

## Minutes of the 52<sup>nd</sup> meeting of the Communications Consumer Panel

Wednesday 14 January 2009 at 14.00 hours

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

Present

### Consumer Panel

Anna Bradley (Chair)  
Ruth Evans (Deputy Chairman)  
Fiona Ballantyne  
Louisa Bolch  
Kim Brook  
Colin Browne  
Roger Darlington  
Leen Petré  
Damian Tambini  
Bob Warner

### Apologies

Maureen Edmondson

### In attendance

Alistair Bridge (Principal Adviser)  
David Edwards (Panel Secretary)  
Siân Evans (Panel Media Consultant)  
Graham Howell (Secretary to the Ofcom Corporation - item 4)  
Dominic Ridley (Policy Adviser)  
Other Ofcom colleagues (items 3 and 6)  
Simon Crine (Director of Corporate Affairs, Digital UK - item 5)  
David Scott (Chief Executive, Digital UK - item 5)

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

1.1 Declarations were made under item 6.

## **2. Minutes of the meeting on 16 December 2008 and matters arising**

2.1 Minutes of the previous meeting were agreed subject to very minor amendment. Members would be provided with a draft response to the Department of Communities and Local Government's (DCLG) *Delivering Digital Inclusion: An Action Plan for Consultation*, with a final draft submitted to DCLG the following week. The Memorandum of Understanding (MoU) between the Panel and Consumer Focus would be revised and agreed outside the meeting. Alistair Bridge would meet with Consumer Focus shortly to discuss the MoU and other issues of mutual interest.

2.2 Members gave positive feedback on the morning's Westminster eForum Digital Britain event they had attended. Fiona Ballantyne had been a participant in an eForum panel on Convergence - Citizens, Consumers and Regulation. The Chair and Alistair Bridge had attended the first session at the eForum and then attended a meeting of the Digital Britain steering group, where they gave a presentation on the Panel's deliberative research to better understand the needs of consumers and what would be required to meet these in the future. The steering group had reacted positively and it was proposed that the Panel take the research a step further by next looking at the communications services consumers would need to ensure social inclusion (see item 6 below).

AP1 Secretary to amend minutes.

AP2 Dominic Ridley to copy members a draft response to the Delivering Digital Inclusion consultation and submit the final response to the DCLG.

AP3 Panel/Consumer Focus MoU to be revised and agreed.

### **3. Next Generation Access (NGA)**

3.1 Members had received a paper from Ofcom with summary details of responses to its recent consultation *Delivering super-fast broadband in the UK*. An Ofcom colleague spoke briefly about the responses and the issues raised by wholesale passive and active access products, those products being the basis of current Ofcom thinking on future delivery of next generation services. It was noted that passive and active products were already the basis for current generation fixed broadband provision.

3.2 Passive products would support network competition; active products would support service provision-based competition. Ofcom's aim was to promote investment in a way that supported competition but there could be a trade-off between the two. BT had advocated an active product solution but, depending on decisions related to build, that approach would not necessarily preclude passive options. If the company was keen to invest Ofcom would wish to encourage BT. Changes to undertakings would be required and take time to agree (undertakings were agreed in the settlement arising from Ofcom's Strategic Review of Telecommunications). To benefit consumers Ofcom wished to accelerate the rollout of services whilst retaining options for service and price innovation. Virgin Media had already launched next generation services and had plans for a 50 Mbps service, increasing competitive pressure on BT to invest, and in the previous week senior Conservative politicians had delivered speeches urging the importance of high speed broadband to the UK economy. Ofcom expected to publish a statement in late February 2009.

3.3 Panel members reacted with a number of comments. It would be important for Ofcom's NGA team to produce a clear statement of options and how they could impact on consumers for consideration by the Panel. Thought needed to be given to public investment options, should a scenario arise where

BT chose not to invest or where other communications providers found their plans affected by the economic downturn. Ofcom was considering these and other scenarios, including the regulatory levers at its disposal, whether mobile services could be a substitute and what might happen if consumers were unwilling or unable to pay for new services.

3.4 The Chair summed up this part of the discussion and confirmed that the Panel wished to be kept abreast of progress of Ofcom's discussions with BT. The Panel did not have concerns about Ofcom's general approach but to take an informed view it would require the statement of options mapped against consumer benefits, referred to earlier. The Panel agreed that such a statement should be taken into account by the Ofcom Board and Policy Executive (PE).

3.5 Discussion turned to the draft of a Panel report entitled *Local initiatives on Next Generation Access in the UK* written by Roger Darlington. He explained that although not comprehensive the report attempted to collate information on the range of local initiatives to provide NGA networks. In terms of context setting, some commentators argued that NGA should be delivered by the market and it was a matter of waiting to see if that happened. Others were not convinced the market would deliver and even where this happened it was argued that a commercial approach would only reach certain parts of the country. Local initiatives would test different business models and technical solutions; and that were a central clearing house to be set up, by government for example, it could usefully provide advice on funding models, technical standards and procurement.

3.6 Members made comments or raised questions arising from the draft report related to development of common standards and interoperability; encouragement of communities to demand or develop local NGA initiatives; the range of services that could be delivered via such initiatives; the value and efficiency of local NGA initiatives, particularly where public money was involved; whether only certain social demographic groups would benefit from local schemes; whether it could be cheaper to deliver many services via existing copper networks; and whether the report was intended to provide information or to urge action by Ofcom, government or other bodies. The Panel had published a paper on NGA in September 2008 and a question was raised about whether the Panel's policy position should be carried forward or reviewed. It was agreed that the Panel's approach should be to carry forward its policy positions, on NGA and on all other matters, but reviewing them when opportunities arose.

3.7 It was agreed that the purpose of the local initiatives paper would be to raise awareness of local NGA schemes and how they could contribute to the national debate on the roll-out of NGA; that it would not articulate a Panel view as to the merits of local schemes; that there would be minor revision of the draft; that it would be published on the Panel website the following week; and that the Panel would review its position on NGA at a suitable opportunity.

AP4 Ofcom to keep the Panel informed about its dialogue with BT in relation to

its NGA roll-out plans.

AP5 Ofcom to act on the Panel's request and produce a clear statement of how the options under consideration in relation to NGA could impact on consumers for consideration by the Panel and Ofcom's Board and PE.

AP6 Roger Darlington to revise paper on local NGA initiatives for publication.

AP7 Panel to review its position on NGA at a suitable opportunity, eg following publication of the Digital Britain report.

#### **4. Governance**

4.1 Graham Howell delivered a short introductory presentation on Ofcom's Boards and Committees structure and explained their respective roles and interactions, along with Ofcom's decision making processes. He also spoke about Ofcom's executive structure and agreed to provide Panel members with an organisation chart. He referred to the Memorandum of Understanding (MoU) that existed between Ofcom and the Panel and suggested that it could be useful to review the MoU, it was agreed in 2004 and subsequently revised in July 2006.

4.2 The Deputy Chairman had prepared a discussion paper on a governance framework for the Panel. The Chair had discussed the paper with the Deputy Chairman and proposed and members agreed that the Panel Advisory Team should progress various governance issues, including residual work from the Panel's November 2008 away-day; work to strengthen external reporting mechanisms; development of an appraisal process for the Panel and members; and a review of the MoU between Ofcom and the Panel. This would be the Deputy Chairman's last Panel meeting, her appointment ending on 31 January 2009, and the Chair took the opportunity to thank Ruth Evans for her valuable contribution to the work of the Panel, both since inception and during the recent transition to new Panel membership.

AP8 Graham Howell to circulate Ofcom's executive organisation chart.

AP9 Advisory Team to progress governance issues, including residual work from the away-day; strengthening external reporting mechanisms; an appraisal process for the Panel and members; and review of the MoU with Ofcom.

#### **5. Digital Switchover**

5.1 David Scott and Simon Crine joined the meeting. David Scott spoke briefly about progress on digital switchover (DSO), and with particular reference to the recent switchover in the Border TV region. He outlined the process and highlighted some of the lessons that had been learnt and issues raised; including some low level equipment issues involving software that failed to perform; and there were matters related to the Help Scheme but all those that requested help received assistance. The retail trade responded well and the equipment supply chain had been effective. Both Digital UK (DUK) and the Help Scheme were compiling post-Border implementation reports which could be shared with the Panel in due course.

5.2 The Panel had received only anecdotal feedback but noted that retailers appeared to have responded well to switchover in the Border region. DUK was aware that the two-stage switchover process could have been an issue for some households, ie analogue BBC Two was switched off some weeks before the remaining analogue channels and this could have led to some people being charged twice for retuning. On a number of occasions the Panel had flagged its concerns about socially isolated consumers in the switchover process, elderly people with dementia in particular, and it would be necessary for the Help Scheme to reach those individuals. Switchover in Multiple Dwelling Units was another concern and would be tested in the switchover in the Granada TV region. In response Simon Crine confirmed that DUK was involved in communication with landlords, including housing associations, local authorities and government institutions. It would make extensive use of mailings, had a dedicated housing team, plus DUK regional teams. The Chair brought discussion to a close, said that the Panel would welcome a further update following switchover in the Granada region and it was agreed that the Panel would write to DUK to amplify switchover issues of interest to members.

AP10 Secretary to ensure that colleagues from Digital UK are invited to meet/update the Panel following switchover in the Granada TV region.

AP11 Dominic Ridley to confer with Leen Petré and Fiona Ballantyne to draft a letter to DUK flagging Panel issues related to switchover.

## **6. Universal Service**

6.1 Prior to meeting with Ofcom colleagues, members returned to discussion of Digital Britain. Universal service would be a central part of that agenda. As discussed earlier in the meeting, it was proposed that the Panel take its Future of Regulation consumer research a step further by looking at the communications services required to ensure social inclusion. It was agreed that a research specification should be drawn up. The Panel would require time to reach a view on universal service and discussion with Ofcom colleagues would provide an opportunity to understand Ofcom's thinking. Colin Browne declared KCom as a client - KCom (formerly Kingston Communications) is the provider of public payphones, under universal service obligations, in the Hull area. Bob Warner declared that earlier in his career he led BT's payphone business for three years.

6.2 Members had already received a discussion paper and supporting background material on universal service. Ofcom colleagues joined the meeting and initiated discussion by saying that there were four developments related to Ofcom's work: a European Commission communication on the second periodic review of universal service; the launch of Digital Britain; Ofcom's commitment to a net cost assessment; and issues related to current implementation of the universal obligation, including payphones and text relay.

6.3 Responding on behalf of the Panel, the Chair said that universal service

was likely to be a significant part of the Panel's 2009/10 work programme. There was brief discussion of cost assessment and the criteria for measuring benefits, some of which were intangible, eg brand benefit. Ofcom would welcome Panel input to this exercise. Discussion turned to public payphones; the benefits accrued and whether they could be delivered by other means. It was suggested that payphone provision could in some way be linked to delivery of high speed broadband but an Ofcom colleague cautioned that universal service provision was designed to provide safety net services. It would be difficult to make the connection with NGA and a case for high speed access to allow participation in society. Analogy was made between government funding for local post offices and funding of payphone provision, eg local councils taking over running costs. A small number of public payphones were very profitable whilst many were loss makers, with some located in areas that lacked mobile coverage.

6.4 The Chair confirmed that the Panel wished to engage with Ofcom's work on universal service but had not reached a collective view. In addition, the Panel had an interest in the Digital Britain agenda, driven by research the Panel had undertaken and intended to pursue. A workshop on universal services could be the way forward, focussing especially on the benefits to society. It was agreed that the Panel Advisory Team would discuss this further with Ofcom colleagues. Issues could also be clearer following publication of the report expected from Digital Britain.

AP12 Advisory Team, and Panel members involved in Future of Regulation research, to work with research colleagues to draft a specification for further research as a contribution to the Digital Britain agenda.

AP13 Advisory Team to discuss with Ofcom the idea of a workshop on universal services.

## **7. Panel work programme**

7.1 Members had received a revised outline Panel work programme for discussion. Members agreed the Panel's statement of its role: to influence Ofcom, Government, the EU, and service and equipment providers so that the communications interests of consumers and citizens are protected and promoted. There was discussion of the Panel's strategic priorities aligned with this role and these were agreed. Discussion turned to the narrowing down of policy issues and members made a number of comments. The scoring of media literacy was highlighted and the suggestion made that it should be higher. Scoring would depend partly on how media literacy was defined, whilst recognising that it included content issues for the Ofcom Content Board. A view could be taken following discussion with Ofcom's media literacy team, to take place with the Panel Advisory Team the following week. There was discussion of NGA and its importance. It was argued that NGA did not share a ranking similar to that of DSO, which for the Panel would involve a watching brief. It would be important to make clear the ways in which the Panel's work programme contributed to Ofcom's agenda and to fulfil the Panel's role as critical friend.

7.2 It was agreed that Alistair Bridge would look more closely at the work areas the Panel was confident about engaging with, to give them more substance for discussion at the February 2009 Panel meeting. He would also re-examine five areas where the Panel was less sure of their status: NGA; safety and security; media literacy; consumers rights and responsibilities; and energy efficiency of communications devices. Following discussion at the February meeting the Panel intended to consult stakeholders on its work programme at a Panel event in early March. In the meantime the outline work programme would feed into discussions with Ofcom about the Panel's budget for 2009/10.

AP14 Alistair Bridge to develop the Panel work programme for discussion at the February Panel meeting.

## **8. Monthly report**

8.1 It was agreed that Alistair Bridge would circulate a brief report by email, to update members on, amongst other things, important items on Ofcom's agenda. Referring to updates, the Secretary was asked to provide members with details of how to register for Ofcom's weekly political updates.

AP15 Secretary to forward to members details of how to register for Ofcom's political updates.

## **9. Any other business**

9.1 Members had received a note containing light-touch rules and instructions on how to use the Panel blog. The blog would be launched the following Monday, 19 January 2009, with text supplied by the Panel Chair. This would be followed by a blog on the Panel report on local initiatives on NGA. The Secretary would ensure that members received login and password details for blogging purposes. A draft response to Ofcom's consultation on its Annual Plan 2009/10 would be discussed at the next meeting.

AP16 Secretary to ensure that Panel members are provided with login and password details.

AP17 Secretary to ensure that Ofcom's Annual Plan is on the agenda of the February Panel meeting.

.....Chairman

.....Date