

Dame Patricia Hodgson, DBE
Chairman
Ofcom
Riverside House
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7 February 2017

Dear Dame Patricia

Ofcom Proposed Annual Plan 2017/18

I am writing to set out the response of the Communications Consumer Panel (the Panel) and the Advisory Committee on Older and Disabled People (ACOD) to Ofcom's Proposed Annual Plan for 2017/18.

The Plan is clear and comprehensive and we welcome it. We were pleased to see that Ofcom continued to take the Panel's advice in making its consultations more accessible during 2016 and has taken this Annual Plan consultation to a range of stakeholders at events across the UK.

The Panel believes that making communications work for everyone means that all consumers should be able to enjoy all communications services on offer. In our view, for 2017/18 particularly, this means:

- ubiquitous and reliable mobile coverage;
- a meaningful and affordable broadband USO;
- access to unambiguous and honest information about price, terms and conditions, and quality of service;
- easy and quick access to redress when things go wrong;
- the availability - at a reasonable price - of a dependable postal service and fixed line telephone service for those who need it; and
- access for all, to TV and radio programme services (broadcast and on demand).

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Communications markets remain complex and fast paced; technological developments such as the Internet of Things and 5G bring fresh opportunities but also challenges; regulation of the BBC is a new responsibility; and the implications of Brexit are largely unknown. The Panel recognises therefore that Ofcom faces, perhaps, more challenges than ever before. But we believe that it is equally more important than ever before that Ofcom's priorities and goals are aimed clearly at achieving good, sustainable outcomes, with consumers, citizens and microbusinesses at the forefront of its thinking.

So we would urge Ofcom to maintain its focus, pushing ahead and building on its progress on consumer-related objectives highlighted in the Strategic Review of Digital Communications, including automatic compensation, pricing complexity, consumer information and switching. Our comments under various subject matters - which cut across all three of the high level goals - follow.

Focus on excellent outcomes for consumers and micro businesses

The Panel agrees that Ofcom should at least ensure that consumers and microbusinesses can benefit from *"a range of communications products and services, with the market providing good outcomes in terms of choice, price, quality, investment and innovation"*. But we consider that Ofcom should go a step further and push the market to aim to provide *excellent* outcomes.

An outcome of competition should be fairness and simplicity for all consumers. This includes the way in which consumers are informed about products and services (such as promotional material, terms and conditions, service guarantees and fair expectations).

A further outcome should in our view be the absence of unjustified enrichment for providers - for example by virtue of revenue from meaningless switching notice periods or continuing to bill for the handset element of a tariff after it has been paid off. Correction of these unfair practices would we believe lead to greater levels of trust in the market - ultimately better serving all stakeholders.

Publication of information

We welcome the publication of data that is more granular and more meaningful to consumers. We believe Ofcom should set the standard and encourage best practice across the communications sectors, so that consumers and micro businesses are enabled to easily make well-informed decisions.

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We welcome, too, Ofcom's maintenance of its price comparison website accreditation scheme, adding new members and checking compliance. We support the publishing of data on trends in pricing and assessment of changes in communications tariff prices and structures, the way they are advertised and how they affect consumers. We are also extremely keen to see publication of complaints data from Alternative Dispute Resolution (ADR) schemes and have been working closely with Ofcom colleagues to drive this forward. We hope tangible progress on this can be made sooner rather than later.

Treating consumers fairly

Fairness for all consumers is the bedrock of a well-functioning market. This includes pricing, equality of access and availability, clear information, excellent customer service and good access to complaint escalation and redress.

Switching is a particular example where, in the interests of fairness, consumers need to have confidence that the process (for all services, including bundles) will be hassle-free with effective "safety nets" to mitigate against loss of services. They need to be able to make informed decisions (including assessing information about their consumption patterns) and be confident that they will not incur excessive cost, time or disruption as a result of a decision to switch. We do not believe that is the case yet - so we would urge more focus on this area. These issues face all consumers, but particularly those who are older, disabled (for example, people requiring information in a specific format), or on lower incomes, or where a Power of Attorney is involved - and any consumer who is made vulnerable by a life event such as redundancy or bereavement. In the Panel's view, micro businesses also warrant particular attention.

We also urge Ofcom to protect those customers who are not the target of competition - for example landline-only customers (where prices have risen unfairly in our view) and mobile customers in certain areas where there is a limited number of MNOs from which to choose.

Complaints and redress

We have been particularly concerned about the communications providers' performance in terms of complaint escalation and referral to ADR generally. We recognise that the number of letters advising consumers of their right to ADR at eight weeks has increased; but having to wait eight weeks if a deadlock letter has not been issued is unacceptable in our opinion. We will continue to call for publication of information about ADR complaints, the shortening of the eight-week referral period and greater publicity of the Services.

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We are keen to see Ofcom progress its work on automatic compensation, which we believe needs to be truly automatic - without requiring any undue effort from affected consumers and we would suggest the early pilot of a simple solution, which can be built upon. As with other initiatives we hope progress can be made without delay. We would also like to see communications providers offering proportional billing - adjusting tariffs to cover situations where the customer does not receive the service they had expected (for example, reliable broadband speeds as advertised) if there is no alternative service or permanent remedy available.

Coverage of fixed and mobile communications services across the UK

We welcome the attention given to the need to provide robust mobile coverage in remote and rural areas, as well as high-density urban areas. The problem of inconsistent levels of mobile coverage around the UK is a long-entrenched one and we believe there needs to be a much more determined effort towards removing it. Universally consistent coverage providing mobile voice and data services (including indoor, road and rail), regardless of location, must be the aim for mobile network operators - who should be held to account for market failures. We believe that Ofcom's goal should be: "Secure *high* standards and improve quality".

The Annual Plan document highlights that in August 2016, 86% of UK adults had access to the internet at home, 75% of users considered it "important" to their daily lives and the average UK internet user reported spending 25 hours online each week.¹ Yet this contrasts sharply with the 14% of households which do not have internet access at home. We strongly believe that there is still much more to be done in encouraging digital participation and in protecting consumers who are online from digital detriment. According to an Ipsos Mori report² for Go ON UK (now doteveryone), 23% of UK adults (12.6 million in 2015) lack basic digital skills, such as being able to complete online applications forms which include personal details, buying and installing an app and verifying sources of information online.

This means that there is a significant number of the UK adult population who are unable to benefit from the online world and are unable to protect themselves from potential harm.

The Panel considers that 10 Mbit/s is the absolute minimum currently for an acceptable broadband user experience. We support the introduction of an affordable USO. Our worry

¹ Ofcom, Communications Market Report 2016, pp. 31, 179-187

²https://doteveryone-prod.s3-eu-west-1.amazonaws.com/uploads/Basic%20Digital%20Skills_UK%20Report%202015_131015_FINAL.pdf

is the amount of time this will take before consumers see a beneficial impact. We realise that this lies largely within the ambit of Government but we urge Ofcom to do all it can to help avoid a protracted implementation. With 5% of UK households unable to access 10 Mbit/s, we would also strongly encourage Ofcom to ensure that providers focus on bringing that 5% up to an acceptable speed as a higher priority than rolling out superfast speeds. Reliable upload speeds should also be ubiquitous. We would encourage Ofcom to keep under review the broadband needs of smaller and micro businesses, which can be affected by the number of users per premises and the type of business. It will be vital to the survival of smaller businesses that they are able to keep up with the demands of their customers.

Ofcom's Connected Nations 2016 report³, published in December 2016, showed that while superfast speeds were available to 89% of premises, take-up was much lower, at only 31%. This supports our view that bringing good, reliable speeds to all should take priority over the wider rollout of superfast speeds.

Quality of service in fixed and mobile telecommunications services

While we welcome Ofcom's aims to improve quality of service we would like to see more detail on what Ofcom considers a good quality of customer service to be. Without this definition we believe it is difficult to measure successful outcomes. Every policy and/or intervention should have at its heart a clear and unwavering articulation of "what good looks like for the consumer". This should include, but not be limited to, elements such as: price; availability and accessibility; quality of service; protection from harm (including complaint handling and redress); and inclusivity.

We would encourage Ofcom to set its sights higher than "good" service and aim for excellence. The Panel considers that consumers' reasonable expectations should never go unmet in respect of installations, repairs and redress. Minimum standards (for example, those set for Openreach) are not helpful or meaningful for consumers and should be replaced by targets.

We responded to Ofcom's recent consultation on strengthening Openreach's independence⁴. We would like to see a more direct link between Openreach's performance and the experience of end users, with the main features of the preferred model including clear consumer based targets for which Openreach is wholly accountable. Alongside this, we

³ https://www.ofcom.org.uk/__data/assets/pdf_file/0035/95876/CN-Report-2016.pdf

⁴ <http://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-strengthening-openreach-independence-4-october-2016.pdf>

believe that there should be clear and uncompromising incentives and penalties which encourage excellence and deter poor performance; and which have the effect of providing absolute clarity of purpose.

We also welcome Ofcom's commitment to consumers in Northern Ireland, ensuring that any benefits as a result of reforms to Openreach will benefit consumers in Northern Ireland, where Openreach does not operate.

Increasing the capacity of mobile networks

Effective spectrum management is essential; Ofcom should expect MNOs to develop contingency plans for the predictable areas where coverage is poor or non-existent and hold them to account where they do not do this. We believe Ofcom should also encourage better use of currently-held spectrum and enforce a 'use it or lose it' policy. We would further urge Ofcom to ensure future spectrum allocations best serve consumers by obliging MNOs to meet or exceed agreed coverage targets; and if they do not do so, to financially penalise them.

We are pleased to see reference to spectrum sharing in the Annual Plan. Having a strategy for dynamic spectrum sharing will be vital for the growth of the Internet of Things and the associated economies of scale.

We believe that future spectrum auctions should be crafted so that operators are obliged to cater for the hard-to-reach areas from the start of the process - sometimes known as an 'outside-in' approach. This approach would prioritise providing reliable services to groups of consumers and citizens who have been constantly disadvantaged.

In operating the 700MHz spectrum clearance programme we trust that Ofcom will put to good use the lessons learned from the 800MHz spectrum clearance programme.

Nuisance calls

Nuisance calls remain a scourge - especially for vulnerable consumers. We welcome the renewed efforts to tackle the problem, by Ofcom and by communications providers on network and account-holder level call 'blacklisting' and blocking.

We urge Ofcom to pursue and maintain an uncompromising enforcement policy, naming, shaming and punishing the perpetrators.

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The Panel has previously urged the provision of free caller line identification (CLI) by default for consumers. We have welcomed the inclusion of our proposal in the review of the General Conditions and would encourage Ofcom to do all that it can to implement this proposal.

Broadcast and On Demand Access Services

The delivery of audio-visual content has been transformed in recent years. We believe that, as far as practicable, everyone should have the opportunity to take advantage of these developments and have equivalent access to both broadcast and on demand content. We continue to be concerned about the provision of access services and have undertaken a study into the delivery and usage of services, people's attitudes to these and the barriers that stand in the way of better provision.

We have been disappointed by the recent lack of progress in Access Services - especially in relation to subtitling and speaking Electronic Programme Guides. We would strongly encourage Ofcom to commit more resource to this area and to ensure that its priority is not lessened amidst the other major challenges that the Plan aims to tackle.

We welcome the Government's proposal to introduce Code powers for Ofcom in respect of Access Services for On Demand programme services. It is vital that Ofcom measures and understands how effectively user requirements are being met, with equivalent access the ultimate goal.

Portrayal and participation of older and disabled people

The participation of older and disabled people in programmes, and their accurate portrayal, are central pillars to maintaining audiences' confidence and engagement with broadcast content. As ACOD, we welcome Ofcom's commitment to ensuring that the BBC (and other Public Service Broadcasters) represent the diverse communities of the UK Nations and Regions and address concerns about the portrayal and representation of people from black, Asian, or minority ethnic backgrounds; we would also urge Ofcom to ensure that it monitors carefully the portrayal and representation of older and disabled people. Ofcom's PSB Diversity Report 2015⁵ certainly indicates that there is more work to be done, with 48% of all PSB viewers - and 51% of PSB viewers with a disability - saying there were too few people with disabilities represented on PSB TV.

⁵ https://www.ofcom.org.uk/__data/assets/pdf_file/0023/59333/psb_diversity_report.pdf

Postal services

We welcome Ofcom’s investigation of parcels surcharging and would highlight that this affects rural and remote rural areas - Northern Ireland, the Highlands and Islands, Isle of Wight and others. We are concerned that Royal Mail did not meet the minimum quality of service standards required of it under its regulatory obligations during the financial year 2015-16, Royal Mail delivered 92.5 per cent of First Class mail the next working day, against a target of 93.0 per cent. Whilst Ofcom decided it was not appropriate or proportionate to impose a financial penalty for this, it has said that should Royal Mail breach those requirements again, it may consider the imposition of a significant financial penalty. The Panel have concerns about this performance and will be closely monitoring Royal Mail’s future progress.

Vulnerability

Vulnerable consumers can come in many forms and the term ‘vulnerable’ can be applied to any consumer in vulnerable circumstances, who is more susceptible to detriment and less able to benefit from what communications markets have to offer.

While disabled consumers may not - in every case - be “vulnerable”, it is important that communications providers do not make them vulnerable by failing to provide affordable and accessible services that allow equivalent access to the communications services that all consumers rely on, or can benefit from. We continue to support the promotion of Next Generation Text and video relay services.

Our research on consumers in vulnerable circumstances highlighted a number of systemic issues, along with opportunities for improvements and we made a series of associated recommendations in our report: *We’re Not All the Same!*⁶ We would strongly encourage Ofcom to continue its work in this area.

We welcome the idea of an annual report on outcomes in communications markets for more vulnerable consumers. The current review of General Conditions includes a proposal for communications providers to draw up and publish clear, effective policies and procedures for identifying vulnerable customers, to ensure they are treated fairly and appropriately in their dealings with communications providers. We strongly support this

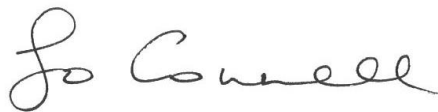
⁶ <http://www.communicationsconsumerpanel.org.uk/research-and-reports/we-re-not-all-the-same-inclusive-communications>

initiative and in particular, we would encourage Ofcom to look into communications providers' debt management practices as part of this piece of work.

In summary, the Panel welcomes the Plan and urges Ofcom to continue to place consumers at the heart of all its thinking. Every policy or intervention should begin by asking how the outcome will serve the consumer interest. This in turn will help sustain an effective competitive market for all stakeholders.

We look forward to continuing to work with you.

Yours sincerely



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