

Economy, Energy and Fair Work Committee Consumer Scotland Bill: Submission from the Communications Consumer Panel (EEFW/S5/19/CSB)

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.

We work across the UK communications sector, commission research and have a Memorandum of Understanding with Ofcom which enables us to act as a 'critical friend', highlighting issues of concern to consumers, citizens and micro businesses early on. There are also statutory powers through Ofcom's General Conditions, requiring communications providers to meet the Panel from time to time (which Ofcom has recently strengthened to 'upon request'). In practice it has not been necessary to enforce these powers to date, as communications providers engage with us willingly and have told us that they find our research and input helpful in improving their processes to benefit 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.

The Panel meets formally on a monthly basis (except in August) and separately to discuss ad hoc issues, also conducting much of our work electronically.

We publish an annual report¹ and an annual workplan.² The workplan undergoes a public consultation, similarly to the 'forward work programme' set out for Consumer Scotland in the Bill as introduced.

Additionally, this year we published new plans to further strengthen the consumer voice in telecoms³, which will increase our understanding of the issues facing consumers in Scotland and enable us to better support delivery of Scotland's national performance framework. The main pillars of our approach are below (and [full details can be found by clicking here](#)):

¹ <https://www.communicationsconsumerpanel.org.uk/news-latest/latest/post/737-our-annual-report-2018-19>

² <https://www.communicationsconsumerpanel.org.uk/news-latest/latest/post/735-strengthening-the-consumer-voice-in-the-communications-sector>

³ <https://www.communicationsconsumerpanel.org.uk/downloads/strengthening-the-consumer-voice-in-communications---statement.pdf>

1. Greater interaction between the Panel, consumer stakeholder groups and the devolved nations;
2. Strengthening the Panel's ability to influence industry;
3. Researching ways to better inform consumers and citizens, increasing the Panel's research outputs on communications consumer matters and supporting public campaigns; and
4. Exploring how the Panel could better support Governmental thinking, and especially the DCMS telecoms consumer policy team.

Response

The Panel welcomes the opportunity to comment further on the establishment of Consumer Scotland to further protect Scottish consumers. We look forward to working with Consumer Scotland, sharing our understanding of the main issues facing Scottish consumers in the communications sector.

The Panel previously responded to the report of the Working Group on Consumer and Competition Policy for Scotland, the Scottish Government's response, in May 2016, the Scottish Government's call for evidence on a consumer and competition taskforce in April 2017 and the Scottish Government's consultation in 2018⁴.

Former Panel Member Mairi Macleod, and Panel Member Rick Hill MBE were pleased to be involved in the development of the draft policy prior to the publication of the report and we highlighted their involvement and our continued support of the Working Group's recommendations. Given his role in the development of the Working Group's report, Rick (now Chair of the Communications Consumer Panel) has not contributed to this response.

Panel Member for Scotland, Amanda Britain and others representing consumers in Scotland spoke at an event in April to discuss ways that the new body can work well with all the existing consumer advocates of different types, providing an overarching and coordinating responsibility that recognises that issues facing consumers are often complex and multi-faceted, and require cross cutting policy response to address.

We set out a set of priorities for Consumer Scotland in our previous responses and in this response we consider how the Bill as introduced may help to meet the challenges and needs we highlighted.

Addressing consumer challenges in Scotland

Across the UK telecoms sector, the fast-paced consumer landscape is complex and can be confusing for consumers to navigate. We welcome the information function as set out in the Bill as introduced. Additionally, we trust that Consumer Scotland will work with the Panel, Ofcom and consumer bodies to ensure that the information is consistent and current.

Given the complex policy environment for telecoms, clarity in the roles and responsibilities of the new consumer body will be essential - avoiding overlap and duplication with existing bodies. It will be important for Consumer Scotland to have a focus on the particular challenges affecting consumers in Scotland. This would effectively complement the work of the Panel.

⁴ <https://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-response---the-scottish-government--consumer-scotland---septem....pdf>

We note and support the requirement in the Bill for Consumer Scotland to focus on vulnerable consumers. The Panel also gives particular attention to the issues that such consumers face. We would suggest however that the drafting of this section of the Bill is reviewed to ensure that it does not unintentionally exclude certain vulnerable consumers. Our recent research has made clear that vulnerability is not necessarily linked to a particular age (pensionable) or condition (disability). Vulnerability is more complex, relates to the interaction between a person and the service, their particular circumstances and the impact these have on their requirements for service. We would urge in particular that recognition is given to ‘circumstantial’ vulnerability, for example where a consumer needs are affected by bereavement.

As highlighted in our work plan, areas of concern for the Panel include nuisance calls, broadband/mobile coverage and quality of service and the future of voice calls.

The Panel has been represented in the Nuisance Calls Commission and welcomes similarly collaborative work to focus on addressing key areas of harm.

We have urged the UK Government and Ofcom to press on with the implementation of a broadband USO to ensure that no-one in the UK is left behind. However, we have emphasised in discussions the need to understand the interactions between broadband roll-out initiatives in all of the UK’s nations and regions (including R100) and the impact on the rights of consumers in roll-out-designated areas. It is important that all consumers who want broadband receive affordable and reliable broadband within a reasonable timeframe - and a fair deal. We recently highlighted the same in our response to DCMS’ consultation on the implementation of the European Electronic Communications Codes.

As well as holding Ofcom and industry to account, an important part of our work is raising issues before they affect consumers, which is reflected in our interest in protecting consumers in landline-only homes and particularly people who rely on personal alarms, in the advent of migration from the PSTN network to VOIP. This is another area of potential collaboration with Consumer Scotland.

In our response to the Scottish Government in 2018, we supported the proposal that the new body has statutory power to investigate and take action based on areas of complex or intractable harm to Scottish consumers and we support the investigatory function and reports on investigations set out in the Bill as introduced. We would urge - where possible - transparency in reporting, as seen in Ofcom’s reporting on its investigations. We would also urge recognition that the ‘solution’ may require action by other bodies - a collaborative approach must be integral to all stages of the Consumer Scotland’s approach.

A research and evidence-based approach to examining and identifying consumer issues and to establishing lasting solutions

The use of data from multiple sources to identify areas of concern and to pinpoint where harm is taking place is welcomed, though due care needs to be taken with regard to privacy and security of consumer data. It is vital to provide a clear and robust analysis of research to uncover the real issues, in order to focus actions appropriately.

⁵ <https://www.communicationsconsumerpanel.org.uk/consultation-responses-and-advice-notes/consultation-responses-and-advice-notes>

We believe that where an investigation highlights harm to consumers, Consumer Scotland should - where appropriate - work with regulators and other bodies that have enforcement powers to determine the best course of enforcement action.

We believe that the Consumer Welfare Report as prescribed will be useful to all consumer bodies that represent the interests of Scottish consumers.

A collaborative model so that the best outcomes for consumers can be achieved and resources can be used effectively, for the benefit of all Scottish consumers

Collaboration with governments, regulators, consumer bodies and industry - we believe - is key in establishing positive outcomes for consumers and it will be vital that Consumer Scotland, as an investigatory body, is linked with all of the relevant sources of evidence of consumer harm (beyond financial harm). We are pleased to see that the wording of the Bill encourages collaboration, which we see as essential to the effectiveness of Consumer Scotland. That collaborative approach should extend to the development of Consumer Scotland's 'target operating model' - its approach and methods of working. The new body should be encouraged to adopt the principles within the Scottish Approach to Service Design, designing collaboratively, inclusively and with empathy.

A clear focus on providing solutions to issues that particularly affect Scottish consumers

Consumer Scotland should have a clear focus on providing solutions to issues that particularly affect Scottish consumers. The Bill as introduced focuses on this in three important ways:

“(a) reducing harm to consumers in Scotland, (b) increasing confidence among consumers in Scotland in dealing with businesses that supply goods and services to consumers, 20 (c) increasing the extent to which consumer matters are taken into account by public authorities in Scotland.”

To enable the above and its representative function (as set out in section 3 of the Bill as introduced), we believe it is vital that Consumer Scotland maintains in its peripheral vision a wider view of the UK consumer landscape so that it can collaborate in - and learn from - work already taking place that might benefit Scottish consumers. There will be areas of common interest across the Nations so opportunities to collaborate should be taken to avoid duplication of work - whilst still focussing on the impact on Scotland's own consumers.

A consideration of the needs of Scottish micro businesses

We are pleased to see that the Bill includes under its definition of 'consumer' both “an existing consumer and a potential consumer.” However, we would also press the importance of protecting micro business owners as consumers. Micro businesses employ ten or fewer people and although they are businesses, they face many of the same challenges faced by individual consumers and are equally unable to draw on the resources held by larger businesses.

Next steps

We look forward to working closely with Consumer Scotland in helping to address consumer challenges in Scotland.