



# Automatic Compensation

Call for inputs

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22 July 2016

# About this document

In February 2016, we set out interim conclusions from our Strategic Review of Digital Communications where we indicated the need for the communications sector to deliver significantly better quality of service. We identified automatic compensation for consumers as one of a number of actions we would take to help to deliver this.

This document seeks views from stakeholders to help inform potential future proposals for new rules on automatic compensation. The aim of these new rules would be to protect consumers from the negative impacts that service quality problems can cause and to incentivise providers to deliver to higher standards.

Following consideration of the responses to this document, alongside other evidence and analysis, we intend to issue a detailed consultation on automatic compensation at the end of the year.

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## Section 1

# Background and introduction

- 1.1 Given the importance of communications services, consumers and businesses increasingly expect networks and services to be reliable and of high quality. Our survey data indicates that over 80% of fixed line, broadband and mobile consumers are satisfied with their services.<sup>1</sup> Our qualitative consumer research also suggests that typically, residential consumers and small businesses consider communications services today to be reliable; they generally work as expected or advertised, and service quality problems are infrequent.<sup>2</sup>
- 1.2 However our evidence also indicates that a significant minority of consumers do experience problems with their communications services and when they occur they can have an acute negative impact. Consumers rely on their communications services for a variety of activities, including working, banking, shopping, news, socialising and entertainment.<sup>3</sup> When they receive lower quality which affects their ability to pursue these activities, the negative impact can be significant. It may extend beyond the general time and inconvenience of having to organise repair, for example involving costs of arranging for temporary solutions if the consumer is unable to work or pay a bill as a result.
- 1.3 Indeed, consumers increasingly consider communications services to be an essential part of home and business life and when important communications failures happen, the disruption and difficulties caused can be significant and on a par with a power cut or a loss of water supply.<sup>4</sup> As such, it is perhaps unsurprising that when a communications service fails, the consumer's main concern is getting the issue fixed as soon as possible.
- 1.4 Ensuring that consumers are compensated when they experience problems could help protect them from the adverse impacts that service quality issues can cause.<sup>5</sup> In particular, the introduction of rules which provide financial compensation when certain service quality issues arise would ensure those consumers directly affected will receive financial recognition and redress for the adverse impact caused.

We recognise that consumers are able to seek compensation for some service quality issues today.<sup>6</sup> However, our research shows a lack of awareness and uncertainty among consumers about compensation where it is available.<sup>7</sup> Further, obtaining compensation generally requires the consumer to make a complaint; they may need to 'prove' they have experienced poor service quality and receiving compensation will depend on the communication provider's agreement. Where a

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<sup>1</sup> Ofcom [Switching Tracker, July - August 2015](#), Slide 62

<sup>2</sup> Jigsaw Research [Quality of service in communications: Residential consumer and SME experiences of quality of service in fixed line, broadband and mobile communications](#), p. 3.

<sup>3</sup> See, for example, Figure 5.28 of the Ofcom [Communications Market Report 2015](#), which sets out the activities people use the internet for.

<sup>4</sup> Ibid. pp. 2-3.

<sup>5</sup> We note that automatic compensation arrangements are already in place in other utilities if certain service standards are not met.

<sup>6</sup> Consumers have a right to redress under the Consumer Rights Act 2015 where their provider has failed to deliver a service with "reasonable care and skill".

<sup>7</sup> Jigsaw Research [Quality of service in communications: Residential consumer and SME experiences of quality of service in fixed line, broadband and mobile communications](#), pp. 5-6.

communications provider refuses to provide appropriate redress or the consumer disagrees with the amount offered, a consumer can take the complaint to the relevant alternative dispute resolution (ADR) body<sup>8</sup> or commence legal proceedings.

- 1.5 Making and pursuing a complaint can therefore be lengthy, involving time, effort and cost on the part of the consumer. The compensation payable may not be commensurate with the effort of making a claim. As a result, even engaged consumers who are negatively affected by a service issue may not consider it worth claiming redress. This is likely to be worse for vulnerable consumers, who may be even less likely to make a complaint.
- 1.6 Automating the payment of compensation (i.e. limiting the level of consumer involvement required to receive payment) should ensure that consumers are compensated quickly and easily by their retail provider<sup>9</sup> when they are entitled to payment as a result of service quality issues.
- 1.7 In addition to providing recognition and redress to consumers quickly and easily, we expect automatic compensation to provide incentives for providers to improve service quality. Such improvements could involve the avoidance of service quality issues occurring in the first place, and/or expediting any repair (both of which are important to consumers). This is because providers will face a trade-off between paying out compensation when service quality issues arise, and investing in improving service quality to limit the amount of compensation they need to pay.
- 1.8 In our Review of Digital Communications (DCR), we indicated the need for the communications sector to deliver significantly better quality of service for consumers and identified automatic compensation for consumers as one of a number of actions we would take to help to deliver this, including:
  - Driving competition by publishing information for consumers on a range of quality measures so people can understand how communication providers compare against each other and providers are incentivised to improve service quality.
  - Setting more demanding minimum quality requirements and incentives for Openreach to drive service quality for fixed networks.
  - Exploring options for extending and improving mobile coverage, for example by seeking to place new coverage obligations on companies who win new spectrum licences, or supporting the UK Government's reform of the Electronic Communications Code.
  - Working with industry as necessary where poor coordination between communication providers is affecting service quality.<sup>10</sup>

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<sup>8</sup> GC14 sets out the minimum standards for communication providers in the handling of complaints made by domestic and small business customers (with up to 10 employees). Provider's complaints handling procedures must enable consumers to take their unresolved complaints to Alternative Dispute Resolution, in a timely manner.

<sup>9</sup> When entitled, consumers should be compensated by their retail provider irrespective of whether there is a wholesale supplier involved and the underlying issue arises on the wholesale network, to ensure quick redress. We recognise this may result in a renegotiation of wholesale arrangements, as discussed further below.

<sup>10</sup> Ofcom, [Initial conclusions from the Strategic Review of Digital Communications](#), pp.46-59 and service quality and pp.29-31 on mobile coverage

- 1.9 This Call for Inputs (CFI) is seeking input from stakeholders to help inform potential proposals for new rules on automatic compensation within this context. We would welcome views from consumers, small businesses and bodies that represent their interests, as well as from industry stakeholders. The aim of these new rules would be to protect consumers from the adverse impacts that service quality problems can cause, particularly when the quality they receive is not in line with reasonable expectations at the point of purchase, by ensuring they receive compensation quickly and easily. In addition, we expect automatic compensation to provide incentives for communication providers to improve overall service quality.

## **Timetable**

- 1.10 We request responses to this CFI by 22 July 2016. In setting this period we have taken into account our Consultation guidelines.<sup>11</sup> We consider a six week period to be sufficient to respond to this consultation given this document is short and its main purpose is to gather initial high level views with a further consultation to follow. Annexes 1 to 3 set out further how to respond, together with our consultation principles.
- 1.11 Following consideration of the responses to this CFI, alongside other evidence and analysis, we intend to issue a detailed consultation on automatic compensation towards the end of the year. We expect to issue a final statement, including a timeframe for implementation if considered appropriate, in the autumn of 2017.
- 1.12 Regarding the timetable of the other service quality related DCR actions, we are continuing with our work to improve data on broadband coverage and availability. We plan to release a new version of our fixed broadband and mobile coverage checker later in the year and upgrade our existing Wi-Fi checker app to include more information on the speed of the consumers' Wi-Fi and mobile connections. We also plan to publish our first 'Report on Service Quality' in spring 2017.
- 1.13 Our proposals on Openreach Quality of Service will be consulted on in the autumn of this year as part of the Wholesale Local Access (WLA) market review, with a statement likely to follow in the autumn of 2017.
- 1.14 We will take these and other initiatives into account in our work on automatic compensation so as to ensure consistency and proportionality.
- 1.15 The next sections set out the areas on which we are seeking stakeholder views.

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<sup>11</sup> Ofcom [Consultation Guidelines](#)

## Section 2

# Initial factors relevant to considering automatic compensation

2.1 In considering the case for automatic compensation further, we need to balance its potential benefits with the potential risks and costs of intervention. The following sets out some factors we have initially identified as likely to be relevant to this assessment.

### Importance to consumers

2.2 It is important that any compensation regime reflects what matters to consumers. We are therefore likely to prioritise those service quality issues that will make the most difference to consumers. This is likely to be affected by the scale of the impact an issue has on consumers, and there may be two aspects to this:

- aggregate impact: service quality issues with adverse impacts on many consumers or occurring frequently; and
- individual impact: service issues which have a large negative impact on individual consumers, but perhaps only affecting a small number

2.3 We will look to consumer research and other relevant data including, for example, the incidence of certain service issues, consumer complaints, and consumer expectations, to help inform our view on what matters most for consumers.

### Should residential and business consumers be eligible?

2.4 Among residential households, the proportion of consumers with reason to complain about their communication services has grown in recent years. Disruption of services and poor service quality are major drivers of complaints, particularly among fixed-line and broadband users.<sup>12</sup> Given this growth in complaints, we are concerned that a significant proportion of residential consumers are not receiving the service they expect particularly at the time they purchase the service. As a result, our initial view is that we should include residential consumers in our consideration of automatic compensation.

2.5 Business consumers tend to place even greater importance on quality of service when purchasing communication services than residential consumers and particularly value a provider's responsiveness to faults and service performance. However, larger businesses and some SMEs<sup>13</sup> tend to buy bespoke communication services where service levels and compensation arrangements are more clearly defined and set out in their contracts, and which in many cases may be individually negotiated. Therefore, automatic compensation may not be necessary to protect these consumers from service quality issues.

2.6 Our initial view is to consider automatic compensation for residential consumers and smaller businesses (some of which may buy services targeted at residential

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<sup>12</sup> Ofcom [Consumer Experience Report 2015, Research Annex](#), Figures 57 - 59

<sup>13</sup> Small and medium sized enterprises (businesses with 249 or fewer employees)

consumers), as opposed to larger businesses where more comprehensive compensation arrangements are more likely to already be in place.

### **Not all service quality issues may be suitable for automatic compensation**

- 2.7 While we recognise that a large number of service quality issues may be important to consumers, not all will necessarily be suitable for automatic compensation.
- 2.8 In order to be suitable, the service quality issue should lend itself to being objectively defined and measured. This is because ambiguity in a consumer's entitlement to compensation will undermine the objectives of it providing quick and easy redress.
- 2.9 Further, automatic compensation may not be suitable where resolving a service issue may require long term network investments. Consumers have a right to expect the quality of service specified in their contract and advertised in marketing material. In some cases, for example for slower than expected access line speeds in fixed networks or for frequent dropped calls in a consumer's home, the quality provided may fall below what consumers can reasonably expect from the service.
- 2.10 In such cases, consumers may be better served through alternative forms of redress, such as a right to exit the contract than with automatic compensation, i.e. they might be better off switching their service package or provider. This is because resolving such issues may require long-term network investments by their current provider, whereas a consumer might be able to receive a better service on a different package or on a different network. Nevertheless, we do not want to exclude the possibility of some form of automatic compensation in addition to a right to exit, as this may incentivise providers to accurately reflect in their marketing and contractual documentation what consumers can reasonably expect from their service.
- 2.11 Finally, consumers should not receive compensation where the cause of the issue lies with the consumer, for example as a result of the equipment the consumer uses or the way it is used.

### **Considering the form of compensation consumers receive**

- 2.12 Our initial view is that, where appropriate, automatic compensation should take the form of a financial payment, for example a cheque, bill credit, or pre-paid card. We will take consumer expectations and experiences into account in considering the case for monetary compensation alongside the incentives it may create, for example for providers to improve service quality. We welcome views from industry stakeholders, consumers and small businesses on appropriate approaches and the practicalities associated with different forms of compensation.

### **The process by which consumers may receive compensation**

- 2.13 The process providers would need to follow in paying compensation should ideally be quick and easy for consumers. Consumers who have experienced the difficulties and costs associated with service quality issues should not have to encounter further inconvenience in order to receive compensation. Thus the process from issue identification through to payment should be as automatic as possible.
- 2.14 A more automated process should also result in more direct incentives for providers to either improve the service quality they deliver or to adjust their marketing or contractual documentation to better reflect the actual service quality provided. This is because the frequency of compensation relative to the number of issues encountered

is likely to increase, as opposed to the current situation where compensation only occurs when the consumer makes a successful claim.

- 2.15 However, there are a range of practical considerations we would need to take into account in determining exactly how automatic this process can be. For example, there may need to be contact between a consumer and their provider in circumstances where an operator is unaware that a customer has an issue. This could be, for example, due to technical or cost driven limitations in service monitoring. Consumers needing to raise an issue first may therefore be unavoidable in some instances however the process from then on could be automatic.

### **Determining the level of and basis for compensation**

- 2.16 Given our objectives discussed above, our initial view is that the level of compensation should not be limited to the contractual cost of the service, such as a pro-rata refund for the period that a service has been unavailable to a customer. Instead, we think it should be set at a higher level which seeks to recognise the adverse impact on consumers including cost or inconvenience. For example, a loss in broadband service may require lengthy phone calls with the provider, render other online services unavailable to them, require consumers to take time off work for an engineer visit or may require consumers to find alternative solutions.<sup>14</sup> In addition, relating the level of compensation to consumer detriment could incentivise providers to improve service quality.
- 2.17 We will also need to consider other issues about when compensation is paid such as how long a problem should endure before compensation is triggered, how quickly compensation should be paid once a problem is identified and what time limits (if any) apply to entitlements to compensation.

### **Possible costs and risks**

- 2.18 Our starting point is that the payment of automatic compensation to consumers is an important regulatory objective, but we will nevertheless need to consider the proportionality of our intervention.
- 2.19 In particular, there are likely to be implementation costs associated with making compensation payments automatic, which will fall on industry. Conversely, savings may result from our proposals as automatic compensation may reduce the time customer service agents spend dealing with individuals that raise a complaint. Overall, the introduction of an automatic compensation regime may have an impact on retail prices, as CPs could recover any additional costs from consumers. We will take this into account when setting the level of compensation and as part of our cost benefit analysis and our wider assessment of proportionality.
- 2.20 We will also need to consider risks of unintended consequences from introducing automatic compensation, such as whether it could have a negative impact on competition. For example, we will consider whether a particular approach to automatic compensation risks unduly favouring one provider over another, in particular where providers offering competing services to consumers use different technologies. Similarly, a particular aspect of service quality may be a key competitive differentiating factor for one or several providers. This could lead to a

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<sup>14</sup> This could be costly, for example, requiring the purchase of a mobile dongle to replace a fixed broadband service.

distortion of competition potentially undermining the benefits of automatic compensation to consumers.

*Question 1: What are your views on our initial thinking regarding the factors potentially relevant in determining:*

- (a) scope, including possible eligibility;*
- (b) form and process of compensation;*
- (c) level of and basis for compensation; and*
- (d) possible costs and risks of introducing automatic compensation?*

*Question 2: Are there any additional considerations?*

*Please explain the reasons for your answer and your views on their relative importance, providing any supporting evidence where available.*

## Section 3

# Service quality issues

- 3.1 In this section we set out some initial views on the service quality issues that we might consider for automatic compensation. We have done so in the context of the factors set out above in relation to the importance of the service issue to consumers and its suitability to triggering automatic compensation.
- 3.2 Issues might arise at the start and during the contract that a consumer has with its provider, and might include loss of service and service degradation. Loss of service and poor service quality are significant drivers of complaints among landline and fixed broadband consumers.<sup>15</sup> Service degradation may include lower than expected broadband speeds on fixed networks, or dropped calls and slowing speeds on mobile networks.
- 3.3 With all service quality issues, the time the provider takes to resolve the problem is likely to be important to consumers. Therefore the time taken to resolve an issue once a problem is identified (either directly by the provider or prompted by the consumer) will be an important part of our analysis.

## Fixed networks

### Network issues leading to delays or loss of service

- 3.4 We consider that a delay in a new service commencing or a temporary service loss at the start or during the consumer's contract with the communications provider is likely to have a negative impact on consumers.
- 3.5 At the start of a new contract, the specific issues that a consumer may encounter include difficulties obtaining a convenient date and time, and a reasonable timeframe for the service to be installed; or missed engineer appointments. Consumers may also need to be present for repeat visits if the service install is not successful upon the first visit.
- 3.6 Delays or failures in porting a number between different providers, while not likely to affect a high number of consumers<sup>16</sup>, can have a significant impact on those directly affected. A requirement for fixed line providers to port numbers within one business day and compensate consumers already exists; although payment is not a specific amount or required within a given time frame.<sup>17</sup>
- 3.7 During the contract a similar range of issues might arise, including temporary loss of service, difficulties obtaining appointments within a reasonable timeframe and at a

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<sup>15</sup> Ofcom [Consumer Experience Report 2015, Research Annex](#), Figures 57 - 59

<sup>16</sup> 6% of those who switched their landline in the last 12 months experienced a difficulty with 'keeping their phone number', Ofcom [Switching Tracker, July - August 2015](#), Table 33.

<sup>17</sup> GC 18.9: "Where Communications Providers delay the porting of a Telephone Number for more than one business day or where there is an abuse of porting by them or on their behalf, they shall provide reasonable compensation as soon as is reasonably practicable to the Subscriber for such delay and/or abuse." Porting of these numbers and their subsequent activation shall be completed within one business day but is subject to certain conditions (see GC18.3 (b))

convenient date and time to fix it; missed appointments, and the need for repeat visits if the issue is not resolved the first time around.

- 3.8 We consider that all of the issues identified above could be relatively straightforward to identify and measure. In many cases, they are in the control of the provider and should be capable of quick and efficient resolution. While in some cases loss of service may be caused by the end user, such as a customer cutting through a cable or due to issues with their Wi-Fi equipment, this can usually be ascertained by the provider through customer dialogue and remote testing.

### Network issues leading to a degradation in service

- 3.9 Service degradation involving broadband speeds is the most common reason for consumers contacting their fixed broadband provider<sup>18</sup>, indicating there may be a gap between what consumers are promised at the time they purchase their broadband service and what they actually receive.
- 3.10 In the Broadband Speeds Code of Practice ('the Code'), providers commit to informing consumers, when they first purchase the service, of their estimated access line speed<sup>19</sup> (in the form of a range), as well as the estimated actual throughput speed<sup>20</sup> the consumer can expect under normal circumstances, if available. Providers also commit to allowing the consumer to leave their contract without penalty if their access line speed is below a minimum guaranteed level and the provider has been unable to resolve the issue.<sup>21</sup> We have work ongoing to assess whether providers are complying with this voluntary code and its overall effectiveness, as well as whether it needs to be strengthened.
- 3.11 Automatic compensation may have a role to play in incentivising providers to ensure that consumers receive the right information about their access line speed when they buy a service. Whether the consumer information provided matches the consumer's access line speed in practice could satisfy our suitability considerations (in terms of being identifiable, measurable and resolvable) to trigger automatic compensation.
- 3.12 We consider that automatic compensation is unlikely to be an appropriate remedy to help improve the speed of a consumer's access line (as opposed to ensuring the provision of accurate information). This is because improving the speed of a consumer's access line will often require long-term network upgrades. Hence other forms of automatic redress may be more helpful to consumers, such as an automatic right to exit.
- 3.13 The situation is more complex with regard to actual throughput speeds that are slower than expected. It may be less clear that the causes of such issues are identifiable and within the control of the provider and not the consumer or a result of other factors. For example, speeds are often affected by factors such as the consumer's equipment or the type of wireless router and its location within customer premises. Similarly, the quality of experience of consuming online content may be

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<sup>18</sup> Ofcom, [2016 Quality of Customer Service Report](#), p.46

<sup>19</sup> The access line speed represents the maximum speed that a consumer will be able to experience on his/her line.

<sup>20</sup> The actual throughput speed is the actual speed that a consumer experiences at a particular time when they are connected to the internet. This is often dependent on factors such as the provider's network and policies, the number of subscribers sharing the network and the number of people accessing a particular website at a particular time.

<sup>21</sup> Ofcom [2015 Voluntary Code of Practice: Broadband Speeds](#), paragraphs 28-29

influenced by the consumer device, the application used to access it, or even the technology deployed by Over the Top (OTT) service providers to enable the streaming of audiovisual content. Furthermore, deterioration of actual throughput speeds may occur intermittently and vary in impact depending on the day of the week and the time of day and depending on the usage patterns of other consumers.

## Mobile networks

- 3.14 Complaints about poor mobile service quality have risen since 2013 and account for approximately one in three of the complaints made to mobile providers.<sup>22</sup> These complaints relate to both temporary loss of service and service degradation.
- 3.15 Problems porting numbers at the beginning of a contract, although infrequent<sup>23</sup>, can cause significant difficulties including loss of service as well as number loss. Providers already have to port numbers within one business day and compensate consumers where they do not meet this requirement but they are not required to automatically pay a specific amount of compensation within a given time frame.<sup>24</sup>
- 3.16 Consumers may also lose service during their contract, for example when there are larger scale SIM authentication problems or mast defects or other types of larger scale outages. An outright loss of service such as this is likely to have a negative impact on consumers. It is also likely to be within the control of the provider and resolvable in the short term. While it may be possible that some of the consumers affected are identifiable, in other cases it may be necessary for the consumer to make the operator aware of an issue. For example, when a mobile mast develops a fault, the provider is likely to be able to identify the consumers in the vicinity whose calls or data downloads were cut off as a result. However, if the mast is faulty for some time, the provider would not be able to identify all those consumers who may try to use their mobile service in the vicinity of the mast.
- 3.17 Many consumers also experience service degradation such as dropped calls or slowing data download speeds. While consumers may expect mobile services to be less stable (to an extent) than fixed services, our research suggests that dropped calls and slow data connections are still an important issue for consumers.<sup>25</sup>
- 3.18 However, service degradation due to dropped calls or slowing speeds is less likely to be suitable for automatic compensation. This is because such issues are more complex. For example, mobile service degradation may be due to the way the consumer uses the service, such as a consumer's location or handset. In addition, the location and density of other users in the vicinity at that particular point in time or

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<sup>22</sup> Ofcom [Consumer Experience Report 2015, Research Annex](#), Figure 59; [Consumer Experience Report 2013](#), Figure 172

<sup>23</sup> Among those who switched mobile services in the last 12 months, the proportion that had difficulty in 'keeping their phone number' is at 7%. Ofcom, [Switching Tracker, July - August 2015](#), Table 90.

<sup>24</sup> GC 18.9: "Where Communications Providers delay the porting of a Telephone Number for more than one business day or where there is an abuse of porting by them or on their behalf, they shall provide reasonable compensation as soon as is reasonably practicable to the Subscriber for such delay and/or abuse."

<sup>25</sup> Consumers' expectations of mobile service performance include: a signal enabling users to make and receive calls and for those with smartphones, to access the internet and accomplish tasks; Good line quality when making and taking calls, including clarity, no dropped calls, no echo. Jigsaw Research [Quality of service in communications: Residential consumer and SME experiences of quality of service in fixed line, broadband and mobile communications](#), p. 18

network capacity and coverage may also matter. These issues may require long term network investments to resolve.

- 3.19 With respect to coverage Ofcom is already seeking to address such issues by providing consumers with coverage maps to help them choose the network operator that is right for them. This should in turn encourage mobile operators to compete on the basis of improved coverage. Various other initiatives from the DCR (see above) and investments to improve infrastructure and reduce/remove 'not-spots', including in relation to some railway networks, are also underway.
- 3.20 Nevertheless, where a consumer experiences persistent coverage issues at the start of their contract some mobile providers already give consumers the right to exit a contract within a set period of days, either in line with statutory periods or contractual commitments. Making rights such as this automatic may be worth considering.

*Question 3: Do you agree with our initial views on the service quality issues that could matter most to consumers?*

*Question 4: Do you agree that some of the above issues may be more suitable for automatic compensation than others?*

*Please explain the reasons for your answers, and provide any supporting evidence where available.*

## Section 4

# Further considerations

- 4.1 When formulating our policy for automatic compensation in relation to any particular service issue, there are a number of other considerations that we may need to take into account. These include:
- the potential need for exceptions to our rules;
  - the potential need for a dispute resolution mechanism; and
  - the potential impact of automatic compensation on supplier contracts, in particular where Openreach is the supplier.
- 4.2 We will consider on a case by case basis whether there is a need to specify **exceptions** to any future rules on automatic compensation and what these might be ( for example, for 'force majeure' events, such as strikes or severe weather).
- 4.3 We also intend to consider possible **dispute resolution mechanisms** (such as the existing ADR process), for use in the event of genuine disputes about the payment of compensation between providers and their customers.
- 4.4 Where **a retail provider buys services from a wholesale supplier**, there will be instances when service quality issues will be the supplier's fault but the retailer is required to pay compensation. We would expect retailers to be able to commercially negotiate and agree wholesale service levels with their suppliers, including payments for breaches, which will ensure that the retail compensation is totally or partially paid for by the party responsible for the service issue. Currently, where Openreach has SMP such as in Wholesale Local Access markets, it is required to specify certain service standards (Service Level Agreements<sup>26</sup> or SLAs) in its contracts with customers, and provide for compensation (Service Level Guarantees or SLGs<sup>27</sup>) where those standards are not met.<sup>28</sup> These SLAs and SLGs are currently negotiated commercially between Openreach and its wholesale customers and it is likely that the current SLAs and SLGs will need to be reviewed following the introduction of automatic compensation.

*Question 5: Do you agree that we should consider the need for exceptions and dispute resolution?*

*Question 6: Do you think Ofcom should consider the relationship between retailers and suppliers and if so, how?*

*Please explain the reasons for your answers, and provide any supporting evidence where available.*

<sup>26</sup> A Service Level Agreement (SLA) is a part of a standardized service contract where a service is formally defined. Particular aspects of the service – scope, quality, responsibilities – are agreed between the service provider and the service user.

<sup>27</sup> The Service Level Guarantees (SLGs) associated with Openreach's SLAs specify the level of compensation that the customer would be entitled to should the service not be provided at the quality specified in the SLA, e.g. if delivery of the service was late.

<sup>28</sup> Paragraph 10.248 of the [2014 Fixed Access Market Review Statement](#).

## Annex 1

# Responding to this consultation

## How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 22 July 2016**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/automatic-compensation/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email [automatic.compensation@ofcom.org.uk](mailto:automatic.compensation@ofcom.org.uk) attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Emma Chadwick  
2<sup>nd</sup> Floor  
Consumer Group  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- Fax: 020 7981 3333
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

## Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Emma Chadwick on 020 7981 3183.

## Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all

responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/terms-of-use/>

## Next steps

- A1.11 Following the end of the consultation period for this CFI, Ofcom intends to publish a consultation towards the end of 2016.
- A1.12 Please note that you can register to receive free mail updates alerting you to the publications of relevant Ofcom documents. For more details please see: <http://www.ofcom.org.uk/email-updates/>

## Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk) . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Steve Gettings, Secretary to the Corporation, who is Ofcom's consultation champion:

Steve Gettings  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

Tel: 020 7981 3601

Email [steve.gettings@ofcom.org.uk](mailto:steve.gettings@ofcom.org.uk)

## Annex 2

# Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

### Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

### After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

## Annex 3

# Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk).
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at <http://stakeholders.ofcom.org.uk/consultations/consultation-response-coversheet/>.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## Annex 4

# Consultation questions

*Question 1: What are your views on our initial thinking regarding the factors potentially relevant in determining:*

- (e) scope, including possible eligibility;*
- (f) form and process of compensation;*
- (g) level of and basis for compensation; and*
- (h) possible costs and risks of introducing automatic compensation?*

*Question 2: Are there any additional considerations?*

*Question 3: Do you agree with our initial views on the service quality issues that could matter most to consumers?*

*Question 4: Do you agree that some of the above issues may be more suitable for automatic compensation than others?*

*Question 5: Do you agree that we should consider the need for exceptions and dispute resolution?*

*Question 6: Do you think Ofcom should consider the relationship between retailers and suppliers and if so, how?*

*Please explain the reasons for your answers, and provide any supporting evidence where available.*