

Annual report 2007-08

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The Ofcom Consumer Panel was established under the Communications Act 2003 as the independent policy advisory body on consumer interests in the communications market (with the exception of content issues).

Working from a firm evidence base, we advise Ofcom, the communications regulator, and others on how to achieve a communications marketplace in which all consumers can confidently choose and use products and services that suit their needs.

The Consumer Panel sets its own agenda but works constructively with the Ofcom Board. This enables us to give strategic advice on policies early on in their development – before they are consulted on – so as to build consumer interests into Ofcom's decision-making from the outset.

The Consumer Panel is made up of part-time members with a balance of expertise in consumer issues in the electronic communications sector. There are members representing the interests of consumers in Scotland, Wales, Northern Ireland and England.

Consumer Panel Members are appointed by Ofcom, subject to approval by the relevant Secretaries of State. They are appointed in accordance with Nolan principles and are eligible for re-appointment. The Consumer Panel is assisted by a small support team.

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This report can be found on the Consumer Panel website in English and Welsh at: http://www.ofcomconsumerpanel.org.uk – see Information Centre, Annual reports.

It can be provided in alternative formats on request (see Contact us).



Foreword

Taking the lead: a year of action

It is important to start by saying that this Consumer Panel annual report reflects the work and leadership of founding Panel Chairman Colette Bowe, who stepped down at the beginning of January 2008. The Panel would like to extend its thanks for her invaluable contribution to establishing the name of the Consumer Panel firmly in the communications world.

There are two important areas that we would like to highlight from our work over the last year. The Panel commissioned a Toolkit study of three Ofcom policy projects. This showed that Ofcom has developed a much stronger sense of the consumer interest than it had at its inception five years ago. There is more to do to embed the Toolkit in Ofcom, and we will continue to play our part in supporting Ofcom in that exercise.

The Panel took the lead and raised with industry widespread consumer concern about the difference between the "up to" speeds advertised in home broadband packages, and the actual speeds. Colette Bowe wrote to the Chief Executives of the top six UK internet service providers and challenged them to come up with solutions to give customers clear information. The Panel then called on Ofcom to work with industry and produce an enforceable code of practice.

These examples show how the Panel pursued the wider consumer interest and how it took specific action to respond to a pressing consumer concern. We also commissioned key consumer research, and advised and helped Ofcom shape the policy work that affects UK consumers in communications markets.

Looking ahead: a new direction

The Consumer Panel is a young and successful organisation and it is time to move into a second phase of work. Under a new Chair we will take a fresh view of our role, building on the first four years, but extending our influence across the communications world.

Consumer awareness in the communications field is growing quickly, and more and more people are making the technology work for them. It is an exciting time and full of potential for consumers and wider society. For this reason we are making next generation access a key priority. Rather than stand by the sidelines, we are already working with the Broadband Stakeholder Group and the Department for Business, Enterprise and Regulatory Reform. We are co-sponsoring research on the economic and social value of next generation broadband.



Most of us are swept along with the benefits of technology, but we need to ensure that all communities feel those benefits. This is why the Panel will be taking a particular interest in access and inclusion for people who are disabled; and in the impact of where you live (rural or urban) on the services you can access.

Finally, some words of thanks. The Panel is very grateful to its full-time staff for their hard work and commitment: Georgia Klein, Dominic Ridley, David Edwards, Julia Guasch and Ben Wallis. We are also very grateful to the members of the Consumer Forum on Communications, who regularly exchange views with us on consumer issues. And lastly, we want to say thank you to our colleagues on the Panel for their hard and effective work.

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Anna Bradley Chairman

June 2008

Ruth Evans Deputy Chairman



Section 1

The year in focus

The key consumer priorities

- 1. The Panel spelt out the top three consumer priorities that Ofcom should focus on in 2008¹:
 - Children's issues:
 - better broadband services:
 - next generation access (NGA) and the digital divide.

Children and the internet

- 2. Lack of home internet access can seriously disadvantage many children living in low-income households. To find out how and why, and to understand the impact on young people of growing-up in the digital world, we commissioned the Children and the internet 2 report. Following a workshop to launch the report and attended by key representatives from government, think-tanks, the third-sector and industry, policy recommendations were identified and published in our event report³.
- 3. The Panel called on Ofcom to set up a children's panel to provide a strategic overview on all its work on issues related to children and the internet, such as access, protection and parental responsibility.

Broadband speeds

- Writing to the Chief Executives of the UK's top six internet service 4. providers about broadband connection speeds opened the door to discussions with industry⁴. We asked them how they intended to give consumers more informed choices when buying broadband services. The Advertising Standards Authority was asked about giving greater prominence in adverts to the factors that influence connection speeds.
- 5. Ofcom welcomed our lead, and began talks with industry about a code of practice to give customers better information when they decide what to buy.

 $^{^{1} \} http://www.ofcomconsumerpanel.org.uk/advice/documents/N9.pdf \\ ^{2} \ http://www.ofcomconsumerpanel.org.uk/information/documents/Children_and_the_internet.pdf \\ ^{2} \ http://$

³ http://www.ofcomconsumerpanel.org.uk/information/documents/Childrenandtheinternetworkshop

⁴ http://www.ofcomconsumerpanel.org.uk/news/101007.htm



Next generation access

- 6. The roll-out of next generation access (NGA) has the potential for enormous benefits for UK consumers and businesses – but its introduction could also deepen the digital divide between rural and urban areas. Our advice to Ofcom was clear: the success of NGA would largely be influenced by how the regulator shapes the scale and pace of NGA roll-out.
- 7. The Panel has worked closely with the Broadband Stakeholder Group and the Department for Business, Enterprise and Regulatory Reform. The result will be a study looking at the economic and social value of NGA research that will inform the government's thinking and independent NGA review.

Consumer Interest Toolkit

- 8. Our second Capturing the consumer interest⁵ report, containing work undertaken by PricewaterhouseCoopers using the Panel's Consumer Interest Toolkit⁶, found that Ofcom has made considerable progress in putting the consumer at the heart of its policy-making. There is more to do and the Panel will continue to support and encourage change to further embed the Toolkit in Ofcom processes.
- 9. The report was launched at a high level, well-attended event where Lord Whitty, National Consumer Council Chairman, spoke about consumer-focused regulation. A streamlined version of the toolkit will be piloted in the EC, and Robert Madelin, Director General of the European Commission's Health and Consumer Affairs Directorate (DG SANCO), explained how this is going to happen.

Tracking consumer concerns

10. What are consumers' concerns about new communications services and how do they impact on their lives? We found that consumers are exercising more choice in how and what communications technologies they use. Our report, *Consumers and the communications market:* 2007⁷, also highlighted a worrying gap in internet take-up between people on low incomes and older consumers and the rest of the population.

⁵ http://www.ofcomconsumerpanel.org.uk/information/documents/Capturingtheconsumer interestremovalofBTretailpricecontrolsetc.pdf

⁶ http://www.ofcomconsumerpanel.org.uk/files/information/consumerinterest/capturing_the_consumer_interest_a_toolkit_for_regulators_etc.pdf

⁷ http://www.ofcomconsumerpanel.org.uk/information/documents/Consumersmarket2007.pdf



Going digital

11. Digital switchover will bring a significant change to people's lives. To understand the experience of vulnerable consumers as they 'go digital' we commissioned *Going digital: supporting consumers through digital switchover* 8. We found that the required information and technical support was not getting through to some people. We called for Digital UK to carry out a more concerted and targeted UK-wide communication campaign and for the use of "power questions" in shops to help consumers buying digital equipment.

Switched on

- 12. Looking into the future and keeping ahead in the fast changing world of communications is challenging. That's why we published *Switched On:* An exploration of Britain's tech savvy consumers⁹. We explored how these consumers think and feel about communications technologies. There were concerns about privacy and the use of personal electronic data by others, and a feeling of powerlessness in the face of the changes new technologies bring. But the research reveals that most consumers take up technology because it meets a need, not just because it is clever or new. Communications technologies have to fit with everyday life and those that do this and meet consumer needs tend to be well received.
- 13. We will use the findings to inform the work of the Government's Convergence Think Tank on what the future might hold for communications policy and regulation.

Digital Dividend Review

14. The release of spectrum from digital switchover is an opportunity to deliver products and services that bring quality and innovation to UK consumers. In our advice¹⁰ in response to Ofcom's Digital Dividend Review we warned against allowing companies to cherry-pick regions or localities. We argued for a regulatory framework to review proposed auctions and argued for Ofcom to leave part of the released spectrum unlicensed to ensure innovation in the market and to maximise public value.

10 http://www.ofcomconsumerpanel.org.uk/advice/documents/ddr2.pdf

9

⁸ http://www.ofcomconsumerpanel.org.uk/information/documents/Goingdigital031207.pdf

http://www.ofcomconsumerpanel.org.uk/information/documents/Switchedon.pdf



Mobile mis-selling

15. High on the list of consumer concerns is mobile phone mis-selling and cashbacks. The voluntary code of conduct was clearly not working, and Ofcom agreed with our suggestion to tackle the problem by increased regulation¹¹. Ofcom came up with a set of rules with an obligation to ensure information is provided at the point of sale to deal with cashback deals.

Saying no to sales calls

16. The Panel has been concerned that the Telephone Preference Service (TPS) has left vulnerable consumers open to intrusive sales calls. We advised Ofcom to monitor the statistics and performance of the TPS very closely, including how complaints were handled¹². Ofcom advised us that it was putting in place more formal reporting arrangements.

Comparing quality

17. We argued for the expansion of existing quality of service schemes to cover broadband and for provision of more information on mobile phones as real benefits for consumers. Ofcom welcomed our advice and has been considering appropriate metrics.

Handling complaints

18. The Panel discussed with Ofcom its complaint handling and Alternative Dispute Resolution (ADR) review. Issues included the time period required before consumers can take their complaints to an ADR, signposting and information about the schemes. We also talked to BT about its complaint handling and the steps it was taking to improve its processes.

Other Panel research

19. In addition to the research publications already mentioned we looked into two other topics. Social inclusion and communications: a review of the literature¹³ explored the relationship between social and digital inclusion, and identified gaps for new research. Communications usage by Scottish small businesses¹⁴, found that the vast majority of the 600

¹¹ A new General Condition - one of a set of conditions applying to communication providers and imposing legal obligations.

¹² http://www.ofcomconsumerpanel.org.uk/advice/documents/T9.pdf

¹³ http://www.ofcomconsumerpanel.org.uk/information/documents/Socialinclusionandcommunications.pdf

¹⁴ http://www.ofcomconsumerpanel.org.uk/information/documents/Communicationsusageby Scottishsmallbusinesses.pdf



rural Scottish business questioned were satisfied with their landline, mobile and internet providers.



Engaging with stakeholders and direction

- 20. The Consumer Panel works with a broad range of consumer groups, organisations and industry representatives to discuss and advance consumer (and citizen) interests in the communications market. We hold or attend meetings across the four Nations of the UK to ensure that we meet key consumer stakeholder groups, politicians and others.
- 21. We spoke at a range of events during the last year, including presentations at Ofcom's Consumer Experience event and the Westminster Media Forum seminar on Participation Broadcasting¹⁵. We took part in a discussion panel on Voice over Internet Protocol (VoIP) at an event organised by the Internet Telephony Services Providers' Association. We also held our own events to launch our *Children and the internet* and *Consumer Interest Toolkit* reports.

Consumer Forum on Communications

22. During the past year we have been pleased to host the Consumer Forum on Communications¹⁶, which is made up of a wide range of consumer interest groups, including disability organisations. The Forum identifies some key consumer concerns for discussion with Ofcom. Issues that the Forum discussed included the Digital Dividend Review, internet security and the additional charges levied by telecoms operators.

A new direction

- 23. Anna Bradley was appointed as the new Consumer Panel Chair in January 2008.
- 24. There will be a new direction for the Panel, focusing on the wider sphere of communications, including policy makers in the EU. The Panel will continue to work closely with Ofcom but will also engage with policy makers at UK, nation and regional level, as well as with industry and its representatives.
- 25. Recruiment for new Panel members is underway and a refreshed Panel will be in place by the Autumn of 2008.

¹⁶ http://www.ofcomconsumerpanel.org.uk/information/consumer-forum.htm

¹⁵ http://www.ofcomconsumerpanel.org.uk/information/documents/ParticipationBroadcasting.pdf



Work-plan 2008-09

26. The Panel's work-plan for 2008-09 falls into two categories: significant programmes of work; and watching briefs and new developments:

Significant programmes of work

- building the consumer interest into the framework for future policy and regulation;
- next generation infrastructure;
- geographic exclusion;
- building the consumer interest into the process of regulation;
- · access and inclusion of people with disabilities.

Watching briefs and new developments

- digital switchover a watching brief;
- public service broadcasting defining the consumer interest;
- media literacy engaging where appropriate;
- urgent consumer issues where the Panel can make a useful and effective contribution to emerging issues and so help change the outcomes for consumers.



About the Consumer Panel

Our statutory basis and purpose

- The Ofcom Consumer Panel was established in early 2004 by the Office of Communications (Ofcom) under Section 16 of the Communications Act 2003.
- 2. The Panel is concerned with access to communications regardless of whether this affects people as citizens or consumers. We represent the interests of people living in different parts of the United Kingdom and give informed advice about matters relating to the interests of older people, people with disabilities, low-income households, people living in rural and urban areas and small businesses in addition to other consumer groups.
- 3. We are independent of Ofcom, setting our own agenda and speaking out publicly on issues where we consider this to be appropriate but work constructively with the Ofcom board and other relevant bodies. The Panel has a memorandum of understanding (MoU) with Ofcom that defines the relationship between the two bodies¹⁷. The MoU was first drawn up when the Panel was established in 2004. It was reviewed in 2006 and changes were agreed by both parties to reflect our current working relationship and based on the experience of our first two years of activity.
- 4. The Panel currently consists of 11 part-time members, with substantial knowledge of and expertise in consumer issues in the electronic communications sector¹⁸. Amongst the Panel are members representing the interests of consumers in Scotland, Wales, Northern Ireland and England. Ofcom appoints members in accordance with Nolan principles.
- 5. The Ofcom Board approves the Panel's annual budget, including remuneration of members and to allow the Panel to carry out research or to commission work from consultants.
- 6. In January 2008 the Department for Business, Enterprise and Regulatory Reform announced appointments to the "New" National Consumer Councils (NCC) as part of a plan to strengthen consumer representation in the UK. The new body will incorporate Energywatch and Postwatch, but financial services and communications will both retain their specialist consumer panels. There will be some form of cross-membership to be

¹⁸ See Annex B

¹⁷ http://www.ofcomconsumerpanel.org.uk/files/about/Mou.pdf



determined - between the Ofcom Consumer Panel and the "New" NCC, which will start its work in October 2008.

How we have gone about our work in 2007-08

Evidence-based policy-making

- 7. The Panel based its advice on evidence drawn primarily from research but also from representations made to it from: its strong network of links with smaller, specialised consumer advocacy bodies in the sector; complaints data; and its contacts with the industry and others.
- 8. We conducted a programme of research, including research exercises into single topics of major significance, such as our research focusing on children and the internet published in June 2007. More details of our research in 2007-08 are provided in Section 1 of this report. All of the Panel's research is published.
- 9. The Panel hosted quarterly meetings of the Consumer Forum on Communications. Forum views fed into the Panel's work.
- 10. The Panel tried to ensure that it reflected the widest range of views from UK consumers. It therefore supplemented the work of our Nations representatives by meeting in Inverness in October 2007 with local stakeholders.

Work plan principles

- 11. There are a huge number of potential issues on which the Panel could carry out research and offer advice. As a consequence, the Panel could spend all its time on wide-ranging but superficial opinion-giving. In order to be effective therefore, the Panel is selective. To enable it to do this, the Panel has developed and applied a set of principles to direct how it sets its priorities. The principles are:
 - Relevance: is this an issue which consumers have identified as a relevant concern in our consumers and the communications market surveys, or which for other reasons we believe is important for consumers?
 - Detriment: is there evidence of a real and significant risk of consumer detriment?
 - Practicality: is this a matter to which the Panel could add value (ie others are not already engaged on the consumer issue) and for which some practical solution can be found?
 - Vulnerable groups: would tackling an issue address the requirements and needs of those vulnerable consumer groups listed in the Act?



- Communications Act themes: the Act requires that the Panel is able to give advice on the interests of domestic and small business consumers in relation to the following matters:
 - the provision of electronic communications networks, services and facilities and relevant apparatus;
 - directories to enable their use;
 - the financial and other terms on which such services or facilities are provided;
 - service standards;
 - complaints-handling;
 - dispute resolution;
 - redress;
 - information about service standards and the rights of consumers;
 and
 - any other matters the Panel considers to be necessary for securing effective protection of communications consumers.

Early intervention

12. In order to give advice to Ofcom, the Panel has been kept closely informed about Ofcom's work and has had constant access to Ofcom at all levels. The Panel gained early sight of Ofcom policies and in this way assisted Ofcom to factor in consumer concerns into its policies before they were publicly consulted on.

Transparency and accountability

13. The Panel is fully transparent in its operation. We publish annual reports on how we carry out our functions, our research findings, policy analysis and advice, and the agendas and minutes of our meetings. The Panel maintains a website to inform consumers of our activities on a continuous basis and issues an e-newsletter to a wide variety of interested parties.



Panel Members

Anna Bradley (Chairman) is Non-Executive Chairman of the Soil Association's Organic Standards Board, a member of the board of Addaction, Britain's largest drug and alcohol treatment agency and a consultant to Aegon UK, a large life insurance and pension company. She was Consumer Affairs Director of the Financial Services Authority (2002-5) having been Chief Executive of the National Consumer Council (1999-2002). (From January 2008)

Colette Bowe (Former Chairman) is a board member of Electra Private Equity plc, AXA Framlington and Morgan Stanley Bank International, a member of the board of management of the National Institute for Economic and Social research and a member of the Statistics Commission. She is also the Chairman of the Council of Queen Mary, University of London. (Stepped down January 2008).

Ruth Evans (Deputy Chairman) is Chairman of the Bar Standards Board, the Regulator for Barristers. She is also a lay member of the General Medical Council and former Chairman of its Standards and Ethics Committee. She is a member of the Queen's Counsel Appointments Panel, a member of the Association of British Insurer's Customer Impact Panel and a member of the Advisory Board of ING Direct UK.

Fiona Ballantyne is an experienced Director in the field of Marketing and Business Development and specialised in small business development for nine years with the Scottish Development Agency. She is managing director of Ballantyne Mackay Consultants and a director of 4-consulting Ltd. She is also Chairman of the Edinburgh Branch of the Institute of Directors and a member of the IOD Scotland Committee, a director of Edinburgh Printmakers Workshop Ltd and chair of the Board of the Scottish Museums Council. On the Panel she represents the interests of people in Scotland.

Roger Darlington is the Chairman of the greater London Region on the Council of Postwatch. He is a member of the board of the 'New' National Consumer Council. He is part-time consultant to the communications union Connect and a part time trainer with the consultancy Lamont Associates. He represents the interests of people in England.

Simon Gibson OBE has broad management experience in high-technology industries in both North America and Europe. He is Chief Executive of Wesley Clover; prior to that he was co-founder, President and CEO of Ubiquity Software Corporation. His private company directorships also include Celtic Manor Resort, Newport Networks and Enfis. He is a member of the Mitel Networks Advisory Board and a Director of IQE plc. He represents the interests of people in Wales.



Graham Mather is a solicitor and President of the European Policy Forum, an independent international research institute. He is a member of the Competition Appeal Tribunal, set up under the Competition Act 1998. He is a consultant to Tudor Investment Corporation and Elliott Associates, a director of Greenham Common Community Trust and a trustee of the Pelican Cancer Centre. He is a board member of the Social Market Foundation and the cultural foundation Zamyn.

Kevin McLaughlin is a freelance trainer and consultant on disability issues. He is a member of the Northern Ireland Human Rights Commission and the Civic Forum. He represents the interests of people in Northern Ireland.

Jeremy Mitchell is a member of the Scottish Solicitors' Discipline Tribunal. He was formerly research director of Which?, Director of Consumer Affairs at the Office of Fair Trading and Director of the National Consumer Council. He has also been Chairman of the Scottish Advisory Committee on Telecommunications and was a founding Council Member of the Telecommunications Ombudsman Service (Otelo).

Kate O'Rourke is a solicitor with an international law firm and Vice Chair of City & Islington Further Education College, as well as an advisor to a number of theatre companies.

Bob Twitchin is an Associate of the Employers' Forum on Disability. He has a wealth of experience in telecommunications, some of which he contributes as a member of PhoneAbility. He is a member of the British Computer Society's Social Responsibility Committee

Allan Williams is Head of Policy and Research at Action with Communities in Rural England (ACRE) and is currently completing a PhD. He was Senior Policy Advisor at Which? - formerly Consumers' Association - until 2005, where he was responsible for telecoms, broadcasting and e-commerce issues.

Members were appointed by Ofcom with the approval of the Secretary of State. In appointing members to represent Scotland, Wales and Northern Ireland the relevant Secretaries of State were consulted. More detailed member biographies can be found on the Panel website.



Annex C

Panel resources - budget and spend for 2007-08

Under Section 16(1) of the Communications Act 2003, Ofcom has a duty to maintain effective arrangements for consultation about the carrying on of its functions with consumers. The arrangements must include the maintenance of a panel of persons - referred to in the Act as "the Consumer Panel". Ofcom agrees a budget for members' remuneration, expenses and any work we commission. Neither Ofcom nor Ofcom's Accountable Officer approves the expenditure met within that overall provision. Our budget for the 12 months ending 31 March 2008 was £895,958 - see the table below. Non-audited expenditure for this period was £829,675. In the table we have included the cost of the team of Ofcom colleagues that support the Panel.

	Budget April 07-March 08 (12 months) £000	Actual April 07-March 08 (12 months) £000		
Panel members' fees, expenses and support				
FeesExpensesOfcom colleagues	228.8 (1) 49.0 202.2	220.9 38.6 (2) 202.6		
Professional fees				
- Research and consultants	302.0	302.5 (3)		
Sundries	114.0	65.1 (4)		
Total	896.0	829.7		



Notes:

- 1. Panel members were paid flat fees as follows:
 - Former Panel Chairman Colette Bowe, whose commitment was up to 3 days a week - £52,774 per annum
 - Current Chairman Anna Bradley, whose commitment is up to 6 days a month - £30,000 per annum
 - the Deputy Chairman whose commitment is up to 2 days a week -£31,665 per annum
 - members whose commitment is up to 1 day a week £12,666 per annum

The figure for fees includes employer's National Insurance.

- 2. There was an underspend on travel and subsistence.
- 3. Research spending included fees for a temporary but full-time contracted research manager. Consultants fees include the cost of the Panel's part-time contracted press/media adviser and fees paid to PricewaterhouseCoopers LLP for undertaking the Panel's Toolkit study.
- 4. There were underspends on publications and Chairman recruitment costs.



Contact us

The Panel can be contacted via the current support team:

Georgia Klein, Consumer Panel Manager Dominic Ridley, Consumer Panel Policy Executive David Edwards, Consumer Panel Secretary

Their contact details are:

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The Panel has a website at: www.ofcomconsumerpanel.org.uk

The content of the website is updated regularly and we hope that readers of this report will be frequent visitors to the site. We publish an e-newsletter and you can register to receive it and/or notification of updates to the site.