

**Complaint against Office of the Communications Authority for refusing to
provide the service options menus of its telephone hotline voice system
(Related to Code on Access to Information)**

Investigation Report

On 5 December 2018, a member of the public (“the complainant”) lodged a complaint with this Office against the Office of the Communications Authority (“OFCA”).

The Complaint

2. Allegedly, on 19 October 2018, the complainant made a request to OFCA under the Code on Access to Information (“the Code”) for the service options menus of its telephone hotline voice system (“the Information”).

3. On 8 and 16 November 2018, OFCA replied to the complainant in writing, indicating that the document containing the Information also contained other operational information of the telephone hotline system and was, therefore, suitable for OFCA’s internal use only. Considerable resources would have to be spent on editing and compilation before it could be released to the public. Consequently, OFCA cited the reasons under paragraph 2.9(c) (information the disclosure of which would harm or prejudice the proper and efficient conduct of the operations of a department) and paragraph 2.9(d) (information which could only be made available by unreasonable diversion of a department’s resources) in Part 2 of the Code, and refused to release the Information to the complainant.

4. The complainant argued that the Information was already public information and disagreed that OFCA had to spend considerable resources before providing it to him. He accused OFCA of unreasonable refusal to his information request.

Our Findings

5. Having examined the information and explanations provided by OFCA, including its response to our preliminary observations and recommendation, we completed our investigation on 29 May 2019. Our findings follow.

The Telephone Hotline in Question

6. The OFCA hotline (“the Hotline”) is equipped with an interactive voice response system (“IVRS”) to facilitate public enquiries and complaints on matters within OFCA’s purview.

7. The IVRS of the Hotline offers a selection of three languages (*viz* Cantonese, English and Putonghua) and presents callers with various options put under different menus according to OFCA’s scopes of service, including licence applications, broadcasting services, telecommunications services, unsolicited electronic messages, TV/radio interference, digital terrestrial TV services, unfair trade practices and matters relating to competition, etc. Callers to the Hotline can follow the instructions of the IVRS to select the service they need. For instance, they can listen to audio information, request fax information/forms, or speak with an OFCA officer to lodge enquiries or complaints.

8. The Hotline has a service-routing function. Through voice output, it also provides callers with information about OFCA’s functions and roles under the relevant ordinances, as well as its complaint handling procedures. In this way, members of the public can learn about relevant information before lodging complaints so that OFCA can handle their complaints properly and efficiently. Meanwhile, in order to achieve the aim of rendering efficient service to callers, the eighth service option (after seven options) of the Hotline is pre-set to allow callers to speak with a Customer Service Officer directly. If callers encounter difficulties or need assistance in using the Hotline, they can press “8” to contact an OFCA officer during office hours.

OFCA’s Explanations

9. OFCA explained that as the executive arm of the Telecommunications Authority, it assists the Authority in the regulation of the telecommunications industry. In accordance with OFCA’s jurisdiction and the relevant legislation, different sections of OFCA handle public complaints (including those lodged via the Hotline) on matters relating to broadcasting or telecommunications services and the related legislation. Nevertheless, some complaints may involve matters that are not completely within OFCA’s jurisdiction. For instance, when a complaint involves the Trade Descriptions Ordinance, OFCA can only handle those parts relating to licencees under the Broadcasting Ordinance and the Telecommunications Ordinance. The rest will be followed up by the Customs and Excise Department.

10. OFCA holds a document which lists out the IVRS service options of the Hotline (“the Document”), a manual on the technical settings for the service options of the Hotline system, as well as a script on all the IVRS audio contents (“the Script”). These three documents, prepared for the purposes of checking, reviewing and updating the Hotline system, are treated as a whole set of material for cross reference among one another. Since the complainant requested information that allows him to easily find the Hotline service option he needed at a glance (see para. 2), rather than the complicated technical settings details or voluminous audio contents, OFCA considered the Document the information he was asking for.

11. OFCA, however, deemed it inappropriate to disclose the Document to the complainant for the following reasons:

Paragraph 2.9 (c) of the Code

- (1) The Document, written only in English, is for OFCA’s internal reference. The service options are listed out only in very brief terms, while information such as OFCA’s jurisdiction under different scopes of service and its complaint handling workflows are not included. Disclosing the Document to the public might give rise to unnecessary misunderstanding. For example, it is highly likely that callers would, based on their own understanding of the Document, skip the audio instructions of the Hotline and opt to contact an OFCA officer directly, then lodge a complaint without first listening to and understanding information such as OFCA’s functions, roles and complaint handling procedures. If this happens, OFCA staff may need to repeat and explain the information pre-recorded in the IVRS. This would not only result in the Hotline losing its service-routing function, but also draw on huge OFCA resources unnecessarily, thus harming the day-to-day operation of the Hotline.

Paragraph 2.9 (d) of the Code

- (2) To make sure that the public (including the complainant) understand the Document clearly and fully so that there would not be any misunderstanding, OFCA opined that it had to put in a lot of resources to edit and compile the Document again, because it would have to:

- (a) use wordings intelligible to the public;
- (b) delete internal information such as the IVRS operation details and the telephone extension numbers of its staff; and
- (c) add explanations to elaborate clearly and precisely OFCA's jurisdiction under different service categories, as well as its workflow in handling different types of complaints.

Our Comments

12. Having examined the information and explanations provided by OFCA (including studying the Document and other related documents), and listened to the instructions of the Hotline, this Office had the following comments.

13. The Code and the Guidelines on Interpretation and Application of the Code require Government departments to work on the basis that information requested by the public will be released unless there is good reason(s) to withhold disclosure under provisions of Part 2 of the Code.

14. The complainant asked for the IVRS service options menus of the Hotline (para. 2 above), *viz* a written version listing out all the IVRS options that allowed him to easily find the service he needed at a glance, so that he needed not waste time to listen to all the options one by one before picking the right option. Among the three documents held by OFCA (para. 10 above), the Document was the closest to what he needed. OFCA argued that it was inappropriate to disclose the Document un-edited because of the internal information contained therein. We, however, considered that while it was necessary to revise certain parts of the Document to make it intelligible to the general public upon disclosure, only limited time and resources would be required.

15. First of all, some service options listed in the Document are given in English abbreviations, while some are written in terms briefer than the IVRS narration. We agreed that editing was required to facilitate understanding by the general public. Yet, full names of those options are already spelt out in the Script, so OFCA can simply edit the Document accordingly. This should not be an onerous task.

16. Furthermore, OFCA could just delete all internal information about the IVRS

operation and telephone extension numbers of its staff from the Document, and/or replace all the staff contact details with the words “contact OFCA staff”. This should be simple and easy.

17. OFCA stated that it had to “elaborate clearly and precisely OFCA’s jurisdiction under different service categories, as well as its workflow in handling different types of complaints” in the Document. We noticed that among the many options offered by the Hotline system, only a few involve such information. When a caller selects one of those options, the IVRS will at once play a relevant voice message to explain. These explanations are short and already written down in the Script. If OFCA considered that they are important information that warrant callers’ attention, it could simply copy the relevant text of the Script to the Document in the form of footnotes. This should not involve too much resources.

18. In fact, OFCA might not need to add the written explanations to the Document, because the Hotline system basically allows callers to skip all the options (i.e. skipping all the audio explanations, “without first listening to and understanding information such as OFCA’s functions, roles and complaint handling procedures”) and press “8” right away to speak with an OFCA officer to lodge enquiries or complaints (para. 8 above). It is, therefore, unlikely that the day-to-day operation of the Hotline would be harmed even if the written explanations were not included in the Document. OFCA could, taking into account the circumstance, determine whether addition of the explanations to the Document was necessary.

19. The above comments were based on the assumption that the Document would be released to the public. If it was only provided to the complainant at his request, then mere deletion of information as mentioned in paragraph 16 would suffice. OFCA could explain as appropriate if the complainant raised queries subsequently.

20. In the light of the analysis set out in paragraphs 14 to 19, we considered that OFCA could provide a copy of the properly revised Document to the complainant without affecting the operation of the Hotline. The revision would inevitably draw on certain amount of resources (such as manpower and time), but the amount involved would be limited. In this light, we considered it improper of OFCA to refuse the complainant’s request for information citing paragraphs 2.9 (c) and 2.9 (d) of the Code as the reasons.

21. The Ombudsman, therefore, considered this complaint **substantiated**.

Recommendation

22. This Office recommended that OFCA provide the Document to the complainant after making the necessary revisions.

OFCA's Response to our Preliminary Observations

23. On 19 March 2019, we sent our preliminary observations and recommendation on this case (largely similar to those set out in paras. 12 to 22 above) to OFCA for comments. OFCA replied on 11 April, indicating that it did not totally agree to our preliminary observation that revision of the Document could be done with limited resources. OFCA reiterated that the whole Document must be edited and re-compiled to be user-friendly and intelligible to the general public, leaving no room for unnecessary misunderstanding and complaints. For instance, it must use wordings readily understandable to the public, the contents must be simplified and re-arranged, and internal information deleted. Besides, information about OFCA's jurisdiction under different service categories, as well as its workflow in handling different types of complaints must be included in the Document. The general public would then know clearly the important information as originally provided by the IVRS narration when they read the Document. Operation of the Hotline could thus remain efficient and OFCA could continue to handle public complaints effectively.

24. Nevertheless, after considering our opinions and taking into account the operation of the Hotline system, OFCA decided to accept our recommendation and agreed to provide the complainant with the Document as soon as possible when compilation was completed.

Our Conclusion

25. We were glad to note that OFCA agreed to provide the Document to the complainant upon completing the compilation. Meanwhile, we considered that when OFCA was initially contemplating whether to follow the Code and release the Document to the complainant, it should not have treated its disclosure to the complainant the same as releasing it to the public. After all, there was no indication that the complainant would make the Document available to the public after obtaining it. As we pointed out in paragraph 19 above, major revision of the Document was not necessary before its disclosure to the complainant and should not involve huge resources. We were also of

the view that even if OFCA intended to release the Document to the public, its reply (para. 23 above) contained no specific information to support its claim that revising the Document would require a lot of resources.

26. After thorough consideration of OFCA's reply, The Ombudsman decided to maintain the above comments and recommendation.

Office of The Ombudsman

May 2019