



# Panel priorities and draft Work Plan 2012/13

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## Introduction

This is the Communications Consumer Panel's draft Work Plan for 2012/13. It sets out our draft priorities for the coming year.

Following Ofcom's expenditure review in 2010, the Panel now has seven members and a budget at the reduced level of £299K. In considering its draft Work Plan for the year, the Panel has been very conscious of the more limited resources that are available to it. However, it has striven to encompass those issues most likely to impact significantly upon consumers and citizens in the communications sector. There may also be further changes as a result of the Government's current review of the consumer landscape.

This Plan will be put out for consultation during February/March 2012 and will be reconsidered following comments made by stakeholders. The draft Work Plan explains the Panel's role, describes the different ways in which the Panel engages with issues, explains how we chose our draft priorities for the coming year and sets out the issues that we intend to address.

## Role

The Communications Consumer Panel is an independent panel of experts set up under the Communications Act 2003. The Panel encourages Ofcom, Government, the EU, industry and others to look at issues through the eyes of consumers and citizens and protect and promote their interests. The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of small businesses, which face many of the same problems as individual consumers.

The Panel has defined its role as:

"To influence Ofcom, Government, the EU, and service and equipment providers so that the communications interests of consumers and citizens are protected and promoted."

## Putting the consumer first: the work of the Communications Consumer Panel

The Panel has seven members. They have experience in many different fields: consumer advocacy, dispute resolution, the telecoms and content industries, regulation, the third sector, trade unions and market research. There are four members of the Panel who represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK. These Members also attend the Ofcom Advisory Committee for each nation and seek to ensure a two-way communication of ideas.

The Panel engages with stakeholders to inform the advice that it gives to Ofcom and helps to keep the interests of consumers on the agenda across the sector. The Panel also engages on a regular basis with other consumer organisations, such as Consumer Focus, Consumer Focus - Scotland, Consumer Focus - Wales, the Consumer Council for Northern Ireland, Citizens' Advice, the Consumer Expert Group, the Consumer Forum for Communications, the Federation of Small Businesses, and Ofcom's Advisory Committee on Older and Disabled People.

The Panel is often described as a 'critical friend' to Ofcom. We provide robust and independent advice that is constructive, realistic and cognisant of the trade-offs which regulatory decisions often involve. This is made possible by the fact that Ofcom shares information and ideas with the Panel early in the regulatory process before consulting formally with other stakeholders. We publish information about our advice and activities on our own website

<http://www.communicationsconsumerpanel.org.uk/smartweb/main/home>

### The Panel's objective

The Panel's objective is to:

"protect and promote the interests of consumers and citizens in the communications sector by giving advice to Ofcom, the EU, Government, industry and others."

### Context

Given the Panel's role to influence Ofcom, it is vital that the Panel takes into account the work to be undertaken by Ofcom in the coming year, in addition to wider developments in the area of communications. The Panel's draft Work Plan is therefore informed by Ofcom's priorities and workstreams, as outlined in its draft Annual Plan<sup>1</sup>, in addition to other significant developments which will affect consumers and citizens in the UK. It will also remain alert to other issues that may arise during the course of the year. For many of the areas that we have identified, there are specific dimensions arising from the devolved nations. Our work with the

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/consultations/draftap1213/>

Advisory Committees and other stakeholders in the nations will inform our approach to these matters. Additionally, we will explore joint working with other organisations on specific issues, for example Consumer Focus who are involved with consumer aspects of online copyright.

### Wider developments

In addition to Ofcom's Plan for the year, there are a number of other developments underway or anticipated during 2012/13, which are relevant to consumers and citizens in the UK. These include:

- a decision by Government following its consultation on the future of the consumer landscape;
- a planned Green Paper on the next Communications Bill;
- the anticipated European Commission initiatives in relation to data protection, copyright, e-commerce and the protection of minors.

### Priorities for 2011/12

The Panel developed its draft Work Plan by applying two questions to each issue that it might address:

- What is the scale of the issue for consumers and citizens?
- Can the Panel make a difference?

### Types of engagement

Last year, given the more limited resources available to the Panel, we made the decision to simplify our approach, and focus on:

- substantial proactive engagement; and
- periodic review.

This means focusing ongoing effort on the areas of substantial proactive engagement and, in relation to other issues, engaging with them periodically and providing advice where we have concerns. We propose to continue this approach during 2012/13.

The areas we have identified will be kept under review during the year as other issues may emerge which require the Panel's attention. The fast changing communications environment means that the Panel must build flexibility into its plans in order to be responsive to new challenges; we receive requests for advice in relation to issues that are not in our Work Plan, and the Panel itself is likely to identify new issues which are of importance to consumers and which warrant its attention. Even in relation to issues that we have included in our draft Work Plan, it is often not clear at the start of the year how much work will be involved in addressing an issue or for how long our engagement will last.

We will liaise with Consumer Focus on postal issues where there is a shared consumer interest. We will continue to monitor issues in the communications field and liaise with a wide range of organisations representing the interests of consumers to gather intelligence about developments.

Our proposed work areas are set out below.

Figure 1: Proposed work areas 2012/13

### Pro-active areas

- The future of communications regulation
- Online security/privacy
- Consumer information and decision making
- Digital participation
- Mobile coverage/spectrum auction

### Periodic review

- Future of consumer advocacy
- Switching
- Coexistence of new services and DTT
- Broadband rollout
- Net neutrality/traffic management
- Broadband speeds
- Complaint handling
- Unexpected charges and high bills
- Mobile usability

## Substantial proactive areas:

### **The future of communications regulation**

A Green Paper on the future of communications regulation is expected to be published early in 2012. The Government has previously indicated that it is prepared to “radically rethink” the existing legislation, including the levels of regulation required.

Given the Panel’s role in providing advice to Ofcom to ensure that the interests of consumers (including small businesses) are central to regulatory decisions, its expertise is particularly pertinent to the development of this legislation.

**Specific Objective** - To protect and benefit consumers by seeking to ensure that the new communications legislation reflects the needs of consumers in the sector - directly, by engaging with DCMS, and indirectly, by feeding into Ofcom’s thinking and facilitating discussion.

### **Online security/privacy**

The internet, mobile apps and micropayments offer consumers and citizens a host of benefits - for example 69% of adults with internet access at home use it to purchase goods/services/tickets etc<sup>2</sup>. However it is important to understand how much people really know about how their data is used; the extent to which they take measures to inform themselves or protect their data; the trade-offs people are prepared to make between privacy and protection of data; information about free or tailored content, services, advertisements and pricing; whether people believe the current regulatory framework offers appropriate protection; and if not where action is required and from whom.

The Panel’s research suggests that few consumers have top-of-mind concerns in this area, although they express significant concern when asked about specific privacy issues. The draft EU directive on data protection has now proposed that individuals should have a ‘right to be forgotten’ online.

**Specific Objective** - To represent consumers’ interests by building on the Panel’s previous work to identify and highlight the issues, draw attention to the need for further research, and encourage government and the EU to ensure that consumer views and experiences are at the heart of policy making and regulation in this area, particularly in the run-up to the next Communications Act.

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<sup>2</sup> Technology Tracker, Q3 2011, Ofcom. UK Adults aged 16 and above

[http://stakeholders.ofcom.org.uk/binaries/research/statistics/2012jan/Ofcom\\_Technology\\_Tracker\\_Wa3.pdf](http://stakeholders.ofcom.org.uk/binaries/research/statistics/2012jan/Ofcom_Technology_Tracker_Wa3.pdf)

### **Consumer information and decision making**

As the Panel noted last year, the proliferation of communications services, options and tariffs has brought an increasing level of choice for the consumer. But comparing the different options available in this complex market is not straightforward. The Panel's work on behavioural economics and vulnerable consumers found that some evidence suggests that too much information, or information that is too complex, can lead to poorer consumer decisions and therefore have a detrimental effect on consumer welfare.

**Specific Objective** - To influence and encourage Ofcom to utilise its findings and implement them in practical terms when considering policy to support and empower consumers. Working with other bodies, to raise awareness of any cross-cutting themes which emerge from the findings.

### **Digital participation**

Digital participation has become increasingly important as more vital services move online only, or are delivered offline in a way that penalises users through higher cost or lower quality. Latest figures show that 76%<sup>3</sup> of UK homes now have either fixed or mobile broadband access. But this picture is not uniform across demographic groups or across the UK. Those who aren't online risk getting left behind.

The Panel is currently undertaking research which aims to identify how best to get - and keep - people online. This builds on the Consumer Framework<sup>4</sup> that we published in 2010. The Panel has stressed that to achieve digital participation successfully, it is crucial that the various interested parties, including Government, the Digital Champion and Ofcom, keep the perspective of citizens and consumers at the forefront of their thinking and all the different ways in which people might need help and support.

**Specific Objective** - To continue to place the consumer perspective at the heart of the digital participation debate by working with Race Online 2012 and other stakeholders to ensure the full range of consumers' digital participation needs are

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<sup>3</sup>

[http://stakeholders.ofcom.org.uk/binaries/research/statistics/2012jan/Ofcom\\_Technology\\_Tracker\\_Wa3.pdf](http://stakeholders.ofcom.org.uk/binaries/research/statistics/2012jan/Ofcom_Technology_Tracker_Wa3.pdf)

<sup>4</sup> <http://www.communicationsconsumerpanel.org.uk/smartweb/digital-participation/the-consumer-framework-for-digital-participation>

being met and encouraging others to ensure that there are offline alternatives to online public service delivery for those who are unlikely ever to get online.

### **Mobile coverage and the spectrum auction**

In the Panel's research, 56% of UK consumers had difficulty with mobile coverage - 33% on a regular basis. The forthcoming 4G auction presents a once in a generation opportunity to address the fact that GSM coverage has largely stood still since the arrival of 3G - most coverage not-spots ten years ago are still not-spots today. Current 2G coverage is at its commercially economic limit and is unlikely to be significantly extended - and 3G and 4G services may not reach - or extend beyond - the current 2G footprint without intervention. Mobile coverage has been a key part of the Panel's work in 2011/12.

**Specific Objective:** To secure improvements in mobile coverage by continuing to campaign for improvements in this area by offering advice as appropriate to Ofcom to help ensure that the Government's investment of £150M is usefully directed and delivers tangible benefits for consumers, with particular regard to coverage in the devolved nations and rural areas.

In relation to the spectrum auction, the Panel will continue to engage with Ofcom and advise as appropriate, with particular reference to the coverage of existing and future mobile services.

### **Periodic review:**

#### **The future of consumer advocacy**

The Government has now consulted on its consumer advocacy proposals and is likely to make a statement early this year. The Panel can make a difference by utilising its experience and expertise to ensure that the interests of consumers in the communications sector are properly represented by a powerful, expert and effective voice. It will continue to be engaged with Government and relevant consumer bodies in England and the devolved Nations, as appropriate, and through wider stakeholder engagement.

#### **Switching**

In a recent survey, 28% of people said that they did not find it easy to compare prices for communications providers<sup>5</sup>. Nearly a quarter (23%) of consumers who had switched a bundled communications service said they found it difficult and among

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<sup>5</sup> Customer Life in Britain Survey conduction by Andrew Smith Research  
<http://www.andrewsmithresearch.co.uk/>

those who had never switched, 35% considered it would be difficult to switch bundles<sup>6</sup>.

When people can switch between providers quickly and easily, consumers will benefit from enhanced competition in communications markets. Switching between communications providers is often complex, and involves steps that must be coordinated between different providers in ways that do not arise in other consumer markets. Problems, when they occur, can be disproportionately difficult to resolve and leave consumers without service for long periods. The way consumers switch providers today varies: sometimes, these processes have been developed by industry; some have been designed with input from Ofcom (or previously Oftel). There are different processes, even for the same services, often with very different features and experiences for consumers. Markets are also changing, with more bundled services offered, which means that switching between providers with a bundle of services is even more complex and could lead to reduced competition.

The Panel will continue to engage with Ofcom's review and maintain pressure to deliver aligned switching processes to ensure that switching communications providers becomes easier for consumers.

### **Coexistence of new services in the 800 MHz band with digital terrestrial TV**

The next generation of mobile services will bring with them many benefits, and it is important that we maximise these new resources for consumers. However, it is vital that any potential problems for existing DTT viewers are identified and consumers and citizens protected. If new licensees in the 800 MHz band were to roll out new mobile services and no action was taken to manage the interference risk, up to 760,000 DTT consumers could be affected. This could mean lost reception of one or more DTT television channels, either for some or all of the time or, at worst, lost reception of all DTT TV channels.

The underlying principle of intervention should, the Panel suggests, be that viewers who currently receive a DTT service will continue to do so or be enabled to access an equivalent service following the rollout of new 4G services. It is important that those people affected by interference to their DTT signal are not made to bear the cost of rectifying the issue.

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<sup>6</sup> The Consumer Experience 2011, Ofcom <http://stakeholders.ofcom.org.uk/market-data-research/market-data/consumer-experience-reports/consumer-experience/>

The Panel will continue to engage with Ofcom's work in this area, emphasising consumers' needs and the provision of appropriate information.

### **Broadband rollout**

The Panel believes that everyone should have access to broadband so that consumers in all parts of the UK can carry out essential online activities in a reliable and consistent way. The Panel has emphasised the need for the implementation of the broadband Universal Service Commitment to:

- be in line with consumer needs, as set out in the Panel's principles;
- be equitable across the nations; and
- be future-proofed so that consumers are not left behind.

The Panel will closely monitor progress towards the Government's broadband target and implementation of Government plans to increase availability of current- and next-generation broadband. It will engage with Broadband Delivery UK (BDUK) via the Broadband Stakeholders' Group (BSG) to ensure that the consumer perspective is represented. Working with Ofcom's Advisory Committees for the Nations, the Panel will also monitor progress made in the devolved nations.

### **Net neutrality/traffic management**

As the internet becomes ever more popular, consumers are using more sophisticated high-bandwidth services, particularly video services, on a variety of both fixed and mobile devices. This can result in congestion on networks, resulting in slow speeds and a frustrating experience for consumers. While traffic management potentially offers some benefits to consumers there are concerns that:

- consumers are unaware of and/or do not understand these practices and their impact and so are unable to exert proper consumer choice;
- that prioritising some services or types of traffic over others could reduce long-term consumer choice and have a detrimental impact on those services that cannot afford to pay for prioritisation, including possibly some public services; and
- the technology used for traffic management could have implications for privacy and freedom of speech, as it involves analysis of internet traffic in order to decide how to manage that traffic.

For some time, the Panel's objective has been to encourage regulators, policy makers and industry to address the consumer and citizen interests in the debate about net neutrality and traffic management and it will continue to do this by engaging with the BSG.

### **Broadband speeds**

The Panel has been concerned about the way in which broadband is advertised and the information provided to consumers about speeds. Enabling consumers to make an informed choice between the packages offered by different providers encourages competition and investment. However, consumers can make such informed choices only if they can easily compare the different packages and providers.

The Panel intends to continue to monitor Ofcom's work on broadband speeds, in addition to that of the ASA, CAP and BCAP to assess whether the recently published guidelines on speed descriptors in advertising are sufficient to eliminate the misleading nature of much of this advertising. The Panel will encourage consumer research in this area, to assess the impact of the new guidelines.

### **Complaint handling**

The Panel has previously expressed concern that complaints to communications providers are not registered as complaints unless they are escalated, which means that many are not resolved properly which in turn can give a distorted view of customer service levels. This is likely to have a particular impact on vulnerable consumers, who may not have the skills or confidence to pursue their complaints, or may not know that they can escalate a complaint. Ofcom's new Code of Practice came into force on 22 January 2011. New requirements to improve awareness of dispute resolution services came into force on 22 July 2011.

The Panel will engage with Ofcom to assess the implementation and impact of these initiatives to ensure that complaints handling procedures are transparent, equitable and accessible so that making and resolving a complaint with a communications provider or the Alternative Dispute Resolution (ADR) services becomes easier for consumers.

### **Unexpected charges and high bills**

The availability of new forms of communication, micropayments and mobile data services has meant that consumers have a wider choice of services than ever before. However it is vital that consumers who use these services are fully aware of the charges associated with them.

The Panel will monitor Ofcom's and PhonepayPlus' work in this area to ensure that providers' information and processes are enabling consumers to make informed choices about their usage.

**Mobile usability**

Mobile usability is crucial for many older and disabled people, and without it many are unable to use mobile services at all. This does not mean it is a niche issue. The Panel’s research shows that all users appreciate phones that are easy to use, and that simple changes could make them significantly easier for all users. This is important because it means that the business case for increasing usability is much larger than people might otherwise assume.

The Panel will continue to encourage use of the GARI database and action by manufacturers, operators and retailers that will increase the usability of mobile phones for all users, including older and disabled users.

The Panel will continue to receive regular updates from Ofcom’s Consumer team, which will keep members apprised of the full range of consumer issues that Ofcom is dealing with, and the evidence that underpins Ofcom’s activities.

Figure 2: Schedule of outline Panel draft Work Plan 2012/13<sup>7</sup>

	Q1	Q2	Q3	Q4
Future of communications regulation	✓	✓	✓	✓
Online security/privacy	✓	✓	✓	✓
Consumer Information and decision making	✓	✓		
Digital participation	✓	✓	✓	
Mobile coverage/4G auction	✓	✓	✓	
Future of consumer advocacy	⇒	⇒	⇒	⇒
Switching	⇒	⇒	⇒	⇒
Coexistence of new services & DTT	⇒	⇒	⇒	⇒
Broadband rollout	⇒	⇒	⇒	⇒
Net neutrality/traffic management	⇒	⇒	⇒	⇒
Broadband speeds	⇒	⇒	⇒	⇒
Complaint handling	⇒	⇒	⇒	⇒
Unexpected charges and high bills	⇒	⇒	⇒	⇒
Mobile Usability	⇒	⇒	⇒	⇒

<sup>7</sup> ✓ Substantial proactive areas

⇒ Periodic reviews

## Annex 1: Panel members

- Bob Warner (Chair)
- Fiona Ballantyne (member for Scotland)
- Kim Brook (ex-officio member representing Wales)
- Colin Browne (member)
- Roger Darlington (member for England)
- Maureen Edmondson (member for Northern Ireland)
- Chris Holland (co-opted member)