

## **9<sup>th</sup> Ofcom Consumer Panel meeting, 18 November 2004**

### **Note of the Ninth Meeting of the Ofcom Consumer Panel, held at Ofcom, London, 18 November 2004**

#### **Introduction**

1. The Chairman welcomed members to the ninth formal meeting of the Ofcom Consumer Panel. Julie Myers (Adviser to the Panel), David Edwards (Secretary) and Flora Demetriou (Consumer Panel Executive Support) were present throughout the meeting. Ofcom colleagues Ed Richards, Graham Howell and Dougal Scott attended for part of the meeting.

#### **Previous minutes and matters arising**

2. Minutes were agreed with minor amendments. There was discussion of Ofcom's advisory committees. Tony Stoller, Ofcom's Director of External Relations, would be invited to the next Panel meeting to discuss Ofcom's vision for the committees. Julie Myers had received a note from Ofcom's Number Translation Services (NTS) team and would copy it to members. Feedback was given on Ofcom's work on mis-selling of fixed-line telecoms services. Mandatory codes of practice for all fixed-line operators would be required and this would be announced shortly. It was felt that the Panel had made a positive contribution to the mis-selling debates.

3. The Panel's seminar on low income consumers would be on 29 November 2004. All members were encouraged to attend. There was brief discussion of regulation in other countries, where consumer issues may have been tackled in different ways. The Chairman suggested a short series of information projects with Panel members taking the lead on a different country in Europe and elsewhere, eg Canada, Australia and the USA. Members would present on a jurisdiction at alternate Panel meetings.

#### **Chairman's report**

4. The Chairman was preparing a budget bid for 2005/06. On 8 November 2004 the Panel hosted the Consumer Forum on Communications (CFC). The agenda covered Switchover, Universal Service and a briefing on the Telecoms Review. The latter was well received but there was concern amongst consumer representatives at the length of the consultation document. The Panel would look at the Telecoms Review documents as a project and comment on how accessible they were to consumers and their representatives. It was reported that Ofcom published plain English summary versions of some of its documents. It was suggested that there should be regular informal contact with consumer groups between Forum meetings, with an e-newsletter as a way forward. The idea would be developed further.

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5. The Chairman had attended numerous meetings on switchover; including one with Help the Aged who had received letters expressing anxiety about switchover. Organisations like Help the Aged could be given a five or six point 'plain English' briefing on occasions that Ofcom made a major announcement. It was suggested that an information gap should be tackled by Ofcom, not by the Panel, and assessed as part of the Panel's 'audit' project. Ofcom website alerts appeared to lack filtering options and resulted in floods of alerts. It ought to be a straightforward task to include a short message in alerts that indicated likely audience and the implications of a particular consultation. This could be raised as part of the Panel's 'audit' of Telecoms Review publications. In the meantime frequently answered questions (FAQs) on switchover would be available via the Panel's website.

### **Members' updates**

6. There was a report on progress of the Panel's consumer research. On 24 November 2004 there would be a pre-brief meeting on the quantitative work followed by a meeting for all members on 1 December 2004, when it would be possible to draw out headline findings and 'flag up' issues to be addressed in individual reports that could emerge over time on different aspects of the research, eg issues in the nations and for those on low incomes, plus a switchover report. Results would begin to be shared in the New Year. A communications strategy needed to be worked up for the December 2004 Panel meeting.

7. Ofcom's report on regulation of Premium Rate Services (PRS) would be considered by the Ofcom Board and it appeared that Panel concerns about PRS were being addressed. Members would see the Ofcom report shortly.

8. A Panel member had been considering the benefits of a website for small businesses that provided independent advice on a range of communications services. The Chairman agreed that an information resource was valuable and asked for a proposition to be worked up on the information needed by small businesses that could be discussed at the next Panel meeting. The next step would be to discuss it with small business organisations, eg Genesis, the new body that brought together a number of small business trade groups.

9. A meeting had been held with Disability Wales. The organisation requested an article about the Panel. There was a discussion about public payphones with BT and the Ofcom Scottish advisory committee. The focus had been removal of uneconomic payphones, including the veto process that involved local authorities. There was concern about removal of payphones ahead of the Ofcom Universal Service Review, the latter would be discussed at the December Panel meeting. Calls from payphones made up a high number of calls to Childline and removal of payphones was an emotive issue in Wales. Payphones were important during local power failures, when they would continue

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to function when mobiles could no longer be relied upon. An option was to replace uneconomic BT payphones with cashless emergency phones.

### **Digital switchover**

10. Members had been copied the draft Switchover Report and were comfortable with the text and the policy proposed in it. It proposed a financial package to support those eligible for TV licence fee exemptions or concessions and majored on the support that would be required from the voluntary sector. Ongoing work would be required to address the requirements of people with serious disabilities; this could be pursued with Ofcom's advisory committee on older and disabled people. The Chairman would speak at the Westminster Media Forum on 24 November 2004 and formally launch the report. The Chairman would be writing to the Culture Secretary, who had requested the report. She thanked everyone for their contributions to complete the report, Julie Myers in particular.

### **Telecoms review**

11. Dougal Scott spoke about the Phase 2 Telecoms Review consultation published that morning. Phase 2 was consulting on three options: deregulation; a reference under the Enterprise Act; and real equality of access. It was appropriate to consider the reasons for sector specific regulation when there was already competition law. But the latter was about protection rather than promotion of competition. If Ofcom reached the view that there were fundamental problems with the underlying structure of the market it could make a reference to the Competition Commission.

12. Real 'equality of access' meant access to BT assets so that other operators could compete with BT. Competitors had to use BT's 'last mile' and appeared to lack equivalent access compared with BT's retail division, ie better prices and early knowledge of new services. Equality of access would mean that each individual wholesale product would be supplied to all on the same terms. Behavioural changes would be required at organizational and individual levels on information flows within BT if this option was chosen.

13. More vigorous competition would benefit consumers in the long term. If regulation was more focused and effective this could mean withdrawal of regulation from a number of retail markets. Competition would exert downward pressure on BT prices but it would be important for consumers to understand that they had a choice of supplier and be able to make informed decisions. There were search and switching costs and the consultation set out consumer information principles to address these. Universal service remained as a safety net and raised two issues: cost and scope. BT and Kingston bore the cost but this could become an undue burden. Scope had changed little in twenty years.

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There was the question of inclusion of broadband; as yet there was no economic or social rationale but that could change.

14. The Panel would respond formally to the consultation due to close on 3 February 2005. It wished to discuss the review with Dougal Scott at both the Panel meeting in January and with the Panel's Telecoms Review team. At the December 2004 meeting the Panel would discuss its approach to the consultation. In answer to a question about the timescale to equality of access Dougal Scott said that BT was part way there and it would be in no-one's interest to delay the process.

### **Freedom of Information Act (FoIA)**

15. Graham Howell spoke about the implications of the FoIA for Ofcom and the Panel. New requirements would come into effect on 4 January 2005. Ofcom was working on document retention policies. It was at a disadvantage as a new organisation, ie it had not had a great deal of time to plan for changes on freedom of information. Once a request for data was received it would have to be met within twenty days. It was not clear what the resource implications would be; currently Ofcom's Contact Centre received approximately 400 information requests every day.

16. The Chairman wished to understand the implications for the Panel, an open body with very little confidential discussion. Graham Howell agreed that the Panel was largely a transparent body but would confirm whether the Panel would be required to have its own publications scheme. A Panel member commented that requirements of the FoIA should not be seen as a burden and the legislation should be welcomed in a country that was decades behind some others in this area. Comparison was made between the Ofcom Board and the US Federal Communications Commission that held Commission meetings in public.

### **Ed Richards**

17. Ed Richards, Ofcom Senior Partner, joined the Panel and talked about the strategic thinking that Ofcom had been doing on telecoms, switchover and spectrum. During the morning's activities to launch Phase 2 of the Telecoms Review discussion with the press had focussed on whether break-up of BT remained an option and there was interest in what Ofcom meant by behavioural equivalence. It would be left to BT to determine how it would achieve equivalence; the company was digesting Ofcom's consultation document. A key issue was development of next generation networks; 'delaying' the core network was expected to bring BT considerable savings. Phase 1 of the review had been exploratory. Phase 2 was directional on what was required to drive sustainable competition. Phase 3 would look at how to make competition work. Post Phase 3 Ofcom would maintain a 'log book'. If equivalence was the chosen route and it was not working Ofcom would look at why and there would be the

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option to make an Enterprise Act reference. Peter Black, the Telecoms Adjudicator, could have a role, eg if there were problems with local loop unbundling (LLU).

18. The Chairman asked about benefits for consumers, whether equivalence would lead to lower bills. Preliminary findings from the Panel's research indicated a high degree of trust in the BT brand. The Chairman expressed concern that the review's discourse appeared to be aimed at industry and its internal dynamics rather than the world inhabited by consumers. Ed Richards said that this was necessary to achieve consumer benefits. If equivalence, Wholesale Line Rental (WLR) in particular, was a success consumers could see a range of new service providers and highly trusted brands able to offer a single bill product. There could be more scope for broadband price reductions. If LLU was effective the cost base could come down and enable broadband suppliers to choose their wholesale provider; they could develop new products quicker and there could be consumer benefits over time. WLR could be the precursor to any movement on retail price regulation. One way to achieve full deregulation of voice services in the long run would be if fixed and mobile voice services were treated as being within the same market. There was some way to go but 3G pricing could accelerate change. As to whether equivalence was evident in other countries, the answer was in the negative. Interest in equivalence had been expressed by the European Commission and the Organisation for Economic Co-operation and Development (OECD).

19. The Chairman said that the Panel could add value to the review by talking to the project team about process. Members were concerned about the ability of consumers to understand the complexities of the changes proposed. The Panel project would involve talking to Ofcom about ways of communicating with consumer intermediaries through Ofcom publications.

20. Ed Richards welcomed the Panel's switchover report. It was conceptually right and would move debates forward. Ofcom was busy with the publication of digital replacement licences and would take a robust line with coverage.

21. The Spectrum Review was struggling to gain the same profile as the Public Service Broadcasting and Telecoms reviews. A framework consultation would be published shortly. Benefits for consumers would manifest themselves in new services, eg there was scope for small and medium sized enterprises in niche markets.

### **Date of the next meeting**

22. The next meeting would be held on 14 December 2004 at Ofcom in London.