

Communications Consumer Panel response to the Digital Britain Interim Report

Introduction

The Communications Consumer Panel was established under the Communications Act 2003 as an independent advisory body. Its role is to influence Ofcom, Government, the EU, and service and equipment providers so that the communications interests of consumers and citizens are protected and promoted.

The Panel supports the Government's necessarily ambitious plan to create the conditions for the UK to prosper in the digital age. The Panel is keen to ensure that the interests of consumers and citizens are central to the Government's thinking.

We understand that the Government is working to a tight timetable and that a fast pace is a useful way of focusing minds on resolving key issues, such as 2G liberalisation and the future of Channel 4. At the same time, the Panel believes that it would be beneficial for the Government to make the policy-making process as transparent as possible by setting out clearly in relation to each policy area the evidence and analysis that relate to the options under consideration. The Panel would be particularly keen for the Government to present its analysis of how particular policy options would affect the interests of consumers and citizens, including sub-groups such as older people, people in rural areas, disadvantaged people, people with disabilities, people with low incomes and small businesses. Providing this degree of transparency would, the Panel believes, reduce the risk of unintended consequences and make the successful implementation of the Government's decisions more likely. It would also give other groups representing consumers and citizens some reassurance that their concerns are being addressed. As the Panel has noted before, there is no one on the Digital Britain Steering Group with specific expertise in understanding and speaking up for the interests of consumers and citizens. We have heard concern about this omission from others too, so anything that can be done to redress this is likely to be well received.

In our response to the Interim Report we have focused on the following issues:

- the Government's proposed universal service commitment;
- next-generation broadband access;
- media literacy;
- digital television; and
- digital rights and distribution.

Universal service commitment

The Panel has a particular interest in the Government's planned universal service commitment. We strongly support the Government's view that:

"In a developed country such as Britain, everyone should be able to be part of the digital economy and digital society....Broadband today is becoming an essential means of social and economic connectedness..."

The Panel's recent research *No one should miss out: consumers say what they want from the digital future* showed that consumers now regard broadband as an essential service on a par with more traditional utilities.¹ Consumers were also clear that what makes broadband important is the services that it makes available.

The Panel is now carrying out further research to examine how widespread is the belief that broadband is essential and explore what lies beneath this. We want to understand in more detail the services that people are using broadband for now and how this might change over time.

In the Interim Report the Government set out a two-stage process for defining the universal service commitment:

- deciding on the desired level of minimum service; and
- deciding what level of service can be delivered.

In relation to the first stage, it highlighted four factors that would determine the desired level of minimum service:

- the levels of broadband speeds most commonly subscribed to in the population as a whole;
- the sorts of online services which consumers want and expect;
- the public services, such as education or remote health, for which delivery depends on a certain speed; and
- the point at which a level of service can be delivered ubiquitously at proportionate and reasonable cost.

In deciding on the level of minimum service, we believe that the key factor should be the need to ensure that all consumers can use the online services that they want and expect, including public services. So we would like the Government to give most weight to the second and third factors combined. Also, we think that it is important to define the services that "consumers want and expect" to mean the services that consumers think everyone should have access to. It is important too to think not just about what consumers want and expect everyone to have access now, but what they will want and expect in 2012. Otherwise, there is a risk that the universal service commitment becomes inadequate to meet consumers' needs even before it has been fully implemented.

We accept the difficulty of anticipating what consumers will want and expect everyone to have access to much beyond 2012, particularly as new services emerge very quickly. For this reason, we agree that it is important for the universal service commitment to be 'future-proof'. We discuss this further below.

Returning to the level of minimum service, the Panel recommends that before settling on a particular speed the Government should apply a 'consumer test'. In other words, it should ensure that consumers will be able to use the services that by 2012 they will want and expect everyone to have access to. The research that we published recently (referred to above) indicated that consumers anticipate having access to

¹ <http://www.communicationsconsumerpanel.org.uk/smartweb/consumer-views-on-the-digital-future/consumer-views-on-the-digital-future>

streamed video, which requires a reliable connection of around 2Mb/s. The research also suggested that consumers are expecting to be able to use services, such as telemedicine, that require more symmetric broadband connections than are currently expected to be available. As we have mentioned, our new research will explore in more detail the services that consumers will want and expect everyone to have access to. This will enable the Government to apply the 'consumer test'.

As well as taking into account the sorts of online services that consumers want and expect everyone to have access to, the Government said that in deciding on the desired level of service it would take into account the:

- levels of broadband speeds most commonly subscribed to; and
- the point at which a level of service can be delivered ubiquitously at proportionate and reasonable cost.

In thinking about broadband speeds, we think that it is important to distinguish between the 'headline' speeds that consumers subscribe to and the actual speeds that they experience. In our view, it is important to focus on actual speeds rather than the speeds advertised by suppliers. According to Ofcom's recent research, the current average speed is 3.6Mb/s.² So looking at the current broadband speeds would suggest that the level of service should be higher than the connection speed of 2Mb/s that the Government has proposed.

We believe that the other factor – the point at which a level of service can be delivered ubiquitously at proportionate and reasonable cost – should not be a factor in deciding on the *desired* level of minimum service. We recognise that it may not be feasible to deliver the level of service that consumers think should be universally available, but we should start by establishing what that level is, i.e. apply the 'consumer test'.

After determining the desired minimum level of service, the second stage of the process that the Government outlined involves making a decision about the level of service that can be delivered. This involves weighing up a number of factors:

- the speed chosen;
- the absolute number of homes connected at which universality is considered to be achieved (and you note that universality in terrestrial broadcast networks is considered to have been achieved at 98.5 per cent);
- the type and capability of connection – fixed and wireless solutions (including satellite) may each have a role to play; and
- the cost.

We have already discussed the first factor – speed. In relation to the second factor – universality – we think it is important for consumers to have a reliable broadband connection; it is not sufficient to look at theoretical coverage. So as part of the process of delivering the universal service commitment it will be vital to obtain a precise picture of which households cannot receive a reliable broadband connection that will enable them to use all the services that they want and expect.

Also, we do not think it is right to adopt the 98.5 per cent measure of universality that is used in relation to terrestrial broadcast networks. That is a measure of the coverage of a particular type of network and the remaining 1.5 per cent of homes can still receive broadcast television via satellite. Broadband can also be delivered by a variety of means and so almost 100 per cent coverage should be feasible. We accept that as with other 'essential services', it would not be feasible for all consumers to have the same type of connection. A small number of consumers will have to accept a reasonable alternative – perhaps satellite, rather than wireless or fixed broadband

² http://www.ofcom.org.uk/research/telecoms/reports/bbspeed_jan09/bbspeed_jan09.pdf

for example – in the same way that some consumers have to accept a septic tank rather than standard sewerage.

This is linked to the third factor that you set out – type and capability of connection. As we have said, we recognise that consumers will not all be able to have the same type of broadband connection. But so far as possible, we think that people should be able to use their broadband connection to access all the services that consumers think everyone should have access to. Therefore, although satellite can be used to provide broadband to consumers almost anywhere in the UK, its limitations, in particular the lag in the transfer of data that makes streaming content problematic, mean that it is unlikely to be viewed by consumers as an acceptable alternative to other types of broadband. But satellite may be a solution in parts of the UK where there is no cost-effective alternative. And it does have the advantage that consumers receive a guaranteed download speed – it is not a contended service – and there is the prospect of higher download speeds becoming available.

This leads on to the fourth factor – cost. We recognise that implementing the universal service commitment will cost money and that the Government's preferred way of paying for it – an industry fund – will place a significant burden on industry. We assume that this is why the Interim Report does not consider a universal service commitment that would guarantee a broadband connection of more than 2Mb/s. But if it is too expensive to provide universal broadband at a level higher than 2Mb/s, the Government should make this clear and state clearly what the agreed level will deliver (and not deliver) by way of services. In our view, it is important for consumers and citizens to have realistic expectations about what they can expect in the way of services.

Whatever is agreed in the next year, it is clear to us all that demand and expectation will change over time and relatively fast. So as we have mentioned already, it is vital to make sure that the universal service commitment is 'future-proof'. We note that in the Interim Report the Government says that:

"We need to take into account as far as we can the likely evolution of technology and the market, such that we do not lock ourselves into a minimum level which is outdated within a limited number of years."

This implies that future-proofing will mainly involve not setting a minimum level that becomes outdated quickly. But given the difficulty of predicting which new services will take off, we believe that there should be a much clearer process for keeping the level of service under review. In our view, the Government should commit to reviewing the universal service commitment within a specified time frame. We recommend that an interim review should also be triggered if either:

- a re-application of the 'consumer test' shows that the speed of connection specified in the universal commitment is no longer sufficient to deliver the services that consumers want and expect everyone to have access to; or
- the specified speed of connection has become too far out of line with the average speed experienced by UK consumers – currently 3.6Mb/s.

This risk could be mitigated partly through the way that the Government procures the delivery of the universal service commitment. In our view, it should require there to be a plan for implementing an upgrade when this becomes necessary. Even so, it would still not be possible to deliver an upgrade overnight, making it vital that the level of service is reviewed before it has become inadequate.

Media literacy

Another area in which the Panel is particularly interested is media literacy. We believe that improving media literacy should be central to the Government's plans for

Digital Britain and we were disappointed that it was not given higher billing in the Interim Report. Nevertheless, we support the Government's intention to develop a new definition and ambition for media literacy, and are contributing to the Media Literacy Working Group that is working towards this goal. In our view, the debate about media literacy should be focused on the needs of consumers and citizens, and the outcomes that we should be aiming to achieve. To this end, we think it would be beneficial to think about media literacy more broadly. We should avoid an artificial divide between consumer empowerment – thought of traditionally as people having the information to choose and use the communications services that they need – and media literacy – defined currently as people's ability to access, understand and create communications in a variety of contexts.

The Panel's recent research shows that people do not differentiate between different types of needs. There is a continuum of needs that covers everything from having the equipment that they need to use communications services, to being able to choose and use the right products and services, from protecting themselves and their dependants to getting redress from providers where necessary.

The blurring of the boundary between consumer empowerment and media literacy is reflected in the fact that consumers increasingly make online purchasing decisions by reference to recommendations from other consumers. Consumers need to be media literate in order to assess what weight to attach to such recommendations and to make recommendations of their own. Also, an important incentive for consumers to get online is the prospect of saving money. But clearly, they will benefit fully from the fact that many goods or services are cheaper online only if they are appropriately informed and empowered. There is a need, therefore, to think broadly and strategically about what will be required if consumers are to have the skills and confidence to negotiate their way through the communications world of the future.

So to ensure that the UK's consumers and citizens are empowered to take full advantage of digital communications it is important for media literacy to be defined broadly. Furthermore, in recognition of the benefits that would accrue to both the economy and wider society, media literacy should be central to the Government's vision for Digital Britain. It should also be clear who is accountable within Government for the delivery of the media literacy plan and Government will need to generate the resources needed to implement it effectively. In particular, in so far as the Government sees the Third Sector playing a role in promoting media literacy, it should ensure that it has the resources to do so.

There also needs to be clarity about the relationship between the proposed media literacy plan and the Government's Digital Inclusion Action Plan. Linked to this point, we think it will be vital to combine a high-profile national focus on the benefits of 'being digital' with targeted, properly-funded activity at community level to reach those people who are not digitally engaged at the moment.

In developing its national media literacy plan, we would also like the Government to commit to defining clear objectives, identifying which activities should be given priority, identifying the outcomes that is seeking to achieve, reporting on progress in a regular and transparent way and collecting and sharing information about schemes that work.

The Media Literacy Working Group has already developed many ideas about how media literacy could be improved. The Panel suggests that the support provided to consumers should meet the full range of needs referred to above. A central part of this could be a helpline and web-site to help consumers to solve problems that arise once they are online. This could be promoted in conjunction with industry, but would need to be provided alongside physical help with problem-solving. Libraries and other public organisations like job centres have an important role to play in providing

advice and assistance, and directing people to the other sources of help that are available. Also, we think that all Government departments that deliver services online have a role to play in promoting the benefits of being online, particularly as greater efficiency savings will result from increased take-up and engagement.

Next-generation broadband

We are also following the deployment of next-generation broadband access closely and support your intention to consider the case for public incentives to stimulate rollout beyond the expected market-led initiatives. The Panel has published a report that brings together information about the wide range of local schemes that are introducing next-generation access around the UK.³ We support the exploration of a range of different business models and technologies and the aforementioned report shows the degree of activity that is underway, both with and without public assistance.

The Panel worked with the Broadband Stakeholders' Group last year to commission research on the social value of next-generation broadband and we believe that this should be factored into your assessment.⁴

Digital Television

Given the Panel's previous involvement in the digital TV switchover process, we are also interested in the Government's proposals in relation to digital television networks. We support in principle the intention to provide additional information about digital services through the existing region-by-region programme of information and advice provision. It will be important to ensure, however, that this does not cause confusion about the steps that consumers need to take to prepare for the switchover to digital TV.

In principle, we welcome the proposal to introduce a return path capability for set-top boxes provided via the Help Scheme. This would provide people with an extra way of accessing information and services. We doubt that access to the internet via the TV will become a substitute for access via a PC. Nevertheless, we think that it would be preferable for access via TV to allow full access to the internet rather than to a 'walled garden' of content.

Digital rights and distribution

The Panel also read with interest your proposals in relation to rights and distribution. The Panel's recent research showed that concerns about privacy and security are potential barriers to getting online and getting full benefit from this. In developing your proposals to prevent unlawful use of copyright material, we think it is vital to maintain public trust. For example, there should be transparency about the circumstances under which internet service providers will share information about their customers. Related to this, an idea that the Panel thinks would be worth exploring is to use the Digital TV 'tick' scheme as a template for developing a scorecard that would measure the extent to which service and content providers follow best-practice in the way that they handle personal data. This might lead to accreditation recognised by a 'kite mark' or could provide a way of auditing existing self-regulation schemes.

The Government should also be alive to the possibility of unintended consequences. For example, we would be concerned if the funding by distributors and rights-holders

³ <http://www.communicationsconsumerpanel.org.uk/smartweb/nga-s-economic-and-social-value/community-led-broadband-schemes>

⁴ <http://www.communicationsconsumerpanel.org.uk/smartweb/next-generation-networks/nga-s-economic-and-social-value>

of a new approach to copyright enforcement fed through to higher prices for consumers that might, in turn, deter broadband take-up.

Conclusion

The Panel welcomes the Government's ambitious plans for Digital Britain. In particular, we are looking forward to a universal service commitment that makes available to all consumers and citizens the online services that they want and expect. Coupled with a national media literacy plan to ensure that everyone in the UK can benefit fully from digital communications, we think this would be a substantial step forward.

We would be happy to expand on any of these points and look forward to sharing with you the findings of the research that we are currently conducting. Please contact Alistair Bridge on 020 7783 4195 or by email: alistair.bridge@communicationsconsumerpanel.org.uk.