

Ofcom statement and consultation on protecting citizen-consumers from mis-selling of fixed line telecoms services

This short response to Ofcom's consultation dated 22 November is offered in my capacity as a consumer member of Ofcom's Consumer Issues Task Group (CITG) for WLR and CPS.

I am pleased that Ofcom has accepted the arguments of many respondents to the previous consultation and decided on mandatory Codes of Practice for Sales and Marketing, at least for the time being. Further comments are:

1. **A neutral review.** Since Ofcom now accepts the case for mandatory Codes, it seems wrong that the review in two years' time should again start from a presumption that regulation is not needed unless evidence is provided to the contrary. Naturally, everyone hopes that there will not be much malpractice by then; but how can it be shown that this happy state is not a result of the mandatory Codes? It's like introducing a speed limit on a potentially dangerous stretch of road, then two years later, when there have been no fatalities, removing the speed limit.

Given the speed of change in this market, it is reasonable to review the situation in two years' time. But the review should be open-minded, and allow for the possibility of stronger regulation if there seems to be a need. The review should only step back from mandatory regulation if both the following hold:

- By then there are few problems with mis-selling.
 - There are good reasons to expect that this state of affairs will continue (eg a convincing co-regulatory system, covering new entrants as well as established players).
2. **Consumer information.** The statement discusses the dissemination of the Consumer Guide to alternative fixed line services, and concludes that service providers will not be required to distribute the Guide as part of their sales process. Ofcom's view in paragraph 4.14 that the existence of the Guide "should" be made known appears to be exhortation only, without any formal backup. This is a missed opportunity to raise consumer awareness, especially in view of the new attitude to consumer information issues shown in the second stage Telecoms Strategic Review.

Not all consumers will want a copy of the full Consumer Guide, but in the public interest as well as their individual interests they should at least be made aware that it exists, and how to get a copy. It would be a negligible additional burden on service providers to rephrase Guideline 6.2 to refer to making known the existence of the Consumer Guide (or, more generally, of "relevant consumer information material produced by Ofcom") as well as of the Code itself. If this route is not taken, some other means should be adopted to achieve similar results.

3. **Good practice guidelines.** Poor sales techniques can result as much from inexperience and haste as from intentional sharp practice. The new framework offers an opportunity for Ofcom to facilitate sharing across the industry of good sales practice (which will of course conform with the Guidelines and may often go beyond

them). Gathering and making available examples of good practice could be a continuing task for the CITG.

4. **Proactive monitoring.** The statement says little about arrangements for monitoring and enforcing compliance with the new requirements. Monitoring should not just be reactive (responding to complaints), but also include a proactive element, which should focus on groups who are less likely than average to complain about any problems. This will be especially important if and when there is a big expansion in WLR market activity targeted at residential customers.