



Communications Consumer Panel and ACOD response to Ofcom's call for inputs into Automatic Compensation

The Communications Consumer Panel (the Panel) and the Advisory Committee for Older and Disabled People (ACOD) welcome the opportunity to respond to this initial call for inputs into automatic compensation and the consultation to be held later this year.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and microbusinesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

Response

The Panel and ACOD believe that a step change is needed in terms of service quality performance. Ofcom's initial conclusions from its Strategic Review of Digital Communications (DCR) support this.

We consider Ofcom's proposals to publish service quality performance data and to introduce automatic compensation, necessary measures to protect consumers and allow them to make informed choices, so that communications markets work better for them.

As well as promoting and protecting consumers' interests, we hope that these initiatives will incentivise communication providers (CPs) to improve quality of service. Research suggests that most consumers are reasonably satisfied with their communications services but that when things do go wrong the impact of a problem can be significant¹. We therefore believe that there is a good case for a ubiquitous and consistent automatic compensation scheme that provides access to redress in appropriate circumstances.

However, it is vital that automatic compensation is arranged in a way that does not result in consumers in effect paying for their own protection. CPs failing consumers and then

¹ http://stakeholders.ofcom.org.uk/binaries/telecoms/policy/digital-comms-review/Jigsaw_quality_of_service_in_telecoms.pdf

indirectly passing them the bill for automatic compensation is a risk that must not be allowed to materialise.

We agree with the eligibility criteria set out in the consultation document; both residential consumers and smaller businesses (and especially micro businesses) should be included. Micro businesses - and particularly self-employed people - often rely on residential services and may not have the support that larger businesses can rely on.

We would also urge that attention be given to the position of consumers in vulnerable circumstances; and those who may not be online. Any automatic compensation scheme must in our view be capable of providing equality of access, and equal levels of confidence, to all consumers.

Regarding the issue of wholesale providers' errors being paid for by retail providers, we would expect relevant contractual arrangements to be negotiated between the parties, but are conscious that smaller retail providers may be more at risk. In particular, end-users must not be affected by any "behind the scenes" arrangements in respect of who ultimately bears the cost of compensation.

Types of compensation

We believe that automatic compensation offers a real opportunity for Ofcom to put safeguards in place to genuinely protect and empower consumers and help build trust in the market.

Automatic compensation should be exactly that - automatic. Consumers should not be required to check if they are entitled to compensation or complete complicated forms, or go through a lengthy process, to apply for it.

Where financial compensation is paid, we agree that the consumer should be paid enough to cover the inconvenience and impact on their lives/businesses they have suffered - this should be over and above number of minutes for which a connection was lost, for example; and/or not simply a pro rata rental calculation. We recognise that this may be a complex issue as, for example, a loss of service may have different levels of impact for different consumers at different times. However, we believe that compensation should be set at a level that is proportionate, tangible and meaningful.

For the purposes of calculating time that a customer has been inconvenienced, weekend days should be considered ordinary days - an outage that runs from Monday to Sunday should be considered seven days and not five days - especially when compensating micro businesses.

However, we agree that in some circumstances financial compensation alone may not be sufficient for a consumer's, or micro business owner's circumstances. Other types of reparation may include:

- allowing the automatic termination of a consumer's contract;
- more creative solutions to maintaining service - for example, where a consumer or micro business owner loses broadband connection, they should be permitted

automatic access to other connectivity options, such as tethering via a mobile phone, or being supplied with a dongle. The cost of doing so should be automatically compensated.

How should compensation be paid?

We do not consider a bill credit to be a suitable method of compensation for service quality performance issues as a matter of course. Allowing communications providers to issue additional credit for their own services would not necessarily incentivise them to deliver a better performance, or increase consumer trust. It would also not provide satisfaction for consumers who would have benefitted from early termination of their contract; they would have no way of spending the compensation, unless they were able to transfer the credit to another provider.

A pre-paid card may be useful in some circumstances, where there is another provider to pay (assuming coverage is available by another provider). But by far the better means would in our view be the electronic transfer of the compensation to the consumer's bank account. This would need to be accompanied by a clear and timely communication so that the consumer knows it has happened and what it is for.

When the consumer is being financially compensated for inconvenience and/or the impact of a service loss or missed appointment, late bill payment, etc, a credit or pre-paid card may not be suitable and payment into the person's bank account may be the only relevant way of dealing with the situation. However, methods of compensation need to be relevant to the way the customer pays for their service, so a Pay As You Go customer, who may or may not have a bank account, may need to be encouraged to register their details, so that a pre-paid card can be sent to them in the post, whereas a person paying monthly by direct debit can be instantly sent payment electronically. We would advise against payment by cheque unless no other channel is available.

When to compensate

We agree with the examples given in the consultation document regarding aggregate and individual conditions under which compensation should be paid. Automatic compensation should apply in cases of service loss and delayed repair or restoration; late installations; and missed appointments; and billing problems where a customer has been left out of pocket. There should be a clear link to switching delays and problems, so that automatic compensation is triggered as soon as there is a problem. We would also recommend that consideration be given to :

- Loss of data or privacy, through security breaches - these should be easy for communications providers to identify on aggregate;
- Delays in complaint-handling - these may be identified through the providers' systems, or highlighted by the complainant or the Alternative Dispute Resolution services, but should then fall into the automated process



Costs and benefits

We believe it is important that the cost of the compensation system is not passed on to consumers in any shape or form and we hope that Ofcom ensures that this does not happen. Compensation is a cost of failure on the part of providers, and in our view it is CPs who should bear the full cost.

As the consultation document explains, automatic compensation may help reduce providers' costs in complaint handling - it has the potential to achieve a degree of consumer satisfaction early on. It is essential therefore that Ofcom gains a full understanding from providers of the total cost to their business of the current way of dealing with disputes. It is possible that a good automatic compensation scheme supported by good communication to consumers will mitigate overall costs.

In theory, communications providers with a better record in service quality performance will have less to pay out and will be able to invest more in their infrastructure and new innovations, making them a more attractive option for consumers and providing a basis for competition. We do not consider that automatic compensation should have a negative impact on competition - it should encourage all providers to increase the level of service they provide.

In summary, we support the introduction of an automatic compensation scheme that covers the issues that matter most to consumers. It is important that such a scheme does not become a surrogate for a good level of service in the first place - and we hope that with the right design it will serve consumers well, and provide an incentive for CPs to make a step change in the way that they deal problems that consumers experience. It is vital that the process is simple for consumers and that methods of making compensation payments meet their needs, and that communications are clear and timely.