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# **Consultation**

## **Ofcom Review of Consumer Complaints Procedures**

### **Submission**

**Association for Interactive Media and Entertainment**

**(AIME)**

AIME ( [www.aimelink.org](http://www.aimelink.org) )

AIME is a UK based not for profit trade association that promotes excellence in the Interactive Media and Entertainment industry.

We uphold our Code of Ethics and Core Values to create an environment of consumer trust and industry confidence within which our members' commerce can grow. We are committed to furthering the interests of Interactive Media and Entertainment through the regular exchange of information and communication throughout the value chain, effective engagement with regulators and legislators and the presentation of a successful industry image to media.

We are the only trade association with membership across all elements of the interactive media and entertainment value chain, which is generally supported by Premium Rate Service (PRS) billing facilities, and our membership represents in excess of 90% of annual industry revenues, which stood at £0.80bn in 2009 and which, we believe, has the potential to increase to £1.5bn - £2.0bn per annum over the next three years assuming we have a healthy balance of self and formal regulation and that industry is successful in continuing to build consumer trust.

AIME encourages its members to focus particularly on consumer care and to recognise that if there is to be sustainable growth in our industry then one area where there must be more investment is in consumer contact as a part of building trust, whether it be dealing with enquiries or complaints. Recent research suggests that, despite their inherent popularity, there is still a significant portion of the UK population that does not use premium rate services due to trust issues in the main. There is

no reason why industry cannot work towards encouraging increased consumer uptake to enlarge the relatively small user base of consumers who do consume premium rate services on a regular basis.

We welcome the opportunity to respond constructively to this Consultation on Consumer Complaints Procedures and AIME shares the Ofcom view of the importance of maintaining high standards for customer support, enquiry and complaints processes and is actively involved in self regulatory initiatives to seek improvements in these areas. A high profile and current initiative is the introduction of a registration process down the value chain for the PRS market in co-operation with PhoneyPayPlus and which will have added spin off benefits for customer support processes.

We recognise that this consultation addresses the broad base of communication services covered by the Comms Act 2003, of which PRS is a sub set, and while we acknowledge the subject of customer support extends across the entire telecommunications industry our comments will naturally focus more on PRS.

AIME promotes and abides by the philosophy that consumers who are accurately and openly informed of the nature, content and cost of participation in an interactive service experience are perfectly placed to exercise their freedom of choice and thereby enjoy the most effective form of consumer protection.

### **General Comments**

In addition to the regulatory need to secure that procedures are “easy to use, transparent and effective”, the Communications Act 2003 also states that regulatory activities should be accountable, proportionate, consistent and targeted only at cases where action is needed. The Act also emphasises the important point that Ofcom must have regard for best regulatory practice along with a duty to promote effective forms of industry self regulation.

AIME also shares the Ofcom view that high quality customer service and dispute resolution should be important components in a competitive environment and accepts Ofcom evidence that there is scope for improvements in this regard although, as Ofcom rightly observes, many (and we believe the majority) in the communications business do view customer service as key and do recognise the value of a customer base that believe they are being treated fairly. We are pleased to note the Ofcom comment that it is not perceived to be their role to regulate customer services standards and AIME would see this as an area that lends itself to industry self regulatory initiatives, under the general guidance of Ofcom and with Ofcom as a regulatory backstop on those rare occasions when it is required.

We believe it is important that industry and regulator do not become overly focused on complaints when many consumers’ concerns can be satisfactorily addressed through an enquiry process supported by the availability of timely and accurate information at the customer service contact point. It follows that an essential feature of a successful customer service support system is the need to ensure that consumers are aware of their first point of enquiry contact, which will normally be the originating network service provider (OCP). Information that enables the consumer to pursue a complaint or seek Alternate Dispute Resolution (ADR) must also be available to the consumer at this point of contact. We would therefore suggest that Ofcom widen the consideration of the Consultation to “enquiries and complaints” to provide a more complete approach to the customer service support environment.

It is also important to note that in the premium service environment an OCP customer support function may put the consumer in contact with the actual provider of the premium service to facilitate a satisfactory conclusion but the OCP will still retain overall responsibility for resolving the enquiry or complaint or providing ADR contact information if ultimately necessary.

## Ofcom Proposals

Ofcom lists the following core proposals to improve the regulation of complaints handling in the telecommunications industry:

- Establish some basic high level standards for complaints handling (and replacing the present requirement for providers to seek Ofcom approval of Codes of Practice)
- Provide additional information to consumers to increase awareness of ADR

Assumedly the first proposal will involve the design, introduction and monitoring of Service Level Agreements for complaints handling and AIME would be supportive of such an approach provided it was implemented through close engagement between industry and regulator. AIME would also wish to see an integrated approach for all telecommunications, including PRS, which are regulated through Phonepay Plus on behalf of Ofcom.

The second proposal suggests improvements to consumers to increase awareness of complaints procedures and to ensure consumers are aware of how to invoke such procedures. As stated earlier AIME is supportive of improvements to customer information and consumers access to information and would welcome an opportunity to work with Ofcom with a view to developing self regulatory initiatives which would achieve the objectives.

### Definition of a Complaint

AIME agrees with the necessity to adopt a common definition of a complaint to capture a wide variety of scenarios and for that reason we prefer to take a more generic approach to the definition, which should also be technology neutral and service based. As an example AIME can foresee situations in the PRS environment where consumers will be able to deal directly with the provider of a premium service to obtain prompt attention to a complaint, hence the Ofcom definition (reproduced in Questions) specifying “Communications Provider” may not apply.

AIME suggests the following definition for the origin of a complaint:

*"Where a consumer believes a service experience has failed to match reasonable expectations or has caused genuine perceived harm or offence or is otherwise considered not fit for purpose".*

We also believe it is important to realise that any structured complaints process must of necessity sit alongside a broader customer service support function which will differentiate between consumer enquiries, consumer complaints and disputes. Consumer enquiries and complaints are normally processed within the industry with the objective of providing the consumer with a fair and reasonable conclusion. Disputes will be consumer complaints where the consumer has been unable to obtain a satisfactory response from industry and is obliged to use an escalation procedure.

### Consultation Questions

*Question 1:*

*Do you agree with our definition of a ‘complaint’?*

**Complaint** means ‘an expression of dissatisfaction made by a customer to a Communications Provider related to the Communications Provider’s provision of Public Electronic Communications Services to that customer, or to the complaint-handling process itself, where a response or resolution is explicitly or implicitly expected.’

Answer 1:

AIME believes Ofcom should take a more generic and service based approach to the definition in order to capture a wider variety of scenarios. The suggested AIME definition is as follows:

***"Where a consumer believes a service experience has failed to match reasonable expectations or has caused genuine perceived harm or offence or is otherwise considered not fit for purpose".***

Question 2:

*Do you agree that the current approach to complaints handling in the telecommunications market is of sufficient concern to justify a degree of regulatory intervention (leaving aside any concern as to the nature of the intervention)?*

Answer 2:

AIME believes Ofcom has identified some shortcomings in current industry processes for complaints handling and that a degree of proportionate intervention may be justified although we would add that the figures quoted by Ofcom do not, in our view, signify a serious problem given the scale of the industry. There are also industry self regulatory initiatives underway in the PRS customer support area that will require due consideration as directed by the Communications Act 2003 and AIME would like to see close engagement between industry and Ofcom to consider such initiatives alongside the planning and implementation of any proposed changes.

Question 3:

*Do you agree with the principle that CPs should be required to comply with a single Ofcom Approved Complaints Code of Practice?*

Answer 3:

A single common Code of Practice is certainly more simple to understand, update and apply particularly if the single Code is developed and updated in co-operation with the industry and AIME would support such an approach. We note that the proposed Ofcom Complaints Code of Practice is attached to this consultation although it is not clear as to what industry input has been included in its production.

Question 4:

*Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are transparent?*

Answer 4:

If a single, common and Ofcom approved Code is in place for all CPs it should not be necessary for all CPs to also operate an additional and formal internal Code as suggested. Rather CPs should be able to make a statement of compliance and publish their individual internal processes which satisfy the common Code requirements and which are transparent to consumers.

Question 5:

*Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are accessible?*

Answer 5:

Yes we agree, subject to the comments under question 4.

Question 6:

*Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are effective?*

Answer 6:

Yes we agree subject to the comments under question 4.

Question 7:

*Do you agree that (depending on the specific measure) Ofcom should take steps to improve awareness of ADR?*

Answer 7:

AIME takes the view that there is no pressing need for significant additional measures to improve awareness of ADR given the low incidence of industry complaints and the automatic awareness in this regard that will accrue from industry initiatives for improvements in customer service support in general and those measures suggested within Question 8 of this Consultation (if implemented).

Question 8:

*Do you agree with our proposals to improve awareness of ADR by requiring:*

- a) Relevant text about ADR to be included on bills (paper and electronic);*
- b) CPs to ensure consumers whose complaint has not been resolved within eight weeks of first being made to a front-line agent receive written notification about their right to go to ADR;*
- c) CPs to ensure front-line staff are fully informed of the right of consumers to use ADR, as well as the role of Ofcom in investigating compliance with General Conditions; and*
- d) On request from a complainant, CPs must issue a deadlock letter referring a matter to ADR unless the subject-matter of the complaint is outside the jurisdiction of the ADR scheme or the CP has genuine and reasonable grounds for considering the matter will be resolved in a timely manner, and subsequently takes active steps to attempt to resolve the complaint.*

Answer 8:

AIME believes these proposals to be relatively low cost and reasonable given the low incidence of disputes.

Question 9:

*Leaving aside concerns about the merits of the proposal, do you agree that CPs should include the following wording (or Ofcom-approved equivalent text) on paper and electronic bills?*

*If you are a residential consumer or part of a business with fewer than ten employees and we have been unable to resolve your complaint within eight weeks, you have the right to ask [Otelo or CISAS] (an alternative dispute resolution scheme) to investigate your complaint at no cost. Their website is [insert web address], you can call them on [insert phone number], or write to them at [insert postal address].*

Answer 9:

Yes, we agree in principle but it is important that there must be freedom to use equivalent effective text or methods which should not require the formal approval of Ofcom.

Question 10:

*Do you agree with our proposed record keeping requirement on CPs?*

*A CP must retain written records collected through the complaint handling process for a period of at least six months, including written correspondence and notes on*

*its Customer Record Management systems. Where call recordings are available, these need to be retained for at least three months.*

Answer 10:

Yes, we agree subject to the proviso that the record may not be “written” or stored in paper form therefore we suggest removing the term “written”.

*Question 11:*

*Do you have any views on the Ofcom Code and accompanying guidance (Annex 5)? Do you consider we have adequately captured the policy intentions we have outlined in the consultation document?*

Answer 11:

It is not clear whether this Code has benefited from early industry input but, apart from the AIME preference for a more generic definition of a complaint, it does appear to capture Ofcom’s policy intentions.

*Question 12:*

*Do you agree that it is reasonable to require CPs to implement:*

- Clauses 1 – 3 of the Ofcom Code (transparency, accessibility and effectiveness of complaints procedures) six months after the publication of any Statement; and*
- Clauses 4 – 5 of the Ofcom Code (facilitating access to ADR and record keeping obligations) 12 months after the publication of any Statement?*

Answer 12:

AIME believes a six month lead time from the publication of any statement for clauses 1-3 and a 12 month lead time from the publication of any statement for clauses 4-5 to be reasonable lead time to implementation.

*Question 13:*

*Do you have any views on whether (and how) Ofcom should look to improve the availability of comparative information on how effective providers are at handling complaints?*

Answer 13:

If a market is functioning effectively it should not be necessary for a regulator to intervene and place unwelcome overheads on businesses which, due to effective competition, are operating on very tight margins. Clearly, Ofcom needs some form of measurement of the complaints scene to discharge its regulatory responsibilities and this would probably be best achieved through occasional audits of complaints procedures for all CPs against Code expectations.

## **Summary**

The provision of high quality customer care and service support is recognised as an essential part of the total service package in today’s increasingly competitive environment for telecommunications services and customers are normally well able to discern comparative quality and value for money. AIME members are actively contributing to various initiatives to improve customer information and support services and our ongoing co-operative project with PhonepayPlus to introduce a registration process for the PRS value chain is expected to produce spin off benefits in this regard.

While complaints handling is certainly important it is just one element of the customer support package, and day to day management of enquiries and customer contact is a critical component in preventing enquiries from becoming complaints and complaints from becoming disputes which are inevitably damaging to the consumer/provider relationship. The vast majority of issues which may

qualify as complaints are processed inside the customer/provider relationship to the satisfaction of the customer and without the need for regulatory attention.

A single Ofcom Code with minimal prescription which encourages providers to engineer creative solutions for complaints handling processes is the preferred way forward and the Code suggested by Ofcom together with the associated requirements laid on CPs should not be onerous if addressed in a spirit of joint co-operation between Ofcom and industry.

The definition of a complaint is important and AIME believes the Ofcom suggestion to be too specific to a particular market sector and recommends that a more generic approach, as suggested by AIME, would be more appropriate.

### **Statement of Representation**

AIME confirms that this response has been compiled following a process of distribution of the relevant Consultation documentation to all AIME members. A list of AIME members can be found at [www.aimelink.org/currentmembers.aspx](http://www.aimelink.org/currentmembers.aspx)

The views expressed in this response are a fair representation of the views held by the responding AIME membership. Individual members are actively encouraged to submit their own independent views as they deem fit and at their sole discretion.

### **Close**

We assure you that, as ever, our comments are made constructively and with the intent of achieving an effective, fair and proportionate regulatory regime for Telecommunications and associated Premium Interactive Media and Entertainment services in the UK.

If any clarification to our response is required or if we can be of any further assistance please contact Zoe Patterson at 08445 828 828 or [zoe@aimelink.org](mailto:zoe@aimelink.org)

AIME