Options for telecoms regulators to encourage consumers to engage with the market

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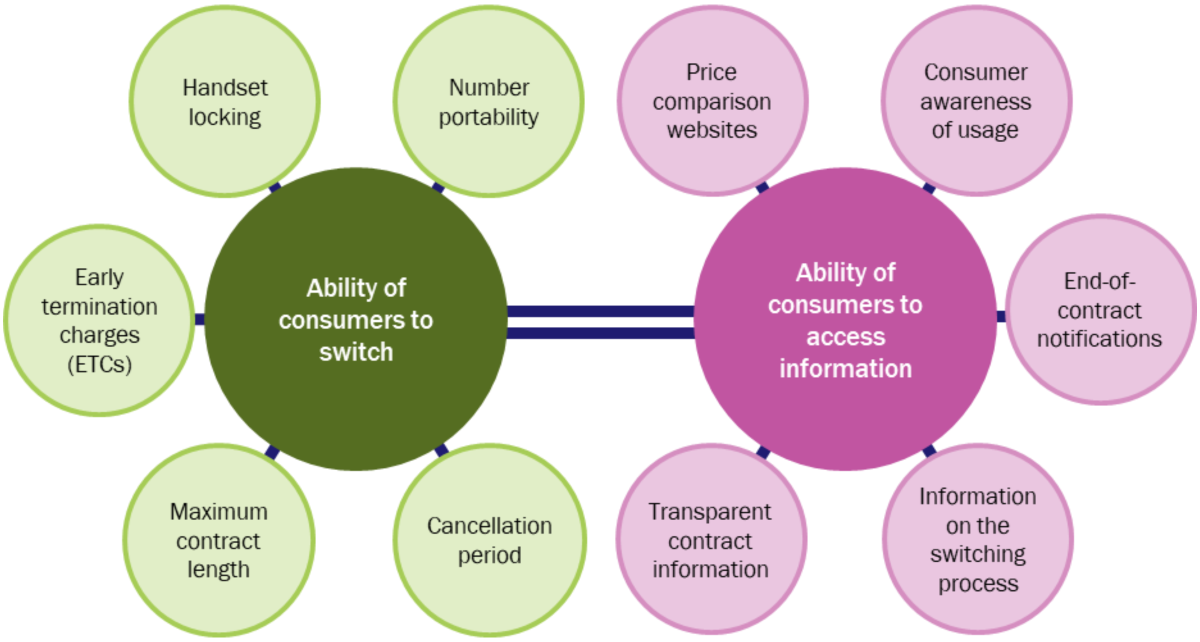
Analysys Mason has noted that competition is not working well in many markets (including telecoms) for those consumers who do not engage by shopping around regularly.[1] For the telecoms market to function, consumers must be able to compare alternative providers' products and easily switch providers.

There are merits in authorities intervening to address major consumer issues, but tackling retail procedures, terms and conditions is difficult. The relationship between consumers and suppliers is complex, and influenced by many factors, including the details of contract terms, transparency, alternative options and consumers' aversion to unexpected or unplanned charges.

Regulators could intervene in a variety of ways to maximise the effectiveness of competition in a market. But what would be a reasonable set of terms, and what powers do telecoms national regulatory authorities (NRAs) have to intervene? This article assesses the list of tools that NRAs have available to them under two headings – those that enhance the ability of customers to access information, and those that enhance their ability to switch provider.

Figure 1: Elements that affect consumers ability to switch and ability to access information



1 For more information, see Analysys Mason's *Protecting consumers from themselves*. Available at www.analysysmason.com/About-Us/News/Newsletter/protecting-consumers-from-themselves-quarterly-Oct2018.

Ability of consumers to access information

Price comparison websites

Price comparison websites for telecoms services are now common in most developed markets. However, the usefulness of these websites depends on the level of accuracy and trustworthiness of the information. To address this issue, NRAs in several countries either operate their own price comparison tool (for example, Ireland[2]) or run an accreditation scheme for commercial price comparison websites (for example, Norway[3] and the UK[4]).

Consumer awareness of usage

In order to effectively compare packages, consumers must know what usage requirements they have. NRAs may require operators to provide usage tools online (and provide usage information with billing), for example the 'good industry practice' requirements in Australia.[5]

End-of-contract notifications

Many services are offered on contracts with a fixed-term (for example, of 12, 18 or 24 months). At the end of the contract period, if the consumer does nothing, their contract may continue on a monthly rolling basis, with the consumer unaware of cheaper options (for example, SIM-only).

Ofcom, the UK's NRA, recently consulted[6] on requiring providers to send an end-of-contract notification 40–70 days before the end of the contract period.

Information on the switching-process

A significant barrier to switching may be due to consumers perceiving it as complex or providing risks to continuing service. Most NRAs offer advice on their websites explaining how to switch providers. Obliging service providers to provide better information could also help consumers. For example, the UK recently introduced reforms[7] to its mobile switching rules, including the obligation on providers to give clear information to their customers on how the switching and number porting processes work.

Transparent contract information

Most developed countries have 'fair trading' legislation (or equivalent), which includes some form of transparency requirements, as well as a prohibition on unfair or unreasonable contract terms. EU telecoms law has additional requirements. However, NRAs must strike a balance between detailed requirements and allowing

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2 For more information, see www.comreg.ie/compare.

3 For more information, see www.nkom.no/forbruker/prissammenlikning/veiledning-og-krav/prissammenlikning.

4 For more information, see www.ofcom.org.uk/consultations-and-statements/category-2/price-calculator-accreditation.

5 For more information, see www.tio.com.au/about-us/position-statements/managing-usage-and-expenditure-on-a-service.

6 For more information, see www.ofcom.org.uk/__data/assets/pdf_file/0019/117163/Consultation-end-of-contract-notifications.pdf.

7 For more information, see www.ofcom.org.uk/__data/assets/pdf_file/0023/108941/Consumer-switching-statement.pdf.

competition to flourish. For example, providers in Australia must give consumers a 'Critical Information Summary' containing key terms and conditions[8] before they agree to buy the service.

Ability of consumers to switch

Number portability

Number portability (NP) allows a consumer to keep their telephone number when switching provider. NP has been possible in developed markets for some time. However, real or perceived inefficiencies in the porting process may remain a significant barrier to switching.

The European Conference of Postal and Telecommunications Administrations (CEPT) has recommended[9] a number of best-practices for NP, including the following.

- NP should be 'recipient-led' (that is, initiated by the new provider) and as simple for the consumer as possible. A recipient-led process removes the possibility of the current provider attempting to win back custom upon a request to port.
- NP should be possible during ongoing contracts.
- Operators should meet all reasonable requests from consumers to port on a specific date.
- The porting process should be as short and efficient as possible.

In some countries (such as Austria) providers are allowed to levy a porting charge on consumers, which could be a barrier to switching. Mobile NP in most European countries is recipient-led, and in many countries (such as Norway) the porting process is completed within a day. It is possible for this to be significantly faster: porting can be completed within a few hours in Australia and Ireland.

Handset locking

Mobile devices are sometimes 'locked' to the network/provider from which they were purchased (meaning the handset will only work with that particular network/provider).

Mobile providers have different policies for unlocking phones (for example, at what point they can be unlocked without a fee). There are good commercial reasons for locking subsidised handsets, but it may be necessary for NRAs to consider unfair locking practices.

Early termination charges (ETCs)

Fixed-term contracts often specify an early termination charge (ETC) if consumers want to end the contract before completion of the full term. The approach to ETCs vary; they may depend on the amount of time left in the contract or be fixed. ETCs incentivise consumers to honour contracts, which builds medium-term certainty into network and business planning, and in some cases protects subsidised equipment charges – both legitimate

8 For more information, see www.acma.gov.au/Citizen/Phones/Mobile/TCP-code/critical-information-summaries-for-telecommunications-consumers.

9 For more information, see ECC Recommendation (12)02, Number Portability – Best Practices, approved 11 May 2012.

commercial interests. However, there needs to be a balance between these interests, and fair and reasonable treatment of consumers.

Maximum contract length and cancellation period

Longer fixed-term contracts (for example, 24 or 36 months) can introduce inertia into a market, meaning consumers change supplier less often. In some countries, there is a maximum permissible contract length for telecoms packages (for example, a maximum of 24 months in the EU[10]).

A further consideration is cancellation periods (that is, an initial period after agreeing to a contract within which a customer can cancel without penalty). Telecoms providers in some countries are required to offer a minimum cancellation period (for example, 14 days in Ireland and the UK), which can assist consumers in the event of pressured selling circumstances.

Selecting interventions from this list is not straightforward, and requires consumer-focused, often qualitative investigations. Our regulatory expertise can assist in this area.

Analysys Mason has supported many stakeholders in assessing retail competition, and has helped with the implementation of a number of these tools. Contact Chris Nickerson and Ian Streule for further information.

10 Providers in the EU must make 12-month contracts available.