



Consumer policy for communications in the United Kingdom

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March 2010

Developments in telecommunications markets in the UK

Year	Activity
1981	Mercury Communications (now Cable & Wireless) set up to compete with BT
1984	Telecommunications Act; Oftel set up; BT privatised
1985	First two GSM operators licensed
1986	ICSTIS (now PhonepayPlus) first regulated premium rate services
1987	BT obliged to publish quality of service indicators
1991	Duopoly Review led to opening of competition; two more GSM operators licensed
1993	Comparable performance indicators work started
1994	Universal service obligations redefined to include affordability
1996	Internet Watch Foundation set up; Nominet UK set up
1998	Open Network Provision in the EU required full liberalisation
2000	Household takeup of fixed lines peaked at 94%
2002	New Regulatory Framework in the EU abolished licensing; Otelco and CISAS set up
2003	Communications Act; more than half of households had home internet access
2004	Ofcom and its Consumer Panel started work
2005	Strategic Review led to BT operational separation
2006	Retail price controls on BT ended
2007	More households had mobile service than had fixed service
2008	Consumer Focus set up
2009	Digital Britain Report recommended universal broadband access
2010	Digital Economy Bill published

Legislative emphases for the regulator in the UK

- **Telecommunications Act 1984:**
 - Oftel was required to secure the provision of “such telecommunications services as satisfy all reasonable demands for them”, and ensure that whoever provided such services was able to finance their provision.
 - Secondary duties included promoting:
 - The interests of consumers and users.
 - Effective competition.
- **Communications Act 2003:**
 - Ofcom was required to further the interests of citizens and consumers in relation to communications, “where appropriate by promoting competition”.
 - Secondary duties included paying special attention to the needs of:
 - Children and others in need of special protection.
 - Elderly people, people with disabilities, and people on low incomes.
 - Residents of the different regions.
 - Residents of rural and urban areas.
 - Members of different ethnic communities.

Ofcom general conditions of entitlement together

1. General access and Interconnection obligations (2 pages)
2. Standardisation and specified interfaces (2 pages)
3. Proper and effective functioning of the network (1 page)
4. Emergency call numbers (1 page)
5. Emergency planning (1 page)
6. Public pay telephones (2 pages)
7. Must carry obligations (1 page)
8. Operator assistance, directories and directory enquiries (1 page)
9. Requirement to offer contracts with minimum terms (2 pages)
10. Transparency and publication of information (2 pages)
11. Metering and billing (3 pages)
12. Itemised bills (1 page)
13. Non-payment of bills (1 page)
14. Codes of practice and dispute resolution (5 + 3 + 3+ 6 pages)
15. Special measures for end users with disabilities (3 pages)
16. Provision of DTMF and CLI (1 page)
17. Allocation, adoption and use of telephone numbers (3 + 3 pages)
18. Number portability (5 pages)
19. Provision of directory information (1 page)
20. Non geographic numbers (1 page)
21. Quality of service (1 page)
22. Service migrations (3 + 5 pages)
23. Sales and marketing of mobile telephony services (5 pages)
24. Sales and marketing of fixed-line telephony services (6 pages)

Ofcom general conditions of entitlement related to consumer protection

- Service providers must comply with the general conditions of Entitlement (but do not need licences).
- Many general conditions state details from the EU directives, but some have interpretations or extensions specific to the UK, such as:
 - Requirements for service providers to have **metering and billing** systems that are approved (GC11).
 - Requirements for service providers to have **codes of practice** that have certain contents and to facilitate **dispute resolution** (GC14).
 - Requirements for service providers to implement **special measures for end users with disabilities**, including access to relay services (GC15).
 - Rules for the **allocation, adoption and use of telephone numbers** (GC17).
 - Limits on **number portability** timescales and charges, and extensions of **number portability** to services that only receive calls (GC18).
 - Procedures for **service migrations** in which customers change their broadband service providers (GC22).
 - Rules for the **sales and marketing of mobile telephony** (GC23).
 - Rules for the **sales and marketing of fixed telephony** (GC24).

Ofcom rules and codes for consumer protection: overall position

- **Mandatory rules cover:**
 - Contents of the basic code of practice (GC10).
 - Metering and billing systems (GC11).
 - Contents of the code of practice for PRS calls and messages (GC14A1).
 - Contents of the code of practice for NTS calls, calls to 0870 numbers and calls to personal numbers (GC14A2).
 - The provision of consumer protection information on service reliability, emergency calls and number portability (GC14A3).
 - The broadband migrations process (GC22A1).
 - Sales and marketing for mobile telephony (GC23).
 - Sales and marketing for fixed telephony (GC24).
- **Voluntary codes cover:**
 - The provision of information on broadband speeds.
 - The provision of calling line identification facilities and related services.
- **Policy definitions relevant to users cover:**
 - The persistent misuse of electronic communications.
 - Conditions regulating premium rate services.

Ofcom rules and codes for consumer protection: enforcement

- **Ofcom may:**
 - **Issue notifications for violating parts of the Communications Act 2003.**
 - **Seek court injunctions or orders for breaking consumer protection laws.**
 - **Impose penalties for failing to comply with notifications (with fines of up to 10% of turnover for contraventions of General Conditions and of up to £50,000 for misuse of electronic communications).**
- **In 2008-2009 Ofcom:**
 - **Issued six notifications for contravention (for having poor sales and marketing practices, flouting broadband migration processes, abusing CLI in fixed telephony migration and ignoring CLI in emergency calls)**
 - **Issued three notifications for misuse (for making silent or abandoned calls).**
 - **Fined four providers £121,000 altogether for persistent misuse.**
 - **Obtained formal undertakings from one provider to stop unfair contract terms (related to incentives to buy and returns and repairs of handsets).**
 - **Assessed a “super-complaint” into call charges from prisons.**
 - **Conducted three own-initiative investigations of compliance (on ADR provision, emergency call support and PRS and NTS codes).**

Ofcom offshoots related to consumer activities

- Ofcom has its own Consumer Affairs Branch.
- Ofcom also has non-board advisory committees:
 - Communications Consumer Panel
(<http://www.communicationsconsumerpanel.org.uk/>)
 - Advisory Committees for the Nations
(http://www.ofcom.org.uk/about/csg/adv_cmmt_nations/)
 - Advisory Committee for Older and Disabled People
(http://www.ofcom.org.uk/about/csg/adv_cmmt_older_disabled/)
 - Consumer Forum for Communications
(<http://www.ofcom.org.uk/about/csg/cfc/>)

The requirements of self-regulation and co-regulation



- Willing participation from all significant industry members
- Informed and well supported consumer representatives
- Familiar and well understood regulatory areas
- Powerful company regulatory mechanisms
- Absence of market or other crises
- Co-operation without collusion

- Transparent and accountable regulators
- Wide and responsive consultations
- Efficient and flexible regulators
- Regulatory forbearance
- Reserve powers
- Sunset clauses

Self-regulatory and co-regulatory bodies

- PhonepayPlus for **supervising premium rate services** (originally self-regulatory but now co-regulatory to fit the Communications Act 2003).
- Independent Mobile Classification Body for **devising classifications of content sold for mobile phones** (self-regulatory and operated by PhonepayPlus).
- Internet Watch Foundation for **eliminating illegal material, mainly related to child abuse, from the internet in the UK** (self-regulatory).
- Nominet UK Dispute Resolution Service for **controlling uses of .uk domain names** (self-regulatory).
- TopComm for **publishing quality of service indicators for fixed telephony** (co-regulatory and currently inactive).
- TopNet for **publishing quality of service indicators for mobile telephony** (self-regulatory and currently inactive).
- Telephone Preference Service for **registering preferences not to receive commercial communications** (originally self-regulatory but now contracted to fulfil an Ofcom obligation to maintain registers).

Suppressing unwanted commercial communications: overall position

- **Subscribers may opt out of receiving commercial calls or faxes by registering with a registrar appointed by Ofcom.**
- **The registrar is funded by the industry and is free to registrants.**
- **The registrar currently appointed is the Telephone Preference Service, a subsidiary of the Direct Marketing Association (DMA), which also provides the mailing preference service; the tender for a new appointment is due in 2010.**
- **Also, commercial faxes, texts, recorded voice messages and emails must not be sent to individual subscribers without prior consent.**
- **In summary:**
 - **Some commercial communications (calls to individual subscribers, calls to corporate subscribers and faxes to corporate subscribers) become “unwanted” only if subscribers opt out.**
 - **Other commercial communications are “unwanted” unless subscribers opt in.**

Suppressing unwanted commercial communications: enforcement

- **The Information Commissioner's Office (ICO) may prosecute under the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended).**
- **In 2008-2009 ICO received at least 8,400 complaints about unwanted commercial communications, among which:**
 - **39% concerned automated calls.**
 - **32% concerned live calls.**
 - **18% concerned emails.**
 - **>7% concerned texts.**
 - **<4% concerned faxes.**
- **In 2008-2009 ICO:**
 - **Gave advice in 44% of data protection cases.**
 - **Decided that breaches were likely in 16% of data protection cases.**
 - **Decided that breaches were unlikely in 8% of data protection cases.**

Suppressing silent calls: overall position

- **Users may opt out of receiving silent calls by registering with Silent Callgard.**
- **Silent Callgard is sponsored by DMA and Ofcom and is free to registrants and to companies using its register.**
- **Ofcom regards excessive volumes of silent calls as “persistent misuse”.**

Premium rate service supervision: overall position

- **“Controlled” premium rate service providers must adhere to a code of practice approved by Ofcom and administered by an organisation approved by Ofcom.**
- **The organisation is funded by the industry and is free to users.**
- **The organisation currently approved is PhonepayPlus.**
- **Premium rate services provide contents, products or services that are charged to telephone bills; contents might be delivered in calls, faxes, texts or display viewings.**
- **“Controlled” premium rate services include:**
 - **Those costing more than £0.05 per minute for BT customers and using particular number ranges, such as 087 (excluding 0870).**
 - **Those costing more than £0.10 per minute.**
 - **Those providing chatline services.**
 - **Those operated by internet dialler software.**
 - **Those providing sexual entertainment services.**

Premium rate service supervision: enforcement

- **PhonepayPlus may (subject to appeals to an independent board):**
 - Prohibit, restrict, or (in some situations) refuse permission for, services.
 - Impose fines of up to £250,000 for breaking its code.
- **In 2008-2009 PhonepayPlus received 23,278 complaints, among which:**
 - 92% concerned mobile short codes, which included 65% for subscription services and 8% for unsolicited texts.
 - 5% concerned '09' numbers.
 - >2% concerned '070' numbers.
 - <1% concerned '118' numbers.
 - 0% concerned '087' numbers, which were outside scope until later.
- **In 2008-2009 PhonepayPlus investigated 267 services (associated with 10,449 complaints), with the effect that:**
 - 70 cases led to fines totalling £2,479,565.
 - 46 cases led to awards of compensation.
 - 43 cases led to advice on compliance.
 - 22 cases led to bans on services.

Dispute resolution: overall position

- **Providers of public electronic communications services to domestic or small business customers must belong to an Alternative Dispute Resolution (ADR) scheme accredited by Ofcom.**
- **The schemes are funded by the industry and are free to users.**
- **The schemes do not publish (for example):**
 - **Details of the complaints handled.**
 - **The numbers of complaints against individual service providers.**
 - **Identifiable trends in complaint types.**
- **The schemes currently accredited are:**
 - **Office of the telecommunications ombudsman (Otelco), with 300 members, employing full-time investigators and related to the Energy Ombudsman.**
 - **Communications and Internet Services Adjudication Scheme (CISAS), with 250 members, using part-time adjudicators and administered for the Chartered Institute of Arbitrators.**

Dispute resolution: enforcement

- **Otelo and CISAS may make awards to customers of up to £5,000 in resolving disputes.**
- **In 2008-2009, Otelo:**
 - Required no redress in 7% of cases.
 - Required non-financial redress only in 11% of cases.
 - Required financial redress only in 23% of cases.
 - Required financial redress plus non-financial redress in 59% of cases.
 - Made awards averaging £104, with the highest award being £3,000.
 - Made awards of less than £100 in 62% of cases with financial redress.
 - Made awards of less than £50 in 41% of cases with financial redress.
- **In 2008-2009, for CISAS:**
 - Required no redress in 39% of cases.
 - Considered non-financial redress only in 16% of cases.
 - Considered financial redress only in 9% of cases.
 - Considered financial redress plus non-financial redress in 36% of cases.
 - Made awards averaging £270.

Dispute resolution: accreditation principles

- **To obtain accreditation, a scheme provider must:**
 - Be independent from Ofcom and communication providers.
 - Have procedures that are easy to use, transparent and effective.
 - Make procedures available to customers free of charge.
 - Obtain all the information necessary to give effect to the procedures.
 - Investigate disputes effectively.
 - Provide for making appropriate awards of compensation.
 - Enable awards of compensation to be properly enforced.
- **Several of these requirements are made more concrete in those of the British and Irish Ombudsman Association (BIOA).**
- **Also, in practice a scheme provider will:**
 - Publish key performance indicators of staff competence, timeliness of decision making and customer satisfaction.
 - Publish regular reports showing the breakdown of complaints received.
 - Commission independent customer satisfaction surveys.
 - Use an independent third party to handle complaints about it.

Comparison shopping: overall position

- A price comparison calculation scheme can be accredited by Ofcom.
- The schemes may be funded by the industry or by users.
- The schemes must compare “a comprehensive number of providers to reflect the level of choice ..., including key players”.
- The schemes currently accredited are:
 - SimplifyDigital.
 - BroadbandChoices.
 - BillMonitor.
- Schemes that are not accredited include:
 - HomePhoneChoices.
 - SimplySwitch.
 - uSwitch.
- No scheme provider currently has accreditation from both Ofcom (three available) and Consumer Focus (twelve available).

Comparison shopping: accreditation principles

Requirement for accreditation of a price comparison scheme	Ofcom	Consumer Focus
Compare energy providers	No	Yes
Compare electronic communications service providers	Yes	No
Cover all (Ofcom: just sufficiently representative) generally available relevant tariffs	No	Yes
Be independent of providers	No	Yes
Avoid display of advertising near comparisons	No	Yes
Have full management and control of the data, calculators and displays	No	Yes
Identify payments such as commissions from providers	Yes	Yes
Exclude special offers	No	Yes
Display current tariff and expenditure	No	Yes
Separate prices of items in bundles	No	Yes
Display at least ten tariffs directly and all tariffs readily	No	Yes
Making available sorting by price	Yes	Yes
Explain methods of payment	No	Yes
Refer to information on efficiency of use (Ofcom: just quality of service)	No	Yes
Be updated within two days (Ofcom: just eight weeks) of changes to tariffs	No	Yes
Be accurate, with display of date of most recent update	Yes	Yes
Undergo annual reviewed	Yes	Yes
Respond to complaints and enquiries in seven days of receipt	No	Yes
Offer advice offline as well as online	Yes	No
Be accessible to disabled users	Yes	No

Metering and billing: overall position

- Providers of **fixed telephony or mobile telephony** with turnover of **£40 million** per year **must** apply for metering and billing approval.
- Providers of **broadband or Voice Over IP (VOIP)** with turnover of **£5 million** per year **may** apply for metering and billing approval.
- An approval body is accredited for the metering and billing scheme by a European Accreditation Body.
- The bodies currently accredited by the UK Accreditation Service (UKAS) are:
 - British Approvals Board for Telecommunications (BABT).
 - British Standards Institution (BSI).

Metering and billing: approval requirements

- **To obtain approval, a service provider must:**
 - **Choose an approval body for its total metering and billing system.**
 - **Provide a high level description of its system and the risks to accuracy.**
 - **Provide a measurement strategy stating how the risks are monitored.**
 - **Codify all business and technical processes affecting its system.**
 - **Specify the rounding and resolution of tariffs.**
 - **Provide a tariff schedule informing users about possibly unexpected charges (due to call dropping or inadvertent roaming, for example).**
 - **Ensure that its system meets the standards for completeness and accuracy even for communications connected through other providers.**
 - **Maintain the accuracy of its system over twelve months.**
 - **Implement recovery plans for exceptional failures of its system.**
 - **Detect and correct gross billing errors.**
 - **Participate in internal and external audits of its system.**
 - **Avoid overcharging by more than £600 per month in total if the relevant turnover is more than £360 million per year.**

Metering and billing: changes from previous arrangements

- **Tolerances for accuracy are defined to take account of specific service circumstances (but are essentially the same for all services).**
- **Undercharging does not necessarily affect accuracy (but may be volunteered for consideration).**
- **The responsibilities of intercommunicating providers are clarified.**
- **Formal ISO 9000 certification is not needed, to resolve tensions between ensuring accuracy and having documented procedures.**
- **Unexpected charging situations have to be described adequately.**
- **There are procedures to be followed so that single catastrophic data losses are handled systematically but do not prevent approval.**

Sales and marketing: code requirements

- **Fixed telephony (main concern: unauthorised changes of provider):**
 - Avoiding mis-selling and slamming.
 - Keeping records about sales for six months.
 - Informing customers clearly about rights before service transfer.
 - Allowing cancellation free of charge before service transfer.
 - Cancelling transfers to other providers only at customer request.
 - Monitoring compliance by agents.
 - Providing written terms.
 - Providing copies of the code.
- **Mobile telephony (main concern: unredeemable incentives to buy):**
 - Avoiding mis-selling.
 - Keeping records about sales and incentives to buy for six months.
 - Keeping records about incentives to buy for ninety days after expiry.
 - Providing detailed and clear explanations of incentives to buy.
 - Checking credit histories of retailers.
 - Monitoring compliance by retailers.
 - Providing written terms.
 - Providing copies of the code.

The guidelines for the two codes are similar to each other, except where they relate to the “main concern”.

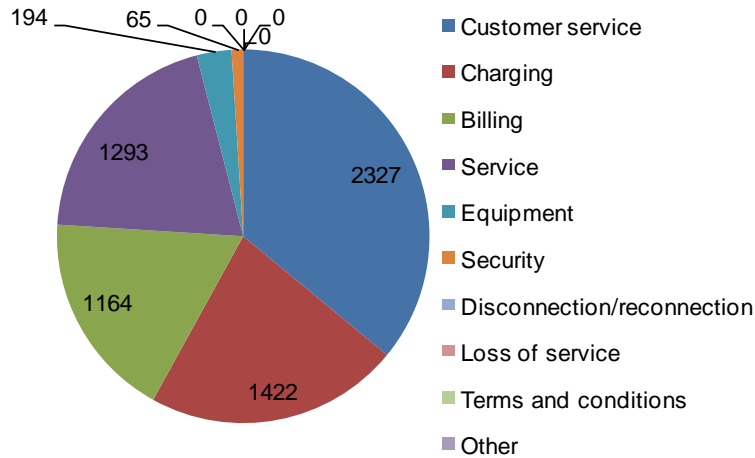
Sales and marketing: changes from previous arrangements

- **Fixed telephony:**
 - **2003:** Restrictions on cancelling transfers imposed on BT.
 - **2005:** Contents of the code prescribed, including material on doorstep and telephone sales.
 - **2010:** Mandatory code introduced, imposing restrictions on cancelling transfers on all fixed service providers and moving to guidelines material on doorstep and telephone sales.
- **Mobile telephony:**
 - **2007:** Voluntary code introduced for mobile network operators, including material on doorstep and telephone sales and on incentives to buy.
 - **2009:** Mandatory code introduced for mobile service providers, moving to guidelines material on doorstep and telephone sales and on incentives to buy.

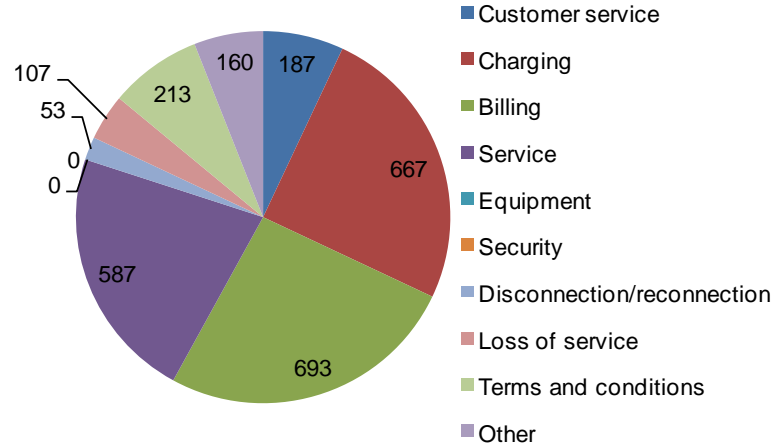
Both codes moved towards prescribing general behaviour in regulations and offering specific examples in guidelines.

Telecommunications consumer complaints 2008-2009

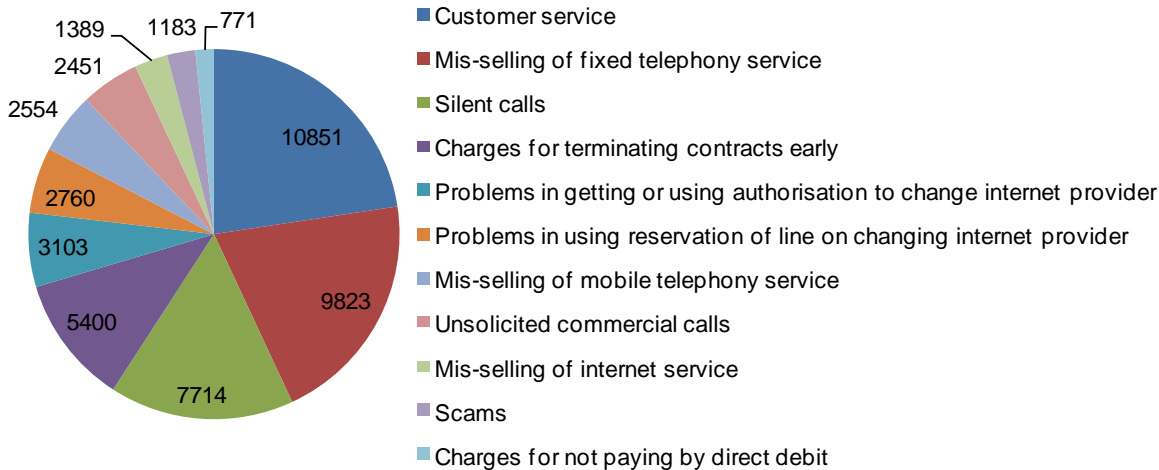
Otelo (101,882 contacts and 6,887 complaints)



CISAS (6,464 contacts and 2,667 complaints)



Ofcom (48,000 contacts)



Consumer Direct (74,988 contacts)

