

Communications Consumer Panel and ACOD response to Ofcom's Consultation on the Ofcom Annual Plan 2019/20

The Communications Consumer Panel, established by the Communications Act 2003, is a group of independent experts with direct sectoral experience. We ensure the citizen and consumer voice is represented in communications policy development.

The Panel's job is to ensure that the sector works for consumers, citizens and micro businesses - and in particular people who may be in a more vulnerable position in society. We carry out research, provide advice and encourage Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and microbusinesses.

The Panel pays particular attention to the needs of older people and disabled people, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD (the Advisory Committee for Older and Disabled people) with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

Response

Ofcom's priorities for the next financial year

Ofcom's 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" - is perhaps more important than ever given people's increasing reliance on communication services. In terms of "promoting competition", this may not always best serve consumers (for example, the competitive Directory Enquiries market has served only to increase prices disproportionately) so we welcome Ofcom's broad approach to improving the communications sector across the UK; and we wholly support the continued focus on consumers, which has been a strong feature of Ofcom's recent annual plans. The draft plan sets out Ofcom's over-arching ambitions for universal broadband and mobile coverage and fairness for consumers, both fundamental outcomes that the Panel has urged Ofcom and industry to achieve as a strong starting point for high quality and inclusive services.

We strongly support the commitment to strengthening the Panel's work and look forward to more details of how Ofcom plan to enable this. As the statutory independent consumer body for telecoms, we have already set out our views on how to strengthen the consumer voice across the UK in our response to the Department for Business, Enterprise, Innovation and Skills' Green Paper: [Modernising Consumer Markets](#), which we replied to in July 2018.

Ofcom's detailed work plan is clear and gives helpful milestones that will help to define the timetable of intended outcomes for the year. Where possible, we would like to see further clarity in respect of the timeframes for items such as statements and consultations. This would help consumer bodies and charities better prepare responses, giving greater weight to the consumer evidence base without causing them undue burden or compromising their priorities.

We highlight in our response our support for Ofcom's consumer-focused policies and enforcement actions and indicate areas where we believe Ofcom could apply a stronger focus.

Ofcom's priorities

- We have long argued for ubiquitous, high quality, reliable (and secure) broadband services across the UK, at affordable prices. We look forward to hearing further from Ofcom on its progress towards delivering the broadband USO and on its communication plans regarding consumers' new rights to a decent broadband speed.
- We support the aim to deliver universal mobile coverage, high quality service and security of networks, particularly given the increasing demand for data and many consumers' reliance on mobile phones as their main device for accessing the internet.
- Other than the representation of older and disabled people on-screen and the accessibility of services, the Panel's remit does not cover broadcast content. We support Ofcom's work on diversity in broadcasting and would urge Ofcom to ensure that disabled people are fairly represented in everyday life on-screen; and that they can participate in the industry, both in front of and behind the camera. Following publication of our 2017 research 'Access Services: Time to Catch Up!' we urged suppliers in the broadcasting and on-demand industry to work together to improve access for people who use subtitles, audio description and signing. We welcomed Ofcom's statement in December, recommending improvements in this area and will work with Ofcom on the development of a Code. In short, on demand programming is lagging behind when it comes to Access Services and we would like to see more done more quickly so that people who need to use subtitles, audio description and signing can have access to the same range of content as everyone else.
- The Panel has fed into the programme of work that Ofcom has been conducting on ensuring fairer, more transparent, prices for consumers - including those who pay for mobile handsets and airtime within the same contract. From the draft annual plan, it is not immediately clear to us why a statement on the pricing practice in respect of consumers who pay for a handset and airtime in the same contract is not due to be released until Q3. We believe this is an area of significant and insidious consumer detriment and we urge Ofcom to move more quickly on it following the consultation scheduled for Q1 (and we hope that consultation opens very early in the quarter). We await the impact of automatic compensation on the telecoms consumer landscape and are pleased to see its implementation listed as an area for Ofcom to monitor. We have urged consideration of non-co-terminous contracts as

an unfair, opaque, practice that Ofcom should tackle. We expect Ofcom to include this as part of its review of broadband pricing practices and differential pricing.

- We are in support of Ofcom's intention to provide more resource to the UK Regulators' Network, to obtain a clearer understanding of the needs of consumers in vulnerable circumstances.

Work programme:

1. Promote competition and ensure that markets work effectively for consumers

Allocating and managing telephone numbers

In Ofcom's proposed strategic review of the telephone numbering plan, it is of the utmost importance to the Panel that the needs of consumers are at the centre of the considerations. Consumers have a right to understand how numbering works and that they can get what they need in the coming decade. Before changes were made to the way access and service charges were charged (for premium rate calls), the consumer information campaign 'UK Calling' was launched - information on which can still be found on Ofcom's website. We would welcome equally clear information on any changes to numbering that might affect consumers, citizens and micro businesses and in formats that can be accessed and used by all.

The findings of Ofcom's January 2019 research showed distinct differences in the attitudes of consumers in different age groups towards geographic numbering. A key finding was that younger, more tech-savvy, consumers were more likely to be able to avoid being charged for a call by using an alternative method of contact:

"If I needed to book a ticket, I'd do it online. I don't think you need to call. If needed to speak to someone, I'd use webchat if it was available." *Jon, 17, mobile only user, Aberdeen.*

"I prefer to talk to someone, if you have a problem or something needs sorting out. I really resent the idea of being charged. The company knows you've no choice." *Terry, 74, mobile and landline user, Wrexham.*

We feel strongly that Ofcom's communications plan should ensure that all consumers who make or receive telephone calls (including via text relay services) are informed in advance of any changes, not least to prevent people falling foul of scams. This needs to include people who do not use the internet, and/or who are at an increased risk of harm as they have less opportunity to validate a caller's identity.

Monitoring the postal market and Royal Mail's performance

The number of consumers who rely heavily on postal services as a main form of communication may be decreasing but they must not be overlooked - and that is why, in our view, this group of consumers requires particular consideration in terms of protection from harm.

Where competition cannot be relied upon, consumers must be protected by the regulator's enforcement action. A postal service provider that does not meet the service targets set for

it risks disproportionately impacting negatively upon vulnerable consumers. We recognise that weather and other factors affect performance but we cannot understand why better contingency plans have not been put in place to protect the service and meet targets. We have called for Ofcom to monitor this market more closely and take firmer action when necessary to protect vulnerable consumers and we feel that Ofcom has not to date been firm enough in its action.

The quality of postal services has particular implications for consumers in Northern Ireland, Scotland, and Wales and in remote rural locations across the UK. The Panel encourages Ofcom to put greater direct focus on considering the quality of postal services across the UK, looking at the differing experiences of consumers across the Nations and regions, in urban, rural and remote locations.

Future of consumer data

The Panel welcomes Ofcom's commitment to make data available to consumers that will enable them to make more informed decisions. We would be interested to know if a timeline is in place for this work. The Panel would urge Ofcom to ensure that data is made available in an accessible manner from the start, so that consumers with different access needs can enjoy the benefit of increased data availability. We would also urge Ofcom, other policymakers and CPs to distinguish between the use of the words 'data' and 'information', especially when communicating with consumers.

2. Secure standards and improve quality

Authorising spectrum use

The Panel continues to urge Ofcom to think creatively about the allocation of spectrum. We have previously encouraged consideration of a 'use it or lose it' clause, so that no provider has control over the airwaves without using them to improve consumers' and micro businesses' experiences. We have been encouraged to find that Ofcom is focusing on improving rural coverage and is making this a condition of the spectrum awards for the 700MHz and 3.6-3.8 ranges, when cleared.

Ensuring network operators comply with guidance on security and resilience

The Panel is encouraged to see Ofcom's commitment to ensuring that network operators focus on network security and resilience in the Annual Plan.

The Panel particularly wishes to see improved consumer trust in network providers' protection of their data. We continue to encourage CPs to offer a basic but robust level of online security protection for free and to take steps to help their customers protect their own data, so that consumers can feel confident online.

Certain high-profile network outages in 2018 underlined the need for providers to invest in robust resilience planning including security from a hardware viewpoint and we strongly encourage Ofcom to require network providers to give evidence of this.

Ofcom's Connected Nations report

The Panel welcomes Ofcom's intention to "work to make our information more relevant to, and usable by, consumers" and would welcome the opportunity to be involved in that process.

3. Protect consumers from harm

Nuisance Calls

We are glad to see that Ofcom has included the problem of nuisance calls in its work programme - that is something that we urged it to do. We recognise that Ofcom is engaged in ongoing work with other parties such as the Information Commissioner's Office (ICO) and Action Fraud on this issue and that, as a result, the volume of nuisance calls has declined in the past year. We applaud the work by Ofcom and industry on call blocking initiatives. However there is still much to be done, as those behind nuisance calls and texts seem to continually adapt their methods.

The Panel welcomed the update to the General Conditions that was implemented in October 2018 - mandating that, as recommended by the Panel, caller line identification (CLI) is provided at no additional cost. This will allow consumers to make a free, informed choice whether to answer a call. We have also encouraged Ofcom to work with providers to find a similar solution for consumers who are unable to read visual displays.

We note that under Enforcement, the key priorities include monitoring and enforcing the rules relating to tackling nuisance calls; protecting vulnerable consumers and disabled consumers; the requirement to offer contracts with minimum terms (including early termination charges); and the measures that communications providers have in place to protect the security and resilience of their networks. We cannot overstate how vital all of these are in protecting consumers from harm; so we are pleased to see them given prominence in the draft plan.

Vulnerable consumers

The Panel has encouraged CPs to recognise that 'vulnerability' does not describe a narrow category of the consumer base. We are also keen to encourage an understanding of vulnerability that recognises the fluidity and dynamism of different circumstances that can lead to vulnerability. Training for all consumer-facing staff on how to recognise signs of vulnerability and how to flag these appropriately should be a minimum expectation of a CP.

However, while any consumer can become vulnerable due to their circumstances, some people require higher priority treatment or additional support - and we have previously urged Ofcom to update the wording of the General Conditions to require CPs to promote their Priority Fault Repair Service to all their customers. We strongly encourage this and hope that Ofcom finds room for it in its thinking. Best practice is useful, but a default level of care and protection must first be in place. CPs should be aware of their statutory requirements in this regard and aim higher.

Strengthening the consumer voice in telecoms

We support fully Ofcom's commitment to strengthening the Panel's work and in turn strengthening the consumer voice across the UK. In our response to BEIS' Modernising Consumer Markets Green Paper in July 2018¹, we set out a number of ways in which a better resourced Panel could become even more effective - for example in terms of research capability and ensuring that the consumer voice is better heard through greater collaboration with stakeholders. We look forward to developing these plans.

Comparing quality of service

The Panel welcomes Ofcom's commitment to progress the broadband universal service obligation (USO) project. We remain particularly interested in Ofcom's approach to promoting and protecting the interests of all consumers, including micro businesses, in accessing the USO.

When it comes to comparing broadband speeds, we believe there is a strong case for proportional billing to be implemented. Where a consumer is receiving broadband service that consistently fails to deliver the promised speeds, that consumer should pay proportionately less for the service. We would like to see Ofcom consider how they can move the market in this direction, so that it better serves consumers.

We welcome, too, the continued development of Ofcom's annual Comparing Service Quality report so that it shines a light of those providers that are doing well, and those who need to improve. We urge Ofcom to do all it can to ensure the widespread availability of this data in a form that is most useful to consumers.

As highlighted by Panel Member, Chris Holland, in a workshop on Ofcom's May 2018 Comparing Service Quality report (September 2018)², CPs still have some way to go in addressing the needs of consumers, both in quality of service and in quality of customer service. The experiences of consumers attempting to navigate CPs' customer service and complaints processes (including escalation to ADR Schemes) was highlighted in the Panel's 2018 research, Still Going Round in Circles and we provided recommendations to CPs and Ofcom³.

Migration to voice over IP services

The Panel is pleased to note that the migration to voice over IP continues to have a specific project in the Work plan and we urge Ofcom to ensure that the impact on consumers continues to be at the forefront of its thinking.

The Panel is particularly concerned to ensure that plans are put in place to assist the approximately 1.5 million consumers that only use a landline and who are likely to be the most vulnerable at the point of the switch-off of the Public Switched Telephone Network. This group is statistically more likely to be older, disabled, and lower income consumers. We have also highlighted to the needs of landline consumers who rely on add-on services, such as telecare. We would highlight again the importance of good information and advice at point of switchover and in advance.

¹ <https://www.communicationsconsumerpanel.org.uk/downloads/modernising-consumer-markets-response-website-040718.pdf>

² <https://www.communicationsconsumerpanel.org.uk/speeches-articles-presentations-and-events-/speeches-articles-presentations-and-events->

³ <https://www.communicationsconsumerpanel.org.uk/research-and-reports/still-going-round-in-circles-complaints-handling-in-telecoms>

We have raised concerns on behalf of this group of consumers, in regard to the installation of new equipment and the need to provide trustworthy support services. It is vital that intrusion is minimised and support and security measures are in place.

Across the UK

We appreciate that there are differences in needs and experiences across the UK and we welcome Ofcom's focused engagement across the Nations and Regions to understand those specific needs. Ofcom can and should play a vital role in navigating initiatives in the Nations and Regions (such as the Reaching 100% - or R100 initiative in Scotland) and facilitating collaboration for the benefit of consumers, citizens and businesses.

However, we are keen to ensure that there are no gaps in that engagement or Ofcom's understanding. For example, we would question the idea that digital participation is solely an issue in Scotland and wonder whether learning from the work on the needs of Small and Medium Enterprises (SMEs) in Wales can be shared with other parts of the UK. We would like to see more consistency in the language in the draft plan in terms of the level of Ofcom's engagement with UK Government and devolved nations' governments.

Summary

In our view Ofcom's draft plan is clear and consumer focussed. We welcome its format and its clarity and we broadly support it, although we would like to see quicker and stronger action in some areas. In particular we:

- welcome Ofcom's commitment to universal coverage and fairness to consumers;
- look forward to engaging with Ofcom to enable us to act on the plans we set out for strengthening the consumer voice, in our response to the BEIS Green Paper, 'Modernising Consumer Markets'.
- support Ofcom's engagement in UKRN and with stakeholders and governments across the UK, to ensure the protection of consumers - particularly people in more vulnerable circumstances - and we will continue to work with CPs to encourage them to understand and fulfil the needs of all their customers;
- welcome Ofcom's future-focus in terms of the risks of online harms and in ensuring the resilience of networks.
- urge Ofcom to move faster on pricing practices in respect of handset and airtime charging;
- urge a greater focus on Royal Mail quality of service performance against targets;
- urge Ofcom to continue to give nuisance calls a high priority;
- expect Ofcom to include the issue of non-co-terminus contracts in its pricing review;
- urge Ofcom to do all it can to bring about the mandatory promotion of the Priority Fault Repair Service by CPs.