

Speech by Anna Bradley, Chair, Ofcom Consumer Panel, delivered at the Fifth Convergence Think Tank Seminar - 'Convergence and the public: building a media literate society', held on 9 October 2008

[Slides are available on our website]

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I am very pleased to be here today to put the consumer and citizen at the centre of debates about the future shape of communications policy and regulation.

First a word about the OCP – set up under the Communications Act 2003, appointed to be independent of Ofcom and to advise Ofcom and others on the consumer and citizen interest in everything but content matters.

Today I want to outline the Ofcom Consumer Panel view of the challenges that convergence will bring for the communications market, from the perspective of the consumer and citizen.

I want to start, albeit briefly, by setting out the benefits and opportunities that convergence brings to consumers and citizens.

Then to argue that there are many current issues which convergence might exacerbate, but there will also be new and emerging issues.

Finally, I will outline some of the challenges the consumer and citizen agenda will bring to policy makers and regulators, and to industry before talking about the role of media literacy as a tool of empowerment as much as protection.

So to start at the beginning, what is special about convergence for consumers and citizens?

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I have been asked to talk about challenges and risks, but I want to start with opportunities, so I don't leave you thinking the future is bleak.

For the consumer, convergence brings the opportunity to have more choice and more convenience. Consumers and citizens will be able to do the same thing using different technologies in the way that they choose.

Current examples include choosing whether to watch a BBC television programme at the time it is broadcast, on the i-player in front of a PC and over the internet, on a phone via i-player over the internet, or even on a slingbox anywhere in the world. Alternatively we can speak to friends and family on a fixed line, a mobile line or via a webcam at no extra cost to the monthly cost of a broadband package.

In particular convergence provides mobility of communications services and products. We can walk, talk, listen to the radio, watch TV, or user generated content, send emails, purchase and bid for goods on-line. There is instant availability of services anytime, anyplace, anywhere.

From the consumer perspective, the distinction between voice, data and broadcast networks is becoming increasingly meaningless; something which is a key consequence of convergence.

And for consumers and citizens the range of new products and services is opening up new opportunities: from meeting fundamental needs such as access to public services to running remote or disaggregated small businesses.

Convergence has already begun and we are feeling its benefits. And my speech would not have been written were it not for it. Time pressures and geography have meant that this speech has been written with the use of blackberries, mobiles, dongles, fixed broadband and remote web mail. Without this flexibility, it would simply not have happened.

But there is a downside too. Convergence arrives in an environment in which there are already many consumer and citizen issues. And convergence has the potential to exacerbate some of these and to create new challenges.

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First the existing issues:

Communication bundles deliver a more complex and varied market.

Bundling has helped deliver many benefits to consumers. A consumer only needs to deal with a single provider. A bundle of communication services often costs less than purchasing each service individually. However, consumer research reveals that consumers are increasingly confused by the complexity of service bundling and service offerings. Convergence is likely to result in more variety and more complexity in the bundles offered.

How do consumers get the right information and make the right choice?

How do consumers navigate these complex choices? How do they disaggregate bundles, how do they choose the right one for their lifestyle? There is a role for the regulator to ensure clear and concise information is published by service providers but there is also an onus on providers to play straight with consumers. So consumers are informed upfront what additional charges may occur outside the monthly tariff they have chosen, so they understand an 8meg broadband connection is a theoretical maximum, unless they 'actually' live in the exchange, and so they understand what the implications of entering an 18 month contract are.

These information issues will become more complex with convergence.

Complexity of switching

For competition to flourish, consumers need to feel confident about the switching process. It should be quick and seamless but it is not. Attempts to speed up processes like number portability are being thwarted, and MAC codes are still difficult for consumers to obtain.

If we could get the porting process right, consumers could really begin to shape market dynamics. But doing this in a converged and bundled world is going to be more difficult still.

Dealing with inconsistent standards and processes.

The more convergence develops the less acceptable different approaches will be.

So for example:

At present, if a consumer wishes to switch providers the switching processes are different for different products or services. For broadband the consumer needs a MAC code, for mobile switching it is a PAC code. These two processes take different lengths of time to complete.

And the numbering framework - consumers are already confused by what it actually costs to call a revenue sharing number from a fixed line or a mobile. They are confused as to why they are charged at different rates for making the same call depending on which device they use. And why an 0800 number is free on a fixed line but charged on a mobile.

These issues will be exacerbated when fixed and mobile networks fully merge and even more so if a single handset is used by a consumer to access both networks. The differences will become simply inexplicable.

Privacy and data protection...

The more we interact with communications technologies and the more we take advantage of the opportunities that convergence brings, the more careful we will need to be about privacy and data protection. Convergence will create the conditions for even more access to more about each of us – something that brings benefits in the right hands and risks in the wrong.

Privacy and data protection issues are already a significant cause of anxiety - making people reluctant to go online. This reluctance is now a real factor behind the digital divide for some segments of society.

There is a role for the regulator here and the Consumer Panel has called on Ofcom to work with the relevant agencies to provide practical information as to how parents and children can protect themselves from inappropriate material, fraudulent activity and invasions of privacy online. But citizens and consumers also need to understand the importance of taking more responsibility for personal data - who they give it to, how it is stored and understand what will be done with it.

And government bodies, regulators, and any other organisation that collects people's digital identities – including consumer groups, or small and large business will also have to learn to be much more careful. The success of convergence depends on managing data protection well.

Scams...

In the UK, 3.2 million adults already fall victim to deceptive unsolicited mailings, phone calls or emails a year. Scam techniques, including spam emails, texts and internet pop-ups, cost UK consumers around £3.5 billion each year.

Scams involving premium rate services are on the increase and moving from the fixed line to mobile. There have been many instances of scams– where people have handed-over cash to con-artists. And phishing, where consumers click a link to a Bank website – that looks legitimate, but is not. These scams will undoubtedly proliferate and become more professional as convergence develops.

Consumers undoubtedly need to be wise to scams and spam. But regulators also need to act quickly and consistently in a converged world. The current mix of regulatory approaches for different platforms may mean there are delays and unacceptable differences in approach – unacceptable that is to the consumer who will not be able to make sense of why solutions to issues on one platform are of type A while solutions to issues on another platform are automatically of type B. There may be a demand for principled and technology neutral based regulation.

Exclusion...

And finally, as the centrality of services increases through convergence, and as more public services are delivered over different delivery mechanisms, the need to access these services and the need for these services to be usable increases.

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New and emerging issues

As convergence advances we think the issues that I have just quickly run through are likely to become more significant and will need to be paid more attention to by policy makers.

But what about the new and emerging issues that will occur as a result of convergence? And what responses will be required and by whom?

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Regulatory inconsistency and reach is already apparent.

Many of the examples I have already given point to the differences between regulatory frameworks that will appear inconsistent to consumers and citizens.

So here is just one more example, this time a content one: Consumers are bound to start asking: why am I unable to take my 17-year-old to an 18 film in the cinema when I can watch it at home on the internet. Or, why am I unable to view a certain type of content before the 9pm watershed, yet I can view this content with no restrictions over the internet. Consumers will want to do what they want to do, when they want to do it – with the obvious caveats relating to illegality. The regulatory framework will need to take account of these pan regulatory perspectives.

Access and coverage - Universal Service in a converged world...

A converged communications world opens up some serious issues relating to Universal Service. Universal Service is defined by the EU as being an obligation on fixed lines to provide voice and functional internet access of 28.8kbps. For some this much internet access is a dream, but for very many of us 28.8kbps does not deliver today's functional internet access. Which is why the current debate about a national high speed data network is not about the current generation of broadband but one predicated on Fibre – a network yet to be built - that could deliver speeds of 100mbps or more to consumers and citizens.

And what about the now ubiquitous mobile phone? Should the USO be more than an obligation on a fixed line provider to reflect the world we now inhabit? Mobile coverage may become more of an issue as consumers and citizens continue to use new services and devices that enable them to go mobile. People will again compare what they can and cannot do against others living in different parts of the country. And if they lack access to certain products or services they will care.

These questions, in particular physical access to a converged network are going to become more urgent to answer particularly as public services and new

business models are delivered online. And in theory inclusion in a converged world might come to mean not just being able to access and use a service by a single means, but being able to have a choice of means of access. We are a long way from this today, but our expectations of access have already changed a great deal and we should be prepared for further such shifts.

Policy makers need to start asking these difficult questions, albeit it in principle, so we can get ahead of the curve and be prepared for the future.

Redress...

The government understood in 2003 that we were in a converging communications world. In response it converged the communication regulators into Ofcom.

However, there is no converged consumer redress scheme. We think there needs to be. Consumers (particularly those with a problem) will not care to understand that they need to contact different redress schemes depending on which product, service or provider they are having problems with. In a converged world, consumers will view these products, services and providers as part of the same whole.

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Industry behaviour

Ofcom recently tried to improve the consumer switching experience in the mobile sector by reducing the time it took for consumers to port their number. The industry, or parts of it, challenged the proposal and the CAT ruled against Ofcom, but from a consumer perspective it is difficult to accept that there is nothing to be done here, when consumers in other countries (Australia, Ireland, Singapore, Canada, and USA) can switch more quickly than UK consumers. We would like to see an alternative industry proposal to accelerate the MNP process, but nothing is forthcoming.

But this is just one example; there is a constant string of new and even old issues and there seems to be a resistance to change on the part of the industry. I mentioned earlier, in the context of mobile number portability, the need for industry to be on the front foot and help resolve issues in the communications market rather than waiting until the regulator is forced to step in.

Resolve the issue before calls for regulation...

In a converged world we will need to be fleet of foot, responding to consumer and citizen issues fast. The fastest route to addressing ills in the market is for industry to respond fast, or better still, pre-empt problems; regulation will always take more time.

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Media literacy

This will undoubtedly be key for consumers in a converged world. But it is important to set it in the context of action that needs to be taken by policy makers, regulators and industry. Which is why I have laboured the point about the role of other players.

So what is media literacy?

Ofcom defines media literacy as *'the ability to access, understand and create communications in a variety of contexts'*.

The Panel take a slightly different approach - for the Panel media literacy is also, 'the ability to choose and use communications products effectively'.

Thus, a media literate society will have the skills, knowledge and understanding to make full use of the opportunities presented by both traditional and new communications services. Skills that empower them to take advantage of the opportunities afforded by the marketplace as well as helping them to access content and participate in its production and protect themselves and their families.

We need to ensure that consumers and citizens are able to protect themselves or their families from harmful content. We think this can only be achieved by a co-ordinated media-literacy response through formal and informal structures. This would include partnerships with schools, further education establishments or via consumer groups such as Age Concern or Help the Aged.

But in the converged world, Empowerment is just as key as Protection. Media literacy that helps us to make informed choices, manage switching and use new products and services efficiently and effectively...

Interestingly, the converging online world is in itself empowering and has the potential to change market dynamics. Web 2.0 tools are enabling individuals to mobilise collectively in previously impossible ways. As a result, the character of consumer activism, information-sharing and engagement with business is changing. Consumers can access more information and also create information to guide and inform other consumers in their decisions about products and services.

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Ofcom Consumer Panel research

I started out by trying to describe some of the impacts of convergence for consumers and citizens but the Panel can only work from first principles and past

experience on these issues and does not presume to know what consumers and citizens think about the future. So to understand how the issues are seen by consumers and citizens, we have commissioned deliberative research with consumers that will be published shortly.

The research will start with consumers' future aspirations, and explore their future potential communication and technology needs; it aims to provide an evidence base for identifying policy and regulatory obstacles to delivering the communications services that consumers will require over the next 5-10 years.

I am pleased to say that this work is co-funded by BERR and DCMS and will feed into the convergence debate.

In conclusion then:

Convergence has already begun.

It is raising many issues for consumers.

As convergence advances it will:

Deepen existing and emerging challenges:
Bundling and complexity, consumer information and choice, switching, inconsistency, privacy and data protection, scams and exclusion

Raise new ones...

Access and Inclusion/ USO, redress.

Regulation will need to change – to address regulatory inconsistency.

Industry should change and resolve issues before they are told to.

Consumers will need to become more media literate.

Empowerment is just as important as protection to be fully engaged with today's converged world.

Consumers must have a voice in this debate – deliberative research will be available in November.

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Thank you