



Telecoms Complaints Bulletin

Market Data

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About this document

Ofcom receives and monitors complaints from consumers who are dissatisfied with their experience in the communications sector. It uses this data both to investigate specific companies that may be breaking existing Ofcom rules and also to highlight problem areas where new rules may be needed to protect consumers.

This quarterly bulletin includes complaint trends for some of the key areas of consumer dissatisfaction and complaints made to the Telephone Preference Service (TPS) about unwanted marketing calls. This edition details activity from May to July 2015.

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Section 1

Consumer complaints overview

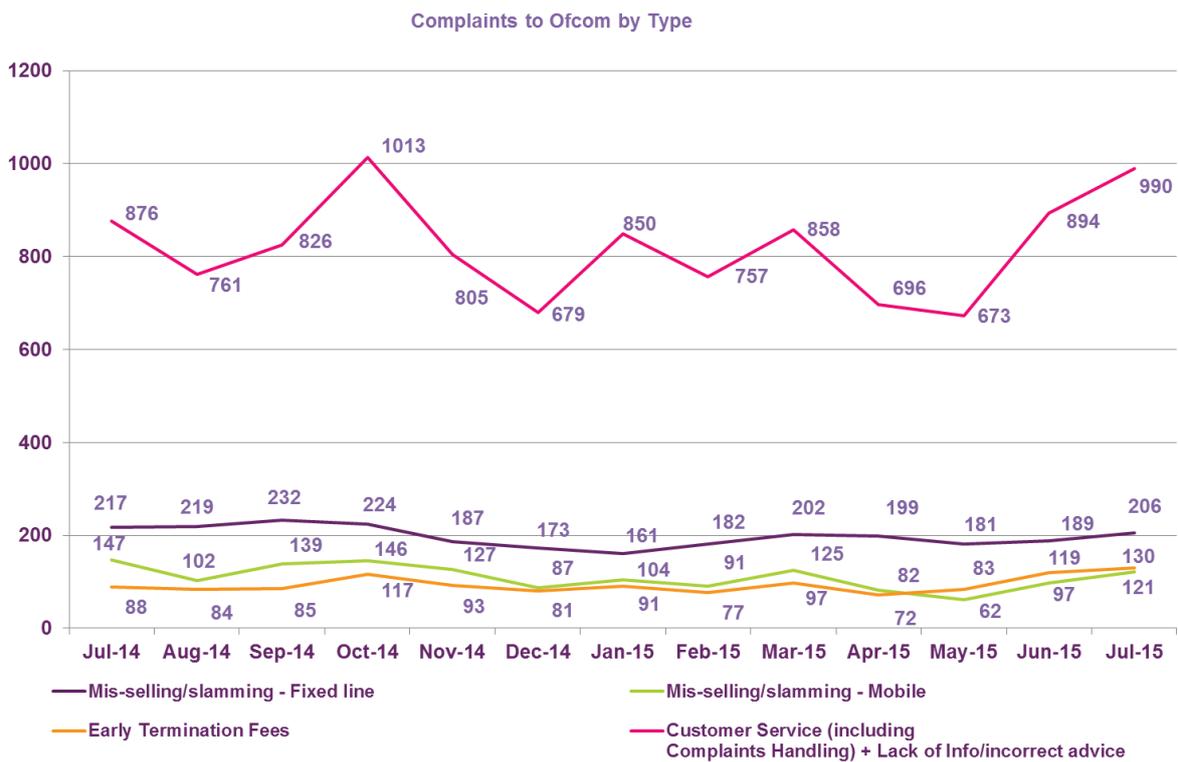
Ofcom monitors the complaints it receives from consumers and categorises them.

Ofcom does not have the power to resolve individual consumer complaints about telecommunications services, unlike for TV and radio. However, we provide advice to individual complainants and refer them to the two Alternative Dispute Resolution (ADR) schemes that we have approved.

The two Ofcom-approved schemes are: [Ombudsman Services: Communications](#) (OS) and the [Communications and Internet Services Adjudication Service](#) (CISAS).

Figure 1 shows monthly complaint trends for some of the key areas of consumer dissatisfaction over the past 13 months.

Figure 1. Summary of consumer complaints to Ofcom by type, July 2014 – July 2015



Complaints handling

Most communications providers view customer service and complaints handling as key components of their operations and will endeavour to treat their customers fairly. Ofcom nevertheless receives complaints from consumers about how communications providers have handled their problems.

Ofcom's role is to ensure that when something goes wrong, consumers are able to find out easily how to make a complaint and to ensure that their provider has appropriate processes in place to receive and handle their complaint.

Ofcom requires all providers to have complaints handling procedures that conform to the Ofcom [Approved Code of Practice for Complaints Handling](#). All telecoms providers must also be members of an Ofcom-approved Alternative Dispute Resolution (ADR) scheme. An ADR scheme acts as an independent middleman between the consumer and provider. In appropriate cases, consumers can escalate a complaint to ADR free of charge.

Disputes that have not been resolved within eight weeks, or earlier if the provider sends their customer a 'deadlock' letter, can be taken to ADR.

Ofcom opened a [monitoring and enforcement programme](#) in June 2014 to monitor providers' compliance with their obligation under General Condition 14.5 to implement and comply with an Alternative Dispute Resolution scheme. The programme helped to raise awareness of this requirement and led a significant number of providers which were not previously members of a scheme to sign up. Given this marked improvement across the industry, the programme was closed in June 2015. However, Ofcom remains committed to ensuring that telecoms providers comply with their obligations and will continue to monitor complaints regarding non-compliance with GC14.5, opening individual investigations where appropriate.

In February 2013, Ofcom opened a [monitoring and enforcement programme](#) to assess communications providers' compliance with Ofcom's complaints handling requirements (covered by General Condition 14.4). A key aim of this programme is to ensure that providers are making consumers aware of ADR.

Under this monitoring and enforcement programme, in September 2013 Ofcom launched an [investigation into Three](#). The investigation was concluded in October 2014 and resulted in the company being [fined £250,000](#) for failing to comply with Ofcom's rules on handling customer complaints.

Ofcom also launched an [investigation into EE's compliance](#) with the complaints handling requirements under GC14.4. This investigation concluded in July 2015 and EE was [fined £1,000,000](#) for non-compliance.

Since this programme was extended for a further 12 months in February 2015, Ofcom has opened a third investigation, into Vodafone. This ongoing investigation, opened in June 2015, is looking at Vodafone's compliance with GC14.4, as well as its compliance with GC11.1 (metering and billing).

Engaging with communications providers on customer service issues

Many of the 'complaint handling' complaints received by Ofcom relate to wider customer service issues, for example the quality of staff and failure to action requests.

While customer service is not an area in which Ofcom has formal powers, we have been meeting with communications providers to discuss their customer services practices and to drive improvements in behaviour.

Ofcom also publishes its Quality of Customer Service Annual Report which quantifies levels of consumer satisfaction with customer service for providers in each of the fixed-line, broadband, mobile and pay-tv markets. This report enables Ofcom to monitor the customer service experience and to evaluate market trends over time. It also provides a reference point for consumers who may be looking to choose a provider.

Advice for consumers on how to complain about their communications provider can be found [here](#).

Mis-selling/Slamming – Fixed line and Mobile

There are various ways that providers of communications services can mis-sell to consumers. These can include pretending to be another company; not providing correct costs; and not giving consumers the full story on minimum contract periods or charges should they choose to exit the contract early.

Also, if a consumer receives a bill from a phone company they have not signed up to, it is possible they have been 'slammed'. This is when someone is switched from one company to another without their express knowledge and/or consent.

Another issue in this area is 'erroneous line transfers'. This can happen as a result of consumers having their landline switched accidentally. However, it more commonly occurs when a customer has requested a service to be provided to a house they are moving to, but the service is instead provided to a neighbouring house or premises by mistake. This is primarily caused by limitations in providers' abilities to correctly identify the target address for takeover.

Taking action

Ofcom has rules in place in which prohibit mis-selling for fixed line and mobile telephone services.

Ofcom can take action against phone companies which break these rules and has the power to impose fines of up to 10 per cent of their turnover.

In September 2014, following the publication of the [Consumer Switching Statement](#), General Condition 24 was revoked and replaced by a modified General Condition 22. The modified GC22 incorporates Ofcom's rules on fixed line mis-selling – provisions that were previously set out in GC24 – and, from June 2015, was also extended to broadband too.

Accordingly, Ofcom closed the [General Condition 24 Monitoring and Enforcement Programme](#) and opened a new [General Condition 22 Monitoring and Enforcement Programme](#) in its place.

In July 2015, following an [investigation](#) into Universal Utilities (trading as Unicom) regarding its compliance with the rules on fixed line mis-selling, Ofcom [fined the company £200,000](#).

Preventing slamming and 'erroneous line transfers'

In September 2014, new [enhancements to processes](#) to help prevent consumers being switched without their consent, or having their line switched accidentally, came into effect.

Under the new processes, among other things, providers have to:

- obtain and keep a clear record of every consumer's consent to switch. This aims to protect them from being slammed i.e. being transferred to a different provider without consent; and
- place an order to take over communications services where a consumer is moving to a new property only once they have an exact match for the target line to be taken over. Consumers at the address where services are due to be taken over must also be notified by their own provider, so allowing the consumer to tell them if the address has been targeted in error. Both measures aim to militate against consumers having their lines switched accidentally during house moves.

Consumers play a vital role in helping Ofcom to tackle mis-selling; being made aware of consumer complaints helps to identify where further action may be needed. Complaints about fixed-line mis-selling and/or slamming can be registered [here](#). Complaints about mobile mis-selling can be made by calling the Ofcom Consumer Team on 0300 123 3333.

Early Termination Charges

Many telecoms contracts are of a minimum length and should a consumer wish to terminate the contract earlier, providers often impose an early termination charge. These types of charges are allowed in many cases, provided they are fair.

Ofcom has published [Guidance](#) on these 'Additional Charges' under the Unfair Terms in Consumer Contracts Regulations 1999. Ofcom also opened an [enforcement programme](#) on 1 April 2009 to make sure companies are complying with the law on additional charges.

Following work by Ofcom since then, a number of providers including BT, TalkTalk and Virgin Media, agreed to reduce the charges they levy on consumers for leaving their landline and broadband contracts early.

Given the significant reduction in complaints received about early termination charges since the monitoring and enforcement programme was opened in April 2009, Ofcom [decided to close the programme](#) in September 2014.

Fairness of consumer contract terms is still an important area for Ofcom. For example, certain types of additional charges are being considered as part of our work to improve consumers' experience of switching between communications providers.

We are therefore continuing to monitor complaints about additional charges in all communications sectors. Complaints about additional charges can be made by calling the Consumer Contact Team on 0300 123 3333.

Should we see an increase in complaints about additional charges or receive complaints about unfair contract terms, we will consider further action where necessary, including the possibility of enforcement.

Section 3

Abandoned and Silent Calls

Ofcom has powers to take action if an individual or company persistently misuses an electronic communications network or service. We are required to publish a policy about how we are likely to exercise these powers. The existing policy identifies silent and abandoned calls as two examples of persistent misuse.

The majority of abandoned or silent calls are not the result of people making prank calls. They are, more usually, caused by the use of Automated Calling Systems (ACS). Organisations use ACS to maximise the amount of time their call centre agents spend speaking to consumers.

ACS may be used by many types of companies, including telemarketing companies, market research companies and debt collection agencies. They are also used by companies to contact existing customers. This technology is designed to work by dialling telephone numbers automatically, then connecting the call recipient to a call centre agent as soon as they answer the phone.

However, if, for example, all the call centre agents are busy when the call recipient answers the phone, the customer may simply hear silence because the ACS has already terminated the call. This type of call is considered to be a 'silent call'.

Technology used by companies to detect answer machines may also generate silent calls. For instance, the technology – referred to as Answer Machine Detection ('AMD') – may mistake a call recipient for an answering machine and cut off the call without the call recipient hearing anything.

To reduce the harm caused by silent calls, Ofcom's policy guidelines say companies should play an information message if they do not have an agent available to take the call when it is answered. The information message must explain who has made the call and provide a number for the call recipient to call back and opt-out of receiving further calls. This guideline has been in place since 2006.

We refer to a call accompanied by an information message as an 'abandoned call'. Ofcom's published guidelines cover the use of automated diallers and it has a silent and abandoned calls [monitoring and enforcement programme](#) to make sure organisations are complying with the law.

Ofcom's policy [guidelines](#) also cover repeat silent calls, where call recipients receive more than one silent call a day from the same company. This part of the policy came into force in February 2011 and says a company using AMD technology should not call more than once a day if an answer machine is 'detected' on the first attempt.

Targeted enforcement action

Consumer complaints provide evidence which informs Ofcom's enforcement programme on silent and abandoned calls. Complaints about receiving abandoned and/or silent calls can be registered [here](#).

The number of complaints made to Ofcom increased from 2,928 in May 2015 to 5,152 in June, before falling slightly to 4,708 in July (see Figure 2). It is important to note that this spike in complaints is the result of a change in the way complaints about nuisance calls are reported to Ofcom. In June, *Which?* re-launched its campaign against nuisance calls and implemented a

new nuisance calls reporting tool. Consumers can report nuisance calls through this tool and those complaints relating to silent and abandoned calls are passed directly to Ofcom. From June, these complaints made via the *Which?* reporting tool have been incorporated into the silent and abandoned calls data in Figure 2. As indicated in Figure 2, the complaints passed to Ofcom by *Which?* increased the total complaint numbers for silent and abandoned calls by 1,471 in June and 564 in July.

Ofcom remains concerned about the volumes of silent and abandoned calls consumers are receiving. That is why we are taking targeted enforcement action to hold those responsible to account.

Ofcom continues to pursue formal action against a number of companies and regular updates on this work can be found [here](#). Thus far, Ofcom has carried out formal action against 18 companies, amounting to total fines of more than £2,000,000. The latest was in August 2015, when Ofcom [fined XS Remarketing Ltd \(trading as Debt Masters Direct\) £150,000](#) for persistent misuse of an electronic communications network or service.

In addition to formal actions, Ofcom also takes informal action to bring companies into compliance with the rules around silent and abandoned calls. To date, Ofcom has used informal action in more than 120 cases. In the second quarter of 2015 alone, Ofcom took informal action against 29 different organisations. Consequently, complaints linked to the telephone numbers used by 16 of those organisations have either stopped or fallen significantly, while 19 cases are ongoing (including one case carried over from 2014).

Joint action plan

Tackling the wider issue of nuisance calls and messages is a complex and challenging issue, requiring a coordinated effort from Government, regulators, industry and consumer groups.

Ofcom has a [joint action plan](#) with the Information Commissioner's Office, setting out priority areas of work for both organisations. As part of this plan, Ofcom has been focusing on improving consumer information and tracking down the companies behind nuisance calls.

In December 2014, Ofcom and the ICO published an [update](#) on the progress made against the key priority areas set out in the action plan. The next update on progress made will be published later this year.

Review of policy on persistent misuse

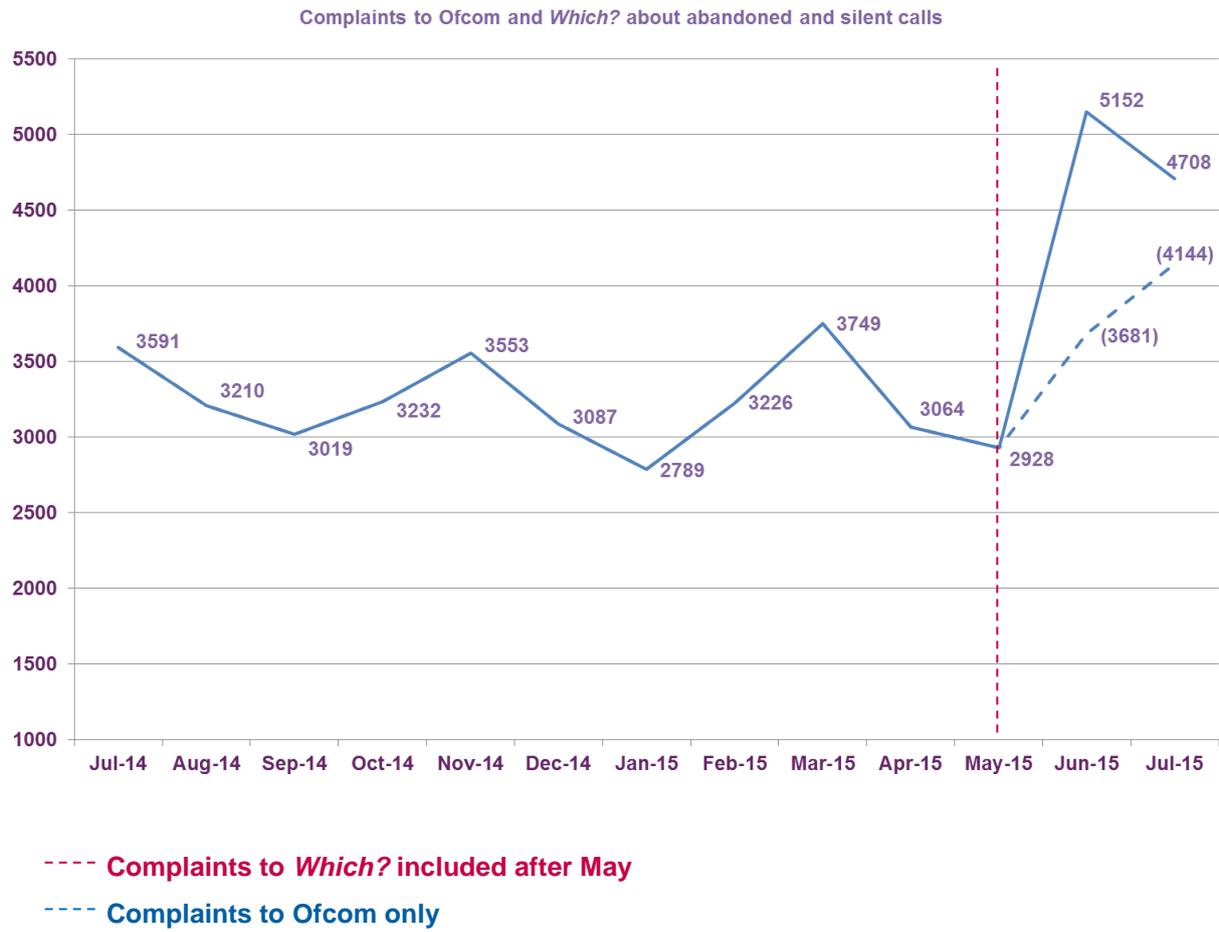
Ofcom is currently reviewing its policy on 'persistent misuse,' including in relation to silent and abandoned calls.

The aim of the review is to explore whether there is scope for improving the policy and [Ofcom has asked stakeholders for views](#) on what, if any, changes could be made to:

- help make enforcement more efficient and effective;
- reflect technological developments or other changes in the call centre industry; or
- clarify the policy to make it easier for companies to understand and follow.

The call for inputs is closed and Ofcom is considering responses carefully and will shortly publish a consultation about proposed changes to the policy.

Figure 2. Consumer complaints to Ofcom and *Which?* about silent and abandoned calls, July 2014 – July 2015



Section 4

Complaints to the Telephone Preference Service about unwanted marketing calls

Consumers sometimes receive unsolicited marketing calls from businesses. If they do not want to receive such calls, they can register their number with the [Telephone Preference Service \(TPS\)](#). On Ofcom's behalf, the TPS maintains the register of persons who do not want to receive marketing calls.

Figure 3 shows the number of complaints made to the Telephone Preference Service (TPS) about unwanted marketing calls. In order for a complaint to be recorded, the person concerned must have been registered with the TPS for at least 28 days. This allows call centres to obtain the latest version of the register.

Complaints to TPS decreased from 6,253 in April 2015 to 5,221 in May, increasing to 5,699 in June, before decreasing again to 5,413 in July (see Figure 3).

The role of the Information Commissioner's Office

The Information Commissioner's Office (ICO) has powers to take enforcement action where a company makes marketing calls to a person who is registered with the TPS and has not given prior consent to receive such calls from that company.

Consumers can complain directly to the ICO [here](#).

As part of the Government's Nuisance Calls Action Plan, a consultation was opened seeking views on lowering the legal threshold before firms responsible for nuisance calls and texts can be hit with fines of up to £500,000. Following the consultation, Government decided to remove the legal threshold so that the ICO is no longer required to prove a company caused 'substantial damage or substantial distress' by their conduct before action can be taken. This change came into effect on 6 April 2015. Government also confirmed it will look at introducing measures to hold board level executives responsible for nuisance calls and texts.

Figure 3. Consumer complaints to the Telephone Preference Service (TPS), July 2014 – July 2015