

## Advice to Ofcom from the Ofcom Consumer Panel



<b>Title of Ofcom Project:</b>	Quality of Service Consultation
<b>Date:</b>	10/10/2008
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<b>Paper no.</b>	AO 75

### INTRODUCTION

1. This Advice Note from the Ofcom Consumer Panel builds on the advice offered in our Note of 18 May 2007:

<http://www.ofcomconsumerpanel.org.uk/advice/documents/RevisedT8.pdf>

Specifically it is a general response – as opposed to a response to each of the questions posed - to the Ofcom consultation document “*Review of quality of service information – Phase 1: information on quality of customer service*” published on 17 July 2008.

### TRANSPARANCY AS A CONSUMER RIGHT

1. In the Panel’s view, consumers have a right to transparent information that supports comparison, before they decide to buy goods or services. This information needs to include, both how much they will have to pay and what they can expect of the goods or services on offer.
2. Price (at least basic service or unit price) will be known to the buyer before there can be agreement to buy, but quality often remains unknown until the service is experienced. Of course, a disappointed customer can change provider but often inertia sets in, especially with subscription services, such as electronic communications, where switching is more complex. And there is less incentive to change if the quality of service remains uncertain.
3. Quality of service data is therefore particularly helpful to consumers in the electronic communications market.
4. In a recent article<sup>1</sup> Patrick Xavier of the Faculty of Business, Swinburne University of Technology, Melbourne, Australia, concluded: “Consumers of electronic communication services have the right to be provided with clear, accurate, and sufficient information about the terms, conditions, and costs

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<sup>1</sup> “Consumer Information Requirements and Telecommunications Regulation” in “The Information Society” journal, by Patrick Xavier  
<http://dx.doi.org/10.1080/01972240802356133>

associated with a transaction to enable them to make an informed decision about whether to sign a contract.

5. Provision of good (not necessarily *more*) information to consumers should be given attention in view of the complexity of electronic communications, the plethora of new services, and the increasing purchase of bundled services through long-term contracts (typically eighteen months).
6. Recently the<sup>2</sup> Centre for Competition Policy concluded that: “the influence of a consumer's expected gains and costs provide only a small part of the explanation for the possibility that they will be active in a market. The *confidence* with which consumers predict their likely gains and costs seem to be much more influential in determining whether or not they will switch.” The importance for switching of consumer confidence must surely be supported by knowing that quality of service will be acceptable with a new supplier.
7. Of course, few would argue against the principle of transparency. Instead, the opposition to regulatory requirements to publish quality of service information in electronic communications has focused on two points:
  - The principle of minimising regulation in a competitive market.
  - The costs and benefits of gathering and publishing the information.
8. If it is conceded that it is appropriate to require publication of quality of service information, the other main issues to consider are:
  - The choice of measures and the level of comparability
  - The process of publication and the promotion of awareness
9. We now address, in turn, each of these four points – before concluding with some more general comments on the scope of comparable information and Ofcom's consultation process as illustrated by this one.

## **MINIMISING REGULATION IN A COMPETITIVE MARKET**

10. Whilst, it is widely accepted that unnecessarily intrusive regulation should be avoided and that regulation which the market has outgrown should be phased out. There is a need for regulation that guarantees basic consumer rights within a competitive market. Interestingly, a requirement to publish information is becoming more common in other contexts. House vendors now have to provide Home Information Packs; electrical appliances must carry energy efficiency ratings; and various systems offer consumers ways of assessing how packaged foods contribute to their diet.
11. The provision of timely, accessible, accurate and relevant consumer information provides consumers with the tools to make informed decisions, while leaving providers the flexibility to differentiate their offers and innovate - to choose which price/quality combination(s) to offer, for example. There is a real sense then in which the provision of good consumer information supports a competitive market place and reduces the case for more regulation.

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<sup>2</sup> Centre for Competition Policy, “Gain Or Pain: Does Consumer Activity Reflect Utility Maximisation?”: [http://www.ccp.uea.ac.uk/publicfiles/policybriefings/CCP\\_08-15\\_pb.pdf](http://www.ccp.uea.ac.uk/publicfiles/policybriefings/CCP_08-15_pb.pdf)

12. We agree then with Ofcom that quality of service information is an essential element of a competitive market place, empowering consumers to make appropriate decisions.

### **COSTS AND BENEFITS OF GATHERING AND PUBLISHING INFORMATION**

13. Companies need to gather information on their own and their competitors' quality of service (and customers' perceptions of both) in order to understand their position in the market.
14. The information of interest to potential consumers represents only a small subset of the information that is of interest to company management, and correspondingly the cost of producing it is a minor normal running cost.
15. The costs of potential lost business through improved transparency are likely to be hugely varied and will depend on the relative quality of service and reputation of each company. For some providers, publication could result in increased sales which cancel out the costs of data collection, for others there could be lost customers. This risk can be managed of course, by improving quality of service, which illustrates the way in which comparable information should help to drive quality up.
16. The TopComm Forum, its website for publishing the indicators, and its comparability auditor create clearly visible costs which are an easy target for objectors. Being apportioned equally among all industry participants, these costs bear more heavily on smaller companies. But, even for the smaller companies, the amounts in question are small by any reasonable business standards.
17. In short then, while there are clearly costs attached to the provision of comparable information, The Panel believes that these costs should be low and are a small price to pay for, what should be, a more dynamic market.

### **CHOICE OF MEASURES AND LEVEL OF COMPARABILITY**

18. A key feature of the Direction is the requirement for the quality of service measurements from different service providers to be comparable. Ensuring comparability requires co-operation by competing service providers, and to date this has led to much bad feeling and delay (with both the current compulsory TopComm scheme and its voluntary predecessor CPI, Comparable Performance Indicators).
19. It is striking that, even under the current TopComm scheme, with its stress on comparability of rather few indicators, two of the indicators are not at all comparable or not in a meaningful way for consumers. These are the indicators of service provision and fault repair, both of which are expressed in terms of the percentage of occasions that a company meets its own objectives rather than in terms of the actual time taken. This non-comparability, which is confirmed by the TRAQS study published in parallel with the consultation, was a result of Ofcom leaving decisions on measurement definitions to the industry.
20. In the case of the wholly voluntary TopNetUK mobile scheme, information may be comparable but relates only to how networks handle calls.

21. As regards the aspects of service quality to be measured, Ofcom's own research shows that all those currently specified in the Direction are still of interest to consumers of fixed telephony, while others are coming to the fore for mobile telephony and broadband. Across all types of service, the quality of personal interaction with the company ("customer service") is increasingly important. An interesting new area for indicators is that of technical support. The ever-growing complexity of electronic communications means that customers greatly value free or low-charged helplines that provide prompt, effective support.
22. Other areas for specification are the frequency of publication of quality of service indicators, and any breakdowns that should be provided, for example by geographic region or urban/suburban/rural. A guiding principle here should be that the figures published should be a reasonably reliable guide to the service that consumers are likely to experience themselves. If performance is rather uniform, then a single figure may represent it adequately; but, if performance is highly variable either in time or in space, then an indication of that variability is needed.
23. The Panel would like to see Ofcom playing a more active role in agreeing measurements for publication and their level of comparability, based on research and consultancy. We would also like to see more consumer interests involved in the development of information schemes. We would therefore encourage the establishment of a stakeholder working group as mentioned in paragraph 3.45.

## **PUBLICATION AND AWARENESS**

24. We note that usage of the TopComm website has been disappointingly low. According to the consultation document, there are currently around 1,000 visits a week to the web site and it is suggested – probably correctly – that many of the hits are visits by individuals already familiar with the site. It would be interesting to see an analysis of traffic to the site over its lifetime and whether it has grown significantly over time. Also it would be useful to know the relative usage of the consumer and business sections of the site.
25. The key issue though is the circular argument that because there is low usage, it is not worth developing the site; whereas The Panel would argue that usage remains low precisely because there is virtually no promotion of the site.
26. The TopComm scheme – or its successor – along with any other comparable consumer information, needs to be publicised much more effectively in a variety of ways including those proposed in the consultation document.
27. We think Ofcom should look at the following, as a partial remedy to the promotion and thus wider use of the TopComm website.
  - The TopComm website needs to be much more widely promoted by Ofcom. Currently it is hard to find on Ofcom's consumer-facing web pages (it is four clicks deep at: <http://www.ofcom.org.uk/consumeradvice/landline/residential/choosing/> and not found under other likely-looking headings). Whilst we acknowledge that recent efforts have been made to make the Ofcom web site more consumer-friendly, perhaps the time has come for Ofcom to consider whether it is expecting a single web site to do too much and whether it should consider a separate site dedicated to consumer information and advice along the lines of that operated by the Irish regulator: <http://www.askcomreg.ie/>

- Encouragement to use the site – and similar information sources – by callers to the Ofcom Advisory Team (OAT)
- Clear linkage from the web site of each member company on the TopComm Forum, perhaps with a standard logo and explanatory text
- Encouragement to all relevant consumer groups and agencies, including Consumer Direct and Consumer Focus, to provide such a link
- The TopComm website needs to be much more widely promoted by other parties
- To help people who are “shopping around”, price and quality of service information should be provided together, in an easily accessible form. A prominent link to TopComm from price comparison websites is better than nothing, but it is not enough.
- The information provided by TopComm should be capable of being searched and presented more flexibly. For example, someone especially interested in reliability should be able to ask: which are the most reliable performers?
- Ofcom should have a special briefing session on consumer information services, including TopComm, with selected consumer affairs journalists and those who professionally advise consumers including Consumer Direct, and Citizens Advice.
- Regular media releases coinciding with the publication of the latest statistics and highlighting the main features and changes
- Provision of the same information in Ofcom's quarterly Consumer Bulletin
- Production of a fact sheet for journalists and consumer groups and active circulation of such a fact sheet (including at Ofcom events)

## **THE SCOPE OF COMPARABLE INFORMATION**

28. Although this Advice Note is a response to a consultation document on quality of service in the fixed line market, we would point out that this segmented approach to the issue of consumer information does not reflect the reality of the consumer experience. “The UK Communications Market 2008”, published by Ofcom on 14 August 2008, points out that four in ten households took a bundled communications service in 2007 and that more complex bundles are becoming increasingly popular. In these circumstances, we would suggest that what consumers really want is the bringing together of information on cost with information on quality of service across the range of services: fixed, mobile, broadband and digital television.
29. In “The Consumer Experience: Research Report” published by Ofcom on 20 November 2007, paragraph 4.4.2 shows that the most popular source of information on communications services is friends and family which, while understandable, is not necessarily a firm basis for informed decision-making. The most vulnerable consumers – older and poorer consumers – are the least likely to use web sites. Future surveys of this kind could usefully explore whether consumers look to Ofcom for information or would do so if they knew Ofcom provided information.
30. This raises a question about the extent to which Ofcom should provide information to consumers about products and services? We would like to see wider discussion on this issue going forward.

## **OFCOM'S CONSULTATION PROCESS**

31. In the five years of its existence, the Ofcom Consumer Panel has engaged with a great many Ofcom consultations and has repeatedly draw attention to

deficiencies in the current process in terms of engaging those representing the consumer interest.

32. The consultation on quality of service information runs to 91 pages and poses no less than 74 questions. It is supported by a study from TRAQS which represents an additional 43 pages. This study has two annexes of 21 pages and 32 pages respectively.
33. Ofcom is to be congratulated on producing a plain English summary of the consultation and a TopComm Review FAQ and we acknowledge that the regulator is conducting market research to identify what consumers care about. But the Consumer Panel seriously questions whether this is enough to ensure that the consumer view is properly heard in this consultation.
34. We would offer a few ideas that might have improved this consultation exercise and could be considered for future such exercises, not least on the second stage of the review:
  - Either the number of questions in the consultation could have been much reduced and/or some questions could have been prioritised for answer.
  - Proactive interviews, either face-to-face or telephone or even electronically, could have been conducted with selected stakeholders acknowledged as representative of different categories of consumer.
  - A consumer workshop could have been held with some relevant industry representatives, so that there is an informed and balanced discussion of the issues.