fair telecoms campaign **open message**

Consumers paying for repair (or non-repair) of telecoms network faults

This message is addressed to Lindsey Fussell – Ofcom Consumer Group Director, Jane Rumble - Ofcom Director of Consumer Policy and Lynn Parker – Ofcom Director of Consumer Protection.

The **fair telecoms campaign** has long been concerned about cases where consumers have reported a fault with their landline service in good faith and, despite having complied with all directions from their Service Provider, have been required to pay a fee, because a technican was assigned to deal with the matter and failed to report any "valid" fault having been found.

It is generally understood that a consumer would only have to meet the costs of a call-out in the event that they, by action or omission, had failed to comply with requests from their provider. It seems however that this principle is actually reversed, i.e. the consumer is required to pay unless, due to action or omission, responsibility may be assigned to the provider or its sub-contractor.

There is also the complex issue of whether a fault with equipment installed by the provider (or its predecessor) lies within the consumer's premises, but that is not the matter addressed here.

It seems that the procedures followed by Openreach, as the sub-contractor of many providers, and the terms of its contracts with the providers, may have an important role in this matter. It may well be that regulatory intervention covering the terms of contracts which providers have with Openreach, and the nature of the procedures followed by Openreach, may be required.

There is already much concern about the status of Openreach, as a member of the BT group and thereby a sister company to several of the competing providers. There is also concern about the effective monopoly position it holds as the sole provider of network services to most providers.

In agreeing for the cause of a fault to be investigated by a competent technician, it seems that consumers are commissioning work to be undertaken at their expense. The terms applied by many providers indicate that the consumer must meet the cost of this work unless the technician, an interested party engaged by the provider or its sub-contractor (typically Openreach), is ready to report that the fault was due to an action or omission on the part of either of these bodies.

If the work (as is sometimes implied by mis-naming) were be to undertaken by a professional "engineer", adhering to independent professional standards, then one would perhaps be able to rely on a proper independent determination about the nature of the fault. Even that however does not cover the possibility that the fault – evident at the time of reporting – could not be identified on investigation.

We are all aware that many technical faults can be intermittent in their nature. In a situation where the provider believes that a fault is thought worthy of investigation, it is quite absurd for the consumer to have to risk bearing the cost of this investigation should no fault be found.

There is also a deep concern about the diligence shown by Openreach technicians in writing up exactly what they have found and done. We wish to highlight one particular case where the Openreach technician advised the consumer that a network fault had been found and corrected. Because this fact was not entered on his report of the visit, the consumer was charged.

Somewhat bizarrely, the provider accepted the consumer's report of what had happened and disputed the charge on it by Openreach, but nonetheless went ahead and demanded payment of the call-out fee. Sadly, the independent arbitration process was unable to resolve this case, ruling that, in the absence of any record of fault by the provider or Openreach, the charge must stand.

Contract terms

The following quotations are from the published "terms and conditions" of a number of providers.

Provider (link)	Ref	Quote
TalkTalk	5.2	**We may charge a fee … if: … (b) on inspection: … (ii) we determine that no fault exists**
Sky	3.4	**You will be responsible for the reasonable costs of engineer call outs, replacement equipment and/ or labour charges if: … (b) the engineer attends but finds there is no fault with your line**
Post Office	11 § 3	**You may have to pay an additional Charge for an engineer visit if the problem with the Service was caused by your own act or omission, by equipment owned or installed by you, or by any other reason outside our control.**
Phone Coop	4.2.2	**You will be responsible for all Charges that You incur or We incur on Your behalf in repairing the fault with the Line Rental Service unless the fault is the result of any act or omission of Us or a Third Party Operator**
John Lewis	8.2.4	**We may charge you, as set out in the Price Guide, for any engineer visit in the following circumstances: … you report a fault, an engineer attends your premises and discovers the fault was not due to our services or equipment or, the reported fault was not present**

BT plc group companies

No specific reference to charges for technician visits can be found in the legal terms and conditions published by BT Retail, Plusnet or EE. It is however understood that, as with other providers, if Openreach determines that the work does not fall within the terms of its agreement with the provider, then the charge levied by Openreach will be passed on to the customer.

The following advice from the BT Retail website, regarding Engineer Charges, provides some guidance –

There may be a £85 charge if we send out an engineer to fix a fault … You'll be charged if the problem is caused by things like: …

- **Damage caused by damp, flood, fire, or building work**
- **Damage outside caused by things like broken guttering or trees**
- **Telephone wires that have been accidently cut**

Summary

There is some lack of consistency, however it is far from clear (indeed quite the opposite) that charges will only be imposed in the event of some failure on the part of the consumer.

We regard it as unacceptable for consumers to be required to accept responsibility for costs in the event of damage to equipment outside the control of the consumer, or for a failure to locate a fault that was thought worthy of investigation.