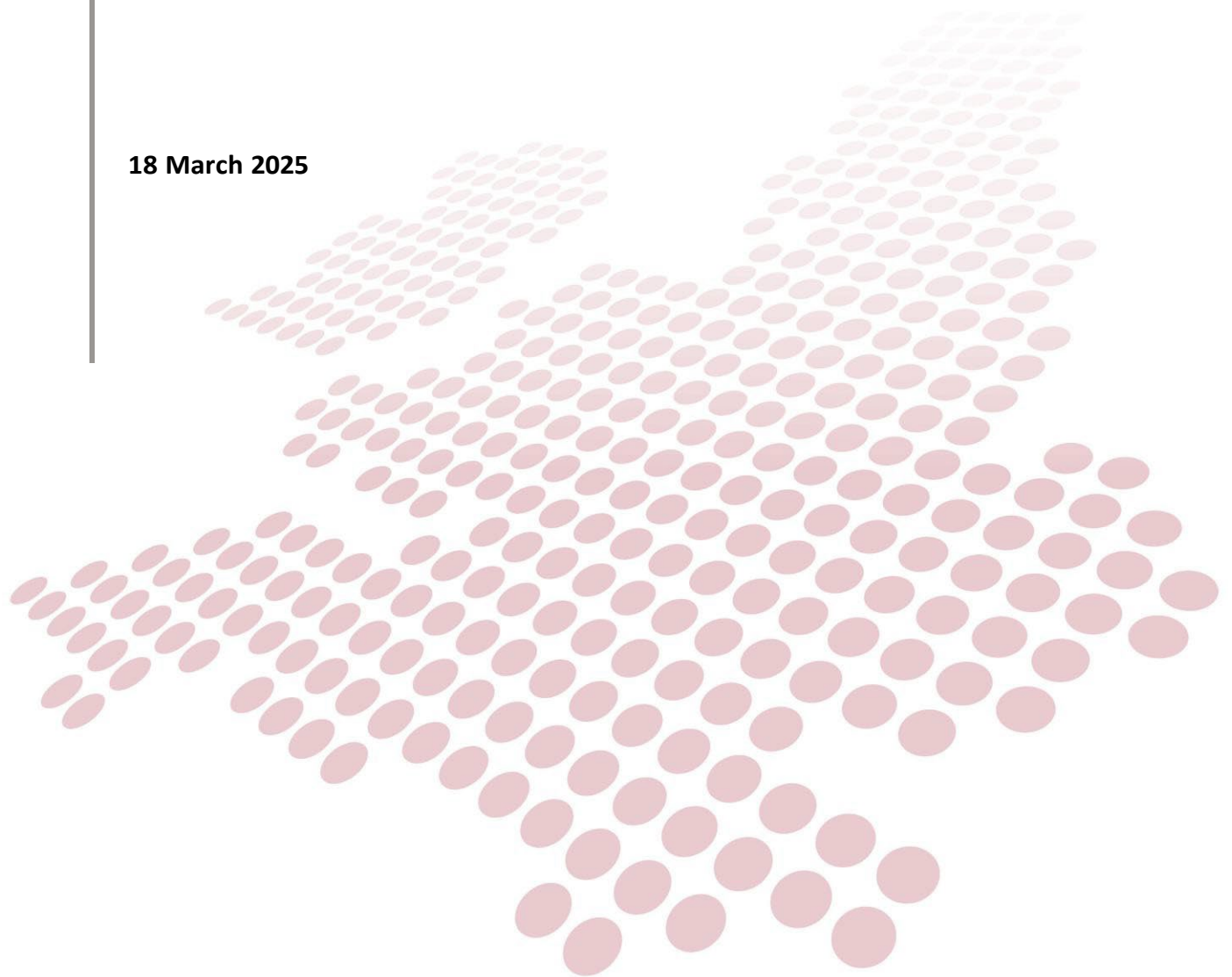


Response to the Ofcom consultation on ADR

18 March 2025



About UKCTA

1. This submission is made by the UK Competitive Telecommunications Association (UKCTA). UKCTA is a trade association promoting the interests of fixed line telecommunications and broadband companies competing against BT as well as each other, in the residential and business markets. Its role is to develop and promote the interest of its members to Ofcom and the Government. Details of membership can be found at www.ukcta.org.uk. Its members serve millions of UK consumers.

Summary

2. UKCTA members are committed to enabling an effective complaint handling process experience for consumers and agree with the importance of timely complaints resolution by communication providers (CPs). With most complaints resolved within the first week and almost all by week 6, Ofcom's findings reflect the effectiveness of the complaints handling process in the industry today.
3. This submission addresses issues of significant concern to our members regarding the proposal to shorten the complaints response period from 8 weeks to 6 which:
 - a. hinders economic growth in the communications sector;
 - b. fails to consider more complex complaints and likely ramifications; and
 - c. results in a discrepancy between telecoms and other regulated services.
4. UKCTA members are concerned that the proposal will adversely impact on the consumer's experience of the complaints handling process and the CPs' ability to effectively resolve complaints. UKCTA believes there is no need to make change to the current 8-week period for resolution as the current arrangements work well and continue to provide focus and certainty for consumers and CPs alike.

The Issues

Ofcom's proposals would hinder economic growth in the communications sector

5. Ofcom's proposal should be seen against the backdrop of ever-increasing regulation. The

past five years have seen the introduction of new regulatory obligations and costly interventions including End of Contract / Annual Best tariff notifications, billing notifications, video access to emergency services, One Touch Switching, and broadband labelling. These measures have imposed costs on CPs for implementation and ongoing maintenance as well as compliance monitoring. Together, they represent a significant burden on businesses.

6. As per Section 3 of the Communications Act 2003, Ofcom's central duty is to further the interests of citizens and consumers, where appropriate, by promoting competition and having regard, amongst other things, to encouraging investment and innovation. It is important for Ofcom to ensure any regulatory action it takes is necessary and proportionate, to carefully balance the country's need for future investment against concerns of fairness and affordability in the present. It is further important to consider whether and, if so, how any regulatory intervention contributes to or indeed hinders economic growth across the UK, particularly within the wider context of the growth and innovation agenda from the Government¹ and Ofcom's Plan of Work.
7. The proposal to reduce the timeframe before consumers can access ADR from 8 weeks to 6 weeks will add to the total regulatory cost burden on CPs. This cost will likely get passed onto consumers, which CPs want to avoid. Ofcom estimates that its proposal would cost the 6 main providers as much as £3.5 million in additional spending on managing complaints referred to ADR at 6 rather than 8 weeks.² This cost figure is significant, but Ofcom also concedes that this figure is likely to be even larger because:
 - a) it has not been able to "estimate the one-off costs of changing the timeframe to six weeks";³ and that
 - b) "[i]t is also difficult to know what the knock-on impacts of these changes would be, such as whether consumers would increase the rate at which they went to ADR, which would raise costs."⁴

¹ Plum, Regulation in competitive electronic communications markets, and regulatory checks and balances: A report for UKCTA, page 8-9.

² Ofcom, Review of ADR in the telecoms sector, page 38.

³ *ibid.*

⁴ *ibid.*

8. Ofcom appears to accept that these additional costs would likely be incurred by CPs. The fact that Ofcom openly admits ‘assumptions’⁵ were used within the estimates injects a potentially large degree of uncertainty in Ofcom’s cost impact analysis, undermining the proposal.
9. There has been no engagement with smaller providers on the subject, who will have lower complaints volumes, but could be disproportionately impacted because of differences in processes and systems. This raises additional concerns about the wider ramifications it may potentially have on the telecoms sector.

Ofcom’s proposal fails to account for more complex complaints and likely ramifications

10. There are different types of complaints, of different complexities, that need to be fully accounted for within the analysis but have not been. We believe a 6-week timeframe may not be sufficient for many reasons when considering the nuances.
11. Ofcom suggests that the data gathered from providers indicates that “providers make good use of the 4-to-6-week period to resolve complaints or refer them to ADR”⁶ so “when a consumer has a complaint that reaches the 6-week mark, the likelihood of achieving resolution or referral to ADR ahead of the 8-week threshold is low.”⁷ However, the consultation shows no analysis as to the nature and complexity of the complaints that may take longer to resolve than others. Instead, the data arguably shows complex complaints take longer to resolve than less complex ones. There could be many reasons why a complaint may take relatively longer to resolve, including a fault issue, complex billing issue, and delayed customer response to information requests from their provider, etc.
12. Providers are obliged to resolve complaints as quickly as possible under GC4 and it is in the interest of CPs to resolve complaints as swiftly as possible. Since straightforward complaints can be resolved more quickly, it is for this reason that many can be resolved within 6 weeks, as Ofcom’s analysis shows. Complex complaints take longer to be resolved and so need additional time to ensure a complete investigation that brings resolution. Therefore, it is unsurprising that a smaller number of complaints are resolved from week 6 to week 8 as

⁵ Ofcom, Review of ADR in the telecoms sector, page 92-95, 99.

⁶ *ibid*, 27.

⁷ *ibid*, 28.

complex complaints take longer to resolve. Indeed, a 6-week period may not allow enough time to gather all necessary information and evidence for complex disputes that require thorough investigation and analysis.

13. There is no evidence available to suggest that shortening the ADR referral time will mean that those complaints will be resolved any more quickly than they are today. In fact, shortening the ADR referral time will most likely not allow sufficient time for these additional reasons:
14. A requirement for ADR referral after only 6 weeks will result in complaints that have not been fully considered by CPs based on the evidence available to them being referred to and considered by the ADR provider. This might lead to additional time pressure on the ADR provider to reach a fair and reasonable decision in these cases or to incorrect decisions which consumers may consider to be unfair or unreasonable.
15. ADR providers may also face resource constraints that make it challenging to resolve all cases within 6 weeks and adjudicate based on imperfect information. Maintaining the existing timeframe would ensure that each case receives the attention it deserves, and ADR providers receive all necessary information.
16. Some cases may require coordination with other parties in the value chain, such as other service providers and network providers like Openreach. This can take additional time, and the current timeframe accommodates these interactions and ensures complete investigation.
17. There is a significant risk that reducing the timeframe will add unnecessary stress to consumers, especially those dealing with personal or financial difficulties. Allowing more time can help reduce this pressure.
18. Allowing more time for the ADR process can enable better consumer participation and feedback. Consumers can provide more detailed input and engage more effectively in the resolution process where there is less time constraint.
19. It is not always necessary for a complaint to last 8 weeks as a deadlock letter can be requested by the customer when it is apparent an agreed resolution cannot be reached. They can then access ADR as soon as the deadlock letter is received, rendering the proposal futile in some cases.
20. Ultimately, rushing the ADR process to meet a 6-week deadline can compromise the quality of

the resolution and lead to complications, additional complaints, and customer dissatisfaction. It is important that decisions are well-considered and based on comprehensive information to ensure consumer protection.

Ofcom's proposal would result in a discrepancy between telecoms and other regulated services

21. The energy and financial services sectors have complaints resolution and escalation rules that are similar to those in telecoms. When a complaint has not been resolved after 8 weeks, customers need to be notified of their right to refer their complaint to ADR.
22. UKCTA have multi-utility service providers among its members who are concerned about a potential difference in complaints escalation rules between regulators. These companies would need to accommodate different processes internally, which will result in additional cost and complexity for advisors and most importantly, confusion for consumers. Confusion could undermine trust in the complaints process more generally, and in the ADR process in particular.
23. Notification letters would have to be sent out at different times, which would be problematic for complaints about multiple services, or account-related complaints. For example, mobile providers selling both airtime and handsets under a consumer credit agreement would need to notify customers about airtime complaints after 6 weeks, and handset related complaints would need to be sent 2 weeks later. This could lead to bad outcomes and confusion, and we encourage Ofcom to look at the wider regulatory landscape before proposing changes in isolation.

Types of resolution

24. Ofcom's analysis does not currently provide insight into the types of resolutions proposed by CPs in contrast to ADR. In the experience of some UKCTA members, ADR providers typically award credits, apologies or allow customers to leave their contract without paying any early termination fees whilst CPs may be able to provide resolutions which are more relevant to the issue experienced by the customer. It would be helpful to CPs to see if there is a difference between both approaches.

25. UKCTA members will be happy to answer any questions Ofcom might have in relation to this application.

End

Annex 1

**Regulation in competitive electronic communications markets, and regulatory checks and balances:
A report for UKCTA produced by Plum Consulting November 2024**