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Dear Jeff

Review of Consumer Complaints Procedures

We welcome the opportunity to respond to Ofcom's further consultation on proposed complaint handling measures. SSE is a retail supplier of communications products and so would be affected by any additional regulation in this area. We are also a large supplier of retail products in the energy market and have implemented the complaint handling standards, mentioned in the current consultation, that were introduced into the energy industry in 2008.

We continue to believe that the best protection for customers in a competitive retail market is for it to be easy for a customer to switch between suppliers and "vote with their feet" if they are dissatisfied with the level of service from their current supplier. We therefore urge Ofcom to remain focussed on developing standardised and easy to use switching processes in the retail communications market, supported by industry governance and appropriate regulatory requirements on relevant providers. Once these processes are established, we think it likely that Ofcom will see an increase in overall levels of satisfaction in these markets.

We recognise that Ofcom's research has indicated some concerns with the way complaints are handled generally and that this has prompted Ofcom to propose regulatory requirements in this area. We are strongly of the view that any such regulatory measures should entail the minimum of prescription about exactly how communication providers (CPs) are to deal and communicate with their customers, consistent with Ofcom's intention to seek the least intrusive regulatory methods of achieving its policy objectives.

Ofcom's proposals seem largely consistent with this intention. However, we do have concerns about some details of Ofcom's proposals and discuss these further below and in our response to the consultation questions, which is attached as an appendix to this letter. We would also hope that Ofcom would keep the need for these measures under review, with a view to withdrawing them when customer experiences have improved.

Our concerns fall into two categories: requirements on record keeping; and other detailed prescriptive requirements. We discuss these in turn, followed by a suggestion for a way that Ofcom could assist companies in dealing with complaints.

Record keeping

We had no significant issues with the minimum record-keeping requirements proposed in Ofcom's previous consultation on complaint handling, due to their similarity to requirements in the energy retail markets. Our concern with the present proposal relates to the specific inclusion of call recordings.

While SSE does use call recording systems to capture a reasonable proportion of calls made to our inbound customer contact areas, recorded calls are only retained for around a month, which is sufficient for our own quality control purposes. Ofcom's proposal would treble our call storage requirements, representing a material increase in costs, given that SSE receives around half a million calls per week across its range of retail products. Communications products represent a relatively small proportion of our overall product base so the number of complaint calls for these products out of the total inbound calls is likely to be very small, thus making the proposed requirement disproportionate to any benefit likely to be gained from storing such a large volume of calls.

It is not, in fact, clear to us what benefits the availability of call recordings would provide to Ofcom. Having proposed a high-level framework aimed at ensuring that CPs have transparent, accessible and effective complaint handling procedures, we believe that any enforcement action undertaken by Ofcom should focus on these qualitative aspects of complaint handling rather than on specific records of complaint calls. We feel sure there must be some alternative to this element of Ofcom's proposal that avoids being over-prescriptive, thus avoiding the imposition of additional costs on CPs such as ourselves, that have a large retail customer base in other retail markets.

Other over-prescriptive requirements

While the call recording storage requirement discussed above is our biggest single concern with the proposals, there are other specific areas in the wording of the proposed code that, in our view, are more prescriptive than necessary to achieve Ofcom's objectives. These are listed below with more detailed comments in our response to the relevant consultation questions.

1. Webpage accessibility in relation to number of "clicks" required to reach information on complaint handling;
2. Detailed requirements for terms and conditions, including specific web-page references;
3. A specified form of wording on bills to describe the availability of alternative dispute resolution (ADR); and
4. A requirement for information about complaint handling to be included in welcome material.

Suggestion for Ofcom

We are aware that Ofcom makes information available to CPs about the monthly volume of complaints received by Ofcom's Advisory Team about their own products and services. While this is worthwhile aggregate information, it does not allow any further investigation of individual complaints. We suggest it would be helpful to the industry if Ofcom could provide CPs who request further information with brief details of the complaints. We believe that many CPs who are seeking to learn from complaints and improve their processes would value this. It would also maximise the useful information obtained from the customer contact with Ofcom and lead to the

possibility of improvements in future customer experiences, in line with Ofcom's policy objectives.

Conclusion

Overall, Ofcom's proposals are a reasonable fit with the complaint handling processes SSE has already implemented in energy retail markets. We recognise that Ofcom has sought to avoid over-prescriptive requirements. We have pointed out some areas where we believe that the proposed requirements are still more prescriptive than necessary and would lead to increased costs and hope that Ofcom can amend the proposed wording to address these concerns.

I hope these comments are helpful. Due to the concerns raised above, I will be in contact to discuss these matters further.

Yours sincerely

Aileen Boyd
Regulation Manager

Consultation Questions

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 continue to have concerns that the definition of complaint still implicitly includes network faults. This is most clearly an issue where CPs are required to report on numbers of "complaints": including faults in this case could give a misleading impression of service record for those CPs who do not own network infrastructure but provide a retail service using other CPs' networks. However, we recognise that Ofcom has stepped back from requiring any obligations to count and report on "complaints" in these proposals. We welcome, for example, the part of the accompanying guidance that states that an initial call from a consumer to notify a CP about a fault would not require escalation if there was no further contact from the customer i.e. the fault could be regarded as having been fixed.

We note that Ofcom is still considering what comparative measures on complaint handling might be appropriate. For any potential future comparative information, we continue to believe that faults should be excluded from measures of qualifying 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)?

Given the customer experiences, views and relatively low awareness of alternative dispute resolution (ADR), we recognise that some regulatory measures would be justified. However, we would urge Ofcom to keep these as "high-level" as possible to allow flexibility of implementation, depending on CPs' different business systems and processes. We would also hope that Ofcom would keep the need for the requirements under review, so that they can be removed once customer experiences warrant this.

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

A single complaints code of practice with which each CP is required to comply might be an appropriate way to set a minimum level of complaint handling across the industry. As noted above, however, we consider that the actual code should be as high-level as possible, avoiding over-prescriptive detail so that the general aims of the code can be implemented flexibly, taking account of individual CP circumstances.

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

We believe the proposed content of the complaints code under this heading is generally reasonable. The requirement to have a stand-alone complaints code would involve many CPs in initial work to separate this content from

documents that contain other regulatory code of practice requirements. We question whether this would, in fact, be necessary if the location of the complaint-handling content was adequately sign-posted.

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

In our view, most of the proposed requirements in the code under this heading are too prescriptive. We discuss the issues we see in turn below.

Webpage accessibility

The wording at paragraph 2)a) i) of the code about accessibility of the complaints code on the website is too prescriptive and the examples given in the code fit better, in our view, in the proposed guidance. We suggest that the intention could be captured by using the following phrase:

i) being easily accessible from the main customer-facing web-page for the relevant services

Depending on the final wording of requirements for website accessibility and any prescription on the “number of clicks” needed to reach a code, website redesign may be required, which could take several months.

Terms and conditions

The wording at paragraph 2)a) iii) of the code and the associated guidance suggests that terms and conditions should refer to the complaints code and the specific web-page on which it can be found. This is unnecessarily prescriptive, which could cause difficulty for some CPs. For example, SSE uses a number of different retail brands but one set of terms and conditions referring to all the brands. Setting out a specific web-page for the location of the complaints code would seem to require four different variations of the terms and conditions to be provided, which would increase costs and complexity of operation.

It is also the case that website designs can change, which might then necessitate a change to terms and conditions under Ofcom’s proposal. Under General Condition 9.2, terms and conditions are already required to refer to procedures for settling disputes and we believe this general requirement could be built upon, without providing all the detail that Ofcom proposes. We do not consider that terms and conditions are the right place to give general information on items being “available on request” – this sort of reference sits better in more customer-facing material such as general codes of practice. We suggest that this wording is amended to

iii) the relevant terms and conditions for a product and/or service should refer to the CP’s complaint handling process

Welcome material

The wording at paragraph 2)a) ii) of the code proposes that the existence of a complaints code is mentioned in welcome information for new customers. We suggest that if – following Ofcom’s other proposed requirements – information about complaints handling is readily available on the website, is signposted or contained in general codes of practice and also mentioned in terms and conditions, then a further message in welcome material (which is already

subject to a number of other regulatory requirements) would be unnecessary. Putting further regulatory requirements on welcome material is, in our view, becoming unnecessarily prescriptive and we suggest that Ofcom could reassess the need for such a requirement once other measures have been put in place.

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

The proposed obligations under this heading seem reasonable.

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

We do not object to “high-level” requirements designed to increase customer awareness of ADR – we already, for example, have a reference to our own ADR scheme on customer bills. However, we are against requirements that set out how exactly customers should be informed about ADR schemes. This might be a further area where, having specified some high-level requirements – including accessibility of the complaints code material that refers to ADR within it – as set out in earlier parts of the code, Ofcom could reassess the need for more detailed requirements at a later date.

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 object to a general requirement to make reference to ADR schemes on bills. However, please see our comments in response to question 9.

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 is reasonable and follows the procedures we adopt in the energy retail market.

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 have no issues with this proposed requirement.

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 are unsure of the merits of this proposal to change current arrangements, where the CP determines whether deadlock has been reached earlier than the 8 week timeframe and informs the customer accordingly. The change may lead to an increase in applications to the ADR providers from customers unwilling to give their CP time to resolve a dispute.

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 [Otelo 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].

No. We believe that this wording is far too prescriptive in actually setting out the wording that must be used on bills. Although we note that Ofcom could approve alternative wording, we consider that this would be an inefficient process and that the code should only set out what the wording on the bill should cover. This would allow CPs to include only relevant information (SSE, for example, has only domestic customers using its communications products) and to use their own style of communication. We suggest that the wording is amended to

Every bill or itemised usage of an account must include reasonably prominent information about the existence and purpose of the dispute resolution scheme implemented by the CP [in accordance with paragraph 14.5] including contact details.

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.

No. We have discussed this proposed requirement in our covering letter. We have no objection to the requirement to retain written records for at least six months. However, we do object to having to store call recordings, if available, for at least three months. This is longer than we currently store such recordings and would result in our incurring material costs. We do not accept that Ofcom needs such records to carry out enforcement in relation to the other aspects of the proposals.

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?

In general, we support an Ofcom approach that casts regulatory requirements in high-level terms, supported by non-mandatory guidance. However, we believe there are some aspects of the proposed code wording that are still unnecessarily prescriptive and would unnecessarily increase CPs' costs of complying with the requirements. We have highlighted these points in our covering letter and in our responses to the other consultation questions.

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*

Our main concern for this group of requirements is around the measures on accessibility. If significant website changes are required, these could take longer than 6 months.

- *Clauses 4 – 5 of the Ofcom Code (facilitating access to ADR and record keeping obligations) 12 months after the publication of any Statement.*

This timescale appears reasonable but is subject to our concerns with the proposed record keeping requirements detailed elsewhere in this response.

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 believe that great care needs to be taken in devising any comparative information on the effectiveness of CPs' complaint handling procedures. In general, we believe that consumer research organisations are best placed to undertake research to assess the relative performance of retailers in areas of interest to customers.

If this is to be taken forward, we would favour an approach which is based on the number of complaints referred to the ADR schemes as this is a definite stage that clearly involves an external party. However, we do not think it would then be appropriate to count referred complaints where the ADR scheme subsequently upholds the approach taken by the CP. This aligns more with option a) in Ofcom's list at paragraph 9.3 of the consultation.