
From: do_not_reply@squiz.net
Sent: 10 March 2017 17:38
To: Selene Rosso
Subject: EXTERNAL: Consultation response: Review of the General Conditions of Entitlement
Consultation on the general conditions relating to consumer protection

Response:

Your details

Full name: Ken Daly
Representing: Organisation
Contact phone number: [REDACTED]
Organisation (Optional): Society of Chief Officers of Trading Standards in Scotland
Email address: [REDACTED]

Confirmation:

I confirm that the correspondence supplied with this form is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified below, and I authorise Ofcom to make use of the information in this response to meet its legal requirements.

Confidentiality

We will keep your contact number and email address confidential. Are there any additional details you want to keep confidential? (Optional): None

If you want part of your response kept confidential, which parts? (Optional):

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Your response

Question 1: Do you agree with our overall approach to this review of the general conditions as set out in sections 2 and 3 of this consultation? Please give reasons for your views.:

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.:

Question 3: Do you agree with our proposals in relation to contract requirements? If you consider that we should retain the regime Yes. The proposals take account of comments made in an earlier consultation and clearly explain the reasons why Ofcom have decided to follow the recommendations

applying to contracts concluded before 26 May 2011, please explain why, giving reasons for your views.:

provided by consultees or not. We feel that what is proposed will ensure that contracts are clearer and more consistent across the communications sector, particularly in relation to such areas as price rises and minimum contract duration which can be a source of consumer confusion and lead to complaints.

Question 4: Are there any other modifications to the proposed revised condition in relation to contracts requirements that you consider would be appropriate?:

No

Question 5: Do you agree with our proposals in relation to information publication and transparency requirements, including removing the separate condition relating to publication of quality of service information?:

Question 6: Do you agree with our proposal to replace the existing detailed requirements in relation to small businesses with a general obligation to ensure price transparency and to notify small business customers where the terms and conditions that apply to them differ from those that providers are required to comply with in relation to consumers?:

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

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?:

Yes. The proposals will help Ofcom meet its policy objective that end-users of electronic communications services are not overcharged, receive the services they are charged and pay for, can adequately control how much they spend on the usage of electronic communications services, and are protected from immediate or unfair disconnection from the network on the grounds of an unpaid bill. Furthermore, we welcome the proposal to extend the current rules on billing accuracy (i.e. the “metering and billing scheme”), and also debt collection and disconnection procedures for non-payment of bills to data services (e.g. broadband services) in addition to voice call services.

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?:

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

Question 11: Do you consider that our proposed revised condition for complaints handling and

Yes. The measures proposed will help Ofcom meet its duty to secure, that procedures for the 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.:

resolution of complaints are easy to use, transparent and effective and can be freely accessed. We particularly note your comments about the deficiencies in the scope and clarity of the current rules and very low awareness amongst customers of their communications providers (CP) complaints handling procedures and their rights when complaining, and in particular when they can take their complaint to ADR. The proposals you put forward to address these matters, as set out in paragraph 7.5 a) – d), impose obligations on the CPs to address these matters and are a positive step for consumers. We agree that ADRs can play an important and valuable role in protecting consumers and particularly welcome the proposal to remove the requirement for the customer to request a deadlock letter, replacing it with an obligation on the CP to issue an ADR letter whenever a complaint reaches deadlock.

Question 12: Do you have any other comments on our proposals in relation to complaints handling and access to alternative dispute resolution?:

No

Question 13: Do you agree with our proposals in relation to the codes of practice that communications providers are currently required to establish, maintain and comply with – including replacing these with direct obligations to make information available, where appropriate?:

Yes. It seems sensible and simpler for all concerned to set out rules currently contained in a code of practice, where appropriate, to be simplified and moved to the general body of the conditions and to address and remove any duplication.

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. Whilst we are not expert in relation to the particular needs of people with disabilities, the measures currently in place, as set out in 9.2 a) – h) seem to recognise and address the fact that consumers who are disabled are more likely to be vulnerable and at particular risk of harm.

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. Given the current market place it would be anomalous and wrong not to update existing 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, including broadband services.

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?:

No

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.:

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

Yes. The report recognises that unsolicited calls and texts cause significant nuisance, annoyance and sometimes distress for consumers and that calling line identification facilities (CLIs) provide benefits to regulators and

proposing to add? Please give reasons for your views.:

enforcement bodies in assisting in the tackling of nuisance calls. More particularly from a Trading Standards perspective there is the issue of calls and texts whose purpose is to scam and defraud the consumer. These scam calls are likely to involve blocked or false numbers and we feel that the proposal to require CPs to take steps to identify calls on which invalid or non-diallable CLI data is provided and to block those calls could be a very useful deterrent. However, we would have recommend that the requirement be made more robust – the terms “reasonable steps” and “where technically feasible” might be seen as a potential get-out to any CP who has not fully bought into the spirit of the requirement or feels they will lose out financially by following it.

Question 19: Do you have any comments on our proposals in relation to the proposed revised general condition on switching?:

Question 20: Do you agree with our proposal to remove the current provision which expressly prohibits so-called ‘reactive save’ activity (in GC 22.15)?:

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.:

Yes, however we have a few comments. We agree with the approach taken to this matter of focusing on what previous enforcement, and engagement with CPs, has demonstrated to be a key cause of mis-selling of both fixed-line and mobile services. We also note the finding that the majority of instances of alleged mis-selling arise in the context of the switching process and particularly the absence of the appropriate information to customers. And that Ofcom’s proposals focus mainly on the “high-level obligations” under which CPs must not engage in dishonest, misleading ,deceptive or aggressive conduct and must contact the customer in an appropriate manner. Ofcom’s stated aim in this section is to “produce mis-selling rules that are clearer, as a result of which CPs understand what they should and should not do when selling and marketing their fixed line and/or mobile services, which should make compliance easier”.
Continued at Q24 below...

Question 22: Do you have any comments on the consequential changes we are proposing to make to the national telephone numbering plan, the premium rate services condition or the metering and billing direction?:

Question 23: Do you have any comments on our equality impact assessment?:

Question 24: Do you have any other comments on the matters raised by this consultation?:

Addendum to Q18: We agree that the costs of provision of CLIs ought to be already covered by CPs’ standard line rental or network access charges and support the proposed requirement that where CPs provide CLI facilities they must not levy an additional or separate fee for access to or use of those facilities. This will of course

be of particular benefit to consumers on low incomes who are often vulnerable in other ways and therefore more susceptible to scams. Addendum to Q21: The current rules are principles based, similar to those set out in the Consumer Protection from Unfair Trading Regulations 2008, and we believe they are simple, self-explanatory and, where there is good faith and the right intention, should be easy to understand and follow. Furthermore, as they are not prescriptive they have the advantage that they be applied flexibly to cover products, services and trading practices which currently may not exist. To that extent we would question why a change is required.