



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus response to the Ofcom consultation on Changes to General Conditions and Universal Service Conditions

April 2011

About us

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland. We operate across the whole of the economy, persuading businesses, public services and policy makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

Acronyms used in this response			
ADR	Alternative Dispute Resolution	MTR	Mobile termination rates
BIS	Department for Business, Innovation and Skills	NoT	Notice of transfer
GPL	Gaining provider-led	PAC	Porting Authorisation Code
IAB	Internet Advertising Bureau	PAYG	Pay as you go
ISP	Internet Service Provider	P2P	Peer to peer
LPL	Losing provider-led	QoS	Quality of service
MAC	Migrations authorisation code	SMP	Significant market power
MNO	Mobile network operator	USD	Universal Service Directive
MNP	Mobile number porting	VOIP	Voice over internet protocol

Introduction

We welcome the opportunity to comment on the Ofcom consultation on Changes to General Conditions and Universal Service Conditions that derive from the implementation of the revised EU Framework. Our position is reiterated from our response to the Business, Innovation and Skills Department consultation on implementing the revised EU Electronic Communications framework.¹

Overall we welcome the new regulations which we believe will strengthen consumer protection and encourage more open and fair electronic communication markets. However, in order to ensure that the new legal framework provides a better consumer protection regime, we recommend that Ofcom ensures that the new regulations will:

- improve transparency of information to consumers in the areas of tariffs, price comparison services, information on customer services, information on network coverage and not spots, and broadband speed and overall traffic management
- lead to a genuine choice of contracts for consumers
- strengthen consumers' access rights to non-geographic numbers
- deliver traffic management guidelines that enshrines the principle of net neutrality and non discrimination to safeguard consumers and citizens access and choice to internet services, to include access to public services and digital inclusion
- facilitate the process of making data on telecommunication providers' complaint record and customer service standards publicly available
- encourage Ofcom to work with consumer organisations and industry stakeholders to foster work on setting minimum quality of service indicators

¹ <http://consumerfocus.org.uk/g/4or>

Contracts including consumer information, contract length and contract termination

Q5. Do you agree with our proposed approach to contract related requirements relating to the provision of additional information, the length of contracts and the conditions for termination?

Consumer information

Complexity and consumer information has emerged as a key theme of Consumer Focus' work to date in the mobile sector. The market is highly competitive, leading to innovation and downward pressure on prices. However, too often consumers pay too much and get too little value because they do not have access to the information and tools to allow them to make informed choices when buying products and services. The aim of the revised Framework for Electronic Communication is to improve the existing information asymmetry on the market by providing consumers with better quality of information on telecommunication services such as information on prices, tariffs and terms and conditions.

Ofcom considers however that there may be limited impact arising from these new regulations as communication providers (CPs) generally provide much of required information in their contracts already. While we agree with Ofcom that the provisions about information are already in place in the UK, we would like to point to the fact that in many cases the consumer information provisions are not bringing any benefits to consumers. Our research in the mobile sector² found that consumers are struggling to deal with the perceived complexity of the mobile phone market. For example only one in five mobile users found it easy to navigate through the range of tariffs available, with close to 70 per cent feeling that there are too many mobile tariffs.

The Consumer Focus research also illustrates consumer confusion about the lack of clear information about call charges³:

- Less than half of respondents (45 per cent) were aware they are charged for 0800 calls from mobiles, while almost one in five (19 per cent) thought these calls were free
- Awareness of charges for 0845 and 0870 numbers was higher among respondents (57 per cent and 51 per cent respectively) but large numbers of consumers didn't know whether they were charged or not (33 per cent and 42 per cent respectively)

² Online survey conducted by Harris Interactive in March 2009 amongst 2,013 adults aged 18+, who are responsible for paying the bill for a mobile phone used mainly for personal, rather than business, purposes. A split of 66 per cent PAYG and 34 per cent contract customers was achieved to mirror the proportions present in the GB market.

³ Telephone omnibus survey commissioned by ICM research, on behalf of Consumer Focus, in March 2010. Sample size 1,000

- Awareness of charges for 0300 numbers was particularly low; less than a third (31 per cent) knew that they would be charged for these numbers and 60 per cent didn't know whether they would be charged or not
- When asked how much they would be charged for calling 0800 numbers, respondents who made an estimate were generally accurate (up to 25p), but the overwhelming majority (83 per cent) did not know how much the charges were

In addition, the rising popularity of bundles, while offering consumers a wide range of services often at a discounted price, also presents further complications to switching processes.

So while we welcome the Ofcom's recommended list of what information should be provided to consumers under CPs' contracts, we recommend Ofcom's takes account not just of the quantity but also of a quality of information. In particular we encourage Ofcom to work with CPs to improve the existing format of the information, to enable consumers to compare information provided.

We also recommend that Ofcom investigates the issue of consumer information in close conjunction with its work on the Consumer Switching Review. We would like to refer to Ofcom's own research which demonstrates that 'not knowing what process to use to switch'⁴ was a factor in some consumers deciding not to switch providers⁵. Consumers should have access to independent information on how to switch mobile provider as well as how to get the best mobile deal and information about provider's customer service standards and price. Consumer Focus research indicates that although information about cost is important in considering switching, other factors such as previous experience with a company, information about coverage and provider reputation are also important⁶.

Schemes such as Ofcom's price accreditation offer consumers assurance that the price calculator is accessible, accurate, up-to-date, transparent and comprehensive. However when we asked respondents to our survey if they are aware of Ofcom's scheme, 82 per cent were unaware of it. Ofcom accreditation has now been awarded to three broadband providers but only one mobile phone provider. The low awareness among consumers of the accreditation scheme and low take up from companies undermines the potential benefits of this kind of independent information. It also demonstrates the need for Ofcom to take a more active role in raising the profile of the accreditation scheme.

Consumers perceived complexity of the market, their lack of awareness of switching processes and the low take up of the Ofcom price accreditation service all illustrate the need not only for an increase in independently accredited price comparison sites, but also for information on customer service standards and coverage. To this end we urge Ofcom to take a more holistic approach to switching, linking it closely with related reviews of consumer information and the Ofcom review of consumer complaints.

Another issue to consider in connection to switching is the transfer of personal data stored on digital devices and equipment. We believe it is important for Ofcom to consider both questions around the procedural switching of services (ie who provides mobile, landline, broadband and TV services) and the porting of 'personal elements' of services, including mobile and landline numbers, email accounts and stored data such as photos.

⁴ Ofcom, Strategic review of consumer switching, pg 83.

⁵ Ofcom, Strategic review of consumer switching, pg 46.

⁶ Consumer Focus commissioned ICM to conduct a Telephone Omnibus Survey of 1,000 adults, nationally representative adults aged 18+. It was conducted between 24 and 31 March 2010. When we asked our survey respondents what factors influenced their decision the last time they looked for a phone deal 67 per cent cited cost as the primary motivation. 48 per cent cited previous experience with a company, 43 per cent cite Network coverage, and 41 per cent cite the provider's reputation.

Personal information on the personal elements of services may not be at the forefront of consumers' minds when they switch, but consumers need to be aware of how to delete, transfer and access the personal information connected to the service they are switching.

The revised Framework Directive also introduces the requirement of transparency of information on traffic management practices. In our view the new provisions to safeguard the transparency requirement on traffic management should serve as the starting point for improving the quality of consumer information so that it is meaningful and empowers switching. We provide in-depth comments on the issue later in the 'net neutrality and traffic management' section.

Our recommendations

As part of the implementation of the new regulations we see a greater role for Ofcom in driving improvements in transparency of information.

For example we were encouraged by Ofcom's proposals to improve transparency of information on traffic management set out in the discussion paper on net neutrality and traffic management (June 2010). However, we strongly recommend that the issue of transparency and quality of information on traffic management should be investigated in the context of general information provision to consumers, by exploring the most appropriate and effective models to help decrease information asymmetry in the telecommunication sector. Failure to do so will result in the increase rather than decrease in information asymmetry and will add to consumers' confusion.

In particular we recommend Ofcom addresses the issue of improving transparency of information to consumers in the following areas:

- Tariffs
- Price comparison services
- Information on customer services
- Information on network coverage and not spots, and broadband speed

We also recommend that Ofcom publishes comparative data on telecom services as part of fulfilling the new Universal Service Directive obligations to enhance transparency of information. For example we have pressed with Ofcom the need to publish comparative data on mobile services.

Contract length

Under the new rules the maximum initial duration of a contract signed by a consumer with an operator will be no longer than 24 months. Operators must also offer consumers the possibility of 12 months contracts.

According to the Ofcom Communications Market Report 2010, two-year contracts have become standard, having grown steadily more common over the past two and a half years. For example having accounted for just 2 per cent of contracts in Q1 2008, they now make up 63 per cent of all new mobile contracts. A corresponding fall has taken place in 18 month contracts over the same period, from 72 per cent to 12 per cent. Numbers of 12 month contracts and one month SIM-only contracts have remained relatively static throughout this period

This trend towards longer contracts is not necessarily beneficial to consumers.

- Longer contracts typically offer customers cheaper up-front charges and lower monthly tariffs, but can be significantly more expensive over the life of the contract. For example consumers pay between £90 and £190 more if they sign up to a 24 month contract rather than an 18 month contract

- Longer contracts limit consumers' ability to switch, putting a brake on competition in the market
- In the mobile sector the dominance of two year contracts limits consumers' options for financing their mobile package in the way that suits them best. For example, consumers are very restricted in their choice of 12 month contracts involving higher up-front costs, though this is an option that may suit some people. Therefore we do not see Ofcom's rationale to exempt from the requirement to provide 12 month contracts mobile contracts that include high-end handsets. We are concerned that such a move would keep the status quo of the restricted choice of financing mobile packages, and have an adverse impact on switching rather than alleviating the latter. In addition we are concerned about the potential adverse impact of this decision on contracts with bundled services (eg television, broadband and fixed line) that include equipment which currently is offered on the market under the length of 12 months

In summary while we welcome this new legislation to limit the length of contracts to 24 months, we believe consumers will not be served by two year contracts becoming 'the norm' and want to see providers offering a range of contract lengths to suit their needs.

Recommendations

We recommend that Ofcom ensures that the new regulations will lead to a genuine choice of contracts for consumers. Companies should offer consumers a genuine range of contracts. The choice of 12 month contracts, and to a lesser extent 18 month contracts, is currently severely limited. This has a range of detrimental effects on consumers, as noted above. Therefore we discourage Ofcom to grant any exemptions from the provision of 12 month contracts offering.

In addition Ofcom should increase information to consumers to make them aware that by taking out longer contracts, they can often end up paying significantly more than for shorter contracts. For example while the benefits of longer contracts are clear at the point of sale, in terms of lower up-front charges and lower monthly tariffs, the higher cost over the life of the contract is not made clear to consumers.

Mobile number porting (MNP)

Q9. Do you agree with our proposals on the one working day requirement in relation to bulk mobile ports and in relation to fixed porting? If not, please explain why?

We have been focusing our work on the area of mobile number porting (MNP) rather than fixed line porting hence in our response we will address the issue of MNP.

Mobile number porting (MNP)

We welcome the new provisions on number portability that grant consumers the right to change fixed or mobile operator, while keeping their old number, in the shortest possible period that is no less than one working day.

We expect the new provisions on number portability will be enforced smoothly by Ofcom. We would like to point to the fact that the decision about MNP has been looked at by Ofcom in numerous consultations over the last five years. In the April 2010 Statement, Ofcom justified its decision not to take forward any further assessment of gaining provider-led (GPL) MNP processes on the basis that it is 'undertaking a separate project on consumer switching, which [will] be looking at the current approach towards switching processes and, among other things the strengths and weaknesses of different switching processes in different sectors, including mobile.'⁷

Ofcom went on to state: 'we decided to suspend consideration of moving to a GPL MNP process pending the outcome of [our] consumer switching work, which we plan to consult on in summer this year. We have therefore not taken forward analysis of the two [GPL] options set out in the August consultation (Options A and C) while the consumer switching work is in progress.'⁸

Clearly, Ofcom made its interim decision in the April 2010 statement on the basis that MNP GPL options would be fully considered as part of the consumer switching review.

It is internally inconsistent and illogical for Ofcom to now exclude mobile from this review, in order to wait for the interim decision take effect.

Waiting to see how these changes 'bed-down' is not a valid reason for delaying industry debate regarding a move to a GPL porting process. From previous experience we know that it will take considerable time for any changes to actually take effect, due to the further rounds of consultations and regulatory statements.

Ofcom's 'interim' decision in the April 2010 Statement is extremely unsatisfactory and does not address either the systematic flaws in the losing provider-led (LPL) porting process or the consumer and competition detriments it causes, which Ofcom itself has identified, including:

- **Donor operators have little incentive to make the porting process work:** The LPL system is heavily reliant on regulation to force losing operators to do the right thing by consumers. As Ofcom has now recognised, a LPL system requires operators to work against their commercial best interests

⁷ Paragraph 1.9, Ofcom's Statement and Consultation: Changes to the Mobile Number Porting Process, published 1 April 2010, available at: <http://bit.ly/eZ7fcC>.

⁸ Paragraph 1.10, *ibid*.

- **Policing burden:** Ofcom's interim decision does nothing to reduce the strong Ofcom policing effort required to make it work. In fact, arguably the interim decision increases Ofcom's enforcement burden by increasing obligations on operators. An approach which regulates itself is much more consistent with Ofcom's legal duties
- **Delays:** Ofcom's interim decision maintains the existing two-step process for consumers to affect their port. Any system which requires consumers to actively obtain a PAC rather than empowering their new operator to activate the switch on their behalf will always be prone to delays
- **The 'hassle factor':** In the consultation, Ofcom has carried out extensive research looking at the way in which hassle factors create a barrier to switching. The interim decision does little to address these factors, because the consumer still has to manage the LPL process and ask their current network for permission for what is effectively theirs by right. Ofcom's previous research shows that the majority of customers understandably want to avoid this⁹
- **Sub-optimal competitive effects:** The interim decision does not propose any way of ending the retention activity that consumers are exposed to under the LPL system. Even with Ofcom's changes, operators can still target their best deals at the small number of customers who are considering switching, or are savvy enough to play the system, rather than offer better all round deals to the whole market. Competition will continue to operate at a sub-optimal level rather than benefit all consumers
- **Unwanted save activity:** The opportunity for losing providers to engage in unwanted save activity still exists following the interim decision. Simply shortening the timeframes for providing a PAC does not, in itself, realign losing operators' incentives or actively limit potential misinformation or unwanted retention activity

We are concerned that the decision about mobile porting has been pushed back further. We believe that consumers are not well served by the current MNP system. In an omnibus survey of 1,000 participants conducted in March 2010 we discovered that 57 per cent of respondents to our survey had never switched mobile provider¹⁰.

This is worrying given billmonitor research which suggests that eight of 10 people are on the wrong contract paying £200 more than they should¹¹.

With approximately 80 million mobile phone subscribers in the UK¹² this suggests that a significant number of UK citizens are over paying for their mobile service. Given the potential consumer over spend and the low levels of switching in the market, we feel that any measures which would make mobile switching easier deserve close consideration.

In both our response to the August 2009 consultation on mobile number portability and the more recent consultation in May 2010¹³ we took the view that porting should be recipient-led and take place within two hours, as this would deliver the greatest benefit to consumers.

⁹ TNS GB Omnibus Survey, December 2008 commissioned by Ofcom.

¹⁰ Telephone omnibus survey commissioned by ICM research, on behalf of Consumer Focus, in March 2010. Sample size 1,000.

¹¹ <http://bit.ly/eYZX Cp>.

¹² Ofcom, Communications Market report, pg 321.

¹³ Consumer Focus response to Ofcom consultation: mobile number portability, October 2009 and Consumer Focus response to Ofcom's consultation on Changes to the Mobile Number Porting Process May 2010.

We referenced research carried out for Consumer Focus by Harris Interactive in March 2009 in order to gain the views and experiences of consumers around mobile number portability. In this research 79 per cent of consumers stated that they would like the switching process to be handled by their mobile network operator (MNO) on their behalf, rather than arranging the process with their new and old network providers themselves. This is because recipient-led MNP is simpler for consumers, as it involves fewer consumer-prompted interactions with MNOs and avoids the retention activity which can be unpleasant for consumers.

We recognise that Ofcom has already taken some positive steps by requiring providers to supply PACs by phone or SMS within two hours and by asserting that porting will be reduced down to one business day. However, our view remains that consumers would benefit from recipient-led porting and that Ofcom should take steps to introduce this system, aligning the UK with the large majority of EU member states. We also question whether Ofcom's changes to the MNP process meet the criteria set out in the EU's Telecoms Package. The Revised Universal Service Directive (USD) is quite clear that EU Member States must offer porting within the shortest possible time, and in any event, within one working day. The interim decision neither achieves one day porting nor does it allow for porting within the shortest possible time. Also Three previously highlighted this as being incompatible with the approach taken to date by Ofcom, which has chosen to pursue one-day donor-led porting¹⁴. In fact, of the four options which Ofcom previously identified as 'possible' and likely to produce a positive economic case over time, it chose to adopt the slowest option. It would be helpful to avoid further tension and confusion in the translation to UK law and in the future.

Our recommendations

We advocate the new regulations on number portability will lead to an introduction of the recipient-led system that would benefit consumers most and would comply with the revised universal directive provisions on porting the number 'within the shortest possible time'.

¹⁴ Ofcom's most recent MNP consultation included four options, for donor and recipient led porting, in two hours and one day in each case. Ofcom's preferred option, for one day donor led porting, was the least desirable option from Consumer Focus's point of view.

Non-geographic numbers

Q11. Do you agree with our proposed approach on requirements relating to ensuring access to all numbers within the Community, the changing of ETNS numbers and calling the hotline for missing children on 116000?

We will respond to the question in relation to non-geographical numbers only.

Non-geographic numbers

We welcome the new provisions in relation to non-geographic numbers that strengthen end users' access rights to non-geographic numbers. In our recent response to Ofcom's consultation on Simplifying non-geographic numbers we pointed out that the current market in non-geographic calls is failing consumers, and in particular vulnerable consumers and we listed examples of consumer detriment as follows:¹⁵

- The high costs of calling non-geographic numbers from mobile phones, compared to fixed lines, is leading consumers to over-spend on these calls. Not only are consumers paying more, but the variation in charges between communication providers is eroding the recognition of number ranges designated by cost, such as 0800 being 'freephone'
- There is a correlation between vulnerable and low-income consumers and those able to access non-geographic numbers only using the most expensive means. This is based on the greater occurrence among low income consumers of both mobile-only households and pre-pay mobile users; not only do mobile customers also to be charged either as much or more than contract customers for these calls
- 'Downstream' impacts can have an impact on consumers unable to access essential services delivered via non-geographic numbers. Consumer Focus's response to Ofcom's call for inputs gave the example of financial problems, stress and anxiety that could arise as a result of cost barriers to resolving problems with services administered by HM Revenue and Customs using a non-geographic number
- High levels of consumer confusion persist around the cost of non-geographic calls. Ofcom's findings in relation to consumers' lack of knowledge over the cost of call from mobiles to non-geographic numbers mirror omnibus survey data compiled for Consumer Focus by ICM in April 2010:
 - Less than half of respondents were aware they would be charged for 0800 calls from mobiles
 - Only 57 per cent were aware that they were charged for 0845 calls from mobiles
 - Less than a third of consumers knew that they would be charged for calls to 03 numbers

¹⁵ <http://consumerfocus.org.uk/g/40s>

- The communication of information to consumers about the cost of non-geographic calls has generally been poor. Consumer Focus highlighted the failure to effectively promote information about the 03 number range to consumers. We have published indicative research on mobile network operators' failings in relation to consumer information on the cost of calling participation TV services¹⁶

We therefore strongly support Ofcom implementing this new regulation in conjunction with its work stream on simplifying regulations on non-geographic services as stated in its Annual Plan 2011/12.¹⁷

¹⁶ Consumer Focus report, Strictly Unclear: research into information on the cost of TV voting (September 2010).

¹⁷ <http://bit.ly/eGHWRr>

Others

Net neutrality and traffic management

We were disappointed to find out that the issue of traffic management has not been given enough weight in the consultation document and was only mentioned in footnote 35. Since this issue remains a high priority on our workplan agenda, as it is closely connected with net neutrality and safeguarding access to public internet, we would like to reiterate our position from previous consultation responses.¹⁸

Broadly we support Ofcom's plans to carry out work in the area of transparency of information on traffic management to ensure that the latter will be delivered to consumers in a meaningful and accessible format. However we believe that transparency alone is insufficient to prevent discriminatory practices and protect consumers against adverse impact of discriminatory behaviour. We welcome the recent Code of Practice on transparency of traffic management developed by the Broadband Stakeholder Group, as well as Ofcom's research, mentioned in footnote 35, on the form information should be provided. However, we would like to point out that informing consumers about practices will work only as long as consumers have the knowledge and understanding of traffic management practices. Ofcom's research on broadband speeds found that only a minority of consumers were at ease with making practical use of the information, by comparing connection speeds or reliability of connection.¹⁹ Consumers may also find it difficult to assess what part of a service's chain is at fault. For example, Synnovate research indicates that consumers who experienced problems with internet connection attributed them to different causes, such as ISPs, internet connection speed, computer hardware, computer memory, websites, download limits of their internet plan and others.²⁰

We recommend that Ofcom takes account of other factors that are likely to ease anti-competitive behaviour such as (1) switching barriers, (2) mobile termination rates (MTR), (3) complaint and redress mechanisms, (4) market surveillance, and (5) infrastructure investments. Typical switching barriers faced by consumers include contract cancellation fees, costs of setting up the new network in case of bundled services (eg software, equipment, installation costs) and time costs associated with informing third parties about new contact details (telephone number/and or email address). We are aware Ofcom is carrying out work in this area and we await its outcome in the hope that it will lead to a reduction in unnecessary obstacles to consumers.

In addition we also would like to point to the negative effect of high MTRs that act as a deterrent to competition as they may limit the number of mobile broadband providers available and hence impact on consumers' choice. We support Ofcom's efforts to reduce MTRs over a period of five years. We believe that continuing reduction in MTRs is likely to reduce retail prices, drive competition and deliver investment in new services such as mobile broadband.

¹⁸ <http://consumerfocus.org.uk/g/40s>

¹⁹ Ofcom's discussion paper, p.37.

²⁰ Consumer Expectations of the Internet, Synnovate 2009.

In parallel there is a need for easily accessible, low cost and timely complaints handling and redress mechanisms to facilitate consumers' complaints and to rule on redress in cases of detriment. This is particularly relevant to consumers in areas dominated by one service provider, or those who cannot afford to switch to a provider that offers better service quality at a premium price. According to Synovate research on consumer expectations of the internet, only 10 per cent of consumers in the UK were willing to change to a more expensive provider in case of traffic blocking or service limitation.²¹ Effective complaint and redress mechanisms would work as a deterrent and provide incentives for companies to abide by the law.

We also recommend that Ofcom improves market surveillance and monitoring mechanisms in order to verify information on traffic management provided to consumers, and intervene if necessary. Network operators and ISPs should be obliged by Ofcom to justify intervention in the network.

Finally, and above all, we recommend that Ofcom considers examples of national regulatory authorities from other countries. Ofcom should engage with the development of net neutrality and traffic management co-regulations or self-regulations to prevent anti-competitive behaviour and safeguards consumers and citizens' access and choice to internet services.

Our recommendations

We recommend that in implementing the new legislation Ofcom considers examples of national regulatory authorities from other countries and adopts net neutrality and traffic management guidelines that will enshrine the principle of net neutrality and non-discrimination.

- In addition, we support Ofcom in carrying out in-depth research on consumers' experience and understanding of traffic management, and testing potential information models with the aim to adopt a best practice approach to information provision on traffic management
- We also recommend that Ofcom examines the issue of net neutrality in conjunction in addressing switching barriers, and improving both surveillance mechanisms and compliant and redress system

And finally, we recommend Ofcom uses the new regulatory provisions on setting up a minimum quality of service if developments in the market threaten to maintain 'best effort' public internet and compromise important citizens' goals eg access to public services.

Complaints and redress

The new regulations aim to ensure that consumers should be provided not just with information on prices, tariffs and terms and conditions, but also the quality parameters of the service, and the types of customer and after-sales service available. This in our interpretation should include making publicly available data on providers' complaint record and customer services standards. However we regret that Ofcom left this pressing consumer issue out of this consultation.

Ofcom carried out a review of complaints procedures that shows poor consumer experience of pursuing complaints:

- 30 per cent of complaints (around three million per year) are still unresolved after 12 weeks

²¹ Consumer Expectations of the Internet, Synovate 2009.

- the majority of consumers who cannot resolve their complaint promptly have considerable difficulty getting their provider to recognise they are trying to make a complaint and in finding out information about the complaints process
- those consumers who are unable to resolve their complaint within 12 weeks are much more likely to suffer financially or through stress
- only 8 per cent of consumers are aware that they can take unresolved complaints to Alternative Dispute Resolution (ADR), which is considerably lower than in a number of other sectors with similar schemes

Ofcom put forward the following proposals²²:

1. Establishing minimum standards for complaints handling procedures which will apply to all communications providers ('the Ofcom Code'). The Ofcom Code establishes a regulatory requirement for providers to resolve complaints in a 'fair and timely manner' and also outlines minimum expectations about the accessibility, transparency and effectiveness of providers' complaints handling procedures. This will replace the current requirement for providers to seek Ofcom approval of their individual Codes of Practice
2. Requiring communications providers to provide additional information to consumers about their right to take unresolved complaints to ADR, which has been shown to help resolve long-running complaints. Providers will now need to include relevant information about ADR on consumers' bills and to write to consumers whose complaints have not been resolved within eight weeks to inform them of their right to go to ADR

We have consistently called for Ofcom to publish provider specific data on complaints and customer service standards. Ofcom has indicated that it intends to start publishing this data, based on complaints recorded by the Ofcom Advisory Team. Ofcom has stated that: *'the evidence suggests that providers' incentives to compete on the basis of customer service are not proving sufficient to ensure that individuals will receive satisfactory treatment from their provider when they try to pursue a complaint.'* (Statement on complaints review, July 2010). This supports the view that greater incentives are needed to encourage companies to compete on the basis of customer service, such as published comparative data.

Our recommendations

We recommend that Ofcom ensures that the new regulations will lead to making publicly available data on telecommunication providers' complaint record and customer service standards.

Quality of service

Article 14 of the Universal Service Directive includes provisions on quality of service (QoS). New article 22 states 'National regulatory authorities may specify, among other things, the quality of service parameters to be measured and the content, form and manner of the information to be published'. Again we regret that Ofcom left this issue out of this consultation. In our view we believe that QoS can be defined by Ofcom under this provision, and can refer not only to network performance, speed and reliability, but also quality of customer service. In particular we believe that the latter should be included in the definition of QoS are below:

- A lack of publicly available comparable data on providers' customer service standards

²² Ofcom, Review of Consumer complaints procedures, March 2010.

- An appetite for this information among consumers. For example in our Omnibus survey, 95 per cent of consumers agreed that information on customer service performance should be readily available to consumers
- Ofcom's analysis, mentioned above, that *'providers' incentives to compete on the basis of customer service are not proving sufficient to ensure that individuals will receive satisfactory treatment from their provider when they pursue a complaint'*
- The information being useful for two reasons: firstly, to allow consumers to make more informed choices between mobile providers, and secondly, to use published league tables to drive competition in service standards

Recommendations

We recommend Ofcom to engage in work with consumer organisations and industry stakeholders to foster work on setting minimum quality of service indicators.



Consumer Focus response to the Ofcom consultation on changes to General Conditions and Universal Service Conditions

If you have any questions or would like further information about our response please contact Marzena Kisielowska-Lipman, Senior Policy Advocate, by telephone on 020 7799 7981 or via email: marzena.kisielowska-lipman@consumerfocus.org.uk

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