



SKY'S RESPONSE TO OFCOM'S REVIEW OF THE APPROVED ALTERNATIVE DISPUTE RESOLUTION SCHEMES

Executive Summary

- 1.1. Excellent customer service is at the heart of Sky's business. In Ofcom's recent annual service quality report Sky achieved the highest combined overall customer satisfaction score, the highest satisfaction with complaints handling and had the lowest number of complaints for all services. When things do go wrong from time to time, Sky's focus is on treating our customers as individuals and ensuring the correct case management of customer issues and complaints; making sure that complaints are resolved in a timely and fair manner.

- 1.2. Sky welcomes the opportunity to comment on Ofcom's Review of Alternative Dispute Resolution Schemes (the "CFI") because Sky considers that recourse to ADR is an important tool for consumer empowerment. Sky also considers ADR to be a useful failsafe for communications providers ("CPs") to highlight the exceptional cases where issues have "slipped through the net" in their processes so that CPs can put them right as quickly as possible should a resolution be achievable.

- 1.3. Sky has a number of concerns with the current ADR processes which we have raised with our ADR provider; Communications: Ombudsman Services ("OS") and which we set out in this response using Ofcom's criteria headings where appropriate.

- 1.4. Sky notes Ofcom's request to provide comments on any additional issues it should consider in the review. Sky has an overarching concern in relation to ADR services and that is the lack of choice in the provision of such services within the communications industry. Like any sector, efficiency, quality and improved customer service are driven by competition. ADR services should be no different. Ofcom should not restrict itself to the three options set out in the consultation; i.e. preserve the status quo, continued approval subject to changes to OS and CISAS rules or withdraw of approval of one or both scheme(s).

- 1.5. Sky urges Ofcom to broaden the scope of its review to include the option of granting approval to additional ADR providers. In the communications sector there are only two ADR providers and all but one of the main players uses OS. Ofcom notes in the CFI that OS are finding their KPIs challenging, presumably in part because of the concentration of CPs with OS. Sky notes below the concerns that we have with OS – concerns that Sky considers would

likely be remedied if a broader choice of ADR providers were available to increase efficiency, transparency and accountability.

- 1.6. The sections below include Sky's comments on the each of the criteria Ofcom proposes to use for (re)approving the schemes.

Accessibility

- 1.7. Consumers' access to ADR services is adequately signposted but Sky considers that improvements could be made to ensure that customers are clear which complaints can be referred to ADR and which cannot. We note that OS' rules could be made more accessible to consumers perhaps with a link from the "for consumers" tab or "Complaints we deal with" title. Sky also considers that consumers are unlikely to understand that "Terms of Reference" translate as the scheme's rules. Sky considers that making the rules clearer and better signposted would benefit both consumers and CPs and avoid out of scope referrals.
- 1.8. At a recent OS meeting with members, OS made the point that in many instances consumers are going directly to OS to make a complaint. Whilst we trust that on the whole consumers are referred back to the provider to progress their complaint in the first instance (although this is not always the case) we consider that this demonstrates that consumers are aware of ADR services when they are considering a complaint. Sky also considers it reasonable to expect ADR schemes, including OS to be required to capture customer details and report these back to the CP, should the complaint not be unsuitable for consideration by the scheme at the point of receipt. Sky considers that such a requirement would create significant benefits for consumers by affording CPs an opportunity to deliver better and faster outcomes for complainants who have, for whatever reason, fallen out of the standard complaint resolution process or failed to achieve a satisfactory resolution to date.
- 1.9. Sky notes Ofcom's focus on vulnerable customers and suggests that any relevant requirements expected of CPs should also extend to ADR providers to ensure that vulnerable customers are not disadvantaged should they need to complain about communications services.
- 1.10. As noted above, Sky also considers that the accessibility and standard of ADR services would be improved by extending the approval scheme to additional ADR providers.

Independence and fairness

- 1.11. Consumers contact the OS for guidance as well as assistance in resolving an issue. It should be reasonable to expect that OS staff, working within the communication sector, will have sufficient knowledge of industry processes to allow them to correctly guide and assist consumers. However, it is evident, from cases Sky receives and often disputes that this is not necessarily the case.
- 1.12. By way of example, in terms of industry process knowledge, OS advisors should be aware that provision of fixed-line communications services on the Openreach network is often subject to Openreach-driven delays and that the CP concerned cannot undertake service provision without engagement from Openreach. OS regularly refers cases to Sky where it is apparent that the consumer is looking to expedite their service provision but has already been advised that the timeframes are entirely dependent on Openreach. OS staff should be advising the consumer of the reliance on Openreach and confirm that the provider has kept the consumer updated with information on progress from Openreach. OS are in a position to manage the customer's realistic expectations. It is pointless to refer cases to CPs where nothing can be done and where the consumer acknowledges that the CP has indeed kept them advised of timeframes. Such referrals simply tie up OS and CP resource and offer no consumer benefit; quite the opposite, the customer has taken the time to provide information to the ADR scheme when no resolution could be achieved.
- 1.13. Sky considers that an improved focus is required to ensure that front line OS staff correctly question consumers on the specific nature of their issues at initial stages so the possibility of inappropriate referrals is limited. Sky has seen a number of cases taken on by OS where the issue does not fall within OS jurisdiction or the complaints are unfounded. In such instances consumer expectations are incorrectly set. This is evidenced by recent OS analysis of Sky cases which showed that over the 6 month period 1st August – 31st Jan 2017 on review of 153 disputed cases 40 were determined by the OS to be outside their Terms of Reference (OTOR). This has an adverse impact in terms costs and resource for both Sky and OS (thereby impacting OS' KPIs), the expectations of Sky's customers and confidence in the complaints process. Sky considers that a renewed focus here would also help manage customer expectations in line with the requested resolution. Often the requested resolution is either unfounded or excessive.
- 1.14. Sky considers that a lack of industry knowledge amongst OS' frontline staff is also evident and has the effect of creating an inconsistent approach to similar issues. Sky often sees cases where the actual issue/complaint is the same yet the result or outcome differ. Sky

accepts that a factor may be that the investigating officers differ but on occasion we have seen the same investigation officer come to a different conclusion on the same issue.

- 1.15. Sky has similar concerns in terms of the extent to which OS staff have sufficient legal training or knowledge. We understand that CISAS staff are on the whole legally trained. A lack of legal training of OS staff has led to Sky having to explain the legal position to OS, a step that should be unnecessary which impacts all parties' ability to deliver timely resolutions to customer issues and creates additional resource demands, often having to involve input from both Sky's legal team and/or Escalated Complaints team. Sky considers that it is essential that OS front line staff have adequate legal training as well as improving their industry knowledge.

Efficiency and effectiveness

- 1.16. Sky considers that in order to meet service level requirements, OS are not taking time to correctly set consumer expectations. Front line advisors do not have the required level of knowledge of industry processes to allow them to correctly liaise with CPs and their customers to agree a mutually acceptable outcome as promptly as possible. Instead, OS refer cases to CPs without undertaking the necessary high level due diligence to determine whether the case is within scope and simply request a case file be provided. When CPs dispute the case, the reason given by OS for acceptance is that until they have seen all of the case notes they cannot determine whether there is merit in the case. Whilst this is acceptable for cases *in scope*, where it is clear that the case is OTOR, no case file is required. OS' failure to filter out OTOR cases creates unwelcomed additional costs and diverts resource away from where CPs need it as the CP has to spend significant time disputing the case rather than helping to resolve customer issues.
- 1.17. In the instances where CPs request re-consideration of cases that OS propose to take on, those requests are often rejected on the basis that OS need to consider whether there *might* have been a general "customer service" failure during the CPs handling of the case even though no evidence of such failure has been put forward. In these cases, Sky often finds the eventual outcome is a finding of "no reward or remedy" required.
- 1.18. The OS has over time expanded its remit across other sectors e.g. energy. This has resulted in a degradation of the service provided for the communications sector. Sky considers that it would be reasonable to expect that the OS staff dealing with communication sector complaints to be ring-fenced to handle those cases so that there is an adequate knowledge base.

- 1.19. OS recently asked Sky to assist with forecasting data. Sky considers that such data is likely of limited assistance as complaint numbers are driven by various factors, many of which CPs themselves will not be able to identify and in other cases, for example price increases, CPs will not be able to share with OS ahead of time for commercial confidentiality reasons.
- 1.20. Ofcom notes that as part of the review it may consider forecasting-related fee structures. Sky would not support a fees proposal which was linked to CPs paying higher fees if complaint volumes exceeded forecasting. Ofcom states that it is considering what incentives might improve the achievement of KPIs. Sky does not consider that higher fees for exceeding forecasts would act as incentive to improve complaints handling, which must surely be the overarching objective. As an alternative, Sky considers that a reduced ADR case handling fee to reflect complaints being resolved quickly and efficiently would be a better incentive for ADR providers and CPs alike. At a time where CPs are seeing significant increases in ADR-related costs, particularly in respect of case handling fees, Sky considers that ADR schemes should also be incentivised to ensure, amongst other things, that their handling of cases is efficient and effective such that OTOR cases do not soak up resource, effort and costs on all parties.

Transparency

- 1.21. Sky notes that Ofcom has signposted in the CFI that the ADR schemes are planning to expand the aggregated information about case numbers and complaint types that they receive to provide more details about cases on a *provider-specific* basis. Sky requests clarification on the purpose of this additional information. Sky does not consider that reporting on referrals to OS provides a true representation of a CP's complaints handling performance and in fact could give a skewed account of CPs' performance.
- 1.22. Sky would expect any publication of information to be comparable between OS and CISAS and in order to ensure that the data is accurate that CPs be given the opportunity to review any information prior to publication. As Ofcom is aware, Sky already has concerns about the accuracy of OS data and the way in which complaints are categorised.

Accountability

- 1.23. Sky would welcome greater transparency on how ADR providers' KPIs are met and whether the results are independently audited. Sky would also welcome an independent audit of OS' complaint categorisation and case conclusion process.