In September, Ofcom welcomed Parliament’s decision to increase the financial penalty available to Ofcom to combat silent and abandoned calls, from £50,000 to £2 million.

Ofcom believes that the increased maximum penalty should pose a greater deterrent to companies using automated diallers (which can cause silent and abandoned calls).

It will also enable Ofcom to tackle more effectively the serious problem of silent calls, strengthening the level of sanction of those in breach of Ofcom’s rules.

Ofcom has an open monitoring and enforcement programme that seeks to address consumer harm created by silent and abandoned calls. This has resulted in action against nine companies to date resulting in financial penalties, including the then maximum of £50,000 to Barclaycard in October 2008.

The increased fine could also be imposed for other forms of persistent telephone misuse such as:
- number scanning;
- withholding calling line identification facilities;
- using systems for dishonest gain; and
- misusing allocated telephone numbers.

Ofcom has also confirmed new rules to prevent consumers being harassed by repeat silent calls. Where consumers have complained to Ofcom about silent calls – and told us how often they are receiving these calls – over 70 per cent say that they have received two or more calls in a day from the same company. These silent calls were often over a period of days or even weeks.

Ofcom believes that this is mainly due to technology used by call centre operators to detect answer machines. This can mistake a ‘live’ consumer for an answering machine and cut off the call without the person hearing anything, resulting in a silent call.

The new rules will prevent a company using answer machine detection equipment more than once a day, unless a call centre agent is on hand to answer the call. This would mean that consumers currently worst affected should no longer receive repeat silent calls over the course of a day.

The new rules will come into force on 1 February 2011 and can be found here.
£millions of outstanding credit unclaimed by consumers

Ofcom has called on consumers to check that they aren’t owed money when they switch their communications services to a new provider.

Ofcom has gathered data that suggests that over the past two years around two million consumers have left their communications provider without claiming at least £10 million owed to them.

The money owed could be for having paid for line rental in advance or for promotional credits that customers may have been given during their contract. Consumers often don’t know that they are owed money by their landline, mobile, broadband or pay TV provider.

Ofcom has worked with communications providers to encourage them to make changes to their processes and to automatically refund credit to their contract customers. Initially, of the major providers Ofcom spoke to, only BT, Orange and Post Office automatically refunded outstanding credit to their customers, no matter what amount was owed.

Following discussions other providers have agreed to either automate their processes or make them more transparent.

Ofcom welcomes this increase in transparency but thinks that industry best practice should mean that all providers refund customers the outstanding credit they are owed automatically, and without any further action needed by the consumer.

To help consumers claim outstanding credit, Ofcom has published a guide which provides a clear overview of the credit refund processes of the main communications providers.

The guide can be found here.

TalkTalk and Tiscali UK instructed to stop breaching telecoms rules – consumers billed for cancelled services

Ofcom has today instructed TalkTalk and Tiscali UK to stop breaching telecoms rules or they could face further enforcement action, including a possible financial penalty.

After receiving over 1,000 complaints this year alone, Ofcom found that TalkTalk and Tiscali UK had breached telecoms rules by issuing bills to consumers for services that had not been provided. Both companies issued bills for services consumers had cancelled.

Ofcom has issued TalkTalk and Tiscali UK – which are both part of TalkTalk Group – with a legally-binding Notification requiring them to comply with the rules, known as a ‘General Condition’, by 2 December 2010 or face further enforcement action. The maximum penalty is a fine of ten per cent of relevant turnover.

The Notification also requires TalkTalk and Tiscali UK to take steps to remedy the harm they caused to consumers, which could include, but is not limited to:

• providing refunds to all consumers who were billed for cancelled services since 1 January 2010;
• stopping debt collection action, and withdrawing from any legal proceedings (if started), against consumers and paying their reasonable legal costs; and
• taking any necessary steps to repair credit ratings of affected consumers, such as notifying credit reference agencies where relevant.

Ofcom will now monitor TalkTalk Group’s compliance with the Notification.

Further details about the investigation can be found here.
Super-fast broadband benefits for older and disabled people

Ofcom’s Advisory Committee for Older and Disabled People published research into the benefits that next generation super-fast broadband could bring to older and disabled people.

The research gives examples of a range of services already being piloted or in development. It also explores how existing services could be enriched as a result of faster broadband connections.

The research also identifies some of the challenges and barriers which might hinder this potential including usability, accessibility and cost.

A copy of the full research can be found here.

Lycatel commits to provide clearer international calling card terms

Ofcom has accepted a written undertaking from Lycatel to replace its existing advertisements by the beginning of December 2010 to ensure customers have accurate information when purchasing Lycatel international calling cards.

Ofcom’s investigation found that Lycatel’s advertisement of its international calling cards potentially breached the Consumer Protection from Unfair Trading Regulations 2008 and the Unfair Terms in Consumer Contracts Regulations 1999. Lycatel has committed to ensure its advertisements:

- clearly state to consumers the headline number of minutes that they will receive and that minutes are reduced by certain fees and/or charges in a manner which is clear and understandable;
- provide consumers with material information in a manner which is clear, intelligible and unambiguous;
- ensure that material information, such as terms and conditions, is displayed in clearly legible font; and
- do not use the post call fee term in its current form.

Ofcom will monitor compliance with the undertaking and will also be monitoring other suppliers of international calling cards to ensure that consumers have clear and accurate information when purchasing calling cards.

Full details of the case can be found here.

New proposals for smoother broadband and landline switching

Ofcom has published research which shows that nearly half (45 per cent) of consumers with broadband or a landline think that switching communications provider is too much hassle.

Ofcom is now considering ways to make the switching processes quicker and easier across communications services, initially focusing on broadband and landlines.

Ofcom committed to review switching processes in its latest Annual Plan. In addition, a number of providers, as well as consumer groups, have expressed the view that Ofcom should consider these issues.

Switching to benefit customers

Ofcom is proposing that in principle a process in which the customer’s new service provider (the gaining provider) takes the lead on switching the service is most likely to deliver the best outcome for consumers. This would need to include appropriate measures to protect consumers from so-called “slamming”, where a customer is switched without their consent.

The new provider has an incentive to ensure that the switching process is as smooth as possible. This is also more likely to deliver lower prices, more choice and innovation for consumers because it facilitates communications providers competing vigorously for rivals’ customers.

Ofcom is also considering the switching process between bundles of broadband and landline services.

The consultation can be found here.
**Services for disabled customers need to be publicised more by Communications Providers**

**Ofcom research revealed that communications providers need to do more to publicise services that are available for disabled customers.**

Mystery shopping was conducted by Ofcom to see what advice prospective customers were given about these services by BT, Orange, O2, TalkTalk, T-Mobile, Virgin Media, Vodafone and 3.

The mystery shopping revealed that only 37 per cent of mystery shoppers were provided with information about at least one service available for disabled customers without further prompting.

This figure rose to 75 per cent after prompting. This is a significant drop since Ofcom’s 2006 research when 91 per cent of calls resulted in information being provided about at least one service after prompting.

Ofcom has discussed the findings of the mystery shopping with the relevant providers and has asked them to set out an action plan with reasonable timings for improvements. Ofcom also plans to undertake further mystery shopping and depending on the results will consider taking enforcement action, if necessary, under General Condition 15 (which imposes obligations on providers to provide a range of services to disabled customers and take reasonable steps to ensure the services are widely publicised). This could result in a fine of up to ten per cent of turnover for those failing to meet their obligations.

The mystery shopping report can be found [here](#).

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**Ofcom takes further action against Continental Telecom**

**Ofcom’s investigation into Continental Telecom, found that it was breaching rules by mis-selling its services to customers and also failing to follow the required steps in giving notice before cutting customers off for alleged non-payment of bills.**

In June 2010, Ofcom issued a Notification of contravention to Continental Telecom setting out the steps that it should take to comply with telecoms rules and remedy the consequences arising from its breaches.

Since this time, Ofcom has been investigating whether Continental Telecom has taken the steps set out in the Notification.

Ofcom has found that whilst Continental Telecom has taken some of the steps set out in the Notification (for example, reconnecting affected customers), it failed to comply with other steps. In particular, Ofcom has found that it failed to investigate why customers were cut off, not allowing customers who suffered because of the company’s rule breaches to end their contract without being charged penalty fees, allowing customers who had not consented to a contract to leave and reimbursing customers who had already transferred to another provider and paid fees prior to transferring where rules had been breached.

Consequently, Ofcom has issued Continental Telecom with an Enforcement Notification which requires it to comply with the relevant rules and take the steps set out in the Notification or potentially face court action. Separately, Ofcom has also issued a notification to Continental Telecom for failing to provide information as requested by Ofcom. If Continental Telecom does not now provide this information within one month they may have to pay a fine of up to £50,000.

Ofcom is continuing to monitor Continental Telecom’s compliance with this new Enforcement Notification, as well as ensuring that it is not continuing to break rules on mis-selling, and how it goes about disconnecting its customers for alleged non-payment of bills.

Further details about the investigation can be found [here](#).

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**Complaints Data**

Ofcom publishes complaints data to enable its stakeholders to view trends in the complaints it receives from the public about particular telecoms issues.

The complaints data for the past 12 months can be found [here](#).