Consultation response form

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Consultation title	Review of inflation-linked telecoms price rises
Full name	
Contact phone number	
Representing (delete as appropriate)	Organisation
Organisation name	MoneySavingExpert.com

Confidentiality

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Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.	Nothing
Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.	None
For confidential responses, can Ofcom publish a reference to the contents of your response?	

Your response

<table>
<tr><th>Question</th><th>Your response</th></tr>
<tr><td>Question 1: Do you agree with the conclusion in our Equality Act impact assessment</td><td>Confidential? – N

We would like to thank Ofcom for accepting evidence provided by MoneySavingExpert (MSE).

We agree to some extent with Ofcom’s conclusion to its Equality Act impact assessment. Our evidence suggests that the proposed £/pence requirement will be an improvement for all consumers, and particularly vulnerable consumers who may struggle to engage with measures of inflation. We expect that this change will provide a level of certainty and clarity and will reduce the likelihood of price rises catching consumers by surprise. As Ofcom has previously said, price rises can be materially harmful to consumers when they are not made clear in advance.[1]

Whilst this proposal is a positive step forward, we believe it does not go far enough to protect consumers, especially those that are vulnerable. In practice, General Condition 9.6 interprets price rises that are laid out in the terms and conditions of a contract at the point of sale as not “materially detrimental” – we disagree.

Our evidence shows that price rises that are above the rate of inflation are both “materially detrimental” and harmful, whether or not they are stated in £/pence. For most consumers they cause anger – but for vulnerable customers and those struggling to make ends meet, they can leave them unable to afford their contracts, may exacerbate the impact of health conditions and cause high levels of stress.

We have received hundreds of messages from MSE users about mid-contract price hikes, via our inbox, Forum and social media. Unless stated otherwise, quotes given are examples of these and come directly from users as written.

• “I’m on benefit ESA. Currently not working as have severe mental health issues and on medication for it.”</td></tr>
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[1] *Guidance on “material detriment” under GC9.6 in relation to price rises and notification of contract modifications.*

[CLASSIFICATION: CONFIDENTIAL]

Question	Your response
	• *"I'm with Sky broadband tv very basic package and haven't been able to speak anyone who can help stop my bill going up in April. The woman I spoke to today said my broadband speeds would be reduced terribly and didn't seem to want to help me. I'm a very nervous person and just accepted her explanation as I was getting very upset and didn't want to start crying on the phone to them."* *"I pay £39.50 a month which is in contract til November 2023. I'm not sure if it will go up in price in April or not my mobile monthly bill is also with sky at £6 month going up to £7 in April."* • *"My fixed price for 18 months went from £50pcm to £61pcm six months in. Pensioner on fixed income, not happy."* For many consumers, it is not enough to know in advance £/pence what level of hike they will experience during the life of their contracts. The current price rises, which can be as much as RPI+3.9%, are not only harmful because they are unclear, but also because they place an unfair, material financial burden on consumers, and in particular financially vulnerable consumers, including (but not limited to) pensioners, those on benefits and those with long-term physical and mental health challenges. Ofcom's current proposals would still allow above-inflation rises. Last April, many saw rises of circa 17%, while this year they face another 8%. This is why MSE is proposing that best practice, if price rises are to be allowed, is that as well as providers making clear £/pence increases upfront and for the duration of a contract, these increases should also be capped at the rate of inflation. Consumers should always therefore pay the <u>lower</u> of: inflation or a specified £/pence amount.

Question	Your response
Question 2: Do you agree with our assessment of the potential impact of our proposal on the Welsh language? Do you think our proposal could be formulated or revised to ensure, or increase, positive effects, or reduce / eliminate any negative effects, on opportunities to use the Welsh language and treating the Welsh language no less favourably than English?	N/A

Question 3: Do you agree with our assessment of the consumer harm arising from inflation-linked price variation terms? **We invite evidence from respondents on the matters addressed in section three.**	Confidential? – N We are pleased to see Ofcom undertake an assessment of the harm caused by inflation-linked price hikes on mobile and broadband contracts – evidence from our users broadly supports these findings. Indeed, we have also found that many people either aren’t aware there will be a price rise or are taken by surprise by the level of price rises, as they can’t predict what they will pay throughout their contracts. We believe that Ofcom has presented an accurate picture of *some* of the harms experienced by consumers as a result of a lack of clarity and certainty in contracts. We welcome Ofcom’s assessment that inflation-linked price variation terms as currently implemented can undermine the competitive process, but we’d like to see Ofcom go further and asses the harms caused by *above* inflation price rises as well. Our evidence, set out below, supports our view that any price hike, even one given in £/pence, should be capped at the rate of inflation. ***Inflation-linked price variation terms, when communicated in formats such as RPI or CPI, cause confusion and concern*** Ofcom guidance states that if mid-contract price hikes are laid out in the T&Cs of the contract, then the price hike isn’t “materially detrimental”. However, in practice, for many of our users, and the respondents in Ofcom and Which?’s research, this is not the case. Therefore, our evidence leads us to agree that with a lack of clarity

Question	Your response

and certainty, the harm and detriment is widespread and significant.

Our users have expressed surprise at receiving a midcontract price hike, which indicates that – even when included in the terms and conditions – the current format of mid-contract price hikes (explained in terms of RPI+%) means they are not effectively communicated to consumers.

- *"TalkTalk have decided to increase my FIXED price broadband contract mid-term. The contract is barely 5 months old and was signed in October, they did a price rise on my phone package in December and reiterated at this time that they won't increase the broadband price. […] They claim there is a clause allowing this but this was not clear at the time my contract was taken and won't give me a copy of the terms and conditions unless I make a request which will take 30 days. Their customer support confirmed that these 30 days will take me out of the 30 days get out free clause they have offered me. Is this fair and legal?"*

- *"Virgin Media contract ending so called them yesterday, told new price, I asked "is this the price for the full length of the contract?" They said yes, I asked "so it won't go up next April?" they then admitted it would but it's a "contract condition" not a price increase! Con!"*

Even when consumers are aware of the mid contractprice increase, they find the explanations in the format of RPI difficult to engage with and therefore find themselves in the dark over how much more they will be paying in real terms when the price of their contract increases.

- *"Trying to calculate the estimate for the next. CPI/RPI increase is just not on. An upfront price table for the length of the contract is fair."*

Inflation-linked price variation terms hinder competition

Mid-contract, inflation-linked price hikes are anti-competitive – leaving consumers unable to ditch and switch

Question	Your response

without penalty, and providers with little motivation to keep their rises to a minimum.

Consumers must accept these price hikes, even ones above the rate of inflation, or pay a penalty to leave the contract early and switch to another provider. This is inherently anti-competitive and actively prevents consumers shopping around. Even when they do switch, deals on the market continue to get more expensive, leaving them powerless and unable to avoid paying more.

- *"Yep I had a hike with my broadband and another year in contract and will cost me over £100 which I haven't got to end contract early. I am paying twice for same speeds elsewhere! So I'm screwed either way!"*

- *"I'm on a BT contract - 24 months - 12 months into it. I'm not happy at the price hikes for April which would make mine now £41plus instead of £36.05 per month.*

  "I contacted BT and asked if I could downgrade the service I get, to pay less - i.e. move to a simple broadband package. They said NO despite me saying I was having difficulty paying the soon to be increased amount.

  "So, I've cancelled anyway, at a cost of £191.75. I'll get a cheaper provider- £18 a month. This still saves me money despite the cancellation fee.

  "I won't ever use them again as I think they are rotten for applying over 14% hikes in a cost-of-living crisis. I would rather disassociate myself from such a company, even though I have to pay a penalty."

- *"Recently received an email from Vodafone Broadband that the APR [RPI] is going up this month. I called them up to cancel it as I'm in the middle of my contract and been told I can cancel it but only if I pay a fee for around £100. Told them I was under the impression that if they put the prices up in the middle of the contract, I have free rights to leave. Been told that's incorrect as*

Question	Your response

now they put that in contract. Is this even possible as never heard of such a thing before?"

The fact that price hikes are – and will continue to be – unlimited causes more financial difficulties

Worse, mobile and broadband providers are able to increase prices by more than inflation as part of a consumer's contract terms – and this is not set to change under Ofcom's current proposals. In order to limit anticompetitive practices as well as remedy concerns over transparency, and to meet Ofcom's objectives, it would be more effective to cap these rises at the rate of inflation, in addition to Ofcom's £/pence requirement.

We understand that Ofcom has limited powers to impose price controls over the telecoms and broadband markets. However, Ofcom set out in the consultation that it has a role in ensuring fair competition that supports affordable prices for consumers. In this context, we would ask Ofcom to consider the anti-competitive nature of above-inflation mid-contract price hikes, and the detriment caused to consumers due to the level of hikes we're seeing.

Our evidence shows that price hikes that happen in the middle of a contract but go far above inflation cause unfair financial burden. They aren't affordable or understandable for many, especially vulnerable customers already struggling with the cost-of-living crisis. It is clear that substantial rises with no recourse to leave penaltyfree are compounding existing financial challenges faced by these people, but also exacerbating physical and mental health issues.

- *"I am a vulnerable customer with chronic physical and mental health conditions and live alone with no family support and little help from friends.*

"I had a nightmare with Virgin Media in August trying to renew my broadband and mobile package with them and it really affected my physical and mental health. I eventually fixed it for 18 months but today got email saying Virgin prices are going up £7 per month in April.

Question	Your response

	"Had two long phone calls with them today and felt really unheard [...] Tried to register as vulnerable customer with them but they didn't seem to get it either. Left me feeling so low and overwhelmed in so much pain. It still isn't sorted and I don't know how to get help with it as I really can't cope with it on my own with my chronic health issues to deal with." Further, any hikes above inflation are themselves inflationary – which will pile further financial stress on consumers in future. This is why it's vital that providers aren't given free rein to make limitless mid-contract price hikes through Ofcom's new measures. MSE founder Martin Lewis explained the case for a cap at the rate of inflation on Radio 5 Live: "One of the big causes of inflation is mobile and broadband price hikes. Even if you're within your contract, they bake in above-inflation price hikes, 3 or 4 percent above inflation... Now that's bad for consumers and also bad for the Chancellor because if you have a baked-in above-inflation price rise – well that's inflationary in its own right and you have a vicious cycle."[2] "Ofcom have a proposal on this [...] to change the rises so when you sign up it will say your price will rise by x pounds on this day. So, it won't be inflation-linked. My problem with that is that it can still be substantially above inflation. You could still say to someone you're signing up at £10 a month but each April we're going to add £20 a month on top. I'd prefer that you put it in £/pence **but** the most it can rise is by inflation- so that it's capped at inflation."[3]
Question 4: Do you agree with the conclusion in our impact assessment?	Confidential? – N We support Ofcom's conclusion that there needs to be new regulatory measures to protect consumers' interests. We support the £/pence requirement as an effective way to provide certainty and clarity for consumers.

Question	Your response

[2] The Martin Lewis Podcast - Chats with the Chancellor & how to cut credit card debt - BBC Sounds
[3] The Martin Lewis Podcast - Don't pay over £7/month for your mobile, and salespeople's secret tips - BBC Sounds

However, evidence we have presented in question 3 demonstrates the need to introduce an inflation limit to any price hikes as well as the £/pence requirement. Whilst the £/pence requirement addresses clarity and transparency, and unfair burdens and risks, it does not address all of the unfair burdens that consumers face.

Even consumers who are accepting of some level of price rise during their contract feel that above-inflation rises are unjust, especially with no recourse to leave penaltyfree:

- *"Can someone explain where the extra 3.9% over inflation has been spent? If it has only gone to profit then it is gouging us to pay bonuses and has to be stopped. They should be transparent on why 17% was needed and probably over 10% next year. Don't hold your breath."*

- *"The lower of the two [inflation or a set price] is a good call since I'd fully expect to see providers edge on cautious side i.e. assume inflation remains high when setting the rise. I'll be shocked if this happens though based on wording in Ofcom proposal."*

- *"Inflation rise isn't unreasonable but should be made clear. It's the +3.5% that is pure profiteering by the companies. No way acceptable in a fixed term contract! Image you were filling your car with petrol and the price increased halfway through! Just a different timescale."*

We discuss this in more detail in question 3, but below is a summary of MSE's assessment of harms caused by above-inflation, mid-contract rises:

- Providers are able to implement price increases, mid-contract. In other words, the price you see is not the price you get. This presents significant budgeting challenges for many.
- Consumers cannot ditch and switch contracts when this happens without facing penalties. Therefore, allowing mid-contract, above-inflation price rises is anti-competitive and prevents consumers from shopping around.

Question	Your response
	• These price rises are written into contracts so that they can be higher than the rate of inflation, leaving many facing unaffordable costs, despite 'fixing' prices. Consumers widely agree with MSE that this is unjust and unfair. • The most vulnerable consumers struggle to/cannot afford any price rises, let alone those that are above inflation – especially in a cost-of-living crisis. This compounds not only financial difficulty but also the impact of other vulnerabilities, such as physical and mental health conditions. • These hikes have the knock-on impact of being in and of themselves inflationary. To fully protect the interests of consumers, all of these issues need to be considered and addressed. ***Comparison against Ofcom's policy objectives*** *We have compared the conclusion and proposal presented with Ofcom's objectives as part of our answer to this question.* *Enabling consumers to understand the price of a service readily, with sufficient clarity and certainty to make informed comparisons and choices and find the right deal for their needs.* We believe that that the £/pence requirement addresses this proposal fairly well and is a necessary step to achieving certainty and clarity for consumers. However, we do believe that there are some specific scenarios where uncertainty and a lack of clarity can still arise and limit the ability for consumers to make informed comparisons and choices and find the right deal for their needs. *Driving providers to compete based on pricing structures that are clear and transparent.* We do not believe that the current proposal sufficiently encourages providers to compete. Without a cap on these price hikes, at the rate of inflation, providers can still charge what they like, and consumers are still prevented from ditching and switching once in the contract. Whilst consumers may be more informed if they see the prices they'll pay throughout the contract upfront, there

	is no certainty that they are going to be able to work out whether they are paying more than inflation – so this

Question	**Your response**

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doesn't drive providers specifically to keep price hikes at or below inflation.

Protecting consumers from unfair burdens and risks (for example, from contract terms that impose unfair financial risks on consumers).

Whilst the £/pence requirement addresses clarity and transparency, and some unfair burdens and risks, it does not address all the unfair burdens that consumers face. Our evidence has shown that there are additional burdens on consumers when price rises are above inflation – including affordability, transparency, and the ability to plan for hikes they'll experience during a contract. Therefore, we propose a £/pence requirement *with* a cap on price hikes at the rate of inflation.

Further comments

Additionally, we have some concerns with the £/pence requirement in terms of its effectiveness in achieving Ofcom's stated aim of 'clarity and certainty'. There are two scenarios where the proposal may be counter-effective and ineffective respectively, which we would like to bring to your attention in this consultation response.

Obfuscating above-inflation price rises

Given that we are aware that our users are concerned with whether their mid-contract price rises are above inflation, we have applied this lens to Ofcom's proposal. We worry that, without a price hike limit of the rate of inflation, Ofcom's proposal may obfuscate how price rises compare to actual inflation. Under current proposals, it will be difficult for consumers to compare their £/pence figures to published and publicised measures of inflation, in order to check whether the price rise is above or below that rate. This may cause further frustration for our users and other consumers who care to know whether they are being hit with price hikes above inflation. A cap on allowed rises would give them the certainty that they will not face this.

Whilst certainty has been shown to be important to consumers (*Which?: The benefit of certainty*), we are concerned that without limiting price hikes, our users will also face a lack of clarity about an issue they care about.

Question	Your response
	Given the examples provided by Ofcom as guidance for providers, we are not confident that users will be able to work out whether these figures are above or below inflation at the point that they come into effect: *“Your monthly price is £30 until 31 March 2024, increasing to £31.50 on 1 April 2024 and to £33.00 on 1 April 2025.”* *"Your monthly price is half price at £15 a month for the first six months and then £30 a month until 31 March 2024, increasing to £31.50 a month on 1 April 2024.” (annex six)* *Using price comparison sites* The £/pence requirement proposal will improve clarity for consumers going directly to providers. However, we want to raise a potential issue, that consumers using price comparison sites will not necessarily have all this information, and clarity for these customers is dependent on the price comparison website displaying the introductory price and all further price rises. Therefore, customers using these sites may not be able to easily identify the best deal for them. For example: A consumer may be comparing the introductory price of mobile contracts on a price comparison site and think they have found the best deal. However, the overall cost of each deal may be different when you also take into consideration what price increases each deal has. In this case clarity will be dependent on how price comparison websites display each deal and whether they choose to include price rise information. ***MSE’s proposal: if price rises are to be allowed, providers should make clear £/pence increases upfront and for the duration of a contract, and these increases should be capped at the rate of inflation*** *We believe our proposal meets Ofcom’s certainty and proportionality considerations.* *Certainty* Ofcom and Which?’s research shows consumers are willing to pay a bit more in return for certainty. However,

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Question	Your response
	the research does not ask consumers about whether they are happy, or even able, to pay at rates above inflation. Our evidence shows that above-inflation price rises are a real sticking point for consumers and so we believe that this needs to be reflected in any proposal. Proposing an additional cap at inflation does introduce some potential for uncertainty – it means that the price rises you see in advance of signing a contract could be different to the price rise figure you end up paying, as providers could choose to increase prices below inflation. However, as consumers would be aware at sign-up, in a £/p amount, the *maximum* increase they could pay, this situation would not result in harm to the consumer. *Proportionality* Ofcom concludes that the £/pence requirement is 'appropriate and proportionate'. We agree that this is a piece of targeted regulation that is fairly appropriate for dealing with the issues of certainty and clarity that it aims to resolve (with a few caveats that we mentioned earlier) and will go some way to reducing consumer harm. We believe that our proposed measure to introduce a cap on price hikes at the rate of inflation requires similar resources to the current proposed measures and so would also be considered proportionate. For example, we expect that the proposed cap would meet Ofcom's own proportionality considerations, such as: • Mean that providers would likely not need to build significant new systems to implement the changes, given they already base hikes on inflation measures. • Not represent higher cost to providers than the current proposal when it comes to developing new contracts, communications or training for agents. Additionally, it does not alter providers' ability to… • Account for the changes in their business plans and to manage financial risks and mitigate the impact of inflation. • Retain the freedom to decide on their contract lengths (subject to Ofcom's rules on contract duration) and pricing strategies, taking into account

Question	Your response
	the risks of changes in their costs during the lifetime of the contract. Under Ofcom's proposal, consumers do have more certainty and clarity over what they are going to pay, but the usefulness of this information for consumers is to some extent limited. They may have more certainty over what they are being asked to pay but they may well not be able to afford it. As included in Ofcom's research, providers have extensive forecasting tools which means they could choose to set £/pence rises at levels they believe will be above inflation (as set out in 3.70-3.75 on p 35). There may be justification (investment in infrastructure, for example), but from a consumer's perspective, many would expect providers to be able to account for this at the outset of a contract. It is unfair that the financial burden is placed on consumers, who have none of these powers, midcontract. This is especially the case for vulnerable consumers, who cannot as easily absorb the cost of aboveinflation price rises. Both of these burdens, financial and cognitive, can be removed from consumers with a mid-contract price hike cap at the rate of inflation.
Question 5: Do you agree with our proposal to require providers to ensure that the following information is drawn prominently to the customer's attention in a clear and comprehensible manner before a customer is bound by a contract: i) the Core Subscription Price; ii) if the Core Subscription Price is to change during the Commitment Period, that changed Core Subscription Price, in pounds and pence; and iii) the date from which any changed Core Subscription Price shall have effect?	Confidential - N We agree with the proposals brought forward in questions 5, 6, and 7. The evidence we have presented in question 3 shows that consumers are, in practice, often confused or surprised by the price rises they receive. *"We signed up with BT a year ago. 24m contract. Last month we received an e-mail that they are increasing our direct debit with £5. Are they allowed to do that?"* This is partly an issue of difficulty engaging with inflation and partly an issue of clarity from providers. The changes proposed by Ofcom in questions 6 and 7 will ensure that mid-contract price hikes are displayed prominently in the written text of the contract. Question 5 will ensure that providers bring this information to the attention of consumers, including verbally where this occurs in a sale, before the contract is signed. We believe this will go some way to reduce the harm, combined with the changes

Question	Your response
	proposed in questions 6 and 7, of unexpected price hikes and allow consumers to make informed decisions. We do not believe there are any issues with the plans of how to implement the £/pence requirement presented in questions 5,6 and 7. The issues we do have come into relevance in other questions.
Question 6: Do you agree with our proposal to require providers to include in the Contract Summary: i) the Core Subscription Price; ii) if the Core Subscription Price is to change during the Commitment Period, that changed Core Subscription Price in pounds and pence; and iii) the date from which any changed Core Subscription Price during the Commitment Period shall have effect?	Confidential? – N
Question 7: Do you agree with our proposal to require providers to include in the Contract Information: i) if the Core Subscription Price is to change during the Commitment Period, that changed Core Subscription Price in pounds and pence, and ii) the date from which any changed Core Subscription Price during the Commitment Period shall have effect?	Confidential? – N
Question 8: Do you agree with our proposed additions and amendments to GC C1 (see detailed amendments in annex 5)?	Confidential? – N We agree that the proposed additions and amendments to GC C1 would be appropriate to offer clarity and certainty to consumers.

[CLASSIFICATION: CONFIDENTIAL]

Question 9: Do you agree with our proposed additions and amendments to existing GC C1 guidance to clarify our expectations on how providers could comply with the new requirements (see detailed amendments in annex 6)?	Confidential? – N We generally agree with the proposed additions found in annex 6. However, we have some issues with 1.23-1.27. We have pulled a section of annex 6 below for reference in this answer. According to these terms: "*specifying the price this way in their contracts, and at the point of sale, means that*

Question	Your response
	providers are not required to give customers a right to exit their contract without additional charge when the price uplift takes effect" (Annex 6, 1.23) This statement allows providers to continue the inflationary and anti-competitive practice of increasing prices above inflation for consumers with no recourse to leave (other than by paying a penalty). This is particularly egregious when you consider that consumers will either have to accept the price hike or potentially pay even more to leave and join another contract, incurring the twin effects of the exit penalty and the inflation of prices in the open market. In effect – they will have to accept unjustifiable hikes either way and are disincentivised from engaging in competition. Additionally, as addressed in our answer to question 4, the examples of guidance given to providers in annex 6 (e.g. *"Your monthly price is £30 until 31 March 2024, increasing to £31.50 on 1 April 2024 and to £33.00 on 1 April 2025.")* show that Ofcom's proposal will obfuscate whether price rises are or are not higher than inflation. Our evidence shows consumers want to know this information and it is likely many would struggle to work this out. A cap at the rate of inflation would give consumers certainty that they will not be paying more, with each hike, than inflation.

Question	Your response
Question 10: Do you agree with the proposed implementation period of four months from publication of the statement and the changes to GC C1 and guidance?	Confidential? – N To protect consumers from further harms, the implementation period should finish before the next round of April price hikes would come in. We believe, with Ofcom's plan to publish the results of this consultation in Spring, that the four-month implementation period would be sufficient to allow for the new £/pence requirement to come into effect before the next round of price hikes. We are concerned about the harms consumers who are still in contracts will face even after the £/pence requirement comes into effect, given that this is a forward-looking piece of regulation. Broadband contracts are generally 12, 18 or 24 months. Mobile contracts are often 24 months but can be longer. For example, if the new £/pence regulation comes into effect on 1st October 2024, a person who starts a new 24-month mobile contract on 31st September 2024, could face two more poorly communicated, 'RPI' format price hikes (and potentially at levels of above inflation as is currently the case) before they can move contracts and start seeing the benefits of the £/pence requirement. This means that some consumers will continue to face harm for a significant time after the new regulation is in place.

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