

Gavin Daykin
Ofcom
Consumer Policy Team
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Dear Gavin

Protecting consumers from mis-selling of fixed-line telecommunications services

This response has been prepared on behalf of the Fixed Service Providers Group of the Federation of Communications Services, which represents more than 150 service providers and resellers of fixed telephony services including Wholesale Line Rental (WLR), calls packages and broadband. A list of our members can be found on the FCS website - www.fcs.org.uk

This response is supplementary to the response submitted by FCS on 27th May this year to Ofcom's original consultation in March. The key points made in the original FCS response remain valid.

We welcome Ofcom's decision to phase implementation of its original proposals. The issues on which Ofcom plans to consult further, specifically requirements on call recording and the provision of information on contractual liability at the point of transfer, are potentially costly for communications providers. It is clear from research carried out by FCS that the different options being considered in these areas have widely differing cost implications for communications providers. Ofcom must, therefore, ensure that its final proposals are proportionate. We would welcome further dialogue with Ofcom on the detail of these very important issues before the proposals for phase 2 implementation are finalised.

We also have some comments on the re-drafted General Condition 24.

With regard to section 24.5 on publication of relevant obligations, we believe that this is overly prescriptive as amended. The wording of the General Condition is not user friendly and is drafted as a generic instruction to communications providers rather than as advice to customers. We suggest that Ofcom should allow, as an alternative to the provision of a copy of the General Condition itself, the publication of a code of practice which includes all the requirements and information contained in the General Condition and incorporates specific references the General Condition and how a copy may be obtained. Clearly the requirement to provide a copy of the General Condition on request should be retained.

With regard to paragraph A12.20 of the draft guidelines, this includes a requirement for the gaining provider to advise customers that they may have contractual liabilities with their existing provider. We are concerned that this may prompt the customer to contact the losing provider even where there is no such liability. It is not clear whether Ofcom would consider this scenario to be subject to the restrictions imposed by General Condition 1.2 and such contact may, therefore provide a save opportunity for the losing provider. If the losing provider is obliged to provide detailed information on such liabilities during the transfer period it seems unnecessary to require the gaining provider to do this.

We believe that the revised definition of "Transfer Period" is ambiguous. The word "from" appears to have been mistakenly retained from the previous definition. Furthermore, our understanding is that the intention is to reflect the provisions of the Distance Selling Regulations, where there is a 10 day cooling off period following acceptance of the contract. However, we feel that the new definition can be read to mean the 10 days immediately prior to the order maturing (which may not in practice be the 10 days following the customer's entering into the contract).

Our responses to the specific consultation questions are as follows:

Question 1: *Do respondents agree that there should be an implementation period of one month for the new GC 24 to take effect?*

It is anticipated that the final version of the new General Condition will be published towards the end of 2009 and, therefore, effectively implemented at the beginning of 2010. On this basis and on the assumption that the final wording is substantially as currently drafted, we believe that the 28 day implementation period proposed is adequate.

Question 2: *Do respondents agree there should be a withdrawal period of one month for the July 2005 Cancel Other Direction from the date of publication of the statement?*

We believe that the withdrawal of the July 2005 direction must be co-ordinated with the new General Condition taking effect to ensure that there is no gap in the regulation applying to BT (as stated in paragraph 8.8 of section 8 of the consultation). It is not clear that this is the same as the date of the publication of the statement.

We trust that the above comments are helpful and would welcome the opportunity to discuss any of the issues further with Ofcom. In particular we believe that further consultation with industry and careful consideration is required before the requirements on call recording are finalised.

Yours sincerely



Michael Eagle
General Manager