



## **Communications Consumer Panel response to Ofcom's Draft Annual Plan 2010/11 Consultation**

### **1. Introduction**

The Communications Consumer Panel was established under the Communications Act 2003 (the Act) 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 is required to have particular regard to the interests of vulnerable consumers, including:

- Elderly people
- People on low incomes
- The disabled
- Rural communities

We are also required to have regard to the interests of small businesses. The Act defines small businesses as those with up to 10 employees.

This paper sets out the Communications Consumer Panel's response to Ofcom's Draft Annual Plan 2010/11 consultation.

### **2. Priorities for 2010/11**

In a recent letter to Collette Bowe, Chair of Ofcom, the Communications Consumer Panel set out a number of issues that we believe are important to consumers and that Ofcom should focus on as a matter of priority during 2010/11<sup>1</sup>. These were:

- Consumer expectations of the internet
- Complaints handling
- Switching
- Consumer decision-making and the role of information

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<sup>1</sup> The letter can be found on the Communications Consumer Panel's website at <http://www.communicationsconsumerpanel.org.uk/smartweb/ofcoms-work-priorities-and-plans/annual-plan>

In our letter we also pointed to a number of areas that Ofcom is already addressing and which have been, and will continue to be, of major interest to the Panel in the next financial year:

- Universal service
- Digital inclusion and participation
- Making consumers and citizens central to Ofcom's policy-making process and
- Mobile coverage

The Panel is very pleased to see a number of these issues included in the draft annual plan. We particularly welcome the decision to include, among Ofcom's nine priority work areas:

- Switching: ensuring consumers can switch communications barrier by removing unnecessary barriers
- Mobile coverage and universal broadband: making progress on broadband and mobile not-spots
- Digital inclusion and participation: encouraging consumers to take up and use broadband by supporting the Digital Participation Consortium

We are also pleased to note:

- That Ofcom has commissioned market research on the way in which consumers' complaints are handled and has committed to making progress in this area in 2010/11;
- Ofcom's continued commitment to providing technical support and advice on the universal broadband commitment, as and when requested by Government;
- That in 2010 Ofcom expects to publish a consultation document *Universal Service: A Framework for Review*, which aims to: set out the way in which the USO currently works; its fitness for purpose; and the extent of any financial burden it imposes.

In line with our duty to protect the interests of small businesses, the Panel also welcomes Ofcom's plan to conduct regular research among business consumers, with a particular focus in 2010/11 on very small businesses. We look forward to discussing the implications of this research with Ofcom.

However, we think there are two areas of importance to citizens and consumers that the current draft of the plan does not fully address. These are:

- Consumer expectations of the internet, and
- Consumer decision-making and the role of information.

## **2.1 Consumer expectations of the internet**

We agree with Ofcom's belief, set out in section 4.48 of the draft annual plan, that as consumers increasingly access and consume content across different platforms Ofcom needs to consider the implications for the regulation of content. We therefore welcome the proposals to 'analyse the future purpose and role of positive linear content regulation, particularly in relation to public service broadcasting; and look at the options for addressing harm and offence, impartiality and fairness and privacy in a converging landscape.'

However, the Panel believes that there are also broader issues that require exploration. Our research shows that soon it will be essential for everyone to have access to the internet at home<sup>2</sup>, but we do not yet have a clear picture of what consumers expect of that access; what content, what freedoms and what protections they anticipate. Previous Panel research to understand how consumers' needs will be met by communications services in the future showed that consumers recognise that they have responsibilities to, for example, protect themselves and their families, but need help in order to meet these responsibilities<sup>3</sup>.

Consumers' expectations should be central to debates about both digital participation and the role of regulation and self-regulation. Government, regulators and industry will have to decide where consumer expectations need to be moderated or better informed, and where they need to be met and, if so, how.

The Panel is conscious of the fact that many of the internet-related issues that may be important to consumers are not within Ofcom's remit. But as the converged regulator with a consumer and citizen focus, Ofcom is in a unique position to examine the issues that will need to be considered by governments, regulators and service and content providers. We would like to see Ofcom build on the Panel's research in this area by conducting further research to understand consumers experiences and expectations of the internet as part of its 2010/11 work plan.

## **2.2 Consumer decision-making and the role of information**

We note that reviewing and promoting available consumer information will remain an ongoing work area in 2010/11. We also note that in 2010/11 Ofcom plan to carry out specific work to:

- Improve the information provided to consumers by continuing to support the accreditation scheme for price comparison websites;
- Ensure that consumers have access to relevant quality of service information to allow them to make informed choices in the marketplace, and;
- Consider options for the long-term collection and publication of broadband speeds data and seek to understand better the other aspects of comparative broadband performance that are important to consumers, such as upload speeds and video streaming quality.

However, following the decision not to continue with the provision of quality of service information via Topcomm, the Panel thinks it is important for Ofcom to step back from considering how to provide information to consumers for specific purposes and take a more strategic view of the value and use of information in real consumer decision-making. We anticipate that behavioural economics and other approaches could help to develop a better understanding of consumer decision-making, which could then inform Ofcom's decisions in a range of different contexts. In 2010/11 we would like to see Ofcom

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<sup>2</sup> See the Panel's recent research report *Not online, not included: consumers say broadband essential for all*, at <http://www.communicationsconsumerpanel.org.uk/smartweb/not-online-not-included/not-online-not-included>

<sup>3</sup> See the Panel's recent research report *No one should miss out: consumers say what they want from a digital future*, at: <http://www.communicationsconsumerpanel.org.uk/smartweb/consumer-views-on-the-digital-future/consumer-views-on-the-digital-future>

bring together existing research into the ways in which consumers use information and assess the implications for its own approach to information provision, conducting further research if necessary.

### **3. Consumer protection and the simplification agenda**

The panel recognises the importance of reducing the regulatory burden where possible and appropriate. However, we would welcome an assurance in the annual plan that Ofcom will not undertake any simplification of regulation that would compromise the interests of citizens and consumers. In particular, we support the quantification of the costs and benefits of policy options where possible, but this should not mean that less weight is given to costs benefits that are less easy to quantify.

### **4. Competition in the nations and regions**

The Panel recognises that competition has brought great benefits to many UK consumers. However, there are still areas in the UK, particularly in the Nations but also in some English regions, which do not receive the benefits of competition. This is particularly, although not exclusively, the case in rural areas where there is not a sufficiently attractive business case to attract multiple providers. In some cases competition may result in reduced levels of service as providers focus attention on more lucrative markets.

The Panel supports Ofcom's commitment to understanding and addressing the needs of consumers and citizens in different parts of the country. Building on this, we would welcome a more detailed exploration of how effectively competition is delivering benefits to consumers and citizens in the different Nations and regions.

### **5. Allocation of resources**

We agree that not everything in the plan can be a priority and that it is important to retain sufficient flexibility to respond to events. Even taking this into account, we are concerned that there is unlikely to be sufficient resource to address all of the issues currently included in the draft plan. In particular, there are a number of outstanding consumer protection and empowerment issues that have been included in the annual plan for a number of years as 'business as usual' work areas, but where progress has been limited. These are often areas, such as text relay or accessibility of communications equipment, where Ofcom does not have powers to make substantial progress unilaterally and needs to work collaboratively with other stakeholders.

This is not an insurmountable obstacle. 999 roaming is an example of an area where Ofcom has successfully achieved its objectives by working collaboratively with others, including industry. However, this method of working is generally complicated and time consuming, and therefore requires even greater commitment than usual, including at a senior level.

Therefore, we believe that the annual plan should be clearer about the level of resource required for particular projects and whether that resource will be available. If sufficient resource is not available, it would be better not to include those issues in the plan. While there may be an aspiration to make progress in a wide range of areas, this is unlikely to happen without sufficient resource and including too many work areas in the plan risks raising expectations among stakeholders that cannot be met. It can

also make it difficult for those groups interested in protecting citizen and consumer interests to identify where best to focus their resources. Only including in the plan areas that are sufficiently resourced to allow progress to be made, taking account of the extra demands of working collaboratively with others, also helps stakeholders understand where progress is and is not likely to be made and allow them to shape their own activity accordingly.

## **6. Citizens and consumers, competition and infrastructure, and spectrum**

The annual plan sets out its priorities under three broad categories: consumer and citizen; competition; and infrastructure and spectrum. However, the 2003 Communications Act gave Ofcom a principal duty to: further the interests of citizens in relation to communications matters; and to further the interests of consumers in relevant markets, where appropriate by promoting competition. The ultimate objective of activities undertaken in the competition and infrastructure and spectrum areas should therefore be to further citizen and consumer interests. We recognise that this is implicit in Ofcom's approach to this work, but believe a more explicit description of the citizen and consumer objectives for these work areas would be beneficial to both Ofcom and its stakeholders.

## **7. Conclusions**

The Panel welcomes the opportunity to respond to Ofcom's draft plan. We are pleased to see a number of issues that we have raised with Ofcom in the past included as priorities for 2010/11, including switching, mobile coverage and digital inclusion and participation. However, we think there are two areas of importance to citizens and consumers that the current draft of the plan does not fully address. These are:

- Consumer expectations of the internet, and
- Consumer decision-making and the role of information.

We urge Ofcom to consider how it will address these issues in 2010/11.

There are also a number of areas in the draft annual plan where the Panel would like to see further information or clarification. These include:

- Assurance that Ofcom will not undertake any simplification of regulation that would compromise the interests of citizens and consumers;
- Further exploration of the impact of competition on different areas across the UK;
- More detail on prioritisation of work areas and allocation of resources; and
- A more explicit description of the citizen and consumer objectives for the competition, and infrastructure and spectrum work areas.

We would be happy to discuss any of these issues with Ofcom in more detail and look forward to working with Ofcom to protect the interests of citizens and consumers throughout 2010/11.