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Dear Jeff

Review of Consumer Complaints Procedures

This response has been prepared on behalf of the Fixed Service Providers group of the Federation of Communications Services, which represents more than 150 service providers and resellers of fixed telephony services including Wholesale Line Rental (WLR), calls packages and broadband. A list of our members can be found on the FCS website - www.fcs.org.uk

We welcome the opportunity to respond to this consultation which proposes the establishment of basic high level standards for complaints handling which will replace the current requirement for CPs to seek Ofcom approval of codes of practice and the provision to customers of additional information about ADR.

Broadly, we support moves to ensure that customer complaints are handled effectively and to ensure more consistency across the industry in this respect. However we do have some concerns about the specifics of certain of Ofcom's proposals.

Our main concerns are focused on the following areas:

- The requirement to log network faults as complaints, which we do not believe is consistent with the proposed definition of a complaint
- The proposed guidelines on website accessibility, which we believe are overly prescriptive
- The requirement to include prescribed messages relating to ADR in terms and conditions and welcome information which we believe are overly prescriptive and may potentially cause confusion
- The requirement to include prescribed messages relating to ADR on bills which we believe will be impractical in some instances
- The requirements on retention of call recordings which we believe to be impractical and potentially disproportionate

On a point of clarification, we note Ofcom's statement in the summary (section 1.6 paragraph 1) that it will no longer be a requirement to have "Codes of Practice" approved by Ofcom. However, we would welcome clarification of a potential ambiguity in this area. We assume that "Codes of Practice" in this context means the complaints code and that the "basic" codes of practice required under GC14.1 will still need to be approved.

Our responses to the individual consultation questions are set out below:

Question 1: *Do you agree with our definition of a 'complaint'? **Complaint** means 'an expression of dissatisfaction made by a customer to a Communications Provider related to the Communications Provider's provision of Public Electronic Communications Services to that customer, or to the complaint-handling process itself, where a response or resolution is explicitly or implicitly expected.'*

We agree that it is useful to have a standard definition which is used across the industry. We also believe it is important that this definition is recognised and used consistently by other agencies such as PhonepayPlus. We also agree that it is sensible to base the definition on a recognised UK standard.

However, we strongly disagree with Ofcom's view that the logging of a fault should be regarded as a complaint. Indeed, we believe that this conflicts with the definition proposed which requires that a complaint should be "an expression of dissatisfaction". It is far from clear that reporting a fault will always involve an expression of dissatisfaction. Further, many CPs log faults that are never seen by customers and we, therefore, believe that only occurrences where there is a clear expression of customer dissatisfaction should be logged as complaints.

Question 2: *Do you agree that the current approach to complaints handling in the telecommunications market is of sufficient concern to justify a degree of regulatory intervention (leaving aside any concern as to the nature of the intervention)?*

We are not in a position to disagree with the findings of Ofcom's research and we certainly believe that it is helpful to define expectations more precisely. However, we note the statement in section 5.4 of the consultation document that a small number of CPs is generating a disproportionate share of the complaints to Ofcom's advisory team. Accordingly, we believe that targeted enforcement activity would both help to reduce the level of complaints and improve the way that complaints are handled by these CPs.

Question 3: *Do you agree with the principle that CPs should be required to comply with a single Ofcom Approved Complaints Code of Practice?*

We believe it is helpful insofar as it sets out clearly expectations for best practice and in this sense also creates a more level playing field.

Question 4: *Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are transparent?*

We agree with Ofcom's proposals on the content of CP complaints codes. We also understand the requirement for a "standalone" complaints code which is implicit in the wording in the proposed Annex 4 to GC14.4 to the effect that the complaints code should "only contain relevant information about complaints handling procedures". In practice, we expect that the standalone code will normally be based on an extract from the CPs more comprehensive "basic" code.

Question 5: *Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are accessible?*

We agree with the principles but believe that the requirements set out in 5.29 and 5.32 and expanded in the code and associated guidance are overly prescriptive. With regard to website accessibility, we believe that it is sufficient to require that the code should be clearly signposted from the welcome page of the website without specifying specific routing or numbers of clicks. Similarly, we believe that requiring detailed information such as web addresses to be included in terms and conditions or welcome material will make the provision and maintenance of information unduly complex.

Question 6: *Do you agree with each of our proposed obligations on CPs to ensure that their complaints handling procedures are effective?*

We agree with the key principles of timeliness, defined escalation paths and continuous improvement.

Question 7: *Do you agree that (depending on the specific measure) Ofcom should take steps to improve awareness of ADR?*

We agree with the proposition that it is desirable that customers should be aware of their right to ADR.

Question 8: *Do you agree with our proposals to improve awareness of ADR by requiring:*

a) Relevant text about ADR to be included on bills (paper and electronic);

We do not agree with this proposal. The right to ADR does not apply to all customers and will inevitably create confusion and false expectations. It will be impractical for most CPs to differentiate between customers who do and don't qualify. Additionally, many reseller CPs use third party billing systems and the change to implement and maintain these requirements may not be straightforward for all. For example, CPs do not all use the same ADR scheme and may from time to time change provider. Also, new ADR providers may be approved by Ofcom.

b) CPs to ensure consumers whose complaint has not been resolved within eight weeks of first being made to a front-line agent receive written notification about their right to go to ADR;

We believe this proposal is reasonable.

c) CPs to ensure front-line staff are fully informed of the right of consumers to use ADR, as well as the role of Ofcom in investigating compliance with General Conditions; and

We believe this proposal is also reasonable.

d) On request from a complainant, CPs must issue a deadlock letter referring a matter to ADR unless the subject-matter of the complaint is outside the jurisdiction of the ADR scheme or the CP has genuine and reasonable grounds for considering the matter will be resolved in a timely manner, and subsequently takes active steps to attempt to resolve the complaint.

We have some concerns about the requirement to provide a deadlock letter on request and would welcome some clarification of this proposal. Such requests might not always be reasonable. Ofcom states in section 6.115 that the creation of this obligation will not necessarily imply automatic referral to ADR but it is not clear how this should be resisted by CPs. Clearly, an increase in ADR referrals will lead to increased costs for CPs even where such referrals are not justified.

Question 9: *Leaving aside concerns about the merits of the proposal, do you agree that CPs should include the following wording (or Ofcom-approved equivalent text) on paper and electronic bills?*

If you are a residential consumer or part of a business with fewer than ten employees and we have been unable to resolve your complaint within eight weeks, you have the right to ask [Otelco or CISAS] (an alternative dispute resolution scheme) to investigate your complaint at no cost. Their website is [insert web address], you can call them on [insert phone number], or write to them at [insert postal address].

As noted above, the suggested wording does not apply to all customers and we believe will inevitably create confusion and false expectations.

Question 10: *Do you agree with our proposed record keeping requirement on CPs? A CP must retain written records collected through the complaint handling process for a period of at least six months, including written correspondence and notes on its Customer Record Management systems. Where call recordings are available, these need to be retained for at least three months.*

We are satisfied with the proposed requirements on retention of written records. However, we disagree with the requirement to retain call recordings for three months. These requirements are too widely drawn. Many CPs will receive complaints via general call centre numbers and it will be impractical in most cases to separate the complaints calls. Recordings to general inbound numbers are not normally kept for 3 months and the incremental cost of keeping recordings of all such calls received is disproportionate.

Question 11: *Do you have any views on the Ofcom Code and accompanying guidance (Annex 5)? Do you consider we have adequately captured the policy intentions we have outlined in the consultation document?*

We would reiterate the caveats expressed in our responses to questions 5, 8, 9 and 10.

Question 12: *Do you agree that it is reasonable to require CPs to implement:*

- *Clauses 1 – 3 of the Ofcom Code (transparency, accessibility and effectiveness of complaints procedures) six months after the publication of any Statement; and*
- *Clauses 4 – 5 of the Ofcom Code (facilitating access to ADR and record keeping obligations) 12 months after the publication of any Statement.*

The proposed timescales are generally acceptable subject to the caveats in our responses to questions 5, 8, 9 and 10.

Question 13: *Do you have any views on whether (and how) Ofcom should look to improve the availability of comparative information on how effective providers are at handling complaints?*

We would urge caution in this area. Ensuring that the information is genuinely comparable and maintained up to date is challenging.

We trust that the above comments are helpful. Our members would be happy to meet with Ofcom to discuss any of the issues raised in greater detail.

Yours sincerely

A handwritten signature in blue ink that reads "Michael Eagle". The signature is written in a cursive, slightly slanted style.

Michael Eagle
General Manager