



12 May 2017

Citizens Advice input into Ofcom's consultation on its review of ADR schemes

Citizens Advice welcomes this opportunity to provide inputs into Ofcom's forthcoming review of Alternative Dispute Resolution (ADR) schemes for Ombudsman Services: Communications (OS), and for Communications and Internet Services Adjudication Scheme (CISAS).¹

As requested by Ofcom, we focus on how the schemes have performed against the criteria set by the Communications Act 2003 and whether the measures put in place to ensure effectiveness remain appropriate.²

As an input to the Review we point Ofcom towards our recent research on ADR³. This study was based on a comparative assessment of different ADR schemes against broadly similar criteria to those that Ofcom proposes to use for its Review.⁴ We set out below general points in relation to the Communications Act criteria and specific points concerned with the schemes under Review.

General points from our research about the effectiveness of ADR

Our research identified three main problems which are getting in the way of the success of ADR schemes.

1. That the current consumer landscape is confusing;

¹ Ofcom: "Review of Alternative Dispute Resolution Schemes: Call for Inputs". 31 March 2017

² Paragraph 3 of Section 52 of the Communications Act 2003 sets the following criteria for Ofcom:

"It shall be the duty of OFCOM, in setting conditions in accordance with subsection (1), to secure so far as they consider appropriate—

(a) that the procedures established and maintained for the handling of complaints and the resolution of disputes are easy to use, transparent and effective;

(b) that domestic and small business customers have the right to use those procedures free of charge; and

(c) that where public communications providers are in contravention of conditions set in accordance with the preceding provisions of this section, the providers follow such procedures as may be required by the general conditions."

³ Citizens Advice: "Confusions, gaps and overlaps. A consumer perspective on alternative dispute resolution between consumers and businesses." April 21 2017. Available at:

<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/confusion-gaps-and-overlaps/>

⁴ Ofcom's call for inputs proposes the following criteria, accessibility, independence, fairness, efficiency, transparency, effectiveness and accountability. (Page 2). Our Confusions, gaps and overlaps report used the following criteria, accessible and visible, independent and impartial, expert and professional, comprehensive and integrated, adequately resourced, effective and efficient and responsive and future-proof.

2. That it is often not designed with consumers' needs in mind, and;
3. That improving ADR provision is hampered by a lack of good quality data.⁵

Our research was hampered by a lack of good quality data, particularly about the consumers who use ADR schemes. It found that ADR schemes do not collect information about the consumers who use them.⁶

It also found that consumers often have a poor awareness of the ADR options available to them with less than one in seven having heard of the term 'alternative dispute resolution' and only 2% having used ADR.⁷

Furthermore, there remain significant gaps where businesses choose not to sign up to an ADR scheme.⁸ However in regulated sectors consumers may be put-off from using ADR by the range of overlapping schemes.⁹

Overall, our report on ADR suggests that ADR schemes score highly on their independence and impartiality, have low levels of complaint and appear adequately resourced.¹⁰ However, some providers gave us little information in relation to customer satisfaction, their level of resourcing, their performance against their Key Performance Indicators (KPIs) and whether they were meeting the timescales set by the ADR Directive for resolving disputes which fall outside their remit.¹¹

Our report also highlights the value to consumers of close collaboration between the regulator, consumer bodies and the ADR provider.¹² It is important to ensure regular monitoring of the consumer experience of ADR, to pick up and resolve any issues that may arise. In the energy sector this is ensured by a tripartite agreement between Citizens Advice, Ofgem, and Ombudsman Services: Energy, which commits all three organisations to share data with each other in order to identify market trends and enforcement opportunities.

It is also important for consumers that schemes are free of charge as any costs may deter them from using ADR.

Specific points related to these schemes

The OS Communications scheme was one of the largest considered in the research. The report identified gaps in the scheme's remit which including its inability to deal with complaints about equipment sold in conjunction with a

⁵ Citizens Advice: "Confusions, gaps and overlaps. A consumer perspective on alternative dispute resolution between consumers and businesses." April 2017. Pages 5 and 6.

⁶ Ibid. Page 34.

⁷ YouGov poll of 2,109 UK adults commissioned by Citizens Advice and conducted on 14 and 15 March 2017

⁸ Citizens Advice: "Confusions, gaps and overlaps. A consumer perspective on alternative dispute resolution between consumers and businesses." April 2017. Pages 6 and 22.

⁹ Ibid. Page 22.

¹⁰ Ibid. Pages 35,36,37 and 39

¹¹ Ibid. Pages 34,39,40,42

¹² Ibid. Page 23.

communications service and an inability to deal with complaints from small businesses.¹³ Ofcom should consider widening the scope of the scheme to include these areas.

As the report noted, there are currently two telecommunications ADR schemes. This duplication has the potential to cause two types of problem: firstly it may confuse consumers and creates an additional unnecessary step (finding the right provider) in the process of seeking ADR. Secondly it may make it more difficult to effectively share information between the regulator, consumer advocate and ADR providers due to conflicting commercial interest¹⁴. It may, therefore be appropriate for Ofcom to consider whether to merge these schemes into one body.

Ofcom's call for inputs notes that one of the schemes failed to meet its response targets during the year. It would be useful to have more data about this to ensure that safeguards are put in place to prevent this from happening again. Our report also found that although OS Communications had a low level of complaints, a high percentage of these complaints were upheld and this was identified as an issue by the independent assessors.¹⁵

We note that the Ombudsman Association is currently developing a Service Standards Framework which will require its members to publish key information about their schemes and would be interested to understand more about how far these schemes are included in this Framework.

We also understand that both schemes are free for consumers to use, except possibly in relation to the costs of phone calls. If these costs are borne by consumers then it is important that they are minimised and that there is no reliance on premium rate numbers.

¹³Ibid. Page 38.

¹⁴Ibid. Page 25.

¹⁵ Ibid Page 37.