

Minutes of the 53rd meeting of the Communications Consumer Panel

Wednesday 4 February 2009 at 9.30 hours

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

Present

Consumer Panel

Anna Bradley (Chair)

Fiona Ballantyne

Colin Browne

Roger Darlington

Maureen Edmondson

Leen Petré

Damian Tambini

Bob Warner

Apologies

Louisa Bolch

Kim Brook

In attendance

Alistair Bridge (Principal Adviser)

David Edwards (Panel Secretary)

Dominic Ridley (Policy Adviser)

Claudio Pollack (Ofcom Director of Consumer Policy – item 4)

Other Ofcom colleagues (items 5, 6, 7 and 10)

1. Declaration of members' interests

1.1 There were no declarations. Secretary confirmed that members' interests were published on the Panel website.

2. Minutes of the meeting on 14 January 2009 and matters arising

2.1 Minutes of the previous meeting were agreed subject to minor amendment.

Next generation access

2.2 Ofcom had provided members with a paper on consumer benefits and the risks of its proposed approach to the regulation of super fast broadband. The paper had been requested at the January Panel meeting. The Panel noted that Ofcom had published *Public Broadband Schemes – A Best Practice Guide* (February 2007) in conjunction with the DTI (now BERR) and that the guidance may have become out-of-date since publication of the *The Next Phase of*

Broadband UK: Action now for long term competitiveness (September 2008 - the Caio report) and other developments.

Panel meeting papers

2.4 Panel members would welcome electronic access to Panel meeting papers held by the Advisory Team.

AP1 Secretary to amend and publish minutes of January Panel meeting.

AP2 Advisory Team to provide members with transcript/highlights of Colette Bowe's Pre-Appointment Hearing.

AP3 Alistair Bridge to identify blogging topics and share with members.

AP4 Advisory Team to make enquiries about whether Ofcom/BERR have plans to update its guidance on *Public Broadband Schemes: a best practice guide* (February 2007).

AP5 Advisory Team to respond to Ofcom's consumer benefits and super fast broadband paper, welcoming it and urging that it goes forward to Ofcom's Policy Executive, to the Board and that it is factored into the planned Ofcom statement.

AP6 Secretary to enquire about provision of electronic access to Panel meeting papers held by the Advisory Team.

3. [This item has been redacted.]

4. Consumer Policy Update

4.1 The consumer agenda had been set by *Ofcom's Consumer Policy*, a statement published in December 2006, and issues of pressing consumer harm. Claudio Pollack gave Panel members an oral update on a range of Ofcom consumer policy work, on issues including complaint handling, dispute resolution, mobile and fixed-line mis-selling and services for consumers with a disability. He reported on issues where Ofcom had made progress, with the introduction of a code of practice on broadband speeds; in tackling silent calls and issues related to mobile cash-back deals and additional charges. Looking to the near future, progress was expected on Access & Inclusion issues (see item 6 below) - with an action plan expected to include work to resolve 999 mobile roaming and issues related to the text relay service - and from a complaints review. Some of this work would rely on Ofcom research to provide an evidence base. Consumer information was another strand of Ofcom's work and it had already conducted research and produced a number of consumer advice leaflets. There was a wide-ranging discussion that included the following.

- The scale and breadth of Ofcom's consumer policy agenda was noted.
- The agenda included a number of critical issues to be addressed to further the Digital Britain agenda.
- It was accepted that Ofcom had to take account of resources in pursuit of its consumer agenda and that due process could affect timescales in resolving issues. On occasions there were legal obstacles to be overcome

- or uncertainty about the best instrument to use.
- The Panel's 2009/10 work programme would include some issues to be raised publicly to serve consumer/citizen interests and, where possible, to help advance Ofcom's consumer/citizen agenda.
 - "Naming and shaming" of service providers was raised as a means to affect consumer benefits and empowerment; the Panel recognised that there could be complications, legal and otherwise, and would give further consideration to this matter.
 - It was noted that appointment of a new Ofcom Chairman and plans for Ofcom to take over responsibility from Postcomm for the regulation of postal services could impact on Ofcom's consumer policy work (the latter depending also on Consumer Focus' involvement).

4.2 To enable the Panel to structure its engagement with this very important part of Ofcom's work, it was agreed that the Panel required a paper to set out planned Consumer Policy work (including work on disability issues), to identify the policy priorities and for all policy areas to explain what success would look like; to set out the routes to achieving success; to set out timescales; to identify potential obstacles; explain the role for enforcement; and to suggest areas where Ofcom would value Panel input.

AP9 Secretary to invite an Ofcom colleague to the March Panel meeting to discuss postal regulation.

AP10 Claudio Pollack to provide the Panel with a paper that sets out the Consumer Policy team's planned work and related issues.

AP11 Advisory Team to discuss with Claudio Pollack when to bring the paper to a Panel meeting.

AP12 In scoping out the Panel's work on consumer and citizen empowerment, the Advisory Team to note the need to examine the issue of "naming and shaming" service providers.

AP13 Advisory Team to circulate details of Ofcom's recent research on consumer information.

5. Media Literacy

5.1 Ofcom had provided members with an information paper on its media literacy programme and a copy the *Review of Ofcom's Media Literacy programme 2004-08* (published December 2008). An Ofcom colleague summarised Ofcom's work/role related to media literacy - its specific duties were described in Section 11 of the Communications Act 2003 - and this included publication of research/audit exercises. Ofcom had limited duties under Section 10 to encourage availability of easily usable apparatus. A key and current work phase was to respond to Action 22 in Lord Carter's *Digital Britain: The Interim Report*, which was to make an assessment of Ofcom's current responsibilities in relation to media literacy, working with the BBC and others to recommend a new definition and ambition for a National Media Literacy Plan. To that end Ofcom was setting up a working group which would report by the end of April 2009 and

was expected to meet on four occasions. The Panel was invited to send a representative to the working group.

- The Panel was concerned that consumer organisations might not be well represented on the media literacy working group, Ofcom having reported that in the main it would invite a number of organisations responsible for delivery of services to take part; for this and other reasons the Panel welcomed the opportunity to join the working group.
- As an alternative or in addition to joining the working group the Panel could consider writing to Ofcom or to Lord Carter with its views on media literacy.
- The Panel wished to gain a better sense of metrics, ie the existing level of media literacy for different consumer/citizen groups and the level sought; it welcomed the evaluation toolkit for media literacy projects and other activity announced in the Ofcom *Review* document.
- Although media literacy may have its origins in concerns about broadcast content the Panel recognised that an increasing number of issues were converging in the media literacy space, including provision and access to public services and usability of equipment.

5.2 The Panel wished to help redefine media literacy and to encourage a step-change in activity on the media literacy front. Having debated the invitation to join the Ofcom-chaired (Digital Britain) working group the Panel agreed to participate. Nominated Panel members would assist in formulating the Panel's input.

AP14 Panel to accept Ofcom's invitation to be represented at the working group on media literacy. Advisory Team to work with the Chair, Leen Petré, Lou Bolch and Bob Warner to formulate the Panel's input to the group.

AP15 Advisory Team to provide members with the url to access Ofcom's media literacy reports.

6. Access & Inclusion

6.1 Panel members had been provided with a copy of the Panel's recent response to the Government's Digital Inclusion Action Plan (DIAP), which examined a number of issues being considered by Ofcom's Access & Inclusion team, and a diagram showing the links between various policy initiatives. Ofcom colleagues attended and presented in some detail a set of slides covering ongoing activity - related to media literacy and TV access services - and increased activity related to: universal service and implementation of existing provision; broadband availability and take-up; 999 mobile roaming; and services for people with a disability, focussing on the relay service for hearing and speech impaired users. Ofcom planned to publish two documents shortly. The first would cover a wide range of Access & Inclusion issues; the second would focus on broadband issues as a part of Ofcom's contribution to the Digital Britain agenda – neither would be formal consultation documents. Ofcom had commissioned two

pieces of consumer research, one on the communications requirements of consumers with a hearing impairment and the second to investigate consumer groups with low broadband take-up.

- The Panel welcomed progress on 999 roaming, which was expected to be introduced by the year end.
- The Panel recognised the urgency of resolving issues related to the relay service but this would address the requirements of only a relatively small number of people with a disability (and the people who wished to communicate with them by telephone). The Panel wished to see wider progress related to services for other disabled people, on usability in particular.
- There would be key decisions that were for the Government, eg related to universally available broadband. Members recognised that Ofcom would be active in considering options and the Panel wished to engage with that process.

6.2 The Panel agreed that it would be important to have discussions with Ofcom about Digital Britain-focussed work on universal service and the strategic issues related to policy development.

AP16 Ofcom to share Access & Inclusion slides with Panel members .

AP17 Ofcom to share confidential drafts of its two planned publications on Access & Inclusion with the Panel.

AP18 Ofcom to provide an update in a few months' time on progress in implementing 999 roaming.

AP19 Access & Inclusion team to meet the Panel in May to discuss Ofcom's research into groups with low broadband take-up.

AP20 Chair to discuss Ofcom's Digital Britain-focussed work on universal service with senior colleagues in Ofcom.

7. Future Panel research

7.1 Colleagues from Ofcom's research team joined the meeting. Panel members had received a written research proposal for discussion. The research would build on recent deliberative research undertaken for the Panel by Opinion Leader on the future communications needs of consumers and citizens. This 'stage two' research would enable the Panel to contribute further to the work of Digital Britain and more generally to Ofcom's work, to the DIAP and the EU. The proposal included qualitative research to understand people's views and quantitative work to provide a UK-wide perspective. It would complement Access & Inclusion research being undertaken by Ofcom. The Panel welcomed the proposal and made a number of comments on the proposal, as below.

- The Panel recognised that careful phrasing of research questions would be required, eg on public funding trade-offs in relation to access to

- broadband, and media literacy categories could be used.
- The quantitative research would need to adequately represent the views of all consumer segments and consumers aged over 75 were highlighted.
 - In finalising the qualitative research it could be beneficial to have a dialogue with organisations that represent older people. A caveat was entered here since the research aimed to gather evidence for a public policy framework for the next 15 years, eg from consumers and citizens who would be over 75 in the coming years. Future-proofing should be an aim.
 - Checks should be undertaken to avoid replicating research already undertaken by others, eg Ofcom's Access & Inclusion research, and to ensure that the research is aligned fully with the Digital Britain agenda, including checking with the Digital Britain team.

7.2 Taking account of Panel members' comments and suggestions it was agreed that the research be commissioned.

AP21 Advisory Team, Fiona Ballantyne, Damian Tambini and Leen Petré to work with Ofcom research colleagues to finesse the Panel's research specification, with the research then commissioned.

8. Digital Britain

8.1 Members had received a hard copy of *Digital Britain: The Interim report*. Alistair Bridge summarised its key messages, the five objectives of the report and the Actions it raised. A final Digital Britain report was expected in June or July 2009.

- The Panel welcomed the report, it being the first of its kind since the Cabinet Office publication *Connecting the UK: the digital strategy*, of March 2005.
- The report was wide ranging and it was proposed that the Panel be selective in its response and contribution to debates.
- Consumer Focus would engage with Digital Britain but at this stage it's involvement remained unclear.
- Ofcom should be encouraged to make use of the Panel's Consumer Interest Toolkit in its own inputs to Digital Britain.
- That approach would allow the Panel to focus its resources on a limited number of the report's Actions, eg related to the level of universal service and funding - Actions 17 and 18; Action 4, on the value for money case for public incentives; and Action 22 on media literacy.
- The report contained a section on digital radio but did not appear to cover consumer issues.
- Action 7 related to a return path capability via digital television (DTV) networks and the Panel wished to understand this proposal further.

8.2 The Panel agreed that the Chair would write to Lord Carter in response to the Digital Britain interim report, to report on the Panel's research plans (discussed under item 7) and to highlight the issues in the report of particular interest to the Panel, including: next generation access; media literacy and DTV.

AP22 Alistair Bridge to advise Ofcom that the Panel expects it to be guided by the Consumer Interest Toolkit in its contributions to the Digital Britain agenda.

AP23 Alistair Bridge to draft the Chair's letter in response to the Digital Britain report as soon as possible and identifying Panel interests.

AP24 Advisory Team to circulate the DRWG report section on consumer issues.

9. Panel work programme

9.1 Members had received a revised draft of the Panel's future work programme for discussion. The Panel was close to signing-off the work programme and confined discussion to a possible EU event related to the Toolkit; safety and security; communications rights and responsibilities; and media literacy.

- The proposal of a Panel event in Europe would be 'parked' pending the outcome of future bi-lateral meetings in Europe.
- Safety and security had arisen as an issue in earlier Panel research. An outstanding question was whether there were specific actions for the Panel or for third parties to pursue.
- The Panel recognised that some rights and responsibilities were difficult to define; it was unclear what Panel deliverables should be; further consideration would be required; and that this was not a 'headline' area of Panel work.
- The Panel debated further the invitation to join the Ofcom-chaired (Digital Britain) working group on media literacy (discussed under item 5) and recognised the benefits of Panel participation. Nominated Panel members would assist in formulating the Panel's input.

9.2 The Panel agreed that the work programme would be mapped out in greater detail and revised to reflect that: the proposal of a Panel event in Europe would be on hold; a consultant would be commissioned to determine and map issues related to safety and security; rights and responsibilities work would require further consideration; the Panel would be a member of the working group on media literacy. A streamlined version of the work programme would be presented at the Panel stakeholder event planned for 3 March 2009. The work programme would be finalised following that event. It was agreed that the Chair would have discussions with each member to share out lead responsibility for/participation in the Panel's work areas, once the final work programme has been agreed.

AP25 Alistair Bridge to circulate a revised draft of the Panel work programme for

agreement by email and format the agreed version for discussion at the Panel's stakeholder event.

AP26 Chair to have discussions with Panel members to share out lead/participation in the Panel's work areas, once the work programme has been agreed.

10. Broadband speeds research

10.1 Ofcom colleagues had provided Panel members with an information paper and a copy of an initial research document: *UK broadband speeds 2008*, published in January 2009. The research examined consumers' experience of broadband performance in the context of a discrepancy between advertised and actual speeds. Ofcom colleagues joined the meeting and delivered a slide presentation on insights derived from the research.

- The Panel welcomed the research data.
- Members recognised that customer line length, service provider contention ratios, jitter and latency were factors affecting experience of actual broadband speeds.
- Dissatisfaction with broadband speeds was sometimes an issue consumers chose to ignore, due partly to the perceived difficulties of switching and/or a lack of information.
- It was suggested that Ofcom consider promoting a single source of data/metrics on quality of service, covering mobile, fixed-line phone and broadband services and that it examine whether specific categories of consumers were disadvantaged more than others.
- Internet Service Providers (ISPs) chose to advertise their broadband services on the basis of 'up to' speeds, there remained the question of whether they should be required to inform customers of their average speeds.
- Since ISPs appeared to argue that speed was only one factor in the broadband experience, they should not be permitted to sell their services on the basis of that single factor.

10.2 The Panel recognised the value of the research in promoting competition between ISPs but cautioned that it was not possible to draw the automatic conclusion that it could be used to encourage switching or good decision making by consumers. The Panel wished to re-engage with the six-month programme of research later in the year.

AP27 Advisory Team to ensure that Ofcom broadband speeds research returns to a future Panel meeting.

11. Panel response to Ofcom Draft Annual Plan 2009/10

11.1 Members had received hard copies of the executive summary of the Draft

Annual Plan and a discussion paper from Dominic Ridley, the latter with suggested Panel responses to the main policy areas that Ofcom proposed to pursue in its 2009/10 work programme.

- The Panel recognised the wide coverage of policy issues in the discussion paper and that the Panel had expressed its views on some topics on earlier occasions.
- The paper would be helpful in drafting the Panel's annual report.
- In line with the Panel's previous approach, it appeared more productive to submit a short response in the form of a letter to Ofcom's Chief Executive.
- A suggestion was made that Ofcom be asked to make a particular group of consumers a focus of activity, previously the Panel had asked Ofcom to make children's issues a priority.

11.2 The Panel agreed to submit a letter in response to the Draft Annual Plan, emphasising universal service, NGA and media literacy as priorities for Ofcom and drawing attention to other consumer/citizen issues where progress was required. It was agreed that a request for focus on a particular group of consumers would require a case to be made and evidence to argue and was something that the Panel could reconsider when Ofcom next examined its three-year strategic framework, in 2010.

AP28 Dominic Ridley to draft a letter to Ofcom in response to its Draft Annual Plan 2009/10.

12. Any other business

12.1 Members had received a note from the Chair reporting on a series of meetings she had attended with mobile operators. The Chair had discussed these meetings with Ofcom's Chief Executive. The intention was to stimulate further dialogue, initially by writing to the mobile operators.

12.2 Leen Petré reported that RNIB would be publishing research on choosing a digital radio. RNIB would also be working on a request to Ofcom to improve the provision of access services.

.....Chairman

.....Date