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Section 1

Introduction

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.

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).

This 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.
Section 2

Consumer complaints overview

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

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

**Figure 1. Consumer complaints summary, January 2013 – January 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, which act as a middleman between consumer and provider. 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. Ofcom decided to extend this programme for a further six months in February 2014.

In September 2013, Ofcom opened an investigation into Three to examine whether there are reasonable grounds for believing that the company has failed to comply with these obligations. This investigation is ongoing.

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 strict rules (General Conditions 23 & 24) which ban all forms of mis-selling for mobile and fixed-line telephone services, respectively. Compliance with these rules is actively 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.

As part of this enforcement programme, Ofcom fined Supatel Limited £60,000 for ‘slamming’ in June 2013. Ofcom also required Supatel to compensate affected consumers for any charges they may have had to pay as a result of being slammed.

Ofcom has 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.

We recently issued a statement confirming the detail of these enhancements to the switching process and set out the deadlines by which these improvements must be delivered.

Under the new switching process, providers will have to:

- keep a record of every customer’s consent for any switch to protect them from being slammed i.e. being deliberately transferred to a different provider without consent; and
• mitigate against consumers having their lines switched accidentally during house-moves, by only placing an order to take over communications services at the new property once they have an exact match for that address. Consumers moving out of the address where services are due to be taken over must also be notified by their own provider.

Ofcom has asked the Office of the Telecommunications Adjudicator (OTA), an independent organisation which oversees co-operation between communications providers, to co-ordinate this work alongside Ofcom. This will ensure that the new requirements are 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 Fees**

Most telecoms contracts are of a minimum length and should a consumer wish to terminate the contract earlier, providers can impose an early termination charge. These types of charges are allowed, but they must also be 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 Ofcom has agreed with a number of providers, including BT, TalkTalk and Virgin Media, that they would 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 twelve months in March 2013. This allows Ofcom to continue to ensure consumer contract terms relating to Early Termination Fees 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 technology called ‘predictive diallers’. Organisations use automated predictive diallers to maximise the amount of time their call centre agents spend speaking to consumers.

Predictive diallers 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.

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 predictive dialler 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, Ofcom requires companies to 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 requirement has been in place since 2006.

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

Ofcom also introduced requirements to stamp out repeat silent calls, where call recipients receive more than one silent call a day from the same company. The requirements came into force in February 2011 and prevent a company using AMD technology more than once a day if an answer machine is ‘detected’ on the first attempt.

Tackling the problem

Complaints from consumers provide evidence which informs Ofcom’s enforcement programme to crack down on abandoned and silent calls. The number of complaints made to Ofcom fell from 2,803 in November 2013 to 1,704 in December 2013, before increasing to 2,178 in January 2014. See Figure 2.

Greater consumer awareness and increased complaints helps us to identify where to target our enforcement action and find those companies that may not be compliant with our policies. Complaints about receiving abandoned and/or silent calls can be registered here.

If companies are found to be in breach of the regulatory requirements on abandoned and silent calls, Ofcom can take action, including fining companies up to £2m.

In August 2013 Ofcom served a notification to Redress Financial Management Ltd, trading as Redress Claims, setting out its reasonable grounds for believing that the company made an
excessive number of abandoned calls to consumers between 15 August and 15 November 2012. A non-confidential version of the notification can be found [here](#). This investigation is ongoing.

Ofcom has also taken informal enforcement action against a range of organisations, the result of which can be that companies about whom we may have concerns, are brought into compliance more quickly without having to pursue formal action. In 2013, Ofcom took informal enforcement action against 25 organisations following consumer complaints. As a result, complaints linked to the telephone numbers used by 16 of those organisations have stopped and complaints in relation to six have fallen significantly, while three cases are on-going.

In September 2013, Claudio Pollack, Ofcom’s Consumer Group Director, appeared before the Culture, Media and Sport (CMS) Committee to give evidence as part of its inquiry into nuisance calls. He subsequently gave evidence to the All Party Parliamentary Group on Nuisance Calls to inform its inquiry into the unsolicited marketing industry. Ofcom has published written responses to these enquiries [here](#).

Ofcom remains committed to working closely with Government and other regulators to tackle the wider issue of nuisance calls, as set out in its joint action plan with the Information Commissioner’s Office ([ICO](#)) published in July 2013.

Ofcom will shortly be publishing an update on this action plan. This will set out the progress made in the priority areas identified in the July 2013 plan and the priority areas for 2014.

Following its pledge to work with international regulators to combine resources to find solutions to the problem of phone number spoofing, Ofcom met with the United States Federal Trade Commission (FTC) in November 2013.

It was agreed that Ofcom and the ICO would work alongside the FTC, the Canadian Radio-television and Telecommunications Commission (CTRC) and the Australian Communications & Media Authority (ACMA), and form a core group of ‘leaders’ to explore technical, regulatory and law enforcement approaches to caller ID spoofing. This work complements Ofcom’s ongoing work to improve call tracing processes.

**Figure 2. Consumer complaints to Ofcom about silent and abandoned calls, January 2013 – January 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). The TPS maintains the register of persons who do not want to receive marketing calls on Ofcom’s behalf.

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 fell from 7,039 in November 2013 to 4,002 in December 2013 before increasing to 4,826 in January 2014. See Figure 3.

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

The role of the Information Commissioner’s Office

The Information Commissioner’s Office (ICO) is responsible for taking 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 to that company.

Most recently, the ICO served payday loans company First Financial with a £175,000 monetary penalty for sending millions of unlawful spam texts.
The ICO is currently conducting investigations into the cold-calling practices of a number of other companies and also publishes a quarterly update on the action it is taking.

In September 2013, the ICO also published revised direct marketing guidance. The guidance explains the rules on direct marketing – with a focus on calls and texts to individuals – and how these affect lead generation and the use of marketing lists. It sets out what enforcement action the ICO can take against those who ignore the rules.

Consumers can complain directly to the ICO here.