Market Data

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About this document

Ofcom receives and monitors complaints from consumers who are dissatisfied with their experience in the communications sector. It uses this data both to take enforcement action against specific companies that are breaking existing Ofcom rules and also to highlight problem areas where new rules may be needed to protect consumers.

This quarterly bulletin includes complaint trends for some of the key areas of consumer dissatisfaction and complaints made to the Telephone Preference Service (TPS) about unwanted marketing calls. This edition details activity from May to July 2014.

Following a review of our complaints reporting, some historic figures have been amended and are reflected in this edition of the bulletin.
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Section 1

Consumer complaints overview

Ofcom monitors the complaints it receives from consumers and categorises them.

Ofcom does not have the power to resolve individual consumer complaints about telecommunications services, unlike for TV and radio. However, we provide advice to individual complainants and refer them to the two Alternative Dispute Resolution (ADR) schemes that we have approved.

The two Ofcom-approved schemes are: Ombudsman Services: Communications (OS) and the Communications and Internet Services Adjudication Service (CISAS).

Figure 1 shows monthly complaint trends for some of the key areas of consumer dissatisfaction over the past 13 months.

Figure 1. Summary of consumer complaints to Ofcom by type, July 2013 – July 2014

Complaints Handling

Ofcom receives complaints from consumers about how communications providers have handled their problems including: the amount of time they have to queue on the telephone, not receiving responses to letters or emails, not being able to escalate complaints, and the quality of staff.

Most communications providers view customer service and complaints handling as key components of their operations and will endeavour to treat their customers fairly.
Ofcom’s role is to ensure that when something goes wrong, consumers are able to find out easily how to make a complaint and to ensure that their provider has appropriate processes in place to receive and handle their complaint.

Ofcom requires all providers to have complaints handling procedures that conform to the Ofcom Approved Code of Practice for Complaints Handling. All telecoms providers must also be members of an Ofcom-approved Alternative Dispute Resolution (ADR) scheme. The Schemes act as an independent middleman between the consumer and provider and, in appropriate cases, consumers can escalate a complaint to them free of charge.

Disputes that have not been resolved within eight weeks, or earlier if the provider sends their customer a ‘deadlock’ letter, can be taken to ADR.

In February 2013, Ofcom opened a monitoring and enforcement programme to assess communications providers’ compliance with Ofcom’s complaints handling requirements (covered by General Condition 14.4) and ensure that providers are making consumers aware of ADR. In August 2014, Ofcom decided to extend this programme for a further six months.

In September 2013, Ofcom opened an investigation into Three. Having assessed the evidence, Ofcom determined there are reasonable grounds for believing that the company failed to comply with Ofcom’s complaints handling obligations and issued a Notification to the company. Three was given an opportunity to make representations to Ofcom on the matters contained in the Notification and these are currently under consideration.

In February 2014 Ofcom also opened an investigation into EE’s compliance with General Condition 14.4. This investigation is on-going.

Engaging with communications providers on customer service issues

Many of the ‘complaint handling’ complaints received by Ofcom relate to wider customer service issues, for example the quality of staff, lack of or incorrect information and failure to action requests.

While customer services is not an area in which Ofcom has formal powers, we have been meeting with communications providers on an informal basis to discuss general customer services practices and to drive improvements.

Advice for consumers on how to complain about their communications provider can be found here.

Mis-selling/Slamming – Fixed line and Mobile

There are various ways that providers of communications services can mis-sell to consumers. These can include pretending to be another company; not providing correct costs; and not giving consumers the full story on minimum contract periods or penalty charges should consumers choose to exit the contract early.

Also, if a consumer receives a bill from a phone company they have not signed up to, it is possible they have been ‘slammed’. In other words, they are simply switched from one company to another without their express knowledge and/or consent.

Another issue in this area is ‘erroneous line transfers’. These can happen as a result of consumers having their landline switched accidentally and more commonly occur when a customer has requested a service to be provided to their house, but the service is instead
provided to a neighbouring house. This is primarily caused by limitations in providers’ abilities to correctly identify the target address for takeover.

**Taking action**

Ofcom introduced rules (General Conditions 23 & 24) which prohibit mis-selling for mobile and fixed-line telephone services, respectively. Compliance with these rules is monitored through complaints made to the Ofcom Contact Centre and, for General Condition 24, through its enforcement programme. Ofcom can take action against phone companies which break these rules and has the power to impose fines of up to 10 per cent of their turnover.

In March 2014, Ofcom opened an investigation into Universal Utilities (trading as Unicom) regarding its compliance with General Condition 24. This investigation is on-going.

Ofcom also announced new measures to help consumers change landline and broadband providers with greater ease, confidence and convenience. These include enhancements to processes to help prevent consumers being switched without their consent or having their line switched accidently.

Under the new switching process, amongst other things, providers will have to:

- obtain and keep a clear record of every consumer’s consent to switch. This aims to protect them from being slammed i.e. being transferred to a different provider without consent; and
- place an order to take over communications services where a consumer is moving to a new property only once they have an exact match for the address and target line to be taken over. Consumers at the address where services are due to be taken over must also be notified by their own provider, so allowing the consumer to tell them if the address has been targeted in error. Both measures aim to mitigate against consumers having their lines switched accidentally during house-moves.

Ofcom is working with industry to implement these new measures and enhancements. The Office of the Telecommunications Adjudicator (OTA), an independent organisation which oversees co-operation between communications providers, is co-ordinating this work alongside Ofcom.

In July 2014, the OTA published an updated Best Practice Guide for the avoidance of working line takeovers, migrations and erroneous line transfers. This updated guidance clearly sets out the processes all communications providers should be following in order to prevent mistakes from happening. We anticipate that the new requirements will be met efficiently and on time.

Consumers play a vital role in helping Ofcom to tackle mis-selling as complaints can assist us in deciding when to take action. Complaints about fixed-line mis-selling/slamming can be registered here. Complaints about mobile mis-selling can be made by calling the Ofcom Consumer Team on 0300 123 3333.

**Early Termination Charges**

Most telecoms contracts are of a minimum length and should a consumer wish to terminate the contract earlier, providers often impose an early termination charge. These types of charges are allowed in many cases, provided they are fair.

Ofcom has published Guidance on these ‘Additional Charges’ under the Unfair Terms in Consumer Contracts Regulations 1999 and opened an enforcement programme on 1 April 2009 to make sure companies are complying with the law.
Since then, following work by Ofcom, a number of providers, including BT, TalkTalk and Virgin Media, have agreed to reduce the charges they levy on consumers for leaving their landline (or landline plus broadband) contracts early.

Ofcom’s ‘Additional Charges’ enforcement programme was extended for a further six months in April 2014. This allows Ofcom to continue to ensure consumer contract terms including terms relating to Early Termination Charges in the communications sector are fair.

Complaints about additional charges can be made by calling the Consumer Contact Team on 0300 123 3333.
Section 3

Abandoned and Silent Calls

The majority of abandoned or silent calls are not calls made by people making prank calls. They are, more usually, caused by the use of Automated Calling Systems (ACS). Organisations use ACS to maximise the amount of time their call centre agents spend speaking to consumers.

ACS may be used by many types of companies, including telemarketing companies, market research companies and debt collection agencies. They are also used by companies to contact existing customers. This technology is designed to work by dialling telephone numbers automatically, then connecting the call recipient to a call centre agent as soon as they answer the phone.

However, if, for example, all the call centre agents are busy when the call recipient answers the phone, the customer may simply hear silence because the ACS has already terminated the call. This type of call is considered to be a ‘silent call’.

Technology used by companies to detect answer machines may also generate silent calls. For instance, the technology – referred to as Answer Machine Detection (“AMD”) – may mistake a call recipient for an answering machine and cut off the call without the call recipient hearing anything.

To reduce harm to recipients of silent calls, Ofcom’s guidelines say companies should play an information message if they do not have an agent available to take the call when it is answered. The information message must explain who has made the call and provide a number for the call recipient to call to opt-out of receiving further calls. This guideline has been in place since 2006.

We refer to a call accompanied by an information message as an ‘abandoned call’. Ofcom has published guidelines regarding the use of automated diallers and has an enforcement programme to make sure organisations are complying with the rules.

Ofcom also introduced guidelines about repeat silent calls, where call recipients receive more than one silent call a day from the same company. These came into force in February 2011 and say a company using AMD technology should not call more than once a day if an answer machine is ‘detected’ on the first attempt.

Targeted enforcement action

Complaints from consumers provide evidence which informs Ofcom’s enforcement programme on abandoned and silent calls. The number of complaints made to Ofcom increased from 3,848 in May 2014 to 3,973 in June 2014, before falling to 3,591 in July 2014. See Figure 2. Complaints about receiving abandoned and/or silent calls can be registered here.

Ofcom remains concerned about the volumes of silent and abandoned calls consumers are receiving. That is why we are taking targeted enforcement action to hold those responsible to account.

Ofcom continues to pursue formal action against a number of companies and regular updates on this work can be found here. In the last six months, Ofcom has issued notifications to Ageas Retail Limited (known at the relevant time as Ageas 50 Limited), Sambora...
Communications, Green Deal Savings and MYIML Limited. The notifications set out that we had reasonable grounds to be satisfied each had persistently misused an electronic communications service, including by making abandoned calls.

In the first half of 2014, we have also taken informal action against 27 different telephone numbers. As a result, complaints about 18 of these have stopped, while complaints have fallen significantly for six. Ofcom continues to gather evidence in three cases, which may lead to formal investigations.

Ofcom is also reviewing its silent and abandoned calls guidelines. The review will explore whether there is scope for improving these and will look at any relevant developments in call centres’ practices and technology.

**Joint action plan**

Tackling the wider issue of nuisance calls and messages is a complex and challenging issue, requiring a coordinated effort from Government, regulators, industry and consumer groups.

Ofcom has a [joint action plan](#) with the Information Commissioner’s Office, setting out priority areas of work for both organisations. As part of this plan, Ofcom has recently been focussing on improving consumer information and tracking down companies behind nuisance calls.

Ofcom launched two new guides in May 2014 to help consumers prevent and deal with nuisance calls and messages. The first is a short online educational [video](#) that offers tips and advice on nuisance calls. It is available with subtitles to help people with hearing impairments. The second guide provides advice on preventing nuisance calls in an ‘[Easy Read](#)’ format, designed to be easily understood by people with learning disabilities.

To help make it easier to track down companies responsible for nuisance calls, Ofcom has been working with an industry standards setting body (NICC) on a new call tracing standard. Following successful testing, the standard is now being put into practice by industry and Ofcom.

Ofcom and the ICO will be publishing a full update on the progress made against the key priority areas set out in the action plan by the end of 2014.

*Figure 2. Consumer complaints to Ofcom about silent and abandoned calls, July 2013 – July 2014*
Section 4

Complaints to the Telephone Preference Service about unwanted marketing calls

Consumers sometimes receive unsolicited marketing calls from businesses. If they do not want to receive such calls, they can register their number with the Telephone Preference Service (TPS). On Ofcom’s behalf, the TPS maintains the register of persons who do not want to receive marketing calls.

Figure 3 shows the number of complaints made to the Telephone Preference Service (TPS) about unwanted marketing calls. In order for a complaint to be recorded, the person concerned must have been registered with the TPS for at least 28 days. This allows call centres to obtain the latest version of the register.

Complaints increased from 6,111 in May 2014 to 7,990 in June 2014 before increasing further to 8,262 in July 2014. See Figure 3.

Measuring the effectiveness of the Telephone Preference Service

Ofcom and the ICO recently published findings from a market research study looking at the impact of registering with the TPS and its effectiveness in reducing unsolicited marketing calls.

It found that signing up to the TPS reduced the average volume of live sales or marketing calls per month by 31%.

Ofcom and the ICO shared the research with Government. The findings may help to inform its consultation, expected later this year, on making it easier for the ICO to take enforcement action against companies who break the rules.

The Government has also recently made legislative changes to make it easier for Ofcom to share intelligence with the ICO, which may help the ICO take enforcement action.

Ofcom and the ICO are also members of a taskforce set up to look at whether the rules on marketing consent are working in the best interest of consumers. The research findings will help to inform discussions about this issue and any subsequent recommendations made to Government.

Figure 3. Consumer complaints to the Telephone Preference Service (TPS), July 2013 – July 2014
The role of the Information Commissioner’s Office

The Information Commissioner’s Office (ICO) has powers to take enforcement action where a company makes marketing calls to a person who is registered with the TPS and has not given prior consent to receive such calls from that company.

Most recently, the ICO served digital marketing company Reactiv Media Limited with a £50,000 fine after an investigation discovered they had been making unsolicited marketing calls. The company was the subject of over 600 complaints to the ICO and the TPS.

The ICO also regulates the sending of nuisance text messages. The ICO enforcement team recently raided a claims management call centre in Llanelli linked to as many as six million nuisance text messages. Documents and a computer were seized and removed for further examination. The raid was prompted by intelligence supported by reports using the ‘7726’ reporting tool that allows mobile phone users to report spam text messages.

Consumers can complain directly to the ICO [here](#).