

Note of the Twentieth Meeting of the Ofcom Consumer Panel, held at Ofcom, 17 November 2005

Introduction

1. The Chairman welcomed members to the twentieth formal meeting of the Ofcom Consumer Panel. Apologies were sent by Kevin McLaughlin and Simon Gibson. David Edwards (Secretary) and Georgia Klein (Consumer Panel Manager) were present throughout the meeting. Other Ofcom colleagues attended for part of the meeting.

Previous minutes and matters arising

2. Minutes were agreed, subject to minor amendment. The Chairman said that the Panel 2006/07 budget bid was being finalised and raised the question of whether the Panel should meet more often outside London. Members were asked to reflect on this and make it an ingredient of the December discussion of the Panel's work plan. The Chairman had planned to write to David Currie, Chairman of Ofcom, about more formal interaction with Ofcom but instead had raised issues at her recent meeting with him. It had been agreed that this could be an item for discussion with David Currie over lunch, immediately following the Panel meeting. A member requested sight of the log of Panel engagement with Ofcom. Georgia Klein would circulate the log and consider the formal process for Ofcom responses to the Panel. The Chairman said that the Panel also had to get its level of engagement right. Georgia Klein commented that Ofcom appeared to be reviewing its project management systems and Panel 'advice seeking' needed to be factored in, with appropriate Ofcom response mechanisms. It was agreed that David Currie/ Stephen Carter/Ed Richards or another Ofcom Board member should be invited to have lunch with the Panel on the occasion of monthly meetings.

3. The Chairman explained that a Panel paper was to have been submitted for discussion at the 8 November 2005 meeting of the Ofcom Board, providing the Panel's advice on issues arising from Ofcom's Consumer Policy project. Since the last Panel meeting the project timetable had changed and there was more time for the Panel to feed in its views. Georgia Klein commented that the paper presented to the Panel by the Consumer Policy project team in September 2005 had been an early draft of proposals, that it was an early draft had not been made sufficiently clear. Ofcom colleagues would discuss the project further with the Panel later in the meeting.

Chairman's report

4. The Chairman and Deputy Chairman had attended Ofcom's strategy day on 14 October 2005, the day following the Panel meeting in Belfast. The event included a series of speeches from Ofcom's advisory committees and a contribution from the Panel that included reference to issues that the Panel believed that Ofcom should address. The Northern Ireland contingent at the strategy event had raised issues that the Panel had discussed in Belfast and the Panel Chairman and Deputy Chairman had been able to echo concerns

about digital switchover (DSO) and inadvertent mobile roaming. The Deputy Chairman would meet Digital UK in the afternoon and would raise co-ordination of DSO on both sides of the border with the Republic of Ireland.

5. Recruitment was under way using print and on-line media to advertise for two new Panel members. Shortlisting and interviews would take place before Christmas. David Currie and the Chairman had written to the Panel members with two year appointments to reappoint them for two more years until early 2008. The Panel Chairman had also been reappointed until December 2008.

6. Members had been copied a spreadsheet setting out the Panel's work plans for the remainder of 2005/06 and members were asked to comment outside the meeting. It would provide context for the December discussion of the Panel's 2006/07 workplans.

Ofcom's Consumer Policy team – role and priorities

7. An Ofcom colleague spoke briefly about the Ofcom consumer policy team. It was part of Ofcom's Strategy and Market Developments group, currently reporting to Ed Richards, and would take over Ofcom's Consumer Policy project once it reached the milestone of a public consultation. The team's role was to ensure that Ofcom delivered on its duties to further the interests of citizens and consumers on 'non-content issues' and, in the area of assisting communications with external stakeholders, to act as a facilitator adding value rather than as a 'gatekeeper'. This would be pursued on three fronts: projects led by the team, eg universal service in telecommunications and quality of service indicators; specific consumer interest elements of competition projects, with someone from the consumer policy team as a member of project teams; and projects where the consumer interest was less obvious, eg wholesale pricing and BT's cost of capital.

8. In the latter example it was a challenge to determine the consumer interest and this was where the Panel's consumer audit 'toolkit' would come into play. An Ofcom colleague had begun to look at how audit findings could be integrated into Ofcom's culture and working practices. She had written a paper containing preliminary thinking that would be copied to Panel members. It would be important to ensure that Ofcom colleagues were enthused by the 'toolkit' and recognised that its application could lead to better regulation. Early proposals would be presented to the Ofcom Board the following week. The Chairman commended the paper but added that the issue of how to say "No" had to be addressed, ie it would not be possible to tackle each and every consumer issue that arose.

9. A member was concerned about efforts to make too clear a distinction between consumer and citizen issues. It was more important to resolve the issues than the definitions. The Chairman said that in relation to consumers, the Panel's preferred term was the ability to "choose and use". A member commented that there did not appear to be ethnographic research on how individuals made phone calls, the decisions they made, how they used the

internet etc. There was anecdotal and headline percentage data but not the part in between. The Panel's member for Scotland commented that the Panel had tried to fill part of the gap in its tracker research, employing a social research model by setting tasks for the people who had taken part in the study. The Panel member for England asked how the Board saw the role of Ofcom, ie the extent to which it saw itself as an economic regulator or as a consumer champion. An Ofcom colleague said that Ofcom did not express its role in those terms but was committed to doing things better and there had been recent internal changes to facilitate that. The Chairman said that the process of Panel engagement with Ofcom remained to be worked out but the Panel would like to maintain a close relationship with the consumer policy team and a regular dialogue.

Consumer Policy Project

10. The Panel had received papers from the Consumer Policy project team containing a long list of questions. The discussion would concentrate on the proposed distinction between citizen and consumer interests; Ofcom's overall stance on consumer information; and monitoring and enforcement.

11. A member was concerned about the application of the citizen/consumer distinction to vulnerable groups. Universal service, for example, was proposed as a citizen issue but raised a number of consumer issues for those groups. An Ofcom colleague agreed that citizen issues could change market boundaries and turn into consumer issues. A member said that rather than conflict, some citizen and consumer issues would overlap. Another member suggested that overlapping circles could be used for depiction purposes.

12. An Ofcom colleague said that at the Ofcom Board meeting of 8 November 2005 there had been discussion of consumer information but without resolution. A further paper would be presented to the Board on 22 November 2005 with criteria for intervention. These criteria were whether: there was awareness about services; there was unmet demand for information; there was evidence of potential or actual detriment; information would resolve that; and there was market failure. The Chairman asked if Ofcom had researched these criteria. An Ofcom colleague said that new research had not been undertaken as part of the current project but the team was looking at existing information.

13. A member said that Ofcom was approaching consumer information from the wrong direction, ie Ofcom would not provide information unless a number of hurdles had been jumped. He argued that Ofcom should provide as much information as possible unless it was too costly or had an adverse effect on the communications market. His view was that compared with other regulators Ofcom was providing very little information and its website was not easy to navigate. The Panel's research showed that consumers did not look to Ofcom to provide them information, they did not have information and relied on friends and family for advice. Those most in need of information had least access to it. He argued that Ofcom could be an identifiable, trusted and

comprehensive information source. He agreed that price comparison was a difficult exercise but Ofcom could provide other kinds of information.

14. A member said that Ofcom should require suppliers to provide pricing information to allow third parties to offer comparisons. Another member said that it would be heavy handed to require price information in a particular format. Mobile operators provided a range of customised tariffs in a highly segmented market. Insistence on presentation of tariffs in a certain way could lead to mandated packaging of mobile services.

15. The Chairman's view was that research evidence was required as a basis for the information criteria that had been listed earlier, ie evidence that consumers were unaware of/confused about costs/what they were getting; the resulting detriment; if there was detriment, how people absorbed, retained and acted on information; and what needed to be done and by whom. It was not a matter of going back to the beginning but about filling in the gaps in the narrative. The Deputy Chairman requested that Ofcom provide a written list of the research/information that was already available under those headings. An Ofcom colleague said that Ofcom had a lot of information on consumer confusion, there was limited data that was up-to-date on detriment and there was some research from the University of East Anglia on consumer sources of information.

16. A member raised enforcement and said that delays compounded problems for consumers. She made a comparison with the legal field where a 'stop order' could immediately close down a law firm.

17. The Chairman concluded by saying that the discussion would be followed up by Georgia Klein. She would draft a considered written response to the Ofcom Board in answer to all the questions raised by the project team's papers to the Panel.

Members' updates

18. The member that led on disability issues had attended an EU eAccessibility conference. The general picture was that web accessibility was poor but an area where guidelines were being drawn up in a systematic way. The situation for accessibility and electronic programme guides was less clear and the member would be exploring the issues further. There had been a strong statement from the Department of Culture, Media and Sport (DCMS) on an assistance scheme for DSO. He raised the issues of BT public payphone accessibility, 'listed' red call boxes and their exclusion from % accessibility targets. Georgia Klein would be discussing these matters with an Ofcom colleague.

19. The Deputy Chairman had been appointed as Chairman of the Bar Council Standards Board. Members were reminded to keep the Secretary informed of changes to their register of interests. The Deputy Chairman was taking the Panel lead on DSO and an ongoing concern was how vulnerable

consumers would be protected. She would be meeting colleagues from DCMS, the Department of Trade and Industry and RNIB, amongst others.

20. The Chairman had given evidence on DSO to the Culture, Media and Sport select committee on 8 November 2005. Evidence was also given by a number of technical experts. They had raised important points about the difficulties of managing the necessary infrastructure changes, their view was that the full costs had not been scoped and there appeared to be no-one in charge of project management. The scale of the DSO task was compared to the Olympics and required a similarly well resourced project. Their concern was that DSO could fail, affecting consumers of all kinds. If DSO was a success from the infrastructure point of view there would remain the issue of support for vulnerable consumers. Topics for the afternoon meeting with Digital UK would include plans to achieve switchover in the Borders by 2008, the Ferryside and Llansteffan technical trial and the Bolton pilot with vulnerable groups. As yet there had been no formal response from DCMS to the Panel's DSO report. The Chairman said that the Panel's stance should be to support the work of Digital UK. Georgia Klein said that DSO affordability was a concern for a number of consumer groups and the Panel would have to decide whether to engage with that issue.

21. The Deputy Chairman would meet an Ofcom colleague to discuss trusted sources of consumer advice. Planning on the Panel's second low income seminar was progressing.

22. A member had been examining Phase 2 of Ofcom's radio review. She had also been looking at the white paper 'The Future of Legal Services: Putting the Consumer First', which set out proposals for the regulatory reform of legal services in England and Wales. She said that there could be some issues that read across to the communications sector.

23. The Panel's member for England highlighted the recent meeting of the Ofcom Advisory Committee for England (ACE), which was held in Birmingham and coincided with a meeting of the Ofcom Board. The Birmingham meeting included a strategy session and one outcome was the committee's desire to work more closely with the Panel. The Chairman reported that the ACE chairman had indicated the difficulty in targeting issues with an England dimension when she spoke at Ofcom's strategy event. Given the situation where there were more consumer issues than the Panel could handle, there could be scope for ACE to take on some of them.

24. A member had forwarded colleagues an update on numbering issues. The Panel member for Scotland had met the new Chairman of Ofcom's Advisory Committee for Scotland and DSO in the Borders was a shared area of interest. The Panel's 2005 tracker research was near to conclusion in the field and a presentation on findings could be made to the Panel in December 2005.

25. A member reported that the European Policy Forum would be hosting a conference in 2006 on the EU telecoms review. The Panel member and the

Chairman had attended a meeting of the consumer audit toolkit project board the previous day and lessons appeared to have begun to inform Ofcom's consumer policy work. The Panel expected to host a launch event for the toolkit in early February 2006.

Other matters to note/agree

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

Any Other Business

27. There was no other business.

Date of the next meeting

28. The next meeting would be held on 13 December 2005 at Ofcom in London.