

**Response to the**  
**Review of the General Conditions of Entitlement**  
**Consultation on the general conditions relating to consumer protection**  
**By The National Association of Deafened People (NADP)**  
**Registered Charity No. 294922**

The National Association of Deafened People (NADP) welcomes the opportunity to respond to the second part of Ofcom's Consultation on the general conditions relating to consumer protection.

Hearing loss is one of the most common forms of disability and the vast majority of those with a hearing loss are post-lingually deafened. NADP is a national support and campaigning charity for people who use spoken language for communication and are disabled due to severe/profound hearing loss (deafened people). Many of our members were born hearing and so will have experienced life as both a hearing and deafened person. Acquired deafness affects not only the individual but also their family, friends and colleagues. The skills, ability and human need to communicate on equal terms is at the heart of equality for deafened people, since profound deafness reduces and in many cases destroys the confidence to communicate. NADP offers support and advice to help deafened people to regain their confidence and independence and thus to enjoy the best quality of life.

Our response reflects the views and needs of our membership, and we only respond to those questions that are within our remit and competence. We have recently conducted a survey of our members and the wider deaf community on how they use the telephone, the findings of which we refer to in this response. NADP is run for and by deafened people, and this response is written directly by people who actually experience deafness.

**Question 2: Do you agree with our proposed implementation period for the revised general conditions of 3 to 6 months following publication of our final statement? If you think a longer implementation period is necessary, please explain why, giving reasons for your views.**

Yes.

**Question 7: Are there any other modifications to the conditions relating to information publication and transparency requirements that you consider would be appropriate?**

NADP welcomes the new proposals provided they can be enforced. The results of our recent survey reflecting the experience of our members is that whilst many of them are customers of CPs typically they have only heard about the Next Generation Text Relay service ("NGTS") provided by BT through NADP or family and friends. Despite receiving regular communication including billing, text messages, etc few customers appear to have been informed of NGTS by their CP. This is despite NGTS being available since October 2014 (6 months later than required) although the CPs were made aware of its introduction well before that and the requirement as stated in the consultation is that "paragraph 15.10 requires CPs to ensure that the services they provide to comply with this condition are widely publicised". Given the time NGTS has been available we would expect that many more consumers would be aware of NGTS through their CP which suggests the requirement has been ineffective and largely ignored. Any action that Ofcom takes to improve the communication of NGTS to deaf people would be welcomed by NADP. We suggest

that the information related to availability of NGTS should be part of the information sent by CPs in their billing information and any other related documentation including new or renewed contract information. Without specific reference to this NGTS specific information the CPs will take different views as to what “widely publicised” means.

NADP also expects Ofcom to communicate the availability of NGTS to the hearing population, either directly and/or indirectly through CPs, to ensure that calls made through NGTS are accepted and handled in the same way as a normal phone call. For an equivalent service to be available NADP believes that the connection time for a NGTS call should be the same as if the call was made direct without the NGTS intervention.

NADP welcomed the guidance provided by Ofcom in August 2016 recognising the failure of CPs to meet the policy objective to "ensure that all end users ....particular needs are given sufficient consideration by CPs", ultimately providing more hand-holding to the CPs, but we remain disappointed that, in our experience, since the guidance has been produced nothing has really changed in the awareness of consumer facing staff either in CP stores or via on-line chat which deafened people are most likely to use to contact CPs. As we have stated previously we believe timescales should be introduced by which CPs comply with these requirements. We are very open to discussion with CPs to help them understand the needs of our members.

We also note that references to NGT on the websites of many CPs are at least 3 clicks away from the home page and in most cases these links are not very intuitive, making it difficult for deafened people to find this information online. It is interesting comparing these links to those related to selling new contracts or new phones which are well placed and visual on all the CP websites. NADP believes that information on accessibility and NGTS should be comparable with the way information on new contracts and other information for the population as a whole is presented. Clearly CPs are unable to argue that they do not have appreciation of how to communicate key information given the difference in how information is presented on their websites.

In NADP's response to the approval of BT's Next Generation Text Relay service (“NGTS”) in January 2014, we stated that we believed the service should be continually monitored for improvement in speed of transcription and that improvements in technology should be considered to further improve the service. NADP is aware that Ofcom monitors developments of technology, and particularly voice recognition, which we understand has improved considerably in recent years particularly through its attraction to mainstream users. This has resulted in faster improvements in speed of transcription and accuracy.

NADP believes that a comparable measure needs to be put in place to ensure advances in technology can be incorporated. We would expect comparison of NGTR against revoicing services used to provide live subtitles and used by relay providers outside the UK and also Speech to Text reporting via Palantypists and Stenographers.

**Question 8: Do you agree with our proposals for updating the current conditions that relate to billing? In particular, do you agree with our proposals to extend the current protections for end-users in relation to billing so that they would apply, more generally, to fixed and mobile voice call and data services?**

NADP believes that the current charging structure for NGTS calls is resulting in anticompetitive behaviour by certain CPs which has been to the disadvantage of deafened consumers. CPs have dragged their heels in making NGTS fully available to their customers be they deaf or wanting to phone a deaf person. Our recent survey has shown that deafened consumers who have remained loyal to CPs for a number of years are having to pay the same charge for bundled monthly tariffs as their hearing peers yet are likely to have used less of their voice minute allowance as their hearing peers. Now that NGTS is available CPs have been very slow in making their customers aware of the service despite the requirement in the GC. We understand CPs have argued a

reluctance to “get to know” their clients and anticipate their needs and so have not targeted customers who may benefit from NGTS. We fail to understand why a blanket communication to all customers could not be carried out to address this position.

Furthermore, some CPs appear to have been able to justify why they have been unable to offer full access to all telephone numbers via NGTS since October 2014 and continue in some cases not to offer a full and proper service to their existing customers citing legacy complications. NADP believes that further consideration needs to be given as to how these loopholes in the current GCs are overcome. Whilst the majority of deaf consumers have remained with their existing provider partly due to apathy, or “better the devil you know” attitude, some have moved to CPs who are fully compliant with the regulations and ultimately these compliant CPs are being penalised due to the loss making nature of NGTS.

We feel that were a central fund made available to fund the Relay services this would remove this anti-competitive behaviour. We understand that current European legislation may restrict the setting up of such a fund, potentially through contributions being made according to the market size or revenue of each CP. However NADP believes that availability of a central fund would encourage competition and should be reconsidered by Ofcom following the success of a central fund structure in the US.

**Question 9: Do you agree with our provisional assessment that our proposals to extend the regulatory requirements for billing to fixed and mobile voice call and data services does not impose a disproportionate burden on industry? Do you have any further information on the likely costs of these proposals?**

Yes.

**Question 10: Are there any other modifications to the billing conditions that you consider would be appropriate?**

NADP has concerns about how the rebate is calculated for NGTS calls and in particular how it varies by CP. We believe deaf consumers are being overcharged due to the slower transcription speed of NGTS compared to the speed of speech of a typical conversation. For Type and Read calls we would expect the rebate to reflect the slower typing speeds of consumers compared to speech. We suggest a review of the rebate system.

The fact that PAYG mobile consumers for at least one CP are unable to access NGTS directly due to billing complications is unacceptable. If a call can be made via a monthly bundle then it should also be accessible via PAYG. As observed earlier in our response deafened consumers are less likely to use as much, if any, of a monthly voice allowance, as their hearing peers and are therefore more likely to be better off financially with a PAYG contract. Ultimately deafened people are at a disadvantage as a result of the NGTS not being available in the same way for different types of contracts.

NADP believes Ofcom should provide more guidance to CPs to ensure consistency and transparency of rebate calculations to allow deaf consumers to compare offerings from different providers. Currently the lack of consistency deters deafened people from switching contracts and using NGTS.

**Question 11: Do you consider that our proposed revised condition for complaints handling and access to alternative dispute resolution, together with our proposed revised code of practice on complaints handling, will improve the transparency, accessibility and effectiveness of communications providers’ complaints handling procedures, and improve access to alternative dispute resolution? If not, please give reasons, including alternative suggestions.**

NADP believes that the current practice of companies in general of sending a non reply email to a consumer, which the CPs adopt, should be reviewed and new guidance provided with inclusion of persons with disabilities needs taken into account. Often these emails are offered with a telephone number to call. All email correspondence with deaf customers should be two way, and/or communication via Live Chat should be offered as a standard. In addition the timescale to respond to email should be 24 hrs. Where Live Chat is made available then the operator should be capable of dealing with complaints or to refer to the relevant department via Live Chat rather than the individual being required to call the number themselves. Whilst NADP remains committed to promote and encourage use of NGTS by its members, we accept that not all deaf people will feel comfortable using NGTS so other accessible means of communication are required.

**Question 14: Do you agree with our proposals to introduce a new requirement for communications providers to take account of, and have procedures to meet, the needs of consumers whose circumstances may make them vulnerable?**

Yes. NADP welcomes the extension of the provisions to broadband services.

Ofcom will already know NADP's view of using the term "vulnerable" to describe deaf(ened) people, many of whom do not feel they fit in this subgroup, and we are concerned that they would not naturally see themselves as vulnerable and therefore be unlikely to be aware of the provisions being made for them and thus not actively support them. Since the UK has ratified the UN Convention on the Rights of Persons with Disabilities, Ofcom should also be recognising persons with disabilities in its official framework and the language of its guidance. We do however recognise that some of the deafened population do feel vulnerable. We therefore suggest amending this terminology to refer to this fact using a phrase such as "persons with disabilities , some of whom may feel vulnerable at times". We do not feel it appropriate to group deafened people for whom their deafened condition is irreversible, with a group of temporarily "vulnerable" people such as those recently bereaved.

In the experience of our members, knowledge of the accessibility features of the latest handsets in the main CPs stores remains poor, with labelling of accessibility features of mobile handsets non-existent. Few assistants have any knowledge of where to obtain information on NGTS or the GARI database or equivalent. It would make sense to require CPs to provide written indicators on information sheets of handsets they have in store of Hearing Aid compatibility and accessibility features in the same way as they provide other key information such as size of storage, camera capability and speed of processor. NADP is concerned that there is a real risk that mobile phone handsets with an accompanying financial agreement are being mis-sold due to the lack of understanding of a deafened person's needs by the sales assistant. We believe all handsets should be clearly labelled with their accessibility features (particularly if they are Hearing Aid Compatible (HAC), have a Telecoil and are Bluetooth compatible) as a requirement under the GC so that deafened people can see at a glance which handsets would work for them without having to rely on ill informed assistants.

Under 9.15 b) "reasonable steps that will be taken to identify consumers who may be vulnerable", whilst we do not agree with the use of vulnerable to determine deafened people we believe that subset should be easy for CPs to recognise as they will be accessing Text Relay via a landline or NGTS via their mobile. These calls can be easily identified by their bills. We therefore do not understand how CPs can find it difficult to identify these consumers. However, in line with the Equality Act which requires that a service provider should anticipate any reasonable adjustments for disabled customers, NADP believes that CPs should be required to provide information on the accessibility features available to deafened people whether or not they can identify deaf customers people specifically and actively promote Next Generation Text Relay and any other potential relay service to all its existing and potential future customers. In this way a CP would ensure that sufficient information is available and that it addresses the requirements of the Equality Act.

We note the reference to Text Relay remains in the majority of the GCs but there are also references to "Relay". We would ask that the terminology is consistent and that "Relay" is used so as to encourage other forms of telephone relay to be considered by the CPs in addition to Text Relay. We believe this could offer the opportunity for competition in the relay services. We are mindful of the comments raised by Vodafone disclosed in section 9.7, which surprised us given the conversations we had in the consultations before NGTS was introduced. This comment suggests it would be timely for further discussion to be had with the CPs, Ofcom and the deaf community along with potential providers of relay services to encourage a more competitive relay service where consumers have choice. In fact NADP believes that given NGTS now exists and offers the Text Relay mechanism that the requirement for Text Relay to be provided for the approval of other types of relay service should be removed so as to open the market to competition for services such as Captioned Telephony and Video Relay from which deafened people can choose depending on their preference and circumstances.

We also note the comment made by BT about employers paying the cost of communication rather than CPs in section 9.9. In our experience this is actually the case through the Access to Work scheme and alternative captioning providers. For the majority of our members who are in employment the speed of transcription of NGTS is far too slow for them to have an equivalent business conversation as their peers. The current situation is therefore not ideal for any party, CP, employer or deafened user and an obvious solution would be a "real time" transcription that is consistent with the speed of a real time telephone conversation enjoyed by the population as a whole of 160 to 180 words per minute. Such a service is already enjoyed in other G7 countries and would be more consistent with the overall policy objective of this condition to "ensure that end-users with disabilities are able to obtain comparable access to voice call services to that of non disabled people

BT's suggestion that employers should pay the costs rather than CPs also ignores the fact that only a proportion of relay calls are made by deafened people in employment. There would still need to be provision for other types of relay call, such as social and family calls. It also ignores the fact that calls are also made by health institutions, educational institutions, charities and self-employed deafened people, for all of which provision would need to be made.

**Question 15: Do you agree with our proposals to update regulation by extending the current protections for end-users with disabilities, which currently apply only in relation to telephony services, to cover all public electronic communications services?**

Yes, NADP agrees with the proposals to extend the regulation to cover all public communication services although NADP believes that relay services should be included to ensure that all communication enjoyed by other users should be accessible to deafened people as well. Consideration should be given to how these services can be fully accessible to deafened people so that they are able to use the service in the same way as other people. We understand that there may be technical hurdles to overcome but NADP believes that the General Conditions should be forward looking. In particular we note that Ofcom believes only some VOIP providers can be required to provide relay services potentially due to the charging structure of the existing relay services but NADP believes that in line with Ofcom's DCR Statement "to ensure that the protections which already exist for end users with disabilities are updated to take account of changes in technology and usage" that Ofcom should consider how full access to Relay services can be provided for all public electronic communication services.

NADP welcomes the clearer obligation of CPs to consult with the Communication Consumer Panel "on request" and look forward to working with the Consumer Panel to understand better how it intends to manage this greater responsibility.

9.27 NADP believes that Ofcom should be more proactive in encouraging CPs to identify people who could benefit from the Text Relay service or other relay services rather than simply focus on those who "normally" use the services. We appreciate that this terminology maybe a simple oversight but in our view it reflects a mindset that the potential users of Text Relay are stable. The experience of NADP and its members is that this is not the case and there are many more people who could benefit from Text Relay and other relay services. We include in that demographic long term deafened people who have tried Text Relay (previously known as Typetalk) but did not persist, along with more recently deafened people and those with a less severe hearing loss who are able to manage reasonably well listening to speech but may need some assistance at times with clarity for which faster transcription would be beneficial. Unfortunately NADP believes that Ofcom's survey focussed on existing users of Text Relay rather than potential users of NGTS and other relay services and ultimately has been biased by that view. We do not believe CPs will proactively look to capture those potential users and would encourage Ofcom to attempt to address this gap.

**Question 16: Are there any other modifications to the proposed revised condition on measures to meet the needs of vulnerable consumers and end-users with disabilities that you consider would be appropriate?**

Access to NGTR should be equivalent so one would expect to be able to make a call in the same way using NGTR as a telephone call made by a hearing person. The current set up of NGTS requires a deaf user to open the NGTS lite app, open the phone app, dial a number adding a prefix 18001, then switch back to the NGTS lite screen to view the text. Once the call has ended the user must then switch back to the telephone app to end the call from the NGTS lite app. Our experience is that this process is not user friendly and creates barriers to having an equivalent experience. NADP believes that approval of any NGTR system should include the ability to make a call through the app so as to ensure potential users can make and receive a call in the same way as if making a non NGTR call and thereby avoiding the friction currently incurred when using NGTS.

Please also see responses to Qu 14 & 15.

**Question 17: Do you agree with our proposal to remove the condition relating to the provision of tone-dialling? Please give reasons for your views.**

No, we do not agree with the proposal to remove the condition. Whilst the use of tone-dialling may be common practice there are no guarantees that this may remain the same in the future. Many deafened people using hearing aids and cochlear implants use the tone to check they are using the correct setting on their hearing aids i.e. the T setting, which accesses the Telecoil in the handset and also to adjust the volume of their aids on this setting as often it is set at a different volume to other settings based on their level of hearing loss. For a T setting all sound is being amplified whilst on a normal setting not all frequencies may be amplified. If the tone is removed then deafened people would need to tune their hearing aid at the start of a call when a conversation has started which will detract from the conversation and reduce the confidence of a deafened person in making a voice call. The proposal can therefore be seen as a step in the opposite direction to full inclusion.

**Question 18: Do you agree with the changes we are proposing to make in relation to the provision of calling line identification facilities, including the new requirements we are proposing to add? Please give reasons for your views.**

NADP remains disappointed at the inability to determine an incoming text or relay call from a typical voice call. Yet when someone is calling text to text the system seems to recognise this position and removes a Relay Assistant from the conversation. Related to this situation the ideal would be for the NGTS user to be able to receive any calls using NGTS rather than requiring a

18002 prefix to be used by the caller. This would also be beneficial for households with hearing occupants so as to allow anyone to pick up the call.

**Question 21: Do you agree with our proposal to replace the current mis-selling provisions with rules that focus on the information that communications providers give to customers when selling or marketing fixed-line or mobile communications services? Please give reasons for your views.**

NADP believes, in view of our earlier comments, that all information related to accessibility and relay services should be provided to all customers as part of the marketing material and in the information provided on initial set up and renewal. This should help overcome the concerns CPs have expressed in identifying deaf customers and would also help provide information discreetly to customers who may need assistance.

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