Hung up on the handset

An investigation into sales practices in the mobile phone market.

citizens advice

Contents

Executive Summary

Mobile phones are now an essential part of modern life. As handsets have grown more sophisticated, and prices have risen accordingly, mobile phone contracts have become a more significant purchasing decision. With minimum contract terms of two years now the norm, decisions made in the mobile phone market can have long term consequences. In this context it is crucial that mobile phone contracts are clearly structured and sold responsibly so that people are not locked into paying for unsuitable contracts.

Research published by BillMonitor in 2012 found that more than three quarters (76 per cent) of mobile users in the UK are on the 'wrong' mobile phone tariff at an estimated total cost of almost six billion pounds each year.[1] In this report we explore the role that the sales process plays in this feature of the market. Mobile retailers are prohibited from "mis-selling" by Ofcom regulations - they must not ' engage in dishonest, misleading or deceptive conduct; engage in aggressive conduct; or contact the customer in an inappropriate manner'.[2] Our central question is whether retailers are breaching this rule and misleading or pushing consumers into taking out expensive contracts with allowances which exceed their needs.

Our analysis is based on the findings of 350 mystery shops. All of our shoppers were asked to tell staff that they were pay as you go customers who were looking to move onto a contract which included the cost of the handset. The research focussed specifically on whether the tariff recommended by the salesperson was appropriate for the usage profile of the customer. Our mystery shoppers therefore specified that they needed a smartphone, but did not have a preference for a particular brand or model - they simply wanted a tariff which best met their needs as an 'average' user.[3] Researchers also carried out desk based research on the internet, using the network's websites and price comparison websites, to establish which of the tariffs most closely matched the needs of the consumer in our scenario. This provided a baseline from which to assess whether sales staff were directing the mystery shoppers to the most suitable tariff based on the information they were given about their needs.

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[1] 'Wrong contract' defined as any contract where the customer pays more than they should (including the price paid for minutes & data tariff allowances as well as bundles)
[2] Ofcom General Conditions of Entitlement, Condition 23.2, http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/CONSOLIDATED_VERSION_OF_GENERAL_CONDITIONS_AS_AT_28_MAY_2015.pdf
[3] Using approximately 250 minutes, 250 texts and around 200 MB of data per month.

In chapter one we compare the tariffs identified as the best fit for our scenario consumer through our desk research with those recommended to our mystery shoppers by network sales staff. We find strong evidence to suggest that the information given by our mystery shoppers was not fully reflected in the tariffs recommended by mobile phone companies' sales staff:

- First, the average monthly cost of the tariffs recommended by mobile phone sales staff to our mystery shoppers (£23.16) was 130 per cent more than the average cost of the most appropriate tariffs identified through our desk research (£9.89) - a difference of more than £300 (£318.48) across the course of a two year contract.
- Second, despite all of our mystery shoppers giving the same information the cost of the tariffs they were offered varied significantly. For example, the tariffs recommended by sales staff working for EE ranged from £10 to £50.82 - a variation of £40.82 per month. Over the course of a two year contract consumers taking out the most expensive tariff recommended would pay nearly £980 more than those taking out the least expensive recommended tariff.
- Third, the tariffs recommended by sales staff included data, call and text allowances which significantly exceeded the needs of our mystery shoppers. For example, 40 per cent were recommended tariffs with an allowance of 1000 minutes or more.

In chapter two we consider three possible causes of the discrepancy between the stated needs of our mystery shoppers and the tariffs recommended by sales staff. First we look at whether sales staff are asking the right questions to establish the needs of the consumer. We find that consumers are asked all of the necessary questions to establish their needs in the vast majority of cases.

Second, we consider whether sales staff are *deliberately* up-selling more expensive, profitable products. We find little evidence of pressure selling. While our results do raise questions about the incentives retailers use to encourage up-selling, our mystery shoppers did not experience consistent hard-selling tactics nor did they experience widespread mis-selling under Ofcom's existing definition. Instead, it is the third area we explored that best explains our results: the role of the handset in the sales process.

Our mystery shoppers were clear that they had no preference for a particular handset and only wanted the optimal tariff. Yet time and again the sales process focused strongly on the handset. The common practice of combining the cost of the handset with the service charge distorted the tariffs offered to our shoppers, making it difficult to find the right deal. And because the more desirable handsets are only sold with expensive tariffs and generous inclusive allowances - in effect a large credit agreement hidden in a service contract - on average this practice led our shoppers to a tariff that significantly exceeded their needs.

In chapter three we consider our findings in the round and make the following recommendations:

Recommendation 1: Ofcom should work with BIS and DCMS to broker a voluntary agreement with mobile phone companies to separate out the cost of the handset from the service element of mobile phone contracts.

Consumers should be provided with a full breakdown of the cost of the tariff at the point of sale, including:

- the monthly cost of the service contract, including any inclusive allowances
- the total cost of the handset and how payments for the handset will be divided up across the minimum term of the contract
- the date at which the cost of the handset will have been repaid in full and payments for this element will cease
- the amount of interest, if any, payable on the cost of the handset, expressed as an APR and a total figure.

The ultimate goal should be to make the price of both the tariff and handset clear to allow for price comparisons. If a voluntary approach is not successful, Ofcom should take regulatory action to compel companies to separate out mobile phone contracts in this way.

Recommendation 2: Price comparison websites and mobile phone retailers should provide customers with the option of searching for deals based on their consumption rather than handset preference.

Recommendation 3: Ofcom should carry out further work to identify and develop tools, which will help consumers to quickly and easily understand their consumption and find tariffs which meet their needs.

This could include an 'annual statement', as found in the energy market, which sets out the key features of the tariff the consumer is on, what proportion of their inclusive allowances they used each month over the past year, and in how many months they exceeded their allowance.

Recommendation 4: Mobile phone companies should review the training and incentive structures in place for sales staff to ensure that:

a. Staff are trained to ask the right questions to establish the volume of minutes, texts and data the customer typically uses each month and, crucially, to be able to translate this into an appropriate tariff recommendation.

b. Staff are incentivised to recommend contracts which best meet the customer's needs, and not to push customers towards more expensive tariffs with inclusive allowances which significantly exceed their usage.

Introduction

Over the last 30 years the mobile phone market has transformed as mobile phones have evolved from a niche product into an essential utility. Mobile phone ownership has reached near saturation point - more than 9 in 10 (92 per cent) people aged 16 or over in the UK now own a mobile phone for personal use, rising to 99 per cent amongst 16-44 year olds. People are also becoming increasingly reliant on their mobile phones as we turn our backs on fixed line telephones. Only 85 per cent of households now have a fixed line telephone, 10 percentage points fewer than those with a mobile phone. This trend is most pronounced amongst low income households, which are more than three times more likely to rely solely on their mobile phone (25 per cent) than the highest earners (7 per cent).[4]

Mobile phones have also become an increasingly substantial purchasing decision as the industry shifts to longer term contracts. Sixty nine per cent of mobile phone users paid for their service through a contract in 2015, a 27 per cent increase since 2009. This is in part due to a concerted industry effort to push people away from prepay towards more profitable contracts, but also reflects the growing popularity of ever more sophisticated, and more expensive, handsets. Two thirds (70 per cent) of the adult population now own a smartphone.[5] Some cost in excess of £600, a sum which few can afford to pay upfront. Contracts allow the consumer to break down the cost of the phone into more affordable monthly payments, in effect they act as a credit agreement in all but name.

Although unit costs and monthly bills are falling, the overall amount people spend on a mobile phone contract is rising. On the basis of a simple weighted average, we estimate that the average mobile contract length rose from around 14.5 months in the first quarter of 2009 to 17.3 months in the first quarter of 2014. Combining this data with the average amount consumers spend each month indicates that the financial commitment consumers are making when they sign up to a mobile phone contract increased by 14 per cent from £725 to £828 during this period.

The evolution of the mobile phone market into an essential utility, and the growing number of people committing themselves to long term, high value contracts means that ensuring that these contracts are meeting the needs of consumers, and people are not locked into unsuitable contracts, is more important than it has ever been. Unfortunately, in our experience, this is not always the case.

[4] Ofcom (2016) *Technology Tracker H2 2015*
[5] Ofcom (2016) *Technology Tracker H2 2015*

Last year 21,500 people sought advice from the Citizens Advice Consumer Helpline about a problem with their mobile phone service. An analysis of a sub-sample of these cases revealed that 16 per cent of these problems related to misleading sales practices. Although the details of these cases vary, inaccurate information about the nature or cost of the service being provided emerged as a common strand. Our clients often find that they have entered into a contract which does not meet their needs as a result. This analysis chimes with the findings of BillMonitor's 2012 research which found that more than three quarters (76 per cent) of mobile phone users in the UK are on the 'wrong' mobile phone tariff[6] at an estimated total cost of almost six billion pounds each year.

Mystery shopping research carried out on behalf of Ofcom in 2014 to monitor the information and advice given to mobile phone consumers by networks during the sales process found that in a vast majority of cases sales agents overwhelmingly asked suitable questions to allow them to identify the consumer's needs. They also found that the information or advice provided could be seen as 'appropriate advice' in more than 9 in 10 cases.

This research suggests that people are generally asked the right questions to establish their current usage, but it tells us far less about how that information is then *used* by the retailer to guide their customer to the product which best meets their needs. We know that many people end up on expensive tariffs which include allowances far in excess of their actual usage - so are people being pushed towards high cost, high profit tariffs by retailers irrespective of their needs? Or is this a more fundamental feature of the way in which mobile phone tariffs are structured and marketed?

In order to get to the bottom of this question, we commissioned mystery shopping research to explore whether people are being pushed, or misled, in accordance with Ofcom's definition of mis-selling[7], into signing up for high cost contracts with allowances which significantly exceed their needs. Our researchers were asked to tell sales staff that they were currently on a pay as you go deal and were looking to move onto a contract which included the cost of a handset. They were instructed to specify that they would like a smartphone, but not to request a specific brand or model. They simply wanted the tariff which best met their needs as an 'average' user - using approximately 250 minutes, 250 texts and around 200MB of data per month.[8]

In total our researchers carried out 350 mystery shops. To ensure that we gained a full overview of the market the mystery shops were divided up across the three

[6] 'Wrong contract' defined as any contract where the customer pays more than they should (including the price paid for minutes & data tariff allowances as well as bundles)
[7] Ofcom defines mis-selling as sales practices where staff "(a) engage in dishonest, misleading or deceptive conduct; (b) engage in aggressive conduct; or (c) contact the Customer in an inappropriate manner".
[8] This profile is based on Billmonitor.com's 'classic' usage profile, described as "Mr and Mrs Average", from their typology of 12 different kinds of UK mobile users: http://blog.billmonitor.com/post/48733513308/billmonitorcom-defines-12-different-kinds-of.

main sales channels - in store (135 shops), over the telephone (175 shops) and via web chat on the network's website (40 shops). The four major networks (Vodafone, EE, O2 and Three) and Carphone Warehouse were allocated 262 shops in total, with a minimum of 50 shops each. A further 88 mystery shops were allocated to other independent retailers.[9]

Our researchers also carried out a desk based search of the tariffs advertised on the network's websites and price comparison websites to establish which of the tariffs most closely matched the needs of the consumer in our scenario. This provides us with a baseline from which to assess whether sales staff directed our mystery shoppers to the most suitable tariff based on the information they were given about their consumption, or to more expensive tariffs which exceeded their needs.

This report sets out the findings of this research. In the first chapter we compare the tariffs recommended by mobile phone sales staff with the optimum tariffs identified through the desk research. In the second chapter we deepen our analysis, drilling further down into the results of our mystery shopping in order to better understand the differences between the tariffs recommended by sales staff and those identified through the desk research. We conclude with a discussion of our findings, making four practical recommendations.

[9] 'Independent' retailers are those selling mobile contracts on a range of networks, as opposed to retailers tied to a single network. For example, Carphone Warehouse would be an 'independent', while EE would be a 'network retailer'..

Chapter one - the price gap

In this chapter we compare the tariffs identified through our desk research as the best fit under our 'average consumer' scenario with those recommended to our mystery shoppers by network sales staff. If interaction with sales staff has no impact on the type of tariff the consumer selects we would expect the results of the desk research to align with the findings of the mystery shopping research.

Our analysis focuses in on three key areas of comparison: first we compare the average cost of the tariffs identified through our two methodologies. Second we look at the variation in the price of the tariffs recommended to our mystery shoppers. Finally, we assess how closely the volume of minutes, text messages and data included in the cost of the contract matches up to the 'average user' profile of our scenario consumer.

1. Monthly cost

If mobile phone sales staff are making recommendations based on a full assessment of their customers' typical usage we would expect the monthly cost of the tariffs recommended to our mystery shoppers to largely align with the cost of the most suitable tariffs identified through our desk research. This was not the case:

- The average price of the tariffs identified through our desk research as the closest match to the 'average' user profile in our scenario was £9.89. The average monthly price of the tariffs recommended by mobile phone sales staff to our mystery shoppers was 130 per cent higher at £23.16 - costing consumers more than £300 (£318.48) more over the course of a two year contract.
- Average costs were significantly higher across both independent and network retailers. We found minor differences in the average cost depending on the shopping channel used - the average monthly cost of tariffs recommended in store was £23.01, compared to £23.09 over the telephone and £24.01 on web chat.

Figure 1.1: Tariffs recommended by sales staff cost more than twice the optimum deal.

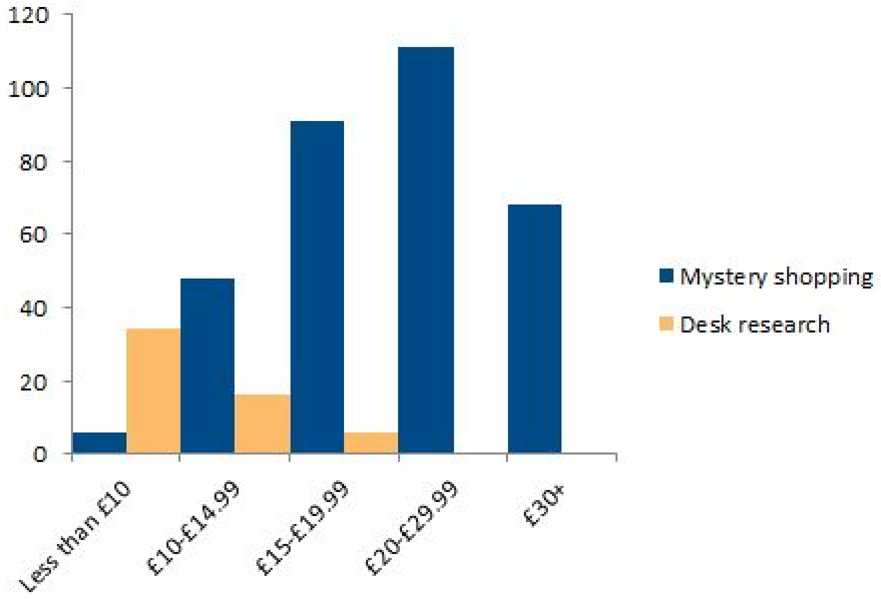
Average monthly cost of tariffs found/recommended, desk research vs. mystery shopping.[10]

A closer examination of the distribution of the tariffs recommended to our mystery shoppers reveals that more than half (55%) were recommended tariffs that would cost £20 or more per month. In contrast, our desk research did not return any contracts at this price. In addition, whereas 61 per cent of our desk research deals came in at under £10 per month, just 2 per cent of our mystery shoppers were offered contracts in this price bracket.

[10] Unless otherwise stated, in all cases the base is 324 mystery shops (the number of mystery shops in which the salesperson made a tariff recommendation) and 56 desk based searches.

Figure 1.2: More than half of the tariffs recommended by sales staff cost £15 or more

Frequency of quotes by monthly cost



2. Price range

The range of tariffs a particular network or chain of independent stores is offering at any one time, and so by extension the tariffs a salesperson can recommend, is unlikely to differ significantly from store to store, or across sales channels. For example, a salesperson in one Three Mobile store is likely to have the same range of tariffs to make a recommendation from as a salesperson in another Three Mobile store or a colleague in the Three Mobile call centre.

If sales staff are making recommendations based on the customer's stated usage, we would expect each of our mystery shoppers - who presented with the same needs - to be recommended similar tariffs with a similar monthly cost. However, our research found significant variation in the cost of the tariffs recommended. The tariffs identified through our desk research ranged from £5-19.00, a variation of £14. In contrast, the monthly cost of tariffs recommended to our mystery shoppers ranged from £7 to more than £50.

Figure 1.3: The cost of the tariffs recommended by salespeople varied by more than £40 per month

Range of monthly price of tariffs recommended by sales staff vs those identified through our desk research

Breaking these findings down by supplier reveals a surprising level of variation in the tariffs recommended by representatives of the same network. For example, the tariffs recommended by EE staff ranged from £10 to £50.82, a total variation of £40.82. Over the course of a two year contract consumers opting for the most expensive recommendation would pay nearly £980 more than those opting for the least expensive.

Figure 1.4: The cost of tariffs recommended by sales staff working for network varied by £40 per month

Minimum, maximum and average monthly cost of tariffs recommended by network (anonymised)

Significantly, some of the mystery shoppers *were* recommended tariffs similar in cost to those identified through our desk research. This suggests that some mobile phone sales staff are able, and willing, to translate the information given to them by the customer into an appropriate tariff recommendation. This raises the question of why this was not more typical of the experience of the majority of our mystery shoppers.

3. Inclusive services

While the gap between the cost of the tariffs recommended by salespeople and the cost of the optimum tariffs identified through the desk research is significant, further analysis reveals that the tariffs our mystery shoppers were recommended did include significantly more generous inclusive allowances. In cases where our shoppers were recommended a specific contract tariff (81 per cent) a large majority included a monthly allowance of 500 minutes or more. Forty three per cent were recommended tariffs with an inclusive allowance of 1000 minutes or more. Meanwhile, 60 per cent of the recommended tariffs included 1000 megabytes or more per month. More than one in four (30 per cent) were offered data allowances of 2000 megabytes or more.

Figure 1.5: Four in five mystery shoppers were recommended tariffs with 500 inclusive minutes or more

Distribution of inclusive minutes for tariffs recommended to mystery shoppers

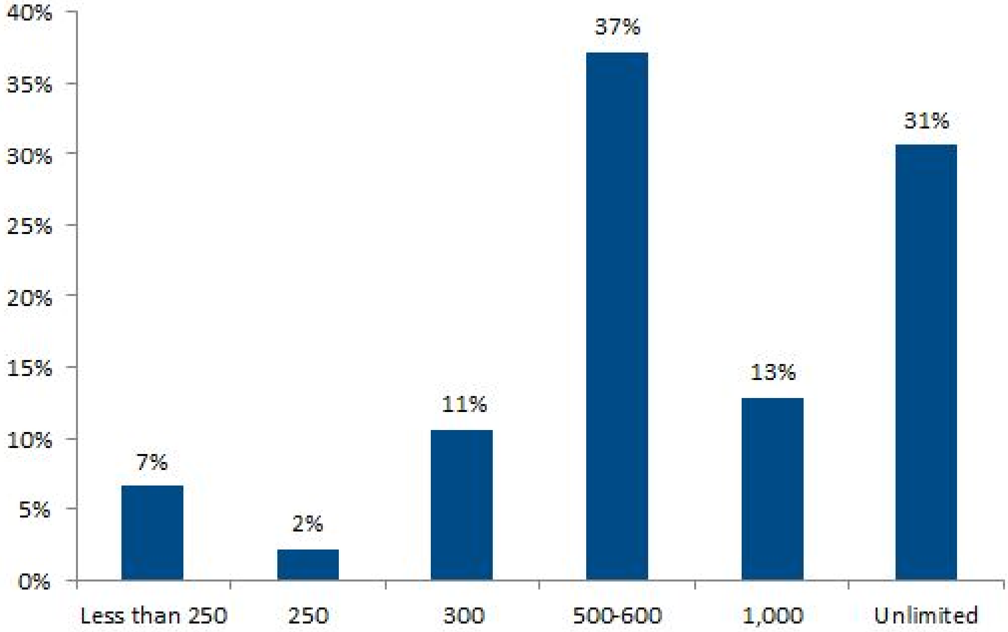
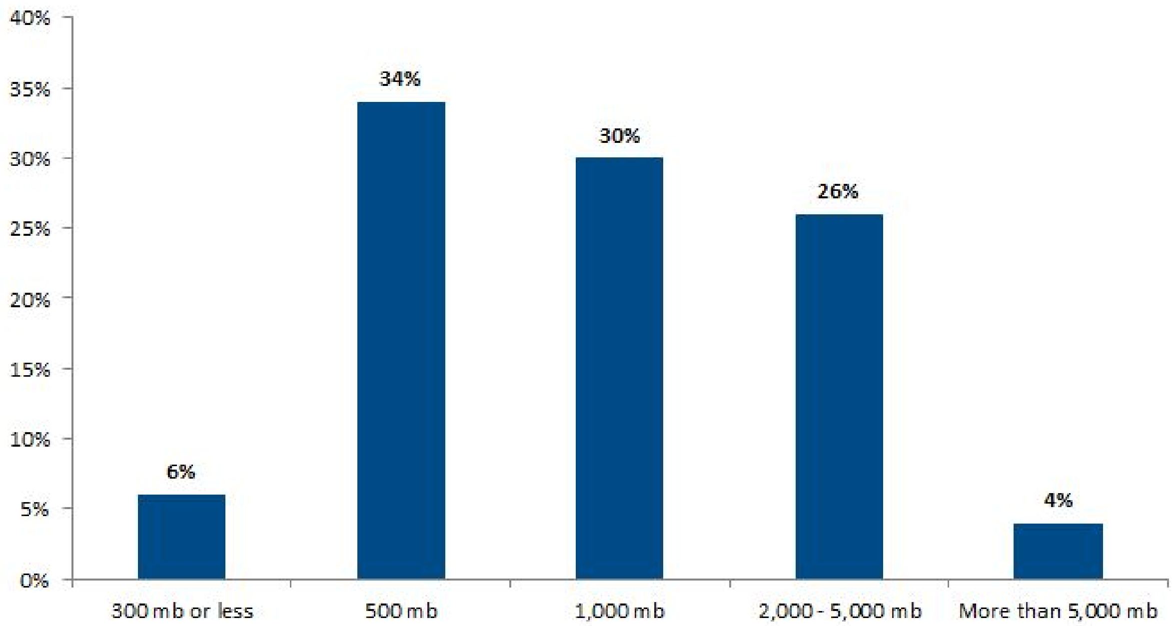


Figure 1.6: More than nine in ten mystery shoppers were recommended tariffs 500 mb of inclusive data or more

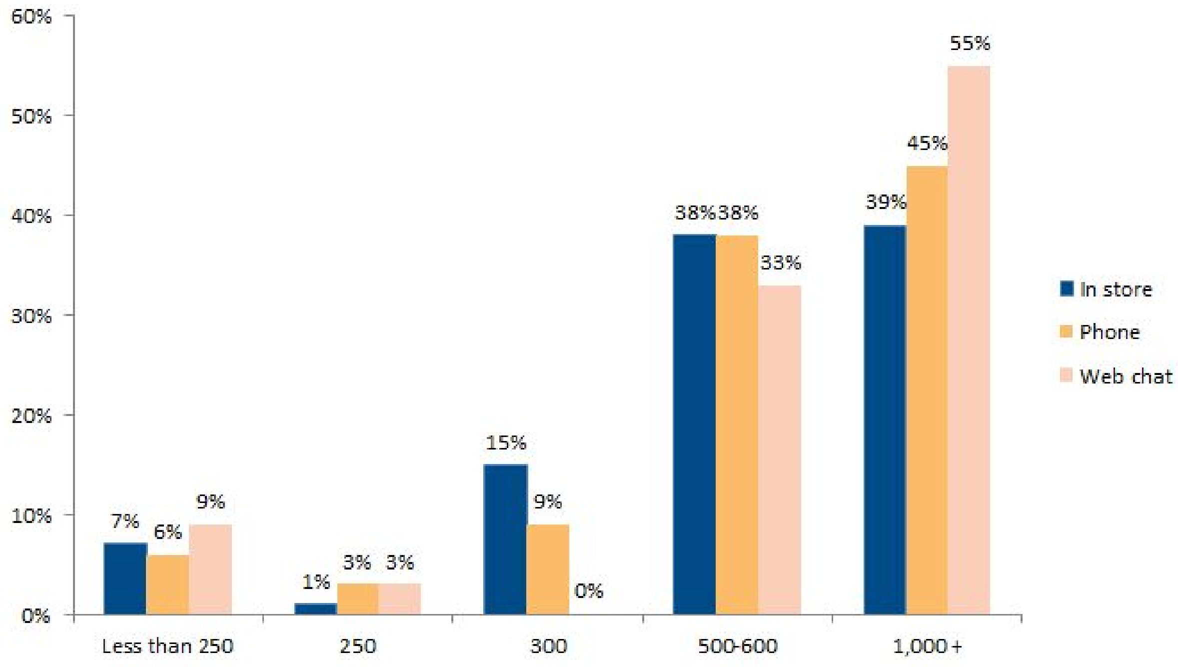
Distribution of Inclusive data allowance for recommended tariffs



Again we see differences across contact channels. As Figure 1.7 shows, shoppers using web chat were significantly more likely to be offered a high volume call allowance (1000 or more minutes per month) than store visitors or those calling retailers on the phone.

Figure 1.7: Salespeople on webchat were most likely to recommend tariffs with 1,000 minutes or more

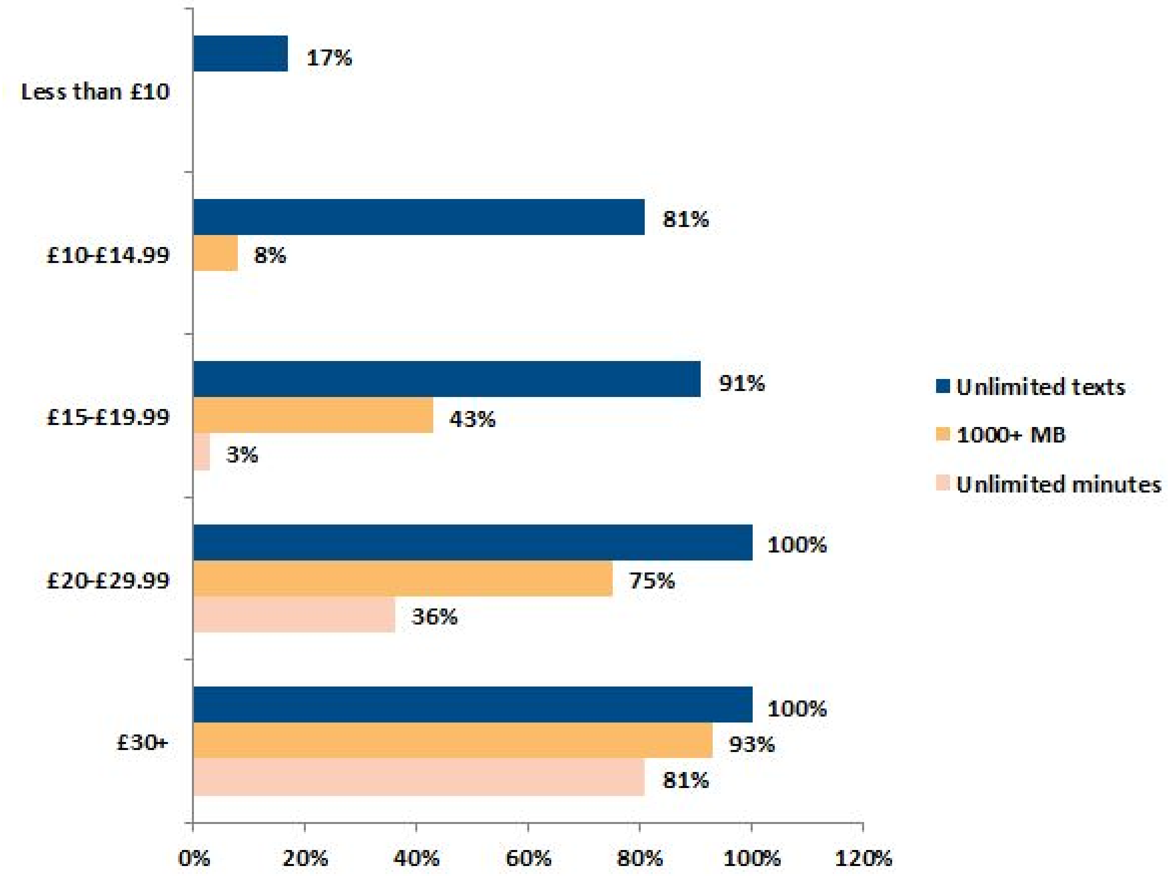
Distribution of number of inclusive minutes per month for recommended tariffs by shopping channel



Our research also reveals a strong correlation between high cost tariffs and more generous inclusive allowances. Our mystery shoppers would, therefore, have 'got what they paid for' if they had elected to go with the tariffs recommended to them.

Figure 1.8: You get what you pay for - higher cost tariffs came with higher inclusive allowances

Proportion of tariffs with highest band of data, call and text allowances by price band



The question, then, is why consumers with an 'average' usage profile are routinely being recommended more expensive tariffs with inclusive allowances which are disproportionate to their needs. In the following chapter we examine our mystery shoppers' experience of the sales process in more detail and explore potential explanations for this discrepancy.

Chapter two - explaining the price gap

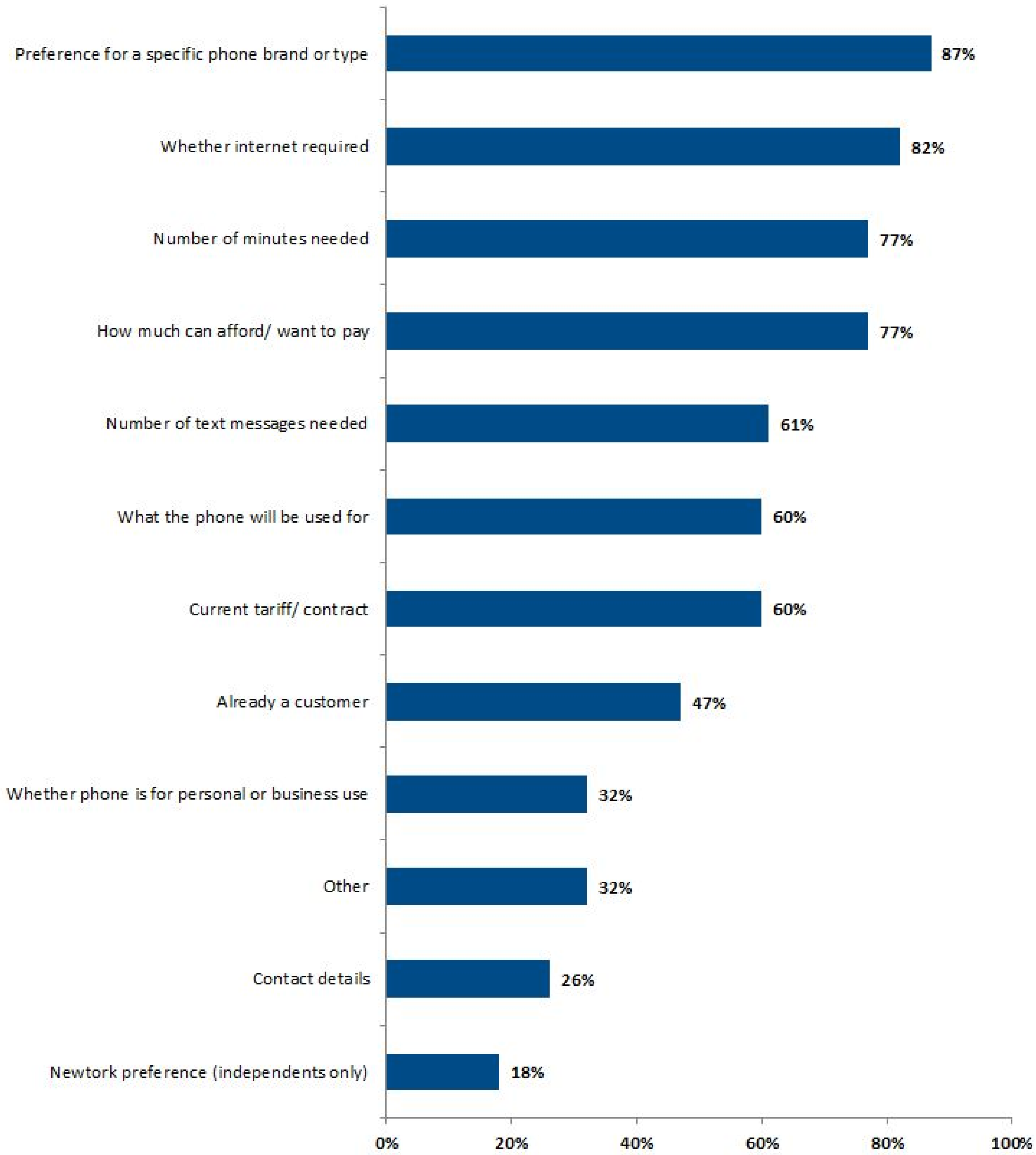
The gap between the tariffs identified through our desk research and those offered to the mystery shoppers is evidence that sales staff don't always recommend tariffs which match up with the customer's usage. But why is this the case? In this chapter we consider three possible hypotheses: First we look at whether people are being asked the right questions to establish their usage and how this feeds through to the final recommendation. Second, we explore the potential impact of the ways in which tariffs are structured on the recommendations made by sales staff. Finally, we consider whether sales staff are deliberately up-selling more expensive, profitable products.

Right questions, wrong answers?

In the vast majority of cases our mystery shoppers were asked most of the key questions we would expect them to be asked in order to build up an accurate picture of the customer's needs. The most commonly asked question was what brand/model of handset the customer wanted, followed by questions about their need for internet access, the number of calls they make and their monthly budget.

Figure 2.1: Salespeople asked the right questions to establish the customer's needs

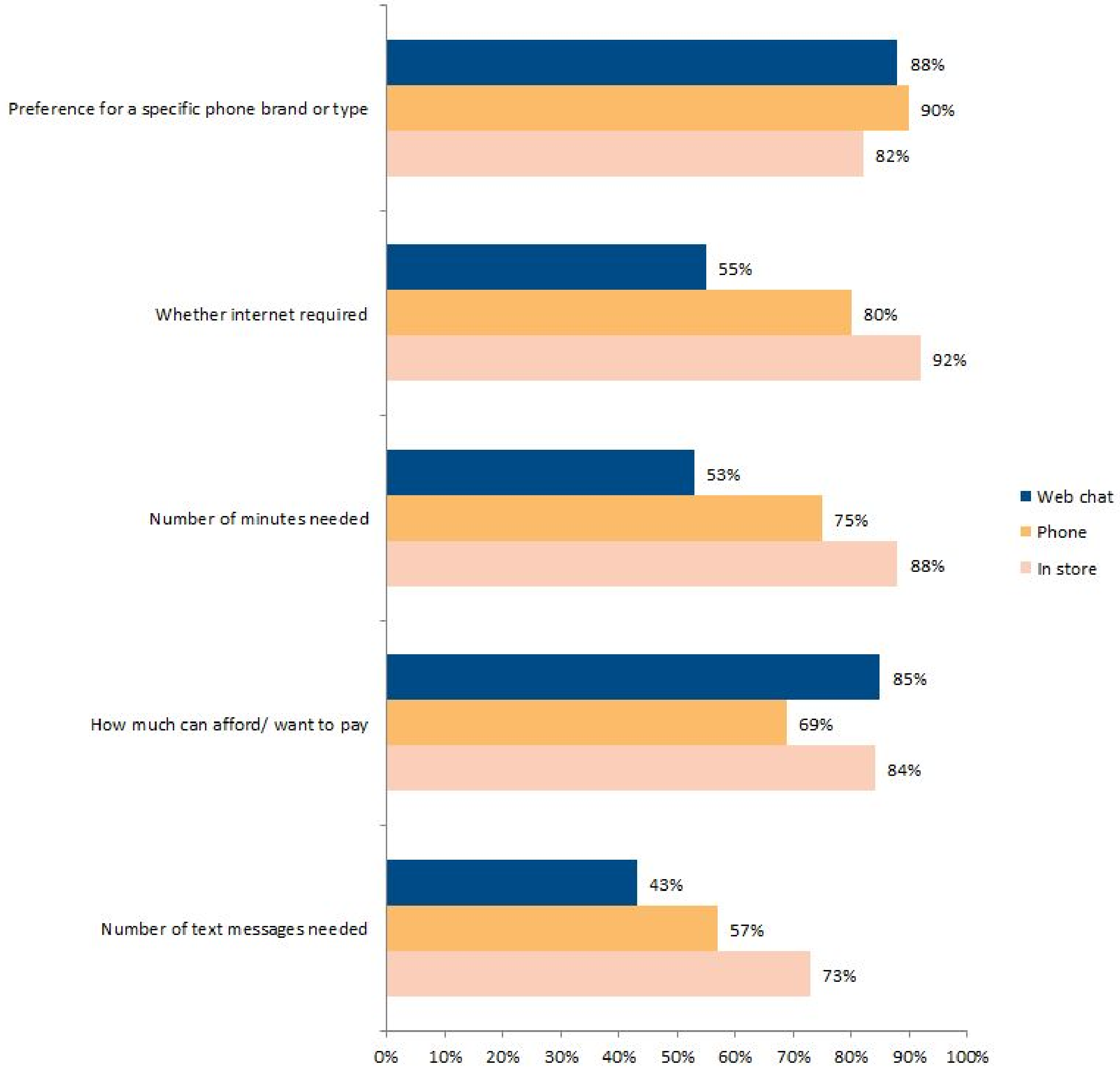
Proportion of mystery shops in which the salesperson asked particular questions



There were some differences depending on the contact channel the shoppers used - our mystery shoppers were significantly less likely to be asked about whether they wanted to be able to access the internet through their phone and how many inclusive minutes and text messages they needed when engaging with the company through web chat. Conversely, our shoppers were less likely to be asked how much they wanted to pay each month over the phone than when using other channels.

Figure 2.2: Salespeople on webchat least likely to ask about call and text needs

Proportion of mystery shops in which the salesperson asked particular questions by contact channel (base 350)



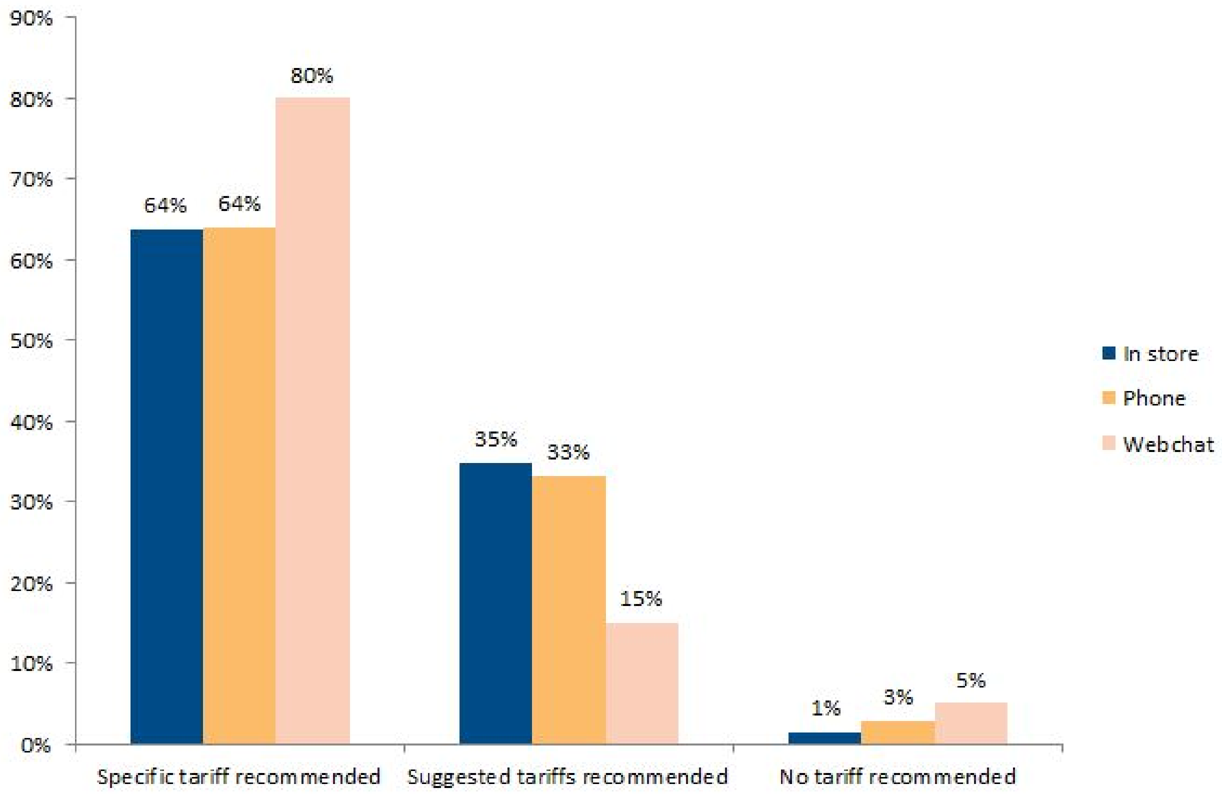
That these questions are asked by sales staff in a large majority of cases is a positive sign. Being equipped with information on the customer's usage profile should enable salespeople to make good tariff recommendations.

Making a recommendation

Having established the consumer's needs, most sales staff then went on to recommend a particular tariff without being prompted to do so by our mystery shopper. Shoppers approaching the retailer through webchat were significantly more likely to be recommended a specific tariff without prompting (80 per cent) than those visiting stores or making telephone enquiries (64 per cent).

Figure 2.3: Salespeople on webchat were more likely to make a tariff recommendation without prompting

Proportion of mystery shops where the salesperson made a tariff recommendation by sales channel (base 350)



In cases where the salesperson did not recommend a particular tariff without prompting, our mystery shoppers were asked to prompt the sales person to make a recommendation. In total, including cases where shoppers had to prompt staff for a specific recommendation, a specific tariff was recommended in 94 per cent of cases.

As our mystery shoppers were in most cases asked for all of the information necessary to identify a tariff which matches their usage, we would expect this information to be reflected in the tariff recommended. However, as outlined in chapter one, this was not the case - our mystery shoppers were routinely recommended more expensive tariffs with allowances which far outstripped their usage. In fact, as Table 1 shows, whether the mystery shopper was asked suitable questions regarding their typical call and data consumption had very little bearing on the volume of minutes and data included in the tariff they were recommended.

Table 1. The questions shoppers were asked had very little impact on the inclusive allowances of the tariffs they were offered

A comparison of the inclusive call and data allowances of tariffs recommended to all mystery shoppers and those specifically asked about their call and data usage.

Calls included in recommended tariffs		
Allowance (minutes)	All shoppers[11]	Shoppers specifically asked about call usage[12]
Unlimited	31%	30%
1000	13%	10%
500-600	37%	37%
300	11%	12%
250	2%	3%
Less than 250	7%	7%

Data included in recommended tariffs		
Allowance (megabytes)	All shoppers[13]	Shoppers specifically asked about internet usage[14]
5000 or more	4%	4%
2000-5000	26%	27%
1000	30%	31%
500	34%	33%
300 or less	6%	6%

If people are being asked suitable questions to establish their requirements, and, as our desk research found, suitable tariffs which broadly match these requirements do exist, why did the tariffs our shoppers were recommended by sales staff exceed these requirements by such large margins?

Hung-up on the handset?

A strong focus on the handset throughout the sales process emerges as the most compelling explanation for this discrepancy. Our mystery shoppers were instructed not to express a preference for a particular make or model of handset. However, our shoppers found that the choice of handset plays a dominant role in the sales

[11] Base: all mystery shoppers recommended tariff with specified allowance of minutes (n=320)
[12] Base: all mystery shoppers specifically asked about call usage and recommended tariff with specified allowance (n=252)
[13] Base: all mystery shoppers recommended tariff with specified allowance of data (n=319)
[14] Base: all mystery shoppers specifically asked about internet usage and recommended tariff with specified allowance (n=265)

process. We asked them to note which question they were asked first after approaching a salesperson and explaining that they were looking for a new contract. The single most common question - asked in 87 per cent of cases - was about the shopper's preference for a particular handset (see Figure 2.1, above). This was to some extent replicated in our desk research, which found retailer websites and price comparison websites often expect the customer to select a handset before asking about usage and displaying the tariffs available. A consumer is therefore not able to progress to a tariff comparison before they have narrowed down their search to a particular handset.

Just like many other modern marketplaces, the mobile phone market is shaped by brands. Although mobile phones have become an essential service in the modern world - a basic 'utility' like your electricity supply - users don't tend to see their phone in a purely utilitarian way. It can be just as important to mobile phone customers whether they have the latest Apple iPhone or Samsung Galaxy as it is to the fashion conscious whether they are wearing Primark or Prada. The strong focus on handset preference within the sales process is not, therefore, the choice of the retailer alone. Neither does it automatically give rise to consumer detriment.

The way in which the majority of mobile phone contracts are structured and marketed does, however, appear to encourage a sales process which is overly focussed on the handset at the expense of the service aspect. Some networks, for example O2 and Virgin Mobile, have taken the step of splitting out the cost of the handset from the cost of the service, with a separate contract for each element. However, most networks combine the cost of the handset with the cost of the service into one contract, with one monthly payment. This gives rise to concern for two primary reasons:

- First, as discussed above, many consumers go into the sales process with at least some idea of the handset they would like to buy. High-end, big brand devices are often only available with high cost tariffs which have extensive inclusive allowances and long minimum contract terms.[15] This in large part reflects the higher cost prices paid by retailers to the manufacturers of these popular, high specification handsets. Again, in and of itself this is not necessarily unfair or detrimental to consumers - you get what you pay for and many consumers are happy to pay a premium for branding and functionality.

  However, this practice significantly cuts down the range of tariffs open to the consumer, and means that average users who want a top of the range phone, but do not want to pay the full cost upfront, have little option but to pay for inclusive services they will only ever use a fraction of.

[15] MoneySavingExpert.com suggests that 'swanky smartphones are NEVER MoneySaving' [emphasis in original]: http://www.moneysavingexpert.com/phones/mobile-phone-cost-cutting

- Second, combining the cost of the handset and the cost of the service in one monthly payment makes it impossible for consumers to establish how much in total they will pay for the handset, and how payment will be divided up over the course of the contract. They are similarly unable to establish how much they are paying for their inclusive services. As well as fundamentally lacking in transparency, this makes effective price comparison across the market all but impossible. How can consumers be sure that they are getting a good deal if they do not know how much they will be paying for each element of the contract, and how the cost of the handset will be spread over the minimum contract term? This is particularly important as consumers can be tied into a mobile phone contract for up to two years.

Sales tactics

Sales tactics, such as upselling, may also help to explain the gap between the cost of the tariffs recommended by salespeople and the tariffs identified through the desk research. As noted above, however, we found no real evidence of misleading sales practices under Ofcom's current definition. The price of tariffs and any inclusive allowances were explained to our mystery shoppers, and the more expensive tariffs came with more generous allowances. Our mystery shoppers would have got what they paid for.

Neither did our research uncover evidence of widespread pressure selling. We asked our shoppers to record whether they felt that the salesperson was trying to get them to make a decision there and then. The vast majority of them (78 per cent) felt that the salesperson had merely given them information about the best tariff for them.

A third of our mystery shoppers did, however, feel that the salesperson was trying to get them to make a decision on the spot. One in ten (11 per cent) felt under significant pressure to buy. This rose to 16 per cent amongst those who had visited an independent retailer rather than a mobile phone network. In the words of one mystery shopper:

> *They wanted me to call them back. They said they were targeted with sales and it would really help them if I ordered through them. When I said I would call back if I decided to go ahead they gave me their name and extension and said that I should ask for them and not take any notice if someone told me they were not there.*

Figure 2.4: Two in three mystery shoppers did not feel pressured to make a decision on the spot

Answers to question 'Did they try to get you to make a decision there and then?' (base 327)

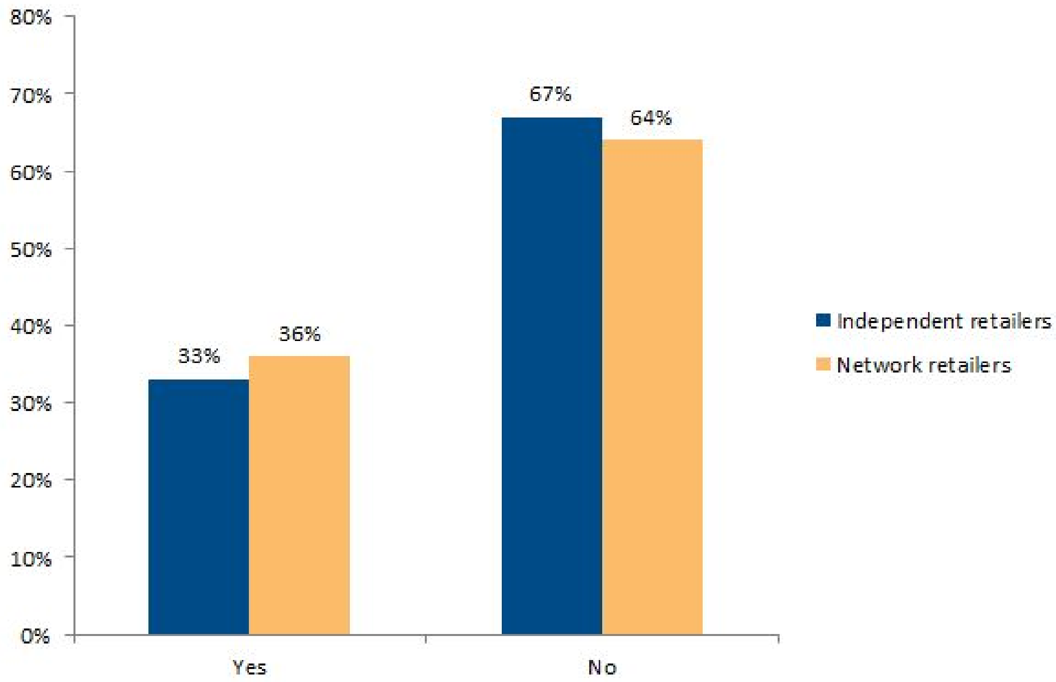
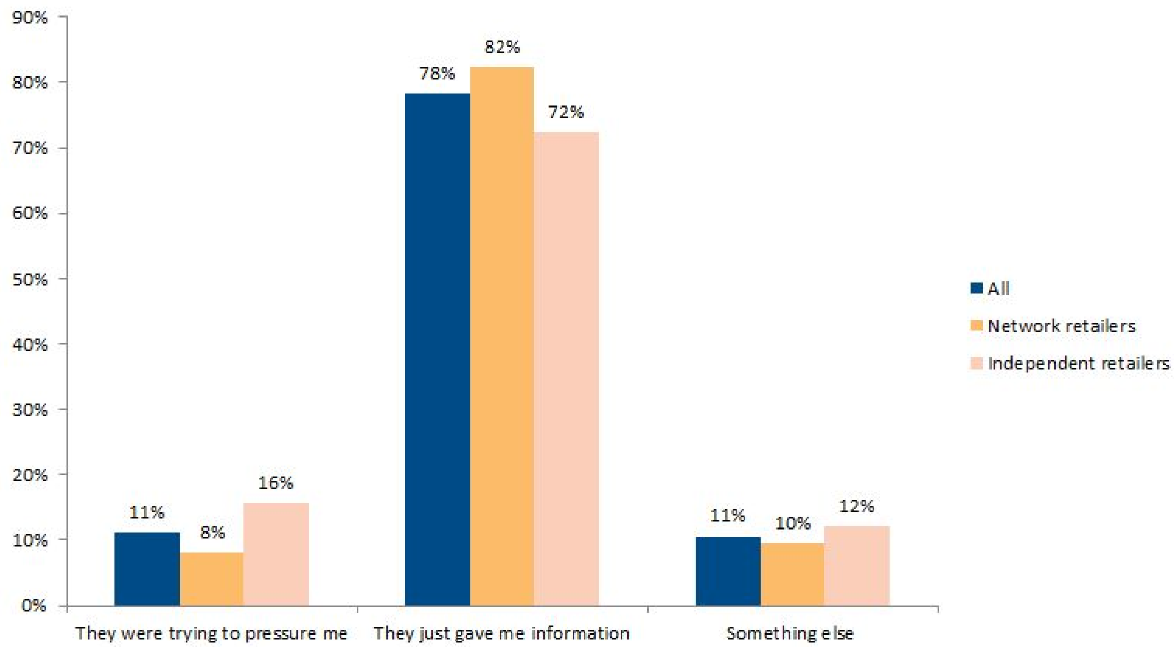


Figure 2.5: Mystery shoppers visiting an independent retailer were more likely to feel under pressure to buy than those visiting a network retailer

Answers to question 'which statement most closely describes how you felt?' (base 350)



Paying sales staff commission for the sales they make is common practice across many consumer markets. We do not have access to the incentive structures the mobile phone companies have in place. However, our findings do raise a question as to whether sales staff are incentivised, for example through targets or additional bonuses, to push customers towards more profitable, high value tariffs, regardless of their needs. Further research in this area would allow us to assert with greater confidence the extent to which upselling accounts for the disparity between the information given by the customer and the tariff recommended.

Overall, our research points to a sales process which begins well, with sales staff asking all of the right questions to make a sound recommendation. However, key information about the consumers’ needs seems to be disregarded when it comes to recommending a tariff. In this chapter we have highlighted two potential causes of this disconnect. A strong focus on the handset throughout the selling process, at the expense of the service element of the contract, emerges as the most compelling explanation. Sales tactics, including upselling, may also play a role. In the next and final chapter we conclude with a discussion of our findings, making a series of practical recommendations.

Chapter three - Conclusion and Recommendations

The primary objective of this research was to explore whether people are being pushed, or misled, in accordance with Ofcom's definition of mis-selling, into signing up for high cost contracts with allowances which significantly exceed their needs. We found no evidence of mis-selling under the current definition. On the whole mystery shoppers were asked suitable questions about their needs and, where a recommendation was made, clear information was given about the features and cost of the recommended tariff. Neither did we find evidence of widespread pressure selling or 'aggressive conduct' in the market - though we did find some worrying examples of bad practice, particularly amongst independent retailers.

However, the scale of the gap between the cost of the tariffs recommended by mobile phone companies' sales staff and the tariffs identified through our online research as being the closest match with our scenario consumers' needs is concerning. Although our mystery shoppers were asked all of the right questions, in a majority of cases sales staff recommended tariffs which significantly exceeded their needs. Consumers often choose to have a small 'buffer' between the allowances included in their contract and their actual usage but people are paying way over the odds for contracts which far exceed their needs.

Overall a picture emerges of a sales process which centres around the handset - in a majority of cases information about the inclusive allowances a customer requires does not feed through into the tariff recommendation. This is partly consumer led as people chase the latest brands, but is also in part due to the way in which tariffs are structured. The common practice in the market of combining the cost of the handset with the service charge restricts the range of tariffs available to the consumer as many of the more desirable handsets are only sold with expensive tariffs with generous inclusive allowances. This practice also makes it impossible for consumers to establish how much they are paying for their handset in total, how much for their service, and how these costs are apportioned over the minimum contract term. The disproportionate focus on the handset during the sales process also raises questions as to whether the service side of the market can be said to be truly competitive.

Some companies, such as O2 and Virgin Mobile, have already taken the decision to split out the two elements into separate contracts, providing greater transparency for their customers. The regulator must now send a clear signal to the rest of the market that they must do the same. This could be pursued as a voluntary commitment in the first instance. However, Ofcom should be prepared to regulate if this approach does not yield swift results.

Recommendation 1: Ofcom should work with BIS and DCMS to broker a voluntary agreement with mobile phone companies to separate out the cost of the handset from the service element of mobile phone contracts.

Consumers should be provided with a full breakdown of the cost of the tariff at the point of sale, including:

- **the monthly cost of the service contract, including any inclusive allowances**
- **the total cost of the handset and how payments for the handset will be divided up across the minimum term of the contract**
- **the date at which the cost of the handset will have been repaid in full and payments for this element will cease**
- **the amount of interest, if any, payable on the cost of the handset, expressed as an APR and a total figure.**

The ultimate goal should be to make the price of both the tariff and handset clear to allow for price comparisons. If a voluntary approach is not successful, Ofcom should take regulatory action to compel companies to separate out mobile phone contracts in this way.

The emphasis on handset selection during the sales process is not confined to sales which involve interaction with sales staff. Our desk research found that consumers buying a contract online, whether through a retailer's website or a price comparison website, are in many cases required to select a handset before they are able to view available tariffs. While this may be an efficient way to shop for consumers with a clear handset preference, consumers seeking the best deal based on their consumption have no easy way to compare tariffs across handsets. Providing customers with the option to search based on the amount of data they use, or calls they make, would make this process far simpler and less time consuming.

Recommendation 2: Price comparison websites and mobile phone retailers should provide customers with the option of searching for deals based on their consumption rather than handset preference.

Our research also points to two additional areas which warrant further investigation:

First, nearly three in four (72 per cent) of the mystery shoppers dealing with network retailers and two in three (63 per cent) dealing with independent retailers felt that the tariff recommended to them during the sales process was the 'best deal for them'. Our comparison of the tariffs recommended by sales staff and those identified through our desk research suggests that this is not the case. This discrepancy between perception and reality suggests that consumer awareness of their usage, particularly when it comes to how much data they use, is low. The number of UK consumers identified by Bill Monitor as being on a tariff with inclusive allowances which significantly exceed their usage is further evidence of this.

Tools which help consumers to understand their usage and prompt them to consider whether they are on the most suitable tariff may help to address this issue. For example, currently companies are under no obligation to contact customers to inform them that they have reached the end of their contract. Alongside the risk that consumers who don't switch at the end of the contract are missing out on better deals, in many cases a failure to take action will also result in the consumer continuing to make payments for a handset they have already paid for in full. An 'annual statement' which clearly sets out how much the customer has paid over the year and, on average, what proportion of their monthly allowances they have actually used each month, would act as a useful prompt to action and ensure the consumer has all of the information they need in one place. Similar provisions already exist in the energy and financial services markets.

Recommendation 3: Ofcom should carry out further work to identify and develop tools, which will help consumers to quickly and easily understand their consumption and find tariffs which meet their needs.

This could include an 'annual statement', as found in the energy market, which sets out the key features of the tariff the consumer is on, what proportion of their inclusive allowances they used each month over the past year and in how many months they exceeded their allowance.

Second, upselling is a common feature of many consumer markets and, as long as consumers are not misled as to terms and conditions of the contract, is not in breach of current Ofcom regulations. However, the long term nature of mobile phone contracts, which often come with minimum terms of two years, and the failure of a majority of mystery shoppers to identify that they had not been offered the most appropriate tariff for their needs is concerning. In this complex market consumers are often relying on sales staff to help them to navigate the wide range of tariff options to find the best deal for them. Our research suggests that reality is currently falling short of consumer expectations and perceptions. That so few of the sales staff our mystery shoppers engaged with were able, or willing, to translate the information they were given into an appropriate tariff recommendation also points to a need for more intensive training for staff on this aspect of the sales process.

Recommendation 4: Mobile phone companies should review the training and incentive structures in place for sales staff to ensure that:

a. **Staff are trained to ask the right questions to establish the volume of minutes, texts and data the customer typically uses each month and, crucially, to be able to translate this into an appropriate tariff recommendation.**
b. **Staff are incentivised to recommend contracts which best meet the customer's needs, and not to push customers towards more expensive tariffs with inclusive allowances which significantly exceed their usage.**

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