

Communications Consumer Panel response to DCMS' consultation on Implementing the European Electronic Communications Code (EECC)

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 micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, 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.

Response

The Panel welcomes the opportunity to respond to DCMS's consultation on implementing the EECC.

We believe that all consumers in the UK have a right to expect consistent and high-quality internet connectivity in their home and workplace. We welcome aspects of the EECC that help to expedite this in the UK, to benefit the lives of UK consumers, including people living in hard-to-reach areas.

Availability and access to the internet should be treated as essential - given its importance to consumers, citizens and businesses (especially micro businesses). We have been supportive of the actions considered by the UK government to remove obstacles to ubiquitous internet access provision and to infrastructure changes, thereby enabling high speed internet to be made available to households across the country. We welcome moves to create a legislative and regulatory environment which encourages investment and works to tackle barriers to deployment.

We support the UK government's stated target of making gigabit-capable networks available to 15 million premises by 2025, with nationwide coverage by 2033 and we

urge the government to be more ambitious and to strengthen that ambition with a firm plan of action. We agree with the government's proposal that Ofcom's regulatory actions must reflect the benefits of future-proof networks.

Forecasting and extending network reach

The Panel welcomes the proposal that Ofcom conducts an annual forecast of near and medium-term broadband network reach, which it will have to publish to the extent that it is non-confidential. This will enable an understanding of reach across the UK's Nations and we support it. It is vital that the UK government and Ofcom work with devolved authorities and communications providers to ensure that infrastructure and supply meet the demands of consumers and businesses, and resources are used effectively. Ofcom will need to ensure that data is accurate, timely and can be provided by communications providers in the least onerous manner possible. We appreciate that there are differences in needs and experiences across the UK and we have previously welcomed Ofcom's focused engagement across the Nations and Regions to understand those specific needs. Ofcom can and should continue to play a role in navigating initiatives in the Nations and Regions of the UK (such as the Reaching 100% - or R100 initiative in Scotland) and facilitating collaboration for the benefit of consumers, citizens and businesses.

We support the proposed governmental power to label areas where there is no planned coverage of gigabit-networks and to clarify deployment plans in those areas. In investment hold-up areas where the business case for gigabit-capable network investment is uncertain it is important that the government is clear about why this is and is able to promote transparency via local authorities or other agencies, to people living or working in or around those areas.

Spectrum management

The Panel has regularly urged 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.

We have long-supported national roaming. Our view is that national roaming between mobile networks could be a valuable mechanism to providing greater resilience in the case of a mobile network outage, benefiting consumers and UK national infrastructures. Consumers in some parts of the UK are unable to benefit from competition and switch to another provider if the one they are with does not deliver what it promises, as they have access to only one mobile provider. Additionally, as mobile consumers travel around the UK for business and pleasure, they have no

mechanism to change network supplier to the one that happens to cover their current location. We have urged Ofcom to publish information on the number of premises affected by this failure in the market, to highlight the multiple levels of harm to which some consumers are subjected (ie those who have poor access to mobile and broadband).

Price comparison tool

Consumers who do have the option of another provider to switch to may use a price comparison website as a way of comparing information on tariffs in a complex and fast-changing sector. It is vital that price comparison sites are fair and transparent in the information they provide to consumers and important that any sponsored content is clearly marked, as is the extent of the market covered by that site. We have previously raised concerns about the fact that the Ofcom price comparison accreditation scheme is voluntary, as some of the well-known names will attract consumers by expensive advertising campaigns as opposed to fair and accessible, accredited processes.

We agree with the government's proposal for Ofcom to set up a comparison tool to comply with article 103(2), in the unlikely event that a single comparison site could not sign-up to Ofcom's voluntary accreditation scheme, which will be amended to comply with article 103(2).

The telecoms landscape is ever-more complex and convergence with other essential services is now commonplace. We fully support action to lessen the load of being a consumer. We therefore strongly support the government's approach to implementing Article 107 by granting an express power to Ofcom to enable it to regulate communication bundles which include non-communication services. We agree that in the unlikely event of regulatory clash it is for the regulators to work together to agree an approach that is fair to all consumers.

Affordability

The Panel has welcomed the creation of a broadband USO and contributed to its design - we look forward to its implementation. We support the government's proposal to amend the Communications Act 2003, to make clear that universal service provisions can extend to mobile services, reserving the right to exercise this new power following a public consultation. Ofcom's Smartphone by Default research¹ gives case studies that show the importance of mobile internet for consumers on very low incomes, including people living in hostels or on the streets with no fixed address, who need to access the internet to apply for jobs.

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0028/62929/smarphone_by_default_2016.pdf

We have long held the view that the essential elements of a universal service should include factors of access, affordability and availability alongside quality of service, transparent information, redress and consumer representation. In our response to Ofcom’s consultation in 2016, we said: “The measures to be reviewed should be affordability, speed, reliability and quality of service. Where there are gaps in provision, government will need to have built in enough flexibility in Ofcom’s powers to address these.”²

We remain of the view that it should continue to be for Ofcom to consider affordability as part of the implementation of the broadband USO and, if they identify an issue, to take the appropriate action, e.g. through the implementation of a special tariff, for people on low incomes or with social needs.

The Priority Fault Repair Service is key to identifying which consumers fall in scope of a special tariff. In Ofcom’s 2017 review of its General Conditions³ the scope of this vital consumer protection measure - protecting consumers most reliant on telecoms services - was extended across all telecoms services (having previously just protected landline consumers). We believe that using the register is fundamental to helping to identify and protect consumers at risk and have highlighted to Ofcom and providers that it should be promoted to all consumers. This would enable friends, family and carers of the consumers most at risk to help to connect them to services that meet their needs.

Summary

- We agree with the government's proposal that Ofcom’s regulatory actions must reflect the benefits of future-proof networks;
- We welcome the proposal that Ofcom conducts an annual forecast of near and medium-term broadband network reach, which it will have to publish to the extent that it is non-confidential;
- We welcome transparency around areas where there is no planned gigabit-capable network coverage and clarification of deployment plans in those areas;
- We continue to support a ‘use it or lose it’ approach to spectrum management
- We continue to support national roaming to solve a market failure that does not allow some consumers the opportunity to switch provider and to help build resilient coverage across the UK;
- We welcome the government’s approach to implementing Article 107 by granting an express power to Ofcom to enable it to regulate communication bundles which include non-communication services;
- We retain the view that Ofcom should review affordability as part of implementation of the broadband USO and we highlight the Priority Fault Repair Service as a useful tool in determining which consumers might benefit most from a special tariff, should one become necessary.

² <https://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-response---ofcom-broadband-uso-23-june-2016-final.pdf>

³ <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/telecoms-competition-regulation/general-conditions-of-entitlement>