

Vonage Limited (“Vonage”) welcomes the opportunity to respond to Ofcom’s Review of Alternative Dispute Resolution Schemes Call for Inputs.

1. Vonage is a VoIP telephony service provider providing over the top (“OTT”) voice telephony services to consumers across their broadband, 3G and 4G connections and also providing cloud based hosted voice services to small business customers.

2. At the outset of this response Vonage would emphasise its belief that consumers whose legitimate complaints cannot be resolved satisfactorily should have fair and reasonable access to an alternative dispute resolution scheme (“ADR Scheme”) where deadlock has been reached between the consumer and the communications provider.

3. Vonage has had experience of ADR Schemes operated by both Ombudsman Services and CISAS and with both ADR Schemes has found there to be problems with the way complaints are handled and filtered to ensure that only legitimate and bona fide complaints are brought. Vonage has had instances where the decision of the respective ADR Scheme to take on a complaint was manifestly wrong and where such complaints should not have been brought against Vonage in the first place under ADR Scheme rules.

4. Vonage has first hand experience of ADR Scheme personnel not having the necessary knowledge of industry processes and therefore not being capable of filtering or resolving disputes effectively because they do not understand who in the supply chain is responsible for what, for example with regard to complaints relating to porting. We can cite one example of the ADR Scheme accepting a porting case when the subject matter of the complaint was clearly a matter between the customer and the gaining provider (not Vonage). The case handlers at the ADR Scheme should have known that the UK porting process is gaining provider led and should have investigated at the outset whether the case should have been brought against Vonage (the losing provider) at all. Only after escalating our position at a senior level within the ADR Scheme hierarchy, and following many exchanges with the ADR Scheme, was the case dropped against Vonage and the complainant directed to the gaining provider for recourse. The case should never have been brought against Vonage. Explaining and getting ADR Scheme personnel to accept that they should not have brought the complaint against Vonage took up significant management time and cost. That porting is gaining provider led is common knowledge in the industry. It should not be incumbent on a communications provider to have to explain these basics to ADR Scheme case handling personnel. ADR Scheme personnel responsible for handling the case should have been aware that the complaint against Vonage had no substance. There can be no excuse for this oversight. Not only did this particular example involve Vonage in unnecessary management time and expense, but the lack of standard and basic knowledge by ADR Scheme case handlers meant that the complainant was denied early recourse to having the complaint resolved. It was only after Vonage’s intervention that the complainant was correctly directed towards the gaining provider for recourse. Those within ADR Schemes who are responsible for deciding whether a complaint has merit for ADR must have sufficient training and industry knowledge to assess whether a case should be brought in the first place. More refined due diligence by case handlers with the requisite experience and knowledge is required at the outset before a case is presented to a communications provider.

5. Not only has Vonage experienced problems with cases incorrectly being brought in the first place, but we have also had inexperienced adjudicators without the necessary industry knowledge arriving at manifestly incorrect decisions. All this points to the need for ADR Scheme case handlers and adjudicators alike to have the requisite experience, understanding and knowledge to determine (a) whether a case should be brought ab initio, and (b) if a case does go to adjudication to arrive at a correct, informed and reasoned decision. Our experience is that ADR Schemes do not always have the knowledge of

industry processes (a) to filter cases and (b) to arrive at thought through sensible decisions. The UK communications market is heavily regulated and operates through defined processes. It is incumbent on ADR Schemes to ensure their personnel are familiar with the industry, regulation and these defined processes. Unfortunately, this is not always the case.

6. We have also experienced an ADR Scheme accepting a complaint when deadlock had not been declared and when a complaint had not been brought to Vonage by the customer in the first place. The ADR Scheme accepted the complaint without checking the deadlock position. Again, this points to issues with training and an understanding of procedure.

7. In practice, whenever an ADR Scheme case is brought, the decision whether or not to defend is primarily based on pure economics and not the merits of the case. We have an ADR system where if a communications provider decides to defend, then win or lose, the communications provider must pay to the particular ADR Scheme a designated case handling fee. In practice this means that any claim the quantum of which is less than designated case handling fee is likely to be settled – otherwise the communications provider is incurring increased costs win or lose. ADR should be all about proper recourse for customers and communications providers alike. However, the administrative case handling fee structure of ADR Schemes means that even in cases where the communications provider has a “cast iron” case, because of the imposition of administration fees win or lose, a decision will more than likely be taken to settle a case, and not to defend. The decision to settle has nothing to do with the merits of the case but rather an economic assessment because of the administrative fee cost of winning a case.

9. We hope that Ofcom finds this response constructive and of use. Should you require any elaboration on this response please let us know.

Vonage Limited.
12th May 2017