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Dear Mr Loan,

Re: Ofcom Review of Customer Complaints Procedures

Which? welcomes the opportunity to respond to this important Ofcom consultation on consumer complaints procedures. Good complaints procedures are vital. They ensure customers - who have experienced a poor service - are treated fairly and can get their problem solved. They also make good business sense for companies. A well handled complaint can ensure a customer continues to use or returns to use, that company.

Yet, so many firms do not have adequate procedures in place and customers with legitimate complaints are not dealt with fairly. In theory the discipline of competition might be expected to drive up standards of complaint handling. Customer care should be seen as an important element, contributing to a firm's competitive advantage. However, as the research in the Ofcom consultation document highlighted, for a significant number of complainants competition is not delivering fair treatment.

Therefore we welcome moves that aim to improve the treatment of customers who complain and that look to ensure higher quality and more consistent treatment of consumers, who find problems with the service or product they have purchased. We consider the Ofcom proposals as movement in the right direction. However, there is room for further improvement. The changes do not appear to be comprehensive

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enough to deliver the step change in complaints handling required. Only a stronger approach will significantly reduce the levels of poor service and dissatisfaction evidenced by the Ofcom research. We are concerned the current proposals leave room for firms to continue to get away with delivering poor complaints handling services.

Building on our experience of complaints handling procedures in the financial services sector, we set out briefly below our thoughts on how complaints handling in the telecoms sector can be improved and deliver what the consumer needs.

A robust framework for complaints handling that would improve the complaints process for consumers should:

- > Be based on clear and strong minimum standards that all complainants can expect to receive.
- > Use incentives to help improve behaviour e.g. utilising penalties for breaches of standards and transparency to publicise poor performance and influence consumer choices.

Clear and strong minimum standards should include a broad definition of 'complaint'. Making it consistent with the definition used by the ombudsman is logical and is the minimum to be expected. The definition of a complaint should not exclude those who may be complaining on behalf of someone else. Allowing this omission would exclude numerous people from potentially getting their problems resolved. For example:

- > The individual with the complaint may not have sufficient technical knowledge to be able to make a thorough, clear and understandable complaint.
- > An individual may be unable to communicate effectively due to physical or mental impairment e.g. someone who was deaf and had no e: mail access may need someone to take the complaint forward on their behalf.
- > A complainant should not have to rely on mentioning 'key words' (such as 'complaint') or to have to be speaking to the complaints department of a firm in order for an expression of dissatisfaction to be considered a complaint.

The proposed code of practice should not over-rely on principles. These are useful for future proofing. However, they leave too much discretion in the hands of firms. This would inevitably lead to the uneven provision of complaints services for

customers. It is important they are backed up by specific requirements on firms. These should include:

- > All complaints being logged for evidential purposes. It is very frustrating to discover that there is no record of your complaints and you have 'been forgotten' or 'fallen between the cracks'. Logging the complaint should be basic procedure.
- > The complainant receiving official acknowledgement of the complaint within a fixed period of making a complaint e.g. within 5 days. This would reassure the customer their issue was being taken seriously. An evidence trail is important if the complaint is not resolved quickly and especially if it goes to an alternative dispute resolution (ADR) body.
- > A guarantee that the complaint will be resolved within a specific period of time e.g. within 8 weeks of the complaint being made. In addition there has to be a clear obligation on the firm (if it has not been resolved in that guaranteed period) to make the complainant aware they can take the problem to an alternative dispute resolution body and inform them how they can contact the ADR scheme.
- > A clear requirement that firms have verifiable procedures in place for escalating complaints. This should include prescription of the number of escalation points. The suggestion that the code of practice only require them to be 'reasonable' is too vague. It will not ensure consumers know what they are entitled to expect.

The right incentive structures also have to be put in place. These will help ensure the minimum standards are adhered to and that firms can be made more accountable for their behaviour towards the complainant through a more effective market mechanism. These incentive structures should take the form of:

- > Sanctions to punish poor performance.
- > Extensive transparency to enable comprehensive monitoring of performance and facilitate the better operation of the market through more informed consumer choices.

There should be sanctions against companies and their senior management for failure to adhere to good complaints handling practice. These should reflect any financial gain by the communications provider from not dealing with the complaint. It has to be clear that failing to treat customers fairly will result in consequences e.g. for the financial position of the firm and therefore its shareholders.

Comprehensive transparency would enable both Ofcom to enforce the standards in the code of practice and consumers to make more informed choices about communication providers, helping strengthen the operation of the market. To reach this end a number of measures would be required:

- > Disclosure of the number of complaints received, broken down by firm and product type.
- > The percentage dealt with in particular time frames.
- > The percentage upheld by the firm.
- > The types and amounts of redress paid out.
- > Constant evaluation of company complaints procedures through the analysis of complaints handling information, extensive market research and testing e.g. the use of mystery shopping, surveys etc.
- > Firms could also be required to publish a digest of the type of complaints that were received and how they were resolved as part of their annual report.
- > Naming and shaming by Ofcom of the poorly performing companies.

We consider ADR to be a vital tool for consumers. It plays a crucial role in ensuring consumers who are not treated fairly by the firms they have purchased from can still get redress. In other words it acts as an important backstop for consumers who have problems.

We consider that two dispute resolution services in a sector is an unnecessary duplication. It also results in perverse incentives. Both the dispute resolution services and firms have incentives to offer an inferior service. In order to attract the most members an ADR service is incentivised to offer a service that results in lower numbers of successful complaints for their member companies. It also causes complications when a customer's complaint involves two separate companies that are members of different dispute resolution services. Therefore, we would support the reduction from two to one in the number of dispute resolution services.

In order that all consumers (who need to) can benefit from the dispute resolution services, people must be made aware of their existence. We support widespread publicity for the dispute resolution services. This should include clear signposting (on every non-verbal communication between a communications provider and their customer) advertising the existence and function of ADR. There should also be requirements for consumers to be told explicitly at both the start and end of any complaints process they are going through, about the dispute resolution service, how it can be accessed and how they can help the complainant.

Finally, dispute resolution services can play an active role in increasing transparency and improving consumer choices. They can do this by publishing similar information to that which companies should be obliged to publish (see page 4). In particular the dispute resolution services should name and shame the firms they find against and also highlight the products/ services that get complained about. In addition, the dispute resolution services could take a proactive role in identifying reoccurring weaknesses in firm's services and procedures and promoting better practice in complaints handling.

Yours sincerely

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