

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

**Tuesday 22 April 2008 at 1pm**

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

Present:

Consumer Panel

Anna Bradley (Chair)

Ruth Evans (Deputy Chairman)

Fiona Ballantyne

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)

Ed Richards, Chief Executive, Ofcom (item11)

Other Ofcom colleagues (item 12)

### **1. Welcome and introductions**

1.1 The Chair welcomed members to the meeting. Apologies were received from Jeremy Mitchell. He had provided detailed comments on agenda items and these were distributed to Panel members.

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

2.1 There were no declarations.

### **3. Minutes of the meeting on 19 March 2008 and matters arising**

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

### **4. Chair's report**

4.1 The Chair had met Peter Culham, Ofcom's Director of Competition Economics. They discussed work Ofcom had commissioned on behavioural

economics looking at consumer behaviour in the communications markets. Similar work had been done by the Organisation for Economic Co-operation and Development and by the Office of Fair Trading. It had been agreed that there would be dialogue on Ofcom's work.

4.2 The Chair had met Philip Cullum, Acting Chief Executive of the current National Consumer Council (NCC). They discussed a project undertaken by the current NCC on rating nine UK regulators, including Ofcom. The project would be completed by 'New' NCC. A secondee from the National Audit Office would lead the work. The Chair would meet Philip Cullum again to discuss the outline of the project. The Chair and Fiona Ballantyne would attend a meeting of Ofcom's Advisory Committee for Scotland in Glasgow on 28 April 2008. The Chair hoped to meet the Scottish Consumer Council and could raise the rating the regulators project.

4.3 The Chair had met with Julian Eccles, Ofcom's Director of Communications, and discussed re-branding the Panel. On occasions the Panel had been identified mistakenly in the media and by others as Ofcom rather than as a separate/independent advisory body. In discussion with senior Ofcom colleagues the Chair had proposed assigning the Panel a new name. A new name would fit with a change of orientation under the new Chair and could be announced with the appointment of new members later in the year. Members supported re-branding provided it would not result in a reduction in resources or affect the Panel's relationship with Ofcom. The Chair said that it would be business as usual. It was agreed that a re-branding exercise be undertaken. Kate O'Rourke undertook to carry out a search on the name proposed by the Chair.

4.4 The Chair confirmed that there would be changes to the structure of the Panel support team. There would be further discussion with Ofcom. The member recruitment exercise was proceeding well with a high volume of requests for information. The July 2008 Panel meeting would be the last for the Panel with its current and mostly original membership. It was agreed that a Panel event would be held in July to celebrate the work of past and current members.

4.5 Earlier in the day the Chair had attended the third meeting of the government's Convergence Think Tank (CTT), set up by the Department for Culture, Media and Sport (DCMS) and the Department for Business, Enterprise and Regulatory Reform (BERR). She had discussed the consumer perspective with a member of the CTT steering group. Further CTT meetings would focus on public service broadcasting (PSB) and on consumer empowerment.

AP1 Secretary to invite an Ofcom economist to the May 2008 Panel meeting to discuss behavioural economics.

AP2 Julia Guasch to arrange a meeting between the Chair and Philip Cullum to

discuss the NCC's work on rating the regulators.

AP3 Support team to take the necessary steps to re-brand the Panel.

AP4 Kate O'Rourke to do a search on the new name proposed for the Panel.

AP5 Secretary to organise a July event to celebrate the work of past and present Panel members.

## **5. Members' updates**

5.1 Kevin Mclaughlin said that he would be attending an e-accessibility conference the following day. Roger Darlington had attended an Ofcom training course on regulation. He said that the course would be useful for new members appointed in the Summer. He had chaired a session at a Westminster eForum seminar on user generated content. With the Panel Chair he had attended a meeting of Ofcom's Advisory Committee for England (ACE). An ACE member recruitment exercise was expected to take place shortly and recruitment undertaken to fill a Director Nations, England post. ACE had discussed next generation access (NGA) and Ofcom was planning a half-day event devoted to NGA. In addition ACE had discussed a forthcoming consultation on Topcomm, the web service designed to help fixed line telecoms customers make informed decisions on which supplier to use and an interest of Panel member Allan Williams. ACE had been given a presentation by Ofcom colleagues on the 'Digital home'. It was agreed that this and other technology demonstrations should be made available to the Panel.

5.2 Allan Williams had attended a number of meetings providing useful groundwork for the Panel's workstream on geographic exclusion. He had met with the Commission for Rural Communities (CRC). Its role was to provide well-informed, independent advice to government and ensure that policies reflected the needs of people living/working in rural England. It had a particular focus on tackling disadvantage. CRC recognised the importance of access to communications services but was finding its way in that policy area and would welcome contact with the Panel. Allan Williams had met with ruralnet, a rural regeneration charity promoting a living and working countryside. He would copy to Panel members ruralnet's presentation on provision of communications technology to rural communities. Allan Williams was a member of the 'blue sky group' at Action with Communities in Rural England (ACRE), his employer. The group was looking at how Regional Development Agencies were working on issues including geographic exclusion. Referring to the Department for Environment, Food and Rural Affairs, Allan Williams said that it had suffered government cuts and had reduced its rural policy work. Instead it looked to other government departments to consider the rural policy dimensions of their work.

5.3 Simon Gibson had given evidence to the Welsh Assembly's Broadcasting Committee on 14 April 2008. Rhodri Williams, Ofcom's Director for Wales, Ian

Hargreaves, Ofcom Board member, and Sue Balsom, Member for Wales, Ofcom Content Board, also gave evidence that day. There had been discussion of issues related to digital switchover (DSO) and PSB. Simon Gibson had commented that Ofcom's governance structure would have benefited from main Board appointees for the Nations, a requirement for the Ofcom Content Board and the Consumer Panel. He had invited the Broadcasting Committee to visit Inuk Networks' office in Abercynon for a demonstration of the technology referred to in his presentation. [Note: Simon Gibson is Chairman of Inuk Networks Ltd]

5.4 Bob Twitchin had attended a meeting of the British Computer Society's Social Responsibility Committee. He continued to act as a member of the TAG Relay Campaign Sub-group. He reported that the campaign for improved relay services had received coverage on the BBC news website [<http://news.bbc.co.uk/1/hi/technology/7327245.stm>]. The TAG campaign had turned to dialogue with politicians. Bob Twitchin had attended the 19 March 2008 meeting of the Consumer Forum on Communications (CFC), along with the Chair and other Panel members. It had been agreed that Ofcom would host future CFC meetings and CFC members had been encouraged to provide views to Ofcom on future direction.

5.5 Fiona Ballantyne said that work was progressing on video diaries with participants from different countries talking about issues including how use of the internet affected their lives, some participants with and others without high speed connections. Graham Mather reported on debates in Europe related to proposals for a European electronic communications authority, an option talked about was re-launch of the European Regulators Group as a body of European regulators in telecoms (referred to as BERT); an approach that seemed to be favoured by MEPs. Functional separation in telecoms seemed to be developing in other EU countries, with interest shown in Spain and Ireland.

AP6 Secretary to include technology demonstrations on Panel meeting days from time to time, including Ofcom's 'Digital home' presentation.

AP7 Allan Williams to copy members ruralnet's presentation on provision of communications technology in rural areas.

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

6.1 Brief mention was made of the Broadband Stakeholder Group (BSG) event planned for 9 June 2008. It would include launch of joint research on the value of next generation broadband, funded by BSG, BERR and the Panel. Invitations would be sent out shortly. Simon Gibson suggested that it could be useful for the Panel to discuss wireless broadband with a colleague of his, a former Sprint executive.

AP8 Dominic Ridley to make contact with a former Sprint executive to discuss wireless broadband with a view to a meeting with the Panel's next generation infrastructure sub-group.

## **7. Panel work-plan**

7.1 Members discussed each of the Panel workstream documents. The Chair had not assigned responsibility for workstreams to particular members but would complete that exercise by the end of the week. Discussion of the workstreams proceeded as follows:

- building the consumer interest into the framework for future policy and regulation - the Panel would have to budget for meetings with bodies in Europe; securing consumer representation at EU level appeared to be missing from objectives but otherwise the workstream was agreed;
- next generation infrastructure - the workstream was agreed;
- geographic exclusion - written comments from Jeremy Mitchell were noted; a member commented that low take-up of broadband by low income groups remained an issue; another argued that spatial mapping was required to plan interventions; the Chair suggested inclusion of a deliverable to encourage a spatial mapping exercise; the Deputy Chairman suggested liaison with industry and the National Farmers Union; there were a number of bodies to influence on geographic exclusion and there would be mileage in looking at overlap with other workstreams; minor revisions would be made to the work stream;
- building the consumer interest into the process of regulation - the workstream was agreed;
- access and inclusion of people with disabilities - a member had minor drafting points and would share these with Ben Wallis;
- media literacy - the workstream document had been revised to sharpen its focus, eg on issues like empowerment and ensuring that consumers could choose and use products and services; the Deputy Chairman argued that the work stream required more concrete/measurable outcomes, it needed to be clearer on what the Panel was seeking from Ofcom; the Chair suggested that media literacy was not central to Ofcom's work but driven by content issues rather than consumer empowerment issues; a member said that Ofcom defined media literacy in terms of access, control of content and generation of content - most of Ofcom's media literacy activity was related to control of content; the Chair requested revision of the workstream document by the Panel sub-group assigned to this work; she added that its objectives would go beyond Ofcom;
- digital switchover - the Chair said that this would involve a watching brief; a Panel member said that the workstream needed to be specific about achievement that was being monitored, eg using a check-list of what

should be addressed over time and with a definition of success; another member said that if the Panel made an intervention it should do so following switchover in the Granada region; it was suggested that a deliverable could be to ensure that lessons are learnt from the early stages of switchover; the Deputy Chairman said that the Panel had to recognise the limited contribution it could make to DSO and needed to be clear about its role; it was possible that an audit tool was required; a member proposed close working with Ofcom's advisory committees (ACs) and the Chair asked the Panel members for the Nations to obtain feedback from with their respective AC; it was agreed that deliverables should be reviewed;

- public service broadcasting - it was agreed that the Panel would commission a position paper on PSB from an external consultant;
- urgent consumer issues - these would change in response to progress on particular issues and as other issues emerged.

7.2 The Chair drew discussion of this item to a close. Workstreams would be revised based on discussion at the meeting and a completed work-plan would be published shortly on the Panel website.

AP9 Chair to agree workstream responsibilities with members by 26 April 2008.

AP10 Dominic Ridley/Ben Wallis/sub-groups to revise workstreams as required.

AP11 Dominic Ridley to complete/publish the work-plan as soon as possible.

AP12 Panel members for the Nations to obtain feedback on the Panel's DSO workstream from Ofcom's ACs.

AP13 Dominic Ridley to commission a position paper on PSB.

## **8. Economic and social value of next generation broadband**

8.1 Members had received a draft of the research report *The value of Next Generation Broadband* jointly funded by BSG, BERR and the Panel, drafted by an economist and a project co-ordinated by BSG. The Chair reported that the BSG Executive Committee, of which she was a member, was discussing the draft report at a meeting taking place at the same time as the Panel meeting. The Chair said that the draft did not fully cover the issues of concern to the Panel. BSG and BERR shared her view that a shorter and more focussed document was required for publication that would provide a framework and explanations to aid investment decisions. Comments were made on the draft:

- the draft was not consumer-oriented; no account had been taken of how consumer time involved in upgrading end-user equipment should be measured and quantified or the direct disturbance costs of replacing in-house wiring; discussion of WiMAX appeared to be missing;
- the Chair said that two sets of social costs needed to be taken into

- account, for public services and for personal benefit; both were difficult to quantify but it would be problematic if they were not included in a framework for decision making;
- the report title needed to indicate that there was a social dimension; NGA was not an issue of interest only to the boards of companies or investors;
  - the draft indicated a reluctance to borrow from models in the far-east;
  - there appeared to be no policy outcomes for government;
  - in answer to a request for background on the Panel's involvement with the NGA research it was confirmed that the Panel had discussed this matter at its October 2007 meeting; the Deputy Chairman said that the report needed to explain what the Panel was seeking from the research;
  - the audience for the report was expected to be decision and policy makers, including those working on the Government's independent review on next generation broadband;
  - the BSG's earlier publication *Pipe Dreams? Prospects for next generation broadband deployment in the UK* had been excellent but the next stage in thinking was more difficult and was work in progress.

8.2 The Chair brought this item to a close and said the report for publication would need to look very different when compared with the draft under discussion. Dominic Ridley would draft a note with comments from the Chair and forward to Kip Meek, Chairman of BSG.

AP14 Dominic Ridley to draft a note to BSG Chairman Kip Meek.

## **9. Consumers, communications and the EU**

9.1 Members had received a draft paper commissioned to help the Panel develop its understanding of the EU and consumer issues in the communications sector. Graham Mather expressed overall satisfaction with the paper. In relation to EU directives, it suggested a Panel predisposition to minimum harmonisation but Graham Mather said that this would be a bold position to take and a short-term approach. There were debates to be had about arrangements for consumer representation at the EU level on communications matters – the UK was the only member state with a body like the Ofcom Consumer Panel and some in the European Commission favoured extending the Panel model to other member states. A positive suggestion had been made for a mechanism that would require communications regulators to have a process which would allow designated bodies representing consumers to appeal against their decisions, which were believed to be in conflict with the EU legal framework. Graham Mather's view was that the Panel should support Ofcom's position in relation to a European communications regulatory body, based on a network of national regulators as opposed to a top-down European regulator. In pursuing issues related to Universal Service, it could be more productive for the Panel to engage with the

European Parliament rather than the Commission. Panel members made comments as follows:

- Panel focus should be on UK consumers; there could be occasions to take a wider view in relation to EU consumers; the paper could be published as a Panel position paper but with the inclusion of an action plan;
- the paper referred to issues related to copyright and Spam but these were outside the Panel's purview; publication of data on consumer complaints should be encouraged;
- 85% of email was Spam and current EU regulation was ineffective in addressing this problem; it was an issue of concern for consumers and could be added to the Panel's list of 'urgent consumer issues';
- a maximum harmonisation approach could restrict action on behalf of consumers; establishment of bodies like the Consumer Panel in other EU states would be a positive step;
- there were many issues to take forward in Europe and it would be unreasonable to expect the Panel to have an agreed position on all of them.

9.2 The Chairman drew discussion to a close. Ben Wallis would revise and produce a shorter version of the paper for publication, taking account of views expressed in the meeting, the written comments provided by Jeremy Mitchell and advice from Graham Mather.

AP15 Ben Wallis to draft a short publishable version of the Panel's EU paper.

## **10. Online consumer activism and the communications industry**

10.1 Members had received a draft report for discussion and commented as follows:

- the Welsh Consumer Council had published a similar report, advocacy 2.0, exploring how the internet was empowering consumers to act together and challenge the unfair treatment and disadvantage they faced;
- some firms saw online communities as a threat but instead could engage with them to improve their services and reputations; three cases raised in a Guardian could be used to strengthen the report (<http://www.guardian.co.uk/media/2008/apr/21/internet>);
- the Panel could create a consumer facing website to create a platform to allow consumers to air concerns; weblogs could put pressure on companies; a feasibility study would be required to determine the resource implications;
- there could be a danger of excluding groups who did not use the internet to campaign;



- it would be useful to have a clearer profile of online activists; the paper lacked some context and needed to explain why it had been commissioned by the Panel; it needed to make clear the problems that required solutions;
- a number of activists came together in transient groups because of a particular and shared issue; it was insufficient for them to appeal to the NCC or other consumer bodies;
- care should be taken with the presentation of the report since the Panel was not a complaint handling body and consumers' expectations could be raised.

10.2 The Chair said that the conclusion needed to be detached from the report, with the issues and options for the Panel made clear and for discussion at the next Panel meeting. One option could be to use the report as the basis for a press article. A preface was required to explain why the Panel had commissioned the report, with a view to publication following the May Panel meeting. It was noted that the paper contained recommendations for the Panel and for others.

AP16 Dominic Ridley to revise the Panel's consumer activism paper for publication (after the May 2008 Panel meeting) and to consider the Panel's next steps (for discussion at the May Panel meeting).

## **11. Discussion with Ed Richards**

11.1 There was discussion with Ed Richards, Ofcom Chief Executive, on challenges posed by vested interests. Issues discussed could be borne in mind when revising the consumer activism report.

## **12. Services for disabled consumers**

12.1 Members had received an information paper providing an overview of Ofcom projects related to disability. Ofcom colleagues confirmed that the approach to relay services had been discussed with Ofcom's Policy Executive and approved by Ofcom's Consumer & Citizen Steering Group. Ofcom lawyers were looking again at legal issues and this could delay Ofcom's consultation timetable. The Chair said that the Panel would like be informed if resolution of legal issues became drawn out. There had been discussions with BT, who had been asked to explain the methodology used to calculate new charges for wholesale access to its TextDirect service. Ofcom was seeking assurances that charges would remain cost-based and had asked BT to make its charges more transparent. It was confirmed that the bulk of relay costs arose from the RNID Typetalk operator service. Brief reference was made to Ofcom's work on usability. A workshop was planned for 4 June 2008, which would involve Ofcom's Advisory Committee on Older and Disabled People and would explore

themes of inclusive design. Bob Twitchin would chair a discussion about how Ofcom could best promote usability. Ofcom colleagues would ensure that invitations are sent to Panel members.

AP17 Ofcom colleagues to circulate invitations to Ofcom's June 2008 usability workshop to Panel members.

**13. Other matters to note/agree**

13.1 Members had received a written report on Panel activities, Ofcom publications, policy projects and events; its contents were noted. For information members had received an update paper from Ofcom on its premium rate services review.

**14. Any other business**

14.1 The Chair raised two items: additional charges levied by telecoms operators and the cost of calls to 0870 numbers [Number Translation Services – NTS]. There had been discussion of the former at the recent CFC meeting, with the focus on direct debits and the extra charge incurred by customers not paying bills by that method. It was a problem in other sectors, like energy, and it was agreed that the Panel would give consideration to a dialogue with the NCC and Citizens' Advice. Ofcom was about to consult on 0845 numbers and the Panel would issue a statement condemning the high cost of calls to those numbers and calling for action from industry to charge geographic rates. A Panel member said that Ofcom's Advisory Committee for England took an interest in this issue and would welcome a dialogue.

AP18 Chair and Ben Wallis to discuss direct debits and consider a dialogue with the NCC/Citizens' Advice.

AP19 Panel to issue a news release to coincide with Ofcom's publication of its consultation on 0870 numbers.

AP20 Ben Wallis to discuss NTS with Ofcom's Advisory Committee for England.

.....Chair

.....Date