

Introduction

Verizon Business welcomes the opportunity to respond to Ofcom's consultation on the Review of Alternative Dispute Resolution and Complaints Handling Procedures.

Verizon Business recognises that this consultation, along with a number of other recent consultations, has been initiated in line with Ofcom's duty to further the interests of citizens and consumers, in accordance with Section 3(1) of the Communications Act 2003. Whilst Verizon Business supports Ofcom in their efforts in this area, we do have significant reservations with regard the justification for the proposals tabled in this particular consultation.

In particular, Verizon Business is concerned that a number of proposals emanating from Ofcom recently, relating to consumer policy, fail to recognise or take account of the fundamental difference in the requirements of business and residential consumers.

Furthermore, it appears that Ofcom is promoting regulation without significant evidence identifying consumer detriment which requires regulatory intervention. This is compounded, certainly as regards this consultation, by Ofcom's failure to conduct a robust impact assessment of their proposals. In the view of Verizon Business, this consultation, with regard to business consumers, provides a further example of this trait.

General comments

In this consultation, Ofcom proposes to implement a number of changes to the current regulatory requirements in relation to the Alternative Dispute Resolution (ADR) and complaints handling procedures. However, little, if any, consideration has been given to the differing requirements of business and residential consumers in relation to these processes.

Verizon Business does not consider that Ofcom has any appreciable evidence to support the requirement for increased regulation to be imposed on business operators in this area. Whilst recognising Ofcom's duty to protect consumers, Ofcom also has a duty to ensure that they fulfil their statutory obligations as stated in section 49 of the Communications Act, i.e. that any regulation is justifiable, non discriminatory, proportionate and transparent. With regard this consultation, the proposals, as far as the impact on business operators is concerned, fail the justifiable and proportionate tests.

Specifically, Ofcom make extensive reference to research carried out by Futuresight and use their report as justification for many of the changes proposed. However, their research does not relate to, or highlight any failings with regard the business to business market, not even in relation to small business customers, who are specifically targeted by Ofcom in this consultation.

Verizon Business would therefore encourage Ofcom to reconsider their proposals, as there is no evidence of any failings with regard the current ADR and complaint handling procedures in relation to business consumers. To impose the changes contained within this consultation would, in our view, be disproportionate.

A clear example of why the implementation of Ofcom's proposals in their current form would be disproportionate for business providers is the fact that the regulation only applies to small business customers, those businesses employing 10 or fewer employees. However, identifying which customers fall into this category would be difficult to identify and impossible to manage through the relationship lifecycle, without constant and frequent review with each individual customer. As details of the ADR arrangements, under the current proposals need to be included in the customer contracts, the only practical solution for business providers would be to apply the proposed changes to the contracts for all SMEs, which would result in confusion, not only for providers but also our customers.

Responses to Ofcom questions

The following section of the response addresses specific questions raised by Ofcom in the consultation. For ease of reference, the question numbers quoted correspond to those utilized by Ofcom in the consultation document.

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."

Verizon Business has reservations about the appropriateness of Ofcom's proposed definition of a complaint, as it introduces yet another variant to the definition of a complaint from those utilized in other regulatory obligations, e.g. QoS and Metering & Billing. Such variations can lead to confusion and may significantly impact the accuracy of complaint capture due to misclassification of complaints.

What is of even more concern is the intention to broaden the scope of a complaint to include the initial reporting of a service fault. Typically, faults are resolved within hours or at most a few days and so the process proposed by Ofcom for contacting consumers within 5 days after reporting a fault is totally inappropriate. Not only would such a process place a disproportionate burden on the CP in generating unnecessary letters but could lead to confusion for consumers, resulting in additional calls to CPs and an increase in frustration.

Of course, Verizon Business accepts that a fault can result in a complaint, due to the way it was handled or the length of time taken to resolve but to routinely

record all faults as complaints, we submit, would not be beneficial to consumers.

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.

Verizon Business accepts Ofcom's view that few complaints are resolved in the period 8 to 12 weeks after submission and that therefore, it could be considered that there may be an opportunity to reduce the timescale for issuing a deadlock letter.

However, whether such a change would meet Ofcom's duties with regard justification and proportionality would appear questionable. This is even more the case for business only providers, given the extremely low level of business customer complaints that enter the ADR process. As such, Ofcom should consider whether the cost to communications providers of reducing the time scale for consumers to go to ADR earlier is proportional to the perceived benefit such a change would bring to consumers.

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.

Verizon Business does not agree with this proposal. Unless it can be clearly shown that confirming a complaint in writing within 5 days provides any benefit to a consumer or will lead to any improvement in the complaint handling process, then this proposal should not be implemented. The only clear result from such a process will be an increase in costs for CPs.

Furthermore, the research Ofcom relies upon for making such a proposal is highly questionable and can not be considered to be either extensive or compelling. Verizon Business would argue that more substantial evidence of consumer detriment should be evident before Ofcom places a greater regulatory burden on industry.

In any event, to ensure any additional regulation is proportionate, Ofcom are compelled to conduct cost-benefit analysis. As Ofcom are unsure of how much their proposed changes would cost industry, it is difficult to see how such an obligation has been met.

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 per the response to question 3 above, Verizon Business does not agree with the proposal for additional requirements for informing the customer about the ADR scheme For business consumers, including small businesses, there is no evidence to suggest that such additional requirements are necessary or would bring benefits to business consumers.

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?

No.

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?

Verizon Business does not have any objections to the general principle of requiring communications providers to comply with a single Ofcom Approved Complaints Code of Practice. However, such an obligation should only be imposed where it can be demonstrated that consumers would benefit from such an arrangement. In our view, no evidence has been identified in relation to business consumers, so any changes in this area should not be imposed on providers who only provide services to business consumers.

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.**

Verizon Business has significant concerns in relation to the proposed record-keeping obligations. It is hard to justify the costs associated with this proposal, which Ofcom recognize are significant, when the aim of the proposal is not directly related to consumer protection but simply to provide Ofcom with a means to investigate and check compliance with regulatory obligations.

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?

Verizon Business considers that an implementation period of three months will be too short for all communications providers to implement the necessary system and process changes. An implementation period of at least six months and potentially twelve months if Ofcom implements all of the proposals contained within this consultation, would appear more appropriate.