

## **Minutes of the forty-sixth meeting of the Ofcom Consumer Panel**

**Wednesday 19 March 2008 at 10.30 hours**

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

Present:

### Consumer Panel

Anna Bradley (Chair)  
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)  
Si an Evans (Consumer Panel media adviser)  
Dominic Ridley (Acting Consumer Panel Manager)  
Ben Wallis (Policy Executive to the Panel)  
Helen Normoyle, Director of Media Literacy & Market Research, Ofcom (item 7)  
Another Ofcom colleague (item 7)

## **1. Welcome and introductions**

1.1 The Chair welcomed members to the meeting. Si an Evans was attending and would attend future meetings as required as the Panel's press and media adviser. Apologies were received from Fiona Ballantyne and Jeremy Mitchell.

## **2. Declaration of members' interests**

2.1 Bob Twitchin had been made a Fellow of the British Computer Society. Allan Williams had become a member of the Programme Monitoring Committee (PMC) of the Rural Development Programme for England (RDPE) as a nominee of his employer ACRE - Action with Communities in Rural England. The RDPE PMC is an advisory Non-Departmental Public Body.

## **3. Minutes of the meeting on 12 February 2008 and matters arising**

3.1 Minutes of the previous meeting were agreed. There were no matters arising. Members had received a status report on actions from the last meeting.

## **4. Chairman's report**

4.1 The Chair had attended separate catch-up meetings with Ed Richards,

Ofcom Chief Executive, and with David Currie, Ofcom Chairman. Ed Richards would take part in the April Panel meeting. The Panel Chair and Deputy Chairman had met the Ofcom Board earlier in March to report on Panel activities. The Chair met Lord Whitty, Chairman of both the National Consumer Council (NCC) and the 'New' NCC. They had discussed Panel and 'New' NCC cross-membership. A Panel recruitment exercise would begin shortly [Adverts appeared in the press and on various websites from 13 April 2008.] and cross-membership would be deferred until after that exercise and inception of the 'New' NCC [the 'New' NCC would start work officially on 1 October 2008.]. The Chair would meet Lord Whitty again in April 2008 to discuss work priorities and a Memorandum of Understanding between the Panel and 'New' NCC.

4.2 The Chair had met with colleagues from the Broadband Stakeholder Group (BSG) and discussed joint BSG/Department for Business, Enterprise and Regulatory Reform (BERR)/Panel research on the economic and social value of next generation broadband, which was progressing. She had met Jackie Caspary, Ofcom's Director, Central Operations, who had offered to supply the Panel with data related to consumer complaints and issues handled by the Ofcom Advisory Team. The Chair informed members briefly of plans for Panel recruitment. The executive search firm Carbon would work on the exercise.

AP1 Dominic Ridley to talk to Jackie Caspary about information on complaints/issues passing through Ofcom that would be useful to the Panel.

## **5. Members' updates**

5.1 Allan Williams attended a 'New' NCC briefing: 'The Future of Consumer Advocacy in the UK'. Ed Mayo, Chief Executive Officer of the new body spoke about what this meant for its work. It would be about preventing problems; about addressing issues that mattered to consumers and about enabling consumers to speak for themselves. Allan Williams would obtain an electronic copy of Ed Mayo's presentation and copy it to Panel members.

5.2 Roger Darlington had attended a one-day Ofcom training course on economics; he would attend a similar course on regulation the following day. He suggested that such courses could be of value to the new members to be recruited to the Panel. The Chair asked the Secretary to give consideration to the induction process for new members. Roger Darlington had met with the Chairman of the Internet Watch Foundation and had discussed the Byron review and problematic web content. He had attended a meeting of Ofcom's Advisory Committee for England (ACE). He advised members that Connect, a trade union for professionals in the communications industry for which he acted as a consultant, had published *Connecting Britain's Future*, covering issues related to next generation access (NGA). Copies were distributed to Panel members.

5.3 Kate O'Rourke had attended a meeting of the Digital Radio Working Group at the Department for Culture, Media and Sport (DCMS). There were presentations from Ofcom, the BBC and manufacturers [the Group would report to the Secretary of State at DCMS by the end of the year]. The Panel discussed

the issue of a radio equivalent of digital switchover (DSO). The Panel would need to take a view on that. The Chair said that radio switch-off could be added to the Panel's list of "urgent consumer issues". Dominic Ridley would discuss the value of analogue radio spectrum with Ofcom colleagues.

5.4 Bob Twitchin, Kevin McLaughlin and Ben Wallis had met with an Ofcom colleague to discuss issues of common interest between the Panel and Ofcom's Advisory Committee for Older and Disabled People (ACOD). ACOD would be producing a paper on the EU Framework Review and Ben Wallis would copy the paper to Panel members, when it became available. It was reported that Ofcom would be appointing a colleague to provide support to both ACE and ACOD. Bob Twitchin continued to act as a member of Member of the TAG Relay Campaign Sub-group. He reported that TAG had recently published *The Road to Access* and the Secretary would obtain copies for members. The Chair would meet TAG on 26 March 2008 and Ben Wallis would prepare briefing.

5.5 Graham Mather reported briefly on the success on the Panel's Consumer Interest Toolkit event, held on 7 March 2008 - the day the Panel published its latest Toolkit report. There were two sessions, one chaired by the Panel Chair, the other by Graham Mather. The event included presentations from colleagues from PricewaterhouseCoopers; Lord Whitty; Robert Madelin, Director General, DG Health and Consumer Protection, European Commission; and from Peter Phillips, Ofcom's Partner for Strategy and Market Developments. There were over 100 delegates, including representatives of UK government departments, European communications regulators, all of the UK's economic regulators and a number of consumer bodies. A report of the event would be published shortly. Referring to developments in Europe Graham Mather said that the Commission appeared to be moving closer to Ofcom's thinking on European communications regulation, although the Commission had not abandoned its idea of a European regulatory body. Ben Wallis reported that a consultant had been commissioned to write a Panel position paper on the EU Framework Review. The paper would be discussed at the April 2008 Panel meeting.

5.6 Simon Gibson had met with Ieuan Wyn Jones, Deputy First Minister in the Welsh Assembly Government. He had met with the Executive Assistant of the Assembly's Presiding Officer and discussed DSO and exclusion issues. In April Simon Gibson would be giving evidence at a meeting of the Welsh Assembly's Broadcasting Committee and would discuss spatial mapping of notspots. The committee's role was to investigate and report on issues related to Public Service Broadcasting (PSB) and DSO. Dominic Ridley would raise spatial mapping with Ofcom. Simon Gibson had attended a meeting of Ofcom's Advisory Committee for Wales.

5.7 The Deputy Chairman had attended catch-up meetings with Ed Richards and with David Currie. She had attended the Panel Toolkit event, along with Kate O'Rourke and Bob Twitchin. She advocated the staging of an annual Panel Toolkit event.

AP2 Allan Williams to copy Ed Mayo's presentation (from the recent 'New' NCC

briefing) to Panel members.

AP3 Secretary to consider the induction process for new Panel members.

AP4 Dominic Ridley to discuss the value of analogue radio spectrum with Ofcom colleagues.

AP5 Ben Wallis to copy ACOD's paper on the EU Framework Review to Panel members.

AP6 Secretary to obtain copies of TAG's *The Road to Access* and forward to members.

AP7 Ben Wallis to provide Chairman with a briefing for her 26 March 2008 meeting with TAG.

AP8 Secretary to ensure that the position paper on the EU Framework Review is on the agenda of the Panel's April meeting.

AP9 Dominic Ridley to discuss spatial mapping with Ofcom.

## **6. Update from Consumer Panel manager**

6.1 Dominic Ridley reported that a consultant had been commissioned to write a paper for the Panel on consumer activism and use of the internet. The paper would be discussed at the April 2008 Panel meeting.

AP9 Secretary to ensure that the paper on consumer activism is on the agenda of the Panel's April meeting.

## **7. Media literacy update**

7.1 Members had received a written update on Ofcom's media literacy work. Helen Normoyle introduced discussion by saying that in recent months media literacy had risen up both the political and Ofcom agendas. Helpfully the Panel had raised media literacy and exclusion in its contribution to discussions at Ofcom's Boards/Panel/Committees Strategy Planning Day held in October 2007.

7.2 On that occasion reference had been made to the Panel's research report *Children and the internet* and Ofcom had been asked to consider whether it was organised to address children's issues. The Panel had proposed that Ofcom establish a children's panel. Helen Normoyle said that Ofcom had not reached a view in relation to that proposal but would be able to do so following a number of impending developments: publication of the Byron review [*Safer Children in a Digital World - The Report of the Byron Review* was published 27 March 2008]; the Culture, Media and Sport Select Committee was conducting an inquiry into the potential risks from harmful material on the internet and in video games; and findings were due shortly from Ofcom's media literacy audit.

7.3 Panel members made a number of comments or raised questions and Ofcom colleagues responded as follows:

- it was pleasing that media literacy was gaining increased attention; it had been reported that Helen Normoyle's team had been working with the Ofcom Content Board to review priorities for promotion of media literacy; was media literacy a matter for the Ofcom Board or for the Ofcom Content

- Board and how might the findings of the Byron review change Ofcom and government's role in media literacy?
- Helen Normoyle said that a variable membership sub-group of the Content Board had been closely involved in developing Ofcom's media literacy strategy but that the Ofcom Board had taken decisions related to the Ofcom resources that would be used to work through that strategy over the coming 12 -18 months; changes related to Ofcom and/or government's role in media literacy would depend on the findings of the Byron review, if the report contained suggestions outside Ofcom's remit then changes to legislation could be required; an Ofcom colleague said that the Communications Act 2003 assigned responsibility for media literacy to the Content Board, he added that the Department for Children, Schools and Families (DCSF) had published *The Children's Plan - Building brighter futures* and that Ofcom had engaged in regular dialogue with DCSF;
  - the Deputy Chairman expressed concern at the delay in establishing an Ofcom children's panel to consider issues beyond content and to include detriment and educational advantage/disadvantage; the Panel had convened an event in July 2007 - involving a number of Ofcom colleagues and led by consultants from SHM Productions Ltd - to discuss what such a panel could be, a number of issues of empowerment and disempowerment had been raised and how Ofcom would benefit from such a panel, the latter had been raised again at the Ofcom Strategy Planning Day but since then the proposal appeared to have stalled;
  - Helen Normoyle said that the idea of a children's panel had not been abandoned but that it would need to sit within Ofcom's overall budget and resourcing, it needed to be considered in the context of the Byron report and an appropriate model adopted;
  - the Deputy Chairman said that it had been anticipated that the children's panel would be a pan-Ofcom initiative rather than be confined to media literacy work, perhaps in the form of a group of specialists on children's issues with periodic access to a panel of young people;
  - Helen Normoyle clarified how a children's panel could fit within Ofcom; she said that issues of empowerment and detriment were part of the picture but that a panel would need to reside somewhere in the organisation, ie with the media literacy team; this did not mean that its scope would be narrowed solely to media literacy issues;
  - the Deputy Chairman said that she envisaged a children's panel accountable to the Ofcom board;
  - progress on internet content control was to be welcomed but the best approach would be for its inclusion in computer operating systems; there appeared to be widespread ignorance amongst many parents about and how to activate such controls; a solution could be software installation that required users to opt out of such controls;
  - discussion had focussed on a children's panel and anxieties experienced when using the internet but concern was expressed about digital inclusion and the number of people without internet access; there no longer appeared to be economic reasons for this, instead there were consumers who did not recognise the benefits of being online; it would be important to make connections between media literacy and digital inclusion;

- an Ofcom colleague said that Ofcom shared that view and was involved in a number of partnership initiatives to encourage people to go online; Ofcom was a core funder of Silver Surfer's day and award ceremony and Ofcom research fed into wider stakeholder debates on the support required by different groups;
- there were issues for consumers with learning disabilities and for those with sensory disabilities and a need to make websites accessible;
- an Ofcom colleague said that Ofcom would be hosting an event on usability and the media literacy team was working with Ofcom colleagues promoting broadcast access services; the Community Channel would be broadcasting a programme of items for and made by people with learning disabilities, DVD copies of *Media Lives 2007* were provided to the Panel;
- there did not appear to be effective measures to encourage internet take-up; a critical driver in the next two to three years would be the increasing availability of entertainment on-line that would encourage more people to opt for internet access, particularly for consumers with limited access to terrestrial TV, eg in some parts of Wales;
- there was an overlap between media literacy and general literacy since the internet was overwhelmingly a text based medium; some difficulties would be overcome when websites moved beyond text.

7.4 The Chairman drew discussion of this item to a close and said that media literacy would be discussed further under the agenda item on the Panel's work-plan and that it might be adopted as a Panel priority. Helen Normoyle commented that media literacy covered a very broad range of issues and that it would be important for the Panel to be specific about what it wished to pursue.

## **8. Ofcom Consumer Panel Work-plan 2008/09**

8.1 The Chairman opened discussion of the main business of the meeting, a discussion of the Panel's work-plan for 2008-09. This would require collective decisions on priorities. Members had received a discussion paper and a number of supporting annexes, including example workstream documents. Prior to discussion at the meeting there had been a number of email exchanges between the Chairman and members, with comments made on a draft a work-plan.

8.2 General agreement already existed on the criteria for deciding the work the Panel would undertake but there was further discussion as follows:

- 'proportionate' had been suggested as a criteria in place of 'practical' and a question was raised as to whether the first was already a part of the latter; a member said that being 'proportionate' was about the way the Panel dealt with an issue, it was a practical matter as was 'evidence-based' – another suggested criteria; a 'scorecard' had been proposed to determine priorities, a member said that rigour would be required in its application but with an element of judgement, it could be a part of annual planning and in decisions about Panel research; another member said that a 'scorecard' provided a way of tabulating what could otherwise involve lengthy Panel discussions and would focus thinking;

- the criteria of 'proportionate' and 'evidence-based' could be taken as read and were consistent with the five principles identified by the Better Regulation Task Force; the Deputy Chairman suggested that both be included, 'practical' was about whether something could be done, not about proportionality;
- a member said that an 'evidence-based' approach did not take account of future market developments;
- a member said that the Panel was an advisory body and should not be bound by regulatory principles; it would need to urge or comment on interventions, it should be guided by the five principles and not be governed by them;
- it was agreed that criteria would be revised to include details of how the Panel would go about its work, there would need to be a record of what the Panel did and why.

8.3 Discussion turned to balancing the Panel's work, issues related to monitoring the breadth and depth of Ofcom's work and Panel engagement with it; how widely it should be done; by whom; and how that activity could help the Panel determine its list of urgent consumer issues. There were comments as follows:

- a member said that the Panel support team would have the main role in monitoring the 'waterfront', ie Ofcom activities, and feeding issues to the Chair for decisions on whether the Panel should make an intervention; those issues should meet a relevance test, involve a significant benefit or tackle detriment and be limited in their demands on resources;
- the Deputy Chairman said that monitoring of Ofcom's work was a big job, it raised the question of the Panel's role, whether it was predominantly to advise Ofcom and/or others - to date it had been the former; if increased time/resource was devoted to monitoring Ofcom this could jeopardise Panel work in the wider communications arena; there would also be issues important to Panel but not on Ofcom's agenda; monitoring would need to be proportionate and the 'waterfront' defined;
- Dominic Ridley explained the current arrangements; this included examining Ofcom's planning cycle and regular catch-up meetings with key Ofcom colleagues; however issues could arise suddenly, eg the dispute between BSkyB and Virgin Media;
- the Panel should not become too mechanical about monitoring the 'waterfront'; it should be primarily an activity for the support team and include areas of Ofcom work which were not necessarily Panel priorities.

8.4 The Chair drew discussion of balancing the Panel's work to a close. Not all members had a good understanding of how the support team monitored Ofcom's work and there was concern that this could be resource intensive. It would not be a matter of doing more monitoring but about being clear on what needed to be done to monitor issues inside and outside Ofcom. The first steps would be to make explicit the support team's work programme and to give thought to streamlining monitoring activity. Members would have to remain alert to issues and feedback to the Panel. A process was required when issues

appeared to rise up the list of Panel priorities between meetings to ensure that members knew why. Formal papers would not be required but the Panel had to operate on a no-surprises basis, with decisions taken in the light of Panel criteria for choosing areas of focus but allowing the Panel to move on easily to other areas of work – where the Panel was required to invest resources a mechanism would be required to bring matters to the Panel for discussion. The revised work-plan should explain in more substance the activities of the support team.

8.5 There was discussion of communications-wide and Ofcom policy candidates for the 2008-09 work-plan. There was agreement with the formulation for keeping track of Ofcom workstreams proposed in the discussion paper. This was followed by discussion of media literacy and its fit with the work-plan:

- it was necessary to identify where the Panel could add value to a very wide area of work, including issues around the digital divide;
- the Chair said that efforts related to media literacy were about supporting consumers, increasing their confidence to use communications services and tackling their concerns;
- the Deputy Chairman suggested that media literacy could be pursued via the different Panel workstreams; the Chair said that Ofcom's focus on media literacy appeared confined to content issues; the Chair said that before the Panel took a decision to subsume media literacy in its work at a horizontal level it needed to establish that it included issues about choosing and using communications services; she added that the Chairman of Ofcom's Content Board was eager to engage with the Panel on media literacy issues of shared interest;
- Ofcom was concerned about consumers' ability to access, manage or control and create content; preference was expressed for the Panel to pursue media literacy via issues of access; the Chair said that access was not solely about income but also about fears of going online;
- the Deputy Chairman said that some consumers could not access broadband because of the cost but the Panel had been unable to determine the extent of that; Ofcom research had indicated that affordability was a dominant factor but issues of relevance and user anxiety were becoming more significant; a member expressed concern that the government's Digital Strategy [*Connecting the UK: the Digital Strategy*, April 2005] seemed to have stalled; Dominic Ridley said that there were a number of initiatives across Whitehall but consumers could not be forced to sign-up to the internet.

8.6 Discussion of Ofcom's mobile sector assessment was confined to the suggestion that Panel's Consumer Interest Toolkit could be applied to the project. It had been suggested that a number of policy areas should be added to the Panel's priority list and there was discussion of these policy areas as follows:

- it was argued that NGA should not be separated from spectrum allocation issues; it was suggested that the two work areas could be combined under next generation networks; Dominic Ridley said that spectrum allocation could also fit into the Panel's rural workstream;



- it was agreed that spectrum allocation would be dealt with as it related to different aspects of the Panel's work and priorities and would not be an explicit priority itself;
- brief reference was made to PSB; it had been suggested that the Panel could commission a study to identify the Panel's locus and suggest future policy directions;
- on DSO, the Chair said that Ofcom had indicated that it would welcome continued Panel involvement; the Deputy Chairman argued that a watching brief was required, the Digital Switchover Help Scheme had been set up and a consortium of charities was involved in the separate hard to reach scheme; the Panel had published *Going digital: supporting consumers through digital switchover* in December 2007 and there did not appear to be a need for further Panel research; post switch-off of transmitters in the Granada region [between October and December 2009] could be the time for the Panel to engage further with DSO.

8.7 It had been suggested that rip offs and scams, including those related to switching, should be added to the Panel's urgent consumer issues list. These could be addressed as a set of issues or pursued as separate work strands; the issues themselves would change over time. It was agreed that these were important matters, that the Panel should support the activities of Ofcom's consumer policy and enforcement teams and that rip offs and scams should rise up the Panel's list of priorities.

8.8 Discussion moved on to exclusion and the digital divide and what that work area should encompass, with comments as follows:

- a member was unsure about a link with rural issues; he argued that the main issue was lack of take-up of services and related disadvantage, he suggested that the Panel could intervene in specific issues from time to time and that organisations involved in DSO outreach could advise consumers about PCs and broadband; Dominic Ridley said that Age Concern was engaged in activity of that kind; he also said that mobile devices could become more widespread as the route to internet access;
- the Panel would need to decide on its own access objectives; a member said that the government had many targets but did not have one for the appropriate level of internet access; the Panel could push for such a target; he added that the Panel could use desk research to consider what other countries were doing to address digital divides; another member suggested an approach based on access to particular services.

8.9 The Chair drew discussion of exclusion and the digital divide to a close. The Panel would need to understand what was already being done across government. Dominic Ridley would share details of the latter with the Panel.

8.10 Reference was made to the place of the Nations and regions in the work-plan. It was agreed that post recruitment of new members the Panel could make more explicit decisions about that.

8.11 The Chair summarised discussion under this agenda item. It was agreed that the Panel would pursue the four communications wide topics listed in the draft work-plan. In the first, reference would be made to next generation networks rather than to NGA. Priorities from Ofcom's work would be: the disability programme; media literacy; PSB and DSO but with the Panel refining/limiting the extent of its involvement. The future of mobile, future of radio and consumer protection would be removed from the Panel's Ofcom list. The Panel's list of urgent consumer issues would include: DSO but with specific issues in mind; radio switch-off, complaint handling, scams and rip-offs but with broadband speed pursued separately; switching; and Pay-TV. Inclusion of consumer information in the Panel's media literacy work could be debated further. Work on urgent consumer issues would be about promoting the consumer interest and not about raising the profile of the Panel. Members were asked to forward any additional comments on the work-plan to Dominic Ridley within a week. The support team would then produce a work-plan document for sign-off at the April 2008 Panel meeting. Example workstreams would need to be revised in the light of the Panel discussion and templates completed for other workstreams.

AP10 Dominic Ridley to provide members with details of digital inclusion projects across government.

AP11 Panel members to provide any additional thoughts/comments on the Panel's work-plan to Dominic Ridley by 26 March 2008.

AP12 Dominic Ridley and support team to revise the Panel's work-plan, seek comments by email and table for approval at the April 2008 Panel meeting.

AP13 Support team to ensure that workstreams are revised/produced.

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

9. 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.

## **10. Any other Business**

10.1 There was no other business.

.....Chair

.....Date