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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, July 2012 – July 2013

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. This programme was extended for a further six months in August 2013 and Ofcom is
continuing to consider the evidence it has gathered to date.

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 lines 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.

Most recently, Ofcom fined Supatel Limited £60,000 for ‘slamming’. Ofcom also required
Supatel to compensate affected consumers for any charges they may have had to pay as a
result of being slammed.

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

Under the proposed switching process, providers would 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 is currently consulting on the detail of putting these and other improvements to the broadband and landline switching process in place, via a change to regulatory rules (known as ‘General Conditions’) and on timescales for changes. This consultation closes on 2 October 2013.

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 3,900 in April 2013 to 2,804 in June 2013, before increasing to 3,447 in July 2013. 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. Most recently, Ofcom fined TalkTalk £750,000 for making an excessive number of abandoned and silent calls to potential TalkTalk customers in 2011, through two of its call centre operators.
Ofcom research suggests that Payment Protection Insurance (PPI) claims accounted for the largest proportion of unwanted calls (22%) where the product or service could be identified. Ofcom is now focussing its enforcement action accordingly and is currently investigating suspected abandoned and silent calls made by companies in the PPI/claims management sector.

As part of these ongoing investigations, Ofcom recently served a notification to Redress Financial Management Ltd, 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.

Ofcom is also currently considering enforcement action against organisations that fail to provide consumers with the information they need to contact the caller after receiving an abandoned or silent call.

Figure 2. Consumer complaints to Ofcom about silent or abandoned calls, July 2012 – July 2013
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 9,849 in April 2013 to 6,638 in June before increasing again to 7,693 in July 2013.

More generally, the TPS has suggested that the rise in complaints in recent years can partly be attributed to the increased telemarketing activity of companies dealing with payment protection insurance (PPI), accident claims, energy comparison services, insulation grants and lifestyle surveys.

Figure 3. Consumer complaints to the Telephone Preference Service (TPS), July 2012 – July 2013
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.

The ICO recently served two monetary penalties; one to Nationwide Energy Services for £125,000 and another to We Claim You Gain Limited for £100,000 for making unsolicited live marketing calls.

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.

Consumers can complain directly to the ICO here.

Ofcom and the ICO recently published a joint action plan to tackle the issue of nuisance calls and help protect consumers.

The plan represents a formal commitment from both organisations to work in partnership on a series of initiatives covering a range of areas. It also summarises key work carried out by the ICO and Ofcom in recent months to address the issue of nuisance calls.

Important priorities for the ICO and Ofcom in the months ahead include:

- targeted enforcement action;
- improving call and message tracing processes to track down those responsible for making nuisance calls;
- an assessment of the impact of the Telephone Preference Service (TPS) on the level of unsolicited live sales and marketing calls, to understand how well the TPS is currently working for consumers; and
- publication of revised industry guidance on marketing consent to include detailed advice on appropriate methods of consent, the limitations of indirect third-party consent, time limits, and the need for records of consent.