



Alternative Dispute Resolution in the Communications Sector

Response to Ofcom's consultation on proposals to change the
ADR regime in the Communications Sector

March 2025

Introduction

Sky agrees that consumers should be provided with an effective complaints handling process and access to ADR. However, we consider that the current regime is already achieving this aim and that the proposal to reduce the complaints response period from eight to six weeks:

- (i) **is not proportionate:** the proposal is disproportionately burdensome and costly, without evidence that the changes would bring commensurate consumer protection or benefits;
- (ii) **fails to consider more complex complaints:** some disputes take longer to resolve as they are complex and/or involve third parties. Reducing the timescale means that many of these disputes will go to ADR prematurely in an incomplete state (for example with a reply from a third-party outstanding) and customers will have to wait longer for a decision, and potentially suffer ongoing harm, when two additional weeks could have fully resolved the issue;
- (iii) **is out of step with other regulated sectors:** other sectors use an eight-week timescale, which suggests that eight weeks is appropriate and working well.

Question 1: Do you agree with our provisional analysis of whether our rules which facilitate access to ADR are meeting our objective?

Sky agrees with Ofcom's provisional analysis that the rules facilitating access to ADR are meeting the overall objective of the programme – namely, that procedures are easy to use, transparent, non-discriminatory and effective.

Question 2: Do you agree with our proposal to modify the GCs to reduce the timeframe for access to ADR to 6 weeks?

No, Sky does not agree with this proposal for the reasons set out below.

Ofcom's own figures show that complaint resolution is already working very well in the Communications Industry

Ofcom's consultation paper states at para 3.27: *"the vast majority of consumers can expect their complaint to be resolved by their provider within 8 weeks. 95% of complaints received were resolved by the provider by the 8-week mark"*¹.

Further, data at section 3.25 states that 79% of complaints are resolved in less than a week, 89% by four weeks and 94% at six weeks². These data demonstrate that the current process is working well: the vast majority of customers do not need to go to ADR.

An eight-week timescale is in line with other sectors

Other sectors have an eight-week timescale for ADR. Ofcom has not presented evidence to suggest that the timescale should be shorter for the Communications industry or that disputes are more straightforward than in other industries.

Sky notes that following consultation in 2021, the Government decided to maintain the eight-week timeframe across all sectors. It is not clear what has changed in four years in terms to justify shortening this timeframe specifically for the Communications sector.

The proposal puts a disproportionate and unjustified burden on business

In the past five years, Ofcom has imposed many new regulatory obligations on providers to strengthen consumer protection. Sky supports initiatives that protect consumers, but this

¹ Para 3.27 of the Consultation

² Para 3.25 of the Consultation

proposal is disproportionately burdensome and costly, without evidence that the changes would bring commensurate consumer protection or benefits.

Ofcom has a duty to balance the interests of citizens and consumers whilst encouraging investment and innovation. Ofcom will be aware that Government has a laser focus on promoting growth and reducing regulation, where possible. Kier Starmer reiterated that goal in a recent speech in Hull.

Ofcom's estimated cost to the six main providers of reducing the timeframe from eight to six weeks is £3.5m or 2.2% per year (excluding the one-off costs of making the change which are likely to be significant).

In the overall scheme of things, two weeks is not a long period of time. Sky does not consider that the proposed reduction is justified in circumstances where:

- the vast majority of customers are well served by the present arrangements;
- the high point of what the proposed change will achieve is a possible two week time saving for a small percentage of customers;
- of the customers who might potentially benefit from the time saving, many will not be guaranteed a better outcome because their cases are the complex ones which typically require more time to resolve. Instead of being closed out without needing ADR, it is more likely that these complaints will be referred to ADR before full investigations can be completed (for example with a response from a third party still awaited) so that it will be challenging for ADR providers to decide on a fair outcome.

Sky supports regulatory change which drives a significant positive impact for customers, but in this instance the proposal does not strike the right balance for providers or consumers.

Ofcom's proposal is unsupported by robust cost analysis

Ofcom's estimated cost to the six main providers of reducing the timeframe from eight to six weeks is £3.5m. However, at a meeting with UKCTA members in January, Ofcom stated that its cost modelling was based on "*assumptions*" because the information requests sent to providers had not been able to glean consistent data. The consultation reiterates this point stating that Ofcom has not been able to estimate one-off costs resulting from the proposed changes (e.g. re-training personnel, making changes to software and systems) due to lack of adequate data from providers. Providers have pointed out that these costs could be "*potentially significant*"³.

³ Footnote 238 of the Consultation

In addition, Ofcom states that “[i]t is also difficult to know what the knock-on impacts of these changes would be, such as whether consumers would increase the rate at which they went to ADR, which would raise costs”⁴. Ofcom’s consumer research is based on 77 customers of whom only 20 were interviewed. Given the changes being proposed, we would expect a more representative and extensive piece of analysis to be undertaken.

Sky is concerned that Ofcom’s inability to provide any estimate, means that providers are faced with the prospect of implementing significant changes without an assurance that such changes are based on a robust cost analysis.

A potential time saving for a very small number of customers does not justify the cost burden on businesses plus the detrimental impacts on the dispute resolution process including:

- Possible negative impact on customer service since advisors will have less time to complete investigations; and
- Cases potentially going prematurely to ADR with incomplete information.

There will always be some complaints (typically the complex ones) which need longer to resolve. If the timescale is compressed, the chances of resolving complex complaints is reduced.

Sky always strives to resolve complaints as quickly as possible. It is not in our interests for complaints to take longer than necessary because Sky does not want unhappy customers and protracted complaints take up more staff time. We assume the same is true for other CPs.

As the Ofcom data show, Sky closes out most cases within six weeks; however, some take longer – typically for one or more of the following reasons: (i) they are complex, (ii) they involve a third party (liaison with that party and waiting for their response adds to the resolution timescales); or (iii) the customer is not engaging quickly with us.

Accordingly, in a small percentage of cases we need the full eight weeks to resolve a complaint. The most common reason for a complaint going beyond six weeks is awaiting updates or input from third parties, which is beyond Sky’s control.

In addition, sometimes we keep cases open after eight weeks (notwithstanding the customer’s right to go to ADR at this point) because a customer is not happy with the proposed resolution, but we are still talking and attempting to reach a resolution.

⁴ Paragraph 3.96 of the Consultation

Reducing the timescale by two weeks will not mean we can resolve these complex cases sooner. Rather, it will mean that they are far more likely to go prematurely to ADR, which will cause the customer additional work and stress in pulling together a complaint to CISAS, plus a further lengthy wait (typically eight more weeks, but sometimes longer) to receive a decision.

It should also be noted that it is not always necessary for a customer to wait eight weeks to go to ADR, because when it is clear that the customer and the provider are unable to reach a resolution, the customer can request a deadlock letter and go to ADR as soon as the letter is received.

There is potential for negative impact on ADR providers, who may struggle to cope and end up delivering worse outcomes / longer wait times

Ofcom has not provided evidence to demonstrate that ADR providers could cope if there were a significant increase in cases – simply stating “*we consider that the schemes should be able to manage an increase in cases*”⁵.

ADR providers may not be able to handle a surge in cases. The result may be longer waits for customers to get a decision and/or poor ADR decisions, given that ADR providers may be presented with cases with incomplete information. This is particularly the case for complex disputes which are referred with input still pending from third parties.

Conclusion

Ofcom’s data show that ADR in the communications sector is already effective. The proposed change cannot be justified as proportionate, given the significant cost involved compared to the limited potential benefit, namely a two-week time saving for a small percentage of customers.

Moreover, Sky considers that many customers whom Ofcom anticipates would benefit from the change are unlikely to do so. Reducing the timescale from eight to six weeks would remove time which is often necessary to resolve more complicated disputes or cases where the customer is slow to engage.

Question 3: Do you agree with the findings of our provisional impact assessment?

We do not, for the reasons set out above.

⁵ Paragraph 3.97 of the Consultation

Question 4: Do you agree with our proposed implementation period?

No, Sky does not agree with the proposed implementation period of six months for the revised scheme. Providers are currently implementing significant changes required by various regulatory initiatives, including the Digital Markets Competition and Consumers Act, One Touch Switching and the Telecoms Security Act. If Ofcom determines, despite objections, that the proposed changes should go ahead, 12 months would be a more reasonable implementation time frame.

Question 5: Do you agree with our provisional assessment and proposal to re-approve both schemes based on the approval criteria set out in the Act? Please provide your reasoning.

Sky agrees with the provisional assessment and proposal to re-approve both schemes.

Question 6: Do you agree with our proposed changes to the decision-making principles? Please provide your reasoning.

No comment.

Question 7: Do you agree with our proposed changes to the KPIs including the proposed implementation period? Please provide reasons.

No comment.