

# Ofcom's Consumer Policy: A Consultation

## Response from the Telecommunications Ombudsman Service

### Introduction

- 1 The Telecommunications Ombudsman Service (Otelos) restricts its comments to those areas directly related with telecommunications, ie fixed and mobile telephony and internet services. Comments are of two types:-
- matters of fact, where the Consultation text appears to be incorrect, ambiguous or may mislead readers, requiring clarification;
  - those where Otelos has an opinion on a point.
- Finally, we include a table showing the summarised responses to each of Ofcom questions.

### Corrections/Ambiguities

- 2 The following items are believed to be in need of correction or amplification:-
- re Figure 2, it is wrongly stated that both energywatch and Postwatch are responsible for "resolving complex complaints". They can receive them and intercede on behalf of consumers but have no power actually to resolve the disputes;
  - re Figure 7, risks being misleading as it may imply that Otelos and CISAS handle similar volumes. In fact the y axis is a percentage;
  - re paragraph 4.8, the various volumes quoted provide little or no coherent information and need to be expanded if the data are to be useful;
  - re paragraph 4.40, (second bullet) Ofcom talks about "failure to comply with an Otelos or CISAS adjudication", which seems to point to a failure to appreciate the fundamental differences between the two schemes - Otelos does not adjudicate – inter alia, it achieves remedies having looked at both sides of the story;
  - re paragraph 4.77 (1<sup>st</sup> bullet), the primary process for dealing with consumer complaints is through the service provider's complaints handling system but, where customers remain dissatisfied, they have an statutory right to the provider's ADR scheme: this must be **unimpeded** and any suggestion of a customer requiring the provider's permission or having to rely on the company forwarding the complaint to the ADR scheme creates the wrong impression;
  - re 4.83 and the ADR Review recommendations, it is not clear what Ofcom means by the term KPI covering "staff competence": could Ofcom please supply a definition?;
  - also re 4.83, Otelos notes that it already regularly publishes information relating to KPIs covering timeliness of decision-making and overall customer satisfaction, breakdowns of complaints received by type and also informs Ofcom where a member breaches the rules in a manner sufficient to merit consideration for expulsion;
  - re 4.84, Otelos's experience indicates that premature sign-posting is only very rarely by the scheme member; but far more frequently because the consumer wants swift progress to be made on his/her complaint - which may, in turn, have been generated because Otelos's contact details are available on providers' bills;

- also re 4.84, notwithstanding the above, Otelo would not advocate deletion of its contact details from bills, as consumers are better served by full information and this may well give them more confidence in the complaint-resolution process as a whole.

### Opinions & Queries

- 3 The following items are responded to with Otelo's opinions:-
- re 4.62, a general information sharing, based on agreed criteria, is all well and good when the problem is something that is as widespread as (say) rogue diallers but may not be as obviously useful if there is systematic misuse by a single company and it might be some time before Otelo:-
    - became alerted to such misuse; and/or
    - was able to inform the regulator about it;
  - also re 4.62, Ofcom must define for Otelo, as a nominal co-regulator, the boundaries and purposes for which the information is required: Ofcom may also need to expand its requirements for regular information flows;
  - re 4.70 and 4.71, given that there is a considerable difference between consumers' actual knowledge and what is thought to be important to know, does Ofcom believe that further improvements to its web-based information system will contribute significantly to consumers' knowledge, on the basis that 40% of adults do not have internet at home and many are unlikely to get it soon? (Annex 5.56)?;
  - re paragraph 1.23 (4<sup>th</sup> bullet), does this mean that Otelo would be required to provide further information (ie new material not already included in the ADR re-accreditation exercise)?;
  - also re paragraph 1.23 (6<sup>th</sup> bullet), Otelo's time-scales are constrained by its Terms of Reference [viz, no complaint can be accepted unless the service provider has had a reasonable opportunity to resolve a dispute (12 weeks or receipt of a deadlock letter)], plus Ofcom's requirement for the issue of the Provisional Conclusion within 6 weeks of the case being accepted, and it is difficult to envisage how these can be further reduced to meet Ofcom's aspirations;
  - re 4.85, Otelo hopes and believes that it already has a constructive dialogue with Ofcom;

### Other Points

- 4 Otelo notes that the Consultation does not mention any measures or targets in respect of judging the success of Ofcom's policy? It is recognised that this omission may be on purpose, depending on the results of the Consultation.

Peter Holland CBE DL  
 Chairman  
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A table showing the summarised responses to each of Ofcom questions follows:

Question	Summarised response
Question 1: Do you agree with the proposed distinction between citizen and consumer interests?	No. Since, where telecoms (and broadcasting) is concerned, the ownership and use of telecoms equipment and facilities is so pervasive and virtually universal, that the distinction is, for practical purposes, irrelevant.
Question 2: Do you agree with Ofcom's position on vulnerable consumers?	Yes, but there is little guidance provided about what steps are available to Ofcom to improve vulnerable groups' situations (basically it is a "motherhood" statement).
Question 3: Do you agree with the high level objectives for consumer policy proposed above?	Yes, but this another motherhood statement – there is no indication of what concrete steps are envisaged (perhaps it is expected that these will result from the Consultation).
Question 4: Do you agree that the proposed indicators provide an appropriate basis for monitoring consumer interests? Are there any other indicators which should be used?	Yes, but not entirely. We believe that it is unlikely, given the trend towards self- and light-touch regulation by Ofcom, that reliance on OCC statistics might be misleading regarding the breadth of consumer dissatisfaction. As in its Review of ADR Schemes, Ofcom also appears still to portray (presume?) that Otelo and CISAS are equivalent, such as the implication that Otelo provides an adjudication service.
Question 5: Do you agree that Ofcom should publish an annual report on the Consumer Interest?	Yes, but this should be more constructive than several other publications which seem to be largely self-congratulatory about how much consumers have been assisted.
Question 6: Do you agree with the characteristics identified of effective consumer protection?	Yes, but the effectiveness of the proposed regime depends crucially on the rapid collection and integration of the evidence, otherwise the enforcement will occur too late to protect consumers and penalise the offenders
Question 7: Do you agree with the assessment and priorities for rights and regulations?	Yes, but to make the regime targeted against offenders, Ofcom needs to require Otelo to provide the relevant specific information, as soon as a problem has been identified, rather than rely on generic information. In general, however, Otelo is prepared to make generalised information available to Ofcom on whatever periodicity is agreed but this too needs to be programmed in order to integrate with Ofcom's time-scales, as Annual reports, etc are a blunt instrument, regarding timeliness.
Question 8: Do you agree with the assessment and priorities regarding consumers' awareness?	Yes, generally, but it is unlikely that merely publishing information on Ofcom's website will, itself, be successful in alerting consumers to new scams, as the vast majority of consumers will not visit the site frequently and up to 40% of adults do not have access to the internet. There have to be other methods of alerting people to these issues.
<i>Question 9: Do you agree with the assessment and proposed priorities regarding complaints handling and redress?</i>	<p>Again yes, generally, but there are three key issues:-</p> <ul style="list-style-type: none"> <li>• companies <b>must be required to inform</b> their customers about the existence of, and how to get access to, their ADR services, in a uniform and universal manner;</li> <li>• there <b>must be no power available</b> to companies to restrict their customers' knowledge of, or access to, the ADR scheme, either by way of lack of information or by a requirement to "refer" customers;</li> <li>• only then will published KPIs and other performance data be informative to Ofcom and consumers, as they will be comparable.</li> </ul> <p>The data will then be useful to consumers in making decisions about which service providers to use. Otelo believes that it already has a constructive dialogue with Ofcom and publishes the information identified in the section.</p>

<b>Question</b>	<b>Summarised Response</b>
<i>Question 10: Do you agree with the assessment and priorities regarding monitoring and enforcement?</i>	Yes.
<i>Question 11: Do you agree with Ofcom's approach to the provision of consumer information?</i>	Yes, in general, with the same qualifications as in the response to Q8. It is noted that Ofcom has approved uSwitch.com as a reliable source of some of this information (residential phone price comparison service) – see answer to Q13.
<i>Question 12: Do you agree with Ofcom's conclusion on consumer awareness of suppliers and services?</i>	Yes.
<i>Question 13: Which of the options on comparative price information, if any, do you favour? Are there other options Ofcom should consider?</i>	Otelo believes that there needs to be some scheme to provide reliable and accurate information about telecoms pricing to the public. This is most authoritatively done under the auspices of the regulator. Otelo does not believe that the regulator should perform this function but should accredit one or more sources. In order to minimise consumer confusion, Ofcom should publicise the PASS scheme and engage with all comparison providers wishing to become accredited. However, given that the current PASS scheme has not attracted several volunteers, it appears that Option 3 may be unrealistic and that Option 4 would be preferable. Ideally, the chosen system(s) should provide more than just price comparisons (quality of service, for example) but it is difficult to envisage what benefits any independent scheme could derive from any wider presentation of comparative data.
<i>Question 14: What is your opinion about these ideas for generating awareness of price comparison information?</i>	Based on the progress to date, a rapid increase in consumer awareness may not be a realistic expectation.
<i>Question 15: Do you agree with our proposed approach regarding the Quality of Service initiatives?</i>	Yes.
<i>Question 16: Do you agree with our proposed approach regarding switching processes?</i>	Yes.