consumers interested in bundled packages, and the proportion evincing no interest at all is smaller, at 21 per cent of the sample surveyed by Ofcom. Age, rather than socio-economic group, is the primary determinant of whether consumers say they are interested or not.

Some low income consumers find it difficult to access any of the services, particularly those on very low incomes and those very heavily reliant on social security benefits according to other Ofcom research (*Low income consumers and the communications market: An attitudinal study into people living on a low income and their experience of communications services,* Ofcom, 2007). Issues included not just affordability, but also the lack of a bank account, having a poor credit history, the lack of a regular wage (making household budgeting very difficult). Ofcom also came to the unsurprising conclusion that few such consumers felt able to pay bills by direct debit. However, low income consumers surveyed by Ofcom tended to evince little interest in switching per se, and not just or solely because of issues like credit checks – though this was undoubtedly an issue for some.

The research report also found that: *'In general* (low income) *consumers appeared to be relatively well informed about the details of their package (free calls and texts) but were very poorly informed about the details of their contract, the implications of missed payments and where to go for help if there was a dispute with an operator.'* And: *'Overall, the most visible effect of low income status appeared to be an avoidance of contract mobile phones.'*

Contract terms and additional charges

Contract terms, especially early termination charges, can obviously restrict consumers' ability to switch to alternative suppliers and can particularly affect people on low incomes. Ofcom has recently consulted on proposals to address problems that have arisen for consumers regarding early contract termination charges as well as non-direct debit charges (*Ofcom review of additional charges,* Ofcom, 2008). The proposals mainly focus on the need for greater transparency for consumers and fairness in levying charges; for instance, the need for suppliers to do more to ensure consumers fully understand their contractual commitment and that consumers understand what they will be charged if they terminate a contract early. On contract periods, Ofcom highlighted the need for suppliers to adhere to the requirements of the Unfair Terms in Consumer Contracts Regulations.

The types of problems consumers can experience with contract periods were highlighted in the response by Citizens Advice to Ofcom's consultation, which included a number of illustrative cases – see examples in box below.

A CAB in Gloucestershire reported that their client originally entered into a contract for landline phone services in April 2007. In August 2007, he moved house and kept his number. In October the client transferred his landline phone to another provider since they offered a better and cheaper service. The client then received a bill from his previous supplier for £161.14, of which only £7.24 is for calls. The client had been charged for line rental up to August 2008 and a £70 early termination 'one-off' fee, and charges for line rental up until the scheduled termination date. The client contacted the previous supplier who stated that he had a minimum 12 month contract running from 16 August when he moved and he has incurred a charge for leaving this contract early.

And: A CAB in Nottinghamshire reported that their client was a customer of her telecoms supplier for several years. When she moved house previously she even moved contract with her. In April 2008 she moved again but her telecoms supplier informed her that they do not operate in the new area. The client is unable to cancel the contract as she has been told that she is in a 12 month contract. The client feels very angry that she was not made aware of this clause at the time the contract was renewed. (Response to Ofcom consultation on additional charges, Citizens Advice, 8 May 2008)

The consultation also covered issues relating to other additional charges (for example, for consumers who receive paper bills and do not pay by direct debit). Such charges are a very live issue in this sector as elsewhere, for instance in the energy sector. Numerous and continuing complaints about additional charges have eventually prompted Ofcom to investigate such charges, though so far it has only proposed to require telecoms suppliers to do more to make sure consumers are properly informed and that additional charges and other contractual terms are set fairly and clearly explained at the outset.

One point of detail may be of interest as well: in terms of the fairness of additional costs, only direct costs can be included. Ofcom does not consider this can include additional costs relating to bad debt.

Ofcom is proposing to issue Guidance about additional charges and expects suppliers of communications services to review their conditions in light of the Guidance and to amend or remove any unfair terms. It remains to be seen whether this approach will be effective. According to Ofcom, although this Guidance does not have binding legal effect, it sets out the approach Ofcom expects to take in performing its obligations and exercising its powers. The regulator states that it expects to take an active role in enforcing the principles set out in the Guidance, and will monitor complaint levels and examine suppliers' standard terms to ensure compliance. Where suppliers do not comply with the Guidance, Ofcom says that it will take the necessary enforcement action, using its powers under the Regulations and/or the Enterprise Act 2002. (Ofcom's consultation on its proposals regarding additional charges closed on 8 May 2008 and a final statement is awaited.)

It is clear that Ofcom regards wider questions relating to distributional effects as a matter for government. In the consultation, Ofcom said that it recognises that there are broader concerns about the fact that low income consumers often pay more than higher income groups. But it considered that the extra amount paid by low income groups in non-direct debit charges in the communications sector is relatively small compared to the extra amounts low income groups may pay in other sectors, and referred to practices of charging different amounts according to payment method in the energy sector among other examples. Ofcom said that it would be happy to engage with government in looking at these wider distributional issues.

It is far from simple to determine whether new customers in the communications sector are likely to get a better deal than existing customers. The evidence on this is primarily circumstantial, and even anecdotal – which in part reflects the dynamic and rapidly-changing nature of the products, services, packages and deals. So this aspect of actual or potential discriminatory pricing is impossible to characterise at present – for instance some broadband deals favour new customers in terms of price and performance, while others (especially some bundled deals) favour customers which already take a service from the supplier (e.g. subscription TV).

Switching and ease of use

Ease-of-use can be a barrier to access and may also influence the extent to which consumers are active in the communications market. Whilst this can affect any consumer, it is of particular significance to consumers with sensory impairments, physical disabilities and cognitive impairments who may find 'mainstream' communications products and services to be inaccessible, unusable, or very difficult to use. Furthermore, there is generally a high correlation between disability and having to live on a low income.

In general, there is some realistic, and usually affordable, choice in relation to landline products – from appropriately designed handsets to enhanced features and functionality (culminating in various 'telecare' and assistive technologies).

Equally, the 'end-product' of broadband access (primarily web-based sites and services, and specialist applications to enhance usability) has received some consideration in order to help access and usability. However, there continue to be many arguments about the adequacy or otherwise of websites, for instance, and of keyboards, screens, readers, voice recognition hardware and software, and about the affordability of such 'enhanced' application software and hardware. Here, there is a degree of choice, though switching remains a problematic issue.

The least developed sub-sector in terms of usability is mobile telephony. For example, there is a clear drive by most of the industry towards loading more and more functions into ever-smaller handsets in order to persuade consumers to keep 'upgrading'. This can make it more difficult for people to work their way through on-screen menus and physically press the right buttons, especially if they have dexterity or sight problems or large fingers! Although there are some handsets on the market that offer larger buttons for example, they are in the minority and can be more expensive than others.

According to a research audit carried out last year for Ofcom on ease-of-use, there are significant numbers of people who are at risk of exclusion due to accessibility barriers. These include those living at home with a limiting long-term condition or disability and those living in care homes. Those with literacy and/or numeracy problems are also at risk, as are those who have little confidence or skill in using new technology (*Ease of use issues with domestic electronic communications equipment, research audit for Ofcom,* George M and Lennard L, Ofcom, 2007). Ofcom has formal duties in this respect which broadly consist of encouraging others to ensure ease-of-use, but it has no powers. Consequently, the regulator is currently considering the most effective ways of proceeding to ensure greater usability and wider access to easy-to-use equipment.

Finally, it is worth highlighting some findings from recent research published by the Scottish Consumer Council into switching behaviour across a range of sectors, including telecommunications and energy. This concluded that:

> *although many people say that they find it hard to compare products and services on offer, the amount of time that they actually spend on making these comparisons is very short. In the energy and telecoms markets in particular, the majority of switchers generally spend only a few minutes in deciding. This raises concerns about whether consumers are really choosing the cheapest and best option for themselves, and it is especially worrying as people on low incomes can least afford to miss out or make the wrong choice. (Making markets work for Consumers in Scotland – everyone benefits,* Scottish Consumer Council, 2008

Market characteristics

There are various estimates of the size of the sector, partly dependent on how many sub-sectors are included.

One report put the overall turnover of the UK's telecommunications services industry (excluding radio and broadcasting, and telecommunications equipment) at £47 billion in 2006. Of this, over £38.6 billion was attributable to end-user (retail) spending - the remainder being wholesale services. Growth was concentrated in mobile services, which grew by £900 million over the previous year, offsetting a decline in fixed voice market revenues of £400 million.

There is still some growth overall in revenues across telecoms. As some sub-sectors flatten off or decline, others grow; for example, the mobiles sub-sector is commonly regarded as having reached saturation point with an estimated 71.7 active subscribers, yet the introduction of various new functionalities and services may mean that total mobiles revenues will not flatten off (*United Kingdom – Market Intelligence Report,* September 2007 *http://www.itireports.com/cma_uk.htm*). It is far more difficult however to estimate both the size and trajectory of profitability or of other key financial performance indicators.

In most parts of the sector there has been and continues to be a substantial amount of industry restructuring and reorganisation. For example, during 2005/06 there were major deals involving ntl and Telewest, which went on to acquire mobile virtual network operator Virgin Mobile later in the year and the rebranding of the whole operation as Virgin Media. Then, for example, BskyB acquired fixed-line broadband operator Easynet; Cable & Wireless acquired corporate services provider Energis; Carphone Warehouse acquired Tele2 UK and Ireland as well as One.Tel, and then went on to acquire AOL Time Warner's Internet access business in the UK.

There have also been many changes in the mobiles sub-sector, with new entrants and deals between existing suppliers. At least some of industry changes have been driven by the bundling of products, as many companies are increasingly seeing this as their main way forward (alongside longer-term customer contracts).

The UK landline market was worth £9.3 billion at the end of 2006, with just over 34 million total voice connections including VoIP. Industry analysts anticipate a continued decrease in fixed-line connections as consumers and businesses continue to replace usage of fixed-line telephony with that of mobile and VoIP telephony. They expect a surge in take-up of VoIP connections amid growth in broadband connections which, they maintain, will more than offset the decline in fixed-line connections. Here, too, there have been many new entrants (*UK Fixed Telecoms Market Statistics,* 2001-2010, Centre for Telecoms Research Ltd., Jan 2007 *http://www.researchandmarkets.com/reports/c52873*).

Pricing and costs

Fixed line telephone services

The average price of like-for-like telecom services has been declining. Ofcom estimated that, in 2006, costs to consumers were 13 per cent less than they were in 2005, and 38 per cent less in real terms over the past five years (*The Communications Market 2007,* Ofcom). The average weekly household spend increased by 6.6 per cent between 2002 and 2006, while the consumer price index increased by some 10.5-11 per cent. Obviously, both service type(s) and usage have a big impact on the final bills for consumers, but in general it seems that Ofcom's contention that competition is driving prices down (in the short to medium term) is correct.

However, some prices have gone up recently, but the overall effect is difficult to ascertain because of changes to companies' pricing packages. These developments emphasise the problems for customers who are trying to choose the cheapest option that will suit their needs, and also highlight the increasing difficulties when attempting to track price changes over time.

For instance, from April 2008, the cost of daytime calls under BT Together Option 1 - renamed as its Unlimited Weekend Plan – increased by 23 per cent according to uSwitch.com. But customers receive free evening and weekend calls if they sign up to a 12 month contract, otherwise evening call charges have also been increased. Line rental charges increased by 7 per cent (uSwitch.com press release, 1 February 2008). On the other hand, the cost of BT Together Option 3 (renamed Unlimited Anytime Plan) is going down by 25 per cent. Changes to Virgin Media's charges made in October 2007 adversely affected customers who are not on an all-inclusive pricing package for their fixed line phone.

No direct retail price controls now exist, following Ofcom's strategic review of telecommunications in 2005. This concluded that there were enduring economic bottlenecks, that is, parts of the network where effective and sustainable competition was unlikely in the short to medium term. Ofcom adopted the principle that regulation should promote competition between competing infrastructures as deep in the network as such competition was likely to be effective and sustainable. However, companies who wished to compete on this basis had to rely on BT for access to parts of the network where competition was not sustainable. Consequently, Ofcom concluded that in order for competition in fixed telecoms to be effective, BT needed to make such access available on the same terms as it made it available to itself through equality of access.

Ofcom's decision was underpinned by a key principle of the EU regulatory framework, that downstream markets should not be subject to ex ante regulation where remedies imposed in upstream wholesale markets are sufficient to ensure effective downstream competition. Ofcom has stated that this principle is significant because it means that, once equality of access to upstream bottlenecks has been achieved, steps can be taken to remove ex ante regulation in downstream retail markets, according to Ofcom (*Final statements on the Strategic Review of Telecommunications, and undertakings in lieu of a reference under the Enterprise Act 2002, Statement, Ofcom 2005*).

Ofcom decided to allow retail price controls on BT to lapse on their expiry on 31 July 2006. These controls had been in place since BT was privatised in 1984. Ofcom's reasoning was that retail price regulation can have an impact on the wider market (e.g. possibly restricting tariff innovation). BT will be in a similar position to all other communications providers and will have the ability to set the price of their services in response to competitive conditions in the retail markets. (Previously, the retail price controls for fixed line phones had, since 2002, regulated the price of local, national and international calls, calls to mobiles, operator assisted calls and exchange line rental. The controls were arrived at by a weighting process based on the expenditure on these different call types by the 'bottom' four-fifths of customers as determined by their total phone expenditure.)

Ofcom has also looked at the future of BT's geographical pricing and has concluded so far that, although competitive conditions may vary between different parts of the UK, such variations have not been considered sufficient justification for the identification of separate markets. Many regional and national authorities expressed concern that such a move could accentuate the digital divide, and that those areas with lower customer densities would end up with less competition and higher prices. Interestingly some service providers pointed out that it was essential that they could cover the whole of the UK with the same product, and they pointed out the practical difficulties of gathering sufficient information to define such geographic markets correctly, and thereafter to investigate any anti-competitive behaviour. Ofcom has stated that it will continue to adopt a case-by-case approach to market definition based upon geography.

Mobile phone services

Price controls continue to exist on charges for wholesale call termination on mobile phone networks (there are no controls on retail charges for mobile services).

Wholesale call termination relates to the service provided for a network operator to connect a caller with the intended recipient of a call on a different mobile network. The service is sold and purchased by mobile network operators (MNOs) rather than retail customers. The UK operates a 'calling party pays' system, which means that the cost of the call is paid for by the calling party. Mobile call termination charges are paid in the first instance by the originating network operator to the terminating operator, and are an element of final charges for consumers.

The price controls have been periodically reviewed over the years. The last review and consultation in 2007 resulted in Ofcom deciding that:

- There are separate markets for the provision of wholesale mobile voice call termination in the UK to other communications providers by Vodafone, O2, Orange, T-Mobile and H3G.
- Each of the five MNOs has significant market power (SMP) in the market for termination of voice calls on its network(s)
- Charge controls should be imposed on the supply of mobile call termination by each of the five MNOs, and those controls should apply without distinction to voice call termination whether on 2G or 3G networks.
- The charge control should apply for four years from 1 April 2007.
- The charge controls were reduced year-on-year (implemented in four equal percentage steps across the four years).

(*Mobile call termination Statement, Ofcom,* 2007)

Other conditions imposed by Ofcom cover the provision of voice call termination on fair and reasonable terms and conditions (including contract terms), prohibiting undue discrimination, and charge transparency.

In 2008/9, Ofcom is assessing its approach to the mobile sector with two main objective. First, it will consider possible approaches to the future regulation of the mobile communications sector, including scope for the promotion of competition and the reduction of regulation. Secondly, the assessment will aim to define the principles that will inform Ofcom's work for the next phase of the market's development (*Ofcom Annual Plan 2008/9, Ofcom,* 2008).

From the consumer standpoint, the fundamental point is that there is no consumer choice about the mobile network that a call terminates upon: there is no alternative if someone has to call another person on a mobile number. In some instances, consumers may get together and decide to use the same mobile network, but this is hardly a solution to the issue as they may still have to phone someone who uses a different network. A key issue for consumer organisations is the lack of transparency regarding the composition of mobile phone charges, particularly the justification for the levels of wholesale call termination.

Extent of problems for low income consumers

The Government's latest figures on household spending show that, whilst prices have tended to fall, there is still a considerable difference in what is spent by lower income consumers, compared with those on higher incomes (*Family Spending 2007 Edition,* Palgrave Macmillan, 2008). Under the COICOP category of 'communications', the average household spent, in 2006, £11.70 per week, 3.1 per cent of total COICOP spending.[1]

'Household expenditure by gross income decile group, 2006 based on weighted data and including children's expenditure' (Table 3.2) showed the following:

£5.70pw in lowest decile,	3.7% of total expenditure
£6.80 next "	3.4%
£8.50	3.1%
£9.40	2.8%
£12.10	3.2%
£12.00	2.7%
£13.80	2.7%
£14.80	2.5%
£16.70	2.3%
£17.80 among highest decile,	1.8%

'Household expenditure by gross *equivalised* income decile group, 2006 based on weighted data and including children's expenditure' – showed the following (Table 3.2E):

£8.20pw among lowest decile,	3.6% of total expenditure
£7.50 next "	3.3%
£9.20	3.0%
£10.50	3.0%
£12.70	3.0%
£12.60	2.9%
£13.30	2.5%
£13.60	2.4%
£14.40	2.3%
£15.40pw among highest decile,	1.7%

[1] 'COICOP' (Classification of Individual Consumption by Purpose) is the new classification system which was designed for the Retail Prices Index (RPI). It is an internationally agreed classification system for consumer expenditure and prices, so bringing the UK in line with many other countries.

Whether or not the equivalised adjustment is made, it is clear that the average household spend on communications reflect in some part income differences. But it also reflects, in part, some degree of inelasticity in demand for communications services. In this complex and rapidly changing sector it is near-impossible to estimate a realistic price elasticity of demand. For example, low income households may well not access some types of product or service, or only do so to a minimal extent - yet some high income consumers behave in the same way. Equally, some degree of access to more than one or two services may be deemed essential by some low income consumers, though possibly with great care being taken to minimise variable costs through minimal usage. So whilst communications services are cited frequently as essential services, what one consumer may regard as an essential product or service, another may not.

The situation is complicated further by technological and marketing driven changes in people's expectations. For example, in September 2007, the 'Dare to Care' campaign (to end child poverty) presented the results of a survey of children aged 7-16 on their understanding of what being poor means. A fifth of children thought having a mobile phone was just as important as having a book to read at home, the lack of either being a sign of poverty. Forty-seven per cent of children from East Anglia and 37 per cent of children from London thought that not having a mobile phone makes you poor (UK average - 19 per cent).

There is, of course, the big issue of the 'digital divide', which is often viewed by Government and others as an indicator of social inclusion or exclusion. Obviously, the pressures to roll out universal access to digital media – of which broadband is a critical element – have affected people's expectations, not just their aspirations. Not being digitally connected has increasingly taken on quite negative connotations. This cultural shift no doubt places extra pressure on many low income consumers (especially households with children and teenagers, as Ofcom's research shows) to find some way of being able to access services other than voice calls and SMS.

The disconnect between these sorts of current expectations and what the industry and, indeed, Government do to assist low income consumers is profound. Suppliers in the mobile market point to the fact that many lower income consumers find that their PAYG deals suit people's needs, though they are more coy about the higher tariffs usually associated with PAYG. At the same time, these and other suppliers are continually pressing consumers to buy on contract, to buy products and services with additional functionalities, and to 'take advantage' of all kinds of bundled deals.

Ofcom has expressed concern that, while take-up of digital technologies continues to grow, there remain differences in take-up levels between different consumer groups. Its current annual plan states that Ofcom will need to analyse carefully any existing barriers to take-up and ways of encouraging use, especially for vulnerable groups including older people and disabled consumers. Ofcom also intends to consider the availability of new platforms and services, such as next generation access broadband services and mobile TV, and the implications for accessibility and take-up of services among all consumer groups (*Ofcom Annual Plan 2008/9,* Ofcom, 2008).

Help for low income consumers

There is no direct State help available through social security benefits to assist people on low incomes with the cost of telephone bills. The only mechanism at present which seeks to address the issue of reasonable access to affordable telephone services is through the universal service framework.

Regarding regulatory protection for consumers, Ofcom's principal duty is to further the interests of citizens in relation to communications matters, and to further the interests of consumers in relevant markets, where appropriate, by promoting competition (according to the Communications Act 2003). In performing these functions, Ofcom is also required to have regard to 'the needs of persons with disabilities, of the elderly and of those on low incomes'.

Universal service obligations

The legislative and regulatory frameworks for electronic communications include provisions for a basic level of universal service in telecommunications, based on the EU regulatory framework (see below). This is limited to fixed line telephony, although there are ongoing debates about whether universal service obligations (USO) should be extended to include mobile or broadband services. Ofcom has described Universal Service as providing 'a safety net that ensures basic fixed line services are available at an affordable price to all citizens and consumers across the UK' (*Review of the Universal Service Obligation,* Statement, Ofcom, 2006).

Following the adoption in recent years of EU directives on electronic communications, BT has continued to be the national universal service provider, as it is deemed by Ofcom to have Significant Market Power (SMP) for the provision of certain electronic communications services in the UK. (The Kingston Communications Group has similar obligations for its sphere of operations in the Hull area of East Yorkshire; this report focuses on BT's obligations as the national USO provider.)

The UK legislative context is contained in the Communications Act 2003, the framework for which is derived from the EU directives on electronic communications that include universal service and users' rights. The Secretary of State for BERR specifies the services that must be provided throughout the UK in the Universal Service Order, which is implemented by Ofcom through specific conditions on BT and Kingston Communications.

Looking at what the USO currently provides, a key aspect is the requirement on BT to provide a connection upon reasonable request and at uniform prices, irrespective of geographical location. There is a degree of leeway for BT to set non-uniform prices for new connections: where installation of a new line costs £3,400 or less, BT sets a standard charge, but Ofcom has agreed that BT can charge non-uniform prices above £3,400. Ofcom has published guidance which, amongst other things, suggests BT applies the standard charge when costs exceed £3,400 for particularly vulnerable customers.

The obligation to provide a connection upon reasonable request includes the provision of a narrowband connection capable of 'functional internet access' at a benchmark minimum speed, which remains at 28.8 kbit/s following Ofcom's universal service review in 2006. Ofcom also looked at how the USO might need to evolve in response to changes in the telecoms market, through its Telecoms Review.

At the time, Ofcom concluded that there was not a strong case for extending the USO to include broadband services. Whilst the regulator recognised that low income consumers may have difficulty affording broadband services (or indeed a PC to receive them on), Ofcom maintained that lack of access does not currently result in social exclusion sufficient to warrant universal service measures being introduced to address affordability issues (*Final statements on the Strategic Review of Telecommunications, and undertakings in lieu of a reference under the Enterprise Act 2002, Ofcom,* 2005).

Similarly, Ofcom looked at whether a separate USO should be imposed regarding mobile services and concluded against doing so. However, Ofcom did acknowledge that a universal service obligation defined in terms of access to voice services could be delivered via a mobile connection once issues are addressed around the affordability of calls to and from mobiles and the provision of functional internet access. But, in terms of affordability, the regulator argued that the market was already delivering service packages, typically in the form of pre-pay, affordable by lower income consumers.

Other aspects of the USO include reasonable geographic access to public call boxes, and services for disabled people such as the provision of a text relay service for people with hearing impairment, free itemised billing, and the provision of bills and contracts in alternative formats for any customers whose disability prevents them from reading the bill or contract.

The USO is currently funded by BT (and Kingston) as Ofcom, and previously Oftel, have not considered that the obligations represent an unfair burden on the companies. Ofcom periodically examines the costs and benefits to BT of providing USO and estimated in 2006 that the USO cost BT around £57 million to £74 million and the benefits to BT were £59 million to £64 million. Ofcom concluded that these estimates were reasonable and that there was unlikely to be an undue financial burden currently on BT as a result of USO.

Ofcom plans to carry out a net cost assessment of the extent of the 'burden' of USO at some stage, although it is not currently scheduled for 2008/9. There may be an Ofcom consultation later this year on how a universal service fund might operate (this could arise if it was decided that the net costs for BT were higher than the net benefits). It is also worth pointing out that Member States can ensure that additional USO services are provided, but these cannot be funded by a levy on the industry.

Help with affordability

The ability to obtain a telephone service, and to remain connected, are meant to be integral aspects of Universal Service. Article 9 of the EU Universal Service Directive says that Member States may require universal service providers to provide tariff options or packages to consumers that depart from those provided under normal commercial conditions, in particular to ensure that those on low incomes or who have special social needs are not prevented from accessing or using publicly available telephone services. (This is reflected in the UK through the Universal Service Order and the Universal Service Condition.)

Consequently, BT has an obligation to provide one or more schemes for consumers who have difficulty in affording fixed line telephone services. These currently consist of the Light User Scheme (LUS) and In Contact (IC). Around 60 per cent of current LUS and IC members are from low-income households according to Ofcom, and around 1 million consumers are estimated to be on LUS. These schemes are not means tested and theoretically employ a proxy of low use to attract low income customers.

For LUS, normal line rental charge and installation costs apply, but users receive a rental rebate if call charges are less than a specified amount per quarter. IC combines post and pre-pay and has around 55,000 customers. Calls are pre-paid using cards available at selected retailers and cost a flat rate of 10p per minute, plus a set-up fee of 3p. But the connection charge and line rental are billed for and are post-paid. In Contact Plus is intended to offer a low cost alternative to the standard telephone service, and allows people to receive calls and to make emergency calls. They can make calls if they buy the BT In Contact Card. It costs £10.97 a quarter (including VAT). If people are not already connected, BT will install a telephone line for £9.99. People who are already BT customers also have to pay £9.99 as a ‘conversion fee’.

One of the main drawbacks of In Contact is the somewhat tortuous process for making calls. To do so, customers have to dial 14257 and then also enter their nine digit pin number, a voice prompt then tells them how much credit they have and, assuming they have enough and wish to continue, they can then enter the number of the person they are calling.

BT has developed a new scheme, known as ‘BT Basic’, with the intention that this will eventually replace the existing LUS and IC schemes. The background is that BT and Ofcom do not consider that the current schemes are properly targeted at consumers on low income. In particular, concerns have been raised that LUS is used by some better-off consumers with second homes.

An income-based approach was originally proposed to determine eligibility for BT Basic, but Ofcom felt this would be intrusive as it would require BT to establish customers’ income and also raise difficulties in choosing appropriate income levels. The end result is that eligibility for BT Basic depends on receipt of income-related benefits: Income Support, Pension Credit and Jobseekers Allowance (the criteria were extended to include

Jobseekers Allowance following consultation). BT and the DWP have agreed a consent statement on the application form which will allow BT to share with the DWP the information that the customer has provided and, in turn, for the DWP to confirm back to BT whether this information matches their data. BT states that the information will only be used for this purpose and the DWP will not provide any data to BT that has not already been provided directly to BT by the customer (e-mail from BT, 22 May 2008).

The launch and roll-out of BT Basic have been much delayed, and the scheme had not been launched at the time of writing. However, information on it is available on BT's website, which describes BT Basic as:

> *a social telephony scheme for customers who are in receipt of certain state benefits and who meet the criteria set out in the eligibility criteria. A customer has to make an application for the service which will be verified by the Department for Work & Pensions. If an application is refused for any reason a customer will not be able to re-apply for BT Basic for a minimum period of six months.*
>
> *BT will periodically verify with the Department for Work & Pensions a customer's continuing receipt of these benefits and may withdraw BT Basic or transfer the customer from BT Basic to Unlimited Weekend Plan when they are not eligible. If BT does this it will give the customer 30 days notice.*
> (Source: http://www.serviceview.bt.com/list/public/current/Cust_Opts_Res_boo/FrameworkImpl55289.htm)

Apart from the main criteria that people have to be in receipt of qualifying benefits, there are other factors that will prevent people from being eligible for the scheme. For instance, BT Basic will not be available if the consumer or anyone else in the household has a fixed telephony service from another supplier, or if the household has more than one line at the same or different address. There will be some exceptions, for example when the customer is paying for a line at the home of a family member. Also chronically sick and disabled customers (BT's terminology) who have a second line within the property, which is used or registered for their carer, will be exempt from this exclusion). The scheme will also not be available if the customer or anyone else in the household has a contract mobile phone or a mobile phone with high 'pay as you go' usage (defined as more than £10.00 per month on average!).

How much it costs

Line rental: £13.50 per quarter (including VAT). This includes a quarterly call allowance of £4.50, which roughly equates to about 45 minutes of national/local calls.

BT Basic is only available with quarterly billing.

Call charges: The charges will be 10p per minute (inc VAT), plus a 3p set-up charge per call, for local and national calls; BT Unlimited Weekend Plan charges for other calls.

A connection charge will only apply to new BT customers where a line does not exist, payable over five separate payments.

Ofcom is keen to promote take-up of the new scheme and has said that, to allow BT to focus its marketing on the new scheme, the existing LUS and IC schemes will not be available to new customers when it is launched. Moreover, in order to give BT an incentive to promote the new scheme, access to LUS or IC schemes for existing customers will continue until BT Basic has at least 600,000 customers. Ofcom has said that it intends to monitor take-up, customer reaction and the impact of the new scheme.

BT also has a pre-pay scheme, known as 'Pay&Call', aimed at helping customers in payment difficulties, but is not part of their formal USO. Around 50,000 customers are currently on this scheme. Customers pay into a 'moneybox account' to pay for their calls and for line rentals, so money will be deducted periodically even if they do not make any calls. Their account can be topped up with a debit or credit card, or through the BT Pay&Call Payment Card, which can be used at PayPoint outlets but not at Post Offices. Calls are charged at the BT Together option rates.

If a customer's account, or 'moneybox', is empty they cannot make outgoing calls (except to emergency or freephone numbers) but they can receive incoming calls. If they don't top up the account and a rental payment or debt repayment is deducted, then they have 21 days to top up the account. Otherwise they will no longer be able to receive incoming calls and BT will add an Administration Fee to the debt. After a further 14 days, they will be disconnected if they fail to make a top-up.

Effectiveness of tariff schemes

Although in theory the recognition of the need for affordable tariffs in the universal service obligations is welcome, in reality what is on offer is extremely limited. The Light User Scheme crudely equates low income with low use. LUS provides limited assistance that is of some help to some people with very low telephone usage, but clearly it does not help consumers who are on low incomes and whose calling pattern takes them over the LUS threshold. The call charges for In Contact are expensive and the only benefit is the availability of a pre-payment option for call charges. It should also be noted that there are practical barriers to using the scheme as customers have to put in a lengthy pin number before dialling each call.

Eligibility for LUS and In Contact does not depend on income-related benefits in contrast to the new BT Basic scheme. Although the eligibility criteria are wider than originally proposed by BT as a result of lobbying by consumer bodies and advice agencies, BT Basic suffers from the flaw of being based on means-testing. This crucial aspect is likely to exclude a number of people on low incomes who experience problems with the affordability of telecomm charges. For instance, there are enduring take-up problems with benefits such as income support and pension credit, which mean that many people who are eligible do not apply. In addition, many people fail to qualify for income-related benefits even though they are on low incomes, for example because their income is just above the threshold.

It remains to be seen whether BT Basic makes a significant difference to the affordability of fixed line telephone services for those who are eligible and decide to apply for the scheme. In certain respects, the scheme offers some advantages as there will be no additional non-direct debit charge and it will be open to consumers who have prepay mobile phones (albeit with a usage threshold) and/or broadband services.

However, it is questionable whether the quarterly call allowance for BT Basic will be sufficient to meet some consumers' needs without them having to pay high call charges beyond the threshold that has been set. Concerns also arise about how easy it will be for consumers to make informed decisions regarding whether they should apply for the scheme in the first place. People will need to have some idea of their calling patterns and future needs, which may be particularly difficult if they are a new customer, or be able to compare the scheme with any current arrangements if they are already have a fixed line phone. Moreover, it is extremely difficult – if not impossible – to make meaningful comparisons between the cost of the BT Basic scheme and PAYG mobile tariff deals, due to the complexity of the latter.

Another concern is that the scheme still requires a quarterly payment for line rental, which some consumers will regard as a standing charge and resent paying, according to Age Concern. In addition, the exclusion clauses could potentially place consumers at a disadvantage, for example a consumer on a low income who has a non-dependent child living with them who has a mobile phone on contract.

The agreement that BT has reached with the DWP to verify that customers are in receipt of qualifying benefits appears to be inevitable because of the way that the criteria have been drawn up. However, this raises questions about whether it is acceptable for a private company to be able to check an individual's personal information, even if the consumer has given prior consent.

Protection against disconnection

The Universal Service Directive puts an obligation on Member States to authorise specified measures to cover non-payment of bills. This is also reflected in the USO Order and implemented via General Condition 13 on providers. This states that when providers take steps relating to disconnection they should be: proportionate and not unduly discriminatory; give due warning beforehand of service interruption or disconnection; and confine any service interruption to the service concerned, as far as technically feasible, except in cases of fraud, persistent late payment or non-payment. Providers have agreed a voluntary code of practice with Ofcom which explains how they will deal with customers who may be liable to disconnection.

Despite the existence of these provisions, BT's disconnection figures have remained high over the years. Its disconnections are reported according to two measures: 'temporary disconnection' where the customer cannot receive or make calls but remains a BT customer; and 'permanent cessation', which follows a few weeks later if payment is still not made or a payment plan agreed. For a number of years, BT's rate of residential disconnections has stayed at around 1 million temporary disconnections per year, with around 680,000 permanent disconnections.

According to BT's voluntary Code of Practice (for residential customers and small businesses), BT encourages customers to contact the company as soon as possible if they are in payment difficulties and says it may be able to arrange repayment plans or access to schemes such as 'Pay&Call'. However, the code is voluntary and it is not at all clear what efforts BT makes in practice to find out customers' circumstances and offer them appropriate and affordable means of dealing with payment problems and staying connected.

During its last consultation on universal service, Ofcom said that BT's disconnection levels could be significantly reduced if BT promoted its special schemes, in particular its pre-pay products, more effectively. BT had set itself a target to have 180,000 customers on Pay&Call during 2006. Ofcom stated that if this target was not met and similar growth not sustained in subsequent years, Ofcom would consider proposing, as part of the next universal service review, that BT puts in place alternatives to disconnection, such as placing customers on prepay instead of disconnection, or restricting service rather than fully disconnecting (*Review of the Universal Service Obligation,* Statement and further consultation, Ofcom, 2005).

In the final statement following the consultation, Ofcom reported that BT had recently reviewed its credit management procedures and increased its marketing of schemes such as prepay to help customers in payment difficulties (*Review of the Universal Service Obligation,* Statement, Ofcom, 2006). However, the latest indications are that, instead of being reduced, disconnections of residential customers have risen slightly.

People with a disability who are reliant on a fixed line service, and are eligible for the free priority Fault Repair Service or the third party 'protected service' scheme (whereby bills are sent to someone nominated to act on the person's behalf), should not be automatically disconnected. However, disconnection can still take place if a customer persistently fails to pay their bill.

Public call boxes (PCBs)

Under the USO, BT is required to ensure the adequate provision of PCBs to meet the reasonable needs of end-users in terms of numbers, geographical coverage and quality of services. When consulting for the USO review in 2006, Ofcom's research showed that over a third of adults used PCBs at least occasionally and 7 per cent used them regularly. The most frequent users were younger consumers, consumers from lower income groups, and people with a mobile phone only or those without a fixed or mobile telephone.

The review of universal service also reported that revenues from BT's PCBs have been falling and that, according to BT, about 60 per cent of its PCBs are now unprofitable. However, Ofcom also reported that BT Payphones was a cash positive and profitable business: the contrast between the continuing profitability of the business overall while revenues are declining reflected BT's success in maximising the profitability of parts of its PCB network. Many PCBs in city centres are highly profitable, while others primarily in rural areas are highly unprofitable (*Review of the Universal Service Obligation,* Statement, Ofcom, 2006).

BT has undertaken a 'rationalisation' programme aimed at reducing the number of unprofitable PCBs and has removed about 28,500 between 2002 and 2006. BT and Kingston have to follow Ofcom requirements regarding notification and representations before they remove the last PCB from a site. The way that a 'Site' is defined is clearly critical. It was originally defined as any area within a walking distance of 100 metres from a PCB. This meant that if there were two PCBs within 100 metres of each other, one PCB could be removed without consultation. Ofcom subsequently decided to increase the definition of a site to 400 metres, which it described as about five minutes' walk at normal walking pace.

Also, BT and Kingston were allowed greater flexibility to use cashless PCBs - up to 30 per cent of PCBs can be cashless. Ofcom has published guidance on procedures for PCB removals, including factors to be taken into account by public bodies when considering requests for PCB removal.

European Commission review of universal service

The EU framework for regulation of electronic communications services, including the directive on universal service and users' rights, is under review by the European Commission. The Commission's proposals are currently under discussion in relevant Committees of the European Parliament, and include:

- Measures to increase the transparency of information on tariffs and offers available in the market. BEUC (the European consumer organisation) has welcomed this proposal but expressed concern about the Commission proposal for more extensive transparency requirements for 'universal services' than for other services, which could, for example, be broadband services and mobile telephony.

- New provisions intended to facilitate change of suppliers and, in particular, that number portability has to be executed in one working day. BEUC has pointed out that this provision does not address the issue of long term contracts, which can prevent consumers switching. BEUC has proposed that the universal service directive should be strengthened to ensure that the duration of contracts does not act as a disincentive to switch operators, and that the maximum duration of contracts should not exceed 12 months.

- The establishment of a European Electronic Communications Market Authority (EECMA). According to the Commission, the intention is that it would complement at European level the regulatory tasks performed by the national regulators and to take over the work of the existing advisory European Regulators Group (ERG). However, the prospects for this proposal appear to be slim. (At the time of writing, a counter-proposal had been suggested in the European Parliament of a independent advisory Body of European Regulators in Telecoms (BERT).)

- Alternative dispute resolution: the Commission is proposing to amend the requirement for Member States to ensure the availability of out-of-court procedures (that are transparent, simple and inexpensive) so that ADR bodies provide relevant information for statistical purposes to the Commission and to EECMA.

(*Proposal for a Directive of the European Parliament and of the Council amending Directive 2002/22/EC on universal service and users' rights* COM(2007) 698 final, 13.11.2007, European Commission)

BEUC has also proposed that consumers should be able to limit the amount they are willing to spend on a service in any given time period. Their proposal is that this service should not only be available through prepayment but it should also be offered to users of subscription-based mobile, broadband and landline services. Consequently, operators would have an obligation to alert/notify consumers in case they exceed their limits or if abnormal calling patterns occur. Also, as consumption patterns may change over time, BEUC has suggested that, as is the case in theory in Belgium, operators should be obliged to present, at least once a year, a 'best offer' advice to consumers, based on the consumer's consumption patterns the previous year (*Towards a Neutral, Secure and Consumer Friendly Telecommunications Sector, BEUC's views on the Commission's proposals to review the regulatory framework,* BEUC, 2008).

In parallel with the review of the universal service and other electronic communications directives, the European Commission is looking at the scope of services that should be included; for instance, whether USO should include access to broadband and the internet. It is possible that a Communication on this issue will be published towards the end of 2008, but its timing and nature are uncertain, especially because of the impending European Parliament elections next year.

Lessons for the energy sector

The evidence is very clear, that almost all consumers regard access to and use of communications services as essential for everyday life. However, average household expenditure on communications services is lower than that for other sectors, such as energy (less than 4 per cent of weekly household expenditure). This does not, of course, detract from the essential nature of communications services, particularly telephony. For some low income consumers, expenditure on telephony may be higher as a proportion of their total household spending. Moreover, although there is not a firm evidence base, it is very likely that some consumers limit their spending on communications for reasons of cost.

Compared to most other sectors, the communications sector – including broadband services – has been transformed in many ways through rapid and substantial technological developments which have resulted, not only in new types of service and equipment, but also an expansion in platforms and models of service delivery. Many of these developments did not originate from competitive pressures but from technical advances, although competition has clearly had an impact, especially in more recent years. Consequently, it is extremely difficult to separate out the effects of competition from those of technological change, and the benefits for consumers in general and low income consumers in particular.

No direct assistance measures currently exist to help consumers with the costs of electronic communications services through the social security system. However, there is an overt recognition of the essential nature of communications services in the universal service framework at EU and national level but only with regard to fixed line telephony. The framework aims to ensure that all consumers have access to affordable landline telephony services and that all reasonable requests for connection can be met by at least one provider.

It is important to note the explicit and quite eminent inclusion of the term 'affordable' in the USO framework. In addition, national regulatory authorities are meant to monitor the evolution and level of retail tariffs, which come under the USO, in particular in relation to consumer prices and income. Another key aspect of the USO framework is that Member States are able to require USO providers to employ geographical averaging across their territory.

Consequently, BT – as the national USO provider – is still required to provide geographically averaged prices. Otherwise, although some specific schemes are currently offered by BT as part of its universal service obligations, their scope and effectiveness are highly restricted. The launch and roll-out of their proposed replacement – the new BT Basic scheme – has been much delayed and is also quite limited in scope. It is doubtful – as this paper outlines – whether the existing schemes or the new BT Basic scheme will make a significant difference to the affordability of landline telephony for many people on low incomes.

It should be pointed out that, whilst the cross-subsidy entailed in USO tariff schemes is accepted in principle by the EU and UK legislative and regulatory frameworks, in practice this has led to an assumption that the cost of such schemes should be restricted in order to protect the interests of consumers in general. As a result, the effectiveness of these schemes is likely to continue to be limited unless this approach to cross-subsidy changes fundamentally.

A related point is that the regulator has consistently concluded over the years that BT derives a net benefit from being the national USO provider. If Ofcom decides in the future that this is no longer the case, there is the theoretical possibility under EU framework for levies on other undertakings (possibly through a universal service fund) and/or for the costs to be recovered from public funds.

Ostensibly the communications sector appears to be highly competitive and is offering the consumer extensive choice between providers, and between service and product options and bundled/packaged deals. However, marketing-led business strategies dominate the sector and have resulted in a plethora of deals and offers for consumers. The resulting complexity and lack of transparency can make it difficult for consumers to reach an informed decision. This point is particularly important with regard to low income consumers who, for example, may not have access to comparison websites.

Ofcom's duties do include the need to have regard to the interests of low income consumers among other groups, and it is aiming to develop a better understanding of the experiences of people on low income with communications services. A crucial point that needs to be borne in mind is that, compared with other regulators, Ofcom has a very wide remit which encompasses citizen as well as consumer issues, and broadcasting as well as other electronic communications services. This gives rise to questions about the adequacy of its resources in covering a complex sector that is not only vast, but subject to rapid change and which has many industry players.

Ofcom is becoming more exercised about the need for greater clarity regarding tariff structures and related deals. In its first couple of years, Ofcom was much more wedded to the notion that all problems would be solved by competition. In the last year or two, however, Ofcom has been demonstrating a greater recognition that there are barriers and other problems facing consumers that require some form of regulatory action, such as mis-selling.

Ofcom has become more pro-active in seeking to gain a better understanding of consumers' needs, circumstances and concerns, including those of low income consumers. At the time of writing, it is understood that Ofcom is looking at providers' disconnection practices, including their use of debt collection agencies. The regulator is also currently looking into the causes of consumers receiving unexpectedly high bills and what can be done to reduce the impact on consumers.

In terms of substitutability, it is difficult to draw straightforward conclusions as people have different needs and expectations regarding communications services. For some people, mobile phones have replaced fixed line telephony. For others, they may have both services, whilst some may not want to have a mobile at all. It is clear, however, that pay-as-you-go mobiles provide some low income consumers with a potentially affordable service where usage and bills are more under their control and there are no standing charges such as line rental. However, as with energy PPMs, some may be forced to restrict or ration usage on cost grounds. It is also the case that pay-as-you-go services tend to be more expensive than contract mobiles – another parallel with energy.

In the short to medium term, prices have appeared to be static or declining in this sector. But this needs to be qualified by the fact that some consumers might find their bills increasing because of providers, such as BT re-packaging and re-configuring their 'deals'. As a result of the complexity and ever-shifting nature of the marketing of communications services, it is difficult to ascertain whether new customers are getting better deals than existing customers. This is also exacerbated by the drive by many providers to lock both existing and new customers into longer-term contracts, and sometimes to offer better terms to existing customers who may be subscribing to a particular service.

The sector is also increasingly characterised by the bundling of multiple services and sometimes equipment such as mobile handsets, which can make it very confusing for consumers to choose the best deals for their needs. This can include not only communications products and services but also, for example, supermarket voucher and discount schemes, which may be especially of interest to low income consumers.

Consumers also have to chart their way through some quite complicated and detailed terms and conditions linked to the different deals, when choosing between providers and/or packages. Of particular concern to low income consumers is the very high likelihood of having to meet early termination penalty charges if they want to switch during a contractual period.

Problems with mis-selling continue to be significant in this sector, especially in relation to mobile phone services. There are also problems with related retailing practices, notably cashback deals which have given rise to many consumer complaints and have led to regulatory intervention.

Finally, it should be noted that direct retail price regulation has ended on the basis that competition upstream should ensure effective downstream competition. Ofcom decided against breaking up BT and instead went for the option of requiring BT to ensure that access to its network operates on fair terms: 'equality of access'. Price controls remain at present for mobile network operators with regard to wholesale call termination charges. However, there are questions about the adequacy of these price controls and there is little or no independent scrutiny of their effectiveness from the consumer viewpoint.