

# Ofcom Review of Alternative Dispute Resolution Schemes

**Report and Draft recommendations**

**Consultation document**

**Issued:** 27 July 2005

**Closing date for responses:** 5 October 2005

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## Section 1

# Summary

1.1 Ofcom has statutory duty under Section 54(4) of the Communications Act (“the Act”) to keep under review all approved dispute resolution procedures (“ADR”). This is the first such review. The two organisations providing an ADR service, which currently have Ofcom approval are:

- Office of the Telecommunications Ombudsman (Otelo) (approved on 30 September 2003)  
[http://www.ofcom.org.uk/static/archive/oftel/press/releases/2003/pr53\\_03.htm](http://www.ofcom.org.uk/static/archive/oftel/press/releases/2003/pr53_03.htm)
- Communications and Internet Services Adjudication Scheme (CISAS) (approved on 9 November 2003)  
[http://www.ofcom.org.uk/static/archive/oftel/press/releases/2003/pr61\\_03.htm](http://www.ofcom.org.uk/static/archive/oftel/press/releases/2003/pr61_03.htm)

collectively referred to as the ‘Schemes’.

1.2 This first review of the Schemes assesses their general effectiveness, their interaction with communications providers and Ofcom; and end user satisfaction.

1.3 The way in which communications providers handle complaints from their domestic and small business customers impacts on the effectiveness of Schemes e.g. the ADR service may be overloaded with enquiries that should be handled by the communications provider.

1.4 Ofcom’s methodology for the review has had a number of strands. It covers formal information requests by Ofcom to the Schemes and to a sample of their members; quantitative and qualitative research and comparative analysis with Ofcom’s internal data on consumer dissatisfaction.

## Main findings

1.5 There has been a large increase in the number of members of ADR Schemes since they gained Ofcom’s approval in 2003. Membership of CISAS has increased from 49 to 144 and of Otelo from seven to 165. Membership covers fixed, mobile, ISPs and new voice services.

1.6 Very few complaints received by communications providers are referred to ADR. Less than half a percent of the over one million complaints received by a random sample of 50 members of the Schemes were referred to ADR during 2004. However Ofcom found that there was a lack of common understanding of what constitutes a ‘complaint’ with apparent inadequate recording and monitoring by communications providers’ front line staff.

1.7 Independent research shows that most consumers start the complaint process at the right place i.e. by complaining to the provider, but get little or no information about ADR procedures. Ofcom appears to be a popular second point of call and 40% of the consumer contacts with Ofcom during 2004 were about those companies included in the sample for the review.

- 1.8 The majority of complainants approaching a Scheme do so prematurely i.e. before twelve weeks have passed and/or the company has issued a deadlock letter (i.e. a statement that the provider will no longer be considering the complaint). This was mainly because consumers needed to know more about the complaints handling process and required assistance dealing with their provider. This suggests that many communications providers are failing to escalate complaints satisfactorily and keep complainants informed of progress. Only a small number of the enquiries initially received by the ADR lead to a full investigation.
- 1.9 Very few complainants choose to use the small claims court to settle their dispute.
- 1.10 The vast majority of disputes brought to ADR relate to complaints about billing and poor customer service.
- 1.11 Otelo handled many more enquiries than CISAS (50,206, compared with 3340) almost a third of which were outside of its terms of reference (OTOR). It also investigated many more cases (4,593 compared with 233 during 2004). During 2004 Otelo had a much lower staff: case ratio than CISAS and a backlog of cases built up. Otelo was only able to meet the six week target for resolving disputes in 15% of cases (compared with CISAS's 85%). CISAS has an additional filter through the complaints handling service provided by ISPA. Otelo has remedied this situation and is now meeting its targets in over 80% of cases.
- 1.12 There is no evidence to suggest that the Schemes have any bias in favour of the companies that fund them. Over the period under review Otelo has made more decisions requiring action by the provider than has CISAS. In both schemes the average awards are relatively small and in many cases the awards are non-pecuniary. Around 80% of the decisions made are accepted by the complainant.
- 1.13 Ofcom found that two thirds of complainants were very dissatisfied with the way communications providers staff handled their complaints. On the basis of the verbatim comments received during the interviews there was a fairly even split between positive and negative comments about complainants' experiences with the Schemes. However as the sample size was very small, the data must be interpreted with some caution.

#### Proposed recommendations for best practice

- 1.14 Having undertaken this review, as required under Section 54(4) of the Act, Ofcom does not intend to modify the conditions of its approval or withdraw its approval of Otelo or CISAS (Section 54(5) of the Act). However, the following proposed recommendations are made for improving best practice, both by communications providers and by the Schemes.

#### Recommendations for communications providers

Ofcom proposes that:

- 1.15 Communications providers must improve complaints handling procedures and customer awareness of ADR procedures. Communications providers must make customers aware of their complaints code of practice as soon as a

complaint is received and ensure that the codes are easily accessible, ideally through the company website and/or on customer invoices.

- 1.16 Communications providers should record any expression of dissatisfaction with the service provided by an end user as a complaint, irrespective of the means by which the complaint was communicated and/or whether the company considers the complaint to be justified. A common approach will ensure accurate recording and monitoring of progress. Front line staff should be adequately trained in company complaints handling procedures. Communications providers should not direct enquiries to Ofcom nor prematurely to a Scheme.

#### Recommendations for the Schemes

Ofcom proposes that:

- 1.17 Schemes should take action against communications providers who fail to comply with their rules, including best practice on complaints handling and/or who fail to abide by the Schemes' decisions. The Schemes should alert Ofcom of any potential problems that may be detrimental to consumers.
- 1.18 The Schemes should work with communications providers to improve awareness of the service amongst those groups currently under-represented. Schemes should monitor socio-demographics of complainants as an integral part of customer satisfaction surveys and take action to promote ADR amongst groups that are under-represented.
- 1.19 Schemes should publish Key Performance Indicators covering staff competence, timeliness of decision making and overall customer satisfaction. In addition the Schemes should publish regular reports showing the breakdown of complaints received.
- 1.20 Schemes should consider using an independent third party to handle complaints about their own processes and procedures.

#### Ofcom's role

- 1.21 To help ensure implementation of the recommendations for communications providers, Ofcom will work with the Schemes to develop best practice for communications providers as part of the conditions of membership of the Scheme.

#### Next steps

- 1.22 This is a final report of the findings of Ofcom's first review of ADR Schemes. Whilst the findings of the review do not lead Ofcom to conclude that it should withdraw its approval of either of the Schemes, Ofcom has proposed a number of recommendations for best practice to make the Schemes better and these are subject to consultation.
- 1.23 Ofcom welcomes stakeholders' views on the proposed recommendations (summarised in paragraphs 1.15 – 1.20 above), together with any other comments they wish to make on the findings of this review, using the consultation response cover sheet in Annex 3. Responses should reach Ofcom no later than 5.00 pm on **Wednesday, 5 October 2005**.

- 1.22 Ofcom will be holding a customer service workshop for communications providers in the autumn. For further details please contact Natalie Siega at [Natalie.siega@ofcom.org.uk](mailto:Natalie.siega@ofcom.org.uk)

## Section 2

# Purpose of the Review

### Regulatory background

2.1 Section 52 (2) of the Communications Act 2003 requires Ofcom to ensure that every public communications provider in the UK provides access to a dispute resolution procedure for its domestic and small business customers. Section 52 (5) of the Act requires Ofcom to approve those dispute procedures, following consultation with the Secretary of State. The following procedures have been approved:

- The Communication and Internet Services Adjudication Scheme (CISAS) **[www.cisas.org.uk](http://www.cisas.org.uk)** (approved 19 November 2003 [http://www.ofcom.org.uk/static/archive/oftel/press/releases/2003/pr61\\_03.htm](http://www.ofcom.org.uk/static/archive/oftel/press/releases/2003/pr61_03.htm))
- The Office of the Telecommunications Ombudsman (Otel) **<http://www.otelo.org.uk>** (approved 30 September 2003 [http://www.ofcom.org.uk/static/archive/oftel/press/releases/2003/pr53\\_03.htm](http://www.ofcom.org.uk/static/archive/oftel/press/releases/2003/pr53_03.htm))

collectively referred to as the 'Schemes.'

2.2 Both Otel and CISAS publish a full list of members on their websites.

2.3 Ofcom has a statutory duty under Section 54(4) of the Communications Act ("the Act") to carry out periodic reviews of the Schemes it has approved. This is the first review of the ADR procedures.

2.4 The Act stipulates certain criteria for gaining approval, which have been applied by Ofcom in reviewing the effectiveness of the current Schemes:

- The arrangements for handling ADR must be independent from Ofcom and from the communication providers to which they apply.
- The procedures must be easy to use, transparent and effective.
- ADR must be available to customers free of charge.
- The ADR service must have all the necessary information to be effective.
- Disputes must be investigated effectively.
- Schemes must have the provision for making awards of appropriate compensation.
- Schemes' procedures must be such as to enable awards of compensation to be properly enforced.

2.5 When considering whether to approve dispute procedures, Section 54(6) of the Act requires that Ofcom have due regard to the matters set out in Section

54(7) of the Act. Those matters include the need to secure that the number of different sets of procedures approved is kept to a minimum.

### **Scope of review**

2.6 The review considered:

- Interaction with communications providers and Ofcom (Section 4).
- General effectiveness of the Schemes, including accessibility (Section 5).
- End user satisfaction with Schemes (Section 6 and Research Annex)
- The current review covers the twelve month period from January 2004 to December 2004.

### **Review methodology**

2.7 In order to undertake a comprehensive review of the effectiveness of the Schemes, Ofcom collected several sources of data:

- Formal information requests to CISAS and Otelo covering governance, staffing, membership, volume of enquiries received and disputes handled; nature of awards made; and accessibility of the Schemes.
- Formal information requests to a randomly selected sample of 50 members of CISAS and Otelo. The communications providers were asked to provide data on the volume of complaints received and escalated to ADR, the number of associated court actions brought by complainants; and details of how communications providers make consumers aware of complaints handling procedures.
- Independent semi-qualitative research undertaken for Ofcom: 118 telephone interviews with Ofcom Contact Centre (OCC)/CISAS contacts covering fixed, mobile and Internet related complaints (March to May 2005); supplemented with quantitative research via Ofcom's residential tracker survey: 2217 face to face interviews with UK adults aged 15+ (January to March 2005).
- Findings of the Otelo customer satisfaction survey (June 2005) and Writers' survey (February 2005)  
[http://www.otelo.org.uk/UserFiles/File/Anonymised\\_writers\\_survey-February\\_2005.pdf](http://www.otelo.org.uk/UserFiles/File/Anonymised_writers_survey-February_2005.pdf).
- Comparative analysis using Ofcom Contact Centre (OCC) data.

### **Next steps**

2.8 Having undertaken this review, Ofcom does not intend to modify the conditions of its approval of Otelo or CISAS or withdraw its approval (as provided for under Section 54(5)) of the Act). However, a number of recommendations have been proposed for implementing best practice, which requires action by both communications providers, CISAS and Otelo. These are listed in section 7.



- 2.8 Comments are invited on the proposed recommendations. The deadline for receipt of those comments is **5.00 pm on Wednesday, 5 October 2005.**
- 2.9 Ofcom will carefully consider those comments and publish a set of final recommendations later this year.

## Section 3

# ADR Scheme structure and governance

## Introduction

- 3.1 This section describes the current structure and governance of the two Schemes.
- 3.2 Although Schemes must maintain operational independence (both from Ofcom and from the Scheme members) this does not mean that communications providers should not finance the Scheme or be involved in its governance. Indeed as the Schemes must be available to consumers free of charge, they must be financed by their members.
- 3.3 What is required is to be able to demonstrate impartiality in relation to the resolution of disputes between both parties. This is best achieved where responsibility for governance and finance is operationally separate from the day to day running of the Schemes.

## CISAS

- 3.4 CISAS is an independent adjudication scheme, administered by DRS-CIarb, (Dispute Resolution Services, Chartered Institute of Arbitrators), which is a registered charity. CIArb is based in central London and administers over 100 consumer and commercial dispute resolution schemes. It is funded by members' subscriptions and case fees.
- 3.5 CISAS began operations on 1 October 2003 with an initial membership of 49. This has now risen to a total of 144. Its membership covers fixed, mobile, internet services and new voice services. Its members include Kingston Communications, Telewest, Orange and T-Mobile but the majority of its members are internet service providers ("ISP").
- 3.6 CISAS has a core staff of eight but shares its workload with other staff working for CIArb on other Schemes. CISAS has one full time Administrator who deals with all calls and applications to CISAS and prepares the necessary documentation for the parties involved and the adjudicator. A Service Delivery Manager provides the consumer interface to the service, dealing with day to day enquiries from complainants; and the Head of Business Relationships handles contractual arrangements with member companies, new member recruitment and administration of the rules and procedures.
- 3.7 CISAS has a panel of four designated independent adjudicators who handle complaints about communication provider members. Decisions are made in accordance with the CISAS Rules, taking into consideration information received from both the complainant and the company.
- 3.8 CISAS's processes and decisions are monitored by a Panel Management Group, which is appointed by the CIArb Board of Trustees. The Panel is also responsible for the supervision of the adjudicators' professional performance.

## Otelo

- 3.9 The Telecommunications Ombudsman Service Ltd (Otelo) is a not for profit limited company. Its offices are located in Warrington. Otelo opened for business on 1 January 2003 with seven founder members. Membership has now grown to 165. All of its members are public communications providers offering fixed, mobile and internet services to domestic and small business customers. Its members include BT, ntl, O2 and Vodafone.
- 3.10 The Ombudsman and Chief Executive, Elizabeth France CBE, is responsible for the daily management of the service. She is supported by a Director of Finance, a Director of Operations; a Communications Manager, HR Manager, Enquiry Manager, eight investigators and twelve enquiry staff.
- 3.11 The Ombudsman is responsible to Otelo's non-executive Council, which consists of seven members, five of whom are independent of the communications industry. The Council's functions are: to appoint, maintain and safeguard the independence of the Ombudsman, to monitor performance of the service, recommend appropriate changes and carry out the statutory functions of the Board of Directors. It is not involved in the handling of individual disputes.
- 3.12 Otelo is funded by its industry members who pay 20% of the budgeted costs by subscription, with the remainder being paid by case fees. A separate Member Board approves Otelo's budget. The Board comprises seven members, two independents elected from the Council and five elected from the industry members of the Service. Its governance structure is designed to protect the independence of the Ombudsman.

## Membership of BIOA (British and Irish Ombudsman Association)

- 3.13 Whereas the two Schemes have different governance structures and are differently constituted, the main consideration for Ofcom is to ensure that they meet the requirements of Section 54(2) of the Act.
- 3.14 Those requirements closely mirror the key criteria required for membership of the British and Irish Ombudsman Association (BIOA) <http://www.bioa.org.uk/BIOA-New/criteria.htm>: including: independence, effectiveness, fairness and public accountability. In addition, it is a requirement of BIOA that ADR procedures should be available free of charge to the consumer. As membership of BIOA is subject to the approval of an independent validation committee, Ofcom considers membership an important indicator of the whether the procedures are meeting the requirements of the Act.
- 3.15 BIOA's membership primarily comprises Ombudsmen schemes from both the public and private sector. Otelo is a member of BIOA in its own right and CISAS joined BIOA under the umbrella of DRS-Ciarb <http://www.drs-ciab.com/aboutus.asp> during the period of this review. (The term Ombudsman is of Swedish origin and means 'a representative or agent of the people'.)

## **Terms of Reference of the Schemes**

- 3.16 The purpose of ADR is to receive, handle and resolve complaints or disputes about member companies and to provide remedies and redress as appropriate.
- 3.17 The Schemes handle complaints about the provision of mobile and fixed phone, fax and internet services; certain services such as short messaging services (SMS), voice mail and call forwarding and services and products for customers with a disability e.g. text relay services, free directory enquiry services.
- 3.18 CISAS may consider adjudication on other matters outside the scope of the terms of reference, but only if the communications provider agrees.
- 3.19 The Schemes do not handle complaints about content services and premium rate services. These are handled by ICSTIS (the Independent Committee for the Supervision of Standards of Telephone Information Services) <http://www.icstis.org.uk/>. Nor will they consider disputes that are already subject to court action or other complaints procedures; malicious or unjustified complaints; or disagreements between communications providers.

## **Complainant access to an ADR scheme**

- 3.20 Access to the Schemes is available free of charge to domestic and small business customers (defined for the purposes of the Schemes as those businesses with no more than ten employees). The ADR procedure is intended to provide dispute resolution as a last resort and as an alternative to the courts.
- 3.21 Before a dispute may be considered, the complainant must have exhausted their communications provider's internal complaints handling process. Once the provider has issued a 'deadlock' letter to say it is either unwilling or unable to resolve the complaint, and/or if a period of twelve weeks elapsed since the complaint was made, the dispute may be referred to the relevant Scheme. The twelve week period gives communications providers a reasonable opportunity to deal with complaints through internal procedures.
- 3.22 The procedures for submitting disputes to Otelo and CISAS are similar.
- 3.23 Complaints to CISAS must be made by submitting a written application form, with supporting evidence. The form may be completed on line. CISAS will help complainants to complete the form if requested or if it seems necessary. Complainants must meet their own costs of preparing a case and attendance at hearings if required.
- 3.24 Complaints to Otelo may be submitted by telephone, fax, web, letter or text phone. Applicants may self-complete an on-line interactive complaints form or contact Otelo's enquiry team, which will fill it in on their behalf. Complainants must provide a description of the problem and basic chronology of the complaint to date, together with a signed complaint form, authorising the company to release the case-file data to Otelo.

- 3.25 There are time limits for bringing a dispute to ADR. Applications to CISAS must be made within three months of receipt of the deadlock letter or the last response from the company. Applications to Otelo must be submitted within six months of receipt of the deadlock letter or nine months since the complaint was first made to the provider.
- 3.26 Under both Schemes, consumers remain liable for any outstanding balance due to the communications provider under the contract that is not the subject of the dispute. Conversely, communications providers should not instigate debt collection proceedings in relation to monies owed that are subject to ADR and any related proceedings should be stayed until the outcome is known.

### **How complaints are handled**

#### **Otelo**

- 3.27 If a complaint falls within its terms of reference ('ITOR'), Otelo will investigate and write to the complainant and the communications provider with its provisional conclusions. This gives both parties the opportunity for comment and to make further representations (if material) before a final decision is made. At all stages the Ombudsman will try to encourage informal resolution of the dispute between the two parties.
- 3.28 Once the Ombudsman had made her final decision and notified the complainant, the complainant is free to accept it as full and final settlement of the dispute or to decline. The complainant has two months in which to accept, otherwise the communications provider will not be bound by the Decision. The Ombudsman's decisions are not binding on the complainant who is free to pursue the dispute through other channels, such as the small claims court.
- 3.29 In addition to the remedy imposed, the Ombudsman may wish to make recommendations to the communications provider on how to improve its procedures to prevent the same complaints recurring.

#### **CISAS**

- 3.30 CISAS follows a similar process. On receipt of an application that is ITOR, CISAS appoints an independent adjudicator and notifies the communications provider. The communications provider has 14 days to respond to the complaint. A copy of the communications provider's response to CISAS is sent to the complainant, who has seven days to comment. If no response is received from the communications provider, the adjudicator will proceed solely on the basis of the information provided by the complainant. An adjudication decision will usually be made within six weeks of the customer's response unless the dispute is extremely complex.
- 3.31 A copy of the decision, with reasons, is sent to both parties. The complainant then has six weeks in which to accept or reject the decision. Once accepted the decision is binding on the provider. If the adjudicator makes a financial award this must be paid directly to the complainant within 21 days of acceptance. Records of the outcome of the dispute are retained by CISAS for monitoring purposes.

- 3.32 Both CISAS and Otelo publish anonymised case summaries of their decisions, thereby protecting the privacy of both complainant and respondent, but highlighting issues where communications providers may need to improve performance.

### **Role played by the Internet Service Providers Association (ISPA)**

- 3.33 ISPA is a trade association for Internet service providers in the UK. It has over one hundred members for which it provides a complaints handling service.
- 3.34 Members of ISPA are entitled to membership of CISAS if required. However this is not compulsory and members may join Otelo if they prefer. 87% of ISPA members are members of CISAS, and 13% are members of Otelo.
- 3.35 The ISPA Code of Conduct makes provisions for customers of ISPA members to complain on-line about their ISP. During 2004, ISPA received a total of 938 complaints about its members, covering 21 companies, 16 of which were CISAS members, and five of which members of Otelo.
- 3.36 The complaints process is fully automated. On receipt of a complaint about one of its members, ISPA issues an automated alert to the provider who is required to respond to the complainant directly within five working days. If the provider fails to resolve the complaint and deadlock is reached, the member is required to issue a CISAS reference number. The complainant then completes an online application form for CISAS. The complainant may also contact CISAS directly if preferred.

### **Remedies**

- 3.37 ADR procedures may apply one or more remedies in resolution of the dispute. These include:
- An apology or an explanation.
  - A product or service, or some practical action that benefits the complainant.
  - A financial award up to a maximum of £5,000 including VAT.
- 3.38 The maximum level of the award far exceeds the amount of the majority of the claims made to the Schemes and aligns to the maximum award that can be obtained through the small claims courts. The Schemes may review the maximum level of financial awards if they wish, subject to their members' discretion.
- 3.39 Both Schemes publish anonymised information about decided cases/adjudication decisions and the remedies awarded, together with recommendations for best practice. Both schemes hold regular member forum meetings.
- 3.30 Otelo provides advice to complainants who approach the service prematurely. By improving the customer's understanding, both of the problem itself and complaints handling procedures it tries to pre-empt the need for later intervention.

### **Complaints about the ADR scheme**

- 3.31 Complaints about Scheme processes or the decisions reached may be referred to the Panel Management Group (CISAS) or the Director of Operations (Otelo). CISAS received five formal complaints during the period of the review: three against the decision, one against the adjudicator and one against customer service. Otelo received one complaint regarding the way in which Otelo's staff had handled a complaint.
- 3.32 During the same period, Ofcom received 16 complaints related to CISAS and Otelo. These were fairly evenly split between those who were dissatisfied because their complaint fell outside of the terms of reference of the scheme or was premature; those dissatisfied with the outcome; those dissatisfied because the provider had failed to provide the remedy awarded; and those dissatisfied with procedures (including time limits for bringing disputes to ADR, difficulties in obtaining a CISAS reference number and time taken to resolve a dispute).

## Section 4

# Interaction between communications providers, Ofcom, and ADR schemes

## Background

- 4.1 Section 52 of the Communications Act 2003 ('the Act') places a duty on Ofcom to set general conditions to ensure that communications providers establish and maintain procedures to, amongst other things, handle complaints and resolve disputes between them and their domestic and small business customers. The relevant condition is General Condition 14, under which communications providers are obliged to implement and comply with a dispute resolution scheme ('ADR'). If a communications provider is not a member of an approved ADR scheme, Ofcom will not approve its complaints code of practice.
- 4.2 Ofcom has published Guidelines designed to help communications providers produce a Code which Ofcom can approve:  
[http://www.ofcom.org.uk/telecoms/ioi/g\\_a\\_regime/gce/ccodes/ccodes.pdf](http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/gce/ccodes/ccodes.pdf).
- 4.3 There are penalties for non-compliance with General Condition 14. Under section 96 of the Act, Ofcom may impose a penalty of up to ten per cent of turnover for failure to comply with a formal notification within the time period specified.

## Ofcom's role in the handling of complaints

- 4.4 When contacted by a consumer, Ofcom will always refer a complainant back to the communications provider, unless:
- The dispute has reached 'deadlock' and the communications provider has issued a letter to that effect.
  - A period of more than twelve weeks has elapsed since the complaint was first made to the provider.
  - The provider does not have an ADR scheme.
  - The complaint is outside of the scope of the ADR scheme.
- 4.5 When being advised of customer complaints, Ofcom will check whether the provider has an Ofcom approved Code of Practice ('COP') and is a member of an ADR scheme. If not Ofcom may issue a compliance letter to that communications provider and take enforcement action if necessary.
- 4.6 Ofcom does not get involved in either the communications provider's or the ADR scheme's handling of individual consumer's complaints. Ofcom will not instruct a communications provider to follow a particular course of resolution but will give the complainant the relevant advice needed to progress their complaint.



- 4.7 Schemes may expel members for misconduct eg for not settling with the complainant following an Ombudsman/adjudication decision, but only after the case has been carefully considered and the provider given the right to reply. If communications providers are expelled from a scheme they may be automatically in breach of General Condition 14 and Ofcom may take enforcement action against them if appropriate.
- 4.8 Ofcom cannot alter an ADR decision, nor can it ask for the decision to be reviewed. ADR decisions are not binding on the complainant who can take separate legal action if desired.

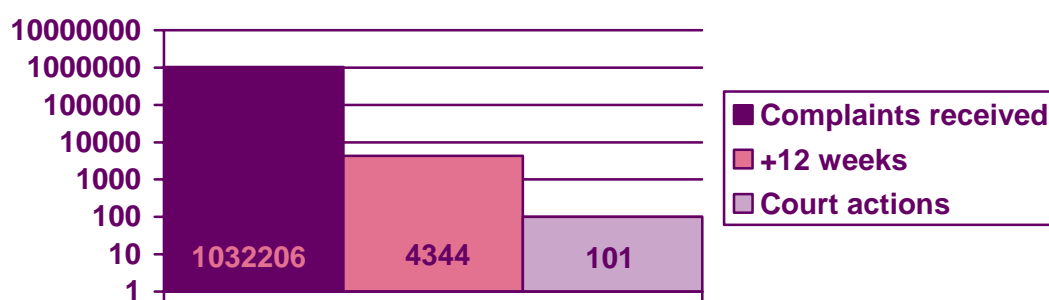
### Assessment of communications providers' complaints handling procedures

- 4.9 In order to assess whether communications providers are handling complaints effectively, Ofcom sent formal requests for information to a sample of 50 members of CISAS and Otelio. The sample covered the full range of members of the Schemes and may be considered representative of the end user experience.
- 4.10 Each company was asked to provide the following information in confidence:
- The total number of complaints received from domestic and small business customers during 2004.
  - The percentage of complaints that were outstanding after twelve weeks.
  - The percentage of complaints for which a deadlock letter was issued.
  - The number of court actions against the company in relation to those complaints.
  - Details of company procedures for making customers aware of the complaints code of practice.

### Summary of findings

- 4.11 A total of just over one million complaints were received during 2004 by the sample as a whole, (which approximates very roughly to around three percent of customer base). Just over 4,000 of those (less than half a percent) were either outstanding over 12 weeks or had been issued with a deadlock letter.

**Figure 1: Complaints received by CISAS and Otelio sample of members: 2004**



- 4.12 Several communications providers did not record the amount of time complaints had been outstanding, nor distinguish between those outstanding after twelve weeks and those for which a deadlock letter had been issued. For those communications providers who did record the information, only a small number of deadlock letters had been issued.
- 4.13 In some cases, communications providers reported that they did not automatically issue a deadlock letter after twelve weeks if the customer did not want the dispute to be referred to ADR. (A deadlock letter should always be issued once a provider has taken the decision not to further a complaint).
- 4.14 There was considerable variation in the way in which a communications provider defines a 'complaint', with some communications providers not recording verbal complaints. Ofcom guidance was to include 'any expression of dissatisfaction from an end user with the service provided by the company, irrespective of the means by which the complaint was communicated and/or whether the company considers the complaint to be justified,' excluding initial fault reports and initial enquiries about bills/payments.
- 4.15 Several communications providers (the majority of whom were small ISPs) recorded nil returns for complaints over the period.
- 4.16 There were very few cases of complainants taking court action against communications providers in relation to a complaint (101 across the whole sample).
- 4.17 The main reasons for complaint were problems with billing, poor customer service, mis-selling, charges and loss of service.
- 4.18 Although not requested to do so, some communications providers provided examples of individual cases. These suggest that ADR schemes are unlikely to accede to excessive demands for compensation from complainants, with most awards less than requested. At the other end of the spectrum it was also clear that many complainants are not seeking financial compensation but want the provider to 'put things right.' Very often an apology appears to suffice.

**Table 1: Ways in which communications providers advise their customers about ADR: summary of findings of Ofcom information request**

Ways in which communications providers make customers aware of ADR
Customers informed verbally at time of initial complaint of right to complain to Ofcom
CoP posted on website
Hard copies of CoP sent to customers on request
Full contact details for Otelo/CISAS sent to customer with deadlock letter/after 12 weeks
Approved Otelo wording printed on reverse of bills/invoices
Welcome letter to customers refers to CoP and ADR membership/included as part of initial terms and conditions
Customer newsletters make reference to ADR scheme
Details included in telephone directory
On-line customer services centre

- 4.19 There was considerable variation in the way in which communications providers made customers aware of their complaints handling procedures. In many cases customers were not made aware of the process until a complaint arose. In one example the provider was incorrectly referring complainants to Ofcom.
- 4.20 Few communications providers appear to have a complaints code of practice available in alternative formats.
- 4.21 Although Ofcom has not previously specified exactly how the Complaints COP should be made available, independent research undertaken as part of this review has revealed that complainants would prefer either the internet or the provider's bill to obtain information on complaints handling processes. Independent research indicated some variance between the preferred sources of information by service, with landline users tending to prefer advice as part of their telephone bill.

**Table 2: Continental research findings of consumer preferences for finding out about complaints handling**

Survey of consumer preferences for method of obtaining information on complaints handling process	All (Base 118)
Web/Internet	54%
Bill	26%
Advertising e.g. TV/radio/newspapers	16%
Telephone book/Yellow pages	14%
A Phone number	10%
A letter/information from supplier	8%
Citizens Advice Bureau	4%
Library	5%
Directory Enquiries	2%
Other	21%
Don't know	3%

### **Comparison of sample data with Ofcom Contact Centre (OCC) data**

- 4.22 The data received from the sample of communications providers was compared with OCC data for the same period for validation purposes. This exercise showed that OCC had received:
- 2,359 expressions of dissatisfaction about the CISAS members surveyed (around 5% of the OCC total)
  - 17,087 expressions of dissatisfaction about the Otelo members surveyed (around 35% of the OCC total)
- 4.23 Whereas Ofcom is only receiving a small amount of queries in relation to the communications providers' total number of complaints (around 2%) these enquiries account for a large percentage (40%) of total telecoms complaint and dissatisfaction cases for the period (48,208).
- 4.24 Billing and customer services were the main source of complaint during the period under review.
- 4.25 To help improve communications providers' complaints handling processes, Ofcom intends to work with the Schemes to develop best practice. Ofcom would envisage that adherence to best practice would be part of the conditions of membership of a Scheme.

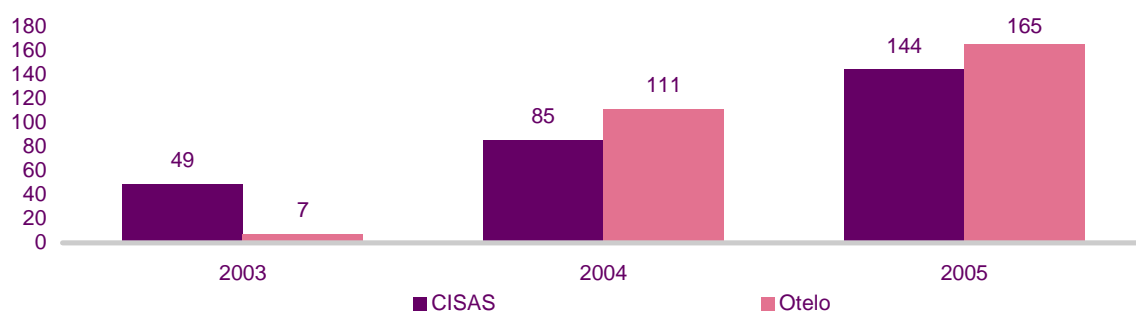
## Section 5

# General effectiveness of Schemes

## Introduction

- 5.1 In order for a dispute procedure to be effective it has to, among other things, be fair and impartial and have processes in place that facilitate prompt resolution of disputes.
- 5.2 There has been a large increase in the number of members of the schemes since their approval by Ofcom in 2003 (figure 2). Part of this increase is due to recent compliance activity undertaken by Ofcom to ensure communications providers have an approved complaints code of practice and are members of an approved Scheme.
- 5.3 Section 54(7) (c) of the Act requires Ofcom to have regard to "the need to secure that the number of different sets of procedures so approved is kept to a minimum." It would not therefore be appropriate for each communications provider to have a separate alternative dispute resolution procedure.

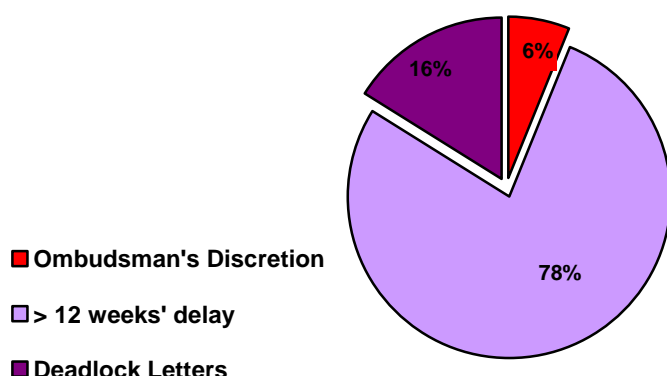
**Figure 2: Growth in membership of ADR schemes**



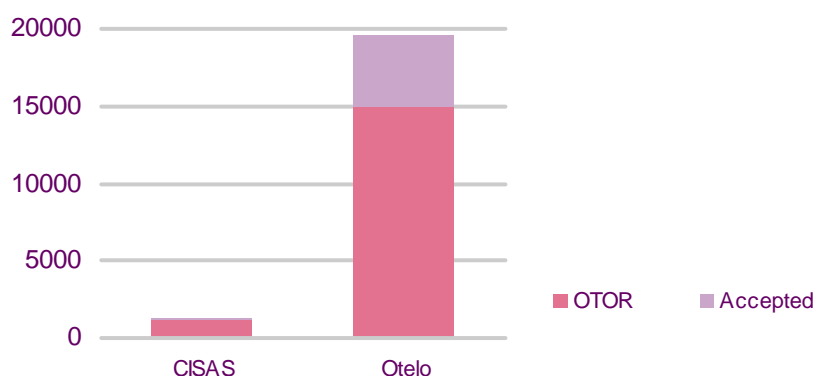
Source: Otelo/CISAS

## Making consumers aware of schemes

- 5.4 Transparency of the complaints handling process is essential. Consumers must have a clear understanding of how to use and access an ADR scheme and there must be appropriate and adequate publicity of the scheme's existence.
- 5.5 Data received from Otelo and CISAS suggests that communications providers are not following agreed complaints procedures and referring complainants to ADR at the appropriate time. Almost all of the complaints being accepted for investigation by Otelo and CISAS are without a deadlock letter, or where consumers have contacted the schemes because more than twelve weeks has elapsed since first making a complaint to the provider. This finding is supported by the data returned by the communications providers themselves (section 4.12- 4.3).

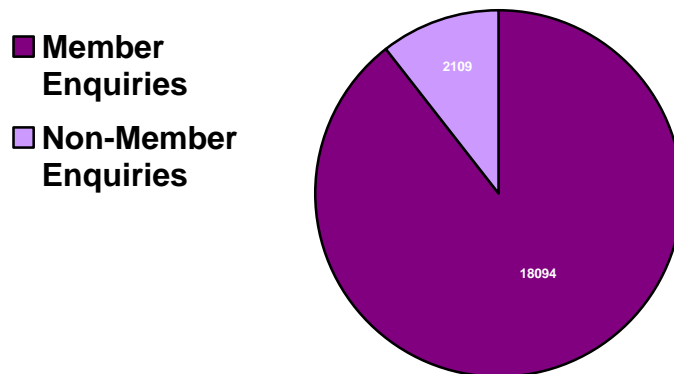
**Figure 3: Complaints accepted for investigation during 2004: Otelo**

- 5.6 The lack of consumer awareness is similarly demonstrated by the number of enquiries/complaints received by the Schemes which fall outside of their terms of reference.

**Figure 4: Enquiries received by CISAS and Otelo during 2004 which were outside of their Terms of Reference (OTOR)**

- 5.7 CISAS received a total of 3340 enquires during 2004, 1107 were either premature or outside of its terms of reference ('OTOR'). Only 233 cases were accepted for adjudication. Otelo received 50,206 enquiries, 14,957 of which were OTOR (including complaints that related to CISAS members) and 4,593 were accepted for investigation. (Note that the data does not distinguish between those complainants who have contacted the service prematurely and those which are OTOR). Around three quarters of the complaints not accepted by Otelo are premature enquiries. The number contacting CISAS prematurely or incorrectly is much less – around one third. This may be due to the role played by ISPA in handling complaints before they reach CISAS. 76% of the 938 complaints received by ISPA in 2004 were about CISAS members.
- 5.8 Otelo also reported a large number of enquiries received during the period which related to non-member companies (10.4%). Again this suggests that consumers are contacting Otelo for help with their complaint because their communications provider has failed either to provide them with, or notify them of, the correct procedures.

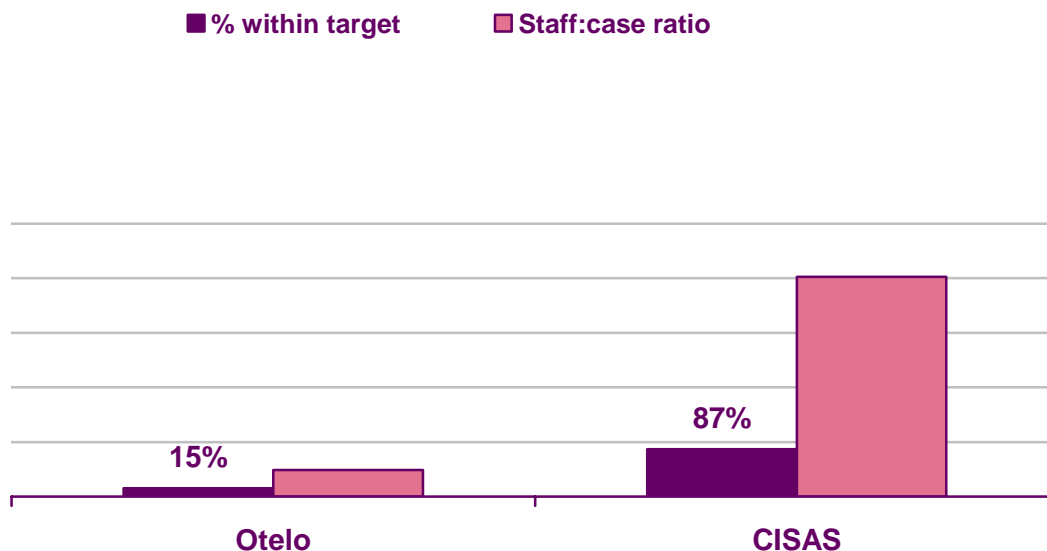
**Figure 5: Comparison of enquiries received by Otelo about non-member companies during 2004**



### Impact of growth on dispute resolution times

- 5.9 Ofcom has recommended that the target time for resolving complaints, other than the most complex of disputes, should be a maximum of six weeks following acceptance for investigation.

**Figure 6: Percentage of cases completed within target during 2004, compared with staff: case ratio**



- 5.10 Figure 6 illustrates the problems experienced by the schemes, particularly for Otelo, in completing cases to target during 2004. Otelo received fifteen times as many enquiries than CISAS (three quarters of which were premature) and handled almost twenty times the number of cases. However the staff:case ratio was far less favourable for Otelo. Whereas CISAS had half a case per member of staff, Otelo had four cases per staff member during the period.

- 5.11 Otelo has a first-in/first-out policy in relation to complaints processing. Due to step changes in demand at the beginning of 2004 and in mid-year, a backlog

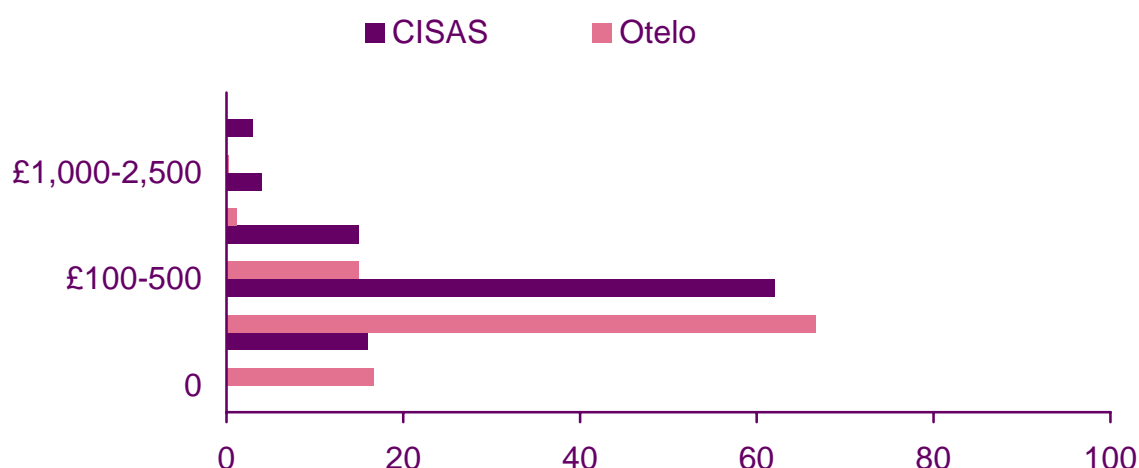
of cases built up which prevented the target being fulfilled during much of the year; further staff were taken on and the backlog was almost eliminated by the end of the year. The average time-scale for issuing Provisional Conclusions had been reduced to below the six-week target and has subsequently been maintained. By March 2005, the average time for issue of Provisional Conclusions was less than 40 days and more than 80% of cases were completed in this period.

- 5.12 Otelo handled the large number of enquiries it received over the period swiftly and efficiently. All telephone enquiries were responded to within the same/next day timeframe; emails and faxes were answered within seven working days; more than 75% of letters were answered within seven working days and the residual 25% were replied to within 14 working days. CISAS met 98% of its targets for dealing with enquiries: within two hours for telephone enquiries. Information requests were handled on the same or next day (if call received after 4.30 pm).

### **Consistency of consumer experience**

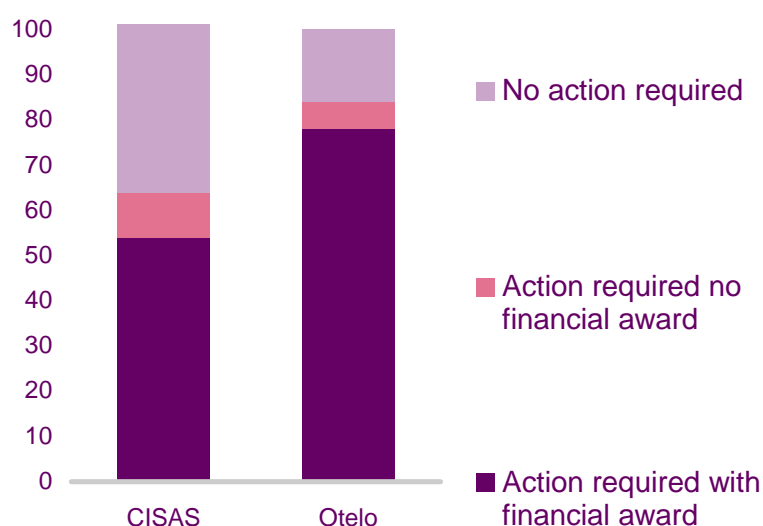
- 5.13 It is important that consumers receive a comparable level of service from each of the Schemes. One way of assessing this is through comparison of consumer satisfaction surveys. Unfortunately it has not been possible to make direct comparison as part of this review as only Otelo has undertaken such surveys (as it has had a much larger volume of cases to enable it to derive a sample that is statistically meaningful). (CISAS has agreed to undertake consumer satisfaction surveys from now on). The independent research commissioned by Ofcom covers both Schemes (see annex 7) but again the sample sizes are very small and the results must be interpreted with some caution.
- 5.14 An alternative comparison is the nature and level of awards made by the Schemes over the period, the percentage of awards accepted by the complainant (as these are not binding) and the enforcement of the awards by the Scheme where necessary.
- 5.15 Otelo made 1,809 awards during the designated period. The highest financial award made was for £4,000, but six percent of the awards made were non-financial e.g. the provider was required to send a copy of the bill to the consumer.
- 5.16 CISAS made 156 awards during the period. The highest award made was for £5,000, the maximum the schemes allow. Only around half of the claims made to CISAS were purely for financial compensation. In around 12% of cases the complainant did not want any financial compensation but service-based alternatives such as text bundles, termination of the contract or merely an apology.



**Figure 7: Level of awards made during 2004**

5.17 In the majority of decisions made by Otelo (84%) some action was required on the part of the provider, but in six percent of those cases no financial award was made. This was considerably lower for CISAS (54 %). Of the 166 decisions made, there were 90 cases in which some action was required by the provider. 47 of the awards made were purely financial, 27 involved financial and non-financial elements and 16 were wholly non-financial awards.

5.18 In both Schemes around 80% of the awards made were accepted by the complainant.

**Figure 8: Breakdown of ADR decisions showing where action required by provider (%)**

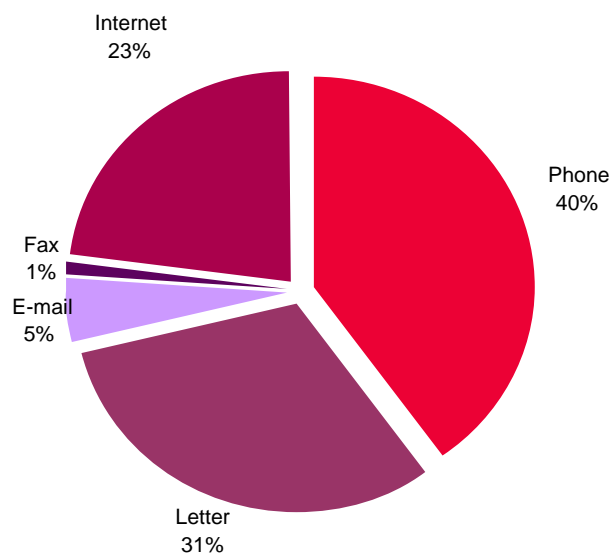
5.19 In both Schemes the decisions are binding on the provider but not on the complainant. However, CISAS has been concerned that some communications providers have failed to pay financial compensation within the time limits specified. This may be because the timeframe for settlement (21 days) is shorter for CISAS members than for Otelo members (28 days).

CISAS has raised this issue with Ofcom and we are considering the most appropriate time frame that should apply to both Schemes.

### **Accessibility of schemes**

- 5.20 Easy and direct access to ADR schemes should be available to all consumers, including those with disabilities and special needs. All the necessary information about the process and procedures should be easily obtainable and easy to understand.
- 5.21 Both schemes provide access by a number of means, including telephone, fax, letter, e-mail, text phone or via the scheme website. Otelo's information booklet, outlining details of its investigation procedures has been awarded the Plain English Campaign's Crystal Mark and its website has AAA "Bobby" accreditation, having large print availability and a choice of backgrounds for easier viewing. Information is available in the twelve most common languages used in the UK, as well as in Braille. Otelo has arrangements for translation facilities to be provided on request.
- 5.22 CISAS provides consumer information and guidance on procedures through the publication of detailed guidance notes, rules and application form, available on or offline. Guidance notes and application forms are available in large font for the partially sighted.
- 5.23 During the period of the review, neither CISAS nor Otelo had received any requests to submit a complaint form by text phone. CISAS received three requests for staff to complete complaints forms in an alternative format, but Otelo received no requests to do so.
- 5.24 Both schemes offer individual assistance to complainants to help them complete their complaints forms.
- 5.25 It is open to the schemes to hold oral hearings, but during the course of the review none were requested. Just over ten percent of complainants to Otelo and 8% of complainants to CISAS were represented by a third party.
- 5.26 Neither scheme has recorded data on socio-economic category, ethnic origin, language of origin or disability as part of the complaints handling process. Otelo includes this information as part of its customer satisfaction survey. CISAS has agreed to gather this information for monitoring purposes in the future.
- 5.27 As illustrated in figure 9, the most popular methods of contacting Otelo are by phone and by letter. CISAS did not collate a detailed breakdown of means of contact. However, eight percent of cases received were registered using the CISAS online application form, 91% of which related to a fixed line provider.

**Figure 9: Method by which complainants contact Otelo**



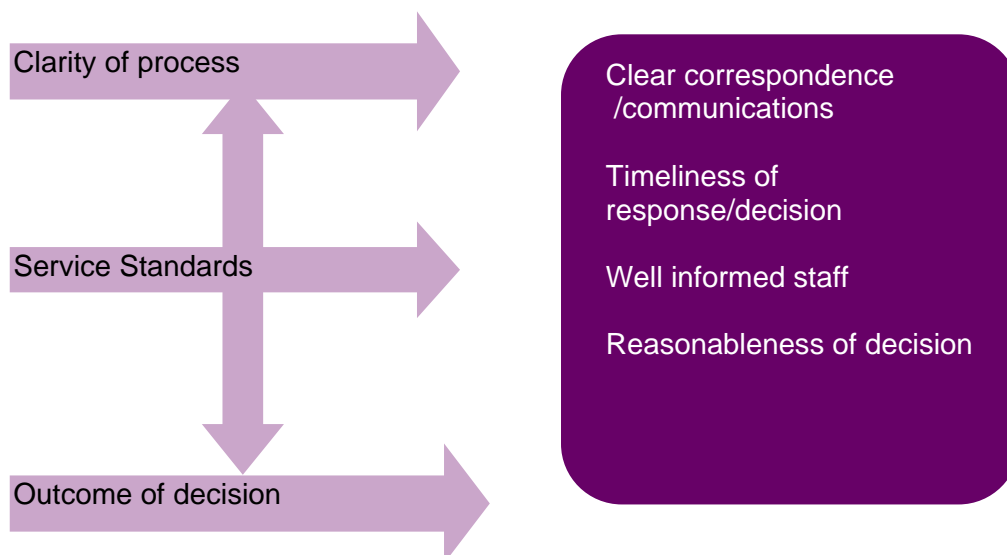
## Section 6

# End User Satisfaction with the Schemes

### Determining end user satisfaction

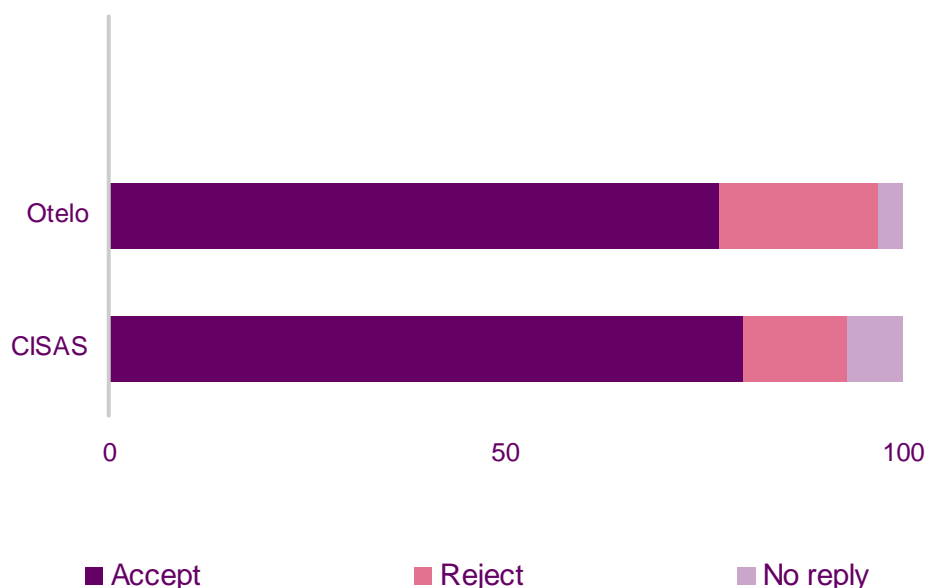
- 6.1 Based on the experience of consumer feedback to the Financial Ombudsman Service (FOS); Ofcom has applied recognised criteria for determining end user satisfaction with ADR schemes to its review. Clarity of process, clear and timely decision making, clear and timely responses to enquiries all have a bearing on whether the complainant is satisfied with the outcome. If processes are working well, Ofcom would expect most complainants to be satisfied with the ADR procedure, irrespective of the outcome of their complaint.

**Figure 10: Schematic showing criteria for meeting consumer satisfaction of ADR schemes**



- 6.2 A reasonable indicator of satisfaction of outcome is the number of complainants who accept the decision. As figure 10 illustrates, the majority of complainants (around 80%) do accept the decision irrespective of the outcome.

**Figure 11: Percentage of complainants accepting adjudicator/Ombudsman decision**



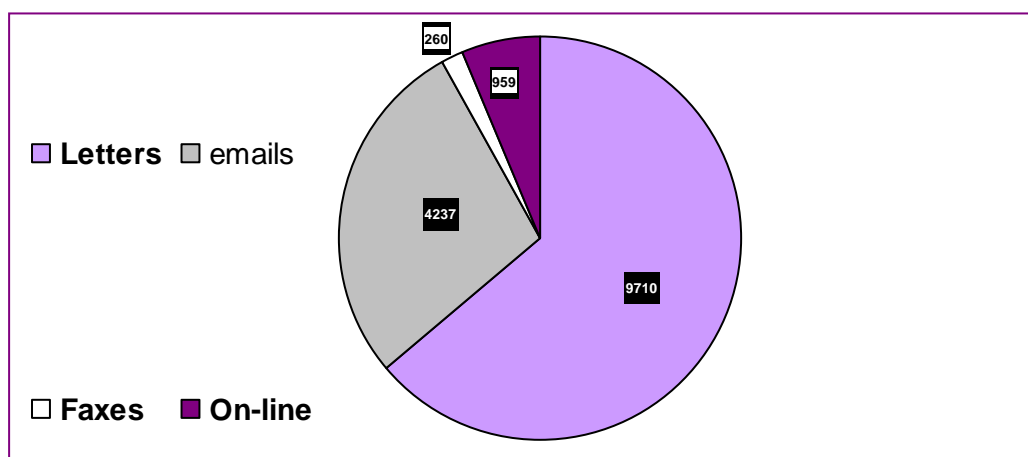
- 6.3 A further indicator of dissatisfaction would be the number of complainants rejecting the decision and then taking action through the courts. CISAS has no record of any complainant having done so. Responses from the communication providers (section 4.16) suggest this is likely to be a very small percentage indeed (101 across the sample, out of over one million complaints received).

#### Otelo customer satisfaction research findings

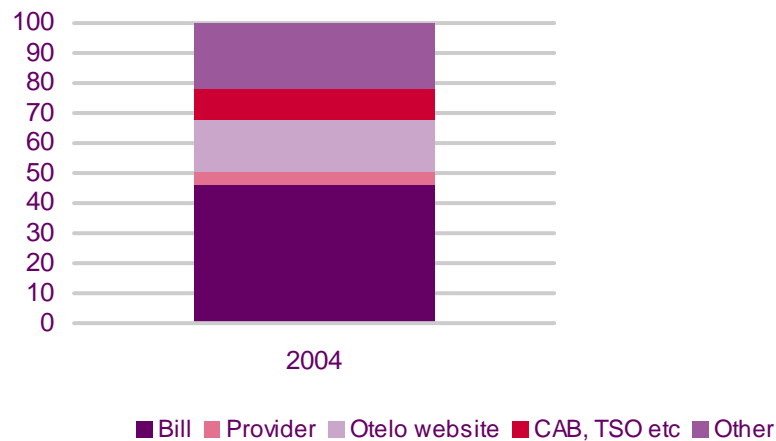
- 6.4 One of the most effective ways of assessing whether complainants are satisfied with the schemes is to undertake market research. Otelo has commissioned independent customer satisfaction surveys, which are published on its website <http://www.otelo.org.uk/content.php?pageID=100>. The latest surveys cover a sample of 203 enquirers and 289 complainants who were surveyed by post and a further 98 enquirers who were surveyed by telephone between February and early June 2005. Otelo has also undertaken a survey of 500 written contacts to the service during January and February 2005 (the 'Writers Survey').
- 6.5 The main reason for contacting Otelo is because complainants have failed to get a satisfactory response from the provider and they are looking for assistance and advice. In the majority of cases Otelo will refer the caller back to the provider. Over the period of the survey Otelo found that 85% of the telephone enquirers surveyed were satisfied with Otelo's response.
- 6.6 The main reasons for complaining to the Schemes are billing and customer service.

- 6.7 Where respondents expressed dissatisfaction with Otelo this was for various reasons including:
- Lack of awareness of how the service operates and what it can and cannot do.
  - Lack of clear explanation of the complaints escalation process.
  - Dissatisfaction with initial response times.
  - Dissatisfaction with the outcome of cases.
- 6.8 The Writers' Survey found a large and growing number of complainants (10% of all enquiries) who preferred to write to Otelo. 82% of those surveyed stated a preference for putting things in writing when problems arose. However, Otelo's operating systems were not designed to handle a large number of written complaints and this may explain why there were lower levels of satisfaction with the service in the writers' survey. This links to the key criteria of timeliness and clarity of response.
- 6.9 Historically customer satisfaction surveys report lower levels of satisfaction amongst consumers who complain in writing. This may relate to various factors associated with this method of contact, such as speed of contact/response.

**Figure 12: Number and type of Otelo written contacts**



Those surveyed were asked about how they had found out about Otelo. In the main this was from the communications provider's bill with a very small number (5%) finding out about ADR from the communications provider's staff.

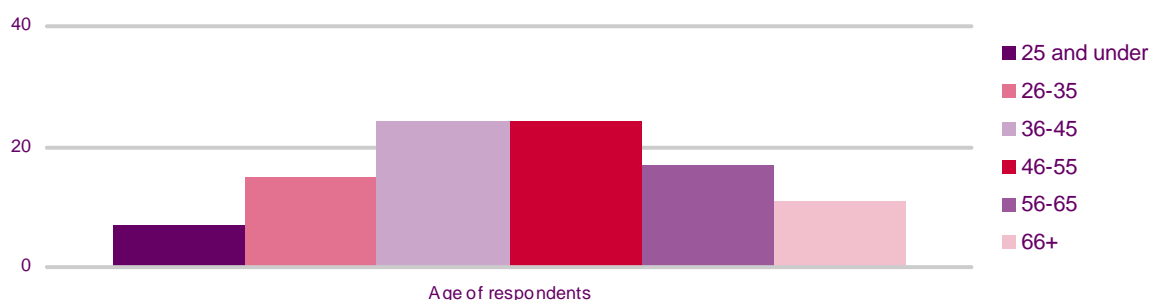
**Figure 13: Sources of information about Otelo**

### Accessibility of the service

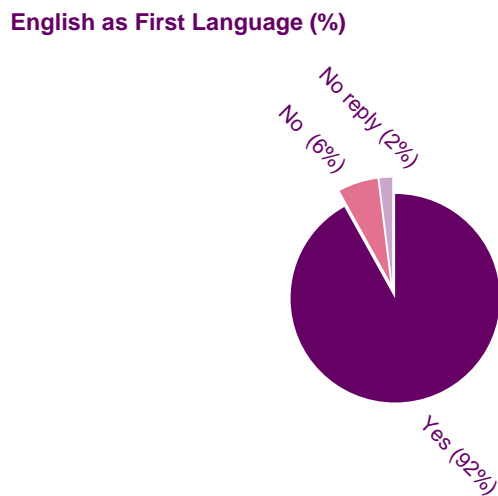
6.11 Although Otelo does not monitor demographics of enquirers/complainants at point of contact, this information is captured through its customer satisfaction surveys, the latest of which was concluded in June 2005. The data below combines enquirers and complainants, by telephone and in writing, for the surveys undertaken between February and June 2005. This shows that the majority of Otelo contacts are predominantly of white ethnic origin, owner occupiers, aged between 36 and 55 (which is not unusual in relation to ADR services).

**Figure 14: Breakdown of complainant by sex (%)**

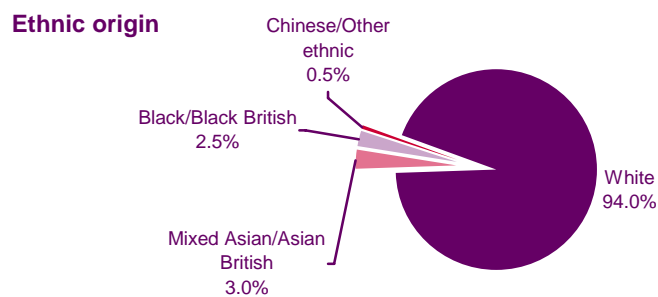
### Otelo complainants by sex (%)

**Figure 15: Breakdown of respondents by age**

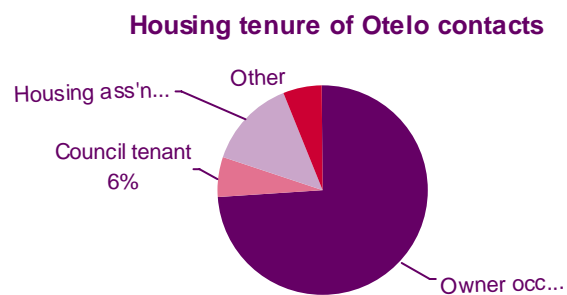
**Figure 16: Breakdown of respondents to show percentage with English as the first language**



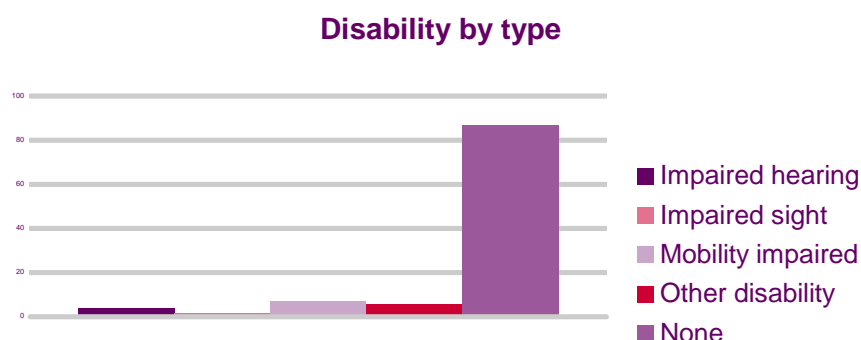
**Figure 17: Breakdown of respondents by ethnic origin**



**Figure 18: Breakdown of respondents by housing tenure**





**Figure 19: Breakdown of respondents by disability type**

### Summary of findings of research undertaken for Ofcom

- 6.12 Ofcom commissioned independent research to assess end user satisfaction with the ADR process amongst fixed, mobile and Internet customers who had a complaint about their service. The full report is contained in Annex 7 to this report.
- 6.13 The study undertaken by Continental Research covered awareness of both Schemes, complainants' knowledge, understanding and use of the correct complaints procedure and how this was communicated, and overall satisfaction with the process itself. A total of 118 complainants, drawn from a sample of complainants who had contacted Ofcom and/or CISAS, were interviewed in depth by telephone between March and May 2005.
- 6.14 The Continental survey found that consumers instinctively start complaints procedures at the correct place (94% had contacted their supplier initially) but found a relatively low awareness of the complaints procedure/ADR. Only three in ten complainants said they were generally aware that a complaints procedure existed and only around one quarter said they were aware of the existence of either CISAS or Otelo. There was little evidence that communications providers were advising complainants about the ADR process on first contact. Around three quarters of those escalating their complaint appear to have done so without having been given any procedural advice from their provider.
- 6.15 This would explain why such a high number of complainants approach ADR schemes without a deadlock letter and looking for advice. This is reinforced by the finding that Ofcom appeared to be the most popular second point of call for complainants who wanted to escalate their complaint (who then referred them back to their provider or advised them to contact either CISAS or Otelo).
- 6.16 Given these findings, not surprisingly the survey found that complainants were least satisfied with the way supplier's regular staff handled their complaint and in fact two thirds were 'very dissatisfied'. Many respondents mentioned being passed around and having to make repeated calls to their supplier try and sort out their complaint. Four in five said they had to contact their supplier three or more times.

- 6.17 On the basis of the verbatim comments received during the interviews there was a fairly even split between positive and negative comments about complainants' experiences with ADR Schemes. Around half of those surveyed praised Otelo and CISAS for being efficient, professional and knowledgeable but a similar number criticised them for being bureaucratic, powerless and slow. This data must be interpreted with some caution as they are calculated from a very small base size and should be treated as indicative only.

## Section 7

# Proposed recommendations

### Introduction

- 7.1 There has been a rapid growth in the membership of CISAS and Otelo since their approval by Ofcom in late 2003. Membership of the Schemes spans fixed, mobile, ISPs and new voice services. Consumers now have access to a free and independent dispute resolution service when things go wrong.
- 7.2 Whilst the Schemes continue to have Ofcom's approval, Ofcom is consulting on a number of recommendations which it believes will make the Schemes work better in order to protect those who use them.

### Proposed recommendations

- 7.3 In some cases communications providers are failing to escalate complaints properly. This leads consumers to contact Ofcom, or an ADR scheme when it is the responsibility of the provider to try and resolve the problem. This situation should not continue in the future as it makes the ADR process more costly and less effective and damages consumer confidence in the communications sector.
- 7.4 There is no evidence to suggest that CISAS or Otelo have any bias in favour of the companies that fund them. However the Schemes could usefully improve transparency of their process and procedures by keeping complainants informed of progress throughout the handling of the dispute and making it clearer to complainants that they are not bound by the outcome.
- 7.5 The Schemes should ensure that their staff to case ratio is sufficient to be able to resolve the majority of disputes within a six week time period. Ofcom wishes to allow some flexibility in this as it recognises that some cases may be extremely complex and arbitrary deadlines may affect the quality of the decision making. Ofcom would expect at least 80% of cases to have been resolved within the target set and would welcome an improvement on this figure.
- 7.6 Based on the ongoing experience of other ADR Schemes, Ofcom would expect the percentage of complainants who are satisfied with the ADR process to be around 80%. Otelo should continue to undertake regular customer satisfaction surveys and publish these on its website. CISAS should monitor customer satisfaction through regular customer feedback until such time as sample sizes are sufficient to undertake customer satisfaction surveys. Both Schemes should find out more about complainants preferred method of contact and adapt their procedures accordingly.
- 7.7 The Schemes could do more to help consumers access the scheme and explain the process more clearly. Improvements could be made to the complaints submission process to make procedures clearer. Complainants should be kept informed about progress of the complaint throughout.
- 7.8 Ofcom would like the Schemes to monitor the demographics of complainants to ensure that schemes are widely accessible.

- 7.9 Ofcom would like the Schemes to consider using an independent adjudicator to handle complaints about their own process and procedures. Ofcom considers this would potentially protect the Schemes by demonstrating that the Scheme has not acted with a bias toward its members. It might also dissuade vexatious complainants who complain about the process but who are really dissatisfied with the outcome.
- 7.10 Schemes will not be effective if communications providers do not abide with their decisions. Schemes should sanction members for misconduct eg for failure to settle awards within the timescale prescribed. Schemes should inform Ofcom of any resignations/expulsions immediately so that Ofcom can take compliance action if appropriate.
- 7.11 Schemes should regularly monitor members to ensure contact details are up to date and that companies are still in business.
- 7.12 Ofcom would welcome stakeholders views on these proposed recommendations, as further set out below, together with any other comments they wish to make on the findings of this review.

Proposed Recommendation 1	Communications providers must improve complaints handling procedures and customer awareness of ADR schemes. Communications providers must make customers aware of their complaints code of practice as soon as a complaint is received and ensure that the codes are easily accessible ideally through the company website and/or on customer invoices.
Proposed Recommendation 2	Communications providers should use a standard definition of complaint, to ensure accurate recording and monitoring of progress. Front line staff should be trained adequately in company complaints handling procedures. Communications providers should not direct enquiries to Ofcom nor prematurely to an ADR scheme.
Proposed Recommendation 3	To help ensure implementation of recommendations 1 and 2, Ofcom will work with the ADR schemes to develop best practice for communications providers as part of their conditions of membership of an ADR Scheme.
Proposed Recommendation 4	Ofcom considers ADR Schemes should publish Key Performance Indicators covering staff competence, timeliness of decision making and overall customer satisfaction. In addition the Schemes should publish regular reports showing the breakdown of complaints received.
Proposed Recommendation 5	The Schemes should work with communications providers to improve awareness of the service amongst those groups who are currently under-represented. Otelio should continue to monitor socio-demographics of complainants as an integral part of consumer satisfaction surveys. CISAS should commission independent consumer satisfaction surveys as soon as possible. Action should be taken to

	ensure that ADR is equally accessible to all.
Proposed Recommendation 6	Schemes should consider using an independent third party to handle complaints about their own processes and procedures.
Proposed Recommendation 7	Schemes should take action against communications providers who fail to comply with their rules, including best practice on complaints handling; and/or who fail to abide with the scheme's decisions. Schemes should alert Ofcom of any potential problems that may prove detrimental to consumers.

## Annex 1

# Responding to this consultation

### How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on Wednesday, 5 October 2005**.

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.

Please can you send your response to [dave.parsons@ofcom.org.uk](mailto:dave.parsons@ofcom.org.uk).

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Dave Parsons  
4<sup>th</sup> Floor  
Competition and Markets  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA  
Fax: 020 7981 3333

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response explains why you hold your views, and how Ofcom's proposals would impact on you.

### Further information

If you have any want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact name of team member on 020 7981 3857.

### Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), ideally on receipt (when respondents confirm on their response cover sheer that this is acceptable).

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

Ofcom reserves its power to disclose certain confidential information where this is necessary to fulfil its functions, although in practice it would do so only in limited circumstances.

Please also note that copyright and all other intellectual property in responses will be assumed to be assigned to Ofcom unless specifically retained.

### **Next steps**

Following the end of the consultation period, Ofcom intends to publish a statement of our proposed recommendations for best practice and how we intend to implement them in the autumn.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at [http://www.ofcom.org.uk/static/subscribe/select\\_list.htm](http://www.ofcom.org.uk/static/subscribe/select_list.htm).

### **Ofcom's consultation processes**

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1) which it seeks to follow, including on the length of consultations.

If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Tony Stoller, Director, External Relations, who is Ofcom's consultation champion:

Tony Stoller  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA  
Tel: 020 7981 3550  
Fax: 020 7981 3630  
E-mail: [tony.stoller@ofcom.org.uk](mailto:tony.stoller@ofcom.org.uk)

## Annex 2

# Ofcom's consultation principles

Ofcom has published the following seven principles that it will follow for each public written consultation:

### **Before the consultation**

Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### **During the consultation**

We will be clear about who we are consulting, why, on what questions and for how long.

We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

We will normally allow ten weeks for responses, other than on dispute resolution.

There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

### **After the consultation**

We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.



## Annex 3

# Consultation response cover sheet

In the interests of transparency, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, unless we are asked not to.

We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.

The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to confirm on the response cover sheet that Ofcom can publish their responses upon receipt.

We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.

Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

☐

Name/contact details/job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

☐

No

☐

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

☐

Name

Signed (if hard copy)

## Annex 4

## Glossary

Deadlock letter	A statement from the member company that defines its final position in respect of the complaint
ITOR	Inside CISAS/Otelo powers and responsibilities in respect of accepting complaints for investigation
OTOR	Outside CISAS/Otelo powers and responsibilities in respect of accepting complaints for investigation
Small business customers	Customers of communications providers who (a) are not themselves communications providers nor (b) undertakings for which more than 10 people work (whether as employees, volunteers or otherwise) as defined by Section 52(6) of the Act

## **Annex 5**

# List of current members of CISAS

011 Communications

0800Dial

2pm Technologies

3g Comms

TheNet

## **A**

ABC Internet Limited t/a BroadSurf.co.uk

Accentuk

Adweb

Aerofone UK

Altohiway

AOL

Atlas Internet

Audanet.com

Avecho

## **B**

Be Unlimited

BISCit Internet

Blue Carrots

Blue Ridge Telecom

Boltblue

Bon.net Limited

Breathe

Brightview

Broadband Billing

Bulldog

Bush Internet

Business Serve

## **C**

CallnetUK

Care4free

Clara.Net

Community Internet

## **D**

Davidbowie.co.uk

Dialstart

Directonline.net

Domain Names GB

## **E**

EARS Plc

Easy-Dial Limited

easyMobile

Eclipse

Entanet

Epulse.net

Exponential-e

## **F**

Farmers Weekly Interactive

Fastnet

Fiaxon Limited

Freecom.net Ltd

Freenetname

**G**

G. Comm

Gamma Telecom

Global Internet

Gossiptel

Gradwell Dotcom Limited

GreenNet

**H**

Hedgehog Broadband

HomeChoice

Hotlinks Internet Services

**I**

ic24

ldzero.co.uk

Inet Telecoms Limited

Infinnet.co.uk

Internet Central Ltd

Internet Services (EU) Ltd

**J**

Jings

**K**

KeConnect Systems

Kingston Communications (Hull) plc

**L**

Legend Internet

London Voice & Data Exchange Limited

**M**

Macunlimited

Madasafish

Magrathea Telecommunications Limited

Mailbox Internet

Ministryofsound.net

Mistral Internet

Moving-Edge

MWFree (Micro Warehouse)

Myisp.co.uk

## **N**

Namesco

NASCR (National Association of Specialist Computer Retailers)

Nasstar Ltd

NatWeb

NDCNet (NDC Health)

Net Connex Broadband Ltd

Netcom UK

Netmatters

Netplan Internet Solutions

Netway 2000

NewNet

NewVoiceMedia

Norfolk Internet

## **O**

OA5.com

Onetel

On-Line Marketing & Sales Ltd. t/a Swift Internet

OPtic Communications

Orange Personal Communications Limited

**P**

PageOne

PAS Communications t/a Orangetrack.co.uk

Phonecard Services Limited

Pipex

Plus.net

**R**

Research Machines

RICS (Royal Institution of Chartered Surveyors)

**S**

Scotland Online

Sentiro

Straight Away

Supanet

Surfaid (Christian Aid)

**T**

TALLYCoST

Tariff Reduction Services Ltd

Telappliant

TeleCity

Telecomplete Limited

Telewest

Telewest BlueYonder

Tellnet

Thehornets.net (Watford Football Club)

Timewarp

Timico Limited

T-Mobile( UK) Limited



Tory.org (The Conservative Party)

Totalise

Totalserve

## **U**

Universal Telecom

UTV Internet

## **V**

Vianetworks

Viatel

Video Networks Limited

Vision ISP (Donate As You Surf)

Vodat Solutions Limited

Voicenet Solutions Limited

Voicestream Networks Plc

VOIP Communications

VoIP Solutions Limited

## **W**

Waitrose.com

Wanadoo

Wensum.net

West Dorset Internet

## **X**

Xconnect

## **Y**

Yahoo!uk

Yesmate

## **Z**

Zen Internet

## Annex 6

# List of current members of Otelo

24 Talk

3

4com Limited

### A

ACN European Services Ltd

Adam Phones Ltd

Adept Telecom

Advance Internet

Alpha International Overseas Telecommunications Services Limited (AIOTSL)

Alternative Networks

Ardencom Ltd

AT Communications

Axis Telecom Ltd

### B

Beaming Telecom

Beneficial Telecom Ltd

Bespoke Computing Ltd

BNS Telecom Ltd

Britclick Telecom

Broadband Quest

Broadsystem Ventures

BT

BT Openworld

### C

Cable Direct Ltd

Cartel Communications

Caudwell Communications

Cavendish Communications

Centrica (Covering OneTel and British Gas Communications)

Cheapercalls.com Ltd

CK Communications Ltd

Class Telecom

CMS Broadband Ltd

Colt Telecommunications Ltd

Comms Factory

Consortium (UK) Ltd

CPS Connections Limited

CTS Group Ltd

**D**

Daisy Communications Ltd

**E**

Easynet Limited

eckoh Technologies Plc

Economy Calls

EEscape t/a Evoxus

Eezee-Call (UK) Ltd

equitalk

Euphony Communications Ltd

EurExcel Ltd

Eurotel Limited

**F**

File-Away limited

First National Telecom Services Ltd t/a gotalk

First Telecom

Fizz Telecom

Freedom to Surf plc

Fresh Telecom Limited

**G**

Gateway Telecom Limited

GCI Com

Glemnet Ltd

Global Telecoms & Technology Ltd

Gold Telecom Ltd

GP Telecom Ltd

**H**

Hello Telecom (UK) Limited

HIGHnet

HighSpeed Office Limited

Homecall

**I**

Ideal from Lloyds TSB

IDN Telecom PLC

Intelicoms

Invicta Communications Ltd

IP First Ltd

**L**

Lansdowne Telecom Limited

Lawyers Online Ltd

LCC Communications Limited

Liquid Telecom

Lo-call Telecom

LO-RATE Telecom

London Energy

Loop Scorpio Ltd

**M**

Maintel Voice and Data Ltd

Metronet

Midland Telecom

Mike Weaver Communications Ltd

MirrorTEL

MSN UK (Microsoft Limited)

**N**

Newtel Communications

No-Bill Ltd

Nomi - Dial Direct

nomi call

nomi phone

Nomi-Dial direct

Norcom UK Ltd

North Wales Telecom Ltd

NTL

**O**

O2

Odyssey Systems Ltd

One World Telephony Ltd

OneBill Telecom

Opal Telecom

Opus Telecom

Orb Communications Ltd (Freecall UK)

**P**

Pace Telecom

Pathfinder Telecom Ltd

Patterson Electronics

Pearl Telecom

Pennycom Communications

Pentel Communications Ltd

Phoenix Link UK

Pink Connect Ltd

PipeMedia Ltd

Planet Telecommunication Solutions Ltd

Post Office Ltd (Trading as HomePhone)

Powergen UK plc

Primus Telecommunications Ltd

**Q**

Qnet Group Ltd

**R**

Reality Telecom

Record my call

Reliance Communications (UK) Limited

**S**

Saga

Scottish and Southern Telecom plc

SCS

Severn Trent Retail Services

Signum Corporate Communications Ltd

Silverstream Internet

Singlepoint (4u) Limited

Smye-Rumsby Ltd

Spitfire Network Service Ltd

Splash Telecom

Starcomm Ltd

Stratos Global

Superline Telecommunications Ltd

SWEB Energy

Swiftcall Ltd

Swiftnet Ltd

## **T**

T-Liaison Communications Ltd

Talk Internet (Talk 101)

talktalk Telecom Limited

telco global

Tele2 UK Communications Ltd

Telecom Plus Ltd

Telecoms Connect Limited

Telecubes Limited

Telephonics Integrated Telephone Ltd

telinet solutions Ltd

Tesco

The Phone Co-op Ltd

The Team Group Ltd

THUS plc

Timico Ltd

Tiscali

Toucan

Trevor Crossland Communications Limited

## **U**

UKOnline Ltd

United Utilities Customer Sales Ltd

Universal Telecom/Timepiece Servicos de Consultadoria Lda

Universal Utilities t/a Unicom

Uniworld Communications Ltd

## **V**

Vectone

Virgin Home

Virgin Mobile Telecoms Ltd

Virgin.net

Vodafone

Vonage Limited

VSNL UK Limited

VTL (UK) Ltd

**W**

Wight Cable

Wight Cable North Limited

Wireless Telecommunications Ltd

WorldRoam/Rent-a-phone

**X**

XLN Telecom

Xtel Europe Ltd

**Y**

Your Communications

Your Telecom Ltd

**Annex 7**



**Ofcom**

**Assessment of Dispute**

**Procedures Schemes**

Market Research Report

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March-May 2005

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# Assessment of Dispute Procedures Schemes

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## 1. Summary of the Research Findings

This report is based on semi-qualitative research from a sample of consumers that had made a complaint about a telecoms service (113 respondents). The contents of this report represent the views of Continental Research, not Ofcom. Ofcom accepts no liability, however, arising from the contents of this report.

While the findings provided in this report are indicative of consumer behaviour they should not be seen as conclusive, further research would be required to quantify these findings.

### Awareness, knowledge and use of the correct complaints procedure

- Most (93%) consumers appear to be beginning the complaints procedure in the correct manner - more by using 'common sense' than due to their awareness of the procedures (i.e. they first raised their complaint with their supplier). Around seven in ten complainants said they were generally unaware of a complaints procedure existing and a further 3% were unsure.
- In addition, there was relatively low awareness of the ombudsman schemes (Otelco or CISAS) with a quarter of complainants that said they were aware of at least one of these.
- Two-thirds of customers took their complaint to a second stage, most commonly this was to Ofcom (31%), while half as many (16%) correctly escalated their complaint to senior staff. Half of those who contacted Ofcom at this stage said they were advised of the ADR process, either saying they were 'referred back to their supplier' or 'advised of CISAS/Otelco'.
- There was little evidence that information about the ADR scheme was given to customers when they first contacted their supplier. Few respondents spontaneously mentioned any details of the scheme being given to them at this stage and of the respondents who took their issue to a higher level most said they had progressed their complaint using their own initiative - (three-quarters saying they were not advised to speak to anyone else when they first raised the issue).
- There were indications of confusion amongst consumers about how to progress a complaint, combined with the relatively high numbers of respondents that said they sourced information from their bill (39%) perhaps these point to a requirement to clarify the current information contained on telecoms bills, or to expand this to include details of the complaints procedures or to make consumers aware of their supplier's codes of practice and where to find these.

### Consumer satisfaction with the various processes

- Respondents were least satisfied with the way their suppliers 'regular' staff (as opposed to senior staff) handled their complaint (two-thirds were 'very dissatisfied'). The main reasons for dissatisfaction were failure to resolve the problem, and lack of information and responsiveness from their supplier. Indeed, 80% had to contact their suppliers' regular staff three or more times to try and sort out their problem. This perhaps indicates that more could be done at the initial contact stage, with the supplier providing information of the Scheme and escalation process in order to minimise the number of calls

consumers' made to the same level.

- For those who spoke with Ofcom there was much greater satisfaction with the advice offered (64% were very or fairly satisfied).

#### **Satisfaction with CISAS/Otelo**

- Two-thirds of respondents that contacted either CISAS or Otelo (31 people) were satisfied. There were indications of higher satisfaction amongst CISAS consumers however; this is likely linked to the status of their complaint (resolved) in comparison to satisfaction levels amongst consumers who are still in the process of dealing with Otelo.
- Consumers' opinions of each of the ombudsman were mixed. Approximately half praised them for being efficient, professional and knowledgeable, whilst a similar number criticised them for being bureaucratic, powerless and slow.
- As both Ombudsman samples are small and at different stages of the complaint process it is too early to conclude if Otelo and CISAS are performing their role satisfactorily from a customer's point of view.

## **2. Background & Research Objectives**

### **2.1. Alternative Dispute Resolution Scheme**

In August 2003 Ofcom published a 'Review of Dispute Procedure Schemes'. Included in the review was a requirement for an assessment and approval of the Alternative Dispute Resolution (ADR) Scheme.

Two dispute procedure schemes have gained regulatory approval:

- Office of the Telecommunications Ombudsman (Otel)
- The Communications and Internet Services Adjudication Scheme (CISAS)

As part of the review Ofcom need to determine the effectiveness of the Schemes. In particular if the Schemes are:

- meeting their commitments;
- meeting the needs of residential and business consumers.

Research was commissioned to measure aspects of the ADR process amongst fixed, mobile and Internet customers who had made a complaint about their service.

The criteria Ofcom wished to assess each of the Schemes on were:

- transparency
- their ease of use
- overall effectiveness

The research sought to address these by assessing the following aspects:

- awareness of the two approved Schemes
- knowledge, understanding and use of the correct complaints procedure
- whether consumers are being given the correct procedural advice throughout their contact
- satisfaction and overall opinion on the process

The findings from the research are reported in this document.

### **3. Methodology and Sample**

#### **3.1. Interviewing**

In total Continental Research interviewed 113 customers who had cause to complain about either, their fixed, mobile or Internet service (93 interviews with residential customers and 20 interviews with businesses).

All semi-qualitative interviews were carried out by telephone from Continental Research's telephone unit in central London. The agency is IQCS approved (Interviewer Quality Control Scheme) its interviewer training and supervision procedures meeting industry approved standards. All interviewers working on the project were personally briefed by the project executive and fully supervised throughout the field period. A minimum of 10% of all interviews were remotely listened into by the supervisor to further ensure quality standards were maintained.

#### **3.2. Sample**

In order to obtain sufficient sample it was necessary to use various sample sources:

- Ofcom's Case Management System (OCMS) – consumers that had contacted Ofcom with a telecoms complaint (58 interviews)
- Ofcom's Residential Tracking survey – consumers that completed the survey and said they had recently made a complaint about their supplier (33 interviews)
- CISAS cases – consumers that had registered a complaint with their ADR (18 interviews)

Interviewing amongst the sample provided by Ofcom took place between March 30th and April 11th 2005. For the sample provided by CISAS interviewing was carried out between April 28th and May 5th 2005.

Both business and residential consumers were included and interviewed from the OCMS sample and only residential consumers were provided by the tracking survey and CISAS.

To ensure a good cross section of telecom customers who had issues with their service were interviewed, quotas were applied at the interviewing stage. This ensured a mix of fixed, mobile and Internet customers. In addition a quota was imposed on who the respondent spoke to about their complaint to ensure a minimum of 15 interviews were achieved with people who had spoken with either Otelo or CISAS. Furthermore a quota by business and residential customers was imposed.

Awareness of the Schemes was assessed using Ofcom's residential tracking survey conducted between January and March 2005. The findings from this are integrated within this report.

It should be noted that the original survey design envisaged robust sample being supplied by both Otelo and CISAS for this survey. However, CISAS were only able to supply a small sample (c.80 consumers). Furthermore Otelo conduct their own customer satisfaction survey therefore, these consumers were not re-interviewed in Ofcom's survey. However, the findings from the Otelo study are available on their website [www.otelo.org.uk](http://www.otelo.org.uk).

To enable comparisons to be made between CISAS and Otelio Ofcom planned to carry out a similar quantitative survey with CISAS customers. However, due to insufficient sample being provided by CISAS within the timescales of this project, Ofcom were unable to conduct a full quantitative customer satisfaction survey for CISAS. These consumers were therefore contacted to take part in depth interviews and are included in this semi-qualitative phase reported in this document.

### 3.2.1. Residential sample

#### Subject of most recent complaint

Quotas were imposed on the sample to ensure approximately equal numbers of people with complaints about either their fixed line, mobile or Internet were interviewed. This spread was achieved for the residential sample however, more businesses had complaints about their fixed line than their mobiles or Internet services.

**Figure 1:** Type of service most recent complained was about

	<b>All (Base 113)</b>	<b>Residential (Base 93)</b>	<b>Business (Base 20)</b>
Fixed telephone	37%	29%	15
Mobile	34%	38%	3
Internet	27%	31%	2
Other/combination of these	3%	3%	-

#### Issue of complaint

Consistent with data collected by Ofcom's contact centre the types of problems customers had reason to complain about usually related to cost issues such as:

- being charged for calls not made
- being charged for discontinued services
- misled about charges
- unexpected increases in the cost of the service
- accounts not being consolidated on the one bill

Line problem and "slamming" issues (i.e. where another supplier takes over a customer's landline telephone line without permission) were also mentioned quite frequently. The question was asked in an open ended way to enable the respondents to elaborate on the full details of their issue and help stimulate recall. The percentages add up to over 100% as some complaints covered two or more problems e.g. an Internet problem could have been caused by a faulty line in which case both problems would have been coded for the same respondent.

**Figure 2: Nature of last complaint (spontaneous)**

	<b>All (Base 113)</b>	<b>Fixed (base 42)</b>	<b>Mobile (Base 38)</b>	<b>Internet (Base 31)</b>
Billing	38%	31%	55%	29%
Line problem	19%	26%	-	32%
Slamming/unwanted supplier	14%	31%	3%	6%
Reception/coverage	9%	2%	16%	10%
Internet Broadband problem	9%	-	3%	26%
General bad service	6%	2%	5%	13%
Handset problems	7%	-	21%	-
Nuisance calls	3%	7%	-	-
Safety of life	1%	2%	-	-
Other	13%	12%	8%	19%
Don't know	1%	2%	-	-

### 3.2.2. Business sample

In most instances a senior decision maker within the company was interviewed e.g. a director or owner. A diversity of types of business were interviewed:

Manufacturing	5 interview
Construction/engineering	2 interviews
Business services	5 interviews
Retail/wholesale/imports	2 interviews
Other	6 interviews

The majority of businesses interviewed were quite small in size. Seventeen employed between 1 and 5 full time employees in the UK, and three between 6 and 10 full time employees.

### 3.3. Questionnaire

As customers had to recall the details of their complaint, which for many began several months ago, it was important that the questionnaire was structured in such a way to give respondents as much opportunity to recall their problem. This was achieved by taking people through the interview in logical stages. These were as follows:

- introduction checking that respondent recalled they had made a complaint;
- details of the nature of the complaint
- whom they first complained to and what advice was offered
- whom they next complained to (if relevant) and what advice was offered at this stage (repeated for up to four stages)
- overall assessment of their whole complaint process and experience.

Many questions were asked in an open ended way to ensure as much detail about a customers complaint experience was collected.

### 3.4. Data reporting

For some of the key groups of interest (e.g. those contacting CISAS or Otelio) the base sizes are quite small. As these are key groups of interest to Ofcom statistical data has been reported qualitatively to provide indicative information to Ofcom to assist with their review. **When viewing data based on a small sample size it should be noted that it will not be robust enough to make firm statistical**

**conclusions.** For this reason raw numbers rather than percents have been reported for any findings based on sample sizes under 30 interviews.



## 4. The complaints procedure

The correct procedure for a customer who has an issue with their supplier is as follows:

### Stage 1

The customer should contact the supplier they have the issue with directly.

### Stage 2

If the matter remains unresolved it should be escalated to a senior member of the supplier's company.

### Stage 3

If both parties still cannot reach an agreement the matter is considered to have reached "deadlock" and a deadlock letter should be issued. If the supplier fails to provide this letter within a period of 12 weeks, the matter is automatically considered to have reached deadlock.

### Stage 4

Upon reaching deadlock the matter is then brought to the attention of the Ombudsman. Two bodies are currently approved by Ofcom to perform this role, Otelio and CISAS. Each Ombudsman represents different telecoms companies and they have the final say on customer issues. If the customer is still not satisfied they can seek legal advice independently.

#### 4.1. Awareness of complaints procedure

Most consumers are not aware that a complaints procedure exists. 69% of consumers who had made a complaint about the telecoms service were unaware that a complaints procedure existed while 3% were unsure. This relatively low awareness of the procedure is confirmed by data from Ofcom's residential tracking survey which suggests awareness of the ombudsman schemes Otelio (17%) and CISAS (7%) stands in total at around a quarter of complainants.

Awareness of these schemes appears to have been raised mainly via word of mouth (friends, family, and colleagues), internet, and the media. The phone bill was also spontaneously mentioned as was landline supplier.

#### 4.2. Knowledge of correct complaints procedure

Customers were asked *"Before speaking to anyone, how knowledgeable were you about the correct procedure to follow, to get your complaint sorted out?"*

Just over half (53%) said they were either very (9%) or fairly knowledgeable (44%). In particular, those with a complaint about their fixed or mobile service expressed a higher degree of knowledge than those with an Internet problem. Around a quarter of consumers said they were very un-knowledgeable about the procedures – a common view across all groups of consumers.

The knowledge ratings shown in figure 3 below are more likely to reflect respondents' confidence and understanding of the technology and the companies who provide these, rather than the ADR complaints procedure. For example six in ten consumers with a complaint about their fixed service were either very or fairly knowledgeable whereas the respective figure for the Internet, a newer and more complex

technology, was four in ten. In addition, both fixed and mobile technologies have been around longer giving consumers more time to familiarise themselves with the service.

**Figure 3:** Knowledge of correct complaints procedure (before speaking to anyone about problem)

	All (Base 113)	Fixed (base 42)	Mobile (Base 38)	Internet (Base 31)
Very knowledgeable	9%	12%	8%	6%
Fairly knowledgeable	44%	48%	47%	32%
Neither/nor		-	11%	3%
Fairly un-knowledgeable	16%	14%	8%	29%
Very un-knowledgeable	24%	24%	24%	26%
Don't know	3%	2%	3%	3%

### 4.3. The actual complaint procedure consumers are using

#### First point of contact

To understand if people followed the Scheme procedure, and more importantly if it was explained to them and they understood it, respondents were asked who they spoke to during the course of their complaint and their reasons for speaking to these different parties.

On the whole, most consumers correctly begin the complaints process by contacting their supplier (93%) as shown in figure 4. Mainly this initial contact is with regular staff (90%) however, some (3%) went straight to a senior member of staff. This pattern was quite consistent across fixed, mobile and Internet users.

**Figure 4:** First point of contact

	All (Base 113)	Fixed (Base 42)	Mobile (Base 38)	Internet (Base 31)
Supplier – regular staff	90%	90%	92%	87%
Supplier - senior staff	3%	5%	-	3%
Ofcom	4%	5%	3%	3%
Otelo/CISAS	1%	-	-	3%
Other	3%	-	6%	3%

*One in ten consumers (11 respondents) surveyed said their complaint remained unresolved following their initial contact however, they also said they decided not to progress with their complaint. For 10 of these their initial contact was with regular supplier staff. This indicates a barrier to the complaints process for these consumers.*

*“I was told that Ofcom does not get involved in disputes with a personal problem with a supplier. They told me to contact Otelo. At this point I gave up*

*because I was passed from my supplier to Ofcom and I was fed up.” (fixed line complaint)*

### Subsequent point/s of contact

Two-thirds (63%) of consumers took their complaint to a second stage and spoke to a more senior level with their supplier, or to another organisation. A third (35%) then progressed their complaint to a third stage and 13% to a fourth.

Although most of those who complained (90%) went correctly to their supplier at the first stage of their complaint – those who went on to progress their complaint from this first stage went to a variety of sources, as illustrated in figure 5.

Ofcom appeared to be the main source for consumers that wished to take their issue to a second stage (31%) with around half as many (16%) that correctly escalated it to senior staff with their supplier at this stage. Other organisations approached at the second stage included both of the ombudsman’s and Trading Standards. This indicates that consumers are not being made aware of the escalation process at the first point of contact, as discussed later in this section.

**Figure 5:** Subsequent points of contact

	1st stage (Base 113)	2nd stage (Base 113)	3rd stage (Base 113)	4th stage (Base 113)
Supplier – regular staff	90%	5%	2%	0%
Supplier - senior staff	3%	16%	4%	3%
Ofcom	4%	31%	10%	4%
Otelo	1%	2%	5%	3%
CISAS	-	7%	7%	4%
Citizens Advice Bureau	-	1%	4%	0%
Trading Standards	-	4%	3%	1%
Other	3%	-	-	-
Total progressed to each stage	100%	63%	35%	13%

For the third of consumers interviewed that took their complaint to a third stage (whether via the correct procedure or not) just over a third said this was to the ombudsman (either Otelo or CISAS). However, a similar proportion also said they went to Ofcom.

For those who contacted Ofcom a significant number said they were either referred back to their supplier, told to contact their ombudsman or put their complaint in writing.

Of those who took their complaint to senior staff with their supplier, at *any* stage during their complaints process, there was little evidence of information of the Scheme being advised. In addition, no consumer specifically mentioned being told to contact the ombudsman by senior staff.

### Sources of information used to initiate the complaints procedure

As illustrated above, most consumers with a complaint started the process in the correct way – by contacting their supplier. Some appear just to have used their common sense (41%) stating that ‘it just seemed like the most logical place to start’,

while a similar proportion said they used information that was provided with the bill (39%).

*“I spoke to a regular member of staff after viewing a number to ring on the bill.” (fixed line complaint)*

*“Their helpline is printed on the handset” (mobile complaint)*

*“They were the ones taking the money from my account!” (internet complaint)*

Other sources of information were also mentioned such as the internet (one in ten), and directory enquiries (c. 4%) – the latter was most likely used to obtain the contact number/s as opposed to providing advice on the procedures.

From July 2003 telecoms providers were under obligation to make their codes of practice available to consumers. These should detail the correct complaints procedure for consumers to follow. None of the consumers interviewed spontaneously mentioned any suppliers’ code of practice as a source of information on how to make a complaint. Ofcom will continue to monitor awareness of telecoms suppliers’ codes of practice to ensure they are complying with these regulations.

What these findings indicate is that for many the bill is an ideal place to communicate the complaints procedure. This is confirmed by a quarter of consumers who said they would like to find information on complaints procedures on their bill (see figure 10 in Section 6). However, given the current indications of confusion amongst consumers about how to progress complaints, there is potentially a requirement to amend the information on the bill. Perhaps this should include full details of the correct process to follow, or make consumers aware of the codes of practice and where to find these.

### **Advice being given to consumers at the initial stage**

Consumers were asked about the advice they were given on the complaints procedure from their initial contact (bear in mind that for most this was regular staff with their supplier). From spontaneous reactions there was little evidence of being advised of their ADR (Otelo or CISAS) and almost half (48%) said they were not advised to follow any procedure. A minority (4%) said they had been told (correctly) to raise their complaint with senior staff, while a similar proportion did so automatically.

*“They didn’t give me any advice. They just said this is the contract you signed and we are going to stand by what we are going to charge you. They didn’t say you have to go to Ofcom, or you can go and complain to somebody else. I actually put in writing that we were going to complain to Ofcom and they said if that is what you want to do then fine.” (fixed line complaint)*

When this issue was probed further and customers were prompted to see if they were specifically told to speak to anyone else – there was still little evidence of escalating complaints to senior staff, being communicated.

*“They just kept telling me to write to their complaint team or ring in and chase up the process. When eventually they told me their final stance I said that wasn’t reasonable and they said I would have to take it to an independent*

*body. They did not tell me who that was. I had to find it out myself. That was why I went to Ofcom and the Trading Standards.” (mobile complaint)*

To further explore the disputes procedure process that consumers followed, each consumer was specifically asked if they were advised to speak to anyone else about their complaint. Consistent with the findings above it appears that little advice is given to consumers during their initial complaint, when most are speaking to their supplier. Several consumers commented that they were blocked or discouraged from speaking to senior members of staff during their initial discussions with their supplier.

*“I asked to speak to someone in charge. They said they were all busy. I requested they phone me back – still nothing” (fixed line complaint)*

*“They were getting aggressive. They would not give me any names and would not allow me to speak to a senior person without a password.” (fixed line complaint)*

As illustrated in figure 6 below, some consumers said they were incorrectly told to contact Ofcom following their initial discussions (4%). Regardless of who they had approached initially this would be the incorrect course of action at this point.

**Figure 6:** Who consumers are told to contact at each stage of their complaint, prompted

	1st stage (Base 113)	2nd stage (Base 72)	3rd stage (Base 39)	4 <sup>th</sup> stage (Base 15)
Supplier – regular staff	8%	8%	10%	1
Supplier - senior staff	5%	1%	3%	1
Ofcom	4%	11%	13%	-
Otelo	-	14%	18%	2
CISAS	4%	13%	5%	1
Other	8%	1%	3%	1
Don't know	1%	1%	3%	-
No one	71%	51%	51%	10

Nearly three quarters (71%) said they were not advised to speak to anyone else which would be correct if the complaint was resolved, however most consumers said they had to re-contact their supplier at least once more as was shown in figure 5 . This is further confirmed by closer examination of the two-thirds who took their complaint to a second stage. Amongst these, three-quarters were not advised at the first stage to speak to anyone else and appear to have used their own resources to progress their complaint.

#### **Advice being given to consumers at the second stage**

As mentioned previously in figure 5, Ofcom was the most popular place consumers went to at the second stage of their complaint (31%), while some correctly escalated their issue to senior staff with their supplier (16%). *It should be noted that there may be some sample bias in these results given that the majority of the sample was drawn from Ofcom's contact centre database so treat these results as indicative.*

For those contacting Ofcom a variety of information was said to be given for example: contact their ADR, return to their supplier, recommended a course of action e.g. do not pay the bill – however, around a fifth said they were not given any procedural advice.

*“We wrote to them and received a written response back. They told us Ofcom does not become involved in settling disputes that customers have with their service providers – Ofcom’s role is about encouraging the communications industry to take ownership in addressing and resolving these. If you have any complaint with your service provider you must give them the opportunity to deal with this first.” (fixed line complaint)*

*“Ofcom advised that they do not deal in bill disputes and told me to contact Otelo.” (fixed line complaint)*

*“I got in touch with Ofcom and sent them all the paperwork. They sent it all back and told me to get in touch with Otelo.” (mobile complaint)*

In comparison, seven out of the eighteen consumers that contacted senior staff in the second instance said they were not given any procedural advice at this stage, and none were told to contact their ADR.

Encouragingly, for those who took their complaint to a second stage or beyond and spoke to someone other than regular supplier staff, the ombudsman was more frequently mentioned. At each stage approximately half of those advised to speak to someone else were given a reason why they needed to speak to another party.

#### **How long ago first raised complaint and if resolved**

Nearly two thirds, (63%) of consumers from the sample said they first complained over 4 months ago. Interestingly there was little difference in time spans between those whose problem had been resolved and those whose problem was still ongoing.

**Figure 7:** How long ago first made complaint

	<b>All (Base 113)</b>	<b>Complaint resolved (Base 60)</b>	<b>Complaint ongoing (Base 40)</b>
Up to 1 month ago	4%	5%	3%
1 to 2 months ago	18%	15%	28%
3 to 4 months ago	15%	13%	18%
Over 4 months ago	63%	67%	53%

Despite for many the complaint being several months old, 35% claimed the dispute was still ongoing indicating, for some, the complaints procedure can be quite lengthy.

#### **Number of contacts made**

As outlined above, many consumers contacted different organisations for advice and assistance during their complaints procedure however, in addition many had to make several contacts with each.

Nearly nine out of ten consumers surveyed said they had to contact regular staff with their supplier more than once to try and sort out their issue – with the majority of these saying there were three or more occasions, as illustrated in figure 8.

There are indications of a similar story amongst those contacting senior staff. This is less evident for contacts with Ofcom, CISAS and Otelo with the number of multiple contacts being considerably less. This may have been for several reasons such as:

- Referring consumers back to the escalation process;

- Being more informed about the correct procedures to follow/course of action to take;
- Being more empowered to make decisions.

**Figure 8:** Number of times contacted each company/organisation

	Telco regular staff (Base 105)	Telco senior staff (Base 27)	Ofcom (Base 54)	Otelo/CISAS (Base 31)
Once	11%	3	65%	39%
Twice	9%	6	24%	16%
Three or more times	80%	17	9%	45%
Don't know	-	1	2%	-

Many consumers spontaneously mentioned that they were passed around and had to make repeated calls to try and sort out their complaint. This is likely to have added to their dissatisfaction with the process.

*“... we had to repeat ourselves over and over again to every department. There did not seem be any notes on our case. Just randomly scattered information.” (fixed line complaint)*

*“I spoke to 23 people over time and spent many, many hours trying to get some sort of satisfaction.” (internet complaint)*

*“...they never ever get back to you. They never said what they were going to do. They said they would get a supervisor to ring me – nobody ever rang. I don't believe they ever ring you. It's just something to say to get you off the phone.” (mobile complaint)*

Multiple calls were more common amongst the CISAS sample than those that spoke to Otelo. This is may be due to the stage of complaints where CISAS consumers had had their issue resolved and were further along the process, while Otelo consumers were part-way through the process.

## 5. Satisfaction with the process

### 5.1. Satisfaction with supplier regular staff

To further assess how effectively complaints were handled, all consumers were asked how satisfied they were with the different organisations and companies they dealt with. Most went to their supplier in the first instance (the correct starting point for the Scheme) where a relatively a high level of dissatisfaction with the advice offered was expressed, with almost two-thirds very dissatisfied.

Whether the complaint was resolved or ongoing does not appear to have impacted satisfaction levels with supplier regular staff. Dissatisfaction remained above 60% amongst consumers whose complaint had been resolved.

**Figure 9:** Satisfaction with advice offered by supplier regular staff

	All speaking to supplier (Base 105)	Complaint resolved (Base 57)	Complaint ongoing (Base 36)	Complaint discontinued (Base 10)



Very satisfied	8%	12%	3%	-
Fairly satisfied	10%	12%	3%	3
Neither/Nor	6%	4%	11%	-
Fairly dissatisfied	10%	12%	6%	1
Very dissatisfied	63%	56%	75%	6
Don't know	3%	4%	3%	-

The main reasons for dissatisfaction were failure to resolve problem and overall lack of information and responsiveness from their supplier.

*"Most of the time what they told us was wrong. We had to repeat ourselves over and over again to every department." (fixed line complaint)*

*"I felt the person I was speaking to did not understand my problem. When they said my operating system was too old to support their service I was not confident they knew what they were talking about. To just say the operating system was at fault was an easy get out." (internet complaint)*

With two-thirds of consumers surveyed that expressed they were 'very dissatisfied' with the way regular staff of their supplier handled the complaint there is clearly a need for better communication of the Scheme at this level. In particular many were dissatisfied with the lack of information provided. Perhaps if customers had been empowered with the knowledge of how to progress their complaint this may have helped reduce dissatisfaction.

## 5.2. Satisfaction with senior supplier staff, Ofcom and Ombudsman

In comparison to the satisfaction levels recorded for regular supplier staff, satisfaction with senior staff, Ofcom and the Ombudsman was higher. In particular for Ofcom, and Otelo/CISAS, far fewer people gave the lowest 'very' dissatisfied rating perhaps indicating these organisations were more informed and helpful with their responses.

*"They told me to write to the company stating they were in breach of contract. They pointed me to the Ofcom website which said there were two arbitration boards and my company was covered by CISAS. They also said I would have to try and sort out the problem first with my supplier before I could turn to arbitration." (fixed line complaint)*

*"They were the people for the job which was a huge relief. I had to contact my internet provider about my intentions to report them to CISAS and they asked for copies of all letters, dates and times of contacts etc." (internet complaint)*

**Figure 10:** Satisfaction with advice offered by different parties

	Telco regular staff (Base 105)	Telco senior staff (Base 27*)	Ofcom (Base 54*)	Otelo/CISAS (Base 31*)
Very satisfied	8%	4	31%	42%
Fairly satisfied	10%	1	33%	26%
Neither/Nor	6%	3	13%	10%
Fairly dissatisfied	10%	3	17%	10%



Very dissatisfied	63%	15	2%	-
Don't know	3%	1	4%	13%

**\* *small base sizes so treat results as indicative only***

For 9 of the 31 people with experience of Otelo/CISAS their complaint is still ongoing hence the higher than average 'don't know' figure. Most of these were from the sample sources provided by Ofcom and their issue was referred to Otelo. As already reported most of those interviewed from the CISAS sample had had their problem resolved and this may explain why there is higher satisfaction amongst this group.

As both Ombudsman samples are small and at different stages of the complaint process it is too early to conclude if Otelo and CISAS are performing their role satisfactorily from a customer's point of view.

## 6. Opinion on complaints procedure

### 6.1. Clarity of procedure

Nearly a third of customers, (30%) found the complaints process either very (23%) or fairly (7%) unclear. Although this is nearly a third of people it could be considered relatively low considering few said they were told about any procedures at the start of their complaint. It is likely that respondents are talking in general terms about making a complaint rather than being familiar and clear about the ADR processes. For those consumers that are still in the process of complaining the proportion saying the process is unclear rises to almost half.

**Figure 11:** Consumer opinion on clarity of complaints procedure

	All (Base 113)	Complaint resolved (Base 60*)	Complaint ongoing (Base 40*)	Complaint discontinue d (Base 11*)
Very clear	27%	42%	13%	1
Fairly clear	33%	35%	30%	3
Neither/Nor	10%	5%	13%	3
Fairly unclear	7%	5%	10%	1
Very unclear	23%	13%	35%	3

**\* small base sizes so treat results as indicative only**

When asked why they found the procedure unclear – the main complaint concerned lack of information, unclear processes, inefficient processes, and criticism of their supplier's complaint handling. The latter being consistent with the relatively low levels of satisfaction expressed with the advice provided by suppliers, as shown in figure 8.

For those consumers who said they found the process clear, this was largely due to a general understanding of the processes, and satisfaction with the efficiency and information provided during this. However, around a quarter of this group also had criticism of their suppliers handling of their complaint.

*“Now that I know it I think it's fairly clear. Basically complain until you get a final letter then take it to Ofcom and if they can't sort it out take it to Otelo.”  
(fixed line complaint)*

*“The instructions were clear. The contact numbers they gave put me through to the right person to deal with my complaint. My suppliers' complaint system is not entirely successful.” (internet complaint)*

## 6.2. Information sources preferred

When asked where they would like to find information on the telecoms complaint procedure, websites and the telephone bill were the most popular sources.

**Figure 12:** Preferred sources of information

	All (Base 113)
Web/Internet	54%
Bill	27%
Advertising e.g. TV/radio/newspapers	17%
Telephone book/Yellow pages	14%
A phone number	11%
A letter/information from supplier	7%
Citizens Advice Bureau	4%
Library	5%
Directory Enquiries	2%
Other	22%
Don't know	4%

## 6.3. Role of Otelo and CISAS

Of the 40 people interviewed who had contact with either Otelo or CISAS, there was a mixed response as to how customers felt about the role these organisations played in handling their complaint. CISAS customers appear to be more satisfied, however, as already commented these had had their issue resolved by the time they were interviewed, whereas for many of the Otelo sample their issue was still ongoing.

**Figure 13:** Overall satisfaction with way Otelo/CISAS handled issue

	Otelo (Base 19)	CISAS (Base 21)
Very satisfied	5	11
Fairly satisfied	3	6
Neither/nor	2	1
Fairly dissatisfied	2	1
Very dissatisfied	5	1
Don't know	2	1

When the verbatim comments of people's experiences of the Ombudsman are looked at customers appear divided between those who found them efficient, professional and knowledgeable; and those who found them bureaucratic, powerless and slow.

#### 6.4. Reasons for satisfaction with ombudsman

*"They had the information to hand and they were very efficient. They certainly knew what they were talking about. They were well trained." (internet complaint/Otelo)*

*"I understood more because I'd gone through procedure before with Ofcom. I thought they were very good, they made it very clear to me that they couldn't actually represent me but they advised me on exactly what to do." (fixed line complaint/Otelo)*

*"They have given us assistance so far in the case - in respect of putting us back to where I should be going." (fixed line complaint/Otelo)*

*"What they did was very good and thorough and they did it in the timescale they said they would." (fixed line complaint/CISAS)*

*"It was just so good to have somebody take control like that and ease the pressure I had been under. It was very straight forward." (internet complaint/CISAS)*

*"They responded promptly via email (with PDF attachment) to my direct questions about how could 'x' be threatening to sue me for a free service." (internet complaint/CISAS)*

#### 6.5. Reasons for dissatisfaction with ombudsman

*"They did not explain their role. The outcome, however, I was fairly satisfied with because I got the outcome that I was looking for. But the fact that they did not acknowledge receipt of the complaint I made and they didn't tell me what they were going to do about it." (internet complaint/CISAS)*

*"I wrote a letter and they did not seem to read what I sent. I went to a lot of trouble to explain everything and put all the detail in and I just got the standard form back." (internet complaint/Otelo)*

*"They told me to get in touch with 'x' and that's what I did initially so I've gone round in a big circle. I've waited 4 months to contact Otelo and they have told me to go to 'x'. I was told they were the mediator or ombudsman with a bit of clout but I think it's just jobs for the boys. I can't remember them being specific about their role." (mobile complaint/Otelo)*

*"Because they didn't fully get all the details of my defence. There was no reference made to me justifying my losses even though I sent this information through to them." (mobile complaint/CISAS)*