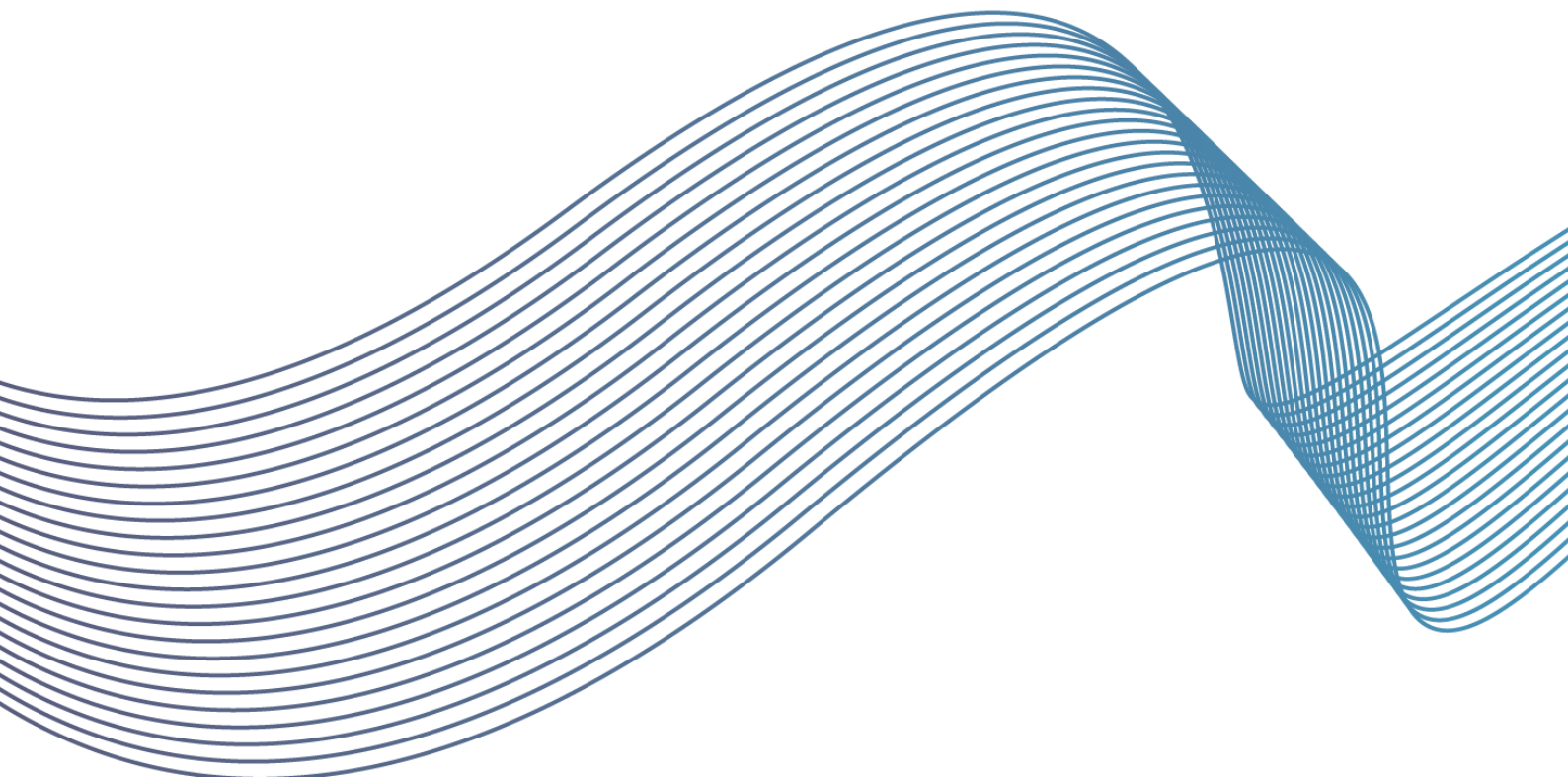


# Response to Ofcom Consultation on end-of-contract and out-of-contract notifications

Version 1.0



## Hyperoptic Introduction

Hyperoptic is a Code Power operator founded in 2011 by Dana Tobak and Boris Ivanovic. Hyperoptic is the largest provider of 1 Gb residential broadband in the UK and currently use a Fibre to the Building infrastructure operating across 28 cities with ambition to service significantly more. We have installed or are in the process of installing to over 400k residential homes and over 10k business units.

Hyperoptic was founded to bring the UK's broadband infrastructure to the next level creating a new full fibre infrastructure, offering 1 Gb services and raising the level of expectations on the role of connectivity in British households and businesses. Customers get the wired speeds they expect, and we have over 95 percent customer satisfaction rating consistently on our quarterly surveys.

To date, we have been expanding our network 100 percent year on year, and having recently secured 100m in debt funding. Our plans are to reach 2m homes passed by 2022 and 5m homes passed by 2025.



Currently, 50 percent of our footprint would, without Hyperoptic, be fibre-free with its residents only able to use ADSL often below 10Mbps – we are a key deliverer to whitespace areas and often target these areas having been neglected by other operators and network builders.

## Response summary

Hyperoptic welcomes the opportunity to respond to the Ofcom consultation on end-of contract and out-of-contract notifications.

We are supportive of the ongoing work that Ofcom is undertaking in order to help consumers engage in communications markets in a more effective manner. We firmly believe that a competitive and vibrant market is the best way to ensure that consumers are offered innovative services, at good value.

We do however, have some concerns about some of the assumptions driving this policy proposal in respect of customer loyalty being driven by inertia and the results being categorised as a penalty. Furthermore, we question the need for, and proportionality of, including small business customers within this policy.

## Loyalty Penalty

Ofcom refer to research that shows that 13-14% of each standalone pay TV, dual or triple play customers and 6% of mobile customers do not know if their contract had ended, as well as 11-13% of

dual and triple play customers and standalone pay TV customers and 9% of mobile customers were not clear when their contract would end.

Whilst this is not an insignificant percentage, it also makes clear that an overwhelming majority of at least 86% did know their contract had ended and at least 87% were clear when their contract would end. Falling to 94% and 91% in the case of mobile only. Rather than suggesting that there is a deficiency with the provision of information, the research would suggest that consumers are in fact given the information needed in respect of contract length.

Ofcom research also shows that a proportion of customers are unaware of what will happen to the price they pay at the end of their contract. Whilst this proportion is higher than the ones above, it still shows that for a minimum of 70% of customers this is not the case. It also important to note that Ofcom research did not show any data for broadband only customers, but the policy would apply equally to those customers.

Ofcom site evidence that suggests that a significant number of consumers are on contracts which have an automatic price increase at the end of the minimum period or that there is a financial penalty. Whilst it may be correct to assert that mobile customers who have been paying for their handset as part of their monthly rental, and continue to be charged the same amount at the end of their contract may be paying a 'penalty' we would contest that this is the case for all communications services.

A penalty suggests a punishment, as in consumers are paying a forfeit purely because they have reached the end of their initial contract. Whereas the opposite is more often the case. Rather than the initial contract price being the status quo, and then the consumer being taken advantage of with a price rise, consumers are often offered a discounted price to being with – to encourage them to choose that service. What is characterised as a penalty is, in reality, the price reverting to the undiscounted price.

We believe that Ofcom should also consider the potential impact of the proposed policy on all customers. Assuming the intention behind the policy is that consumers are always able to move around from introductory offer to introductory offer between one provider and another. This cycle of best offer contracts would end up resulting in increases of prices for all customers, as basic economics suggests that such behaviour would not permit communications providers to recover their costs of acquisition, given that customers would churn as soon as their discounted price period was offer. This particularly the case for fibre based services where the costs of network build are required to be recovered over several years. Additionally, from the customer perspective, there may not always be an alternative option to migrate to – particularly in the case of fibre, where only one provider may serve the relevant premise. Therefore, assuming it is accepted that providers have a right to recover costs of network build over a reasonable period, a customer may not have a viable alternative. Rather than remaining with the current provider because of inertia, it may well be an informed decision. Aside from the costs of complying with the proposed policy, the potential impacts outlined above could undermine the underlying business case and therefore impact on government plans for fibre coverage.

Undeniably, within the percentage of customers that were identified by the Ofcom research, there will be vulnerable customers who should receive additional protection to ensure that they can avail themselves of the opportunities presented by a competitive communications market. We believe that these customers can be protected by an extension to the requirements under GC C5.

It is clear from the Ofcom research in relation to mobile customers (where 6% were aware when their contract would end), that customers can remain on top of their contractual situation. Clearly this is facilitated by the information requirements placed on providers when entering into contracts initially. Perhaps Ofcom should also consider undertaking why this segment of the market is so well informed when contrasted to other segments. Nonetheless, we believe that it is proportionate to take steps in order to address the perceived harm to customers who are unaware of their situation and options. However, rather than the form set out in the consultation we believe that these should take the form of a notification sent 40-90 days in advance of the end of their contract, (giving the customer plenty of time to carry out research and enter discussions with their current provider as well as other potential providers). The notification should reflect the contact preferences selected by a customer when setting up their account and could potentially be included as part of ongoing cycle of customer communication.

In terms of the content of the notification, we believe it should contain the date the contract will end or has ended, any changes to the service or price as of that date, contact details etc so the customer can engage for further discussion and that they can shop around should they wish. This would ensure simplicity and full clarity for consumers, thus maximising the benefit. It would also bring the notification in line with financial service regulation which also requires changes in pricing to be notified in this way. Financial service research has shown that including too much information, reduces the effectiveness of the notification.

## Inclusion of Small Business Customers

It is clear from the research and responses cited by Ofcom that small business customers share characteristics with the residential market, and this would be in line with the approach taken by the General Conditions. There is a level of complexity in the ongoing management of small business customers that would make complying with these requirements more onerous than would be the case for residential consumers. We would welcome Ofcom guidance on whether customers who fell within the definition of small businesses at the time of signing a contract remain small business for the duration of the contract, or would there be a requirement to proactively seek confirmation as to their status on a regular basis. It also seems from para 3.55 that most of the qualitative research was with sole traders or home workers, given that these are at the cross-over from residential into business category, rather than at the higher end of those who fall just below SMEs. If this is indeed the case, it would seem that further targeted research should be carried out on this segment to ensure that regulatory intervention is proportionate to any harm impacting that specific segment of the market.

## Conclusion

We are supportive of the ongoing work that Ofcom is undertaking to help consumers engage in communications markets in a more effective manner. Given the breadth of the market that would be impacted by the proposed changes, we believe Ofcom should target the specific customer segments that are experiencing or at risk of harm. Ofcom should also seek to address why the success of information provision found in certain segments of the market has not been mirrored in other segments as this would further address the perceived harm underlying the proposed policy. We believe that a more focused notification as outlined above would achieve better results for the stated policy aim.