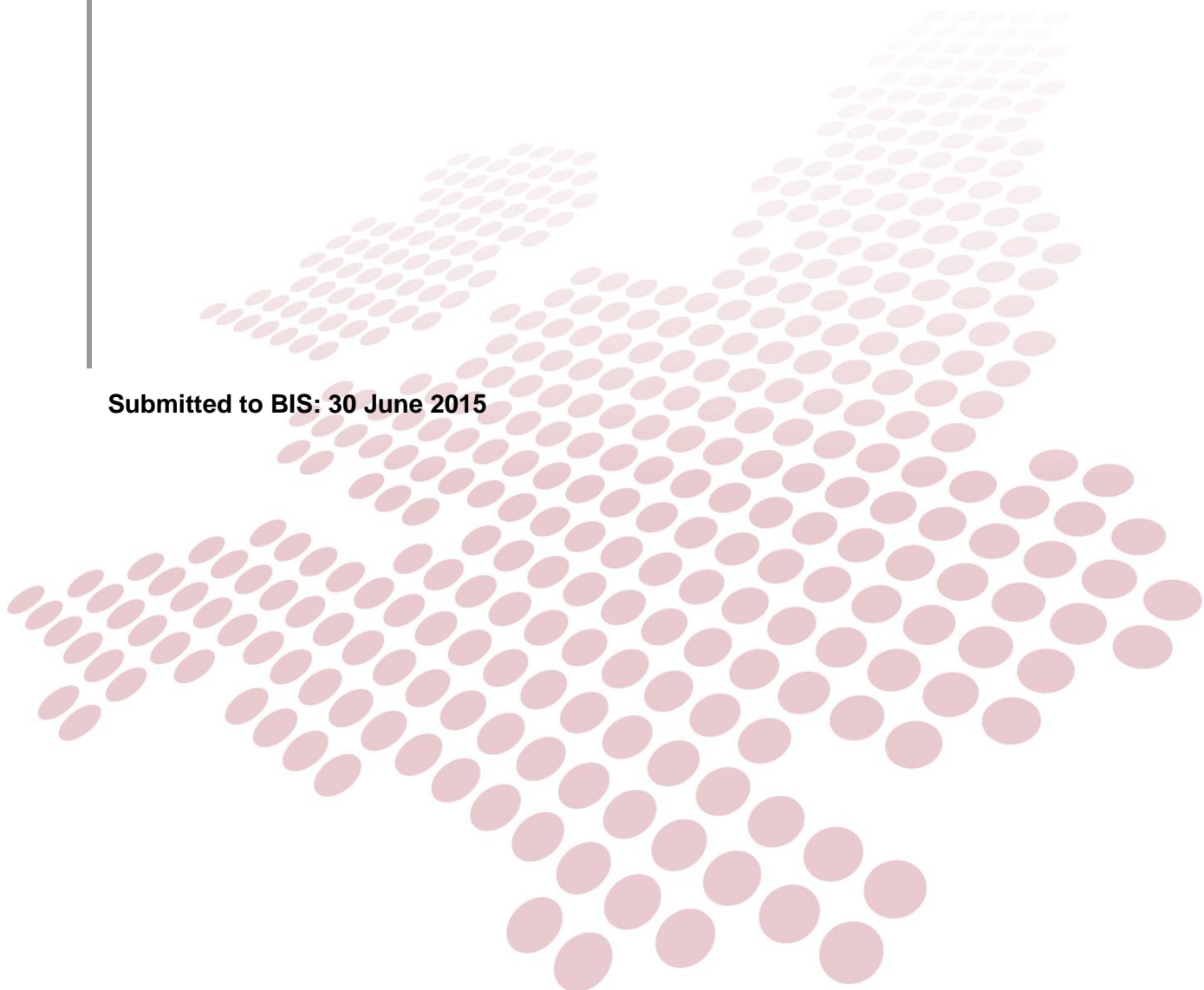


**Protection of small businesses when
purchasing goods and services**

UKCTA Response to BIS Call for
Evidence



Submitted to BIS: 30 June 2015



Introduction

1. UKCTA is a trade association promoting the interests of fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. Its role is to develop and promote the interests of its members to Ofcom and the Government. Details of membership of UKCTA can be found at www.ukcta.org.uk. We welcome the opportunity to comment on the Department for Business and Innovation and Skills call for evidence in relation to the “Protection of small businesses when purchasing goods and services”.
2. UKCTA members supply a range of telecommunications products and services to a large volume of business customers of varying sizes. Several members supply mobile as well as fixed-line services and in some cases the interest of UKCTA members in the call for evidence extends beyond telecommunications and to other goods and services e.g. pay TV, advertising services.

Regulated communications sector

3. UKCTA members are subject to OFCOM’s General Conditions of Entitlement for the provision of their communications services. The General Conditions already make provision for dealing with micro businesses in areas of perceived harm, for example, dispute resolution and renewable contracts¹. Some General Conditions even extend to all businesses irrespective of their size. To the extent that any proposal to extend consumer regulation to small businesses is considered further it is imperative that the existing regulatory framework is considered to avoid overlap and consequential confusion. It is UKCTA’s strong view that in the telecommunications sector OFCOM already addresses any perceived harm on micro-businesses through its existing regulation. UKCTA does not believe any further regulation is proportionate or necessary.

Customer management operations

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5. Other than as required by OFCOM’s General Conditions of Entitlement, UKCTA members do not segment their customers on the basis of the number of employees employed by their business customers as suggested by the definition of “MSBs” used in the call for evidence. Typically UKCTA members differentiates the goods and services they offer on the basis of type of business operated by the customer or the nature or volume of services that such business requires.
6. As a result, operationally the customer management platforms that UKCTA members operate do not anticipate a categorisation of business customers based on number of employees and would need to be updated to deal with such changes. These platforms are often managed independently and by different business divisions from the customer management platforms dealing with the consumer market. If the existing consumer regulatory framework is extended to MSBs then the updates to such platforms would

¹ Ofcom’s General Conditions of Entitlement, Conditions 9.3 and 14.5.

require significant investment in terms of financial and resource cost. This is irrespective of whether the change is required to meet new legislative requirements relating to MSBs or to a sub-set of micro-businesses or sole traders.

7. Separately, as a result of a less regulated environment in respect of MSBs as compared to their current consumer offerings, UKCTA members do not have a need to manage their business operations with the same level of compliance and legal scrutiny. To do so would have a significant resource and cost impact.
8. It is possible that the subsequent cost of ensuring operational and regulatory compliance could have the unintended consequence of adversely affecting the range and/or cost of goods and services able to be offered to business customers, particularly to MSBs.

Sales operations

9. Across UKCTA members the reliance on the face to face route to market via account managers for the marketing and sale of goods and services to MSBs is far greater than in the “consumer” market. There is lesser reliance on sales made wholly online. It is also not uncommon for such sales to be individually negotiated on the basis of standard terms allowing for greater options to the benefit of customers (including MSBs). Whilst these options are likely to be predominantly on price, they may also include other aspects of the contract terms, including scope of liability, warranties and termination rights. As a result, the cost/benefit analysis of introducing additional regulation needs to anticipate that a smaller number of MSBs than expected may ultimately benefit from the regulations with unintended consequences for the consequent options that are made available to all MSBs.

Existing market mechanisms and current legislative framework

10. UKCTA members believe that the current legislative framework or existing market mechanisms are fully adequate in dealing with issues that arise in respect of remedies offered for faulty goods or poorly performed services. In particular, the UCTA reasonableness test already ensures that such remedies and any consequent exclusion of liability are fair and reasonable, based on the MSB’s bargaining power and resources amongst other things. In addition, UKCTA members operate in an extremely competitive market place in which providing good customer service (with appropriate refund and replacement policies in place) can act as a key differentiator in the market. It is also self-serving to ensure that such policies are enacted in a timely manner to ensure that customer goodwill is maintained. Customer relationships are typically long-standing and so members rely on establishing long-term positive relationships with its business customers to ensure repeat and/or continued business.
11. Given the UKCTA members are already obliged by the ASA’s self-regulatory regime to ensure their marketing to business customers complies with the CAP Code, it is considered that MSBs are already adequately protected from misleading advertising.

Impact on MSBs

12. One unforeseen impact of the extension of consumer regulation to MSBs is its application to B2B transactions carried out by MSBs themselves. Any additional protection gained by the extension of consumer regulation may well be offset by the need for MSBs to comply with additional regulation themselves when transacting with other businesses. This impact should be subject to careful cost/benefit analysis should proposals be put forward.

End.