

Minutes of the 57th meeting of the Communications Consumer Panel

Tuesday 9 June 2009 at 9.00 hours

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

Present

Consumer Panel

Anna Bradley (Chair)

Fiona Ballantyne

Louisa Bolch

Kim Brook

Colin Browne

Roger Darlington

Maureen Edmondson

Leen Petré

Damian Tambini

Bob Warner

In attendance

Colette Bowe (Ofcom Chairman)

Alistair Bridge (Principal Adviser)

Richard Davies (Seconded from Baker Mackenzie)

David Edwards (Panel Secretary)

Dominic Ridley (Policy Adviser)

Ofcom colleagues (item 4)

Colleagues from Deloitte (item 8)

1. Declaration of members' interests

1.1 The Chair had been appointed to the Digital Inclusion Taskforce but a public announcement was yet to be made. It was agreed that the Panel should have a discussion about its relationship with the Taskforce.

AP1 Panel to have a discussion about how it will work with the Digital Inclusion Taskforce at the July meeting, as part of a discussion about the Digital Britain final report.

2. Minutes of the meeting on 6 May 2009 and matters arising

2.1 Minutes of the previous meeting were agreed subject to minor amendment. Leen Petré had not been present at the previous meeting but agreed with the position the Panel had adopted in its discussion of Ofcom's Access and Inclusion (A&I) project. She said that usable equipment was also an issue for consideration and that there could be merit in examining the RNIB response to Ofcom's A&I consultation when drafting the Panel's response.

2.2 Alistair Bridge reported on the each of the actions from the previous meeting as follows.

- Mobile coverage was an item on the meeting agenda.
- There had been difficulty in obtaining permissions from participants in video material from stage one of the Panel's broadband research. It would not be possible to post that material on the Panel website. This had prompted a re-think in Ofcom on permissions – Panel research is commissioned by Ofcom, on behalf of the Panel.
- Members had received a copy of Ofcom's written response to a Panel advice note on Quality of Service. Members agreed to discuss the advice note mechanism later in the meeting under item 6.
- The previous week the Panel had positive media coverage when it published its *Not online, not included* research and Ofcom was due to publish *Accessing the internet at home* research on 10 June. As agreed previously, there would be discussion with Ofcom about a joint Panel/Ofcom stakeholder event on internet take-up.
- The Panel's position on media literacy would be set out in its response to the Digital Britain final report.
- Members had been provided with a chart on how different parts of Government fitted together in their work on digital communications.
- In its research activities Ofcom had limited involvement with the Economic and Social Research Council (ESRC). ESRC could be helpful to the Panel in designing its future research projects. The Chair would be meeting Professor Philip Schlesinger, Chairman of Ofcom's Advisory Committee for Scotland, on 17 June and that would provide an opportunity to discuss the ESRC with an academic with experience of the research council.
- Alistair Bridge would consider when and how the Panel would engage further with Ofcom on enforcement issues when scoping out the Panel's consumer protection workstream.
- A response would be drafted to Ofcom's *The PRS Scope Review* consultation on premium rate services. PhonepayPlus had provided a draft format for the quarterly data set that it had agreed to provide to the Panel; the Advisory Team would respond with comments on the format.
- The Panel had published its work plan on 13 May.
- The Panel had agreed a process for publication of its annual report, which would also refer to the work plan. The Annual report would be published by the end of June.
- Members would continue to be updated on progress of the Postal Services Bill. It was possible that Royal Assent could be delayed until the Autumn.
- The Panel's Post subgroup had a conference call on 20 May and discussed how to prepare the Panel to take on its role in relation to Post, including plans for a half-day training event.
- Enquiries were being made about whether non-21CN compatible alarms were still being sold or installed.
- A catch-up meeting with BT had been held on 26 May and attended by the

- Chair, Bob Warner, Roger Darlington and Alistair Bridge.
- Lou Bolch and Alistair Bridge had met Anthony Lilley of the Ofcom Content Board on 3 June to discuss a joint Panel/Content Board session to take place in the Autumn.
 - Colin Browne was pursuing a dialogue with Greg Dyke with a view to a meeting with the Panel. Separately efforts were being made to arrange a meeting with Jeremy Hunt MP, Conservative Shadow Culture Secretary, but it was more likely that it would be held with one of his advisors.
 - On Panel engagement in the Nations, Roger Darlington had proposed a visit to MediacityUK at Salford Quays and, as agreed at the previous meeting Panel, members would continue to provide suggestions.
 - Dates for 2010 Panel meetings had been agreed and copied to members.
 - Fiona Ballantyne had raised concern about a mobile insurance scam. She suggested that there could be a simple solution - a request to mobile operators that they refrain from issuing sequential numbers to new customers. It was suggested that sequential numbers were issued by operators for numbering efficiency reasons. It was agreed that the latter position would be confirmed with Ofcom and the Chair would then raise the scam with mobile operators by letter.

2.3 To date actions from previous meetings had not been included in the status of actions report provided with Panel meeting papers. It was agreed that a rolling actions list should be produced for each meeting to capture all outstanding actions. Reference was made to Project Canvas, a BBC/ITV/BT joint venture to bring catchup services like the iPlayer from the PC to the TV. A consultation by the BBC Trust had ended in April but a further consultation was expected.

AP2 Secretary to amend May minutes.

AP3 Leen Petr  to forward RNIB response to Ofcom's A&I consultation to Alistair Bridge to inform the Panel's response and thinking on equipment.

AP4 Leen Petr  to send Advisory Team RNIB guidelines on making videos accessible.

AP5 Alistair Bridge to consider the merits, or otherwise, of producing new video material related to the Panel's 1st round of broadband research.

AP6 When examining policy issues, Advisory Team to consider the relevance of ESRC research.

AP7 Chair and Fiona Ballantyne to discuss the ESRC at their meeting with the Chairman of Ofcom's Advisory Committee for Scotland.

AP8 Advisory Team to follow-up and organise a Post training event to take place in September 2009.

AP9 Advisory Team to follow-up and organise a joint Panel/Content Board session related to take place in September 2009.

AP10 Advisory Team to contact BT to obtain an update on rollout of its 21CN network.

AP11 Advisory Team to arrange a meeting with the advisor to Jeremy Hunt MP

AP12 Panel Members to send Advisory Team ideas for a rolling programme of occasional visits to the Nations and Regions.

AP13 Advisory Team to make enquiries with Ofcom about numbering efficiencies and the mobile operators' practice of issuing new customers with sequential numbers.

AP14 Alistair Bridge to draft a letter for the Chair to send to mobile operators about mobile insurance scams.

AP15 Secretary to provide henceforth a rolling actions list and capture any outstanding actions from previous meetings.

3. Mobile coverage

3.1 Members had been provided with a document based on the discussions of a Panel sub-group. Richard Davies introduced the paper. It outlined concerns about mobile coverage, suggested Panel research options involving quantitative and qualitative studies, proposed a Panel position on mobile coverage and included a summary of the findings of the Independent Spectrum Broker's Report (published in May 2009). There was discussion that included the following points.

- The Panel would require quantitative data to make a case for action to improve mobile coverage. Coverage did not appear to be an issue for the majority of mobile users but for some gaps in coverage were significant.
- Mystery shopping could be a route to highlight coverage problems or a series of cameos based on the journeys that people took.
- The Communication Managers Association had expressed interest in conducting a coverage survey amongst its members.
- There could be value in segmenting consumers, some groups being more affected than others and results would be more statistically significant.
- Alternatives to research could be the naming and shaming of operators to encourage improvements in coverage or approaching them to obtain their own data on coverage. Other approaches could be based on mis-selling, with consumers buying a mobile service with false expectations about coverage, or persuading Ofcom to establish standards for operators to use to measure coverage.
- The position paper could be strengthened to say more about vulnerable groups and the impact of lack of coverage.
- Solutions could involve decisions about both the use of spectrum and the digital dividend from switch-off of analogue television.
- It was questionable whether competition would deliver improved 2G mobile coverage but there could be incentives by increasing consumer empowerment with the provision of coverage information.
- Numerically lack of coverage was likely to affect more people in England than in other parts of the UK and this could be an issue for the Panel to consider.

3.2 The Chair drew the discussion to a close. It was agreed that the Panel would continue to work to identify problems related to mobile coverage in order to raise coverage up the agenda of Ofcom and others. Fiona Ballantyne and Colin Browne would provide the Panel sub-group with advice on research and

presentation of any findings respectively.

AP16 Advisory Team to pursue Panel objective to push mobile coverage up Ofcom's agenda, including discussion with Ofcom prior to its publication of its second consultation as part of the Mobile Sector Assessment.

4. Complaints/ADR review

4.1 Members had received a paper to update them on the Ofcom review of complaints handling and Alternative Dispute Resolution (ADR). Ofcom colleagues were present for discussion and summarised the issues covered by the review. There was discussion that included the following points.

- Some communications providers appeared to register complaints when these were escalated within their organisations, otherwise issues were handled by customer service functions. Escalation often appeared to be customer driven, based on how well a complainant 'understood the system' and unrelated to the degree of detriment involved. This could mean that vulnerable consumers could in theory be losing out if they were more likely not to pursue complaints, potentially suffering financially by making unjustified payments or acquiring an unwarranted bad payment record. It appeared that providers were sometimes reluctant to escalate complaints, with customers being passed from one provider to another, eg between broadband provider and network provider when these were not the same company.
- Consumers would benefit from advice or information on how to make a complaint and from greater understanding of escalation processes. Customers kept on hold when they telephoned their providers could be provided with recorded information. Some consumers and small businesses with cause for complaint often gave up or did not bother to complain. Solutions were more likely when complainants were able to propose their own remedies and when customer service staff were empowered to make decisions.
- It was commented that there appeared to be a lack of adequate complaint tracking mechanisms and providers were not learning fully from complaint issues, some of which will have been logged on customer service records. Meanwhile providers appeared to be complacent about their escalation and complaint handling processes. It was suggested that Ofcom consider the value of an industry workshop to talk through measures to improve complaint handling.
- Providers had voiced concerns about the costs of developing new complaint tracking systems, suggesting that costs could be in the tens of millions of £s. Ofcom would consider the likely costs to providers and would need to balance these against the benefits to consumers. Ofcom colleagues were reminded to take into account the costs to small businesses.
- It was suggested that a creative approach to research could be used to

help establish the benefits, involving consumers who did not get as far as having their complaints logged, combining a broad sample with in-depth case studies or interviews.

- The Panel noted that it could be helpful if Ofcom were to define what constituted a complaint rather than leave this for providers to decide or to set out what was good practice in the handling of complaints and enquiries. Ofcom had previously proposed a complaint definition that included expression of dissatisfaction but there had been the problem of how to deal with fault reporting and whether this constituted a complaint.
- General conditions obliged providers to publish customer codes of practice (CoPs) and although these referred to a providers' ADR scheme signposting was often not prominent. Ofcom was looking at CoPs with a view to a common format – currently the substance of CoPs was not regulated. Competitive pressure could be another route to improve complaint handling if data on complaint handling was published as a quality of service metric.
- Currently customers had to wait 12 weeks before they were able to take their complaint to ADR, Ofcom was taking steps to reduce the period to 8 weeks based on its assessment of best practice in other sectors and to ensure that providers had sufficient time to resolve complaints themselves. The Panel noted that ADR complaints were often about customer service issues or disputed remedies.

4.2 Agreed Panel position: The Panel supports steps taken to make ADR more accessible by reducing the period before consumers can go to ADR from 12 to 8 weeks. Raising awareness of ADR may give providers some incentive to improve their complaints-handling processes so as not to incur the costs of dealing with more ADR cases but this will not in itself lead to the widespread improvement that is needed. The Panel believes, therefore, that Ofcom should focus separately on complaints-handling with a view to increasing the level of complaints-handling considerably. The Panel would like to see a definition of a complaint that includes issues that are not escalated.

4.3 The Chair drew discussion to a close. Ofcom expected to publish a consultation in September on proposals to improve awareness of ADR. In the meantime Ofcom would engage in further research.

AP17 Advisory Team to summarise Panel's advice on complaints-handling and ADR and send to the project team.

AP18 Ofcom team to allow the Panel sight of its draft complaints review consultation and to meet with a sub-set of the Panel for discussion if required.

5. How the Panel is working together

5.1 Alistair Bridge introduced slides covering issues related to Panel meetings, including preparation, meeting papers, reaching consensus and agreed positions; stakeholder involvement; communication between members

and with the Advisory Team, with Ofcom and other bodies; and to understanding the issues, including forward looking analysis of future issues. He reminded members of a set of behaviours agreed by the Panel at its induction event in October 2008. There was discussion that included the following points.

- Members were content about their experience on the Panel to date, following appointment in November 2008.
- There was satisfaction about the quality of meeting papers, pace and duration of monthly meetings and use of sub-groups to drive some issues.
- On occasions there could be tensions between reliance on market solutions and urging a more interventionist approach from Ofcom.
- Resolution of some communications issues could involve a lengthy process.
- The Panel would benefit from periodic review of its actions and decisions as a means on tracking the impact of its advice.
- Members would benefit from clarification of the process for submission of Panel advice notes and other advice mechanisms.
- An advice note was not the only way to provide views to Ofcom, others included meetings and discussion with Ofcom project teams, responses to consultations and letters to the Ofcom Chairman or Chief Executive. The Panel Chair had regular meetings with the Chairman and Chief Executive and she also met with other senior executives and with Board members.
- Advice notes could be useful as pre-consultation contributions to Ofcom's thinking and the Panel's expectation was that they would be seen by the Ofcom Board. Advice notes allowed the Panel to influence policy development but they were examples of Panel advice that was not immediately in the public domain, their publication delayed until Ofcom issued its consultation or a statement.
- It was important to ensure that regular feedback was received from Ofcom in response to Panel advice.

5.2 It was agreed that annual reports provided an opportunity to review Panel activity and that a discussion should be timetabled for March or April, ie in anticipation of the annual report. Maureen Edmondson commented that the board of the Food Standards Agency conducted effectiveness reviews and she would provide further details. In addition to blogging, it was agreed that it would be useful for all Panel members to share details of their activities between meetings with the Advisory Team for onward transmission to the full Panel.

AP19 Advisory Team to include a Panel review of its activities in the forward timetable of Panel meetings, discussion to take place in March/April.

AP20 Maureen Edmondson to provide Alistair Bridge with details of the Food Standards Agency board process for review of its activities.

AP21 Panel Members to provide Advisory Team with information about their activities by 1pm on Fridays for inclusion in the weekly update.

AP22 Advisory Team to confirm the Panel's current Advice Note process and produce a note on the various mechanisms for advising Ofcom.

AP23 Panel to develop an impact report to track progress on issues in relation to which the Panel has provided advice.

6. Issues for discussion with the Ofcom Chairman

6.1 The Panel would meet Colette Bowe, the new Ofcom Chairman, for the first time later in the meeting. Members noted Colette Bowe's comments at her pre-appointment hearing with the Culture, Media and Sport Committee. There was brief discussion of issues to raise with the Ofcom Chairman, time permitting, including priorities; engagement between the Panel and the Board; and Digital Britain.

7. Consumer scenarios

7.1 Colleagues from Deloitte joined the meeting and presented a set of slides. Deloitte had looked at a number of different potential convergence scenarios to provide Ofcom with an idea of what life could be like for the consumer in 2015. The aim of the work was to identify how communications industries might change. It was intended to provide some input to Ofcom's next strategic framework, amongst other things, although Deloitte was not working on the new Ofcom strategic framework directly. The work was based on interviews with a number of industry figures and Deloitte's own analysis. There was discussion that included the following points.

- Industry models across media platforms were changing and expected to move increasingly in the direction of 'Over The Top' networked services, ie services where there was no commercial relationship between content and network provider.
- Eight market uncertainties had been identified. Four related to demand and four to supply, and these were expected to dictate the outcome of future market scenarios. On the demand side these included the question of how much choice consumers wanted and its trade off with the simplicity of services. On the supply side, these included whether network demand could exceed supply in the next 3 to 5 years.
- In a context of increased horizontal integration of media platforms and a mass market of largely passive consumers, media companies could become a proxy for consumers and this could result in a lack of investment – with a shift of power away from network providers to content providers, able to reach the end-user and by-pass the network provider in the process. This raised questions about who 'owned' the customer and issues of customer loyalty.
- Freeview was discussed in the context of horizontal models. When a consumer experienced a problem there was a question mark over to who to complain to. Vertical integration of BSkyB meant that it could resolve consumers' issues, whether related to their Sky Box or to transmission.
- Related to a consumer's willingness to pay were issues of quality, choice and receipt of free content in exchange for advertising. There could be

countervailing forces, with some consumers willing to pay for discreet pieces of content and others preferring a joined-up service. Payments could be monetary or in time, in the case of the young and engaged segment of consumers.

- Whilst audiences were expected to continue to fragment, albeit at a reduced rate, it was noted that consumption of linear content acted as a form of 'social glue'.
- One demand side uncertainty was which device was likely to become the media hub but the expectation was that the PC would remain as the device that most consumers would use for most converged services most of the time.
- Deloitte had developed seven market scenarios and these differed in their impact on the consumer and the market, ranging from one very similar to today's world to one where there was no incentive to invest in content or networks, with consumers happy to access illegal content and services. Ofcom's regulatory decisions would have an impact on outcomes.

7.2 The Chair thanked Deloitte and drew discussion to a close. The Panel would digest Deloitte's scenarios and its thinking and consider how they might feed into the Panel's own work and contribution to Ofcom's 2015 project.

8. Discussion with Ofcom Chairman

8.1 The Ofcom Chairman Colette Bowe joined the meeting. She said that she would welcome the Panel's views on what should be Ofcom's priorities. She spoke briefly about her interests and priorities and commented that these sat alongside the main business of the Ofcom Board, which it was her role to manage. These interests included: communications issues affecting people with a disability and a desire to raise these up Ofcom's agenda and to bring them into the mainstream; super-fast broadband and its availability up and down the UK; and understanding the decline in UK-made children's TV programming. The distinction between access and content issues was becoming blurred and for this reason it was reasonable for the Panel to have views related to content. There was discussion that included the following points.

- In considering how to help people to get online and get the most out of being online, an important factor is people's need for equipment that is easy to set-up and use. This is especially important for people with disabilities. The Panel is looking at the issue of usability, including for people with disabilities, as part of its work on digital participation. The Chair asked how the Panel could assist to overcome any obstacles and the Ofcom Chairman agreed to give further thought to what this could entail.
- Mobile coverage was a concern for the Panel and the Chair confirmed that the Panel wished to see coverage issues higher up Ofcom's agenda.
- The Digital Britain final report was due to be published the following week. A particular issue would be the implementation of findings. Colette Bowe

commented that the Digital Britain report would articulate the views of Government and was likely to raise a number of questions. Her expectation was that the Panel would have an important role in shaping the post Digital Britain agenda.

- The Ofcom Chairman had consumer credentials, as the former Chairman of the Consumer Panel and in other roles, and it was suggested that this would mean a heightened Ofcom interest in the consumer.

8.2 The Chair spoke about priorities, in addition to issues already raised.

- The Panel had a shared interest with Ofcom in issues related to disability and to super-fast broadband.
- On issues of content, and public service content in particular, the Panel had an interest in this as a driver of take-up of broadband.
- On occasions the Panel discussed an issue with Ofcom and took the view that Ofcom should re-focus its work, which sometimes meant changing its priorities. This had been the case with the review of complaints-handling and ADR, where the Panel supported Ofcom's plans to improve access to ADR but felt that during this work another central issue for consumers was the need for communication providers to improve complaints-handling; with mobile coverage in discussions about the mobile sector assessment when the Panel had called for this to be given increased priority; and arising from discussion with Ofcom's consumer policy and media literacy teams, when it was the Panel's view that consumer empowerment and media literacy were areas of work that required a joined-up approach.
- In discussions at Panel meetings and where the Panel felt that a change of direction was required it was important to engage with Ofcom colleagues at a senior level who were able to consider the Panel's views and decide whether to refocus Ofcom's work accordingly.

AP27 Advisory Team to include a session with Colette Bowe in the forward timetable of Panel meetings, session to take place in the Autumn.

9. Panel governance issues

9.1 Members were provided with a timetable for governance-related work and Maureen Edmondson summarised its strands and actions. The four strands were: memorandums of understanding (MoU); appraisals; accessibility; and electronic access to Panel meeting papers. It was agreed that training for members should be added as a fifth strand of work.

AP28 Advisory Team to begin process of revising Panel MoUs in September; target is for revised MoUs to be presented to Panel for discussion at the October meeting.

AP29 Advisory Team to prepare Panel appraisal documentation in August, governance sub-group to discuss proposed approach in September, target is a paper to be presented to the Panel at the October meeting.

AP30 Governance paper to be presented to Panel at the July meeting on options and recommendations on Panel-related accessibility and on electronic access to papers.

AP31 Governance sub-group to consider the issue of training for Panel members.

10. Any other business

10.1 It was agreed that the Panel would benefit from a written briefing note on online advertising to allow it to consider whether to engage with this issue.

AP32 Lou Bolch to ask the Advertising Standards Authority to provide a briefing on online advertising.

.....Chairman

.....Date