

## Terms of Reference Annex: Communications Sector

### 1. Interpretation

1.1 The definitions, below, apply to both this Annex and the Terms of Reference in relation to complaints brought to Ombudsman Services: Communications against Participating Companies:

“the Act” means the Communications Act 2003;

“Award” means the compensation awarded to the Complainant not exceeding £10,000 (inclusive of VAT, if any) per complaint;

“Customer” means any person who is either a domestic customer or small business customer, as defined below;

“Domestic customer” is as defined in s.52(6) of the Act and means a customer who uses or requests for use any service falling within the jurisdiction of Ombudsman Services: Communications for purposes which are outside his or her trade, business or profession;

“Ombudsman Services: Communications” means the Ombudsman Service provided to Ombudsman Services: Communications participating companies;

“Public Communications Provider (PCP)” is as defined in s.151(1) of the Act and means either

- (i) a provider of a public electronic communications network,
- (ii) a provider of a public electronic communications service, or
- (iii) a person who makes available facilities that are associated facilities by reference to a public electronic communications network or a public electronic communications service and “PCPs” shall be construed accordingly;

“Participating Company”, for the purposes of Ombudsman Services: Communications, means a PCP who has subscribed to become a Participating Company in accordance with the Terms of Reference, Membership Rules for Participating Companies and the present Annex and, as the context so requires, each and/or any of its subsidiary undertakings from time to time, and, which has put relevant services and/or products under the jurisdiction of the Ombudsman;

“Potential Participating Company/Companies”, for the purposes of Ombudsman Services: Communications, means a PCP that is not a Participating Company but that, if it subscribed to be a Participating Company would be eligible to be so under the Terms of Reference and this Annex;

“Sector Liaison Panel/SLP” means the Sector Liaison Panel referred to in Paragraph 6 of this annex;

“Small Business Customer” is to be determined by the Board (from time to time), and following such determination, published by the Board whether by amendment to this Annex or otherwise. As of October 2015 a small business customer is defined as a person, or entity, for which no more than ten individuals work (whether as employees or volunteers or otherwise), in respect of an undertaking carried on by him or it.

## **2. Eligibility to become a Participating Company in Ombudsman Services: Communications**

2.1 Any PCP established in the United Kingdom shall be eligible to become a Participating Company in the Ombudsman Services: Communications.

## **3. Services**

3.1 The services provided by Participating Companies of the Ombudsman Services: Communications which will be covered by, and fall within the jurisdiction of, the Ombudsman and Ombudsman Services: Communications are;

(a) services and/or products provided to domestic and/or small business customers which fall within the scope of “electronic communications services” as defined under Section 32(2) of the Communications Act 2003 or may be included from time to time within the jurisdiction of Ofcom (together the Statutory Services and Products); and/or

(b) such services and products that are not Statutory Services and Products but which shall, with the agreement of a Participating Company and the Board, fall within the jurisdiction of the Ombudsman and the Ombudsman Services: Communication.

## **4. Complainants**

4.1 Further to, and in addition to, the provisions of paragraphs 3 and 6 of the Terms of Reference, the Ombudsman and Ombudsman Services: Communications shall only have jurisdiction in relation to a complaint against a Participating Company if the person making the complaint;

(a) was, at the time the subject matter of the complaint arose a domestic customer or small business customer of such Participating Company; or

(b) had, at or prior to the time the subject matter of the complaint arose, applied or been solicited (by or on behalf of such Participating Company) to be a domestic customer or small

business customer; or

(c) is acting on behalf (and with the consent) of any person or entity falling within the scope of sub-paragraphs 4.1(a) or (b); or

(d) is a user of a service or product which;

(i) is the subject matter of the complaint; and

(ii) has been supplied or provided (or has been applied or solicited to be supplied or provided) to any person falling within the scope of subparagraphs 4.1(a) to 4.1(c), above, and has the consent of such person to make such complaint, each of the persons falling within the scope of sub-paragraphs 4.1(a) to 4.1(c), above, being a complainant and together complainants.

## **5. Limits on the Ombudsman's powers**

5.1 The Ombudsman shall not accept a complaint about a matter;

(a) which concerns or relates to goods or services not purchased or rented from the relevant participating company; or

(b) which concerns a dispute solely between providers of telecommunications services and/or products falling within the jurisdiction of Ombudsman Services Communications in relation to the provision of such services and/or products.

## **6. Sector Liaison Panel**

6.1 The Ombudsman Services: Communications shall constitute a Sector Liaison Panel whose constitution and remit will be determined from time to time by the Board.