

## **15<sup>th</sup> Ofcom Consumer Panel meeting, 17 May 2005**

### **Note of the Fifteenth Meeting of the Ofcom Consumer Panel, held at Ofcom, London, 17 May 2005**

#### **Introduction**

1. The Chairman welcomed members to the fifteenth formal meeting of the Ofcom Consumer Panel. Apologies were sent by Kevin McLaughlin. Flora Demetriou (Consumer Panel Executive Support), David Edwards (Secretary), Julie Myers (Adviser to the Panel) and Dominic Ridley (Policy Executive to the Panel) were present throughout the meeting. Ofcom colleagues Jim Egan, Lisa Etwell, Robin Foster, Colin Garland, Andrew Heaney, Helen Normoyle and Naaz Rashid attended for part of the meeting.

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

2. Minutes were agreed. The previous evening a member had presented to the Panel on 'social media'. The session had raised a number of important issues about the 'disintermediation' of established communications structures. The Chairman suggested that the Ofcom Board would benefit from a similar presentation. The Panel's disability sub-group had met and identified a number of issues around Ofcom's approach to disability. A sub-group member would consider occasions where disability issues had arisen and the way they had been handled by Ofcom. This could lead to discussion with Ofcom's Advisory Committee on Older and Disabled People (ACOD) and the Content Board about how Ofcom was organised to deal with disabled consumers. The Chairman had written to Ofcom about its consumer policy project. She would meet Ofcom's Gareth Davies to discuss the Panel's involvement. A member had met Ofcom's Gavin Daykin to discuss mis-selling. Ofcom intended to act firmly against offending operators; the Panel would monitor developments. It was agreed that the Panel's 'in-house' spectrum seminar would take place on the afternoon of 21 July 2005.

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

3. The Chairman had met Centrica – trading as Onetel in the retail market. Centrica had offered to show Panel members its Chiswick call centre. Since the April 2005 meeting the Panel had published its first annual report and its research report. The research publication had print and online news coverage and the Chairman had taken part in local BBC radio broadcasts. On air, issues involving older people had been a recurring theme. Industry had been invited to a 16 June 2005 research workshop. The research had generated the best media coverage for the Panel to date but more work was required to distinguish the Panel from Ofcom. The Chairman had met OfcomWatch and had agreed to supply an article on the research and the Government's digital strategy. Members suggested media opportunities to coincide with events involving older people, eg Silver Surfer's Day, a part of Adult Learners Week. The Panel's communications adviser was working on a media plan. The Chairman was

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expecting to speak at the Westminster Media Forum in June 2005 and would have other speaking engagements. Saga was conducting research involving older people and was expected to share it with the Panel. The Chairman reported that the Panel audit project had begun. She had written to Ofcom about its launch. Interviews with senior Ofcom colleagues had already begun and consultants were due to report to the Panel in July 2005. Audit findings would be launched publicly in September or October. The project board would meet monthly. The Chairman said that the audit specification and notes of monthly project board meetings would be copied to members.

### Members' updates

4. The Deputy Chairman, two Panel members and Ofcom media literacy colleagues had met MEdia – an organisation aiding people with learning disabilities to make better use of the media. The Panel's universal service sub-group had met Ofcom's project team the previous day. The meeting was in advance of publication of an Ofcom statement.
5. The Panel's member for Wales would be making presentations on digital switchover (DSO) in Bridgend and Cardiff, the latter to members of the Welsh Assembly. A member had attended an O2 youth seminar and had spoken about the Panel's research. O2 had spoken about research it had commissioned on young people's use and call spend on mobiles. The Panel's 2004-05 research project had not included a youth focus, it would have required researchers specialised in working with young people and a different kind of interview, ie compared with the interviews conducted with adults.
6. A member had attended an Ofcom workshop on the regulation of next generation access (NGA) networks and had copied slides to Panel members. An Ofcom consultation document was expected in Autumn 2005. He had met the six-member Association for Television On-Demand (ATVOD).
7. Links had been established with the German Federation of Consumer Organisations and a representative would be invited to attend a future Panel meeting. The Panel's member for Scotland had attended two Ofcom DSO events in Scotland – one for MSPs and one for consumer groups - and had spoken about the Panel's DSO report. Although communications was a reserved (ie Westminster) matter, MSPs were alive to issues. A concern for Scottish consumer groups was TV aerial installers who appeared to be scaring consumers with stories about high aerial replacement costs as analogue switch-off approaches, ie pay now and save later. A member had forwarded Panel research to small business contacts. Another member had met with Ofcom and disability groups to discuss accessibility/usability of the Ofcom website. He had a 'catch-up' meeting on ACOD with Ofcom's Bradley Brady and a similar 'catch-up' meeting with Kevin Carey, a member of the Content Board. The latter was keen that DSO issues affecting consumers with visual impairments were high on SwitchCo's agenda.

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### Geographic De-averaging

8. Andrew Heaney had met with Panel members in March 2005. At that time Ofcom was considering starting a review of the Wholesale Broadband Access (WBA) market. The start of the review has been deferred. The market was expected to continue to change and a review would be more productive when those changes have taken place. Separately Ofcom would consult on leased lines, including variations in competition on a geographic basis.

9. The Deputy Chairman commented that as part of the Government's digital strategy Ofcom had been asked to take account of the prospects for home broadband take-up, with particular focus on disadvantaged consumers, and to monitor take-up to give a picture of market developments. This could tie in with Panel plans for a research seminar with academics and public policy experts with an interest in the 'digital divide'. She cautioned that encouragement of competition could increase the divide, at least in the short term. Andrew Heaney commented that Demos had produced a report on digital divides for the Commission for Rural Communities that could be of interest to the Panel. The 'digital divide' was a reality and there was a question about whether to continue with a blunt national pricing instrument or tailored/local solutions.

10. A member argued that market dynamics were very different in different parts of the UK. There were urban and rural differences but there were also communities with economically inactive people. There was also pressure to devolve more issues to the national assemblies. He said that a spatial mapping exercise, ie mapping data on availability and take up of communications services against income, levels of education or employment etc, could be revealing. A member cautioned that changes to geographic deaveraging could have an adverse effect on business models and impact assessments would be necessary.

11. The Chairman commented that the Panel would be discussing its research plans later in the meeting and spatial mapping could be followed up. She suggested the Consumer Forum on Communications (CFC) as an audience with which Ofcom could discuss deaveraging to gain consumer perspectives. She added that the 'digital divide' was something of a moving target. One divide could be bridged but then another would appear.

12. The Deputy Chairman said that there was a number of related areas of Panel work to take forward and thought needed to be applied to how that should be done. These included engagement with the digital strategy, the Panel seminar referred to under this item, deaveraging and Phase 3 of the TSR. She proposed a discussion with Julie Myers and interested Panel members. That discussion could be followed up with a session with Andrew Heaney.

13. Andrew Heaney said that Ofcom was planning to make an announcement

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regarding its plans in relation to LLU at the end of June 2005. His team would be seeking guidance from the Ofcom Board. During the previous year BT prices had fallen, seven operators were in the market but there had only been roll-out to around 200 exchanges. This appeared to be the result of fears about margin squeeze and a perceived lack of regulatory certainty. New regulatory decisions in this area could result in a trade-off between short-term consumer detriment and long-term consumer benefit.

14. The Chairman expressed surprise that the LLU consultation had not yet been brought to the Panel's attention. Julie Myers and Andrew Heaney were asked to liaise and provide information to the Panel on the consultation and discuss how the Panel could input its views. The Chairman concluded this item by commenting that the consumer interest did not appear to have been overtly taken into account in this aspect of Ofcom's LLU work at this stage. It was agreed that Panel members would review their workstreams for discussion at the July Panel meeting. The various work areas already mentioned and to be discussed by the Deputy Chairman and other Panel members would be part of that discussion.

### **Digital switchover**

15. The timetable for switchover was likely to be the one outlined in the Labour election manifesto, ie between 2008 and 2012. SwitchCo was beginning its work and its new CEO would be in post on 23 May 2005. Jim Egan gave the Panel an update on technical planning options for DSO. Ofcom had consulted and would publish its decision later in the month. There had been five options and the switchover team would recommend the Ofcom Board to support option 3 as the way forward. Jim Egan noted that in its response to the consultation the Panel had argued for option 1 and he said that this had been considered very carefully. Option 3 would match the current level of analogue coverage at 98.5% of households, but would require additional transmitters at some cost to broadcasters and result in the potential gain of around 6 digital channels on BBC multiplexes. Work was being done to understand which households would be without digital coverage. The households affected would all be in a category defined as currently receiving 'sub-marginal' (ie, poor) analogue signals. A number of households in poor analogue coverage areas had made an effort to receive analogue TV by placing their aerials on high masts or they had accepted poor reception. After switchover, households in this category who currently tolerated a poor analogue signal may not get any digital terrestrial television (DTT) service at all. Those who had made efforts to improve their analogue reception to a reasonable standard were more likely to receive DTT. Many households without or with limited analogue coverage had already opted for digital satellite or cable TV and hence would not be affected, at least on their primary sets. Further research was planned over the next 12 months to understand better how households in sub-marginal coverage areas actually received television today and what their digital options may be after switchover. The Panel's view was that there should be the widest possible roll-out of digital

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television.

16. As an adjunct to this item the Panel discussed the most appropriate way to record the responses from Ofcom to Panel advice and it was agreed that the Chairman and Julie Myers would discuss this.

### **Consumer Panel research**

17. Helen Normoyle gave an overview of Ofcom's 2005-06 consumer research key outputs. These were an annual communications market review and broadcasting code research; a digital consumer report, an audit of the Nations and Regions; a media literacy report; Public Service Broadcasting assessment and a digital small business report. The Panel's annual tracker research would be completed early in 2006. There would also be research to support a number of other Ofcom projects of interest to the Panel.

18. Helen Normoyle gave an update on plans to repeat the Panel's tracker research. The proposed approach would involve boosting interviews with adults in ethnic minority groups and with people with a disability. This would involve some additional cost and decisions would need to be made over the Summer. Discussion moved on to additional research on young people and mobiles and a spatial mapping exercise, both raised earlier in the meeting. The Chairman asked Helen Normoyle to scope a study on young people and mobiles, beginning with 'desk research' on the research already available. Spatial mapping could be an exercise involving an academic and its scope would be determined by what was possible in terms of cost and available mapping data. The Chairman would discuss this further with members representing the Nations, follow it up with Helen Normoyle and report to the Panel.

### **Other matters to note/agree**

19. Members were copied a report on meetings, consultations and approaches to the Panel; its contents had been noted.

### **Robin Foster**

20. Robin Foster had been invited to engage with the Panel in an open discussion. From Summer 2005 he would be scaling down his Ofcom commitment but had been asked by Ofcom to work on a project on reducing regulation. He spoke briefly about competition and the consumer interest; ie whether they were one and the same thing. He referred to the ideas of Derek Morris. The latter had argued that competition was to be welcomed but there were costs and limits; there were search costs associated with competition; in some markets there was choice but many dissatisfied customers, particularly where infrequent purchases were made and suppliers had limited incentive to build a good reputation; there were network issues and it was possible that single networks could be beneficial to consumers; competition did not always provide

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the right level of service; there were consumer information problems; but if competition worked it ought to push prices towards cost. All these problems came up in communications markets and all ought to have a solution. This introduction led to discussion of Robin Foster's project to look at reducing regulation.

21. Panel members responded as follows:

- the Deputy Chairman commented that free markets were not always fair and asked why Ofcom's project would focus on reducing regulation rather than appropriate regulation;
- a member said that there was a danger of inflexible application of regulation;
- there was a problem with thinking in absolute terms, ie the less regulation the better, as opposed to a range of tools; the former approach was simplistic and flexibility, eg phased targets and co-regulation, was preferable;
- a member made a comparison with the Indian mobile market, in the latter there was lots of innovation, cheap calls and continued growth in customer numbers; in contrast the UK had opted for a structural preference for a small number of big players;
- regulation would not be welcomed at the application/service layer;
- market developments could have a negative impact on some consumers, eg switch-off of the analogue mobile network had caused difficulties for hearing aid users having to switch to digital mobiles;
- and the Chairman said that the Panel wished to engage with the project on reducing regulation.

22. Robin Foster responded as follows:

- the project on reducing regulation would not just be about less regulation; in some circumstances there could be a need for increased intervention but Ofcom would have to be clear about when that made sense;
- there were costs involved in regulation; Ofcom was about to finalise impact assessment guidelines; it had to ask the right questions about the impact of particular decisions before their implementation; and the emphasis would be on the scale of costs rather than quantifying specific costs;
- a flexible approach did not always offer much guidance, ie regulatory certainty;
- and Panel input to the project on reducing regulation would be welcome.

### **Any other Business**

23. There was no other business.

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**Date of the next meeting**

24. The next meeting would be held on 14 June 2005 at Ofcom in London.