

Minutes of the thirtieth meeting of the Ofcom Consumer Panel

Tuesday 17 October 2006 at 09.30 hours

Carlisle Civic Centre, Carlisle, Cumbria CA3 8QG

Present:

Consumer Panel

Colette Bowe (Chairman)
Ruth Evans (Deputy Chairman)
Fiona Ballantyne
Roger Darlington
Simon Gibson
Graham Mather
Jeremy Mitchell
Kate O'Rourke
Bob Twitchin
Allan Williams

In attendance

David Edwards (Consumer Panel Secretary)
Georgia Klein (Consumer Panel Manager)
Dominic Ridley (Policy Executive to the Panel)
and Ofcom colleagues (items 3 and 7)

1. Welcome and introductions

1.1 The Chairman welcomed members to the meeting. Apologies had been received from Kevin McLaughlin. The Chairman commented that Ofcom had a new Chief Executive and the Panel welcomed Ed Richards' appointment.

2. Declaration of members' interests

2.1 Jeremy Mitchell reported that his consultancy, the International Consumer Policy Bureau, had submitted a response to the European Commission on its review of the electronic communications framework. Bob Twitchin said that he had become Chairman of ITCH (Information Technology Can Help), a programme of the British Computer Society set up to provide a network of volunteers to provide free support to disabled people.

AP1 Secretary to amend the register of Panel members' interests.

3. Ofcom digital switchover update

3.1 Before asking an Ofcom colleague to update the Panel the Chairman

invited members to reflect upon events the previous afternoon and evening. The Panel had met with Digital UK and had been briefed on the Whitehaven digital switchover (DSO) pilot. That had been followed by discussion with a group of people with a direct interest in DSO in the Border region, senior representatives from Carlisle City Council, Dumfries and Galloway Council, Cumbria County Council, Age Concern and ITV Border. The discussions had been particularly timely because the Chairman, Deputy Chairman and Georgia Klein would be meeting the Culture Secretary the following day to discuss DSO. Panel members made a number of comments:

- the Deputy Chairman expressed concern that HelpCo was yet to be launched; she was not convinced that Digital UK was the appropriate body to manage DSO assistance schemes;
- Ofcom would be evaluating the flagship DSO programme in Whitehaven in 2007 and the Panel would consider whether further scrutiny would be needed beyond Ofcom's proposed remit;
- Kate O'Rourke had not been reassured that the issue of multiple occupancy dwellings was being fully addressed;
- Simon Gibson had been impressed by Digital UK's Whitehaven project Director and the resources and effort involved but he had concerns about the wider resourcing of DSO; the Chairman reinforced that point by saying that there were serious operational issues involved, eg in managing a huge database covering all households requiring some form of assistance through switchover;
- Allan Williams was unsure about how many lessons could be learnt from Whitehaven since it was not typical of the rest of the UK; in reply an Ofcom colleague said that it was the best possible location in the first region to switchover to test key elements of DSO;
- Jeremy Mitchell was unsure about whether an effective framework was in place for collaboration between Digital UK and voluntary and local government bodies and Graham Mather suggested that central guidance for local government would be useful.

3.2 The Chairman summed up members' observations on the previous day's discussions. Digital UK was putting considerable positive effort into the Whitehaven pilot, mobilising much goodwill in the process, but it was not clear that the project was scaleable due to the atypical nature of Whitehaven. The Panel's concerns were not that Whitehaven would fail but about the scale of switchover as a whole and the resources required to ensure its success. Ofcom would be auditing the Whitehaven pilot and it was agreed that the Panel would need to have a formal interchange with Ofcom on what that audit should include.

3.3 An Ofcom colleague provided an update on Ofcom DSO and related usability issues. He reported that:

- an Ofcom invitation to tender (ITT) exercise was underway to appoint a third party to undertake an evaluation of the Whitehaven pilot, he invited

- the Panel to discuss the audit and the ITT responses outside the meeting;
- the engineering and licensing aspects of DSO were progressing well;
- work on coverage and reception would be the main focus for Ofcom during the next six months; related consumer research was due in November 2006 and was expected to indicate the information that consumers wanted and the means by which they wished to receive it; Ofcom was also helping to develop categories of consumers relating to likely reception issues to assist in the targeting of information and advice;
- Ofcom was developing a prototype reception tester to allow households to test their aerial installation for digital terrestrial reception ahead of switchover;
- usability of digital TV equipment was an important area of activity, although the Department of Trade and Industry (DTI) was leading on this. Ricability had published a number of consumer test reports; Ofcom was contributing by funding a project on easy to use receiver equipment and there had already been interest from manufacturers;
- the main focus now was on ensuring equipment would be available for the target groups eligible for the Government's Help Scheme for those most likely to face difficulties in switching;
- a consumer needs audit was being conducted as part of Ofcom's wider duty to encourage availability of easily usable apparatus under Section 10 of the Communications Act 2003, which would form the basis of a strategic framework for future usability projects;
- the 'Digital Tick' scheme had been developed as a certification mark for products and services designed to work before, during and after switchover and DTI was currently reviewing the standards for equipment that could carry the digital tick logo;
- a 'Usability Tick' was not currently on the government's agenda; it was suggested that the Panel might wish to seek comfort on what manufacturers were doing to address usability issues during a forthcoming meeting with DTI minister Margaret Hodge MP; robust subtitling and audio description were part of the menu of key functionalities that would be required for equipment for the Government's Help Scheme.

3.4 The Chairman brought the discussion of DSO to a close. It was agreed that the Panel would provide views on Ofcom's Whitehaven audit exercise and that the Panel team due to meet Margaret Hodge MP needed to be fully informed of relevant usability issues.

AP2 An Ofcom colleague to discuss Ofcom's Whitehaven audit exercise and ITT responses with Georgia Klein.

AP3 Panel DSO subgroup to review Ofcom's approach to its Whitehaven audit and advise Ofcom on what the audit should cover.

AP4 Ruth Evans, Kate O'Rourke and Georgia Klein to meet to discuss usability issues in advance of meeting with Margaret Hodge MP.

4. Minutes of the meeting on 19 September 2006 and matters arising

4.1 The minutes of the previous meeting were agreed. Jeremy Mitchell reported that he had discussed the issue of consumer complaint definition with an Ofcom colleague and would be pursuing that dialogue further. Simon Gibson reported that an invitation to a representative of Pakistan's mobile 4G operator to meet the Panel in 2007 had been accepted. The Panel expected to hold its February 2007 meeting in Glasgow and would meet with Ofcom's Advisory Committee for Scotland. The Secretary would make the necessary arrangements.

AP5 Secretary to agree a date with Simon Gibson for Pakistan's 4G mobile operator to attend a 2007 Panel meeting.

AP6 Secretary to resolve any issues arising from the Panel's February 2007 meeting in Glasgow.

5. Chairman's report

5.1 The DTI had hosted a briefing session the previous day for the Chairmen of statutory consumer bodies to be affected by Government reform of consumer representation and redress. The Panel Chairman had been unable to attend the event but would be briefed by DTI officials the following day. She had been advised that the government had decided in favour of option 3 in its proposals. That was the option favoured by the Panel and would mean that the Panel would not be absorbed by the new Consumer Voice body. The Chairman had already met with Lord Whitty, Chairman of the National Consumer Council, and had discussed how the Panel could work with Consumer Voice and the importance of consumer information across all sectors. Concerning close working, the Chairman advocated early discussion rather than delay pending legislation. The latter was expected to be in the Queen's Speech and Consumer Voice could be in operation by early 2008. The decision to allow the Consumer Panel to continue to function as the communications consumer body signaled the success of the Panel's evidence based approach and its record to date. The consumer panel model could even be extended to energy and other regulated sectors. DTI had issued a news release and this and related documentation would be copied to members by Dominic Ridley. [Note: the DTI news release was issued whilst the Panel meeting was in progress and can be found at <http://www.gnn.gov.uk/environment/detail.asp?ReleaseID=234792&NewsAreaID=2&NavigatedFromDepartment=False>]

5.2 The Panel had planned a consumer interest toolkit study of Ofcom's Digital Dividend Review (DDR) project but it would not be going ahead. Consultants would have had access to detailed project documentation and Ofcom's internal policy deliberations. After considerable effort to reach an agreement it had not been possible to resolve commercial sensitivity issues. The Panel required an undertaking from the consultants that for a certain period of time the individuals working on the study would not engage in work for clients

that was related to the DDR. This was disappointing but the Chairman would be meeting Ofcom's new Chief Executive and how or when the Panel could audit the DDR would be an item for discussion. In the meantime the Panel's second toolkit study on mobile number portability would be brought forward.

5.3 The Chairman had attended a meeting of the Financial Services Consumer Panel and had spoken about the work of the Ofcom Consumer Panel. She had also met with the Westminster Media Forum (WMF) and the Panel had been invited to present views on media literacy at a WMF event in Spring 2007. The Chairman, Deputy Chairman and Georgia Klein had met the DTI to discuss older people and digital inclusion issues. Interviews had been held to appoint a new Panel member and Ofcom was waiting for ministerial approval of the candidate selected. The following day the Chairman and the Deputy Chairman would attend an Ofcom strategy day with the Ofcom Board and other colleagues, including members of the Content Board and Ofcom Advisory Committees. Members were given copies of slides on Panel priorities that would be presented at the Ofcom event and members agreed their content. Jeremy Mitchell asked that emphasis be given to the importance of rapid responses by Ofcom to scams in the market place.

AP7 Dominic Ridley to circulate to Panel the DTI's news release and consumer representation and redress publications.

6. Members' updates

6.1 Allan Williams would be meeting Professor Sonia Livingston of the London School of Economics (LSE). She was engaged in a research project called EU Kids Online. The Deputy Chairman would also attend the meeting and other members were asked to advise Julia Guasch if they wished to take part. Roger Darlington drew members' attention to Ofcom's mobile call termination consultation. He argued that there were important consumer issues and that the Ofcom document suggested that in effect callers from fixed lines should subsidise calls to mobiles which in turn would subsidise mobile handsets. He said there were important questions for Ofcom: were customers aware of this subsidy and what did they feel about it; what steps did Ofcom follow to ensure that the consumer interest was factored into its consultation and how was it weighing that consumer interest, including lessons from the Panel's consumer interest toolkit. Dominic Ridley would request a briefing from Ofcom on these issues.

6.2 Fiona Ballantyne reported that Joyce Taylor had been appointed as a member the Ofcom Content Board to represent the interests and opinions of people living in Scotland. Fiona Ballantyne would meet with Joyce Taylor and Ofcom's Director for Scotland on a regular basis. Kate O'Rourke had met with Ofcom Consumer Policy team colleagues and with Ofcom Board member Sara Nathan. The Deputy Chairman had met the Digital Television Group to discuss DSO and had attended a number of catch-up meetings with Ofcom colleagues.

At this point the Chairman asked the Secretary to invite the Ofcom Chairman to meet the Panel. The Deputy Chairman and Kate O'Rourke would be meeting Margaret Hodge MP in early November as mentioned earlier. Bob Twitchin was pursuing issues related to Ofcom's Disability Equality Scheme consultation with Ofcom's Equalities and Diversity Manager. He would be attending a DTI event on a DSO equipment usability action plan. Simon Gibson commented that Panasonic had a design team based in Pentwyn and suggested that Bob Twitchin might wish to meet Panasonic to discuss usability issues. Simon Gibson and Bob Twitchin would liaise further to discuss a meeting.

AP8 Members to advise Julia Guasch if they wish to join Allan Williams and the Deputy Chairman when they meet Professor Sonia Livingston.

AP9 Dominic Ridley to request a briefing from Ofcom on mobile call termination issues raised at the meeting.

AP10 Secretary to invite David Currie to meet the Panel on a date in the near future.

AP11 Bob Twitchin and Simon Gibson to liaise further on the suggestion of a meeting with Panasonic to discuss equipment design.

7. Ofcom's strategic framework project

7.1 An Ofcom colleague provided a briefing on the policy aspects of Ofcom's strategic framework project, based on a short paper and slides that had already been copied to members. There were four strands of work - regulating for convergence; Ofcom's financial strategy; organizational renewal; and an operational strategy - and these would feed into Ofcom's next Annual Plan and strategic guidance to Ofcom groups. There were a number of trends in the regulatory environment – the increasing importance of wireless technology and services and competition between platforms; more intra-platform competition; society's evolving attitudes to communications services; increasing service and technology complexity; and challenges to existing business models - and each raised questions about how Ofcom should respond to them. As a result, Ofcom's potential areas of focus for the next three years were to facilitate a mature liberalised spectrum market; move towards more consistent legal and economic frameworks for competition; develop new mechanisms to deliver social outcomes; empowered consumers and drive a culture of industry compliance with consumer protection measures; and promote the right conditions for competition and innovation.

7.2 Panel members made a number of comments:

- Graham Mather said that some of Ofcom's assumptions about convergence could be false and impact assessments would be required before decisions are taken on new regulatory powers;
- bundling of services could be a significant issue and more analysis would be required on consumer empowerment; ie what is meant by an empowered consumer;

- expectations appeared to be that Ofcom would take on an increased workload but in the context of a post-honeymoon period and under pressures to reduce its costs, these factors would have to be reconciled;
- Simon Gibson said that the argument of increasing technological complexity could be challenged, eg BT's 21CN would consolidate numerous BT networks into a single IP network resulting in simplification rather than complexity;
- there were key challenges to business models, with a number of telecoms carriers perplexed and innovative services literally being developed in basements and garages;
- Jeremy Mitchell said that the division of responsibility between Ofcom and government for delivery of social outcomes was unclear;
- to empower consumers a great deal of work was required to provide price and quality of service information;
- consumer protection measures should not be downplayed and should be kept under review in the context of increased volumes of telephone scams;
- the Deputy Chairman said that an appropriate balance would be required between regulation and consumer protection and empowerment;
- Ofcom appeared to have determined in advance that that it would deregulate but there was insufficient evidence to suggest that competition would ensure that markets were fair; better targeted regulation was required rather than a predisposition to deregulate – in reply an Ofcom colleague said that this was being considered but had not come through in the slides under discussion;
- Kate O'Rourke said that Ofcom had a number of enforcement initiatives aimed at telephone scams; these could help to identify gaps in regulation;
- demand for spectrum was likely to increase and it would be necessary to look to more intelligent uses of that resource;
- Simon Gibson said that after 2012 and post DSO, Ofcom could find itself looking back and asking what all the fuss had been about spectrum, ie with other platforms delivering digital TV and other services;
- Bob Twitchin said it was not clear that the digital dividend from DSO would deliver spectrum for a terrestrial high definition television service;
- Roger Darlington commented that there had been discussion of consumer empowerment; another issue was whether Ofcom was sufficiently empowered;
- Allan Williams said that it would be easier to achieve some of Ofcom's aims (a liberalised spectrum market and consistent legal and economic frameworks for competition) than others (mechanisms to deliver social outcomes, empowered consumers and a culture of industry compliance with consumer protection measures);
- the Chairman said that there had been much talk of consumer empowerment but the reverse of this was a high level of anxiety some people felt about losing control of some areas in their lives, eg parents unable to control certain aspects of their children's interaction with the

- internet or mobile telephony;
- Simon Gibson commented that equipment and services could empower consumers but a major concern was people who for different reasons were excluded from both.

7.3 The Chairman brought discussion of this item to a close and said that the consensus from the Panel was that Ofcom should proceed in its strategic framework project but with caution in the areas highlighted by discussion.

8. Panel letter to new Ofcom Chief Executive

8.1 Members had received a draft of the letter the Panel planned to send to Ofcom's new Chief Executive and made a number of comments:

- Jeremy Mitchell said that the draft proposed an evaluation of the settlement with BT arising from Ofcom's strategic review of telecommunications; such an evaluation could be premature;
- the Deputy Chairman suggested that consumer concerns about broadband services could be emphasised;
- on digital inclusion, Roger Darlington said that the Government's digital strategy charged Ofcom to monitor take-up of the internet, a significant number of people remained unconnected and Ofcom, with government, could be challenged to be address this;
- Bob Twitchin suggested that increased focus by Ofcom on its Section 10 duties on easily usable apparatus could be highlighted.

8.2 Members were broadly in agreement with the content of the draft but it was agreed that the Chairman would consider members' comments and redraft the letter with the possible inclusion of a paragraph on digital inclusion issues.

AP12 Chairman to reflect on comments on the draft letter to Ofcom's Chief Executive and redraft accordingly.

9. Consumer Panel research strategy

9.1 Members had received a research strategy paper for consideration. Proposals included a restructuring of the Panel's annual tracker research. This had been agreed at the previous meeting and would rely on Ofcom tracker data and a freelance researcher employed to configure data. No additional tracker questions were being proposed for 2006/07 but in 2008 attitudinal supplements could be included. There was discussion about the importance of attitudinal research, one suggestion being the commissioning of a paper on the social and psychological dimensions of such research, and comments were made about the proposed research project on social inclusion and issues of multiple deprivation, with some suggestions made about how this could be tackled.

9.2 The scaled down tracker work would be pursued. Georgia Klein would

consider members' comments on the Panel's research strategy, progress the strategy with key Panel members, revise the specification for a Panel research project on the role of communications in social exclusion (multiple deprivation study) and commission that research.

AP13 Georgia Klein to consider comments on the research strategy and progress it with key Panel members, revise the specification for a social exclusion research project and commission that research.

10. Other matters to note/agree

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

11. Any other Business

11.1 Arrangements for the Panel's 16 November 2006 meeting were reviewed. Ordinarily the meeting would be in the morning but Panel members wished to attend Ofcom's 'The Consumer Experience' event at The Plaisterers Hall in the City of London which would be on the morning of that day. It was agreed that the Panel meeting would take place in the afternoon, discussion of media literacy would be held over until December 2006 and the Secretary would investigate whether the Panel meeting could be held at The Plaisterers Hall.

AP14 Secretary to invite an Ofcom colleague to the Panel's December 2006 meeting to discuss media literacy.

AP15 Secretary to investigate the option of holding the November 2006 Panel meeting at Plaisterers Hall.

.....Chairman

.....Date