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Dear Alan

Review of Alternative Dispute Resolution and Complaints Handling Procedures

I am writing to provide SSE's comments on the above consultation. As you may know, SSE entered the market for provision of retail telephony services a few years ago based on use of the regulated wholesale products available. We also provide retail energy supply services to some 9 million customers in a regulated environment. As noted in the consultation, the energy industry has recently developed its complaints handling and alternative dispute resolution (ADR) framework in the wake of the Consumers, Estate Agents and Redress Act 2007. Across our company, therefore, there has been recent activity to adapt to the new arrangements and there are many similarities between this and the amendments that Ofcom proposes for public electronic communications services provided to domestic and small business customers.

We believe that a well functioning competitive market, where it is easy for a customer to switch between suppliers if they are dissatisfied with the service they receive, is the most powerful safeguard for customers in retail markets. We have therefore supported Ofcom's work to develop the requirement for standardised switching processes for mass-market communications products. We believe that when these are established, promoted and easy to use, Ofcom is likely to see an increase in overall levels of satisfaction in the relevant markets and urge Ofcom to remain focussed on this area of work.

We recognise that current concerns about customers' awareness of complaint handling procedures and the levels of dissatisfaction with how complaints are handled have prompted Ofcom to propose new regulatory measures with respect to complaints. The proposals are largely a reasonable fit with our current complaint handling processes, with the exception of three items, which we have raised in our responses to the consultation questions (attached as an Appendix) and summarise briefly below. However, we would hope that Ofcom would keep the need for these new requirements under review, with a view to reducing them if market conditions and customer experiences warrant this in the longer term.

The three areas where we disagree with the proposals are: counting “faults” as complaints; an aspect of the proposed definition of “complaint” and sending specific information about the ADR scheme at an early stage of a customer’s interaction with us in the event of a complaint that cannot be resolved at the first point of contact. We believe customers, in reporting a fault, are not necessarily making a complaint about it. In relation to the third area, we have proposed an alternative way of making customers aware of the role of the ADR scheme at the early stages of a complaint.

I hope these comments are helpful and would be happy to discuss them further if that would be useful.

Yours sincerely

Aileen Boyd
Regulation Manager

Consultation Questions

Question 1: Do you agree with the following definition of Complaint:

“Complaint means an expression of dissatisfaction made to a Communications Provider related to its products or services, or the complaints-handling process itself, where a response or resolution is explicitly or implicitly expected.”

We are generally happy with this wording but would suggest that the phrase “or the complaints-handling process itself” should be amended as it leaves the process for dealing with complaints open ended. The CP’s complaint handling process should guide the customer from beginning to end; to then allow the customer to complain about the process if he did not like the outcome could result in vexatious and repetitive complaints about exactly the same ‘resolved’ issue. We suggest that the wording “or the manner in which it has dealt with any such expression of dissatisfaction”, consistent with recent statutory definition, might capture the intended point without this risk.

We also do not agree with Ofcom’s proposal that notification of “faults” should be included. We would accept, however, that a complaint about how a fault is handled would fall into the definition of complaint. This matter is more of an issue in Ofcom’s parallel consultation on quality of service (QoS) issues but we note Ofcom’s intention to keep the definition of complaint consistent between the two areas. In our response to the QoS consultation, we have highlighted that publication of “complaint” volumes for suppliers that also include the volumes of faults would provide misleading information about the performance of a supplier (who does not necessarily provide the network services) in dealing with complaints within its own control.

In the energy industry, a definition of “complaint” has been developed, which is similar to the wording proposed by Ofcom but, through the use of subsidiary definitions, notifications about faults are specifically excluded. This sits well with the QoS framework in energy, which sees comparable information about network reliability gathered and published across all major network companies. We would recommend the development of this approach within the electronic communications industry, although we recognise that this is not the main concern of the current consultation.

Question 2: Do you agree that a consumer should have the right to go to ADR:

(a) eight weeks after a complaint is first received by a CP; OR

(b) earlier, if a CP has issued a deadlock letter.

We would be content for the “backstop” time after which a customer would have the right to pursue an unresolved complaint with the relevant ADR scheme to be as Ofcom has proposed.

Question 3: Do you agree with our preferred Option 4 that a CP should be required to give written notice about ADR:

(a) Within five working days after the Communications Provider received the Complaint, unless the complaint has been resolved at the first point of contact;(If a

consumer contacts a CP again about a matter which the CP reasonably believed to be resolved at first contact then notice should be given at that time)

AND

(b) eight weeks after the CP first receives the complaint, earlier if the complaint is resolved or when the CP issues a Deadlock Notice.

No. We believe it is appropriate to provide a customer with specific information about the ADR scheme at point (b) i.e. when a Deadlock Notice has been issued or at the point when the backstop time is approaching. However, we do not agree that it would be appropriate for a service provider to have to inform a customer about the ADR scheme at the point that the initial complaint is made, in the circumstances that the complaint was not resolved at the initial point of contact.

We believe that this would:

- confuse a customer who had just been in discussion with his own provider and received assurances that the provider was going to investigate the complaint further;**
- cut across the principle that a customer should be encouraged to resolve complaints directly with their provider and only where that has failed to reach a solution to seek redress via the relevant ADR scheme; and**
- lead to undesirable outcomes, such as the customer contacting the redress scheme too early and placing an additional burden on the redress scheme to refer complaints back to service providers.**

We believe that the advantages that Ofcom has identified for this option could also be achieved if service providers send customers (as well as acknowledging their complaint as proposed in the requirements of the high level code of practice guidelines set out in Question 6) information about their complaint handling process. This would show information about ADR as part of the overall complaint handling process, thus empowering the customer as Ofcom wishes, but would keep the information in context. We believe that this approach would also avoid confusing the customer about what is to happen next in terms of his own complaint.

Question 4: Do you agree that the notice about ADR which CP should give must be:

- (a) be in writing in a durable form be in plain English, clearly written and concise;*
- (b) include a reference for the complaint; include details of the ADR Scheme which the CP is a member of, including contact details;*
- (c) and summarise when the consumer has the right to go to ADR Scheme and the role of the ADR Scheme.*

As noted above, we do not support the proposal to send this notice at the time that the customer has initially made their complaint, but are content to send a notice along the lines that Ofcom suggests at stage (b) noted in the previous question.

Against this background, we support Ofcom in not proposing standard text for the proposed notice about ADR. We also support the possibility of sending the notice by electronic mail, which may fit with the business processes of some providers. We note, however, that the proposed modifications in Annex 5 go

slightly further than what is proposed in this question in requiring a “summary” of the complaint rather than the “reference” mentioned at part (c).

Question 5: Do you have any comments on the criteria which we propose we will use in our future review approval of the ADR Schemes?

We have no particular comments on the criteria proposed for Ofcom’s future review of the ADR schemes.

Question 6: Do you agree that CPs’ should be required to comply with a single Ofcom Approved Complaints Code of Practice which sets out high level mandatory standards for complaints handling?

We are not in favour of detailed prescriptive regulation, which we find is burdensome and restricts how a CP can meet its obligations. We have supported Ofcom’s recent policy initiatives that aim to tackle a consumer policy issue by means of high level guidelines rather than detailed mandatory requirements. Thus, while we are disappointed that Ofcom considers it necessary to impose more requirements on CPs in relation to complaint handling, we support the requirements being set in a high level rather than detailed manner.

We have one or two comments on points of detail in the wording of the proposed “Ofcom Approved Complaints Code of Practice” set out in Annex 5:

- **There is an inconsistency in the references in paragraph 2 – the first bullet is labelled (b), for example; and**
- **We believe it would be more appropriate to place a reference to a CP’s complaint handling procedure – rather than the information itself – in terms and conditions and therefore that the wording of paragraph 2(b)(i)a could be clarified.**

Question 7: Do you agree that CPs should be required to keep a log of all complaints? We could require CPs to log complaints when they are first received and as they are handled. These records must include as a minimum for each Complaint a log setting out:

- (a) details of the Complainant, including their name and address;*
- (b) the date on which the Complaint is first received;*
- (c) a description of the Complaint;*
- (d) and a description of how the CP deals with the Complaint.*

We already log and monitor customer complaints. Thus, as in our response to question 6, while we are disappointed that Ofcom has felt it necessary to introduce specific requirements on this, we would not anticipate any issues in complying with these requirements.

Question 8: Do you agree that three months from publication of the Statement for this Review is a reasonable period to implement the changes proposed in this Consultation Document?

We would agree that 3 months should be a reasonable period to implement the changes to complaint handling set out in the document, provided that the requirements stay at the high-level proposed. We would ask that allowance be made for any usual holiday periods that fall within the implementation period (such as the Christmas period) by extending the 3 months as is normal practice for consultation response periods.