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Introducing:

The Telecommunications Ombudsman Service

THE OMBUDSMAN'S FIRST REPORT

1 July 2003



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THE OMBUDSMAN'S FIRST REPORT – 1 JULY 2003

INTRODUCING THE COUNCIL

A FOREWORD BY COLETTE BOWE

“I am very pleased to have the opportunity of introducing this the first Report of the Telecommunications Ombudsman. In the year since I and my fellow Council members were appointed, we have in turn appointed the Ombudsman and laid the foundations of what we intend will be an excellent service for the industry and its customers. Our aim going forward will be to ensure that the Ombudsman is able to continue to provide an impartial, fair and efficient service which is even-handed between customers and their telecommunications providers. And we will be working with the industry to try to ensure that the products and services that we can cover reflect the fast-changing marketplace.

I would like to thank my six fellow Council members for their hard and effective work in getting the Ombudsman Service up and running during this year. We have been greatly assisted in our work by the Member Board, under the chairmanship of Rosaleen Hubbard. And I would like, on behalf of the Council, to thank all the staff of the Service, under the leadership of Elizabeth France, for their contribution to establishing and running the Service in its first year. “

INTRODUCING THE OMBUDSMAN



SOME OPENING COMMENTS BY ELIZABETH FRANCE

This may be a report covering less than a year but a good deal has happened since I took up post on 1 October. We began with three temporary staff in a serviced office. Now we have 14 established members of staff and are in offices which should provide all the space and facilities we shall need for the years ahead.

We began with seven founder Member Companies and have since added three more, whilst other applications are to be considered by our Council in July. The Members have shown themselves keen to match the enthusiasm of our staff in helping to set up an effective service for their customers.

We began with a scope limited to voice and voice related services but our Council has announced its decision to amend our Terms of Reference to cover all the services offered by public communications providers.

We began in an environment where there was no obligation, even on voice providers, to offer their customers the sort of dispute resolution which an Ombudsman can deliver. We now await Royal Assent for the Communications Act which will require all public communications providers to offer an accredited scheme for resolving disputes.

We began with little idea of what would be required to become an accredited scheme. We are now ready with our application and keen to be considered by the regulator against the published criteria.

The year ahead will see us build the Service: to expand membership, to hone our skills in resolving disputes and to make sure people know we are here. Our aim is to provide a first class service of an independent and impartial dispute resolution for public communications providers and their customers.

INTRODUCTION

This report covers the period from 1 October 2002. In future years the Ombudsman's report will, in line with the statutory report and accounts of the company, cover the period from 1 April to the following 31 March. While this report can only give indications of the likely nature of work coming to the Service, based on our first cases, it provides a baseline for future years.

THE COMPANY

The Telecommunications Ombudsman Service Limited (TOSL) was set up following the careful work of the Implementation Working Group under the Chairmanship of Sir Edward Osmotherly. Their work and the support of the Director General of Telecommunications, David Edmonds, provided a good foundation on which to build. From the appointment of the Independent Council Members, who were also founder Members of the Company, independence from the regulator has been an important reality. It has sometimes required us to explain the sequence of events to industry commentators so that the shift which occurred, on the formation of this not-for-profit company, is properly understood.

The Company is funded by its industry Members. Its governance structure has been designed to protect the independence of the Ombudsman. The Council, which is the Company's non-executive Board, consists of seven Members, five of whom are independent of the industry

Colette Bowe (Chairman)

Peter Holland (Deputy Chairman)

Margaret Doyle

Roger Jefferies

Jeremy Mitchell

They were appointed in June 2002.

The remaining two Council Members who were appointed by the Member Board are:

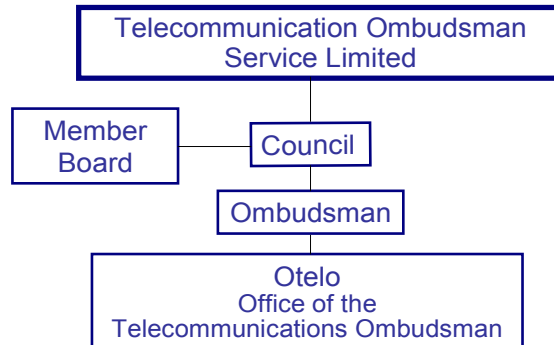
Chris Holland (appointed in March 2003)

Rosaleen Hubbard (appointed in January 2003)

They represent BT and ntl: respectively, on the Member Board.

The primary role of the Council is to appoint, maintain and safeguard the independence of the Ombudsman.

Structure of the Service



The Member Board - elected by the Member Companies - is tasked with reviewing and monitoring our overall performance, approving budgets and setting fees.

Between June and October the Council worked with Dr Richard Sills, now Director of Operations, to locate premises, admit the first companies to membership of the Service and to prepare for the arrival of the Ombudsman and the establishment of the executive team. Since then the Council and Member Board have, among other things: approved our first corporate plan and budget; set an initial fee structure; admitted new Members to the Service and given consideration to adjustments to the initial terms of reference to ensure that what we offer our Members will meet their statutory obligations once the Communications Act is in place.

LOCATION

Following a decision by the Council not to establish the Office in London, consideration was given to a number of possible sites. The one selected is at Wilderspool Park, Warrington, which offers easy access to rail, road and air links. It is in an area where the pool of staff with experience of call centre work for the telecommunications companies has already proved to be of value. It also adds to the number of bodies based in the North West offering similar services in other fields: the Legal Services Ombudsman; the Independent Case Examiner; the Equal Opportunities Commission and the Information Commissioner, for example.



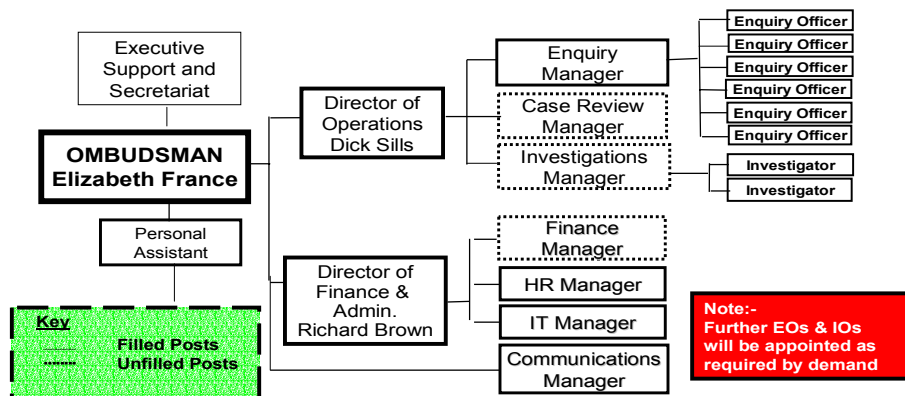
Wilderspool Park

PEOPLE

A core team has now been recruited and there will be further growth in line with the growth in the volume of work we receive. We have been delighted at the response to all our advertised vacancies and with the quality of the staff we have been able to recruit.

Their enthusiasm and willingness to contribute to shaping the Service has been invaluable. Our early work has focused on establishing procedures which will allow us to deliver a service which is accessible to all and easy to use. We have worked with our IT suppliers to ensure that our systems facilitate telephone and Internet contact, and to minimise our use of paper.

Otelo Organisation Chart



JANUARY 2003

We had planned to be open for business, ready to receive our first customer queries, from the beginning of January. We met that objective. By then, members of our start up team had visited all Member Companies and met those who handle escalated complaints. Our web site was in place and we were pleased to have available a booklet describing the Service in simple terms (Two sides to every story), for which we were awarded a Crystal Mark. Over 40,000 copies of that booklet, which is also on the website, have now been distributed.

We have developed the material available and can provide a basic description of the Service on audio tape, in Braille, and in a range of languages. We have also continued to develop our processes in dialogue with our Members.

EDUCATING OURSELVES AND OTHERS

We have had a range of visits to and from Member Companies to learn about the ways they work and the issues likely to arise. We have also been grateful for the willingness of other Ombudsmen (in particular the Financial Services Ombudsman) in allowing us to benefit from their experience in setting up our office. A timely visit to our offices in Warrington by the Australian Telecommunications Ombudsman, John Pinnock, proved particularly valuable. We are also in touch with the Belgian Mediateur and Ombudsman

In addition to a range of ad hoc meetings we have attended a number of seminars and were particularly pleased to have been admitted to the British and Irish Ombudsman Association in time to participate in their Spring Conference.

The BIOA Conference gave us the opportunity to explain what we are doing as well as to learn from others. We have also given presentations at Ofcom workshops, Edinburgh University Law School, a 'Credit Today' Conference, meetings of the Fixed Service Providers Association, the Internet Service Providers Association and EURIM. Information was also provided to all delegates at the annual Trading Standards Conference.

The Ombudsman has had meetings with Stephen Timms, Minister of State, Department of Trading and Industry; Lord Currie, Chairman of Ofcom; and David Edmonds, Director

General of Oftel. A number of informal briefings to industry and consumer advisers have also taken place.

RELATIONSHIPS WITH THE REGULATORS

Mindful of the need to be clear where our responsibilities fit with those of the regulators in this field, we have had meetings with Oftel, Ofcom, ICSTIS and the Information Commissioner and are drawing up appropriate Memoranda of Understanding.

WHAT DO WE COVER?

The first point is that as a service for our Members, we can only resolve disputes between domestic and small business customers and our Members. At present the Members are:

Broadsystem Ventures Ltd
BT
Centrica (covering One.Tel and British Gas Communications)
ntl Group Ltd
Powergen UK
Three
Thus plc
United Utilities (Customer Sales) Ltd
Virgin Mobile Telecoms Ltd
Vodafone Limited.

Services are limited to:

- ♦ 'telephony': this covers mobile, fixed phone and faxes;
- ♦ certain phone services, such as short messaging services (SMS or texting), voice mail and call forwarding, and
- ♦ services and products for disabled people, like text relay (an operator service that translates voice to text and text to voice) and free directory enquiries.

This will be extended shortly to include the services offered by any public communications providers.

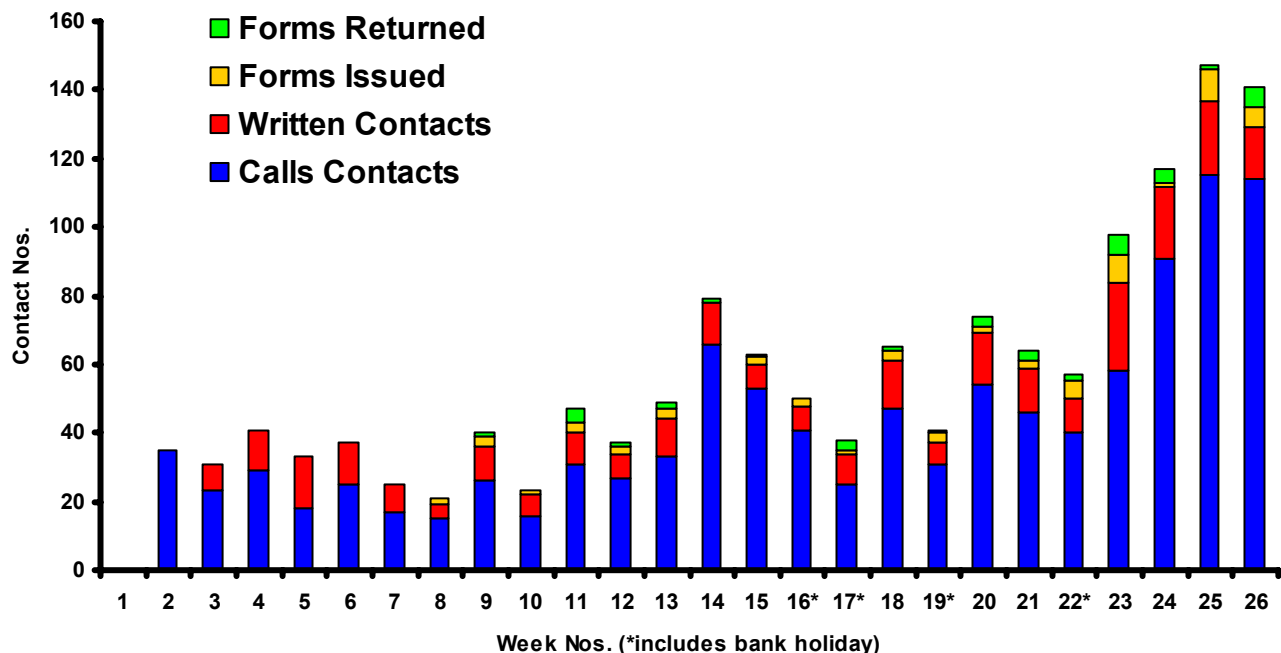
THE PROCESS

Where a complaint arises which seems to come within our terms of reference, it is important to remember that it must first be raised with the telecoms company. There is nothing we can do if the Member Company has not been given a chance to sort the problem out. The company must be given three months to take action, unless it is clear that deadlock has been reached before then. After that, we can look at complaints where the consumer remains unhappy. The complaint must reach us within nine months of raising it with the telecoms company or, if the company has issued a 'deadlock letter' – that is a letter making clear that there is nothing further they believe they can do – within six months of the date of that letter.

WHO HAS CONTACTED US?

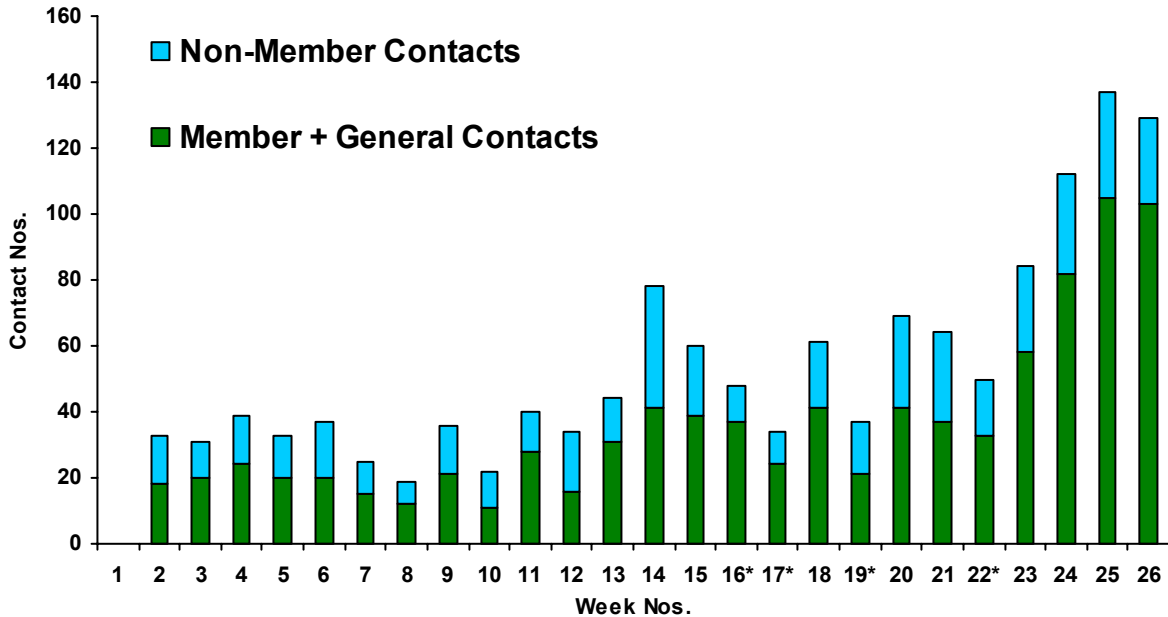
The build up of contacts has been gradual. Time has been needed by Member Companies to change the information about dispute resolution they provide to their customers and we have needed time to establish our links with consumer groups and advisers. There is, however a clear upward trend.

Weekly Consumer Contacts



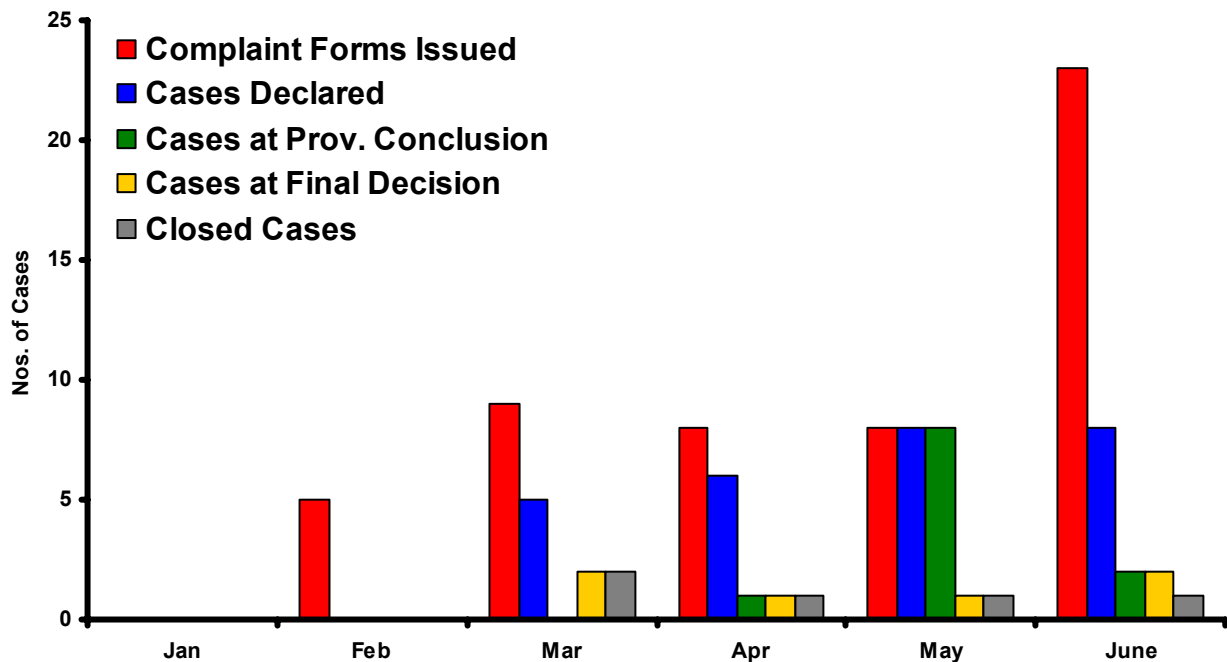
While we can not deal substantively with calls from customers of non-members, we have to be ready to deal with those who call us in error in a way which is positive for them and efficient for us. The number of such calls is, at present, a significant proportion of the total.

Member vs Non Member contacts

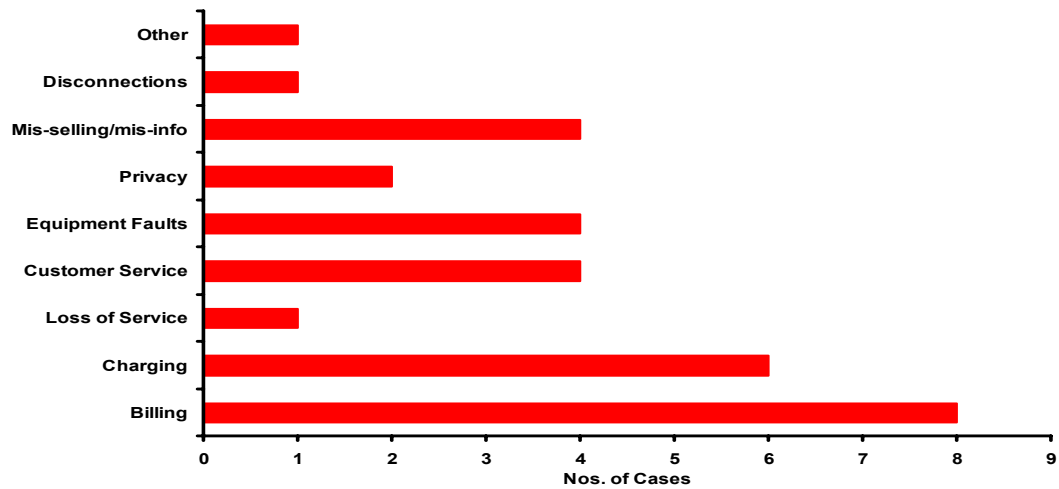


As only a small number of cases has been decided it is too early to draw any conclusions from the categorisation to date. The figures below show the cases opened, and the progress and the broad categories into which they fall.

Complaints and cases

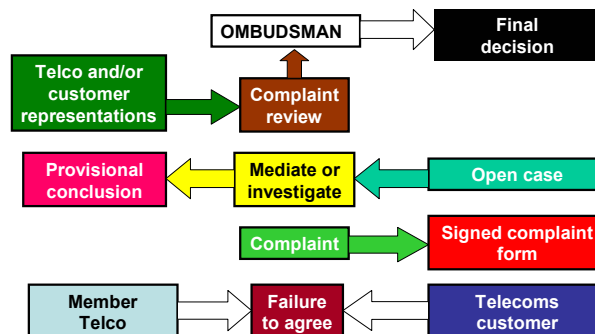


Complaint categories



COMPLETED CASES

Those cases which go through the full process to determination will have travelled along a path on which various opportunities for settlement will arise.



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It is our intention to conclude cases at the earliest opportunity, in the interests of the customer and the provider. We shall publish regular digests of closed cases. The seven cases, summarised anonymously at Appendix 1, constitute the first such digest.

It is too soon to try to draw conclusions about the nature of complaints from these early cases. There does seem, however, to be evidence that frustration and the perception by the customer that no-one has looked at all the elements of their complaint underlies a high proportion of the contacts received so far.

GENERAL LESSONS

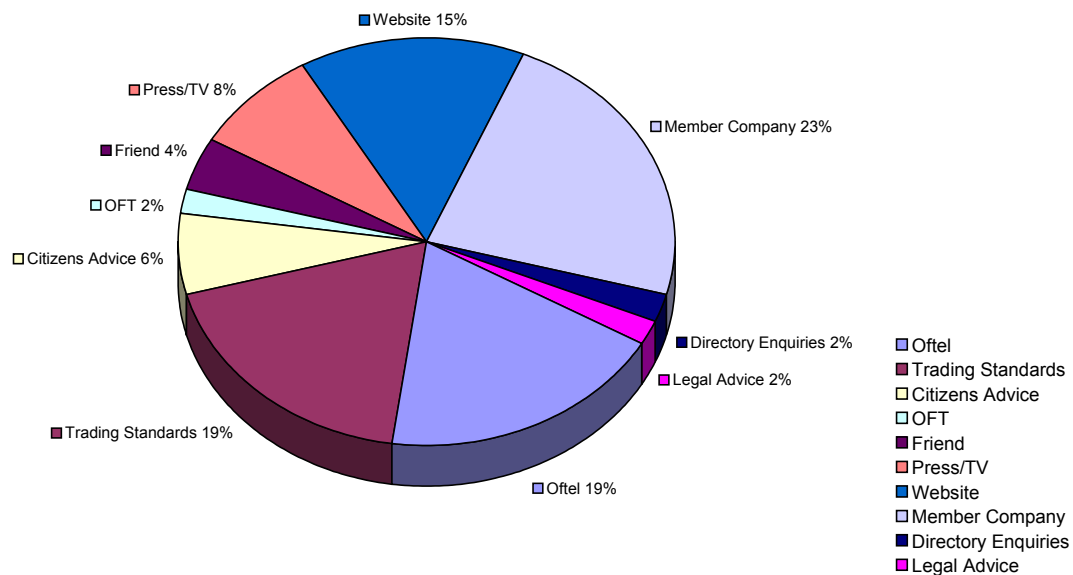
Over time we expect that consideration of individual cases will lead us to identify areas on which general advice to our Members might be valuable. One such has arisen during our first six months.

In looking at individual complaints, we recognised that telecoms companies might be misunderstanding the relationship between Article 14 of the Revised Voice Telephony Directive and section 7 of the Data Protection Act. Under section 7 of the Data Protection Act, individuals have a right to see any information held about them by a data controller. This is an important gateway right which enables us all to make judgments and decide on appropriate further action in relation to our fundamental right to respect for private life. It can, of course be limited. Such limitations may be imposed by other enactments and it is the case that Article 14 places such a restriction on the billing information telecommunications companies can provide to their customers. It makes clear that calls to freephone numbers should not be provided. We found, however, that this was being interpreted by some companies as extending to details of calls under the normal itemised billing level, even when a formal subject access request had been made.

We sought the view of the Information Commissioner on this and have now issued advice to all our Members. A copy of that advice is at Appendix 2.

HOW HAVE PEOPLE HEARD ABOUT THE SERVICE?

We ask people who contact us how they have heard of us. This information will be helpful to us in improving our communications and learning more about the consumers for whom the Service is provided. About half of those who have contacted us so far have answered our question; of those most have heard about us from their telecoms company. That is encouraging, though there is more work to be done to raise our profile with our Members' customers. Each company has a communications plan, as do we, for dealing with this and we are working together to increase awareness of the Service.



THE FUTURE

We are preparing now to take on a broader range of complaints from a wider range of public communications providers. Our Member Board is considering how changes might be made to the charges levied, to allow for the fact that some potential Members are themselves small businesses. That challenge is one for the industry. Ours is to increase our knowledge of our Members' business, develop our expertise, ensure that we gain early accreditation and in doing so offer a Service which becomes the dispute resolution scheme of choice for the industry, gaining its respect and that of customers.

FIRST DIGEST OF CONCLUDED CASES*

Case One

Mr C's next door neighbour, T, had a faulty line. Mr C was approached by T's Contractor, who required access to relay new pipes on Mr C's property in relation to his neighbour's faulty line. Mr C agreed and the following day work commenced, however, Mr C found that his line was now faulty. Mr C contacted T to advise them of the fault and requested compensation for the loss of use of his line. He was advised that he was not entitled to compensation as he was reconnected within 24 hours of reporting the fault. Mr C disputed this, claiming he had been without a phone line for 5 days – this included 2 days over the weekend. Following T's decision not to compensate, Mr C contacted the Ombudsman. The Ombudsman recommended mediation as reasonable method of resolution. T offered to credit Mr C's account with £19, the equivalent of 2 months line rental.

Case Two

C set up a telephone account with T. A limit on the value of chargeable calls that could be made was placed on the account. This was to prevent the user from exceeding the limit, which was set at £70 in any one billing period. C then set up a Direct debit on the account on the advice of T. C was advised that by setting up a Direct debit this would save money. However, T failed to advise C that the £70 limit on chargeable calls would be removed. C being unaware of this received a bill for £500. C contacted the Ombudsman. The Ombudsman recommended that C was liable for the bill; however, T should make an award of £320 in acknowledgement of the poor advice provided by T and the deficient explanation of the significance in using Direct Debit as a method of payment.

Case Three

C renewed a mobile contract with a package suggested by T. The package was to include £25 (excl vat) as a one-off annual payment and thereafter payment for any peak calls made. On receipt of the first bill C noticed that charges had been raised and monies debited from her account for Insurance, a phone replacement scheme and itemised billing. C complained to T who agreed to cancel all extra charges except the itemised billing. C complained to the Ombudsman. The Ombudsman recommended mediation as a reasonable method of resolution. T offered to credit C for £18.81 for the extra charges and permanently removed the itemised billing charge.

Case Four

C complained that voice quality of phone and Internet speed had deteriorated following a DACS being fitted to their line. C was also annoyed that they had not been informed about the DACS being fitted. The main thrust of complaint from C appeared to centre on the poor computer speed. T investigated and informed C that data speed met with legal requirements. In fact the real issue of concern turned out, during the investigation, to centre on the fact that the poor quality of the phone line was causing pain to C who used an amplified phone. T then removed the DACS which alleviated the problem. It was clear that the true nature of the complaint had been originally misunderstood by T but they corrected the problem when made fully aware of the issue.

Case Five

C owned a flat in a building which also housed council tenants. The Council owned exterior walls. T entered C's garden to put cables up the wall to a neighbour's property. C was concerned about T entering garden without permission and had a poor relationship with neighbour which this exacerbated. C was then further annoyed by poor customer Service from T in responding to the complaint. T offered a financial goodwill payment equivalent to one month's line rental after removing all cabling from the garden and walls of the property. C believed this was inadequate and complained to Otelo. Both parties agreed to the findings of a payment of £45 and a written apology from T for entering C's garden.

Case Six

C bought a mobile phone from T on the basis that the phone could be topped up by credit card over the phone. This was important to C who as a disabled person, cannot access the shops to buy cards. C found that it was not possible to purchase the cards over the phone due to a fault on T's computer system. This occurred several times and C did not receive a response from T to letters of complaint. Otelo contacted T who confirmed that a new credit card registration system had been put in place but C had not attempted to use the credit card since an earlier failure. Otelo contacted C who was then able to use the credit card system with no further problems.

Case Seven

C complained to Otelo about two issues: an unidentified Direct Debit charge on their monthly statements and a lack of response from T in terms of an agreement that C believed was in place between them. The complaint was strictly outside our terms of reference because of the date the issues had occurred, however Otelo contacted T to try and expedite the issue. T agreed to provide C with a manual breakdown of the statements as agreed and provided a reasonable explanation of the Direct Debit charge. C did not contact Otelo after this communication.

¹ *The cases are anonymised: C = customer; T = telecoms company*