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 August to October 2014.
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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.

Following a review of Ofcom’s complaint categories, we have decided to include an additional complaints sub-category - lack of information/incorrect advice - to our Customer Service (including Complaints Handling) complaints. This is because our review has identified that these complaints have a customer service element. These complaints have been added in retrospectively which has resulted in an overall increase to our Customer Service (including Complaints Handling) complaints category over the reporting period (see Figure 1 above).

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 extended this programme for a further six months.

In October 2014, Ofcom concluded its investigation into Three and fined the company £250,000 for failing to comply with Ofcom’s rules on handling customer complaints.

An investigation into EE’s compliance with General Condition 14.4 (opened in February 2014) is on-going.

Ofcom also opened a monitoring and enforcement programme in June 2014 to target communications providers who are not members of an Ofcom approved Dispute Resolution Scheme. Updates can be found here.

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 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 a house they are moving to, but the service is instead provided to a neighbouring house or premises. This is primarily caused by limitations in providers’ abilities to correctly identify the target address for takeover.

Taking action

Ofcom has rules in place in which prohibit mis-selling for fixed line and mobile telephone services.

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 September 2014, following the publication of the Consumer Switching Statement, General Condition 24 was revoked and replaced by a modified General Condition 22. The modified General Condition 22 incorporates our rules on fixed line mis-selling, previously set out in General Condition 24, and, from June 2015, extends the provisions to broadband.

Accordingly, Ofcom closed the General Condition 24 Monitoring and Enforcement Programme and opened a new General Condition 22 Monitoring and Enforcement Programme in its place.

In March 2014, Ofcom opened an investigation into Universal Utilities (trading as Unicom) regarding its compliance with the rules on fixed line mis-selling. This investigation is on-going.

Preventing slamming and ‘erroneous line transfers’

New enhancements to processes to help prevent consumers being switched without their consent, or having their line switched accidently, came into effect in September 2014.

Under the new processes, amongst other things, providers 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 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.

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
Many 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, agreed to reduce the charges they levy on consumers for leaving their landline (or landline plus broadband) contracts early.

Given the significant reduction in complaints received about early termination charges since we opened a monitoring and enforcement programme in April 2009, Ofcom decided to close the programme in September 2014.

Fairness of consumer contract terms is still an important area for Ofcom. For example, certain types of additional charges are being considered as part of our work to improve consumers’ experience of switching between communications providers.

We are therefore continuing to monitor complaints about additional charges in all communications sectors. Complaints about additional charges can be made by calling the Consumer Contact Team on 0300 123 3333.

Should we see an increase in complaints about additional charges or receive complaints about unfair contract terms, we will consider further action, including enforcement, where necessary.
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 law.

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 decreased from 3,210 in August 2014 to 3,019 in September 2014, before increasing to 3,232 in October 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 October 2014, Ofcom fined Ageas Retail Limited, a specialist insurer to the over 50s £10,000 for making abandoned calls.

Investigations into Sambora Communications, Green Deal Savings and MYIML Limited are ongoing.

In the first three quarters of 2014, we have also taken informal action against 43 different organisations. As a result, complaints linked to the telephone numbers used by 39 of those organisations have either stopped or fallen significantly, while four cases are ongoing.

**Review of persistent misuse policy**

Ofcom is currently reviewing its ‘persistent misuse’ policy.

The existing policy identifies silent and abandoned calls as two examples of misuse. It describes steps organisations can take to avoid making them and to reduce consumer harm where they do occur.

The aim of the review is to explore whether there is scope for improving the policy and Ofcom has asked stakeholders for initial views on what, if any, changes could be made to:

- help make enforcement more efficient and effective;
- reflect technological developments or other changes in the call centre industry; or
- clarify the policy to make it easier for companies to understand and follow.

The call for inputs is now closed and Ofcom is considering responses carefully. Ofcom plans to consult on any proposals for changes to the policy next year.

**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 worked 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.

The NICC, at Ofcom’s request, is also updating the technical rules on how communications providers should handle and present telephone numbers. The new rules are expected to be finalised within the next few months.
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 in December 2014.

**Figure 2. Consumer complaints to Ofcom about silent and abandoned calls, October 2013 – October 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 decreased from 5,448 in August 2014 to 4,630 in September 2014 before increasing to 5,685 in October 2014. See Figure 3.

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.

Consumers can complain directly to the ICO here.

As part of the Government’s Nuisance Calls Action Plan, a consultation was opened seeking views on lowering the legal threshold before firms responsible for nuisance calls and texts can be hit with fines of up to £500,000. The law currently requires the ICO to prove a company caused ‘substantial damage or substantial distress’ by their conduct and the Government’s preferred option is to remove this threshold.

Ofcom and the ICO are also members of a taskforce, set up by Government and led by Which? to look at whether the rules on marketing consent are working in the best interest of consumers. Which? is expected to make recommendations to Government in December 2014.

Figure 3. Consumer complaints to the Telephone Preference Service (TPS), October 2013 – October 2014