



VERASTAR LIMITED RESPONSE

Review of the General Conditions of Entitlement:

Consultation on the general conditions relating to consumer protection

14th March 2017

Consultation responses

Q1. 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.

Yes, in the main we agree with the overall approach. The current general conditions (GCs) are difficult to interpret so the introduction of less prescriptive, more user friendly conditions will make the GCs clearer and easier for communications providers (CPs) to comply with.

However, we have some reservations about:

- the proposed changes to calling line identification; and
- some of the proposals for changes to vulnerable customer provisions.

Q2. 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.

We cannot agree to a proposed 3 to 6 months implementation period without sight of the final GCs. All CPs will have development programmes with which such a short implementation period will undoubtedly conflict. We believe CPs should be given sufficient time to implement these revised general conditions alongside their current ongoing commitments and that a 12 month implementation period should enable CPs to:

- review the final version of the GCs;
- identify and implement the changes they are required to make such as system changes/changes to policies and procedures;
- negotiate changes to contracts with wholesalers (if required);
- train employees on the changes.

Q3. Do you agree with our proposals in relation to contract requirements? If you consider that we should retain the regime applying to contracts concluded before 26 May 2011, please explain why, giving reasons for your views.

Yes. There are no significant changes but we welcome the inclusion of material detriment in the general condition itself and increased clarity of Ofcom's interpretation of the terms.

Q4. Are there any other modifications to the proposed revised condition in relation to contracts requirements that you consider would be appropriate?

Yes. Point 4.19 refers to the differences between large and small businesses/domestic consumers. There is a lack of understanding about different contract requirements for different consumers and it is currently unclear which GCs apply to which category of consumer. It would be helpful if Ofcom could distinguish between large businesses, small businesses and domestic consumers and confirm:

- 1) which GCs apply to each of the above categories;
- 2) what should be included in contracts for each category; and
- 3) the levels of service to be provided to each category post contract signature in terms of termination processes, service obligations and fault repair obligations.

Q5. 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?

Yes.

Q6. 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?

No. We do not agree that CPs should be obliged to notify small business customers where their terms and conditions differ from those of consumers. There is no corresponding obligation to notify residential customers where their terms and conditions differ from those of business customers. A business customer should enter into a business contract and a domestic customer into a domestic contract. There is no such general notification obligation at law nor, as far as we are aware, does any other regulator oblige suppliers to do this. We fail to see why the telecommunications industry should be different. Ofcom is requested to clarify why this proposal has been introduced and the harm it is intended to address.

Q7. Are there any other modifications to the conditions relating to information publication and transparency requirements that you consider would be appropriate?

No.

Q8. 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 to both.

Q9. 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. We agree that the proposals do not impose a disproportionate burden on industry. Whilst we do not know the likely costs of these proposals, we do not anticipate this will require significant additional expenditure.

Q10. Are there any other modifications to the billing conditions that you consider would be appropriate?

No.

Q11. 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.

Yes, in the main. However point 7.88 of the consultation proposes to extend "*the record-retention period from six to twelve months*". We believe this is insufficient for fixed term contracts. We are aware that a number of CPs claim they no longer hold contracts yet enforce certain conditions such as those relating to termination payments. A consumer who no longer has a copy of the contract has no way of verifying the accuracy of the information they are being provided with by their CP.

We believe that CPS should, in all cases, be obliged to retain contracts and relevant records until 6 months after the date of cessation of service or 6 months after the end of the fixed term of the agreement, whichever happens first.

Q12. Do you have any other comments on our proposals in relation to complaints handling and access to alternative dispute resolution?

Ofcom's definition of a complaint captures "all expressions of dissatisfaction that are made to a CP." We believe this definition is too broad. For example:

- a customer may express his dissatisfaction that his invoice is higher than usual. The reason for this is that he made a number of overseas calls. The customer, following explanation, accepts that he is responsible for payment of the invoice. We do not feel that it is reasonable for this to be logged as a complaint.
- a customer may have a legitimate complaint about the behaviour of its CP.

We believe the 2 cases above should be treated very differently and that Ofcom's definition should categorise "complaints" differently in terms of severity and impact. We propose an alternative definition of a complaint to be "a significant level of dissatisfaction made to a CP where a response or resolution is explicitly or implicitly expected." In our view that would help to ensure that complaints are recognised and dealt with consistently across the industry.

Q13. 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.

Q14. 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. We have policies and procedures in place to identify and provide continued support to vulnerable customers.

Q15. 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. However, we rely on our wholesalers to repair priority faults in a timely manner and the current criteria for priority fault repair is extremely narrow. We would urge Ofcom to require wholesalers to widen the criteria so as to enable CPs to ensure that end users with disabilities, who may be more reliant on communications services, can have faults repaired as a priority.

We believe that if there is conflict as to priority fault repair between different end users, the wholesaler and CPs should jointly determine the correct order of priority. For example, a telephone line with critical life equipment attached should have priority over broadband as broadband is not a life dependent product.

Q16. 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?

Yes. We supply business consumers and are not aware that we have ever been requested to provide information in braille. Business customers tend not to require such assistance. Any such obligations on CPs need to be reasonable, proportionate and flexible. For example, a blind customer may find a large print invoice acceptable and may not require a fully itemised invoice in braille. Further, the cost of providing braille documentation may exceed any revenue from the customer.

We would suggest that end users should inform CPs of life critical apparatus and/or seek a higher care level at the point of sale or within the consolidation period to ensure that their needs are met before the service becomes active. This would help to improve compliance and reduce complaints.

We would also suggest that wholesalers should be obliged to maintain accurate data on vulnerable customers. We know from our own recent experience of buying a base that this is not always the case. BT Redcare is a vital service to which we do not have an equivalent. When we bought the base in question, we asked BT Openreach to exclude all Redcare customers to prevent any disruption to the service. BT's data was inaccurate and so certain Redcare customers were transferred to us and their Redcare service was ceased on transfer, despite our best efforts to avoid this precise situation.

Q17. Do you agree with our proposal to remove the condition relating to the provision of tone-dialling? Please give reasons for your views.

Yes.

Q18. 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.

No. We believe consumers should be able to choose whether they wish to have caller line identification and that those who require it may be required to pay for it should the CP make a charge for this service. Some customers may not require this service and others may not have phones which enable this feature.

We do not necessarily believe that end-users will ignore calls where they don't recognise the number or that they will report nuisance numbers to the CP. Further, CPs are likely to pass the cost of providing 'free' CLI on to end users by increasing other costs. This will negatively impact all customers including those who cannot use or would have chosen not to use this feature.

CPs, who do not have their own network, will be heavily reliant on wholesalers to monitor, identify and block nuisance calls before they pass through to the end user. As nuisance calls continue to remain a problem within the industry, we hope that wholesalers allocate significant resource to comply with the new proposals.

We support Three's view that the focus should be more on long term solutions. A survey conducted by Which? in June 2013 stated that *"people registered with TPS still received double the average number of unsolicited calls than those not signed up"* and Ofcom's media release in July 2014 stated that only *"45% of those registered with the TPS as part of the study did not receive any live sales calls."* We conclude from this then that over half (55%) of those registered with the TPS continued to receive sales calls. Rather than increasing obligations on CPs then, it would be sensible to allocate sufficient resource to TPS/CTPS/ICO to enable them to investigate and take enforcement action in regards to nuisance call complaints.

Q19. Do you have any comments on our proposals in relation to the proposed revised general condition on switching?

No.

Q20. Do you agree with our proposal to remove the current provision which expressly prohibits so-called 'reactive save' activity (in GC 22.15)?

We are concerned that there may be a potential conflict between the proposal and GC1.2 which states:

“Where the Communications Provider acquires information from another Communications Provider before, during or after the process of negotiating Network Access and where such information is acquired in confidence, in connection with and solely for the purpose of such negotiations or arrangements, the Communications Provider shall use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored. Such information shall not be passed on to any other party (in particular other departments, subsidiaries or partners) for whom such information could provide a competitive advantage.”

Please could Ofcom confirm to all CP's whether, and if so how, it would enforce compliance with GC1.2 should the prohibition on “reactive save” activity be removed.

If reactive save activity is implemented it will mean increased competition for the services of consumers who are considering changing supplier once their current supplier receives a transfer order, as it is likely they will contact the consumer to see if it can retain their services. This will diminish the average success rate of the gaining provider, as well as add additional costs, potentially significantly increasing the gaining provider's customer acquisition costs. It is likely that, over time, there will be less switching activity as a result. It is our belief that less switching activity is likely to lead to higher prices being charged by incumbent suppliers, especially if they are afforded a save opportunity when faced with the prospect of losing a customer.

Further, Ofcom may wish to consider how to encourage inactive consumers to engage. The Competition and Markets Authority provided a solution to this issue within the energy industry by requiring suppliers to share information on disengaged customers so they could be approached by competitors. This approach may also work within the communications industry. Ofcom's research shows that nearly 50% of SME's have not changed communication provider, suggesting a high degree of inactive SME's, which is only likely to increase if save activity is not prohibited.

Q21. 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.

No. We do not understand why Ofcom is proposing to replace the current condition (GC 22.3) with less prescriptive requirements. The new requirements are less specific and less clear than the existing requirements and we believe replacing them may in fact cause more harm.

Ofcom is also proposing that the customer should receive a written offer prior to the sale. We do not believe this is necessary when the customer can cancel the agreement at any point up to the transfer date and there is already an obligation to confirm certain key information in durable medium.

Q22. 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?

No.

Q23. Do you have any comments on our equality impact assessment?

No.

Q24. Do you have any other comments on the matters raised by this consultation?

No.