

Who We Are

Evolving Networks Limited has been around for nearly 10 years, serving a particular area of the business market in connectivity, specifically those companies that want more resilience, higher quality, and more bandwidth than they might otherwise normally be able to get with a regular ISP.

We recognise that as a regulator of the technology industry, it is difficult for Ofcom to keep up with the pace of change. New disruptive technologies emerge, and are accepted or fail, generally quicker than the time it takes to assess, recommend, consult on and implement potential regulation.

It is our belief that because of this, to a large extent the technology industry regulates itself with these successes and failures, and external attempts to regulate it directly often fall flat because the regulations become so quickly outdated.

What is important to note from our submission, however, in regard to Automatic Compensation is that we are solely a business ISP, and our entire product set and ethos is entirely where Ofcom think business should be after reading the consultation document – emphasising quality and being up front about features and benefits that are often traditionally over looked in the purchasing process.

Also, by providing a multi-line service (composing all forms of connectivity and not just ADSL/FTTC), we offer a service that is specifically bought by companies wanting to reduce downtime and all the associated disruption.

Software-Defined Connectivity

A new segment of the comms industry is gaining traction quickly, particularly in the US and is emerging here in the UK as well, which is grouped under the umbrella term SDN – Software Defined Networking.

SD-WAN in particular is a cost effective way for businesses to connect their offices together and reduce their dependency on Ethernet Leased Lines while gaining improved resilience and much greater control of application performance.

SD-WAN, and Software-Defined Connectivity in general, embraces tenets most likely seen in the datacentre – multi-homing, virtualisation, bandwidth aggregation, automatic failover, QoS and telemetry monitoring – and brings them to the edge of the network, often right into the customer premises.

Evolving Networks is one of the only providers in the UK to offer these services, and we have worked hard to stay ahead of the game, and embrace these new disruptive ways of delivery communication services.

To that end, we feel that the regulations in general don't take into account these modern ways of providing connectivity.

How This Relates To Automatic Compensation

It is noted that the consultation states that transparency is the current recommendation for businesses, although it uses the term SME without definition (that we can find) and doesn't refer to the Ofcom definition of small business – we seek clarity on this.

We welcome any encouragement of transparency, so that potential customers know exactly what they are buying and can make informed decisions.

It is also noted that there could be the potential in future for Automatic Compensation to be introduced, which we are wholeheartedly against.

By selling services based on multi-line connections (whether you call them bonded, or resilient, multi-homed, or software-defined), our customers are already paying for a more reliable service and have made the decision to pay more for that service – a service we have carefully designed.

Because we offer a fully managed service which includes the constituent circuits (although not necessarily the copper phone lines), we present our products as a single connection.

That single connection is physically presented as a single Ethernet port for their firewall or router, regardless of how many component circuits are connected behind it, or how many are currently in full working order.

The IP address associated with the connection is also completely independent of the individual lines.

So when there is a fault with an individual broadband service (or indeed a leased line, fixed wireless link, 4G etc.), the connection to the customer stays “up”.

Only when all component links are offline does the customer suffer an outage on their connection.

Compensation for Outages

We believe strongly in there being a financial incentive for maintaining uptime. We offer a clear and easy to use 99.9% uptime guarantee where service credits are issued on the next invoice for any periods of downtime in the previous invoiced period.

This is a clear incentive for us to maintain uptime.

But we believe it would be nonsensical for us to be in a situation where we are maintaining a customer connection (i.e. keeping it online) while being forced to pay out a fixed fee for a constituent circuit being offline.

We have and do compensate for serious issues where connectivity is still maintained, and the incentive to do this is obviously in maintaining a strong and fair relationship with our customers. These are dealt with on a case by case basis and automatic compensation we feel would actually get in the way of what is a much more nuanced process when dealing with businesses.

Other Quality Measures

There are no proposals for compensation due to other important measures of quality being breached.

Latency, Jitter, Packet loss are all extremely important metrics for connection, yet the focus of this has been solely on uptime, missed appointments and delayed installations.

Openreach

We support any compensation arrangements that would make it easy to receive and pass on money or credits from Openreach to our customers for missing appointments or delaying confirmed install dates.

The issue we have is that currently this is frankly a nightmare. CPs will end up footing the bill while fighting with Openreach or an Openreach partner who in turns fights with Openreach to get payment.

Installation Date Delay

It is our view that if the industry is made to automatically compensate for missing confirmed installation dates that they will merely change to provisional installation dates and so avoid the fee while giving the customer less certainty than they do now.

A Note On Quality Of Service

As the regulator of the communications industry, it can be disheartening when a recognised industry term is misused. This can lead to confusion and misunderstanding, that can filter down to the customer/CP relationship.

The term “Quality of Service” which is often abbreviated to “QoS” (and generally pronounced kwoz) relates to no specific technology, but refers to any method used to manage packet flow in such a way as to improve application performance or prioritise traffic into different classes.

That is a very basic definition of something that obviously means a lot more than that, but it is very misleading to read the term “quality of service” all over the Automatic Compensation consultation and it not mean what the comms industry uses that term for on a daily basis.

We propose what I hope is viewed as a constructive, simple and easy fix, by replacing the term “quality of service” with the term “service quality” in all documents and regulation from this point forward. This will then distinguish the two sufficiently and would be both quick to implement and not result in any confusion.

We believe that QoS is vital to business connectivity – e.g. making sure VoIP calls are not degraded when someone clicks on a download – and that in the future, QoS will be a key differentiator in the market place. As such it’s important that consistency of language is maintained throughout the industry and its regulation to the highest extent, and as early as possible.

Consumers Versus Businesses

At many points in the current GC, consumers, users and businesses and small businesses are repeatedly defined (often with subtle differences).

In general we would recommend clarity in the GC by agreeing a single definition for each type of customer, and referring to those definitions throughout the GC.

We believe that arbitrarily defining a small business in a way no other industry does, and grouping them together with residential consumers is impractical, not supported in contract law, and leads to business ISPs such as Evolving Networks having to have different policies, procedures and even contractual terms for customers even though they are all businesses (our only market).

There is no clarity on how to determine the number of workers a company has, whether you are only defining that measure on contract sign up, or when an action is required.

If a company starts up with less than 10 workers and subsequently grows, is it right that they are continually treated like a residential consumer, with all the rights and protections given?

Likewise is it fair that a larger company that has contractual obligations with its provider invokes residential regulation because it is winding down the organisation slowly, and reducing its number of employees and thereby reneges on its contractual obligations when they were agreed at the time by both parties?

Evolving Networks has been involved in disputes with organisations that have led to county court cases that have hinged on this vague and impossible to determine qualification.

In fact we have found that companies like to be seen to be bigger than they are and so will market themselves as such to the public at large, but, when it suits them, conveniently state they are under the threshold in order to receive residential regulatory perks.

We have made the strategic decision not to supply to residential users, but we cannot draw the line and refuse to deal with companies of a certain number of workers as this is basically impossible to police.

We cannot see where the line is being drawn in this consultation. The term SME is used, while not being defined. From what we can see, the Ofcom small business definition is not being used.

It would be our recommendation that only residential consumers be subject to Automatic Compensation, and all businesses regardless of size be exempt.

The only alternative is that the product and not the market has the appropriate regulations applied to it, regardless of who buys it.

As you have stated in paragraph 11.57 - "We also note that for the third of SMEs that purchase residential services, they will benefit from our automatic compensation proposals for residential consumers."

This would indicate that the regulation goes with the product/service. This is a position we support and would support across the board with all other regulation.

It would avoid the situation we currently face where we market our services very clearly as for the business market, and have businesses purchase them, but because of the Ofcom definition of small business, end up in the absurd situation where we have to treat them as consumers even though they have bought a business product.

In Summary

As already noted in Ofcom's research, businesses prioritise service quality higher than consumers. The direct effect of this is that the business market already markets service quality higher than the residential market does for consumers.

It is our belief that although complaints are received regarding service quality, and that this is the reason Ofcom are consulting on introducing Automatic Compensation rights for consumers, that the reason there is less focus on these factors is because speed and price are the top on consumers lists.

Ofcom rightly point out that they might not be buying the best service for them, but adding costs to ISPs will only increase the cost of products, which goes against what consumers say they want.

So by choosing to react to the level of complaints rather than research showing the focus on price, we would argue that Ofcom, if it goes ahead with regulating in this area, will actually deliver an increase in price to consumers, against their current wishes.

It is our view that costs are actually too low across the industry, which has led to a race to the bottom in quality. If consumers started to buy more expensive, but higher quality products, then the market would adapt accordingly.

In terms of business, we welcome all attempts to improve transparency in product marketing and the sales process.

We would ask that the current determination of small businesses (as defined by Ofcom and not any other organisation or by law) and treating them like consumers is unfair to the rest of businesses, and as shown above is both impractical to determine reliably.

It is against the principle that when buying residential products businesses can get the protections they may seek if they choose to do so. The important factor is choice.

If each market has the choice to purchase a residential service with more protections, then it is free to do so. Likewise we feel it is important to offer high value, high quality, high uptime products for businesses, and that they should be regulated as business products accordingly, regardless of the size of business making the purchase.