



**Submission to the Commission for Communications
Regulation Consultation on the Proposals for Implementing a
Customer Charter**

12 May 2023



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

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Introduction

The Competition and Consumer Protection Commission ('CCPC') welcomes the opportunity to respond to the Commission for Communications Regulation ('ComReg') consultation on its proposals for implementing a Customer Charter ('the Charter'). The CCPC has a statutory function under Section 10(3)(a) of the Competition and Consumer Protection Act 2014 to provide advice to policymakers on matters likely to impact on consumer protection and welfare, or competition and the CCPC's submission reflects this mandate.

The CCPC maintains a consumer helpline that provides information to consumers to inform them of their rights and help them to resolve issues with traders (CCPC's Consumer Helpline). The CCPC's Consumer Helpline annually receives a significant number of contacts relating to electronic communications. Analysis of contacts to the CCPC's Consumer Helpline shows that the electronic communications sector attracted the second largest number of contacts, by sector, in 2020¹, 2021² and 2022³. In 2022, three communications providers were among the top ten traders named across all contacts received and 875 contacts were referred to ComReg as they fell within its remit⁴.

The CCPC agrees with the proposal that ComReg should introduce requirements for providers of internet access services (IAS) and publicly available interpersonal communications services (ICS) to prepare, publish and keep updated a Charter. Customer charters are a standard practice in other sectors, such as energy and waste collection, and they can be helpful in informing customers of the standards of service that they can expect to receive when engaging with a service provider⁵.

¹ CCPC (2021) <https://www.ccpc.ie/consumers/wp-content/uploads/sites/2/2021/07/Consumer-Contacts-Report-2021.pdf>

² CCPC (2022) <https://www.ccpc.ie/consumers/wp-content/uploads/sites/2/2022/08/172207-CCPC-Contacts-Report-August-2022.pdf>

³ CCPC (2023) <https://www.ccpc.ie/consumers/wp-content/uploads/sites/2/2023/03/CCPC-Contacts-Report-Jan-Dec-2022.pdf>

⁴ Ibid.

⁵ Best practice - as outlined by the Department of Finance in its Report for the 'Retail Banking Review', November 2022 – states that these standards should be measurable and address a full range of customer services. [Department of Finance 'Retail Banking Review'](#). The CCPC notes the recommendation of the Retail Banking Review that the revised Consumer Protection Code require providers of retail banking services to set out customer charters.

The CCPC is of the view that it is important that providers are permitted to include any other customer service commitments they wish to make, outside of those prescribed by ComReg, in the Charter. Inclusion of these other commitments in the Charter would align with ComReg's intention for the Charter to be a 'one stop shop', with customers being able to find key information about a provider's customer service in one place. It would also ensure that providers who wish to compete on the basis of additional commitments, to the benefit of customers, are not inadvertently dis-incentivised from offering those commitments because they cannot include them within the principal document which a customer is encouraged to consult to understand the provider's customer service levels, i.e. the Charter.

Forthcoming research conducted by the CCPC notes that over three quarters of consumers shopping around for broadband and mobile phone offers use information on the providers' websites to inform their choice⁶. That research will show that across a range of product markets a large proportion of consumers will engage with the market if they experience poor service or price increases. Non-switchers in regulated markets are more loyal to their current provider, more worried about problems occurring if they switch, and less likely to use online information and more likely to use phone to engage with providers. This suggests that a downloadable Charter, prominently displayed on provider websites, which promotes competition on quality of service, could aid more consumers in deciding to switch.

The CCPC response to specific sections of the consultation paper are set out below.

Proposed approach to Implementing Charter Requirements

High level approach

The CCPC notes that ComReg intend to facilitate provider-set commitments would allow providers to determine Charter content that works with their customer service models and ways of operating, and compete with other providers on quality of service uniform,

⁶ The CCPC will publish research in 2023 on the consumer experience in a number of regulated sectors, including electronic communications.

while prescribing Minimum Quality of Service Standards could dampen incentives on providers to compete on quality of service⁷.

However, the CCPC recommends that ComReg should consider the introduction of at least one specified standard: whether customers should be provided with the possibility to request human intervention when they interact with the service provider through fully automated online interfaces⁸. Access to high speed broadband is close to essential for consumers and businesses, and the increase in working from home has reinforced its importance. It is therefore particularly important to ensure continued access and choice for consumers, and to protect those with low levels of digital literacy⁹.

The CCPC also recommends that ComReg should consider whether consumers who are vulnerable should have guaranteed access to a specific standard of customer service¹⁰. In the energy sector, there are specific consumer protection measures in place for registered vulnerable customers, which include rules regarding how suppliers must treat, and communicate with, vulnerable customers¹¹. Regulated financial services providers, who must act in the best interests of consumers, are expected to design their business processes to ensure that vulnerable consumers are not at increased risk of detriment or harm¹².

There are a number of vulnerability drivers specific to the electronic communications sector, which can have a wide-ranging impact given that many goods and services are provided online¹³. The CCPC is aware that ComReg has specific support measures for

⁷ Although, as acknowledged in the Regulatory Impact Assessment options, providers could still innovate and compete to deliver standards above the ComReg specified minimum level.

⁸ The current Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/83/EU concerning financial services contracts concluded at a distance and repealing Directive 2002/65/EC would introduce a right for consumers to request and obtain human intervention in case a trader uses online tools (Article 16d. 3) [Proposal for amending Directive 2011/83/EU](#)

⁹ Government of Ireland (2021) '[Adult Literacy For Life – a 10-Year Adult Literacy, Numeracy And Digital Literacy Strategy](#)'

¹⁰ Definitions of vulnerability vary, although there is a growing recognition that consumer vulnerability is a fluid concept that can manifest in a number of ways and be driven by a multitude of causes. '[G20/OECD High-Level Principles on Financial Consumer Protection 2022](#)' ([oecd.org](#)). The characteristics of vulnerability set out in the [Unfair Commercial Practices Directive \(UCPD\)](#) are 'mental or physical infirmity, age or credulity'. However, guidance from the European Commission provides that these characteristics are 'indicative and non-exhaustive' and that the concept 'covers also context-dependent vulnerabilities

¹¹ CRU (2022) '[Electricity and Gas Suppliers Handbook](#)'

¹² Central Bank of Ireland (CBI) (2022) '[Consumer Protection Code Review – Discussion Paper](#)'

¹³ European Commission (2016) '[Consumer Vulnerability across key markets in the European Union](#)'

vulnerable consumers¹⁴, and its Code of Practice for Premium Rate Services includes specific protection provisions for vulnerable consumers¹⁵. In addition, the CCPC is of the view that the needs of vulnerable consumers should be reflected in the design and delivery of electronic communication products and services, as well as service providers policies and procedures, such as their customer service policies.

Therefore, it is important that ComReg consider whether standards in customer service for vulnerable consumers in the sector are needed to potentially mitigate the risk of those consumers experiencing detriment and ensuring that they have access to services. The CCPC recommends that the Charter should include a section outlining customer service commitments and policy provisions for vulnerable consumers, including the facility for customers with disabilities to register their requirements with their service providers¹⁶.

Consumer Choice

As acknowledged in the consultation paper, the proposed approach entails that the actual level of customer service a customer would receive will depend on the individual provider. The approach relies on the ability of a customer to switch and choose another provider if they are unsatisfied with the customer service provided.

Studies have shown that there can be various barriers to switching that affect consumers in the communications markets¹⁷. This includes, as is highlighted in the consultation paper, a lack of transparency or access to the right information, but also behavioural biases and digital skills. Research has shown that in the electronic communications sector, despite long-standing market liberalisation and efforts to reduce switching costs, many consumers have never switched provider¹⁸. Furthermore, while competition for fixed broadband services has improved over the past decade, some consumers in Ireland only have access to a limited number of service providers¹⁹.

¹⁴ ComReg (2021) [‘Support for Vulnerable, Elderly & Consumers with Disabilities’](#)

¹⁵ ComReg (2014) [‘Code of Practice – Premium Rate Services’](#)

¹⁶ ComReg [‘Service Provider Accessibility Requirements’ webpage](#)

¹⁷ For example, Lunn, P. (2011). Telecommunications Consumers: A Behavioural Economic Analysis, ESRI Working Paper 417, <https://www.esri.ie/publications/telecommunications-consumers-a-behavioural-economic-analysis>; Lunn, P., Lyons.S (2018) [‘Consumer switching intentions for telecoms services: evidence from Ireland’](#) ESRI

¹⁸ Lunn, P., Lyons.S (2018) [‘Consumer switching intentions for telecoms services: evidence from Ireland’](#) ESRI

¹⁹ ComReg (2023) [Electronic Communications Strategy Statement - 2023 to 2025](#)

The CCPC notes that the second phase of the proposed approach is the ‘adequacy review’, in which ComReg will review whether the provider-set commitment approach meets the Charter objectives. This phase will be crucial to ensure that its objective of driving improvements in overall customer service levels in the sector is achieved evenly across consumers. The CCPC recommends that ComReg, as part of its adequacy review, should consider whether the provider-set commitment approach has led to competition based on the quality of customer service between service providers and be prepared to act should providers make unreasonably low-level commitments. It should also consider whether consumers residing in both urban and rural areas have benefited from an increase in quality of customer service.

Scope

The CCPC agrees that the Charter should be targeted towards the greatest evidence of poor customer outcomes, which it has determined to be namely the providers of fixed and mobile internet and phone services that serve the majority of the population. The CCPC also agrees that the Charter should address the range of electronic communication services customers that all have a similar weaker bargaining power (all consumers, microenterprises, small enterprises and not-for-profit organisations), instead of larger enterprises who benefit from a stronger bargaining power.

Proposed charter content and form requirements

Charter Form

The CCPC agrees with the proposal that the Charter should follow a ComReg specified template in order to allow consumers to easily compare information. A key aspect which enables the consumer choice process is the ability to compare and judge alternative product and services²⁰, and it follows that promoting the accessibility and clarity of information, and the empowerment and engagement of consumers, are key to driving competition and fostering consumer choice²¹. Therefore, the CCPC supports ComReg’s proposals that the Charter should be written in plain English, and that it should be made accessible to all end-users following relevant guidelines. The CCPC also agrees that the

²⁰ Vickers, J. (2004) ‘[Economics for Consumer Policy](#)’, in Proceedings of the British Academy (Vol. 125, pp. 287-310). Oxford: Oxford University Press/British Academy (thebritishacademy.ac.uk)

²¹ Lowe, J. (2017) ‘[Consumers and competition: Delivering more effective consumer power in retail financial markets](#)’ (fs-cp.org.uk)

Charter should be as short as possible, focusing on key information that consumers need. This might help mitigate against ‘information overload’, where consumers are overwhelmed by the volume of information, and find it difficult to identify salient differences between offers, and help consumers choose the best service provider for their needs.

Charter Content

In respect of the proposed content requirements of the Charter, the CCPC is broadly supportive of the approach set out by ComReg and makes the following high-level comments:

- The CCPC in particular welcomes the proposal to include information and specific commitments relating to billing and refunds in the Charter, as an analysis of contacts to the CCPC’s Consumer Helpline in 2022 shows that charges, payment and deposit issues are among the top categories of consumer queries received relating to IAS and ICS providers.
- As customers may consult the Charter to understand what rights they have in a situation where they are dissatisfied with the service provided, it should be clear to customers that nothing in the Charter, particularly any compensation or similar offered by a provider, affects their statutory rights and the CCPC suggests that a statement to this effect is included in the Charter.
- It is noted that ‘Schedule 3: Customer Charter Data Dictionary and Reporting Template’ requires providers to measure certain commitments in the Charter in prescribed units of time. For example, providers must measure their commitment to call answering times in seconds and postal response times in clock hours. As noted by the National Adult Literacy Agency, by reference to 2012 figures from the Central Statistics Office, 1 in 4 adults in Ireland struggle with everyday maths²². The CCPC is therefore of the view that some customers might struggle to understand the commitments given where they are expressed in large numbers

²² NALA (2022) [NALA-Factsheet-Literacy-and-numeracy-in-Ireland.pdf](#)

which require a certain level of mathematical ability to convert into a more commonly understood unit of time. For example, it may be difficult for some customers to understand a commitment to answer a phone call in 190 seconds or a postal communication in 72 clock hours, where the same commitment in minutes or days would be easier to understand. The CCPC suggests that ComReg considers the needs of these customers in prescribing the units of time to be used in the Charter.

- In the ‘How you can contact us’ section of the Charter, providers can choose to commit to specifying the maximum follow-up response time for queries raised which were not resolved at the time of initial customer contact. This ‘follow up response time’ is defined in ‘Schedule 3: Customer Charter Data Dictionary and Reporting Template’ as ‘the time elapsed between the instant the initial phone call in which the calling customer raised a query ends, or the instant the Relevant Service Provider receives a query from the customer by another channel (including in person) – as applicable – to the instant the answer from the Relevant Service Provider has been provided to the Relevant Customer, measured in clock hours’.

Providers can choose to make a similar commitment in the ‘If you think you have been billed incorrectly’ section, where a customer has raised a query regarding billing. The provider can commit to respond to a customer who has raised a billing/charge issue within a specified time, defined in ‘Schedule 3: Customer Charter Data Dictionary and Reporting Template’ by reference to the time elapsed between the request²³ from the customer and ‘the answer’ from the provider, measured in clock hours.

The CCPC suggests that additional clarity, to the benefit of customers and providers, could be offered by further defining what constitutes ‘the answer’ to be given by the provider and specifying the extent to which ‘the answer’ must finally resolve the customer’s issue, rather than act as a provisional or holding

²³ The CCPC notes that Schedule 3 provides that ‘The billing/charge review response time shall be defined as the time elapsed between the answer from the Relevant Customer (the time the request is made) and the answer from the Relevant Service Provider, measured in clock hours, as per ETSI ES 202 057-1 clause 5.8.1’. It is assumed that ‘answer’ in underline is intended to reference to ‘request’.

response. The CCPC suggests that it could be instructive to consider the concepts of ‘Complaint Response’ and ‘Complaint Resolution’ in the Decision Instrument made by ComReg for the purposes of imposing minimum requirements to ensure access to and compliance with a uniform code of practice for complaints handling²⁴.

- As proposed, the ‘How you can contact us’ section of the Charter will include information about the channels of communication which the provider makes available to customers. Having regard to the potential for artificial intelligence to play an ever-increasing role in customer service provision, the CCPC suggests that ComReg consider requiring providers in the Charter to disclose whether customers using a channel of communication will be interacting with an artificial intelligence (AI) system. Such a disclosure would align with an objective of the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence, for the use of AI systems intended to interact with natural persons to be transparent to those persons^{25,26}. In addition, the CCPC is of the view that it would further ComReg’s general objective for customers to be better informed about the customer service offerings of providers and offer some future proofing of the Charter.
- For customers who do not have an existing connection, the specific commitment which providers can choose to make in the Charter relates to acknowledging the customer’s service connection request, confirming whether the order can be processed at the time of request or not, and if the order can be processed, agreeing a date for an initial appointment to provision the service. The CCPC understands that, as proposed, providers who choose to make the commitment

²⁴ ComReg (2017) https://www.comreg.ie/media/dlm_uploads/2017/06/ComReg1762.pdf

²⁵ Article 52 of the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence sets out that ‘Providers shall ensure that AI systems intended to interact with natural persons are designed and developed in such a way that natural persons are informed that they are interacting with an AI system, unless this is obvious from the point of view of a natural person who is reasonably well-informed, observant and circumspect, taking into account the circumstances and the context of use’. European Council (2022) <https://data.consilium.europa.eu/doc/document/ST-14954-2022-INIT/en/pdf>

²⁶ For commentary on the application of the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence, in particular to chatbots and digital assistants, see Mason Hayes and Curran (2023) [Regulating Chatbots and Deepfakes | Mason Hayes Curran \(mhc.ie\)](https://www.mhc.ie/regulating-chatbots-and-deepfakes)

do not commit to a timeframe for a date for either the initial appointment or for service activation to occur, where there is no existing connection. As regards the initial appointment, the commitment requires only that the date for the initial appointment is agreed within the timeframe committed to. As set out in the consultation paper, this is because of the range of cases which can be covered where there is no existing connection and because the timeframes for connecting these customers could depend on many factors. The CCPC suggests that, to avoid customer confusion, it is made clearer in the prescribed wording for the commitment that providers are not committing to any specific time frames for the initial appointment or for connecting new services to the network, where there is no existing connection at the property.

- It is proposed that the ‘outages and repairs’ section of the Charter will include information about how a customer can report a service issue to their provider and that providers may include ‘relevant information about addressing individual customer-level issues with service’. It is not proposed that providers would have the option of offering prescribed specific commitments relating to individual customer-level issues with service but only to outages which are defined as issues affecting multiple customers at the same time. Acknowledging that individual customer-level issues with service can arise for a multitude of reasons which may make it difficult to frame specific commitments, the CCPC suggests that there may be an opportunity, within the Charter, to further incentivise providers to improve customer service provision relating to individual customer-level issues with service. Customer level service issues can materially impact a customer’s use and enjoyment of a service which they have paid to receive and with increasing numbers of people working remotely²⁷, can also potentially negatively impact on their ability to work and make a livelihood.

The CCPC suggests that ComReg considers, at a minimum, mandating, rather than making optional, the provision by providers of information about addressing individual customer-level issues with service in the Charter, including requiring

²⁷ The CSO Labour Force Survey for Quarter 4, 2022 indicated 22% of those in employment were working ‘mainly from home’, with a further 13% ‘sometimes’ working from home. CSO (2023)
[LFS Presentation Q4 2022 for web.pptx \(live.com\)](#)

them to set out the steps which they may take to investigate and fix the issues. ComReg could additionally consider prescribing a specific commitment to acknowledge the customer-level service issue within a specified timeframe from the date it is reported to them and provide an update to the customer on fixing the issue at specified intervals²⁸.

While these suggested changes would not offer customers certainty on how long it will take for any customer-level issue with service they might have to be resolved, it would at least give customers greater insight at the pre-contractual stage into how the provider will go about addressing such an issue. Where a provider chooses to make the specific commitment suggested it would also provide the customer with reassurance that the provider will keep them updated on resolution of the issue. It would also offer customers a point of comparison between different providers on how they deal with customer-level service issues.

- As it is intended that customers would consult the Charter when choosing a new, or switching to another provider, the CCPC suggests ComReg consider including a link to its online comparison tool²⁹ in the Charter, to raise awareness amongst customers of the assistance which the website offers in helping them to choose the provider which best suits their needs. The CCPC notes that it is intended that providers will be required to outline the key rights which customers have around switching in the Charter, including from Regulation 90 of the European Union (Electronic Communications Code) Regulations 2022³⁰.

Evaluating and reporting performance against charter commitments

In order for the Charter to achieve its objectives, it will be necessary for customers to be able to evaluate providers' performance and to be confident that their stated performance

²⁸ By analogy, the Central Bank of Ireland's Consumer Protection Code, which applies to regulated financial service providers, requires, at section 10.9(c), that a regulated entity must provide a complainant with a regular update on the progress of the investigation of a complaint at intervals of not greater than 20 business days, starting from the date on which the complaint was made. Central Bank of Ireland, [Unofficial Consolidation of the Consumer Protection Code \(centralbank.ie\)](#)

²⁹ For clarity, [Compare Value \(Services\) | Commission for Communications Regulation \(comreg.ie\)](#). It is noted that there are a number of requirements on regulated financial services providers to provide a link to the CCPC's Money Tools

³⁰ [S.I. No. 444/2022 - European Union \(Electronic Communications Code\) Regulations 2022 \(irishstatutebook.ie\)](#)

is an accurate reflection of their level of customer service. Without a form of evaluation there will also be no way to determine if providers commitments have been met or not. Therefore, the CCPC agrees that providers should monitor how they perform against the Charter and should report this to ComReg.

The CCPC is also of the view that making providers accountable is important to ensure that they meet their commitments. Consumers and providers should be clear as to what they can expect if commitments aren't met. The CCPC recommends that ComReg should clarify what actions, if any, will arise when a provider's performance is deemed to be poor. The CCPC is also aware that ComReg, following the adequacy review phase, may seek to move to the specification of Minimum Quality of Service Standards. Where that is the case, the CCPC notes the importance of appropriate enforcement measures against non-compliance³¹.

The CCPC agrees that if the monitoring and reporting requirements placed on providers are too excessive, their ability to report accurately and on time may be impacted. This may be particularly true for smaller providers and new entrants who have just met the threshold to comply with the Charter. We note that the principle of proportionality has been kept in mind in considerations around provider evaluation and reporting, and on balance we think that the suggestions in the consultation paper for the time periods are correct. If, as is anticipated in the consultation paper, once an automated process is set up by a provider the ongoing burden of reporting will be relatively low, then expecting a provider to report on a quarterly basis seems fair. This time period has, as the consultation notes, the added advantage of being consistent with existing universal service reporting requirements.

For customers to be fully able to trust results, then a form of independent audit will be required. The CCPC notes the view of ComReg in the consultation paper that such audits be conducted annually. A requirement that providers have their performance reports audited once a year seems a proportionate expectation to be placed on a provider.

³¹ In the waste management sector, both a lack of monitoring and a lack of sanctions for non-compliance with customer charter requirements for household waste collection operators led to inadequate consumer protection in the sector. CCPC (2018) [‘The Operation of the Household Waste Collection Market’](#)

While there may be merit in having a provider only submit an audited performance report, we understand why ComReg would like to be able to observe any negative trends in customer service experiences closer to real time. Since this would not be possible if ComReg only received an annual report, the two different reporting requirements time periods are the best way to have up-to-date information and to maintain confidence in the accuracy of the overall data. However, ComReg will have to ensure that this is clearly explained to customers and that there is no potential for confusion. Overall, it will be important that reported results are made available to customers in an accessible and easy to understand manner, and that it is clear to customers that they can have confidence in the results.

Regulatory Impact Assessment

We welcome the detailed analysis conducted by ComReg in the Regulatory Impact Assessment accompanying this consultation. The assessment clearly demonstrates the need for a Customer Charter and by focusing on the potential industry, customer and competition impacts, it will be helpful in determining the correct options to choose and the necessary trade-offs that need to be made. The likely impacts are realistic and provide a useful justification for each option chosen.

The introduction of a Charter should not result in a distortion or restriction of competition in the electronic communications sector. In particular, a Charter should not add barriers that could prevent potential entrants from joining the sector. While the impact on new entrants is considered for one of the consultation sections ('Which providers the Charter will apply to'), we would encourage ComReg to fully consider the impact on potential new entrants when making a final decision on all the design and implementation measures for the Charter.

ENDS

