

Dame Patricia Hodgson, DBE  
Chairman  
Ofcom  
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26 February 2015

Dear Dame Patricia

### Ofcom Draft Annual Plan 2015/16

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 Draft Annual Plan for 2015/16.

In 2015, consumers, citizens and micro businesses are more reliant than ever on communications services - and particularly mobile devices and the networks that enable their use. In the Panel's view, any sub-optimal delivery of communications services has ceased to be a cause of irritation for individual consumers and micro businesses - it is now an issue of real and significant detriment. The causes of such detriment may be (but are not limited to) a result of:

- inadequate infrastructure - be it a lack of reliable, fast broadband or the absence of robust and ubiquitous mobile voice and/or data coverage;
- poor customer service, including delays in service provision or repair;
- or a failure to treat consumers fairly.

### Ofcom's role

The Panel continues to support the overarching statements that Ofcom "*...will work for consumers and citizens by promoting effective competition, informed choice and the opportunity to participate in a wide range of communications services, including post*" and "*will provide proportionate protection for consumers*".

### Communications Consumer Panel

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During the next financial year, the Panel will continue to advise Ofcom to help ensure that the interests of consumers, citizens and micro businesses are properly taken into account in Ofcom's decisions. As our members include people representing the specific interests of all four UK nations, we particularly welcome the draft Plan's section outlining Ofcom's specific work in the nations. In this response, we will limit our comments to a few issues where our views might have a bearing on the final Annual Plan for 2015/16.

There are a number of consumer groups, working in different areas who we know are willing and able to assist Ofcom in its work. For the Panel, much of our work takes place during the development of policy and behind the scenes, but other groups are well-placed to also assist with the delivery of Ofcom's initiatives to protect or empower consumers. We note that there is a reference at A1.65 to Ofcom working with consumer groups (in relation to the change of use of 700 MHz). It is the Panel's view that broad consumer representation and input is invaluable, and we hope that the Plan is able to acknowledge this kind of available support more widely.

### Panel views on priorities/work areas

#### *Coverage and quality of service information*

We welcome the themes of *promoting better coverage of fixed and mobile services for residential and business consumers* and the provision of *quality of service information*.

As noted above, in our view, sub-optimal delivery of communications services, especially as a result of inadequate infrastructure, is now an issue of real detriment. These issues are equally important to people in rural and urban locations. The Panel welcomed the 4G coverage obligation of 98% indoor coverage UK wide, and 95% in each Nation by the end of 2017, and the mobile infrastructure project as tools to increase rural broadband and mobile voice/data coverage.

We would encourage very close monitoring in relation to fulfilment of these coverage obligations. We urge Ofcom to keep progress under review and to encourage Mobile Network Operators (MNOs) to develop contingency plans for the very predictable areas which might be adversely affected, and to continue to support market based solutions that, with a limited regulatory intervention, could deliver immediate and significant benefit to the economy.

We hope that the recent undertakings given by MNOs to Government - guaranteed outdoor voice and text coverage from each operator across 90% of the UK geographic area by 2017 and full coverage from all four mobile operators increasing from 69% to 85% of geographic areas by 2017 - will make a significant impact and we encourage close monitoring of progress. However, for now, there is still some way to go. We are also conscious that

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developments in the market can adversely affect coverage e.g. mast rationalisation programmes have raised concerns about a reduction or loss of service in some areas and poor customer service responses. We would encourage Ofcom to carefully monitor these areas.

Universally consistent coverage must be the aim for both fixed broadband and mobile voice and data services. Being excluded from an increasingly online world is now a matter of significant consumer and citizen harm. This is especially important as we move to a society where there will be a 'digital by default' delivery of many government services, and consumers who are not online are increasingly disadvantaged, disempowered and disenfranchised. As we note above, the availability of broadband is crucial. We believe that its provision should be treated as a basic utility - and it is increasingly important that all consumers and micro businesses have access to at least a basic service of 2 Mbps - although we strongly believe that 10 Mbps is a more appropriate level as a basic speed.

We would continue to encourage a better balance in the Plan between enabling availability and supporting usage/engagement. Currently the draft Plan seems to place far greater emphasis on the former. Ofcom has an important role to play in the area of usage/engagement - not least through the provision of information and the facilitation of progress by stakeholders. While Ofcom's remit may not include specific regulatory powers in this area, Ofcom does, we believe, have an important role to play in respect of encouragement and leadership. This would seem to be an example of where Ofcom's 'soft powers' and research can be used to good effect. We are unsure why in section 6.3, *renewing efforts to promote digital inclusion...* is within a particular national context, when this would appear to be an issue affecting the UK as a whole, albeit with variations across a variety of demographic groups.

The provision of information about providers' performance is vital to informing consumers' decision making. We would encourage Ofcom to ensure that this data is provided on a regular and frequent basis.

### *Nuisance calls*

A point we have made for the last two years, and which continues to be at the forefront of our minds, is that questions of confidence and trust appear to be of growing concern to consumers and micro businesses. As well as being of high importance to consumers, the integrity, credibility and growth of the communications industry depends to a large extent upon such characteristics.

In this context, and alongside the central issue of protection from harm, the Panel remains particularly concerned about the impact of nuisance calls on consumers and micro

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businesses. Nuisance calls/texts from businesses – including live marketing calls, silent calls, abandoned calls, and recorded marketing message calls – can cause consumers irritation, anxiety and distress. They can cause micro businesses to waste their resources. If a scam is involved, there can be financial loss too. There is also a risk that these unwanted contacts adversely affect people’s likelihood of engaging with commercial services by phone, which in turn could mean lost business for some firms. The potential loss of people’s trust in their communications service is bad both for consumers and businesses.

Nuisance calls have been a priority work area for the Panel since 2012/2013, and will remain so for the coming year. We have worked closely with a range of stakeholders and we are encouraged to see some tangible progress in this area: e.g. the DCMS Nuisance Calls Action Plan; the Which? Taskforce’s report; the move to lower the Information Commissioner’s Office’s (ICO) threshold for enforcing the regulations; and the amendment of the legislation to make it easier to exchange information between Ofcom and the ICO.

We therefore welcome the statement in the proposed priorities and outcomes section of the draft Plan that Ofcom’s programme of work will, where appropriate, include taking action to secure compliance and reduce harm. It is vital that any penalties imposed by Ofcom as a result of non-compliance are meaningful in terms of their impact and are not considered by those in breach as merely a potential ‘overhead’ of doing business in such a way.

To help reduce both the incidence and the impact of nuisance calls/texts including silent calls and unrequested marketing calls and texts, we would urge Ofcom to continue to work with a range of partners including Governments, the Telephone Preference Service (TPS), the ICO, the Direct Marketing Association (DMA), industry and consumer groups to ensure:

- robust enforcement of the regulations;
- implementation of the recommendations of the taskforce’s review of consumer consent;
- co-operative efforts between agencies;
- effective use of the available technology;
- and support for consumers and micro businesses wishing to report nuisance calls or scams – so that people are well informed and better protected.

We believe that, in order to maintain momentum and help gain consumer confidence, the agencies involved should report and publicise the actions that have been taken/are planned on a more regular basis. The current joint working plan refers to the next update at the end of 2015. We would also welcome an explicit reference to Ofcom’s ongoing

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consumer information work with consumer groups and a more specific focus on the needs of more vulnerable consumers.

The Panel has continued to urge the provision of free caller line identification (CLI) for consumers, following our call for all business calls to carry an authentic and returnable CLI - with an exemption process for those that may have a legitimate reason for withholding e.g. abuse shelters. We would encourage Ofcom to do all that it can to support this initiative.

### *Customer Service*

We particularly welcome, under the priority to *Protect consumers from Harm*, the intention to monitor and ensure improved quality of service and customer service information. As you know, the Panel has an ongoing concern about customer service standards. We made a series of recommendations following our 2013 research *Going round in circles? The consumer experience of dealing with problems with communications services*<sup>1</sup>. Following the issues highlighted by the research, and our own subsequent exploration of the topic, the Panel made recommendations in five key areas:

- the quality of information provided to consumers
- contact centre staff training should be reviewed and strengthened
- the consumer contact experience should be improved
- greater support should be provided for older and disabled consumers
- escalation and ADR (Alternative Dispute Resolution) referral processes should be reviewed and strengthened

Individual communications providers, ADR schemes and Ofcom all have a role to play - as does Openreach in delivering services that meet the requirements of its wholesale customers and the residential and business customers served by them. We have been following up these issues in our individual meetings with communications providers and would encourage Ofcom to maintain its focus on the monitoring and evaluation of Openreach's performance, as well as complaints handling and the efficacy of the ADR process. We welcome the recent announcement to extend for another year Ofcom's own initiative monitoring and enforcement programme in respect of General Condition 14 (Complaints Handling).

The publication by Ofcom of complaint data for the main Communication Providers is we believe of value both to consumers and companies - providers seem to place great store by it and it acts as an incentive to improve. We are disappointed that this data has been

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<sup>1</sup> <http://www.communicationsconsumerpanel.org.uk/downloads/going-round-in-circles.pdf>

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absent for some three consecutive quarters and we look forward to resumption of its publication as soon as possible. It is a key set of information that supports the aims of the draft Plan as far as customer service information is concerned.

### *Protecting Consumers from Harm*

We welcome and support *Strategic Purpose 4: protect consumers from harm* and the identified priority to implement price transparency of non-geographic numbering. We look forward to working further with Ofcom in taking this project forward, as the consumer-facing phase draws closer.

We have been concerned for some time about the lack of consumer protection from high bills run up on lost or stolen mobiles. From time to time media stories highlight extreme examples of large bills experienced by consumers and the potentially life changing and ruinous effect they can have on individuals. In 2013, the then Culture Secretary, announced an agreement between Government and four of the mobile companies to implement a cap on bills on lost/stolen mobile phones, with the ambition of introducing it in the spring of 2014. The promised consumer protection has still not been delivered.

Fraud prevention and management systems have been in place within the mobile industry for many years and so the ability to swiftly block unusual or excessive usage already exists. We have been encouraging the implementation of the liability cap by all MNOs without further delay and the exploration of further potential technical solutions. We wrote to DCMS and the major MNOs in 2014 to highlight our concern, and we have been discussing this matter with MNOs face to face. We would therefore urge Ofcom to work closely - and urgently - with a range of partners to ensure that a workable liability cap is implemented without further delay.

We appreciate the work which is to be undertaken in relation to the protection of children's online safety and continued support for the UK Council for Child Internet Safety (UKCCIS) under *Strategic Purpose 5: maintain audience confidence in broadcast content*.

### *Privacy and security*

The range of opportunities offered by the internet, mobile apps and micropayments provide consumers and citizens with a host of potential benefits. However with machine-to-machine data exchange on the horizon, and as the market for personal data becomes ever more complex and monetised, it is increasingly important that people understand the implications of the consent they are giving organisations for the use of their data and, with regard to security, the precautions they can take. This becomes more important with the potential of the Internet of Things to collect and use increasing amounts and types of consumer information.

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We are very conscious of the extent of the rapidly evolving privacy and security issues facing people in a highly connected world and would encourage close attention to these areas. We welcome the fact that the draft Plan highlights Ofcom's intention to support Governments' and industry's initiatives to improve levels of user trust in internet services. It is also vital that Ofcom works to ensure that consumers' trust in internet services is well-founded initially - particularly in relation to the potentially unseen collection of data made possible by connected devices. To that end, we would suggest that the draft Plan would benefit from further detail of the intended work in this area and that explicit mention is made of working with other organisations to support consumers and micro businesses.

### *Promote opportunities to participate*

We are glad to see the emphasis in *Strategic Purpose 3: promote opportunities to participate* on:

- the interests of 'vulnerable' consumers and citizens;
- access to communications services for low income households

We would stress that it is important to distinguish between vulnerability per se and the needs of older and disabled consumers and business users. Examples in the draft Plan may help to clarify this distinction.

The Panel has welcomed the provision of next generation text relay but would stress the importance of monitoring the implementation and user experience of the new service, and reviewing it to ensure it is bringing about the desired improvements. We look forward to the planned research in this area. We will continue to engage with your work to inform potential users about next generation text relay, as well as its further development. We are pleased that Ofcom provides the option of video relay for those stakeholders and consumers who wish to use it and encourage Ofcom to continue assisting groups working towards the wider provision of this important resource.

The Panel's new study 'Inclusive Communications' has been designed to explore how accessible a range of organisations are to their customers. The customers of specific interest are those with additional communication support needs such as people with disabilities, and older consumers (aged 75+). We aim to publish this work by Autumn 2015 and look forward to sharing our findings with you.

We will continue to engage with Ofcom's range of work on the accessibility of content, including speaking EPGs and the accuracy of live subtitling, which examines how effectively user requirements are being met, so that, as far as practicable, users have

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equivalent access. We would ask that Ofcom continues to maintain its focus in these areas.

In relation to the affordability of communications services for low income households, we would suggest that there is also a role for Ofcom to ensure that communications providers are following best practice in relation to consumers who are struggling to pay bills and to have a close working relationship themselves with debt charities.

As ACOD, we will continue to advise Ofcom on the development of your Single Equality Scheme and particularly your disability action plan which sets out how Ofcom will ensure that it is a positive place for disabled employees and consumers.

### *Portrayal and participation*

We note and welcome that Ofcom's strategy mentions audiences' confidence in broadcast content (which falls within ACOD's remit). 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.

### *The Business Consumer*

The Panel's remit includes representing the interests of micro businesses. There are an estimated 5.2 million private sector businesses in the UK and 95% of them can be classified as a micro business. They account for 33% of UK private sector employment and over 18% of turnover. As part of our 2014 report [Realising the potential: micro businesses' experiences of communications services](#)<sup>2</sup>, the Panel commissioned Jigsaw to carry out [independent, qualitative research](#)<sup>3</sup> with a wide range of 115 micro businesses from across the UK. We appreciated Ofcom's support of this project.

The research found that communications services play a critical role in the success of micro businesses. However, they face a wide range of challenges in using and fully exploiting the opportunities offered by these services and technology for the benefit of their businesses; and, for the people running these enterprises, time is often at a premium. Following the research, we highlighted that for micro businesses to gain greater benefit from their communications services, action needs to be taken in three key areas:

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<sup>2</sup> <http://www.communicationsconsumerpanel.org.uk/research-and-reports/realising-the-potential-micro-businesses--experiences-of-communications-services>

<sup>3</sup> <http://www.communicationsconsumerpanel.org.uk/downloads/micro-business-qualitative-research-written-report-final.pdf>

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- Governments, in association with Ofcom, industry and communications providers, should focus on supplying improved speeds and coverage for both fast broadband and mobile voice and data.
- Communications providers should consider offering tailored communications service packages for micro businesses, facilitating access to robust services and business grade support levels.
- Governments, Ofcom, local authorities, local enterprise partnerships, chambers of commerce, trade associations and communications providers should review the information and advice they offer about the benefits of investing in communications, tailored to the needs and time restraints of micro businesses.

Last year we encouraged Ofcom to place even more emphasis on this area in 2014/15, particularly in relation to its engagement and communications strategy with micro businesses, which we considered would benefit from a more proactive approach. We very much welcome that Ofcom has responded with a greatly increased focus in this area, including the development of its portal to provide advice for businesses.

We look forward to working with Ofcom and stakeholders to explore how best the industry and regulators can deliver services that better meet the needs of these business consumers.

### *Switching*

We welcome Ofcom's plans to *improve the process of switching providers for consumers*, but are very concerned about the time these initiatives are taking to implement. Low switching levels lead to reduced competition and a worse deal for consumers - this situation should not be allowed to endure. Consumers need to be aware of the potential benefits of switching and to have confidence that switching will be a hassle-free process with effective "safety nets" to mitigate against loss of services. It is unacceptable that in the 12 months prior to summer 2014, 28% of consumers who had considered switching their broadband provider cited 'hassle' as a reason for not switching. Robust switching processes are the bedrock of improved switching, but they are not sufficient by themselves - consumers need to be assured that they will not incur excessive cost, time or disruption as a result of a decision to switch. We therefore welcome the proposed work into non-process barriers to switching and hope that this can progress apace.

The new switching regime on the fixed copper network means that consumers should benefit from better value services and innovations. We are pleased that Ofcom has consulted on following the same gaining provider-led process for KCOM and has progressed

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in its review of switching across services, including bundles. Ofcom's strategic aim should, we believe, be harmonised switching processes for all communications services such as mobile, pay TV and cable services.

The Panel has growing concerns about increasing costs for consumers in the fixed voice market. The Panel would also encourage consideration of what steps could be taken to facilitate switching for consumers in groups that are less likely to do so, and to support them, where needed, through the process. It is essential that this issue continues to receive priority.

#### *Clarity of information*

As last year, a theme that recurs across our work is the vital need to increase transparency in respect of communications service provision. We welcome the work that has been done to make "plain English" information about contract length and early termination charges (ETCs) available to all customers - on bills, by phone and online, and specifically when enquiring about switching. We also believe that clear information about service level expectations, pricing and customer service standards should be readily and clearly available to consumers without the need for undue searching.

#### *Postal services*

We welcome under *Priority Three, Promote Opportunities to Participate*, that Ofcom will review the factors that potentially affect the sustainability of the universal postal service. It is crucial that Ofcom is proactive in this area. We are very conscious of the importance of postal services to consumers, citizens and micro businesses across the UK - and that older and disabled consumers value postal services even more highly than the population in general. It is vital that Ofcom continues to ensure that the postal services provided are of high quality, affordable and accessible. We believe, too, that access to redress when complaints are unresolved should be well promoted and easy to use - through companies own escalation procedures or through the Postal Redress Service. To this end, in addition to the other workstreams, we would urge the close monitoring of quality of service targets and robust enforcement action if these are not met.

The proposed review must include the issue of detriment when, for example, in some areas online purchases can be made only on payment of a surcharge or cannot be made at all. We would be interested to know whether increased competition in the parcels market has led to detriment for consumers.

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*Change of use of 700 MHz/2.3 and 3.4 GHz*

The Panel notes that, under the priority "*to secure optimal use of spectrum*", there is a strand of work related to the change of use of *the 700MHz band and 2.3 and 3.4 GHz*. A great deal of work has been undertaken in relation to Digital Terrestrial Television (DTT) coexistence in 800MHz and the Panel would strongly suggest that the learning from this implementation is carried clearly through to the planning for these bands, and that consumers' needs are given priority in policy development. We are concerned that it is potentially people on low incomes and vulnerable people who may be most affected by a further switchover/interference, and would encourage contingency plans to be developed to mitigate against this possibility.

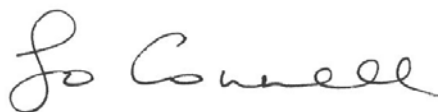
Generally, the Panel would also encourage more emphasis on identifying where Ofcom will use its position and expertise to facilitate or encourage other stakeholders working in a given area, even if Ofcom itself is not taking or cannot take direct action.

Finally, as you know, we have been conducting a review of Ofcom's consultations process and have been in discussion with a number of stakeholders. We will formally submit our recommendations to Ofcom and we look forward to discussing these with you.

We welcome the progress that Ofcom has made across many fronts. However many consumer issues persist so the focus on improving the areas we have highlighted should remain high; changes in consumer and micro business needs, in addition to industry consolidation and rapid technological development, add further impetus to the importance of regulatory protection in this increasingly important sector.

We look forward to continuing to work with you.

Yours sincerely



Jo Connell  
Chair - Communications Consumer Panel and ACOD

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