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Gavin Daykin  
Consumer Policy Manager  
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Dear Gavin,

**“PROTECTING CONSUMERS FROM MIS-SELLING OF FIXED-LINE TELECOMMUNICATIONS SERVICES”**

Orange is pleased to respond to this consultation.

Orange contributed to and supports the consultation response submitted by UKCTA.

The reason for us making a separate response is on some occasions to make clear where we differ from the UKCTA position and on other occasions to elaborate further on our reasons for supporting the UKCTA response.

**Prohibition of inappropriate sales and marketing activity**

The current process based mandatory guidelines that support the requirement that individual CP's each maintain and comply with a process based code of practice has created a rod for Ofcom's back when it comes to enforcement and often times an inflexible method of working for CPs. By no means has it been completely ineffective but Orange believes that the move to a broad prohibition which is backed up by guidance as to the types of conduct which are inappropriate will benefit both Ofcom when it comes to enforcement (and the protection of consumers) and CPs who will be able to determine their own processes to ensure compliance.

**Obligation to remind customers of potential contractual liabilities with their current provider**

Orange does not support this proposal. We believe that this measure, i.e. the provision of a generic hastily read warning statement, will be completely ineffective.

The evidence of consumer harm set out in Ofcom's consultation document notes the disparity between the level of complaints in relation to customers not understanding early termination charges for fixed-line services (48% of complainants) and customers not understanding those charges in relation to mobile and broadband services (27% and 21% of complainants respectively). The reason for that disparity is mobile and broadband customers needing to obtain a PAC or MAC from their existing provider which gives the losing provider the opportunity to fully discuss any remaining contractual obligations and the consequences of terminating early.

Orange is not advocating a move to a losing provider led process for fixed line voice services and that is not a proposal countenanced by Ofcom's consultation. However, Orange is of the view that the way to address a lack of consumer information and consumer understanding of their contractual obligations is by making those obligations clear at the time of entering the agreement. When a consumer is agreeing to purchase a service or package of services which carries a requirement to make monthly payments for

minimum period, that needs to be transparent up front. Orange endeavours to provide that transparency both in the interests of our customers so that there is no confusion as to their obligations and in our own interest so that customer misunderstanding and dissatisfaction is minimised, if not completely avoided.

### **Extending Cancel Other rules to all CPs**

Orange fully supports the extension of these rules as outlined in the draft general condition.

Orange is concerned about the increasing use of Cancel Other by providers whose use of that functionality is not clearly regulated. In the hands of a less than reputable operator Cancel Other can be used to frustrate the transfer of customers from that provider to the customer's chosen provider.

On the particular issue of recording calls which culminate in the use of Cancel Other, we support the proposed requirement that 100% of those call be recorded. The fact that the functionality can be used to frustrate a customer's desire to change providers means that if an operator chooses to use it, that provider should be prepared to and able to substantiate that use, in all instances.

### **Requirement to make and retain call recordings**

Orange agrees with the stated UKCTA position in relation to call recordings, i.e. that there should be a recording keeping obligation on CPs and an obligation to record a significant proportion of sales calls but not 100% or 90% of calls. An obligation to make recordings of a significant proportion of calls but not 100% will ensure that:

- firstly, providers who currently record no sales calls will need to put systems in place to do so – which we believe to be a reasonable obligation if a provider is seeking to obtain the benefits of using that sales channel;
- Secondly, the less than 100% requirement will mean that CPs can use robust recordings systems but ones which are not necessarily gold plated without fear that not being able to provide 100% or 90% of calls requested by Ofcom could put them in breach of a general condition;
- Thirdly, Ofcom's ability to nonetheless obtain a significant sample of recordings from any CP using the telesales channel, should mean that its enforcement powers are enhanced and that Ofcom has an ability to obtain evidence of systemic mis-selling or slamming where it is alleged.

Yours sincerely

Lee Jones  
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