

Westminster Media Forum Keynote Seminar – Participation Broadcasting
27th June 2007
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Regulation

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Hopefully, most of you are aware of the Ofcom Consumer Panel. We're an independent statutory body that was set up by the Communications Act and we look after consumer interests in telecommunications and broadcasting. Basically, everything that is covered by the Communications Act, except for content issues.

We advise Ofcom and, at other times, other bodies, such as the Government, on issues related to consumers. And our aim is that we have a communications marketplace in the United Kingdom, where consumers can confidently choose and use products that are suitable for their needs, and the critical thing there is 'confidently.'

The panel doesn't have an official position on participation media and future regulation, but over the past few years, we have had a lot of opportunities of discussing with Ofcom colleagues and with ICSTIS colleagues, the use and abuse of premium rate numbers and our perspective, which is slightly different from Alistair's, I have to confess, is always that of the consumer. So, some of what I will say this morning is similar to what and covers some of the same points, but as I said, from a different perspective.

We do concentrate on consumer detriment and when it occurs, we want to look at how it can be avoided in the future, but we also look at whether existing regulation should have stopped some of that detriment happening in the first place.

We recently had the opportunity to debate the spate of abuses in the participation media industry and of airing our views with the Ofcom Board. The questions we raised with the Board were, whether the recent problems were caused by a systematic failure of compliance by the industry, and I think we had an example of that from the report yesterday on Channel Five and the Brainteaser show.

We questioned whether the current model of regulation led to the overall regulatory failure. We questioned whether there were adequate structures in place, to ensure compliance with the regulation and to enforce regulation where there was no compliance.

We questioned whether the regulatory philosophy of being complaints led in this area, actually created a blind-spot, which allowed the failure of compliance to go on for way too long. Hopefully some of the questions will be answered by the Ofcom report coming out, I think, next month.

Now, as Alistair said, participation TV and media is a clear example of convergence, of television, media and telecommunications. The many different players come from many different backgrounds, very different experiences. We have a converged regulator in Ofcom, but Ofcom relies upon ICSTIS as the specific regulator in the PRS field. I think

we now have to question whether that actually works to the benefit of the consumer, or whether a major change in the system is required, to restore consumer confidence and to avoid continued consumer detriment.

We, obviously, welcome the proposals of the Mobile Entertainment Forum that Suhail is going to talk to us about, and we welcome the prior permission system that is being proposed by ICSTIS, but are these proposals not sufficient and are they too little, too late? Or, as John said, there is a lot of frenetic activity going on. Alistair also mentioned that there are lots of people looking at all different aspects, and maybe there is just too much going on at the moment.

We know the Gambling Commission is reviewing elements of participation media. We have the introduction of the Unfair Commercial Practices Directive in approximately 12 months time, and that will cover some elements of quiz TV.

The Broadcast Committee on advertising practice; the ASA, they both have a place in overall regulation as well, but frankly, perhaps, part of the problem is just the plethora of regulators and outside bodies, who do have a stake in trying to prevent abuses and scams in this area.

Everyone agrees that measures have to be taken to promote consumer confidence in the sector, but the story of the regulation, to-date, does not engender confidence; that further self-regulation or co-regulation is the answer, however welcome the reactions of the regulators and the industries to-date have been.

The way forward, to avoid consumer detriment and engender confidence in the sector, must be more transparent regulation, as Alistair said, but I think we're at the stage now, where we're looking at greater external regulation. It needs to be co-ordinated regulation; it's not in the best interests of the consumer, or the industry, for overlapping regulation, which could result, again, in regulatory failure, because no one is actually looking at the overall picture.

The bottom line, perhaps, is not whether we need further self-regulation, co-regulation or external regulation; what the consumer and the industry need, are better regulation and that actually means, not just having the right rules in place, but efficient monitoring to check on the compliance of those rules and swift and effective procedures, to ensure that the consumer gets redress, when things do go wrong.