

Minutes of the forty-third meeting of the Ofcom Consumer Panel

Tuesday 18 December 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)
Roger Darlington
Simon Gibson
Graham Mather
Kevin McLaughlin
Kate O'Rourke
Bob Twitchin
Allan Williams

In attendance

David Edwards (Consumer Panel Secretary)
Julia Guasch (Consumer Panel Support Executive)
Dominic Ridley (Acting Consumer Panel Manager)
Ben Wallis (Policy Executive to the Panel)
Jackie Caspary, Director, Central Operations, Ofcom (item 2)
Claudio Pollack, Director of Consumer Policy (item 2)
George Kidd, Chief Executive, PhonepayPlus (item 5)

1. Welcome and introductions

1.1 The Deputy Chairman welcomed Panel members to the meeting. Apologies were received from Fiona Ballantyne and Jeremy Mitchell. The Chairman had written to advise members that she would be joining the Ofcom Board in January 2008 and in these circumstances it had been agreed that the Deputy Chairman would chair the Panel meeting.

2. Ofcom and consumer complaints

2.1 Members had received an information paper on the work of Ofcom's Advisory Team (OAT). OAT predominantly dealt with issues and enquiries about telecoms services and it was formerly a part of what was called the Ofcom Contact Centre. Members had also received a slide pack with detailed monthly information on complaint issues and numerical data that was usually produced for Ofcom senior colleagues. Jackie Caspary explained the background to the re-branding exercise to become OAT, which had both internal and external drivers. There had been negative connotations in the name 'contact centre', it had suggested that Ofcom could help more than it had been able to - with consumer perceptions that Ofcom would investigate complaints, resolve disputes and/or

reprimand service providers. Ofcom did not have these functions and the onus was on service providers to resolve their customers' complaints, with the alternative dispute resolution (ADR) schemes of Otelio and CISAS available should complaints reach deadlock. The new OAT arrangements appeared to be working well and had resulted in a reduction in the number of vexatious calls to Ofcom. Claudio Pollack commented on the value of complaints data, which allowed Ofcom to spot emerging trends, it was a useful diagnostic along with external intelligence and fed in to Ofcom's consumer enforcement work. Consumer complaints data provided metrics of harm but raised awareness of a particular complaint type and tended to increase the number of complaints related to the issue concerned. Panel members made a number of comments on the OAT, with responses from Ofcom, as follows:

- if re-branding had reduced vexatious calls, this raised the question of where were such calls going; Ofcom colleagues could only assume that callers now had a changed expectation of the advice and support that Ofcom was able to provide; call statistics did not indicate that there had been an increase in abandoned calls to the regulator, ie with 'hang-ups' as part of an index of anger; many consumers had experienced frustration when "going around in circles", clear 'sign-posting' to providers and the ADR schemes was important right at the start of the complaints process and such sign-posting was an established OAT practice;
- how did Ofcom take forward significant issues emerging from its OAT data? – Claudio Pollack said that such matters were raised with providers and where appropriate Ofcom considered the regulatory options available; the current focus was on consumer information, the ability to switch and issues related to consumer empowerment;
- there was a strategic purpose for Ofcom in engagement with consumers' complaints, it informed policy making; there were arguments for communications complaints/enquiries being directed to Consumer Direct; there were issues about making Ofcom consumer complaints data public, the bias should be to making the data available; consumer complaints should not always be seen wholly as a measure of failure, with so much innovation in the marketplace an absence of complaints would suggest a static market; Claudio Pollack confirmed that complaints data was a valuable resource and said that callers to the OAT could be asked questions to help Ofcom probe particular communications issues; communications was a diverse and specialised area and it would be difficult for a general advice line to field enquiries.

2.2 Discussion moved on to the issue of publication of Ofcom complaints data. Claudio Pollack said that his consumer policy team had been given the task of considering the issues. Some involved Freedom of Information and legal advice was being prepared; there were questions about which data to publish, its format and how often; adjustments related to market shares; how to present complaints data related to broadband migrations where a consumer complained about a new supplier but where the fault could lie with the old supplier. Jackie Caspary said that the OAT was working to capacity and would have difficulty in handling extra calls or calls of greater duration – these were considerations since publication of

complaints data could result in higher call volumes for Ofcom. The Deputy Chairman drew discussion to a close and it was agreed that the Panel would write to Ofcom to encourage initiatives to publish complaints data in the near future and that consumer complaints would be revisited approximately six months hence.

AP1 Panel to write to Ofcom to encourage publication of complaints data.

AP2 Secretary to ensure that the Panel re-visits complaints at a Panel meeting approx six months hence.

3. Declaration of members' interests

2.1 There were no declarations apart from the earlier reference to the Panel Chairman's impending appointment to the Ofcom Board.

4. Minutes of the meeting on 20 November and matters arising

4.1 Minutes of the previous meeting were agreed. The Deputy Chairman reported that the Ofcom Chairman had written to the Panel with a brief response to the Panel's November 2007 advice note on the Digital Dividend Review (DDR). It was agreed that Dominic Ridley would request a more detailed Ofcom response that could be published on the Panel's website. The Deputy Chairman, and members with an interest, would meet Claudio Pollack very early in the New Year to discuss the Consumer Forum on Communications (CFC). Dominic Ridley said that Ofcom's recent consultation *Future broadband – Policy approach to next generation access* had not specifically covered all the issues that the Panel had raised in its earlier advice note on next generation access (NGA) but he confirmed that Panel advice had positively affected the tone of Ofcom's document.

AP3 Dominic Ridley to request Ofcom to provide a response to Panel advice on the DDR for publication on the Panel website.

AP4 Julia Guasch to arrange for the Deputy Chairman, and interested Panel members, to meet with Claudio Pollack early in January to discuss the CFC.

5. PhonepayPlus

5.1 Members had received an information paper on Premium Rate Services (PRS) and PhonepayPlus (formerly known as ICSTIS), including a copy of the new formal framework agreement between Ofcom and PhonepayPlus. The agreement underlined that Ofcom was the PRS regulator with PayphonePlus as the agency that carried out day-to-day regulation on behalf of Ofcom. The information paper also answered a number of questions previously raised by Jeremy Mitchell. George Kidd, PhonepayPlus Chief Executive, was present to talk to the Panel about reasons for regulating the PRS sector with a specialist agency to do that, the role of his organisation, including its recent re-branding, its relationship with Ofcom, the risks involved in the new arrangements and risks in the PRS sector more generally.

5.2 The Deputy Chairman said that the Panel would have advance sight of Ofcom's broader consultation/review of PRS regulation, expected to be published in late January or early February 2008. Ben Wallis would consider whether the Panel should respond to Ofcom's consultation. In response to a question about consumer research George Kidd said that PhonepayPlus asked its users to rate their satisfaction with the service it provided; it had also carried out some quantitative polling. A member said that Ofcom spoke of itself as a light-touch regulator and sought to promote self- and co-regulation; it appeared to be engaged in a re-think with moves towards closer supervision of PhonepayPlus and the decision that a senior Ofcom colleague with observer status would attend PhonepayPlus Board meetings. There was brief discussion of recent quiz and participation TV controversies, issues of scams, fraud and compliance with rules related to PRS by broadcasters.

AP5 Ben Wallis to consider whether the Panel should respond to Ofcom's PRS scope review.

6. Chairman's report

6.1 This would be the Chairman's final Consumer Panel meeting. She said that she had greatly enjoyed four years working with fantastic colleagues. The Deputy Chairman presented the Chairman with a bouquet and said that it was hoped that she would join Panel members and staff for a farewell dinner on the evening of 14 January 2007.

6.2 The Chairman said that today she would be writing again to the top 6 UK Internet Service Providers (ISPs). She would also write to Ed Richards, Ofcom Chief Executive, to ask for a mandatory code of practice for ISPs to address consumer concerns about advertised broadband connection speeds. She would also be requesting that the Advertising Standards Authority, working with industry, considers how the factors affecting broadband speeds could be given much greater prominence in advertising material. In the afternoon the Chairman would take part in a number of radio interviews. The letter to Ed Richards would be published with a Panel news release on the Panel website the following day.

6.3 The Chairman had attended the broadband high level summit on 30 November 2007, hosted by Stephen Timms MP, the Minister of State for Competitiveness. It was the Chairman's view that the minister had a good grasp of the importance of NGA but also of the difficulties in achieving its deployment. The summit had signaled strong political intent to find solutions.

7. Members' updates

7.1 Simon Gibson had sent the Chairman a report on the Utopia broadband project in the USA. He had met with Ieuan Wyn Jones AM, Wales' Deputy First Minister and Minister for the Economy and Transport, and discussed NGA. Simon Gibson had attended a meeting of Ofcom's Advisory Committee for Wales. Graham Mather reported briefly on European communications issues. Ministers from Member States had met and declared themselves less keen on a

European communications 'super regulator' than Commissioner Reding. The European Regulators Group was engaged in setting up a wider international group. Graham Mather and the Chairman had met with the four firms that had submitted proposals to carry out the Panel's latest Consumer Interest Toolkit study. PricewaterhouseCoopers had been selected and had shown the strongest auditing skills. Results were expected by the end of February 2008. Kevin McLaughlin reported that he had spoken to a colleague from the Telecoms Policy Unit at Northern Ireland's Department of Enterprise, Trade and Industry (DETI) about a pilot scheme involving a social housing development in Belfast with the provision of broadband. He would meet with DETI in January 2008 to discuss this and other issues. Bob Twitchin had continued to work with the TAG Relay Campaign Sub-group and had met with Ofcom's Claudio Pollack to discuss services for disabled people. Allan Williams had met with Ruralnet – an online ICT network group facilitating communication between rural advocates and linking individuals and groups in rural communities across the UK. Roger Darlington had met with BT and discussed its 21st century network (21CN) and his note of the meeting had been copied to Panel members.

8. Update from Consumer Panel Manager

8.1 There were no items to report that were not covered elsewhere on the meeting agenda.

9. Mobile mis-selling

9.1 Members had received a discussion paper from Ofcom. A public consultation was planned for February 2008, with a statement expected in the Spring. The paper outlined a number of options to tackle mis-selling and members made a number of brief comments. The Chairman suggested that Ofcom should examine its Project Requirements Document for the Mis-selling in the mobile phone market project and apply the set of questions in the Panel's Consumer Interest Toolkit. By doing so the important consumer issues would become apparent. Ben Wallis would prepare an advice note and obtain drafting comments from Kate O'Rourke and Graham Mather.

AP6 Ben Wallis to draft an advice note on mobile mis-selling and obtain comments from Kate O'Rourke and Graham Mather.

10. Panel event on next generation broadband

10.1 Members had received a discussion paper outlining proposals for a Panel event on next generation broadband. The paper covered the background to the event and the wider context of broadband debates, suggestions related to venue and timing for the event, format, structure of discussion and participants. The event would be tied to a piece of Panel consumer research that would compare a day in the life of someone in a high-speed broadband area with someone in a rural part of the UK. The Panel was also a partner in a research project led by the Broadband Stakeholders Group (BSG) and the Department for Business, Enterprise and Regulatory Reform (BERR) looking at the economic and social

value of next generation broadband. The Deputy Chairman suggested that the discussion could focus on what exclusion from next generation broadband would mean for consumers. Allan Williams offered to supply contact details for organisations in the communities/rural sector. Bob Twitchin said that it would be important to include disability organisations. The Chairman said that older people's organisations should be involved. Simon Gibson proposed participation by transport and environmental groups. Roger Darlington cautioned against linking the timing of the Panel event to publication of the BSG/BERR research. He was leading on planning for the event and it was felt that sufficient pointers had been provided for planning to continue.

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. Members had received an information note on the impact of the Telecoms Strategic Review. It was agreed that discussion of that paper would be held over until the January 2008 Panel meeting. Members had also received an information paper on Ofcom's *The Future of Digital Terrestrial Television* (DTT) consultation. Panel members were asked to let Dominic Ridley have any DTT comments.

AP7 Discussion of the impact of the Telecoms Strategic Review to be held over until the January 2008 Panel meeting.

AP8 Panel members to provide Dominic Ridley with comments on DTT.

12. Any other Business

12.1 The Deputy Chairman said that it might be necessary to change the date for the February 2008 Panel meeting, depending upon whether the new Panel Chairman had been appointed by then. This was because the Deputy Chairman would not be available on 12 February 2008. The Secretary would review this and other Panel meeting dates for 2008.

AP9 Secretary to review 2008 Panel meeting dates in the light of appointment of a new Panel Chairman.

.....Deputy Chairman

.....Date