

Consumer Panel Response to Ofcom's Review of Alternative Dispute Resolution Schemes

1. The Consumer Panel welcomes the opportunity to respond to Ofcom's review of the Alternative Dispute Resolution (ADR) schemes. The Chairman of the Consumer Panel declares an interest as the founding chairman of the Council of Otelo.
2. We agree that ADR schemes act as an important protection measure for the consumer and can work to their benefit by enabling a consumer to resolve a dispute without having to undertake a possibly lengthy, time-consuming, costly court case. For an ADR scheme to function effectively it must be accessible, transparent and there must be readily available knowledge of its existence. Further, the processes of an ADR scheme must be clear and easy to follow thus empowering a consumer to know whether or not the communications provider complies with best practice - including an adherence to time limits.
3. ADR schemes will not be effective unless there is compliance by the communication providers with their own Code of Practice (COP). To ensure compliance we think that Ofcom must clearly state what the sanctions for non-compliance are and for reports to be regularly published that inform consumers as to which communications providers are failing to meet best practice.
4. To aid the development of effective consumer complaints information we recommend that the data from the Ofcom Contact Centre (OCC) and the ADR schemes be collated and routinely published. This will help inform Ofcom, consumers and consumer organisations when they judge how the market is treating customers and whether there is a need to apply pressure or introduce a policy to resolve a consumer concern.
5. We also think that there is a need for more research into the consumer experience of both ADR schemes. The research so far undertaken by Ofcom, while informative, is based on a very small sample size. The research should be repeated within the next 12 months - and the sample size should be expanded.

6. Finally, we note that Ofcom says that its main concern is that the two rather different schemes under review both meet the requirements of section 54 of the Communications Act 2003. Ofcom acknowledges that it relies heavily on the schemes' membership of BIOA in this regard. We would however point out that one, Otelo, is an Ombudsman scheme and is a full member of BIOA; the other, CISAS, is an arbitration scheme and is associated with BIOA only under the umbrella of an arbitration group. This is not a technical point. Arbitration and an ombudsman process are different from the consumer's point of view. We would urge Ofcom to consider whether the two schemes, which operate somewhat differently, do indeed provide equivalent levels of consumer protection, especially for the most vulnerable.

Proposed Recommendation 1:

Communications providers must improve complaints handling procedures and customer awareness of ADR schemes. Communications providers must make customers aware of their complaints code of practice as soon as a complaint is received and ensure that the codes are easily accessible ideally through the company website and/or on customer invoices.

7. We think it is essential that customers are aware of their communications provider's complaint process and of the ADR schemes before the need to make a complaint even arises. Consumer knowledge and awareness is fundamental in ensuring that a customer, when making a complaint against a communications provider, does so correctly. Further, it is our belief that empowered customers will pressurise companies to follow best practice - in turn strengthening the complaints processes.
8. Whilst we agree that a communications provider must ensure that its industry COP is clear and easy to understand, we also think a communications provider must make every effort to provide this information to as wide a constituency as possible. We do not think it is acceptable for the information to be found only on a company's website and/ or on its bills. The information must also be provided in differing formats for those customers that will have other requirements when accessing information - for example, the provision of information in alternative print formats.

9. Perhaps one measure to aide people's understanding of the complaints process could be to provide it in chart form. The chart would list the relevant time periods for the process, thus informing people as to what stage their complaint had reached and what the next steps would be.
10. As we have already mentioned, we agree with Ofcom that when a customer makes a complaint to a communications provider the onus is on the provider to make available to the customer a copy of the complaints procedure and its COP. However, we also think that a communications provider, involved in a dispute, should be proactive in guiding the complainant through the procedures.
11. There also needs to be further consideration as to whether Ofcom, Otelo and CISAS should be able, in certain circumstances, to provide the complainant with the procedural information and COP because what shines through the ADR review document is the extent to which providers do, or don't, adequately inform their customers about the existence of ADR schemes, and how they handle complaints right up to the point when a complaint is referred to an ADR scheme. This is the first line of defence for consumer protection.

Proposed Recommendation 2:

Communications providers should use a standard definition of complaint, to ensure accurate recording and monitoring of progress. Front line staff should be trained adequately in company complaints handling procedures. Communications providers should not direct enquiries to Ofcom nor prematurely to an ADR scheme.

12. We agree with Ofcom that there must be a standard definition of complaint. A standard definition will remove any confusion or doubt between a customer and a communications provider as to when a complaint has officially been made. We also think that Ofcom must ensure that communications providers have very clear internal rules and guidelines on issuing deadlock letters, and that these guidelines must be standard across the industry.
13. We also agree with Ofcom that all communications providers must record and monitor their complaints process. To ensure accuracy and for a complete picture of the process communications providers should also record verbal as well as

written complaints. Accurate recording and monitoring of a complaint process will also help a complainant understand which stage of the process they have reached.

14. Additionally, we think that communications providers should pass this collated information onto Ofcom and Ofcom should analyse the information and evaluate how well or badly a communications provider is at resolving complaints and whether or not its internal redress procedure is working as well as it should. Also, we think that consumers must be made aware of this information in an accessible form. This will enable a consumer to make a fully informed decision when choosing a communications provider.
15. In today's communications market a plethora of communications providers are offering services and if consumers are to switch confidently between these differing communications providers there must be a standardised complaints process to a) reduce consumer confusion, which in turn would increase consumer awareness of the dispute schemes - awareness that Ofcom's own research has shown to be poor and b) to empower consumers, by ease of process, to hold communications providers to account.

Proposed Recommendation 3:

To help ensure implementation of recommendations 1 and 2, Ofcom will work with the ADR schemes to develop best practice for communications providers as part of their conditions of membership of an ADR Scheme.

16. We agree that Ofcom should work closely with the ADR schemes to help develop best practice. We think that Ofcom must make it clear to communications providers what sanctions will be imposed if they fail to comply with best practice. This is not say that we think Ofcom should be leading with a combative and punitive approach but that a clear regulatory environment must be created within which companies understand what their obligations are and that these obligations must be adhered to. Further, because companies write their own COPs this means that: a) COPs differ between communications providers; b) COPs are sometimes rejected by Ofcom because a company may not know how to write one; and c) the approval process creates a heavy administrative burden on Ofcom. It would therefore seem sensible to make the COPs mandatory and

standard for the industry. This would: a) reduce a communications provider's confusion as to what should and should not be in a COP; b) reduce the administrative burden on Ofcom; and c) help in providing a clear regulatory environment.

Proposed Recommendation 4:

Ofcom considers ADR Schemes should publish Key Performance Indicators covering staff competence, timeliness of decision making and overall customer satisfaction. In addition the Schemes should publish regular reports showing the breakdown of complaints received.

17. We agree that ADR schemes should publish key performance indicators covering staff competence, timeliness of decision making and overall customer satisfaction and that they should also publish regular reports showing the breakdown of complaints received.

Proposed Recommendation 5:

The Schemes should work with communications providers to improve awareness of the service amongst those groups who are currently under-represented. Otelo should continue to monitor socio-demographics of complainants as an integral part of consumer satisfaction surveys. CISAS should commission independent consumer satisfaction surveys as soon as possible. Action should be taken to ensure that ADR is equally accessible to all.

18. We agree with the proposed recommendation and for customer satisfaction surveys to continue to be carried out regularly by Otelo and Cisas. Further, we feel it is important that Ofcom gives Cisas a deadline to complete its consumer satisfaction survey.

19. We have already stated that we think widespread consumer awareness of the ADR schemes is essential to enforce industry best practice. The results of Ofcom's own survey reveal that consumer awareness is poor. Thus, we welcome any further research, be it customer satisfaction surveys or the socio-

demographic monitoring of complainants, if it helps to improve wider consumer awareness of the ADR schemes.

20. In creating widespread scheme accessibility Otelo and Cisas must be mindful on a continuing basis of the needs of people whose first language is not English. Also, it is essential that the schemes are easily accessible for people with a disability. The schemes must ensure that their websites continue to meet the needs of people with a disability and that information is made available in alternative formats.

Proposed Recommendation 6:

Schemes should consider using an independent third party to handle complaints about their own processes and procedures.

21. We think it is a good idea to use an independent third party to handle complaints about the ADR schemes own processes and procedures. We agree with Ofcom that the introduction of a third party will help promote the impartiality of the schemes by 'demonstrating that the scheme has not acted with a bias toward its members against the complainant'. Additionally, the introduction of a third-party may also help further strengthen the ADR schemes processes by the provision of oversight.

Proposed Recommendation 7:

Schemes should take action against communications providers who fail to comply with their rules, including best practice on complaints handling; and/or who fail to abide with the scheme's decisions. Schemes should alert Ofcom of any potential problems that may prove detrimental to consumers.

22. We agree that the schemes should take action against those communications providers that fail to comply with the rules. What the review fails to explain clearly is Ofcom's role in the process and how it enforces the regulations and imposes sanctions on those communications providers that breach General Condition 14.

23. We look to Ofcom to state: what action will be taken, why it will be taken and when it will be taken against companies that are in breach of their obligations.