

Communications Consumer Panel response to Ofcom consultation on complaints-handling

The Communications Consumer Panel welcomes Ofcom's review of consumer complaints procedures and the proposed Ofcom Code of Practice that will require common standards of complaints-handling.

The Panel notes that some communications providers are making efforts to improve complaints-handling already by, for example, contacting customers who have called customer services to find out if they were satisfied with how their enquiries were handled. The Panel hopes that the proposed code will help to raise the standard of complaints-handling across the communications sector.

The Panel also welcomes the fact that the code will apply to complaints made by small businesses with up to ten employees, as well as to individual consumers. If a small business experiences a problem with its communications provider, this can have a major commercial impact. And such a business will not generally have significant resources to employ in resolving the problem.

In seeking to improve standards of complaints-handling, Ofcom should ensure that it understands the overall system by which consumers provide feedback to communications providers, including the making of complaints. At the moment, providers do not appear to be incentivised to view complaints as customer feedback and as a result they do not always resolve them effectively. So Ofcom should consider how providers could be encouraged to seek feedback from their customers and recognise that complaints provide an opportunity to improve.

Ofcom should also recognise that improved complaints-handling could lead to a rise in the number of registered complaints. This is because making it easier for consumers to register a complaint should be central to an improved system of complaints-handling. Companies are likely to operate on the basis that a high number of complaint is bad. Sometimes this will be the case, but a high number of complaints may simply reflect an engaged and committed consumer base.

The Panel is concerned that at the moment complaints are not registered as complaints unless they are escalated, which means that many are not resolved properly. This is likely to have a particular impact on vulnerable consumers, who may not have the skills or confidence to pursue their complaints, or may not know that they can escalate a complaint. Vulnerable consumers may suffer financially as a result; they may end up abandoning meritorious complaints, with the result that they make payments which are not justified or get an unwarranted bad payment record.

Escalation of complaints should not have to be prompted by consumers. Providers should tell consumers about their ability to escalate complaints at an early stage and the Panel welcomes the provisions of the draft code that aim to make complaints handling procedures transparent and accessible. The objective of providers should be to ensure that escalation of a complaint is linked to the harm that a consumer has suffered rather than a consumer's ability to pursue the complaint proactively. The onus should be on

providers to ensure appropriate escalation, not on consumers, as it is often at present. Therefore, the Panel welcomes Ofcom's proposed definition of a complaint, namely that a complaint is, "an expression of dissatisfaction made by a customer to a communications provider related to the...provider's provision...of... communications services to that customer, or to the complaints-handling process itself, where a response or resolution is explicitly or implicitly expected."

The Panel believes that Ofcom should also examine in more depth the barriers to complaining. Ofcom's *Consumer Experience Research Report* (December 2009) shows that almost a quarter (23 per cent) of those with a complaint about their internet connection did not complain to their service provider, while a fifth of consumers with a complaint about their fixed or mobile service did not take this up with their provider.¹

The Panel believes that publication of data about complaints would give providers an important incentive to improve complaints-handling. So the Panel would like Ofcom to explore as a matter of urgency how robust data on complaints could be published and for this purpose, it would support the use of the aforementioned definition of a complaint.

The Panel would like to see the publication of a number of different types of information, including: information from providers about the satisfaction of their customers; information collected by Ofcom's contact centre about complaints that have been poorly handled; information about complaints referred to alternative dispute resolution (ADR), both the number referred and the number upheld, and taking into account size of provider; and information about providers' performance against the code of practice as measured by independent audit. In identifying the right data to publish it will be very important to ensure that perverse incentives are not created for providers to discourage complaints or handle them in ways that are unhelpful for consumers. In developing its thinking, we encourage Ofcom to draw on work on publishing complaints data that is being carried out in other sectors and in other countries.

But, it is vital that publication of complaints data happens alongside action to enable consumers to register and escalate complaints more easily. Otherwise, an unintended consequence of publishing complaints data might be that providers would make it harder for consumers to register complaints in order to reduce the number of official complaints made against them.

The Panel has a small number of specific comments about the proposed code of practice:

- In order to be adjudged effective, providers' complaints-handling procedures should include informing consumers what caused the problem that they experienced and providing reassurance that it will be rectified.
- The draft code says that a provider "must ensure that its front-line staff are fully-informed of the right of consumers to use an alternative dispute resolution scheme..." In the Panel's view, this include being aware of consumers' right to request a deadlock letter.

¹ See figure 180 on page 141.

- As well as ensuring that consumers receive prompt written notification of their right to go to ADR, providers should also be required under the Code to inform consumers of their right to request a deadlock letter.
- In finalising the provision of the Code that governs the periods for which providers should keep records, Ofcom should take into account the fact that the records might be valuable to the ADR schemes in resolving disputed complaints. Therefore, the time periods should take into account the time that it takes for complaints to be dealt with through ADR.
- The draft guidance notes say that a provider may consider a complaint resolved if it, "...is unable to follow up with the customer after making reasonable efforts to contact them." To strengthen this guidance, the Panel suggests that providers should be required to make "demonstrable reasonable efforts", which could include sending a letter to the complainant by registered delivery. We suggest that Ofcom should expand the guidance notes to give examples of what would be acceptable.

The Panel supports Ofcom's focus on improving complaints-handling and welcomes its proposed Code of Practice as an important step forward. The Panel will continue to monitor Ofcom's work in this area closely and will be happy to provide further advice at the next appropriate point.