

Which? written input into Ofcom review of ADR schemes in the Communications Sector

This response is provided in response to a request from Ofcom for initial input as it prepares to formally consult on Alternative Dispute Resolution (ADR) Services in the communications sector later this year. Which? Met with Ofcom in June to discuss the review and agreed to provide additional information on some of the points raised.

Effective ADR is critical for consumers to seek redress when they experience harm, yet the process for doing so is often confusing and opaque. Which? welcomes Ofcom reviewing ADR in the communications sector as consumers greatly value access to fast and reliable connectivity. When issues do arise for consumers, these can sometimes be exacerbated by poor levels of customer service. This is a particular problem in the broadband sector where recent Which? research found customer service satisfaction is below the cross-sector average¹. As such, improving standards of customer service to resolve complaints before they are escalated to an ADR provider is equally important to build consumer confidence in the market.

We also think it would be better to have a single provider as this would help ensure consistency and accountability within a key sector for consumers. This approach, as stated by the Ombudsman Association, would assist Ofcom in its objective to ensure a consistent process in consumer experiences with ADR². Section 54 (7) of the Communications Act (2003)³, requires that the number of different sets of procedures for accessing ADR is kept to a minimum. This outcome may be secured more readily through a single provider, unless Ofcom could clearly justify why more than one provider is preferable.

It is particularly important that Ofcom ensures the fairness for consumers of ADR schemes in the communications sector as the overarching framework of consumer protection provided by the Alternative Dispute Resolution Regulations 2015 is due to be repealed by the Digital Markets, Competition and Consumers Act 2024. Furthermore, communications sector ADR schemes are exempt from the new requirements in the DMCC Act.

¹ Which (2024) 'Broadband: Where is customer service going wrong?'. Available: <https://www.which.co.uk/policy-and-insight/article/broadband-where-is-customer-service-going-wrong-avp788T7C34b>

² Ombudsman Association (2024). Available: https://www.google.com/url?q=https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-2-6-weeks/272333-review-of-adr-in-the-telecoms-sector/responses/ombudsman-association/?v%3D259425&sa=D&source=docs&ust=1724318444949969&usq=AOvVaw02ToHrOuJBfXQkYMLg_XJe

³ UK Government (2003) Available: <https://www.legislation.gov.uk/ukpga/2003/21/section/54>

We note also that it appears that some smaller providers have not signed up to an ADR scheme as required by Ofcom rules, and would urge that prompt enforcement action is taken in such instances.

Evidence required and support for vulnerable consumers

The evidence consumers provide should be proportionate to investigate disputes. Reasonably, this might include correspondence between the consumer and provider and, if relevant, financial statements or bills. It is important that evidence requirements and process information are set out clearly and transparently at the earliest stage.

Some consumers may face difficulties providing the required evidence or may need additional support to engage with ADR schemes. ADR providers must ensure that their services remain widely accessible and that reasonable accommodations can be put in place where necessary. In some cases, enhanced ADR services provided by Ombudsman schemes may be better suited to assisting consumers with additional support needs. These services take a more proactive approach to investigations and can take action when customers may not be able to provide all relevant information, as may be the case for customers in vulnerable circumstances⁴.

As consumers are likely to not be familiar with the ADR process it is important that communications providers give consumers clear information about their rights to take their complaint to an ADR provider. For consumers, ADR provider websites are a key source of information about raising a dispute. Here, we note several differences with respect to the information and guidance each ADR provider presents, especially in relation to support measures.

The Communication Ombudsman website has a section on '[accessibility](#)' which can be accessed through the 'help and faqs' tab at the top of the home page. The 'accessibility' page provides an overview of the support they can provide including a link to a [reasonable adjustments guide](#). They list process alterations that they can accommodate such as 1:1 conversations and assistance with submitting relevant documentation. They list several options for contacting the CO including via phone, email and post as well as assistance for people with auditory or visual impairments or translation services. They state that the website is in compliance with the W3C Web Content Accessibility Guidelines 2.1 (WCAG 2.1).

The CISAS website features an equivalent [help and guide](#) page where visitors can access resources including guides and faq responses. However, little clear information is provided about how the provider can help consumers with additional needs. Contact information is not

⁴ Which? (2021) Are Alternative Dispute Resolution schemes working for consumers? Available: <https://www.which.co.uk/policy-and-insight/article/are-alternative-dispute-resolution-schemes-working-for-consumers-ajoOk8v1Aozn>

prominently displayed except for a phone number in the footer of the web page. They have a separate [website accessibility policy](#) where they state they aim to comply with W3C Web Content Accessibility Guidelines 2.1 (WCAG 2.1), where possible.

Differences in how ADR providers present information is important given evidence of low consumer understanding and confidence with these schemes. Ensuring providers have clear standards to embed accessibility across all stages of the dispute process is critical as confidence in accessing ADR will vary among consumers.

Ease of accessing/ timeframe to access ADR

Under current rules, consumers have the right to submit their case to an ADR provider after eight weeks, or earlier if a complaint reaches deadlock⁵. Which?, along with other consumer bodies⁶, believes that the time for consumers to access ADR should be reduced.

A survey conducted on behalf of Which? In 2021 found that 81% of consumers indicated support for a timescale of 4 weeks or less before a complaint could be raised with an ADR provider. Although this question was asked in relation to ADR across all sectors, it does suggest that generally consumers support reducing time to access. Table 1 presents a breakdown of responses against suggested timescales for ADR access. Although there is some variance at the lower to mid range, support for timescales at the upper range (6 weeks or more) is very low. Even accounting for consumers without a preference, only 19% of consumers support a duration of more than four weeks.

Table 1: 'How many weeks do you think a company should be given to handle your complaint, before you are allowed to take it to an alternative dispute resolution scheme?'

Less than 2 weeks	22%
2-3 weeks	27%
3-4 weeks	32%
4-5 weeks	8%
5-6 weeks	5%
6-7 weeks	1%
8 weeks or more	1%
Don't know	5%
Net 4 weeks or less	81%
Net More than 4 weeks	19%

Base: all respondents (2145)

⁵ Ofcom (2023) Review of ADR in the Telecoms Sector. Available: <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-2-6-weeks/272333-review-of-adr-in-the-telecoms-sector/associated-documents/review-of-adr-in-the-telecoms-sector/?v=330481>

⁶ Ibid

⁷ Survey conducted by Yonder, on behalf of Which? Of 2145 UK adults online between 13th and 15th August 2021. Data were weighted to be representative of the UK population by age, gender, region, social grade, tenure and work status

In some cases, there may be a rationale for a CP needing eight weeks to investigate a complaint, such as where an issue requires coordination between a provider and third parties, or if a case is particularly complex⁸. However, it seems doubtful that an eight week timescale will be appropriate in all cases and it is likely that there will be some instances where a complaint could be escalated sooner, but a consumer is unable to do so in the absence of a deadlock letter. It is critical that providers inform consumers of their rights as soon as a dispute reaches deadlock. In the case of one major provider, Ofcom is currently investigating whether customers were appropriately informed about their recourse to Ombudsman services⁹.

We believe that the current timescale of eight weeks should be reduced. The exact length of this reduction would need to be premised upon a more detailed understanding of how long providers would typically take to resolve complaints. We understand that Ofcom currently monitors complaints handling among telecoms providers through direct reports from consumers. In addition, it may be valuable to request information directly from CPs on indicators such as the types of complaints they receive, whether a complaint is resolved or deadlocked and the length of time before a complaint is resolved or escalated to an ADR provider.

Length of process

It is important that consumers have clarity about anticipated timescales for the handing of a complaint by an ADR provider. Maximum periods should be communicated to consumers for each stage of the ADR process, including the time allowed for compiling a case file and reaching a decision¹⁰.

In the consumer survey conducted on behalf of Which? half of consumers (46%) indicated that the process should take less than six weeks. Ofcom currently sets targets on ADR providers for 90% of case decisions to be issued within six weeks. Cisas reports that these targets were achieved in Q1 (99%) and Q2 (98.7%) 2024¹¹. CO also reports these targets were achieved in Q1 (99%) and Q2 (99%) 2024.

Generally, six weeks appears a reasonable timeframe for consumers to receive a decision with respect to their claim. Considering the reported figures from both ADR providers in meeting Ofcom's current target, consideration may be given as to whether the 90% threshold could be increased.

⁸ Gigaclear (2024) call for input response: <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-2-6-weeks/272333-review-of-adr-in-the-telecoms-sector/responses/gigaclear/?v=259422>

⁹ Ofcom (2023) Ofcom investigates Virgin Media over customer difficulties cancelling contracts'. Available:

'<https://www.ofcom.org.uk/phones-and-broadband/switching-provider/virgin-media-investigated-over-difficulties-cancelling-contracts>

¹⁰ Which? (2021) Are Alternative Dispute Resolution schemes working for consumers?

¹¹ CISAS, 'reports' <https://www.cedr.com/consumer/cisas/reports/>

Table 2: 'After the alternative dispute resolution scheme has received your complaint, what do you think is a reasonable length of time for them to reach a decision?'

Less than 6 weeks	46%
6-8 weeks	34%
8-11 weeks	9%
11-15 weeks	4%
15-19 weeks	1%
20 weeks or more	<1%
DK	6%

Base: all respondents (n=2145)

KPIs and customer service

Improving customer service is a priority area for Which? as we have seen customer's experiencing poor service across a range of sectors. Our research finds that overall the broadband market is among the worst performing for customer service¹². Overall net customer service satisfaction with broadband providers was +52, although the score for mobile providers was slightly better at +57. Across all sectors, the average customer service satisfaction was +57, placing mobile providers right on the average and broadband providers falling below¹³.

This underscores the importance of high-quality ADR for when issues arise with CPs and their customers as well as effective regulatory oversight.

Ofcom currently publishes data from providers on a quarterly basis¹⁴. Existing KPIs include:

- More than 80% of calls to be answered in less than two minutes
- More than 90% of calls to be answered in less than five minutes
- 100% of written correspondence to be replied to within ten days
- More than 90% of case decisions* to be issued within six weeks of the case being accepted
- Less than 1% of case decisions* to be issued later than eight weeks after the case has been accepted

Measures of responsiveness and efficiency are important aspects to evaluate ADR provider performance. However, current KPIs are quite narrowly focussed and do not measure the broader range of aspects that can influence the consumer experience.

A key metric to assess service quality overall would be a measure of customer satisfaction which may be grouped based on the ultimate outcome of the case. CISAS does include this

¹² Which (2024) 'Broadband: Where is customer service going wrong?'. Available: <https://www.which.co.uk/policy-and-insight/article/broadband-where-is-customer-service-going-wrong-avp788T7C34b>

¹³ Ibid

¹⁴ Ofcom (2024) ADR schemes' performance'.

'<https://www.ofcom.org.uk/phones-and-broadband/service-quality/adr-schemes-performance/>

information on its website for 2023-24¹⁵ but similar information is not available on the CO website¹⁶. Assessing overall satisfaction is a key signal for consumers to build trust and confidence in the ADR process. Ofcom should require ADR providers to publish annual independent surveys of consumer trust and satisfaction to monitor their effectiveness in meeting consumers' needs, including collecting data about the age, income and other relevant characteristics of users¹⁷.

On what constitutes good customer service, the questions that informed recent consumer facing research provide an indication of key aspects to monitor. They cover aspects such as the ease of finding contact information and the variety of contact options available, the ability of a representative to take issues seriously and keep the customer updated and the ability to deal with and resolve issues to the customers satisfaction.

Another key issue with respect to KPIs centres around transparency which is central to building consumer confidence and trust. We note, for example, that both the CO and CISAS publish outcome and complaint type data, grouped against the major CPs. This data is helpful, but both providers only provide percentages without the raw totals that these are based on. We recommend that when providers publish this data on a quarterly basis they also contextualise this information by referring to the volume of cases alongside the relevant percentages. Both providers also produce entity or annual reports but it appears that the CO has not issued a full report since 2022.

About Which?

Which? is the UK's consumer champion, here to make life simpler, fairer and safer for everyone. Our research gets to the heart of consumer issues, our advice is impartial, and our rigorous product tests lead to expert recommendations. We're the independent consumer voice that works with politicians and lawmakers, investigates, holds businesses to account and makes change happen. As an organisation we're not for profit and all for making consumers more powerful.

For more information contact:

Tom Lowe: Principal Policy Advisor

tom.lowe@which.co.uk

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¹⁵ CISAS, report: <https://www.cedr.com/consumer/cisas/reports/>

¹⁶ Communications Ombudsman, reports and data:
<https://www.commsombudsman.org/reports-and-data>

¹⁷ Which? (2021) see above.