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| <p>Note of meeting from the Ofcom Consumer Panel: Advice to Ofcom</p> |  |
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| Title of Ofcom Project: | Draft Annual Plan 2007/8 |
| Date: | 19 February 2007 |
| Author: | Roger Darlington |
| Advice given at meeting | |
| Date: | 16 January 2007 |
| Attendees: Ofcom Panel | xxxxxxxx xxxxxx, xxxxxx xxxxx Ofcom Consumer Panel |
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Introduction

1. The Ofcom Consumer Panel was established by the Communications Act 2003 to advise Ofcom and others on the consumer interest in the markets regulated by Ofcom. The Panel is independent of Ofcom and operates at full arm's length from it, setting its own agenda and making its views known publicly¹.
2. We welcome the opportunity to make a submission on Ofcom's draft Annual Plan for 2007/8 published for comment on 12 December 2006. The full Panel discussed the draft Plan with Ofcom colleagues at the Panel meeting on 16 January 2007 and a member of the Panel attended one of the London meetings on the draft Plan on 23 January 2007. Prior to this, the Panel has submitted its views as part of Ofcom's internal annual planning process, commented on its strategic framework review which informs this annual plan² and set out what we consider Ofcom's priorities ought to be in our letter to Ed Richards, Chief Executive in November 2006³.

¹ More information about the Panel can be found at www.ofcomconsumerpanel.org.uk

² October 2006 Panel meeting, meeting paper CP 200635. See minutes of this meeting at <http://www.ofcomconsumerpanel.org.uk/notes/cpnote30.pdf>

³ Ofcom Consumer Panel (October 2006). *Connecting older people: a workshop report for consultation*. <http://www.ofcomconsumerpanel.org.uk/nr/161106.htm>

Overall priorities

3. We begin this submission by reaffirming the priorities which we believe should govern the activities of Ofcom over the next year or two. We set these out in a letter from our Chairman, Colette Bowe to the new Ofcom CEO Ed Richards, to which he replied.⁴ These priorities are:
 - Ensuring that the spectrum released as a result of digital switchover is used to optimize benefits to the public and nation
 - Ensuring that digital switchover is carried out well for all citizens
 - Reducing consumer anxiety around services such as broadband
 - Ensuring effective enforcement action with an appropriate level of fines
 - Promoting broadband take up especially by the less-connected sections of society
 - Ensuring that light touch regulation is in fact the right touch regulation
4. We have been encouraged to see each of these issues addressed in Ofcom's draft Annual Plan. However, in respect of all the priorities we have identified and all the other work set out in the draft Annual Plan, we believe that it would be helpful if Ofcom was more specific in its objectives and clearer in specifying the measures that will be adopted to assess whether these objectives have in fact been met.

Delivering public outcomes

5. Perhaps the best illustration of our point about the need for more anchoring of Ofcom's broad objectives in more measurable metrics can be made by considering that part of the draft Annual Plan relating to "Delivering public outcomes" and more specifically the section on "Promoting access and inclusion"(paragraph 6.7).

6. This section states:

"Work to promote access and inclusion will continue to be a priority for Ofcom. We will carry out research to understand better the nature of concerns about access and inclusion. At the same time, we will consider what services we can expect the market to provide without regulation, and the future availability, accessibility and take-up of those services. Ofcom has an important role in facilitating increased access and inclusion, working closely with stakeholders and other public bodies."

7. This is a positive step but the Panel wishes to know more about what work - other than more research - will be done by Ofcom "to promote access and inclusion"? Specifically:
 - What are "those services" that Ofcom expects the market to deliver?
 - How available and accessible should these services be?
 - What level of take-up of these services would be regarded as a "success"?
 - What exactly does Ofcom intend to do to further its declared "important role in facilitating increased access and inclusion"?

⁴ The Panel's letter to Ed Richards and his response are both published on the Panel's web site at <http://www.ofcomconsumerpanel.org.uk/nr/161106.htm>).

8. The Panel would be pleased to engage with Ofcom and others in examining these questions. However, in this submission, we would like to open up this vitally important debate by challenging Ofcom to set out its vision of what would be desirable “social outcomes” in respect of “access and inclusion”?
9. In the remainder of this submission, we give an indication of the sort of areas and metrics that we think might be covered by Ofcom's vision.

Promoting access and inclusion

10. Ofcom should in our view lead an open and informed discussion about what it means to be a citizen of the UK in communications terms. What levels of access and take-up to which services do we regard as appropriate to ensuring an effective level of citizenship?
11. The Panel is not talking here about a universal service obligation – crucially important though that is. We are supportive of the work in this area mentioned in the draft Annual Plan (notably on the scope, benefits, costs and funding of the USO). As currently structured, the USO is an absolute obligation imposed on and funded by two providers (BT and Kingston Communications). Instead the Panel wants a debate on what society as a whole - Government, regulator, industry and others – should do as its collective best in order to deliver acceptable public outcomes on a genuinely national basis. What can be done to achieve the access and take-up needed in order to promote a vigorous and empowered citizenship?
12. Clearly the services to be covered by such a vision and the metrics to be applied to them will evolve as the market and the technologies change. This will be particularly the case for BT's 21st Century Network, other next generation networks, and next generation access.
13. Inevitably new services will start in larger conurbations and may then progressively roll out to less densely-populated parts of the country. We cannot expect, nor should we seek, that all parts of the country always have the same level of access and connectivity to all services. However, the problem is that each new service is rolled out to cover much the same population as is covered by existing services. Those living in remote parts of the UK or in other areas that are not considered commercially profitable therefore experience what can best be described as 'cumulative relative deprivation': that is, they can't receive the layer after layer of new services at all, or at best only patchily.
14. We need a view as to which services have or will become so essential to citizenship that particular levels of access and take-up should be specified as desirable social outcomes and special efforts should be made to encourage the achievement of such outcomes. The Panel will be reporting on its research into the link between communications and social inclusion. In the Panel's view, at the present time, the discussion needs to embrace at least the following services: fixed telephony; mobile telephony; internet access and digital television. In addition to these services, other socially important outcomes include provision for those with disabilities and information and confidence-building. These are discussed in more detail below.

Fixed telephony

15. Although fixed telephony is available to all (this is covered by the USO), in practice not all homes have a fixed line connection (2005 data suggests that 91% do⁵). This is partly because some consumers simply prefer to have only a mobile, partly because some

⁵ Ofcom (November 2006): *The Consumer Experience: Research Report*. At <http://www.ofcom.org.uk/research/tce/report/research.pdf>

consumers find it difficult to afford such a service (which means that we must have an effective low-user scheme and establish affordable connection costs for those in remote areas) and some customers find it difficult to maintain payments (which means that disconnections need to be minimised).

16. By agreement with Ofcom, BT is currently in the process of introducing a new low user scheme called BT Basic which will eventually replace the two existing low user schemes, In Contact (63,000 customers) and the Low User Scheme (1.1M customers). We understand from contact with BT that it plans to have the first customers on BT Basic by the end of January 2007 and all low users on the new scheme by the end of June 2007. Ofcom has insisted that the two current schemes cannot be withdrawn until the new scheme has 600,000 customers using it.
17. Part of Ofcom's activities for 2007/08 must, therefore, be to monitor the implementation of BT Basic and to continue to work with the company to reduce disconnections. It should aim to secure the closure of the two old low user schemes and to achieve a defined level of disconnections.

Mobile telephony

18. It is commonly – and wrongly – assumed that the use of mobiles in the UK is totally ubiquitous, not least because the number of mobile contracts exceeds the number of UK citizens. However, 20% of adults and 11% of households do not have a mobile⁶.
19. Furthermore, it is well-recognised that, in certain parts of the country, there are 'not spots' where it is difficult or impossible to obtain a signal from a particular operator or sometimes any operator. Ofcom needs to take action to minimise this problem through measures such as a requirement for all operators to provide roaming to all other operators. The Panel is pleased to note that Ofcom plans to look at national roaming obligations in 2007/8.

Internet access

20. The USO sets a functional Internet access of merely 28.8 kbps and Ofcom declined to increase this to 33.3 kbps in its review of the USO. Meanwhile BT already claims that over 99% of homes can receive broadband of 512 kbps. Many can receive much faster speeds.
21. The speed receivable over a BT line depends on many factors, most importantly the distance from the local exchange. 8Mb is the maximum speed achievable over a BT line of average length from the exchange, but most customers cannot receive speeds above around 6Mb⁷.
22. The most recent data available shows that 39% of adults in the UK do not have access to the internet at home and in the last three years this figure has only grown by 4 %⁸. Households with poorer or older citizens are especially likely not to be connected⁹. While broadband growth has been impressive, the latest OECD statistics reveal that the UK only has the 13th best achievement in terms of number of broadband users per 100 inhabitants¹⁰.

⁶ <http://www.ofcom.org.uk/research/tce/report/research.pdf>

⁷ See BT site: <http://www.btplc.com/News/Recentlyaskedquestions/index.htm>

⁸ <http://www.ofcom.org.uk/research/tce/report/research.pdf>

⁹ <http://www.ofcom.org.uk/research/tce/report/research.pdf>

¹⁰ http://www.oecd.org/document/39/0,2340,en_2649_34223_36459431_1_1_1_1,00.html#Data2005

23. We would invite Ofcom to consider what initiatives it should promote or propose in 2007/08 to encourage digital inclusion – meaning a certain level of Net connectivity at any speed and a certain level of Net connectivity at broadband speeds. More specifically, we would invite Ofcom to support publicly proposals which we ourselves have put to the Government's Digital Strategy Review for a campaign to promote the benefits and relevancy of being on-line and for a portal to provide a resource to local and third sector providers on effective training methods and sources of funding¹¹.

Digital television

24. It is essential to citizenship that all homes have easy and affordable access to digital television and the Panel has engaged extensively with Ofcom and others on the programme for digital switchover which should provide access to digital terrestrial television to 98.5% of households in the UK. The latest data available shows that 21% of households have yet to convert their primary sets to multichannel TV¹².
25. Our particular concern is over arrangements for 'under-served citizens', including older, disabled and isolated citizens. This is why we have paid so much attention to the proposed Help Scheme, but this only addresses a part of the problem.
26. In the next year, it will be important for Ofcom to monitor and assess the Whitehaven project. However, we have serious reservations about the relevance of this 'flagship project' to the nation as a whole, notably because of the paucity of multiple dwelling units, the high take-up of satellite and use of a proxy for the Help Scheme as opposed to running it in its envisioned final model.
27. In 2007/8, the Panel will report on its research into consumers' experiences of digital switchover to help inform the policies behind and the implementation of switchover.
28. More problematically than these four basic services but still very importantly, other social outcomes need to be part of the Ofcom vision, such as:

Provision for those with disabilities

29. We should be striving to ensure that, whatever disability a citizen might have, the equipment and user interfaces enable something approaching equality of access for such a citizen as someone without such a disability. This relates to Ofcom's duty under Section 10 of the Communications Act 2000 to encourage availability of easily usable apparatus.
30. In the field of broadcasting, the provision of subtitling and audio description should be the subject of monitoring and targets.
31. The Panel will be conducting research looking at the use of mainstream and specialist equipment by disabled and older people to help inform this debate.

Information and confidence-building

32. Consumers and citizens need to have accessible and reliable information about the products and services in the marketplace and the skills and confidence to acquire and use such products and services. This relates to Ofcom's duty under Section 11 of the Communications Act 2000 to promote media literacy. We look forward to working with Ofcom to develop its strategy for media literacy in the near future.

¹¹ http://www.ofcomconsumerpanel.org.uk/publications/Connecting_Older_People.pdf

¹² Ofcom and Digital UK (5 February 2007) *Switchover Tracker Survey: Switchover Progress Report Q4 2006*.

33. We welcome the statement in paragraph 7.21 of the draft Annual Plan that Ofcom intends to continue to develop its web site in relation to the provision of consumer information and to look at the scope for greater personalisation according to different types of user.
34. However, in keeping with our view that the Annual Plan needs to be more specific in setting objectives and clearer in specifying the measures that will be adopted to assess whether these objectives have in fact been met, Ofcom should ensure that it is monitoring the actual use of the relevant section of its web site and consider setting some metrics for the desired growth in use over the next 12 months.

Conclusion

35. We welcome the broad thrust of and many of the priority areas in Ofcom's draft Annual Plan for 2007/08. However, in respect of the priorities we have identified in our letter to the Chief Executive and the other work set out in Ofcom's draft Annual Plan, the Panel believes that it would be helpful if Ofcom was more specific in setting objectives and clearer in specifying the measures that will be adopted to assess whether these objectives have in fact been met.
36. In particular, we want to know more about what work will be done by Ofcom "to promote access and inclusion", what are "those services" that Ofcom expects the market to deliver, just how available and accessible should these services be, just what level of take-up of these services would be regarded as 'success', and what exactly Ofcom intends to do to further its declared "important role in facilitating increased access and inclusion".
37. Naturally the Panel would be pleased to engage with Ofcom and others in examining these questions but, in this submission, we have endeavored to open up this vitally important debate by challenging Ofcom to set out its vision of what would be desirable "social outcomes" in respect of "access and inclusion" and to indicate the areas and metrics that should be covered by this vision.