

Citizens Advice response to 'Ofcom's Consumer Policy – a consultation'

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European Consumer Centre

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Citizens Advice is an operating name of
The National Association of Citizens Advice Bureaux
Charity registration number 279057

Registered office: Myddelton House
115-123 Pentonville Road, London N1 9LZ
Tel 020 7833 2181
Fax 020 7833 4371

Summary

- It is right that Ofcom should seek to take supplementary action to protect vulnerable consumers.
- Given the make-up of CAB's client base, and the need for Ofcom to pay attention to all the available evidence when carrying out its regulatory activities, we encourage Ofcom to view on a regular basis the evidence that we collect from bureaux.
- We are particularly pleased to learn that Ofcom will look for ways to better respond to new problems as they emerge, and take prompt enforcement action to curtail activities that are detrimental to consumers.
- We consider more robust action is required than to "proactively encourage" recalcitrant suppliers to mend their ways in terms of improving the way they handle customer complaints.
- We are disappointed that Ofcom considers that it does not have a primary role in improving information flows between suppliers and consumers. While we recognize that suppliers should provide information about their own products and services, we consider that there is an important role for a trusted source, namely the regulator, to step in to provide information about the market as a whole, about what to look for in certain products and services, to tip people off about potential pitfalls etc.

Introduction

The Citizens Advice Bureaux (CAB) network is the largest independent network of free advice centres in Europe, providing advice from over 3,200 outlets, including bureaux, GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services.

The service has two equal aims:

- to ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities or of the services available to them, or through an inability to express their needs effectively;
- and equally, to exercise a responsible influence on the development of social policies and services, both locally and nationally.

Citizens Advice is delighted to have an opportunity to comment on Ofcom's Consumer Policy. In 2004-2005 Citizens Advice Bureaux (CABx) in England, Wales and Northern Ireland received 110,000 enquiries about problems with utilities, including telecommunications. In addition, between October and December 2005, eighty five bureaux using a more detailed statistical recording programme reported that:

- 28% of the enquiries they dealt with in relation to fixed-line and mobile phones were concerned with costs and billing issues; and
- 22% of the enquiries they dealt with were about complaints and redress.

The evidence that bureaux submit allows us to see clearly the areas where Ofcom's consumer policy fails to achieve sufficient levels of consumer protection, and this response highlights the areas where we consider improvements could be made.

Of particular concern to Citizens Advice is how Ofcom discharges its responsibilities towards disadvantaged or vulnerable consumers, since many of our clients are on low incomes or benefits, or are disadvantaged in some way. For example, research by MORI for Citizens Advice found that CAB users tend to be in social grades DE and be unemployed, or living in social housing.¹

General Comments

There is much to welcome in Ofcom's proposals on how to take forward consumer policy in the telecommunications market. Citizens Advice considers that for too long Ofcom has failed to:

- embed consumer policy into its wider remit of promoting competition;
- have early warning systems in place to detect new activities that cause harm to consumers;
- deal with such detrimental actions swiftly and efficiently, and in so doing to minimise harm to consumers;
- take seriously its role in educating all consumers, particularly vulnerable consumers, about telecoms issues; and
- address the issues which limit some consumers' willingness to switch provider.

The proposals set out in 'Ofcom's Consumer policy – a consultation document' go a long way to addressing many of these complaints. Citizens Advice particularly welcomes proposals for:

- the integration of consumer policy into matters relating to competition policy to make sure that "explicit account is taken of the relevant consumer interests when carrying out competition policy projects";
- the undertaking to improve Ofcom's level of co-ordination and communication with consumer groups;
- reducing the lead time involved in identifying new problems and taking enforcement action against offenders;
- giving greater weight to the interests of vulnerable groups, such as children, older people, disabled people, or those on low incomes, when formulating and implementing consumer policy.

¹ Financial Overcommitment, research study conducted for Citizens Advice by MORI, July 2003

We look forward to working with Ofcom to make sure that these aspirations are translated into practical policies that will make a real difference to consumers' experience of the telecommunications market.

Specific comments

Question 1: Do you agree with the proposed distinction between citizen and consumer interests?

Given the requirements laid out in the Communications Act for Ofcom to further the interests of citizens in relation to communications markets and also to represent the interests of consumers in relevant markets, the proposed distinction seems appropriate.

However, as the consultation document notes, there is a complex relationship between citizen and consumer interests. We do not consider that it will always be possible to segregate neatly matters which relate solely to consumer interests or those that are concerned only with citizens issues. Given this, we recommend that Ofcom should scrutinize all of its regulatory activities in the context of both consumer interests *and* citizens' interests to ensure that there are no negative or unintended consequences for these groups.

Question 2: Do you agree with Ofcom's position on vulnerable consumers?

We agree strongly that Ofcom should pay additional attention to the interests of vulnerable consumers above and beyond their responsibilities with regard to consumers in general. As we state above, CAB clients tend to be disadvantaged, with many being in social grades DE and / or unemployed, or living in social housing. In many instances, these people are least able to access information about telecoms issues, to make informed choices about providers and services, and to resolve matters when things go wrong. Because of their vulnerability, supplementary protection may be required:

A CAB in Northern Ireland report that their elderly client was cold-called by a phone company and asked if she wanted to transfer her line to a different provider. The client did not understand what she was being asked, and thought that she was speaking to someone from her existing phone supplier about cheaper calls so agreed to do so. The client then began to receive bills from the new telecoms company which she did not pay as she was confused as to why she was receiving them. The client has now received a letter from a debt collection agency threatening legal action for recovery of the outstanding amount of £80.65.

A CAB in London report that their client, a 78 year old lady living alone with poor English, received a letter demanding payment for a phone bill from a supplier that was not her usual supplier. The client then realised that a man had previously come to her door after dark and asked her to sign something. The client had signed the document with the door on the chain as she wanted the salesman to go away.

A CAB in Northern Ireland helped a client who lives alone and receives income support and higher-rate disability living allowance. The client has a colostomy and suffers from angina and asthma so needs to be able to phone her family or the Doctor in an emergency. The client had built up debts of £235 to her phone supplier so had offered to pay £5 per week to clear this. The phone supplier refused this offer and disconnected the client's phone and threatened her with court action. Following intervention from the CAB, the phone supplier agreed to accept £5 per week repayments but has still refused to re-connect the phone.

Consequently, it is right that Ofcom should, where necessary, seek to take supplementary action to equip vulnerable consumers to make informed decisions about their telecoms needs and to protect them where this is needed.

Given the make-up of our client base, and the need for Ofcom to pay attention to all the available evidence when carrying out its regulatory activities, we encourage Ofcom to view on a regular basis the evidence that we collect from bureaux.

Question 3: Do you agree with the proposed high level objectives for consumer policy?

We are pleased that for the first time Ofcom is setting out its policy objectives for consumer policy. In our opinion, this will increase transparency, enable consumer groups to better understand Ofcom's role and actions and measure Ofcom's progress in achieving its aims.

It is difficult to disagree with the high level objectives laid out for Ofcom's consumer policy. We look forward to working with Ofcom to translating this high-level objective a reality.

Question 4: Do you agree that the proposed indicators provide an appropriate basis for monitoring consumer interests? Are there any other indicators which should be used?

The proposed indicators seem like a reasonable basis for monitoring consumer interests but we would make the following additional comments:

- For consumer protection, it would be helpful if there were some way to measure the severity of the complaints received by the Ofcom Consumer Centre (OCC) rather than lumping all the complaints in together – for example, perhaps a measure of the average customer detriment experienced;
- The complaints received by the OCC should be broken down by type, and the action taken by the OCC in response to queries should also be given;
- it would be sensible to include an indicator which actually measures how many people take up the complaints procedures rather than only gauging people's awareness of such procedures;
- Given the different approaches taken by Otelo and CISAS to promoting the existence of their dispute resolution schemes it might be useful to filter the results

by which ADR schemes the data applies to for the 'awareness of complaints procedures';

- Also under the consumer protection heading, we are unsure what the measure relating to 'satisfaction with Ofcom' refers to. Does this relate to the consumer's perception of how Ofcom's Contact Centre resolves their query?
- Given Ofcom's role in providing information to consumers where the market does not do so, we consider that Ofcom should track 'awareness of Ofcom' under the 'empowerment' section; and
- Also under the empowerment heading, consumers should be asked not just about their perceptions of switching but their actual experience of switching.

Question 5: Do you agree that Ofcom should publish an Annual Report on the Consumer Interest?

We agree that Ofcom should publish an annual report devoted to the consumer interest. This should include specific reference to how Ofcom is fulfilling its role in relation to vulnerable or disadvantaged consumers.

We recognize that many of the factors that could influence the outcome of the specified indicators listed in Annex 7 are beyond Ofcom's control but this is not the case for all of them. We consider that, where appropriate, targets should be set in order to act as an incentive for Ofcom to make more strenuous efforts to improve matters – for example, in relation to 'satisfaction with Ofcom' or 'ease of making cost comparisons'.

Question 6: Do you agree with the characteristics identified of effective consumer protection?

The four key elements of consumer protection laid out in the consultation document capture the essential elements of effective consumer protection. However, it will be necessary to translate the theory of effective consumer protection into practice. For example, how easy is it for a consumer to register a complaint, or to get a supplier to acknowledge a complaint?

Once again, it will be imperative to bear in mind particular issues posed by the application of the consumer protection regime to vulnerable consumers.

Paragraph 4.10 of the consultation document rightly recognises that "no single organisation has an overall perspective of potential consumer harm". In order for Ofcom to build a clearer picture of the detriment experienced by consumers, and especially the most disadvantaged consumers who may not feel sufficiently confident to call the Ofcom Consumer Centre to register their query or complaint, we suggest that Ofcom views evidence submitted by CABx on a regular basis.

Question 7: Do you agree with the assessment and priorities for rights and regulations?

We are particularly pleased to learn that Ofcom will look for ways to better respond to new problems as they emerge. Until now, the slow pace of introducing any change has meant that the regulator is always one step behind the perpetrators of scams and cons,

and that the consumer suffers real detriment as a result. For example, this has been the case in relation to rogue-diallers, and their migration from premium rate numbers to 087 numbers, an issue which Ofcom is aware of, has consulted on, but we still await action. In the meantime bureaux deal with cases such as the following:

A CAB in Buckinghamshire reported that their client, a 63 year old man from Portugal who is unemployed and not fluent in English, received a large bill from his phone provider. The large bill was attributable to rogue diallers hijacking his computer and making calls to an 087 number. With the help of Ofcom the client traced the rogue dialler and attempted to contact them but received no reply. The client is now faced with legal action by his phone provider over the costs incurred.

A CAB in Merseyside reported that their client received a quarterly bill for £1210.82, though his bills are usually in the region of £60. The inflated bill was due to rogue diallers calling four 0871 numbers via his internet connection. His telephone supplier has confirmed that he is fully liable for the charges as they were dialled from his computer. Frustratingly, the client was aware of the risk of rogue diallers so had placed a ban on premium rate numbers.

In terms of the second priority, which is to consider the circumstances in which self- and co-regulation are likely to be effective, we consider that Ofcom should proceed cautiously in this area. In our view, any move to self- or co-regulation should only be entertained once providers have proved themselves to be capable of behaving in a responsible manner in a regulated arena. We do not consider that this stage has yet been reached.

Question 8: Do you agree with the assessment and priorities regarding consumers' awareness?

While we agree with Ofcom's proposal to prioritise promoting awareness of scams, we wonder how many people are likely to access such information on the Consumer Advice section of Ofcom's website. This question seems particularly pertinent given that Ofcom is at pains to point out that it does not consider it has responsibility, in the first instance, for provision of consumer information.

In our opinion consumers are more likely to visit Ofcom's Consumer Advice website *after* they have been the victim of a scam. If the materials developed by Ofcom about scams and also about making complaints are to forewarn consumers about scams it will therefore be essential that they do not remain only on a webpage but are instead disseminated to as many trusted sources of information of possible, such as via the OFT's Scambuster team and other consumer advice agencies such as Consumer Direct and Citizens Advice Bureaux. It will, of course, also be necessary to distribute such material through a variety of different media. One option for the distribution of such material could be via a leaflet to be included with bills sent to consumers.

Question 9: Do you agree with the assessment and priorities regarding complaints handling and redress?

We support Ofcom's conclusions from the review of the ADR schemes and the need to strengthen some of the features of the schemes, but are disappointed about its weak recommendations with regards to communications providers that appear not to be handling complaints effectively. Certainly, we consider more robust action is required than to "proactively encourage" recalcitrant suppliers to mend their ways. CABx deal with a large and steady stream of cases involving poor complaint management and customer service from telecoms suppliers. The following cases give a flavour of some of the problems experienced:

A CAB in Hertfordshire reported that a client signed up for fixed line phone and broadband with a telecoms supplier. He experienced problems with the service from the very beginning, and found it impossible to get through to anyone who was able to help. There was also a long delay on the availability of broadband, which he was not informed about when signing up. The client eventually got fed up with this poor level of service and decided to cancel the contract. He has telephoned and e-mailed the supplier on numerous occasions but they continue to send him bills and increasingly threatening letters.

A CAB in North Yorkshire report a case in which their client set up a direct debit with a telephone company for £15 to pay for his phone usage. The phone company increased this direct debit to £48 with no explanation so the client decided to switch provider. The client sent 5 e-mails cancelling his agreement but received no response. He then phoned the supplier and was told that he needed to send a letter cancelling the agreement. He complied with this request but the supplier took two further payments from the client's bank account. A month later the client received a letter from the phone company stating that he owed them £352.60, and that the line could not be cancelled until this payment was made. The matter was then passed to a debt collection agency. A further letter was then received stating that £645.20 was owed, so the client again phoned the supplier and was told that this figure was wrong and that a large number of accounts had been processed wrongly in this way.

A CAB in Monmouthshire's client moved house in July 2005 and attempted to transfer his existing telephone contract to his new home. The telephone supplier failed to do as requested so the client cancelled his contract and signed up for a phone service with another company. The original telecoms company then billed the client for calls that he could not have made. The client wrote to the phone company to complain about this and they accepted that a mistake had been made and in December 2005 they wrote to the client apologizing for their mistake and confirming that the balance would be cleared. Since then the client has continued to receive monthly demands for £52 and the matter has now been handed to a debt collector that is threatening further action.

A CAB in Hampshire reported that a 70 year old client received an unsolicited phone call from a mobile phone company asking him to buy a mobile phone. He refused saying that he already had a mobile phone but a week later he received a phone in the post. He immediately contacted the mobile phone company and arranged to return the phone, which he did by recorded delivery. A week later the phone was sent back to him. He again phoned the company and was asked to return the phone to a different address, which he did. This happened on three occasions and each time he returned the phone by recorded delivery. He then received a letter from a debt collection agency claiming that he owed £391.38 and threatening legal action.

More fundamentally, we consider that more radical action is required to simplify the process of complaints handling and redress. As the consultation document notes, “the existing regulatory framework deals with complaints handling and redress in a number of different ways”. From a consumer perspective this range of processes and regulators can be bewildering and off-putting, and give the impression that the variety of regulators are simply ‘passing the buck’ rather than dealing with the issue at hand.

Question 10: Do you agree with the assessment and priorities regarding monitoring and enforcement?

We are pleased to note that Ofcom is taking a more vigorous approach to enforcement of consumer rights but consider that there is much further to go if the consumer is to have confidence in the regulator acting promptly to clamp down on underhand practices.

In this regard, we are supportive of the establishment of an early warning system to identify problems before they become too serious. Where this system identifies new scams Ofcom should be in a position to launch an immediate investigation and take swift action to extinguish such activities. It would seem sensible that this should be carried out by the newly configured investigations team.

It is disappointing to note, however, that although Ofcom took over from Oftel at the end of 2003 it is only now that it has decided to establish a dedicated investigations team, focused on enforcement of consumer rights.

Question 11: Do you agree with Ofcom’s approach to the provision of consumer information?

We are disappointed that Ofcom considers that it does not have a primary role in improving information flows between suppliers and consumers as this is best left to the market. While we recognize that suppliers should rightly be charged with providing information about their own products and services, we consider that there is a role for the regulator to step in to provide information about the market as a whole, about what to look for in certain products and services, to tip people off about potential pitfalls etc.

In other areas, the regulator provides useful information directly to consumers. For example, the FSA's comparative tables² are viewed as a reliable and trusted source of information about a variety of savings products. An alternative approach is for this information to be provided by a third-party. If this is the case it is essential that the site be clearly endorsed and approved by the regulator in order to give consumers the comfort and security of knowing that the information is reliable and derived from a trusted source.

The consultation document seems to give the consistent impression that consumer information may be delivered solely via the internet. Clearly, while the provision of information via websites is an important part of the provision of consumer information, it should not be considered as the only means of disseminating such information. Certainly, given Ofcom's commitment to consider the interests of vulnerable consumers we would recommend that other means of providing information are also offered, since many people – particularly the most vulnerable and those on low incomes - may not have access to the internet.

Question 12: Do you agree with Ofcom's conclusion on consumer awareness of suppliers and services?

We would welcome more detailed information about the awareness of alternative suppliers and general awareness of new or existing technologies before reaching any firm conclusions on this question. For instance, while we are given some information about the differences in awareness based on age, it would be useful to discover whether other variables such as income, social class, employment status etc may also have a significant impact on levels of awareness.

Question 13: Which of the options on comparative price information, if any, do you favour? Are there other options Ofcom should consider?

It seems clear that the PASS scheme needs to be revised since at present it suffers from extremely low consumer awareness. Since price continues to be the main determinant in consumers choosing a telecoms supplier there is clearly a need for the scheme to continue and for it to act as an accreditation scheme for comparison sites that provide accurate and impartial information that meets a set of minimum criteria.

We therefore consider that the PASS scheme should be retained, reviewed and re-launched (Option 3). This would enable the scheme to better meet the needs of consumers, while also providing the impetus for generating greater publicity for the scheme when it is re-launched. Allowing a range of different price comparison sites to offer the new PASS scheme could maximize the opportunities for consumers to access the information. If the new PASS scheme is clearly branded and publicized, then the existence of a variety of providers of this information need not cause consumer confusion since consumers are well acquainted with the use of quality marks in many other walks of life to denote certain agreed standards (e.g. Corgi standard in gas installation, Plain English Campaign's quality mark),

² See <http://www.fsa.gov.uk/tables>

Question 14: What is your opinion about the ideas for generating awareness of price comparison information?

We consider that it would be helpful if Ofcom could make it clearer that only certain price comparison sites meet the PASS criteria and have Ofcom's seal of approval. At present there seems little information available to consumers about the PASS scheme, and why accredited sites offer a more comprehensive and reliable service than other comparison sites. Ofcom should therefore take a more proactive stance in pushing the benefits of the PASS-accredited sites, publicizing them and making more of its quality mark status.

Question 15: Do you agree with our proposed approach regarding the Quality of Service initiatives?

We consider that the provision of additional information about the levels of service will enable consumers to take a more informed decision when considering switching to a new telecoms supplier. And we are pleased to note that the needs of vulnerable consumers will be monitored in the provision of Quality of Service initiatives.

We are, however, concerned that the Quality of Service (QoS) websites may suffer the same fate as that which befell the PASS scheme – in other words that they may have low awareness among consumers. To ensure that this is not the case, we would urge Ofcom to take a proactive stance in publicizing the schemes, and in making clear that while the QoS websites are financed by industry they provide robust information that consumers can rely on.

Question 16: Do you agree with our proposed regarding switching processes?

We recognise that there are many people who choose not to switch telecoms suppliers since they perceive that there is a lack of better offers in the market, as revealed in Ofcom's research. However, in our opinion many consumers decide not to switch telecoms suppliers because switching offers consumers the prospect of making relatively small savings and this needs to be balanced against the significant risk of problems emerging during the complex process of switching. These problems can often take time and effort on the part of the consumer to resolve. The following cases demonstrate some of the difficulties that can ensue following a switch of provider, and the way the onus is placed on the consumer to spend both time and money attempting to sort the problems out:

A CAB in West Yorkshire reported a case in which their client had switched phone companies but still continued to receive bills from his previous supplier. The client had paid the first of these erroneous bills but had now received another demand for £16. The client's son and daughter had made several attempts to contact the old supplier by phone and had also written a letter in an attempt to resolve the matter but had received no response.

Faced with this, many consumers simply choose to remain with their current provider and to pay a small premium for peace of mind and an uninterrupted service.

We acknowledge that Ofcom is currently consulting on these issues in the separate consultation on 'Migrations, Switching and Mis-selling'. We will be submitting a full response to this, and will be encouraging Ofcom to iron out difficulties that can sometimes beset the process of switching and lead to inertia on the part of consumers.