

Minutes of the thirty-ninth meeting of the Ofcom Consumer Panel

Tuesday 10 July 2007 at 10.00 hours

Ofcom, Riverside House, 2A Southwark Bridge Road, London SE1 9HA

Present:

Consumer Panel

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

In attendance

David Edwards (Consumer Panel Secretary)
Dominic Ridley (Acting Consumer Panel Manager)
Ben Wallis (Policy Executive to the Panel)
Ed Humpherson (Assistant Auditor General, National Audit Office)
Kathy Hall (Analyst, National Audit Office)

1. Welcome and introductions

1.1 The Chairman welcomed Panel members to the meeting. The meeting would include discussion with colleagues from the National Audit Office.

2. Declaration of members' interests

2.1 Simon Gibson reported that Inuk Networks Ltd had signed an IPTV deal with Cable & Wireless and a Premium Services deal with Setanta. Simon Gibson is Chairman of Inuk.

3. Minutes of the meeting on 12 June 2007 and matters arising

3.1 Minutes of the previous meeting were agreed. It had continued to be difficult to find a date for a joint session of the Consumer Panel and Ofcom's Content Board. The Chairman and Secretary would pursue this outside the meeting. Most Panel members had provided views to the consultant working on Ofcom's stakeholder survey of the Panel. Members wished to see the consultants report and the Chairman would raise that with Ofcom. The Chairman had met officials at the DTI and had discussed next generation access (NGA).

The DTI was a part-funder of the Broadband Stakeholder Group (BSG) and DTI appeared pleased to learn that the Consumer Panel wished to engage with the BSG on NGA consumer issues. The Panel Chairman and Roger Darlington would meet BSG colleagues later in the week to take engagement forward. The previous day Roger Darlington and Dominic Ridley had attended the BSG seminar *From pipe dream to reality – new commercial models and regulatory approaches for next generation broadband*. NGA would be discussed later in the meeting, based on a policy paper from an Ofcom colleague but without the author present. There was a brief exchange on the handling of agenda items and participation by Ofcom colleagues. It was agreed that meeting papers should be free-standing and self-explanatory but that from time to time the Panel benefited from discussion with senior Ofcom colleagues, including Board members and Ofcom's Director of Consumer Policy. Senior colleagues would continue to be invited to meetings but the Panel would not automatically invite Ofcom colleagues to introduce meeting papers. The Chairman had written to the Minister for Competitiveness and Consumer Affairs at the Department for Business, Enterprise and Regulatory Reform (formerly DTI) on issues related to the Telephone Preference Service.

AP1 Chairman and Secretary to discuss the joint session of the Content Board and the Panel.

AP2 Chairman to talk to Ofcom about making Ofcom's report on the Consumer Panel available to Panel members.

4. National Audit Office (NAO) – consumer engagement review

4.1 Kathy Hall had supplied members with a short paper on the NAO's study on removal of retail price controls. Before discussion of that study Ed Humpherson took the opportunity to bring the Panel up-to-date on other work the NAO had been engaged in and to comment on the Panel's own activities since he had last met the Panel in July 2005. Much had happened in the interval and debates on consumer representation had moved forward with the Government's plans to create Consumer Voice. Ed Humpherson had been engaged in NAO studies to evaluate regulatory impact assessments, the Water Services Regulation Authority (Ofwat) and the Financial Services Authority (FSA).

4.2 Ed Humpherson had read the Panel's annual report and its research report *Children and the internet*. He expressed interest in how the Panel intended to take forward issues raised in the Children report. The Panel had hosted a workshop to launch the research and a report with policy recommendations would be written over the Summer. Ofcom itself engaged with a range of issues related to children, including harmful content, media literacy and how young people used communications technologies. The Consumer Panel had hosted a further workshop with Ofcom colleagues and led by SHM Ltd to explore the idea of an Ofcom children's panel that could allow the regulator to pursue those issues. Ed Humpherson wondered whether other regulators could conceive of discussions with children. There was brief reference to children and food advertising and this was a topic of interest to Ofcom's statutory Advisory Committees. The Chairman suggested that there could be a gap in Ofcom's

governance structure – the regulator did not have a body acting as a critical friend in relation to its work on content issues. Consumer information and its sources was another talking point. The Chairman said that Ofcom did not appear to delve into consumers' motivations and use of information in the way that retailers did and the Panel's research had shown that friends and family were the main sources of advice and information for many. Ed Humpherson mentioned a recent round table debate he had attended on Cultures of Consumption at the Institute of Contemporary Arts (ICA). Cultures of Consumption was a major research project led by Professor Frank Trentmann. A message from the event was that policy makers had to understand people's motivations as consumers. The NAO had invited Professor Trentmann to speak at an NAO staff seminar on 17 July 2007 and Panel members were welcome. It was agreed that Dominic Ridley would attend.

4.3 Ed Humpherson had been a member of the Panel's Consumer Interest Toolkit project board and the Chairman and Graham Mather reported briefly on the Panel's recent discussions in Brussels with officials at the European Commission. In particular the Directorate General for Health and Consumer Affairs (DG SANCO) had expressed interest in applying the toolkit to its work.

4.4 The NAO was conducting a value for money examination into the removal of price controls on BT, energy companies and the Royal Mail's special delivery product. Panel members made a number of comments in response to Kathy Hall's discussion paper:

- it was not clear that the consumer aspects of effective competition had been given sufficient attention in the removal of BT retail price controls, eg the provision of sufficient and suitable consumer information; instead Ofcom's emphasis had been on the supply side;
- satisfaction with the degree of competition made it difficult to oppose removal of retail price controls but if this placed more obligations on consumers to make decisions then it raised the question of how much support Ofcom should provide to consumers in the form of information;
- the UK had seen removal of retail price controls on BT, with the impetus coming from the regulated company; in contrast in Europe price controls on mobile roaming charges had been introduced recently; with increased bundling of communication products it was more difficult to compare the prices of components and the public policy response was unclear; if prices were low, price became less important and service quality more so;
- retail price controls on BT had been removed but there were obligations to provide an effective and well publicised social telephony service.

4.5 The Chairman said that what emerged were the questions of whether consumers had enough information, how it reached them and the regulators role. Ed Humpherson said that there were diverse views on whether the regulators in different sectors should provide information to consumers. The Chairman would discuss social marketing with Kathy Hall outside the meeting.

AP3 Dominic Ridley to attend a Cultures of Consumption seminar at the NAO.

AP4 Chairman to discuss social marketing with Kathy Hall of the NAO.

5. Chairman's report

5.1 The Chairman's activities had been covered under agenda item 3.

6. Members' updates

6.1 Bob Twitchin had been in dialogue with the 'switched-on' industry campaign to inform customers and answer questions about migration to BT's next generation network (21CN). A representative from 'switched-on' welcomed the opportunity to meet with members of the Consumer Forum on Communications (CFC) and the Secretary would ensure that it was on the agenda of the next CFC meeting. Roger Darlington had attended a London Business School seminar on competition and in the afternoon would take part in a discussion panel on Voice over Internet Protocol (VoIP) at the ITSPA Summer Reception, ITSPA being the Internet Telephony Services Providers' Association.

6.2 Kate O'Rourke and the Chairman had met BT to discuss complaint handling. The Panel wished to hear more from BT and the Secretary would invite BT colleagues to a Panel meeting. Kate O'Rourke had been a speaker at the *Westminster Media Forum Keynote Seminar – Participation Broadcasting*. Tim Suter, Ofcom's Partner – Contents and Standards, had spoken at the event and the Secretary would circulate Tim Suter's presentation to Panel members. Related to participation broadcasting, Ofcom's inquiry into television broadcasters' use of premium rate telephone services in programmes was expected to be published shortly. Ben Wallis would ensure that the inquiry report by Richard Ayre was copied to Panel members.

6.3 Graham Mather had submitted written evidence to the Culture, Media and Sport Committee's inquiry into self regulation of the press, including a number of comments about the electronic communications sector. The Committee's report would be published the next day. Allan Williams had met TopNetUK representatives and discussed the Panel's communications market research. www.topnetuk.org is the quality of service website supported by the mobile operators O2, Orange, Vodafone and T-Mobile.

AP5 Secretary to ensure that 'switched on' is on the agenda of the next CFC meeting.

AP6 Secretary to invite BT to meet the Panel to discuss complaint handling.

AP7 Secretary to copy Tim Suter's presentation to the Participation Broadcasting seminar to Panel members.

AP8 Ben Wallis to ensure that members receive a copy of Richard Ayre's enquiry into premium rate telecoms services used in TV programmes.

7. Update from Consumer Panel Manager

7.1 New arrangements were in place to manage the Panel's research with a part-time research manager across Ofcom and external research and to enable a

focussed Panel research programme. Ofcom would be publishing a consultation on participation TV later in the month, the Chairman and Dominic Ridley would consider how to respond to the document. Ofcom's ease of use of domestic electronic communications equipment research document would also be published in July 2007 - Ben Wallis would ensure that members were alerted to its publication. Ofcom's online behaviour research publication was due and Dominic Ridley would provide members with further information about the report.

AP9 Chairman and Dominic Ridley to consider how to respond to Ofcom's participation TV consultation.

AP10 Ben Wallis to ensure members are alerted to publication of Ofcom's ease of communications equipment document.

AP11 Dominic Ridley to forward Panel members details on Ofcom's online behaviour research publication.

8. Next generation access

8.1 As mentioned under item 3, members had received a discussion paper on NGA. The Chairman said that NGA was a policy area that required a strong consumer input and that the Panel should focus on this over the coming six months. Panel members made a number of comments in response to the paper:

- a number of countries were ahead of the UK in NGA fibre deployment; the paper included details of rationales for deployment but for only some of those countries;
- the argument had been made that consumers used additional bandwidth for broadly the same activities as current generation broadband; a Panel member commented that the same argument had been made in narrow band/broadband debates and that it took time for services to develop;
- the link between competitiveness, productivity and broadband was increasingly accepted but it had been argued that such a link with NGA is unclear; a Panel member said that the link with broadband had taken time to gain recognition;
- it was suggested in the discussion paper that there was limited ground for public policy intervention; a Panel member said that there were actions government could take to improve the 'climate' for NGA deployment;
- it was not acceptable to leave it to consumers to make the case for NGA and the Panel had a role to play in focussing debates;
- the UK was late to market with DSL (digital subscriber line) and BT would want to maximise returns on those assets rather than invest in NGA; some commentators argued that WiMAX (Worldwide Interoperability for Microwave Access) was the way forward but fibre would offer much greater capacity, measured in gigabits or terabits;
- in terms of scale there were comparisons to be made with the Digital Dividend Review (DDR) but with NGA an issue was expense, ie the investment required, rather than income, ie from spectrum auctions;
- although thinking had been that the telecoms sector was highly competitive and that it would be a matter for industry to raise the investment required for NGA, that mindset appeared to be shifting, ie

- looking at international examples the UK could be missing an opportunity; a Panel member argued that Ofcom appeared to consider public sector involvement in NGA as conflicting with promotion of competition; it would be important to consider the public value arguments for NGA, in the way they had been considered as part of the DDR.

8.2 The Chairman drew discussion to a close and said that the Panel would aim to provide Ofcom with an advice note on NGA by the end of July 2007. In summary she said that policy makers and industry could be mistaken if they simply waited for visibility of consumer demand for NGA. If consumers were given more bandwidth they would find uses for it and public value had to be considered. If NGA was worth pursuing then significant increases in bandwidth had to be made available and investors would require regulatory certainty.

AP12 Dominic Ridley to draft an advice note to Ofcom on NGA.

9. HDTV

9.1 Dominic Ridley had provided Panel members with two discussion papers on high definition TV (HDTV), one on consumer research planned by Ofcom and the second on the issue of HDTV on the DTT (digital terrestrial television) platform. In its research Ofcom would be looking at social value placed on HDTV. A Panel member commented that the qualitative research sample appeared to be very broad. Another member said that it would be important to include consumers of different ages; gamers in particular made use of HD technology. It would be important to examine what was happening in retail outlets. Scenario testing could also be productive. Dominic Ridley would feed these research points back to Ofcom colleagues in an Ofcom advice note that would also raise issues related to compression technology.

AP13 Dominic Ridley to work with Simon Gibson to elaborate a Panel advice note to Ofcom on HDTV, with the focus on compression technology.

10. Panel DSO research report

10.1 Members had received a draft copy of the Panel's digital switchover (DSO) research report. The Deputy Chairman would meet Digital UK the following week to discuss the research and Ben Wallis would liaise with other Panel members interested in attending the meeting. Fiona Ballantyne said that the research had tracked a number of people about to convert their main TV to digital. The report suggested that people aged over 75 were having problems but they were not necessarily people who were hard to reach. One finding was that people were seeking advice and support rather than monetary assistance to switch to digital TV. It appeared that a number of people were opting for pay-TV because of attractive deals and the installation service it included, combined with the lower visibility of the Freeview brand. Some drafting comments were made. Members were asked to forward further comments to Ben Wallis and he would draft the Panel's report recommendations. These would be the need to increase awareness of Freeview, better targeted information, support for the technically

unsupported and help for consumers navigating the retail experience of switchover. It was agreed that the Panel should publish the research as soon as practical. Ben Wallis would also draft a letter to James Purnell MP, the Culture Secretary, with an advance copy of the DSO report as an enclosure.

AP14 Ben Wallis to liaise with Panel members wishing to attend the Deputy Chairman's meeting with Digital UK.

AP15 Panel members to forward any comments on the Panel's draft DSO research report to Ben Wallis as soon as possible.

AP16 Ben Wallis to revise the Panel's DSO report and draft a foreword to allow publication as soon as practical.

AP17 Ben Wallis to draft a letter to James Purnell MP, with a copy of the Panel's DSO report as an enclosure.

11. Other matters to note/agree

11.1 Members had been provided with a written report on Panel activities, Ofcom publications, policy projects and events and approaches to the Panel; its contents were noted.

12. Any other Business

12.1 Bob Twitchin had raised issues related to relay services at the May 2007 discussion held between the Panel and the Ofcom Board. Dominic Ridley would make enquiries about whether those issues were being pursued by Ofcom colleagues. Bob Twitchin would attend the July 2007 meeting of Ofcom's Advisory Committee on Older and Disabled People (ACOD) where relay services would be discussed. He would discuss the latest position with Dominic Ridley following the ACOD meeting. Jeremy Mitchell requested an update on Ofcom's work on additional charges levied by telecoms companies and Dominic Ridley would provide feed-back.

AP18 Dominic Ridley to make enquires to determine if the Panel/Board discussion on text relay has filtered down to Ofcom colleagues.

AP19 Bob Twitchin to discuss text relay with Dominic Ridley after determining the latest position at the July 2007 meeting of ACOD.

AP20 Dominic Ridley to make enquires about the latest position of Ofcom's work on additional charges.

.....Chairman

.....Date