

Title	Ofcom Consumer Panel Advice on Ofcom's Consumer Policy Review				
Date	8 December 2005	Written by	Georgia Klein	Group	Ofcom Consumer Panel
Presented by	N/A				
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Matter for information

The Consumer Panel has been briefed a number of times over the autumn by [REDACTED] and his team on the Consumer Policy Review, most recently at the Panel meeting on 17 November 2005. Following on from this, the Panel has also had discussions with [REDACTED] about the evidence base for this policy. This note represents the Panel's views on what they consider to be the core issues, in particular consumer information.

Overview of issue(s)

1. The Panel are concerned with 4 key areas raised by the Consumer Policy Team (we have used the same numbering system used for the Board in paper 159(05)):

- The distinction between the consumer and citizen
- Information provision to consumers
- Proposal on the PASS scheme
- The proposals for monitoring and enforcement

2. Does the Panel agree with the proposed distinction between citizen and consumer interests?

2. The Panel recognises that the distinction between citizen and consumer interests is an issue of political significance. It is also important for moving Ofcom's regulatory agenda into areas where price competition alone cannot deliver, both now and in the future. However, the Panel has come to the view that the distinction is of relatively small significance when determining appropriate regulatory interventions – it is not clear to us how or when this distinction would lead to different regulatory responses. So, while recognising why the Ofcom team have spent time developing the distinction, the Panel believes that we should simply note the political significance of this issue and move on. Most of what the Panel has been concerned with is in fact in the "citizen" space and our primary concern will be to ensure that the work of "consumer policy" continues to give full weight to the needs of vulnerable people however they are defined.

7.1 What should Ofcom's overall stance be on consumer information?

3. The Panel found the criteria for deciding if regulatory intervention on information provision helpful. The Panel has developed similar criteria. These are:

- a) How do people absorb, retain and act on information about price and non-price characteristics of products in this marketplace?
- b) What evidence is there that consumers are unaware or confused about costs and /or what they are getting?
- c) What is the resulting detriment?
- d) What needs to be done and by whom?

4. It is important that Ofcom develops its policy on information provision from a strong evidence-base about the consumer experience, detriment and how people absorb and retain information. Together, with Ofcom, the Panel has identified a number of gaps in Ofcom's evidence base. These broadly include: understanding the switching decision-making process for different consumer segments; cost awareness; preferences for and use of information; and the purchasing experience. The Panel welcomes Ofcom responding to these identified gaps with a commitment to further consult the Panel on the nature of the research required and a commitment to conduct it as soon as possible in order to strengthen the consumer policy review consultation.

5. Until this research has been carried out, the jury is still out on whether consumers have unmet needs for information and who should provide it. It may be that a fuller evidence base would suggest interventions other than information provision may be appropriate (e.g. unfair contract terms, misleading advertising, the duty not to trade unfairly, Competition Act). The Panel therefore advises the Ofcom board to delay its consultation on the consumer policy review until it has this evidence base.

6. Ahead of receiving the results of the research which we understand is being commissioned by Ofcom to drill down into some of the fundamentals of how information is acquired and used in this market place, the Panel wishes to draw Ofcom's attention to some of the provisions in the legislation. Section 26 of the Communications Act 2003 clearly envisages that Ofcom will provide information to consumers. Whilst this is a permissive and not mandatory power, in setting out this power, Parliament envisaged a consumer information role for the regulator. The Panel also wish it to be brought to the Ofcom Board's attention that other communications regulators have felt it appropriate to provide a range of consumer information, notably those in Ireland, Canada and Australia.

7. Some, although not all, members of the Panel believe it important for Ofcom to provide consumer information and advice for the following reasons:

- It would be a central, easily located source for basic information, saving consumers from searching around for sites of which they have little knowledge.
- It would be more comprehensive than other sources which concentrate on a particular segment of the market or particular services.
- It would be trusted and reliable because they have no vested economic interest.
- It would enable third parties (e.g. advice sector) to help individual consumers

8. They were keen to see the provision of the following types of information:

- The kinds of products and services available, including specialist products and services for disabled people, and an explanation of the new technologies that are emerging in terms which are clear, simple and user-friendly. But not evaluation or endorsement of specific products or services.
- How consumers should make choices of a fixed line operator, a mobile operator, a broadband provider, a digital television provider and any combination of these, providing advice on factors to take into account and a checklist of issues to consider (e.g. introductory only offers). This should include signposting information on accredited price comparison services (see below), quality of service information and specialist information for disabled or other vulnerable groups (e.g. to Ricability, BT's special tariffs).
- Consumer problems (e.g. mis-selling or scams, complaints data), signposting consumers to where they can find further information on consumer rights and on what to do and who can help when they encounter problems.

9. In the view of some Panel members the above information should be easy to find, easy to read and easy to understand. It should be available with off-line as well as on-line resources. A telephone advice line for advice workers could be another additional supplementary information service. Ofcom could, depending on what the research says also encourage third parties to provide a similar signposting service.

The Panel therefore advises Ofcom to:

- A) Conduct the necessary research to 'fill in the gaps' on its evidence-base as soon as possible.
- B) Delay the consumer policy review consultation until this research is completed and its implications for policy have been identified.

7.5 Should Ofcom consult on a range of options in respect of the PASS scheme? Which option does the Panel prefer?

10. The Panel does not wish to make a recommendation on the options for the PASS scheme until we and Ofcom have developed a clear view on what price and non-price information consumers value and use to shape their purchasing decisions. The scope of the PASS scheme should then reflect the breadth of consumer information needs identified in the research.

11. Ofcom has suggested that it could facilitate price comparisons across communications markets by requiring comparable bundles of services. The Panel would suggest such a move as it could restrict innovation. The Panel is interested in Ofcom exploring alternative comparison mechanisms that avoid this disadvantage (e.g. ratio/benchmarking resulting in a minimum annual charge to the consumer).

The Panel therefore advises Ofcom to:

C) Consult on a range of options in relation to the PASS scheme which reflect an improved understanding of what price and non-price information consumers need to aid their purchasing decisions.

6.4 Does the Panel agree with the priorities and proposals for monitoring and enforcement?

12. The Panel agrees with the points made in the paper about the perceived slowness of response of Ofcom's enforcement efforts, partly arising from its reliance on co-regulatory solutions. The Panel also believes that Ofcom is now in a phase of its life when monitoring and enforcement will come more to the fore. The Panel would welcome a clear public statement from Ofcom on the following:

The Panel therefore advises Ofcom to:

D) Make a clear public statement on the following:

- i) Its criteria for determining what is an abusive practice that would justify regulatory intervention
- ii) The range of powers it has available, under its own statute or under other statutes, to tackle abusive behaviour
- iii) The resources it proposes to devote to monitoring and enforcement going forward

Supporting information

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