



Quality of Customer service Review

Topcomm Review: second consultation

Consultation

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Section 1

Summary

- 1.1 Ofcom published a consultation document (the July Consultation)¹ on 17 July 2008 asking whether the Topcomm Direction², which requires specified providers of fixed line telephony services to collect and publish specific Quality of Service (QoS) measures, should be maintained, withdrawn or modified.
- 1.2 Ofcom has reviewed all the responses presented by stakeholders and examined the output of a consumer research project which we published on 30 January 2009³.
- 1.3 From this, Ofcom has identified two workstreams:
 - a) A re-evaluation of our policy aims with respect to the provision of comparable QoS information to consumers. The current evidence on this issue is inconclusive and Ofcom intends to conduct further research to understand whether such information, if it is found to be beneficial to consumers, could be provided to consumers on an ongoing basis, perhaps as part of a future regulatory requirement.
 - b) Consult on the immediate approach to the Topcomm Direction. The original policy aim of the Direction was to provide comparable QoS information as it would be beneficial to consumers. The evidence available at this time suggests that the Topcomm Direction does not provide any significant benefit to consumers and our preferred option is to withdraw it.
- 1.4 Workstream (a) is currently under way and Ofcom will present the findings of this exercise together with proposals on possible next steps during a consultation planned later on this year.
- 1.5 Workstream (b) is the main focus of this consultation document. The evidence that we have collected to date suggests that the current arrangements under the Topcomm scheme do not achieve the policy aims initially envisaged when the Topcomm Direction was introduced in 2005. In addition, providers have highlighted the considerable cost in running the current Topcomm scheme. Given that any future scheme potentially resulting from our re-evaluation of policy would not be in place for a number of months, Ofcom considers it appropriate at this stage to consult on what should be done with the current Topcomm Direction.
- 1.6 Ofcom discusses three key options:
 - i) Maintain the Topcomm Direction unmodified;
 - ii) Introduce modifications to the Topcomm scheme; or

¹ Review of quality of service information Phase 1: Information on quality of customer service
<http://www.ofcom.org.uk/consult/condocs/qos08/qos08.pdf>

² In January 2005, Ofcom issued a Direction on the provision of Quality of Service information. It requires certain fixed voice providers to publish defined quality of service information for residential and business customers.

<http://www.ofcom.org.uk/consult/condocs/qualitystate/statement/statement.pdf>

³ Provision of quality of service information – Research Report: January 2009
http://www.ofcom.org.uk/consult/condocs/qos08/provision_qos/qos.pdf

- iii) Withdraw the Topcomm Direction.
- 1.7 The preferred approach at this stage is option 3 on the basis that, in our view, the Topcomm Direction does not satisfactorily achieve the policy objectives envisaged when the regulation was introduced and places considerable cost on those communications providers which are caught by the Topcomm scheme.

Section 2

Introduction and scope

- 2.1 On 27 January 2005, Ofcom issued a Direction under General Condition 21 requiring a specified category of communication provider⁴ to capture and publish comparable information on specific aspects of QoS (the 'Topcomm Direction'). The Topcomm Direction had led to the formation of Topcomm, a co-regulatory scheme where certain providers of fixed line voice services are obliged to capture and publish QoS information for consumers and business users.
- 2.2 Ofcom's policy aim was to ensure consumers would benefit from the provision of comparable QoS information. In the regulatory statement that accompanied the Topcomm Direction, it stated at paragraphs 3.6 -3.8,

'A part of Ofcom's mission is to encourage the provision of timely, relevant, accessible and accurate information to citizen-consumers and enable them to make informed purchasing decisions.'

'Reliable consumer information facilitates the exercise of choice by End-Users and helps them to receive the benefits of increased competition. Ofcom believes that if End-Users are to rely upon such information it needs to be accurate, accessible, and truly comparable.'

'All consumers should be able to take advantage of the benefits of transparent and comparable information and the competitive benefits that this should bring; this includes consumers in different parts of the UK, from different income groups, and for those with a disability'.

- 2.3 As the Topcomm Direction had been in force for several years, Ofcom took the opportunity during 2008 to assess the value of the current scheme to consumers and evaluate if the scheme delivered the objectives originally envisaged or could be improved. This was phase 1 of our review of QoS information and looked primarily at information on customer service. Phase 2 of the QoS review plans to look at technical and network service information such as broadband speeds and mobile network coverage.
- 2.4 Ofcom published an initial consultation in July 2008 that sought to capture stakeholders' views on the usefulness of the current Topcomm Direction but also involved asking fundamental questions about the need for QoS information more generally and how the Topcomm Direction might be improved.
- 2.5 At the same time, Ofcom conducted a substantial consumer research exercise so that it could better understand the QoS needs of consumers. This was published in January 2009.
- 2.6 From this, Ofcom has identified two workstreams:
 - a) A re-evaluation of our policy aims with respect to the provision of comparable QoS information to consumers. The current evidence on this issue is inconclusive

⁴ In the context of the Topcomm Direction, a 'Communications Provider' is currently defined as a person providing a Publicly Available Telephone Service by means of a Public Telephone Network at a fixed location which has at least £4 million in net revenues per quarter and 100 million minutes of calls handled to end customers.

and Ofcom intends to conduct further research to understand whether such information, if it is found to be beneficial to consumers, could be provided to consumers on an ongoing basis, perhaps as part of a future regulatory requirement.

- b) Consult on the immediate approach to the Topcomm Direction. The original policy aim of the Direction was to provide comparable QoS information as it would be beneficial to consumers. The evidence available at this time suggests that the Topcomm Direction does not provide any significant benefit to consumers and our preferred option is withdrawing it.
- 2.7 This consultation document is primarily focused on workstream (b) which aims to determine whether the Topcomm Direction should be maintained, modified or withdrawn before Ofcom has finalised its views on what QoS information, if any, should be provided.
- 2.8 The structure of the rest of the consultation document is as follows:
- i) Section 3: Background
 - ii) Section 4: Approach to Review of Information on Quality of Customer Service
 - iii) Section 5: Options for the Topcomm Direction.
- 2.9 The rest of this section sets out, at a high level, how this consultation fits into Ofcom's approach to consumer information.

Ofcom's approach to consumer information

- 2.10 As set out in the July Consultation, Ofcom believes that consumer information on price and QoS plays a critical role in competitive markets. Where evidence suggests that lack of information has resulted in consumer harm, or is likely to do so in the future, there may be a case for regulatory intervention. This approach mirrors Ofcom's regulatory principles – it is evidence based and underpinned by a bias against intervention. Any future regulation, will also consider the good practice criteria for successful co- and self-regulatory schemes, set out in a statement Ofcom published in December 2008⁵.
- 2.11 The following table sets out the key areas of Ofcom's activity in consumer information.

Issue	Ofcom project
Information on price	<ul style="list-style-type: none">• Price Accreditation Scheme⁶
Information on quality	<ul style="list-style-type: none">• Quality of customer service – Topcomm⁷• Quality of broadband networks – Broadband speeds project⁸

⁵ <http://www.ofcom.org.uk/consult/condocs/coregulation/statement/>

⁶ <http://www.ofcom.org.uk/consult/condocs/ocp/statement/pricescheme/consumerfaq/>

⁷ <http://www.topcomm.org.uk/>

⁸ http://www.ofcom.org.uk/research/telecoms/reports/bbspeed_jan09/

- 2.12 In terms of information on price, Ofcom has put in place a price accreditation scheme. The scheme accredits the calculators used by price comparison companies to ensure that consumers get accurate, transparent and comprehensive advice in an accessible way.
- 2.13 Phase 1 of the Quality of Service review considers the information on quality of customer service and the Topcomm Scheme.
- 2.14 Phase 2 of the Quality of Service review will consider the information available on quality of mobile and broadband networks. This includes issues such as mobile network coverage, and broadband speeds. Ofcom is looking into a number of a number of consumer related issues within the context of the Mobile Sector Assessment (MSA)⁹. A second MSA consultation is planned for May 2009. The review of information on the quality of broadband networks is underway and Ofcom is currently planning to publish a report in May/June 2009.
- 2.15 As part of phase 1, Ofcom published the July Consultation asking whether the Topcomm Direction should be maintained, withdrawn or modified.

Scope of the current consultation

- 2.16 This consultation is part of phase 1 of our review of QoS information but only considers the question as to whether the Topcomm Direction achieves the original policy aim of providing QoS information in a way that benefits consumers as set out in our January 2005 statement¹⁰. We consider this in more detail in section 5.
- 2.17 The preferred proposal is to withdraw the Topcomm Direction before Ofcom has completed a re-evaluation of our approach to the provision of QoS information to consumers.
- 2.18 Due to the narrower scope of this consultation, the consultation document does not discuss the full range of responses to the July Consultation. It only discusses those responses relating to the Topcomm scheme and which are, in our view, relevant to the issues discussed in this document. However, we will address the issues raised in the context of the July Consultation as part of our wider re-evaluation of our approach to providing QoS information.

⁹ <http://www.ofcom.org.uk/consult/condocs/msa08/>

¹⁰ <http://www.ofcom.org.uk/consult/condocs/qualitystate/statement/statement.pdf>

Section 3

Background

Introduction

- 3.1 This section sets out some background information to the consultation document. In particular, it covers:
- a) the regulatory framework; and
 - b) An overview of the Topcomm Scheme.

Regulatory framework

- 3.2 Under section 3 of the Communications Act 2003 ('the Act') Ofcom must, in carrying out its functions:
- a) further the interests of citizens in relation to communications matters; and
 - b) further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 3.3 Ofcom also needs to have regard, under section 3 (3) (a) of Act, to principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases where action is needed.
- 3.4 Under section 4 of the Act we must also act in accordance with the six European Community requirements for regulation, including the requirement to promote competition in relation to the provision of electronic communications services and the requirement to promote the interests of all persons who are citizens of the European Union.
- 3.5 Ofcom also has a duty under section 6 (1) of the Act to continuously review the carrying out of our functions to ensure that any regulation by Ofcom does not involve the maintenance of unnecessary burdens.
- 3.6 Article 22 of the Universal Services Directive requires Member States to ensure that National Regulatory Authorities ('NRAs', e.g. Ofcom in the UK) are able to require communications providers to publish comparable, adequate and up-to-date information for end-users on the quality of their services. In this respect, NRAs may specify the QoS parameters to be measured and the content, form and manner of information to be published so that customers have access to comprehensive, comparable and user-friendly information.
- 3.7 Section 51(1)(a) of the Act enables Ofcom to set general conditions to protect the interests of the end-users of public electronic communications services. Sections 52(1) and (2)(d) require Ofcom to set such general conditions as it considers appropriate to ensure that providers have procedures, standards and policies with respect to the information to be made available to customers about service standards and about the rights of residential and small business customers.

- 3.8 General Condition 21 requires providers, on the direction of Ofcom, to publish comparable, adequate and up to date information for end-users on the quality of their services. Ofcom's Direction may specify, among other things:
- a) the QoS parameters to be measured;
 - b) the information to be published;
 - c) how the comparability of the information is to be validated (including audit requirements);
 - d) the manner of publication;
 - e) the timing of publication; and/or
 - f) that the relevant providers also provide Ofcom with a copy of the information in advance of publication.
- 3.9 In September 2004, Ofcom published a statement on providing QoS information to consumers and a consultation on which quality parameters should apply¹¹.
- 3.10 Following consideration of the responses to the September 2004 consultation, on 27 January 2005, Ofcom issued the Topcomm Direction pursuant to General Condition 21.1 on the provision of Quality of Service information. It was accompanied by a regulatory Statement (the "2005 Statement")¹².
- 3.11 The Topcomm Direction requires specified communications providers supplying voice services at a fixed location to publish defined QoS parameters for residential and business customers. These providers have been responsible for the way in which the Topcomm Direction has been implemented and have established an industry body known as Topcomm to carry out this work. The 2005 Statement recognised the industry's role in developing this scheme.
- 3.12 In respect of any withdrawal of a Direction issued under a general condition, Ofcom must not – pursuant to section 49 (2) of the Act – withdraw such a Direction unless it is satisfied that to do so is:
- a) objectively justifiable;
 - b) not such as to discriminate unduly against particular persons or against a particular descriptions of persons;
 - c) proportionate to what is intended to achieve; and
 - d) in relation to what it is intended to achieve, transparent.
- 3.13 Before withdrawing any such Direction, pursuant to section 49 (4) of the Act, Ofcom has to publish a notification setting out, among others:
- its proposal to withdraw the Direction;

¹¹ A Statement on providing quality of service information to consumers:
A Consultation on quality parameters including a Notification and Draft Direction
<http://www.ofcom.org.uk/consult/condocs/qualitystate/qos/qos.pdf>

¹² <http://www.ofcom.org.uk/consult/condocs/qualitystate/statement/statement.pdf>

- the effect this withdrawal is likely to have;
- its reasons for the proposed withdrawal; and

the period within which representations may be made about the proposed withdrawal, which must be at least one month.

- 3.14 Annex 5 to this consultation document contains the notification required under section 49 of the Act.

The current Topcomm scheme

- 3.15 The Topcomm Direction adopted on 27 January 2005 under General Condition 21 requires communications providers that fall into a specified category of communications provider to report on five specific QoS parameters:
- i) Supply time for initial connection;
 - ii) Fault rate per access line;
 - iii) Fault repair time;
 - iv) The time for End-User complaints received by the Communications Provider to be resolved; and
 - v) Bill correctness complaints.

- 3.16 For the purposes of the Topcomm Direction the term ‘Communications Provider’ is defined as:

“a person providing Publicly Available Telephone Services by means of a Public Telephone Network at a fixed location which has at least £4 million in net revenues per quarter and 100 million minutes of calls handled to End-Users per quarter”¹³.

- 3.17 This effectively means fixed voice providers of a particular size and includes those offering services to residential, SME and large business customers who have been providing services for more than 18 months.
- 3.18 It is mandatory under the Topcomm Direction that the information should be published at least every six months and the method of publication should be at least on an independent website.

Topcomm Forum

- 3.19 The Forum is a co-regulatory group, whose role is to devise suitable processes and procedures to ensure that the requirements set out in the Topcomm Direction are met. Responsibility for compliance however, rests with those individual providers caught by the Direction.

¹³ Paragraph 5c :Direction under General Condition 21 requiring specified Communications Providers which provide Publicly Available Telephone Services over a Public Telephone Network at a fixed location to provide quality of service information

<http://www.ofcom.org.uk/consult/condocs/qualitystate/statement/statement.pdf>

- 3.20 The Forum is made up of the providers who are subject to the Direction, consumer representatives, Ofcom and a Topcomm Secretariat. Of these, only communications providers are voting members of the Forum. Ofcom has a casting vote in the decision making process only in the event that member's votes are split equally.
- 3.21 The Forum meets regularly and is fully funded by its members.
- 3.22 Each communications provider collects data in accordance with a common set of definitions that were agreed by the Forum. The data is subject to a two stage audit process and is approved for publication by the Forum's independent auditor. The role of the independent auditor is to ensure that all participants interpret the scheme requirements and measurement definitions in a standard and comparable way.
- 3.23 If a provider fails to provide accurate or comparable information for publication, it appears on the website as 'FA' (failed audit).

Section 4

Approach to Review of Information on Quality of Customer Service

- 4.1 The July Consultation and the research conducted by Ofcom aimed to get evidence on a broad ranging set of issues about information on quality of customer service.
- 4.2 This section sets out what has happened since the July Consultation and briefly covers Ofcom's current views on why it needs to conduct further research in order to properly re-evaluate our approach to the provision of QoS information to consumers.

Summary of progress made since the last consultation

- 4.3 Ofcom has had the opportunity to review the responses to the July Consultation. A wide range of stakeholders responded, including current Topcomm members, communications providers not currently captured by the Topcomm Direction and representatives of residential and business users. The responses provided us with a wide range of views on the benefits of QoS information as well as detailed feedback on value of the Topcomm scheme.
- 4.4 As signposted in the July Consultation, Ofcom conducted further market research to help us better understand the factors that customers take into account when choosing or changing suppliers of each of the services in the consultation (including fixed line voice, mobile and broadband services).
- 4.5 Qualitative research was undertaken during July 2008¹⁴. The purpose of the qualitative research was for us to:
 - Understand how consumers and SMEs define QoS in each market;
 - Understand the benefit to these audiences in having information on QoS in each market;
 - Identify the types of QoS information that would have most value in each market; and
 - Identify the most effective formats and channels for communicating any potential QoS information.
- 4.6 The output of the qualitative research then helped us formulate the quantitative research. The quantitative stage was aimed at;
 - Measuring the overall importance of QoS as a driver of decision making in each market;
 - Measuring the overall level of demand for QoS information in each market; and

¹⁴ Provision of quality of service information: Research Document :Publication date: 30 January 2009
http://www.ofcom.org.uk/consult/condocs/qos08/provision_qos/qos.pdf

- Establishing what types of QoS information consumers and SMEs would be most likely to want/use to facilitate decision making in each market.
- 4.7 In addition to the bespoke research exercises above, we continued to use our wider ongoing decision making and tracker surveys to help us better understand consumers' QoS information needs. These surveys are run by Ofcom annually and feed into our Consumer Experience reports typically published in November of each year¹⁵.

Ofcom's assessment of the evidence collected so far

- 4.8 The evidence collected above helps us in re-evaluating our approach to providing QoS information to consumers. However, the evidence collected so far does not allow us to reach any firm conclusions over on the value to consumers in providing QoS information.
- 4.9 Evidence from a number of sources suggests that consumers care greatly about poor customer service. Data from Ofcom's Advisory Teams (calls, letters to Ofcom) recorded that approximately 50% of all cases between March 2008 and February 2009 (or about 5,500 calls a month) were about customer/supplier relationship issues including aspects such as the speed of supplying a service and fault handling.
- 4.10 Futuresight research carried out in 2006 found that most consumers who had cause to complain about their communications service were dissatisfied with the way in which their complaint was handled – this accounted for 70% of fixed voice, 65% of Internet and 52% of mobile complainants¹⁶.
- 4.11 Research from Citizen's Advice published in 'Are you being served?'¹⁷ found that if customers could get clear and independent information about the quality of customer service offered by utility companies, including information about how they deal with customer calls, then only 3% of respondents would base their choice of supplier solely on price and 20% would choose their supplier based wholly on the quality of their customer service.
- 4.12 The output of Ofcom's 2008 consumer research also suggests that a sizeable number of consumers care about quality of customer service – many refer to helpfulness of consumer representatives (23%) and technical support (18%) being important to them¹⁸.
- 4.13 However, the output of the 2008 consumer research also suggests that quality of network performance is more important to consumers than quality of customer service. Comparative data on the quality of technical service, such as mobile coverage and broadband speeds, is much more likely to be mentioned by consumers as an important factor in choice of supplier. In fact, broadband network performance (including speed of service) rates as highly as broadband price.

¹⁵ <http://www.ofcom.org.uk/research/tce/>

¹⁶ Ofcom - Review of Alternative Dispute Resolution and Complaints Handling Procedures (July 10 2008) http://www.ofcom.org.uk/consult/condocs/alt_dis_res/futuresight/research.pdf

¹⁷ Are you being served? CAB evidence on contacting utilities companies – January 2008 http://www.citizensadvice.org.uk/index/campaigns/policy_campaign_publications/evidence_reports/er_utilities/are_you_being_served.htm

¹⁸ 2008 Research on consumers' spontaneous and prompted mentions when asked what factors where important when thinking about fixed line voice providers

- 4.14 Moreover, the recent survey data does not provide strong evidence of consumer detriment in the absence of such information; we do not know how many consumers suffer what they consider unacceptably poor customer service.
- 4.15 The market research data suggests that the generality of consumers may not be overwhelmingly interested in comparing the positive aspects of a supplier's performance – they may not necessarily value information on service excellence when choosing their supplier. However, evidence also suggests that consumers do care greatly about customer service.
- 4.16 This evidence alone does not allow us to reach particularly strong conclusions on the need to provide QoS information.
- 4.17 In order for us to properly re-evaluate if the provision of QoS information is beneficial to consumers we will need to conduct further research. This research will enable us to;
 - a) Assess the scale of consumer dissatisfaction with communications providers and establish if there are any significant differences between them;
 - b) Understand consumers' experiences when contacting a communications provider; and
 - o better understand how consumers would prefer to receive such information, e.g. do consumers prefer to receive such information in graphs / tables etc?
 - o what types of delivery channels would be most effective? e.g. through press releases, via price comparison sites etc.
- 4.18 The research programme is currently underway, and we will keep all relevant stakeholders informed as this work progresses.
- 4.19 Ofcom is hopeful that the output of this research will enable us to reach stronger conclusions on whether there are any benefits in providing QoS information to consumers and will enable us to complete a re-evaluation of our policy approach. We will consider this policy approach in greater detail within a consultation planned for later this year.
- 4.20 The activities presented in this section relate to the re-evaluation of our policy approach to the provision of QoS information to consumers. However, Ofcom has also received a considerable amount of evidence on the effectiveness of the Topcomm Scheme in satisfying the policy objectives as set out when the Direction was introduced. This evidence and our proposals resulting from an analysis of this evidence will be considered in the next section.

Section 5

Options for the Topcomm Direction

- 5.1 This section looks at the evidence gathered to date that helps us assess the value of the Topcomm Direction against the original policy objective set out by Ofcom in 2005.
- 5.2 We have received detailed responses back from the July consultation on stakeholders' assessment of the Topcomm scheme and have conducted some consumer research about consumers' need for QoS information.
- 5.3 The evidence collected to date suggests that the Topcomm Direction has not achieved the original policy objective that was formulated when the Topcomm Direction was introduced. Ofcom's view, as set out in the 2005 Statement, was that:
 - i) A part of Ofcom's mission is to encourage the provision of timely, relevant, accessible and accurate information to citizen-consumers and enable them to make informed purchasing decisions.
 - ii) 'Reliable consumer information facilitates the exercise of choice by End-Users and helps them to receive the benefits of increased competition. Ofcom believes that if End-Users are to rely upon such information it needs to be accurate, accessible, and truly comparable.'
 - iii) 'Ofcom also believes that a successful co-regulatory initiative that provides adequate, timely and comparable QoS information will help to promote investment and innovation in the provision of services and will also promote competition. All consumers should be able to take advantage of the benefits of transparent and comparable information and the competitive benefits that this should bring; this includes consumers in different parts of the UK, from different income groups, and for those with a disability.'
- 5.4 The rest of this chapter will seek to evaluate, based on the evidence available, the extent to which the Topcomm Direction was able to provide these benefits to end users.
- 5.5 In our view, the basis of which we consider in this section, the Current Topcomm Direction does not meet the original policy aims. Thus, our preferred option is to withdraw the Topcomm Direction at the current time, in advance of completing the evaluation of our approach to the provision of QoS information more generally.
- 5.6 Also, section 49 (2) of the Act requires us in respect of any proposed withdrawal of a Direction issued under a general condition, to be satisfied that to withdraw such a Direction is:
 - a) objectively justifiable;
 - b) not such as to discriminate unduly against particular persons or against a particular descriptions of persons;
 - c) proportionate to what is intended to achieve; and

- d) in relation to what it is intended to achieve, transparent.
- 5.7 This chapter will also seek to demonstrate how our preferred option satisfies these four tests under section 49 of the Act. This chapter will further include an assessment of the impact of the preferred approach.

Evidence collected on the current Topcomm Scheme

- 5.8 Whilst the responses to the July Consultation¹⁹ varied significantly on the need or otherwise to publish information on quality of customer service measures in general, and, indeed, the nature of a future scheme, there was a fairly widespread consensus that the current Topcomm scheme was not fit for purpose.
- 5.9 Responses, including consumer stakeholders, suggested the current arrangements for presenting performance data were not helpful for consumers and would require significant reform to be useful.
- 5.10 Citizens Advice suggested that the website was '*difficult to understand*'²⁰; indicating that the way the performance graphs were presented was not helpful for consumers. For example, the graph on service restoration (though also a feature of the supply time metric) needs to be read alongside the commitment times made by each company to make an effective comparison.
- 5.11 Consumer Focus suggested '*The QOS Direction should be expanded to cover information concerning the performance of broadband / internet providers and mobile phone operators. This also represents an opportunity to look at the current performance variables in the Direction*'²¹.
- 5.12 A number of Topcomm suggested in their responses that the information provided on the website was of limited use to consumers but also added that the measures in their current form generated non-trivial costs(outlined below) that were not proportionate given the low use of the Topcomm website.
- 5.13 Feedback from the stakeholders as summarised above suggests that the Topcomm scheme does not, in its present form; provide clear benefits to consumers.

Current usage of the website

- 5.14 There are currently around 1000 visits to the Topcomm website each week²². When compared to the millions of hits generated by price comparison sites such as Uswitch and Moneysupermarket²³, the site's popularity appears very low indeed.
- 5.15 Some industry stakeholders have argued that these low levels of usage reflect the fact that consumers are not interested in customer service information and so do not warrant the effort and cost that has been invested by industry in providing the data.

¹⁹ Non confidential responses to July 2008 Consultation

<http://www.ofcom.org.uk/consult/condocs/qos08/responses/>

²⁰ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/ca.pdf>

²¹ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/confocus.pdf>

²² Data collected by Topcomm secretariat from Executive summary report for the week of March 8 2009.

²³ Moneysupermarket attracted approximately 65 million visitors in the financial year ended 31 December 2006.

<http://corporate.moneysupermarket.com/mony/company/keyfacts/>

- 5.16 However, other stakeholders, and in particular consumer stakeholders, have argued that it is poor public awareness of the site and lack of publicity that has led to the low usage level.
- 5.17 The Communications Consumer Panel²⁴ suggested that low usage of the site was to some extent due to a lack of publicity and set out a number of ways in which the site could be better promoted by Ofcom and others.
- 5.18 Citizens Advice agreed that more needs to be done than just simply relying on Topcomm members to promote the scheme, '*One more radical option would be to mandate CPs to include information about their quality of service rating alongside information relating to price when, for example, they advertise*²⁵'.
- 5.19 There are no obligations within the current Topcomm Direction to stipulate that members of Topcomm are required to advertise the scheme and some (usually consumer stakeholders) suggest this is a reason why there has been so little take up of the information provided. The responses received from stakeholders suggest that more could be done to promote the scheme including mandating the providers to take steps to increase awareness of the website.
- 5.20 Feedback from some trade organisations representing SMEs, suggest that their members are not aware of the Topcomm scheme. The British Chamber of Commerce suggested that '*While there are currently low levels of usage of the current information [Topcomm]; we believe that this is more due to a lack of awareness that this information is available, rather than it not necessarily being of use. It would therefore seem sensible for the scheme to be more extensively promoted, for the information to be made available in the most accessible manner and for mechanisms to disseminate information*²⁶'.
- 5.21 Ofcom's view is that the low number of visits to the website is likely to be, in large part, due to a lack of awareness about the Topcomm website. There has not been any significant promotion of the Topcomm scheme either by scheme members, Ofcom or third parties (price comparison sites etc). So it is reasonable to assume that consumers simply are not aware of the scheme.
- 5.22 The low levels of consumer awareness and usage of the Topcomm website have restricted the opportunity for the Topcomm Direction to achieve its original purpose of providing benefit to consumers.
- 5.23 This might lead to suggestions that efforts should be made to raise publicity of the scheme. However, this would only be desirable if we could have confidence that the information currently provided is useful to consumers and a fair basis for comparison across providers. These issues are considered next.

The usefulness of information currently provided to consumers under the Topcomm Direction

- 5.24 This section considers each of the five Topcomm parameters in turn, and assesses whether they help achieve the original policy objective of providing benefit to consumers.

²⁴ Formerly 'Ofcom Consumer Panel'

²⁵ See 19 above

²⁶ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/bcc.pdf>

- 5.25 Our current analysis suggests that the metrics used by Topcomm do not allow useful and easy comparisons to be drawn by consumers. It's likely that in order for the scheme to provide useful information to consumers, some of the metrics would need to be modified.
- 5.26 The Topcomm Direction defines the required information for four of these parameters only by reference to ETSI standards. In practice, those providers currently caught by the QoS Direction have refined and developed the definitions from this basis. In preparation for notification of the Topcomm Direction an 'Audit Working Group' - made up of members of the Forum - drafted and agreed a document entitled 'Quality of Service Definitions'²⁷ which sets out the requirements, calculations, definitions and exclusions for the collection and publication of information on each parameter. This document was first published in February 2006.
- 5.27 Since then, a small number of minor amendments have been made to ensure the parameters are clearly defined. The document was last amended in January 2007 and remains under review by the Forum. In effect, it is the communications providers who decide the details of what is collected, rather than Ofcom.
- 5.28 The July Consultation set out a number of options for modifying the information published for each parameter, e.g. change the metrics so that they are more consumer friendly. The July Consultation also asked how the information requirements should be set, i.e. should the detail (metrics, definitions etc) of what should be collected and published be decided by Topcomm members or Ofcom.
- 5.29 If modifications were to be introduced to the current metrics (as per option 2 below), it would be the communications providers caught by the Topcomm Direction, who would, in collaboration with Topcomm, agree on the detail of any new metrics.

Parameter 1 - Supply time for initial connections/service provisioning

- 5.30 Under the Topcomm scheme, providers report on the percentage of orders completed on or before the committed date set by the provider. This metric - known as 'service provision' - records the supply time for original connection based on a delivery target the provider has set for itself.
- 5.31 The delivery targets set by individual providers vary widely and this makes it difficult for consumers to make effective comparisons. For example, a provider who always meets its delivery target of 30 days will achieve a 100% success rate and may appear to compare more favourably than a provider who delivers within its target of 10 days 95% of the time. In actual fact, it may be better for the consumer to choose the latter provider if they are interested in the quickest provisioning time but it will be difficult for a consumer to be able to draw that comparison.
- 5.32 The presentation of performance data against each supplier's individual commitment times like this was frequently mentioned by consumer stakeholders as a flaw of the current scheme.
- 5.33 The difficulties with comparisons were also highlighted by the Communications Consumer Panel in their response: '*It is striking that, even under the current*

²⁷ http://www.topcomm.org.uk/topcomm_QOS.pdf

Topcomm scheme, with its stress on comparability of rather few indicators, two of the indicators are not at all comparable or not in a meaningful way for consumers²⁸.

- 5.34 Claire Milne of Antelope Consulting considered that as parameters are expressed in terms of percentage achievement of companies' own objectives, rather than in time, '*they are therefore not comparable*'²⁹. She suggested that more detail needed to go into the Direction, Ofcom needed to play a greater role in specifying parameters or a mixture of both.
- 5.35 This criticism of the current scheme for using measurements by internal targets was echoed by current Topcomm members. BT, Post Office Limited, Sky and Tesco all agreed that the use of internal targets was potentially unhelpful to consumers as they were not comparable.
- 5.36 Another aspect of the service provisioning parameter that was singled out for criticism was the separate presentation of information on direct and indirect services. Citizens Advice suggested it was not clear to consumers why Topcomm provides information separately on direct and indirect suppliers. From a consumer's perspective they only really care about how quickly their service is provisioned and information on direct and indirect suppliers may only serve to confuse them.
- 5.37 The decision making survey suggested that 21% of consumers were likely to want to compare information on fixed line voice provider set up times.
- 5.38 In order to provide any genuine benefit to consumers, it is likely that this metric would need to be change so that the measurement confirms the average time taken to deliver a service in working days, once an order is made between the customer and provider. This could:
 - 5.38.1 give consumers a clear idea of the likely period of time they will need to wait before their new service is installed; and
 - 5.38.2 enable them easily to compare how quickly different providers supply their service.
- 5.39 This metric change is discussed further at paragraphs 5.38 to 5.44 of the July Consultation.

Parameter 2 - The time to resolve end user complaints

- 5.40 Under the current Topcomm scheme, fixed voice providers report on the percentage of complaints processed within 28 calendar days, excluding complaints about faults.
- 5.41 Citizens Advice suggested that the providers should be expected to provide information on how long it takes providers to resolve complaints. This was a view shared by Claire Milne who suggested that the current metric should be improved.
- 5.42 The actual metric used to represent resolution time was criticised for not being helpful. For example, a respondent, who preferred to remain anonymous, suggested that the percentage of complaints resolved within 28 days was too long a time frame to provide useful or differentiated information. Indeed in Q3 and Q4 2007, the vast

²⁸ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/ocp.pdf>

²⁹ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/milne.pdf>

majority of results varied between 96.9% and 99.88%, with the exception of two providers who scored 70.93% and 91.87%.

- 5.43 There were further observations made on the objectivity of the data being collected. For example, data on complaints is always going to be subject to communications providers' own interpretations, albeit that the metric is measured according to an agreed definition and subsequent auditing check and therefore is not truly objective.
- 5.44 The decision making survey suggested that 16% of consumers were likely to want to compare information on number of complaints not immediately resolved by a fixed line voice provider³⁰.
- 5.45 In order to be useful, this metric would probably need to be amended to ensure that the resulting data usefully differentiated between suppliers.
- 5.46 One option considered in the July Consultation was to change the metric to measure the average time taken to resolve a complaint in working days. This would provide consumers with a clearer distinction between service providers and potentially make it easier for consumers to understand. In addition to reporting on the average time taken to resolve the fastest 95% of complaints, we could also propose to require providers to report on the slowest 5%. This would help ensure a small minority of complaints that took a long time to resolve did not distort the overall average, whilst ensuring information on the slowest times remained available.
- 5.47 A further option would be to use a metric that tells consumers the total number of complaints received by the provider. This would allow consumers to compare the number of complaints made by each provider's customers, indicating who offers a better or worse overall quality of service.
- 5.48 These options were considered in detail at paragraphs 5.57 to 5.65 of that July Consultation.

Parameter 3 - Fault rate per access line

- 5.49 Under the current scheme, fixed voice providers report on the number of faults experienced by customers. This is reported as the number of faults per 100 lines. This metric seeks to allow consumers to compare the reliability of services.
- 5.50 However, as we pointed out in the July Consultation, an independent review of QoS measurements, commissioned by Ofcom in 2007, found that faults are experienced by fixed voice customers approximately once every eight years.
- 5.51 We suggested that, given the relative infrequency of fixed line faults, it might not be appropriate to replace the existing fault parameter with a new one.
- 5.52 This was a view shared by Consumer Focus '*Given the small number of faults reported, the existing parameter on complaints about faults in the fixed line market seems to have limited value.*'³¹
- 5.53 The decision making survey suggested that 16% of consumers were likely to want to compare information on number of faults generated by fixed line voice providers.

³⁰ Figure 6 , Provision of quality of service information: Research Document Publication date: 30 January 2009 http://www.ofcom.org.uk/consult/condocs/qos08/provision_gos/gos.pdf

³¹ see 20 above

There was greater interest in a parameter that measured the speed with which communications providers repair faults which is covered below.

Parameter 4 - Fault repair time

- 5.54 Under the current scheme, fixed voice providers report on how well they meet their commitment to restore service, within their stated target, following a reported fault.
- 5.55 Similarly to the arguments made above for number of faults per access line, it might not be proportionate to require providers to collect information on such a parameter, given that faults are so rare and the data would offer little differentiation to consumers.
- 5.56 As is the case for the service provisioning metric, a number of consumer stakeholders have questioned whether performance metrics, based on providers' own service level agreements are particularly useful for consumers in making comparisons between different suppliers.
- 5.57 Consumer Focus advised that '*If this parameter is kept, the definition must be consistent across all providers, as otherwise the information will not be sufficiently comparable*³²'.
- 5.58 The decision making survey suggested that 23% of consumers were likely to compare information on average time taken to resolve faults generated by fixed line providers.
- 5.59 The current fault resolution metric does not provide consumers with a particularly useful method for making comparisons between providers since it measures against a providers own target rather than a common target. To that extent, it makes it difficult for consumers to benefit from the information provided.

Parameter 5 – Complaints about billing accuracy

- 5.60 Under the current scheme, providers captured by the Direction report on the number of upheld billing accuracy complaints processed per 1000 complaints.
- 5.61 While there was acknowledgement from some stakeholders that complaints about billing was an important issue, there was some concern expressed over how the measure was collected and then presented to consumers.
- 5.62 Consumer Focus suggested that billing inaccuracy accounted for a large number of consumers' complaints [in the gas and electricity markets] and quoted that they accounted for 70% of complaints to Energywatch, before the organisation shut down. However, Consumer Focus mentioned some concern over how current Topcomm members defined these complaints; '*it could also be that the definition of a complaint about billing accuracy is not recorded on a consistent basis by providers. If this parameter is kept it would be worthwhile redrafting it so all providers are reporting data on a consistent and comparable basis*³³'.
- 5.63 These sentiments were shared with some industry stakeholders, who, while recognising the importance of billing as an issue for customers, did not agree that the current arrangements were useful. NTL suggested '*Billing accuracy as currently*

³² See 20 above.

³³ Ibid.

*reported, is difficult for the provider to, (a) interpret how to log when received, (b) to extract from systems and (c) to measure when reports are analysed. If the end result is a number that the customer doesn't understand, then the parameter must be reviewed.*³⁴

- 5.64 The decision making survey suggested that 17% of consumers were likely to compare information on the number of complaints regarding bills generated by fixed line providers.
- 5.65 It is possible that in order for this metric to be useful it would require some form of modification to ensure that billing complaints were reported on a consistent and comparable basis.
- 5.66 For example, billing accuracy could be incorporated into the wider 'pool' of complaints that covers consumers' concerns overall and/or agree a new set of definitions. These definitions would then potentially make it simpler for providers log and then extract complaint data. Billing complaints would still be recognised but included in a wider set of issues.
- 5.67 Again, the July Consultation discussed in detail, how issues with monitoring and publishing complaints, such as those identified under billing correctness, could be modified.

Summary of current parameters and metrics

- 5.68 Given the feedback from stakeholders that represent the interests of consumers, it is apparent that there are major concerns over how performance data is collected and presented to consumers. These concerns rest not only in what information is being collected, such as fault data (where there is little to differentiate providers). They also suggest that the metrics used do not allow easy comparisons between suppliers because, for example, performance is measured against each provider's own targets instead of a common industry target.
- 5.69 The effort and resources required to remedy these deficiencies are likely to be significant. Based on cost assumptions set out in the July Consultation, we estimated (based on cost data provided by some providers) that the cost of changing each metric would be in the region of £250 - £7,500 per provider, depending on their size and the nature of their systems, processes etc. These are costs are restated in annex 6 of this consultation. Given that there are currently 5 parameters and 18 members of the scheme, this suggests the total costs of modifying the metrics could be in the region of £22,500 and £675,000. We are not yet certain what the most appropriate metric(s) would be, and even if this could be agreed with industry immediately, there would be a possibility that it could change at a future stage.
- 5.70 Instead of modifying metrics at this stage, it would appear more appropriate to address such detailed questions once the more fundamental questions have been considered in the light of further research mentioned in the previous chapter.

The current auditing arrangements

- 5.71 The original policy aim of the Topcomm Direction was to provide QoS information to consumers so that they could enjoy the benefits of making informed decisions as to

³⁴ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/ntl.pdf>

which supplier to use. A key requirement of any information presented to consumers was that it should be accurate and comparable as between providers. The 2005 Statement suggested at paragraph 7.10:

- 5.71.1 ‘The accuracy and comparability of information is not just vital to End-Users; CSPs will also want to ensure that their services are compared fairly with their competitors. As such, Ofcom believes that there will be a common goal for ensuring that accuracy and comparability is achieved’.
- 5.72 In order for this objective to be achieved, the information presented on the website is subject to an audit process designed and managed by the members of the Topcomm scheme.
- 5.73 Evidence collected through responses to the consultation suggests that the current auditing arrangements do not achieve this goal of ensuring accurate and comparable information.
- 5.74 The initial trial publication period for Topcomm in 2005 and the first couple of publications had a combined accuracy\comparability failure rate ranging between 8 & 13%. Since then, the failure rate has been relatively balanced at around 4%, which had appeared to be a normal expectation until the Q3/4 2008 data submissions. The combined accuracy\comparability failure rate for Q3 & Q4 2008 is 16% and 14% respectively.
- 5.75 The July Consultation included our analysis of the current auditing scheme including the specific weaknesses in the current arrangements for verifying information presented to consumers. These weaknesses could be summarised as follows:
- i) The internal audits were often carried out by individuals who were not necessarily qualified. The only requirement, expected by the forum, is that internal auditors should sit an online test that was not subject to any independent invigilation.
 - ii) There was too much scope for providers to limit the frequency of internal and external audits.
 - iii) Internal and external audits did not necessarily include site visits to geographical locations where significant proportions of providers' service events were processed. There would be significant costs incurred on providers who had operations overseas.
 - iv) The appointment of the comparability auditor was made by the forum without any independent validation. Although there was no evidence to suggest this was necessarily a problem, the current process contained no safeguards against the risk of a conflict of interest.
- 5.76 Citizens Advice suggested that in order to ensure the information provided by service providers can be trusted, *‘there needs to be some form of consistent standard and an independent audit will therefore play a crucial role. We are unconvinced that the industry is capable of policing itself, and we believe that Ofcom are best placed to carry out this role’³⁵*.
- 5.77 Consumer Focus recommended that Ofcom have a role in the auditing process. There is no point collecting data if Ofcom will subsequently have concerns about its

³⁵ See 19 above.

accuracy or comparability. '*There need to be strong incentives on providers to report this information accurately. Otherwise other providers could be penalised for reporting accurately and consumers will be misled*³⁶'.

- 5.78 The Communications Consumer Panel point out that '*Ensuring comparability requires co-operation by competing service providers, and to date this has led to much bad feeling and delay (with both the current compulsory Topcomm scheme and its voluntary predecessor CPI, Comparable Performance Indicators)*³⁷'.
- 5.79 The current comparability auditor provided an informed assessment of the current arrangements for the verification of data; '*Over the past 3 years we have witnessed that the forum have placed so much restriction on the comparability auditor (i.e. only observing an accuracy audit once per year, only asking questions if the service provider permits this, and only observing functions performed within the UK boundary - no verification of overseas call centres), that the role is unable to confirm that all providers are accurate and comparable, but simply to recognise those which are obviously inaccurate or non-comparable. This, in our view, leaves a risk that some providers may be publishing inaccurate or non-comparable results*³⁸'.
- 5.80 Industry stakeholders' concerns with the current auditing requirements were primarily based on the audit costs. Although providers did recognise the weaknesses in the auditing processes identified in the July Consultation. BT suggested that '*In view of all the disadvantages with the current verification process, correctly identified and described by Ofcom in paragraphs 6.34 to 6.37 of the consultation document, and the lack of consistency, robustness and comparability of data that these lead to, BT believes that the verification process should no longer be left to providers*³⁹'.
- 5.81 UKCTA also commented on the current weaknesses inherent in the current auditing process '*Fundamentally, 'comparability' auditing carried out as part of the existing scheme will not work as it does not take account of the fact that it is not measuring the same things; both the businesses and the products that they provide vary considerably*⁴⁰'.
- 5.82 The evidence provided by a range of stakeholders suggests that the current auditing processes are not sufficiently robust to provide reliable and comparable data. Given that a key policy objective was to provide information that was accurate and comparable, there is a strong possibility that the current auditing arrangements have contributed to a failure to achieve this original goal.

Costs to providers who are captured by the Topcomm Directive

- 5.83 The July Consultation set out some indicative costs based on the evidence available at the time that suggested that the upper bound costs for participating in the current scheme are between £19,000 and £37,000 per year per member. Based on 18 members, this would equate to between £342,000 and £666,000 per year across industry. These are costs are restated in annex 6 of this consultation.
- 5.84 The costs could be summarised as the following:

³⁶ See 20 above.

³⁷ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/ocp.pdf>

³⁸ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/trags.pdf>

³⁹ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/bt.pdf>

⁴⁰ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/ukcta.pdf>

- i) the cost of the secretariat, running the website and employing an independent comparability auditor. This amounts to around £7,000 per forum member; and
 - ii) the employment of an internal accuracy auditor to make sure that the data recorded, processes used to record and store the data, and the calculation and documentation of the data all fit the current definitions and guidelines. On the basis of information set out in the initial consultation we estimated that for a smaller provider – with a call centre of less than 100 seats – the annual cost of internal audits is no more than £12,000 (based on one auditor working 16 days a year at a cost of £750 per day). For a larger company – with call centres of over 300 seats - the cost is between £25,000 - £30,000 (assuming that the provider employs a full time auditor).
- 5.85 The July Consultation argued that the single most significant cost incurred by providers is the cost of employing internal auditors, either employed directly by the provider or via a third party auditing organisation.
- 5.86 Whilst the July Consultation suggested that use of the internal auditor is something that providers might do anyway as part of their internal processes, the costs contained in that document assumed that providers did not employ internal auditors before the Topcomm Direction came into force.
- 5.87 A few providers e.g. Enigma QPM, Sky and Verizon Business responded to say that Topcomm required them to undertake collection and auditing of data that they wouldn't normally have done. For example, Enigma QPM, a specialist auditing organisation, employed by a number of the current Topcomm members, points out that '*it is rare to audit hard quality of service data outside the Topcomm requirements. Non-Topcomm audits are typically process focussed and do not check measurement accuracy*⁴¹'.
- 5.88 This might suggest that there are unlikely to be significant savings on cost estimates provided in the July Consultation.
- 5.89 A number of responses suggest that the costs of internal audits are in line with Ofcom's estimation. These include responses from Cable and Wireless, Thus, and NTL. Some respondents did not provide specific cost information - Alternative Networks, British Telecom, Tesco, and Post Office Ltd.
- 5.90 Some other Topcomm members provided cost data but preferred to keep their responses confidential.
- 5.91 The further evidence received from providers responding to the July Consultation did not provide us with sufficiently robust evidence to suggest a departure from our original cost estimates set out in the annex of that consultation. Therefore, for the purposes of this consultation, Ofcom continues to estimate that the cost of participating in the Topcomm scheme for an individual provider is between £19,000 and £37,000 a year depending on the size of the provider

The implications of the evidence gathered by Ofcom

- 5.92 Given the evidence collected to date during this review, it has emerged that there are a number of significant deficiencies with the current scheme. These deficiencies

⁴¹ <http://www.ofcom.org.uk/consult/condocs/qos08/responses/enigma.pdf>

appear to restrict the ability of the current scheme to achieve the policy objectives that Ofcom set out when introducing the Topcomm Direction in 2005.

- 5.93 As set out above, Ofcom has a duty under section 6 (1) of the Act to continuously review the carrying out of its functions to ensure that any regulation by Ofcom does not involve the maintenance of unnecessary burdens.
- 5.94 As discussed in the previous chapter, Ofcom is still in the process of re-evaluating its approach to providing QoS information, which includes the examination of further consumer research.
- 5.95 Should this re-evaluation lead us to consider that further regulation is needed, then Ofcom will, in accordance with its duties, consult on further steps as appropriate.
- 5.96 Given that we, at present, have evidence to suggest that the current Topcomm Direction is not achieving its original policy goal of providing benefits to consumers and in the light of the not insignificant compliance costs, we consider it appropriate to consult on the withdrawal of the current Direction.
- 5.97 The proposed withdrawal, however, does not indicate that Ofcom considers that in the medium and long term there necessarily should be no Direction at all under General Condition 21.

Options with regards to the current Topcomm Direction

Option 1 – Maintain the Topcomm Direction

- 5.98 Under this option, Ofcom could maintain the current Topcomm Direction while its policy re-evaluation on providing QoS information continues.
- 5.99 Our aim is that once further evidence has been collected and examined, we will be better placed to consider against a re-evaluated policy aim, whether there is need for the introduction of regulation that requires providers to collect and publish certain types of information useful to consumers.

Advantages

- 5.100 The option would ensure that at least some QoS information was available in the interim time period.
- 5.101 The option would also require providers caught by the Topcomm Direction to maintain an infrastructure that might be used as part of a future scheme. However, the maintenance of an infrastructure is only advantageous if the costs of maintaining the scheme over a period of time are lower than the costs of dismantling the scheme and introducing one at a future point in time or if it significantly speeded up a new scheme's introduction.

Disadvantages

- 5.102 As set out above, the usefulness of the information generated by the scheme is limited. There are weaknesses in the current metrics that mean the information is of little value to consumers. Three of the metrics are not easily comparable across communications providers because the information is recorded or defined in different ways: supply time for initial connection/service, fault repair time and complaints about

billing accuracy. Two of the metrics offer little useful information: most user complaints are dealt with within 28 days and fault rates for fixed lines are very low.

- 5.103 Furthermore, as discussed above, there are a number of issues with current auditing processes that bring into question the comparability of the information between providers. As a result, when combined with the problems concerning definitions, there is a risk that the information is not only of little value but that it could even be misleading to some consumers.
- 5.104 Given the deficiencies of the scheme, our view based on the current evidence available is that the costs of complying with the Topcomm Direction are likely to outweigh any benefits. Given that the website only receives approximately 1000 visits a week and that total annual compliance costs range from £342,000 to £666,000 (assuming 18 members of the scheme), the Topcomm website costs between £6.50 and £12.70 per visit. It is not possible to quantify the exact benefits of the current scheme. This will depend on a number of factors: whether consumers obtain genuinely useful information during their visit and the value they place on this, whether they (or third parties such as consumer groups) communicate the information onwards to others and whether firms feel pressured into improving customer service as a result of increased competitive pressure. However, while we cannot quantify the benefits, given the current weaknesses in the information provided by the site, we believe there is a very real risk that the current consumer benefit falls significantly below this cost. In particular, given the problems with the auditing it is not certain that the information currently provided has much if any value at all. In our view, it is unlikely that the current scheme generates a value of greater than £6.50 per visit. Ofcom would welcome any comments on this conclusion.
- 5.105 If the current scheme were to be maintained beyond summer 2009, the Topcomm forum would need to agree ongoing service contracts. For example, the forum would need to arrange for the secretariat to be retained for a further year (including the website costs) and perhaps more significantly, the retention of a comparability auditor. Both of these functions are retained on annual contracts (or rolling six months). In addition to the costs involved (which are included in the figures above) the renewal of these contracts often requires a great deal of organisation and planning.
- 5.106 The current analysis suggests that the existing regulation does not meet the policy objectives first envisaged when the scheme was introduced. There is little evidence that consumers are benefiting from the provision of information supplied by Topcomm, but there is evidence that the costs to providers of running the scheme is considerable.

Option 2 – Introduce some marginal improvements to the scheme

- 5.107 This option would include maintaining the current Topcomm Direction but also agreeing some modifications to the scheme to address some of the deficiencies already discussed. This might include:
 - 5.107.1 agreeing some modifications to the current metrics. As mentioned above, the July Consultation (section 5) considered, in detail, how the current metrics could be modified so that the information presented on the website would be potentially more relevant to consumers; and
 - 5.107.2 raising greater awareness of the scheme through a publicity drive. Options for raising publication were considered in paragraphs 7.24 to 7.44 of the

July Consultation, including promotion via press and broadcasting channels; and

- 5.107.3 modifying the auditing requirements to increase the likelihood of information being more reliable and comparable. The July Consultation (section 6) considered, at length, a number of modifications to the verification of QoS information. These options included increasing the frequency of audits; increasing the frequency of data submission; and increasing the number of site visits made by the auditors.

Advantages

- 5.108 This would have the benefit that some form of QoS information would be available in the interim period while Ofcom continues our policy re-evaluation. Compared with the information published at present, we would potentially have greater confidence that the information is reliable and useful.
- 5.109 Increased publicity could generate greater use of the scheme, thereby increasing the value to consumers.
- 5.110 Introducing some improved metrics could enable visitors to the website to make better sense of the information presented there. Revisions could make the information easier for consumers to use, e.g. using standard timescales for service provision or fault repair.

Disadvantages

- 5.111 Any modifications to the metrics would, in the short term, need to be agreed by the current members of Topcomm as the Topcomm Direction does not contain the necessary detail for Ofcom to impose it on them. Previous attempts have been difficult and time consuming and significant changes to the definition and metrics are unlikely to be straightforward. Ofcom could include further detail in the Direction, however, this would require further consultation.
- 5.112 Modifying the current set of the metrics would incur non-trivial costs upon providers. Based on cost assumptions set out in the July Consultation⁴², Ofcom estimated (based on costs data provided by some providers) that the cost of changing each parameter would be in the region of £250 - £7,500 per provider, depending on their size and the nature of their systems, processes etc⁴³. Given that there are currently 5 parameters and 18 members of the scheme, this suggests the total costs of modifying the metrics could be in the region of £22,500 and £675,000. This represents a significant expenditure for what could be a short-term fix.
- 5.113 Even if modifications to the metrics could be agreed and implemented, at considerable cost to those providers caught by the Direction, there would still remain a possibility that the metrics could be changed again at some point, again imposing further costs.

⁴² Figure 5.1 Review of quality of service information Phase 1: Information on quality of customer service

<http://www.ofcom.org.uk/consult/condocs/qos08/qos08.pdf>

⁴³ Prior to the July 2008 consultation, Ofcom received a small amount of information from existing Forum members on the likely size of these potential costs. One large provider estimated it would cost £7,500 to introduce one new parameter, whilst a smaller provider estimated it would cost £250.

- 5.114 The costs associated with any publicity campaign, even a relatively modest one, are likely to be significant. We have not considered in detail what type of publicity campaign would be most appropriate or how much this might cost. Even if an effective campaign could be developed for a nominal cost it would be unlikely to represent value for money, especially if the scheme is withdrawn in the medium term.
- 5.115 There would be a huge risk to the credibility of involved parties (Ofcom, Topcomm members etc) if the profile of the scheme were to be raised, via an expensive publicity campaign, in the short term, only for the scheme to be abolished in the medium term. This could undermine the chances of a future scheme succeeding.
- 5.116 It may be inappropriate to require communications providers and Ofcom to incur the significant expense in modifying and running the scheme without having established evidence that it would be beneficial to consumers. As discussed above, Ofcom's re-evaluation of its approach to providing QoS information is continuing but is not likely to conclude for a number of months.
- 5.117 If modifications were introduced to address some of the weaknesses identified in the current scheme, significant costs would be incurred. Changes to the metrics, publicity or auditing procedures would all impose costs, on top of the day to day running costs. There is little evidence to suggest that such changes would increase the likelihood of the scheme achieving the policy goals outlined by Ofcom when the Topcomm Direction was introduced.

Option 3 – Withdraw the Topcomm Direction

- 5.118 This option would result in withdrawing the Topcomm Direction as soon as possible without waiting for the completion of our policy re-evaluation.

Advantages

- 5.119 This would have the benefit of removing the compliance burden on providers. As noted above we estimate this to be between £7,000 and £37,000 per member per year i.e. a total of between £342,000 and £666,000 per year across the industry (based on 18 members). Some communications providers argued the true cost was even higher.
- 5.120 Given the deficiencies with the current scheme, we believe this option would not leave consumers in a significantly worse position, since there is little benefit, if any, to consumers from the current scheme.
- 5.121 Given the uncertainties surrounding the future of the scheme, this option allows providers flexibility in dealing with this uncertainty and allows them to make the most efficient choice. For example, providers can choose whether to maintain some elements of the system (e.g. data collection processes) until such time as Ofcom has concluded its policy re-evaluation. Where the risk of set up costs (in terms of time, resource and financial costs) in the future are sufficiently large, providers might prefer to maintain some of the elements (e.g. data collection processes) of the scheme until Ofcom has made a final decision on information on quality of customer service. Where the costs of potentially setting up the appropriate systems are relatively small compared to running costs for at least a year, providers might prefer to dismantle the different elements of the scheme and re-introduce them should the conclusion of the wider policy re-evaluation require it. This flexibility may be particularly useful given the apparent heterogeneity of costs across different size/type of suppliers.

Disadvantages

- 5.122 Consumers would not have access to QoS information on fixed line voice providers. However, for the reasons outlined above, we believe that there is little benefit to consumers under the current scheme.
- 5.123 Withdrawing the Topcomm Direction could incur certain one-off costs associated with shutting the scheme down, for example the redeployment of personnel to other departments within the organisations and re-training etc. However, if Ofcom's policy re-evaluation were to find that providers were not required to provide such information then these one-off costs would need to be incurred at that point in the future. Thus, there is some probability that the only effect of adopting this option would be to bring these shut down costs forward in time. While this does raise the costs in an accounting sense (i.e. the present value of the costs will rise), we do not believe this is likely to be a significant effect.
- 5.124 Perhaps the largest disadvantage of revoking the Topcomm Direction now would be the potential need to re-introduce a provider's QoS infrastructure (e.g. relevant personnel, processes to capture company performance data, internal audits) from scratch should Ofcom mandate such a scheme at a later stage. However, Ofcom believes that this option does allow providers a degree of flexibility in managing this disadvantage as described in paragraph 5.21 above.

Impact assessment of preferred option

- 5.125 The following paragraphs represent Ofcom's impact assessment of withdrawing the Topcomm Direction. Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on the Ofcom website⁴⁴

Costs and benefits associated with withdrawing the Topcomm Direction

- 5.126 Ofcom considers that the Topcomm scheme provides negligible benefits to consumers. The evidence gathered, including low website usage, suggest that the proposal to withdraw the Direction is unlikely to have any negative impact on consumers.
- 5.127 However, our estimates suggest that the withdrawal of the Topcomm Direction (option 3) is likely to have the benefit of reducing the current cost burden on industry of between £342,000 and £666,000 per annum.

How has Ofcom estimated the costs of running Topcomm per year?

⁴⁴ http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf

- 5.128 We have been informed by the Forum's secretariat that the existing Topcomm Scheme costs industry £125,000 a year to run. This includes the cost of the secretariat, running the website and employing an independent comparability auditor. This amounts to around £7,000 per Forum member.
- 5.129 In addition, each Forum member needs to employ its own internal accuracy auditor to make sure that the data recorded, processes used to record and store the data, and the calculation and documentation of the data all fit the current definitions and guidelines. Under the current scheme, this type of audit should take place once a quarter.

The time it takes to perform the role of accuracy auditor will depend on the size of the provider's activities – in particular the size of its call centre where the information on customer services is captured and recorded.

We understand from the existing independent comparability auditor that a simple rule of thumb is as follows - for every 100 seats in a call centre, it would take an internal auditor around 3 days to carry out an audit. In addition, a further day would be required for the auditor to write up a report and attend any Forum meetings. An auditor of this kind is likely to receive an annual salary of £25-£30,000. Alternatively, a provider may choose to employ an external consultant to carry out the internal audit. A consultant is likely to charge a fee of around £750 a day.

On the basis of this information we estimate that for a smaller provider – with a call centre of less than 100 seats – the annual cost of four internal audits is no more than £12,000 (based on one auditor working 16 days a year at a cost of £750 per day). For a larger company – with call centres of over 300 seats - the cost is between £25,000 and £30,000 (assuming that the provider employs a full time auditor).

- 5.130 Given that there are currently 18 members of the Topcomm scheme with upper bound compliance costs per provider of between £19,000 and £37,000 per annum, we arrive at the figure of between £342,000 and £666,000.
- 5.131 The alternative option of modifying the scheme in the short run (option 2), is likely to increase the costs to Topcomm members on top of the annual running costs outlined above.
- 5.132 For example, the cost of modifying each metric (in order to potentially increase the relevance of information presented to consumers) is estimated to be between £250 and £7,500 depending on the size and nature of the provider.
- 5.133 Ofcom derived this estimated figure after receiving responses to an informal information request sent to Topcomm members in October 2007. The request asked Topcomm members to provide high level summaries of anticipated changes to the current metrics and their likely costs. From this request, we were able to gather small amount of information from existing Forum members on the likely size of potential costs. One large provider estimated it would cost £7,500 to introduce one new parameter, whilst a smaller provider estimated it would cost £250.
- 5.134 Assuming modifications were introduced to each 5 of the parameters, and multiplied by the 18 members of Topcomm, the overall cost to industry of introducing the modifications to the current metrics, would be in the region of £22,500 to £675,000.
- 5.135 A further modification to the current scheme, such as raising awareness through a publicity campaign, is also likely to increase costs on industry. As part of this

consultation we have not considered what type of publicity campaign would be most appropriate or how much this might cost. However, Ofcom believes that an appropriate one off nationwide publicity campaign, using multiple media channels to raise awareness about a single issue would cost in the region of £500,000. This would include advertisements in the national print media and local print media.

- 5.136 The drawback of option 2 is that we are not currently certain that such costly modifications would provide any benefits to consumers. Ofcom is in the process of re-evaluating its approach to providing QoS information to consumers and once we have conducted further research, as outlined in the previous chapter, we will be better placed to consider the benefits of new performance measures, if any.
- 5.137 This preferred option would mean that QoS information, in its current form, would no longer be available; however it is not apparent that the Topcomm scheme provides significant benefits to consumers. Ofcom believes there would be little increase in the detriment to consumers for the following reasons.
 - 5.137.1 The Topcomm website receives an average of only 1,000 visits a week. This is a relatively low number of visits compared to other websites that provide information to consumers of communication services such as Uswitch and Moneysupermarket. Even if the information provided was helpful, the low usage of the website suggests that the benefits accrued from the scheme by consumers overall is negligible.
 - 5.137.2 The current metrics do not provide QoS information to consumers that is particularly helpful, as they are collected and presented in a way that does not provide an easy comparison with other providers.
 - 5.137.3 There is a strong risk that current measures in place to ensure comparability are not sufficiently robust and so we cannot have complete confidence in the comparability of the information presented.
- 5.138 In summary, the current scheme does not appear to deliver tangible benefits to consumers and removing the Topcomm Direction is not likely to have any negative impact on consumers.
- 5.139 Given the above assessment, we believe the most appropriate option is to withdraw the Topcomm Direction. The benefits of the scheme appear sufficiently low that it is not worth the compliance costs that are imposed on operators. Given that the website obtains only 1000 visits a week this suggests a cost of between £6.50 and £12.70 per visit. While it is not possible to quantify the average benefit per visit, the problems listed above suggest a high risk that it falls below these costs. There does not appear to be a feasible set of short-term modifications that could be quickly implemented and promoted and immediate withdrawal of the Topcomm Direction is likely to have the most desirable impact.

How does this preferred option pass the tests set out under section 49 of the Act?

- 5.140 Ofcom considers that the proposals to revoke the Topcomm Direction meet the four tests set out in Section 49 of the Act.

Objectively justifiable

- 5.141 Ofcom considers that the proposal to withdraw the Direction satisfies the test of being objectively justifiable. The sections above have demonstrated that Topcomm Direction provides only negligible benefit to consumers. The Topcomm website only receives 1,000 visitors a week on average. Even if consumers were drawn to the website in larger numbers, we cannot be sure that the information is useful. Current metrics do not provide information to consumers that are particularly helpful as they are collected and presented in ways that do not provide easy comparison between providers. There is a strong risk that current measures in place to ensure comparability are not sufficiently robust and so we cannot have complete confidence in the comparability of the information presented. Even efforts to raise publicity or improve the metrics would incur further costs that cannot be justified.
- 5.142 Despite the evidence of such negligible value for consumers, there are significant costs associated with the running of the scheme. Our estimates suggest that the cost to providers caught by the Topcomm Direction stand at between £342,000 and £666,000 per annum. This would amount to a cost of at least £6.58 for every visit to the Topcomm website.
- 5.143 The proposal is further justified given Ofcom's duty under Section 6 of the Act to ensure that regulation does not involve the maintenance of burdens that have become unnecessary.
- 5.144 Given that the withdrawal of the Topcomm Direction is not likely to have any impact on the benefits to consumers, yet reduce the significant cost burden on providers, Ofcom believes the proposal is objectively justified.

Proportionate

- 5.145 The sections above have signalled that Ofcom's original policy aim when introducing the Topcomm Direction, i.e. providing beneficial QoS information to consumers, has not been met. Given our duties, under Section 6, to remove unnecessary regulation, we have had to consider proposals to rectify this situation and choose the least intrusive option available. Ofcom believes that option 3 is the most proportionate option out of those considered as it is the least costly proposal considered. Although there are possible closing down costs associated with withdrawing the Topcomm Direction, these could arise at some later stage. Option 2, involves modifications that will incur significant costs in the short run, even though we cannot be certain whether this course of action will enable us to achieve our original policy aims.
- 5.146 On reflection we consider the withdrawal of the Topcomm Direction as the least intrusive and therefore, most proportionate method of correcting this situation.

Transparent

- 5.147 The Notification and this consultation document clearly set out what we would like to achieve with the proposed withdrawal of the Topcomm Direction and what the likely effects and impact of the proposed measures are likely to be. Ofcom considers that the proposals are transparent in what they are intended to achieve (the complete and immediate withdrawal of the Direction). Under this preferred option, it will be clear from the Notification that the current obligations set out in the Topcomm Direction, will no longer apply.

Non- discriminatory

- 5.148 Ofcom also considers that the proposals are not unduly discriminatory against particular persons, as the withdrawal of the Topcomm Direction will apply to all communications providers captured by it. Should the Topcomm Direction be withdrawn, the removal of formal regulations will apply to all of communications providers, currently caught under the scheme regardless of size, market share, revenues etc. A list of these communications providers is currently listed on the Topcomm website⁴⁵.
- 5.149 To conclude, Ofcom are satisfied that our preferred option (option 3) meets the 4 tests, required under section 49, to propose the withdrawal of a direction under a general condition.

Do stakeholders agree that withdrawing the Topcomm Direction is the best option available given the evidence provided in the consultation?

⁴⁵ <http://www.topcomm.org.uk/Business.aspx>
<http://www.topcomm.org.uk/Residential.aspx>

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 9 June 2009**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/topcomm/howtorepond/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 john.o'keefe@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.

John O'Keefe
6th Floor
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7783 4103.

- 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 X. 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 John O'Keefe on 020 7981 3568.

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, 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/about/account/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in July 2009.
- 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/static/subscribe/select_list.htm

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. 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 Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@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. As mentioned in Ofcom's published consultation guidelines, there are three categories of consultation which have different lengths, 10 weeks, 4 weeks and 1 month. Category 1 consultations, which contain major policy initiatives and/or of interest to a wide range of stakeholders (especially those who may need a longer time to respond); we will consult for 10 weeks. Category 2 consultations which, whilst containing important policy proposals, will be of interest to a limited number of stakeholders who will be aware of the issues; we will consult for 6 weeks.
- A2.6 We have decided to class this as a category 3 consultation (lasting 1 month). We have made this decision on the basis that we consider our proposals to have a limited impact on the market. This is consistent with our guidelines. As we have discussed in this document, the very low use of Topcomm means that maintaining, modifying or withdrawing the Topcomm scheme is not likely to have a significant impact on consumers the marketplace. Whilst the potential removal of costs is likely to remove a burden from those caught by the Topcomm Direction, we don't anticipate this to have an impact on market.
- A2.7 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.
- A2.8 If we are not able to follow one of these principles, we will explain why.

After the consultation

- A2.9 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.
- 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 www.ofcom.org.uk/consult/.
- 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

Name/contact details/job title

Whole response

Organisation

Part of the response

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

Sub heading

A4.1 Do stakeholders agree that withdrawing the Topcomm Direction is the best option available given the evidence provided in the consultation?

Annex 5

NOTIFICATION OF A PROPOSAL UNDER SECTION 49 (4) OF THE COMMUNICATIONS ACT 2003

- A5.1 Proposal to withdraw the Direction under General Condition 21.1 given by Ofcom on 27 January 2005 requiring specified Communications Providers which provide Publicly Available Telephone Services over a Public Telephone Network at a fixed location to provide quality of service information.

WHEREAS:

- A. The Director General of Telecommunications (the 'Director') issued on 22 July 2003 the General Conditions Notification, which took effect on 25 July 2003 by way of publication of a notification pursuant to section 48 (1) of the Communications Act 2003 (the 'Act');
- B. General Condition 21.1 in Part 2 of the Schedule to the General Conditions Notification provides that Communications Providers shall, on the direction of OFCOM, publish comparable, adequate and up-to-date information for End-Users on the quality of its service;
- C. OFCOM, on 27 January 2005, issued a Direction under General Condition 21.1 requiring specified Communications Providers which provide Publicly Available Telephone Services over a Public Telephone Network at a fixed location to provide quality of service information (the 'Direction');
- D. OFCOM may withdraw a direction pursuant to section 49 (2) of the Act where it is satisfied that to do so is:
 - (i) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - (ii) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (iii) proportionate to what it is intended to achieve; and
 - (iv) in relation to what it is intended to achieve, transparent;
- E. For the reasons set out in the explanatory document accompanying this Notification, OFCOM is satisfied that the conditions set out above are met.
- G. OFCOM by way of this Notification invites representations about the proposal set out therein, such representations to be made no later than 12 June 2009.

NOW, THEREFORE, OFCOM MAKES THE FOLLOWING PROPOSAL

1. OFCOM, in accordance with section 49 (4) of the Act, hereby proposes to withdraw the Direction issued by OFCOM on 27 January 2005 under General Condition 21.1

requiring specified Communications Providers which provide Publicly Available Telephone Services over a Public Telephone Network at a fixed location to provide quality of service information.

2. As a result, OFCOM proposes that the Direction shall cease to have effect immediately with the publication of a statement by OFCOM following due consideration of every representation made within the period specified in this Notification.
3. Copies of this Notification and the accompanying explanatory document have been sent to the Secretary of State in accordance with section 50 (1) (c) of the Act.
4. In this Notification:
 - (i) "the Act" means the Communications Act 2003; and
 - (ii) "OFCOM" means the Office of Communications.
5. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification or in General Condition 21 and otherwise any word or expression shall have the same meaning as it has in the Act.
6. For the purpose of interpreting this Notification:
 - (i) headings and titles shall be disregarded; and
 - (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.



Claudio Pollack

Director of Consumer Policy

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

11 May 2009

Annex 6

The cost of publishing quality of customer service information

Current scheme

- A6.1 There are different aspects to the cost of operating the current Topcomm Scheme.
- A6.2 We have been informed by the Forum's secretariat that the existing Topcomm Scheme costs industry £125,000 a year to run. This includes the cost of the secretariat, running the website and employing an independent comparability auditor. This amounts to around £7,000 per Forum member.
- A6.3 In addition, each Forum member needs to employ its own internal accuracy auditor to make sure that the data recorded, processes used to record and store the data, and the calculation and documentation of the data all fit the current definitions and guidelines. Under the current scheme, this type of audit should take place once a quarter.
- A6.4 The time it takes to perform the role of accuracy auditor will depend on the size of the provider's activities – in particular the size of its call centre where the information on customer services is captured and recorded.
- A6.5 We understand from the existing independent comparability auditor that a simple rule of thumb is as follows - for every 100 seats in a call centre, it would take an internal auditor around 3 days to carry out an audit. In addition, a further day would be required for the auditor to write up a report and attend any Forum meetings. An auditor of this kind is likely to receive an annual salary of £25-30,000. Alternatively, a provider may choose to employ an external consultant to carry out the internal audit. A consultant is likely to charge a fee of around £750 a day.
- A6.6 On the basis of this information we estimate that for a smaller provider – with a call centre of less than 100 seats – the annual cost of four internal audits is no more than £12,000 (based on one auditor working 16 days a year at a cost of £750 per day). For a larger company – with call centres of over 300 seats - the cost is between £25,000 - 30,000 (assuming that the provider employs a full time auditor).
- A6.7 However this assumes that without the QoS Direction providers would not choose to audit their own data. If providers already have in place audit systems to monitor and record their performance, the true cost is the extra cost of compliance, beyond what they would otherwise spend and our figures would therefore be an upper bound. We would welcome evidence from providers on whether such systems already exist.
- A6.8 Based on the evidence above, we estimate the cost of participating in the current Topcomm scheme is between around £19,000 and £37,000 a year, depending on the size of the provider.

Introducing modifications to the existing parameters

- A6.9 Changing the parameters would be likely to result in an additional one-off transitional cost for each provider. As set out in section 5, estimates from industry

suggest it would cost each provider between £250 and £7,500 to introduce each new parameter .On this basis, we estimate the total cost of modifying all the relevant parameters would be between £750 and £22,500 for each provider – with larger providers facing the largest costs.