



Claudio Pollack  
4<sup>th</sup> Floor, Ofcom  
Riverside House  
Southwark Bridge Road  
London SE1 9AH

April 2006

[claudio.pollack@ofcom.org.uk](mailto:claudio.pollack@ofcom.org.uk)

## **Ofcom Consultation on Ofcom's Consumer Policy**

### **NOC UK Response**

The Network for Online Commerce (NOC) is a not for profit trade association that exists to promote and facilitate profitable enterprise in Telemedia markets around the world and we welcome the opportunity to comment constructively on the captioned Ofcom document regarding their policy on the protection of consumer interests in the UK Telecommunications Market.

#### **1. General**

We would like to state at the outset that it is the fundamental view of the NOC that Consumers who are fully informed at the point of sale and are offered complete freedom of choice enjoy the most effective form of Consumer Protection.

There will always be a small minority of consumers who, for whatever reason, demand, and should receive, a higher level of protection but, as a minority, the level of protection offered must be sensible and must not have a disproportionate or distortional effect on the majority market.

#### **2. Comments**

##### **Objectives of Consumer Policy**

In the overall objective, the NOC would not expect Ofcom to be seeking responsibility to protect consumers from physical harm. It is also not clear how Ofcom might provide the 'tools' to assist in informed choice other than ensuring consumers are fully informed regarding any potential transaction. It

should not be part of the Ofcom remit to provide comparative information on competing services.

With respect to the individual objectives:

- *Consumer interests are fully and consistently taken into account in the development and evaluation of policy, supported by appropriate evidence on the state of consumer opinion;*

NOC entirely agrees with the principle of consumer protection but it must be balanced by input from industry. Consumers are not standalone items but are part of a total service package with rights and responsibilities on both sides.

- *Consumers have access to clear advice on their rights, and to effective complaints handling procedures and redress;*

We would like to see the word responsibilities included alongside 'rights'.

- *Regulatory obligations on suppliers provide an adequate level of consumer protection, without imposing an undue burden whilst being objectively justifiable, not unduly discriminatory, proportionate and transparent;*

Agreed.

- *Compliance monitoring and enforcement are fair, consistent, effective and proportionate;*

We would like to see the word transparent added.

- *Consumers are equipped with the information, skills and confidence needed to obtain a good deal;*

NOC does not understand how Ofcom could realistically accept responsibility for equipping consumers with skills. As previously stated we also do not consider it appropriate that Ofcom become involved in offering comparative service information to enable consumers to identify a 'good deal' in a competitive market place. It must surely be a regulatory priority to achieve a level playing field wherein consumers are free to make informed choices.

- *Due consideration is given to the needs of vulnerable consumers, to ensure that they are not disadvantaged by the operation of the market;*

Agreed. This corresponds precisely with the requirements of the NOC Code of Ethics but it is important to keep a sense of perspective in order not to unduly disadvantage the majority.

## **Integration with Competition Policy**

We welcome Ofcom's commitment to the promotion of effective competition as the effective route to best serving the interests of consumers. There should certainly be improved contacts between Ofcom and recognised consumer organisations but it is also important to have equivalent exposure to Industry to ensure a balanced view is achieved.

We appreciate that this document is focussed on consumers but it would be an error to address consumers in isolation from the realities of a competitive market place.

### **Consumer Protection Priorities (Proposals)**

- ***To develop an Early Warning System;***  
NOC has long advocated such a system which will require much closer and open communication between Industry and Regulator to identify problems at an early stage. We have had a recent example (0871) where a reaction to early information was triggered without Industry discussion and with unfortunate repercussions for all involved. Such arbitrary regulatory action merely alienates the regulatory regime from the industry it needs to work alongside.  
NOC would welcome the opportunity to contribute to a genuine and transparent Early Warning System and our preference would be to use such a system to solve problems at an early stage in addition to feeding information into policy initiatives. This would require effective engagement between Regulator and Industry representatives.
- ***To include the Consumer Advice section on Ofcom's website advice on consumer rights, scam alerts and an up to date overview of 'hot topics' from Ofcom's Contact Centre;***  
It is important that Ofcom restricts its views to impartial statements of fact and not become involved in comparative opinion on services. We would also like to see any references to consumer rights balanced by equal exposure to consumer responsibilities.  
Any useful information available to consumers is welcomed but it only becomes useful if consumers read it. There is no substitute in our view for ensuring full information is provided to consumers at the point of sale.
- ***To implement the recommendations of the recent review of ADR schemes and consider the scope for further improvement in complaints handling procedures;***  
NOC Members are fully aware of the importance of complaints handling processes and have operated their in house systems in a very effective manner for many years and without regulatory intervention in the vast majority of cases. They are also well versed in dealing with the abuse of services by a minority of customers.  
There is always room for improvement but it should be realised that where legitimate business is concerned the competitive market ensures that Service Providers look after their customers. The implementation

of the Service Provider Registration Scheme proposed by the NOC would be of great benefit to the handling of consumer complaints.

- ***To undertake a review of self and co-regulation;***  
NOC would welcome such a review which should include clear definitions for ‘self’ and ‘co’ regulation at the outset.  
It is useful to remind ourselves that problems caused by non-compliance represent a very small component of a large, successful and important business. Many of the ‘scam’ activities which, justifiably, cause so much consternation are in fact illegal and we would like to see the law enforcement agencies take a more active part in their elimination before any more costly and unnecessary overhead is added to legitimate business.
- ***To undertake a detailed review of consumer related General Conditions;***  
The NOC has long been an advocate for simple core Conditions surrounded by more flexible and adaptable Guidelines and we would welcome such an approach.  
We also strongly support the principle of effectively targeting offenders and reducing the regulatory burden on compliant suppliers.
- ***To develop streamlined processes for the enforcement of consumer regulations;***  
Procrastination and uncertainty are the anathema of good business and the NOC welcomes any moves to streamline the enforcement process provided it retains the basic regulatory principles and particularly transparency and consistency.

### **Consumer Empowerment**

NOC supports the enhancement of useful information to consumers that will assist them in making informed choices at the point of sale and enable them to fully understand their rights and responsibilities.

As previously stated we do not believe Ofcom has a role in helping consumers ‘to decide between different offers and suppliers’ and Ofcom should restrict itself to providing factual information and not venture into the area of subjective opinion. For Ofcom to become involved in well meaning consumer decision making would leave it open to accusations which, while probably unjustified, would certainly be unwelcome.

### **3. Questions and Answers**

#### ***Question 1 (General)***

***Do you agree with the proposed distinction between citizen and consumer interests?***

#### **Answer 1**

Yes but with the observation that issues of Citizen interests are more related to a political agenda, requiring Westminster input, rather than regulatory.

***Question 2 (General)***

***Do you agree with Ofcom's position on vulnerable consumers?***

**Answer 2**

NOC agrees that it is important to protect the various sectors of society that are especially vulnerable to harm by nature of their circumstances. The role of the Regulator should be limited to ensuring that these vulnerable consumers are not unreasonably exploited and it should not be part of Ofcom's brief to ensure vulnerable consumers, nor any other consumers, have the power to 'get a good deal' by providing information on competing services. It has to be accepted however that the vulnerable sector is still a minority, albeit an important one and that in addressing this minority the interests of the majority should not be impacted in a disproportionate manner.

***Question 3 (General)***

***Do you agree with the proposed high level objectives for consumer policy?***

**Answer 3**

NOC welcomes any initiative which results in greater contact and co-operation between Industry and Regulator.

- *consumer interests are fully and consistently taken into account in the development and evaluation of policy, supported by appropriate evidence on the state of consumer opinion;*  
Yes, but balanced by Industry interests.
- *consumers are equipped with the information, skills and confidence needed to obtain a good deal;*  
It is difficult to see how Ofcom can realistically expect to assume responsibility for developing consumers' skills and, to a lesser extent, confidence in deal striking abilities.  
We completely agree with equipping consumers with information but it cannot be Ofcom's responsibility to ensure consumers select the 'best deal'. There are open market services available to consumers' that perform a service comparison function, should the consumer elect to utilise them. 'Which?', provided by the Consumer Association as a subscription service, is an obvious example and there are others.  
The Ofcom role should be restricted to meeting its lawful obligation as stated in the Consultation ' -To further the interests of consumers in relevant markets, where appropriate, by promoting competition'. It is the NOC view that Ofcom best satisfies this objective by ensuring open competition exists and that the market offers customers genuine choice.
- *consumers have access to clear advice on their rights, and to effective complaints handling procedures and redress;*  
Yes, we agree, but this should include equal emphasis on consumer responsibilities.

- *regulatory obligations on suppliers provide an adequate level of consumer protection, without imposing an undue burden;*  
Yes, we agree, but it would be clearer if the closing words ‘on suppliers’ were added.
- *compliance monitoring and enforcement are fair, consistent, effective and proportionate;*  
Agreed.
- *due consideration is given to the needs of vulnerable consumers, to ensure that they are not disadvantaged in the market.*  
Agreed, provided that measures are reasonable and do not adversely impact or distort the majority market interests in a disproportionate manner.

***Question 4 (General)***

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

**Answer 4**

Yes, they appear to form the basis of a useful report. It would be useful if some distinction could be made between contacts and valid complaints.

***Question 5 (General)***

***Do you agree that Ofcom should publish an Annual Report on the Consumer Interest?***

**Answer 5**

Provided the Annual Report presents a balanced view from both Consumer and Industry perspectives it will provide useful market information.

***Question 6 (Consumer Protection)***

***Do you agree with the characteristics identified for effective consumer protection?***

**Answer 6**

Yes we generally agree but, once again, we would like to see reference to and acknowledgement of consumers’ responsibilities as well as their rights.

***Question 7 (Consumer Protection)***

***Do you agree with the assessment and priorities for rights and regulations?***

**Answer 7**

We have previously answered this question in the earlier Consumer Protection item. To summarise:

- The first priority proposed is to reduce the time taken by Ofcom to deal with issues as they arise. We agree with this.

- The second priority proposed is to review the mutual effectiveness of ‘self’ and ‘co’ regulation. We agree a review would be useful.
- The third priority proposed is to review the consumer-related General Conditions during the 2006/2007 financial year. We welcome such a review and would particularly welcome any initiatives to minimise the regulatory burden on compliant firms

***Question 8 (Consumer Protection)***

***Do you agree with the assessment and priorities regarding consumers’ awareness?***

**Answer 8**

We agree that consumer awareness regarding ‘scams’ should be promoted. With respect to improving consumer information regarding rights and complaints procedures we repeat our concern that equal emphasis should be placed on consumers’ responsibilities.

***Question 9 (Consumer Protection)***

***Do you agree with the assessment and priorities regarding complaints handling and redress?***

**Answer 9**

We believe the management of complaints would be greatly enhanced by the introduction of the Content/Service Provider Registration Scheme previously proposed by NOC and we strongly recommend that Ofcom support its implementation.

NOC would welcome the introduction of agreed performance targets for ADR schemes and would particularly welcome regular reports showing the breakdown of complaints received by type. This would also be usefully applied to ICSTIS who have in the past lacked clarity regarding the quantities and types of actual complaints.

NOC would welcome a constructive dialogue with Ofcom on complaints handling processes.

***Question 10 (Consumer Protection)***

***Do you agree with the assessment and priorities regarding monitoring and enforcement?***

**Answer 10**

Before enforcement can be applied problems have to be identified and NOC can contribute to this through the Early Warning System. It is essential that Industry be involved in the monitoring process with a view to solving identified problems early and reducing consumer harm.

The proposals seem to be more concerned with the introduction of process which, while important, cannot protect consumers more effectively than early action.

***Question 11 (Consumer Empowerment)***

*Do you agree with Ofcom's approach to the provision of consumer information?*

**Answer 11**

The most useful, important and effective information that can be supplied to consumers is that provided at the point of sale. The further that information moves from the point of sale the less useful it becomes.

This section appears to move away from earlier Ofcom intent to ensure consumers a 'good deal' and we are pleased to see an apparent acceptance that Ofcom does not have a primary role in the flow of information between suppliers and consumers.

*Question 12 (Consumer Empowerment)*

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

**Answer 12**

We are happy that Ofcom will only take action to raise general awareness where there is evidence that lack of information is likely to cause consumer harm.

We doubt the assumption that older people have significantly lower awareness. Those who still have the capacity to use services are more aware than you might think!

*Question 13 (Consumer Empowerment)*

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

**Answer 13**

We would suggest that Ofcom information be made available to any pre-qualified Comparison Provider and that free market forces take information to consumers. As Ofcom notes there are such services in the market place today and it should not be Ofcom's remit to compete with them.

*Question 14 (Consumer Empowerment)*

*What is your opinion about the ideas for generating awareness of price comparison information?*

**Answer 14**

As with the previous item Ofcom should rely on third party Comparison Providers. Any published document is normally out of date before it is released and would not justify its cost.

*Question 15 (Consumer Empowerment)*

*Do you agree with our proposed approach regarding the Quality of Service initiatives?*

**Answer 15**

We agree with the approach of requiring suppliers to provide defined quality of service information, available to consumers on demand.



We also agree that information on pricing, availability, service speeds etc. is adequately covered by the media.  
As a matter of principle we would expect Ofcom to use free market facilities wherever possible to disseminate information of this nature.

***Question 16 (Consumer Empowerment)***

***Do you agree with our proposal regarding switching processes?***

**Answer 16**

We strongly suspect any reluctance to switch suppliers by consumers is largely down to inertia rather than a lack of sufficient information. We would suggest Ofcom maintain a watching brief and maintain its laudable instinct against intervention.

**4. Conclusions**

As we stated at the outset there can be no better consumer protection than having an end user fully aware at the point of sale of the nature and cost of the transaction offered. This benefits both the consumer and the supplier.

Our Telemedia industry consists of two distinct elements, the legitimate and honest business, which accounts for the vast majority of commerce transacted, and the irresponsible opportunists who create havoc out of all proportion to their size. All businesses have their rogue elements and this has to be managed with a sense of proportion and an appreciation for those who have created a world leading and valued industry within the UK. It is our belief that our proposed Content/Service Provider Registration Scheme, administered by the PRS Regulatory Authority ICSTIS, on behalf of Ofcom, is the most effective way forward. This is not an isolated NOC view but one that is attracting support across all areas of the industry.

Ofcom has the key role to play in regulating our business (via ICSTIS) but it cannot do it in isolation and we are pleased to acknowledge a growing acceptance that Industry also has an important role alongside Ofcom. The NOC is pleased to respond to this consultation and looks forward to participating in any ongoing discussions.

**5. Close**

We look forward to your response and assure you that, as ever, our comments are made constructively and with a view to achieving an effective, fair and proportional regulatory regime for Premium Rate Services in the UK. If we can be of further help or if you require clarification on any points made please contact us via [roy@noonline.org](mailto:roy@noonline.org) or call 08707 327327.

Sincerely

Neil Penny  
Chairman NOC UK

