

Minutes of the 59th meeting of the Communications Consumer Panel

Tuesday 8 September 2009 at 9.00 hours

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

Present

Consumer Panel

Anna Bradley (Chair)

Fiona Ballantyne

Kim Brook

Colin Browne

Roger Darlington

Maureen Edmondson

Leen Petré

Damian Tambini

Bob Warner

Apologies

Louisa Bolch

In attendance

Alistair Bridge (Principal Adviser)

Nicola Ebdon (incoming Panel Secretary)

David Edwards (outgoing Panel Secretary)

Emily Keaney (Policy Adviser)

Ofcom colleagues (items 3, 6 and 9)

1. Declaration of members' interests

1.1 Colin Browne was no longer employed by Maitland Consultancy. Maitland clients included KCom and other telecommunications companies.

AP1 David Edwards to amend Colin Bowne's website biography and interest details.

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

2.1 Members were content with the draft minutes but the Chair advised that some drafting suggestions had now been received, from colleagues who had presented at the 14 July 2009 meeting, and it was agreed that these would be considered. The minutes would then be signed-off by the Chair.

2.2 Previously it had been agreed that Panel appraisal documentation would be revised. Nicola Ebdon was requested to provide an implementation timetable once documentation was complete. The following day Alistair Bridge would have a catch-up session with the Broadband Stakeholder Group (BSG) Chief Executive and could then update the Panel on BSG conference plans.

2.3 There was brief discussion of the Panel's working methods, including when the Panel would respond to public consultations and whether members would draft responses. It was noted that in some circumstances it could be sufficient for the Panel to endorse the views expressed by others and agreed that the Panel would maintain its current practice whereby the Advisory Team retained responsibility for drafting responses, following discussion with or other input/comments from members.

AP2 David Edwards and Chair to finalise July 2009 minutes.

AP3 Nicola Ebdon to provide members with an appraisal timetable.

AP4 Alistair Bridge to update the Panel on BSG conference plans.

3. Ofcom complaints review

3.1 Members had received a discussion paper. It provided an update on the progress of the complaints review since the Ofcom project team met the Panel in June 2009. Ofcom colleagues joined the meeting and presented initial results of consumer research undertaken to better understand how consumers viewed the complaints handling procedures of communications providers. The research consisted of an online survey of customers – 750 consumers and 450 small businesses – who had made complaints and an omnibus survey of 1000 consumers. It included comparison data related to other sectors, eg Post and energy; issues and awareness related to Alternative Dispute Resolution (ADR); levels of satisfaction with the outcomes of complaints; the time taken to resolve ADR complaints; the ease of getting providers to recognise a complaint; and consumers' satisfaction with providers' explanations of complaints processes.

3.2 Separately Ofcom had been in dialogue with communications providers to discuss the potential costs of obliging them to inform consumers of their right to go to ADR eight weeks after a complaint had been lodged, a reduction from twelve weeks which came into force on 1 September 2009. Ofcom was working with an industry expert to test the assumptions based on providers' projected costs to adapt to new ADR obligations, largely investments in IT systems but also some people costs. It was expected that an Ofcom consultation would be published in early October. Members made a number of comments as follows.

- There were two principal issues: whether the Panel wished to modify its earlier advice to Ofcom; and what could be learned from the research.
- Ofcom had comparative data on complaints taken to ADR in telecoms, energy and financial services, with far more being taken to ADR in the latter sector. Complaints related to mortgages, for example, often involved large amounts of money and there was a relationship between the level of detriment and the persistence of a complainant.
- The research suggested that awareness of ADR in telecoms was much lower than in energy and financial services and this could be related to differing levels of brand awareness. The Financial Services Ombudsman had dealt with a number of high profile cases, e.g. mis-selling of endowment mortgages.
- Higher awareness did not necessarily translate into higher volumes of complaints taken to ADR in a particular sector; there were similar percentages of telecoms and

energy consumer complaints taken to ADR but higher awareness of the Energy Ombudsman.

- There were a number of other issues related to ADR awareness; raising this amongst consumers could be expensive and there was the matter of who would bear the cost; there could be a case for a targeted approach; consumers could be informed of ADR at the point of sale; greater use could be made of paper bills as a mechanism to raise awareness but militating against this was increased use of online billing; or could it be too much to expect consumers to be aware of the different ADR schemes?
- There were issues about what constituted a provider's deadlock letter; the time taken for ADR to reach a conclusion; the ability of ADR to respond when there were peaks in the number of complaints referred for resolution; and the risks for consumers in building up a debtor record whilst in dispute.
- Detriment experienced by small businesses needed to be considered, particularly in the context of Digital Britain and drivers to increase use of online services.
- There were issues related to complaints-handling by providers; early complaint identification and resolution remained a priority; high volume and frequent launch of new communications services were likely to generate more complaints than in other sectors; there were occasions - and Ofcom had some data - when consumers chose not to pursue their complaints and their inclusion would inflate the figures for complaints data; on a previous occasion the Panel had argued for definition of a complaint that included issues that were not escalated, however it remained the case that providers decided themselves if a consumer was making a complaint or not.
- Ofcom's research reinforced the Panel's view that providers did not have effective processes for complaints-handling; in order to balance remedies in relation to complaints-handling, Ofcom would need an understanding of the detriment involved for consumers and the costs incurred by providers. The Panel felt that if complaints-handling was improved both detriment and the costs of ADR could be reduced and that complaints-handling should be the focus of Ofcom's work, rather than the blunter weapon of ADR - and this could be tackled in a number of ways.
- One approach could be new obligations placed on providers; another could be to encourage best practice and allow consumers to make this one of the criteria in choosing a particular provider; or for Ofcom to publish a breakdown of providers' complaints and allow consumers to draw their own conclusions. The Panel noted, however, that ADR and its costs could serve as an incentive for providers to improve their complaints-handling.

3.3 Ofcom colleagues responded to a number of the points. Ofcom was considering an industry workshop to discuss best practice; it was looking at how deadlock letters could be improved. The Telecommunications Ombudsman was pursuing a backlog of cases and Ofcom was making enquiries about the causes, how it would be addressed and avoided in future. Proactive advice from the Ofcom Advice Team was being considered. Steps had already been taken to provide ADR information on the Ofcom website. The Chair drew the discussion to a close, said that the Panel would want to continue to engage with the issue of complaints handling and strongly supported seeking improvement, but recognised that Ofcom's October consultation would not resolve all the issues and confirmed the Panel's expectation that complaint handling should feature in Ofcom's 2010/11 Annual Plan to reflect the fact that this would be a

long term project.

AP5 Jeff Loan to provide the Panel with more detail from Ofcom research on consumer complaints that were not pursued or were dropped.

4. Digital Participation

4.1 Members had received a short cover paper from Emily Keaney on the Panel's digital participation literature review, with a draft of the review. The paper explained/summarised the findings of the review. Rather than discuss the review in detail the agenda item would focus on the Panel's digital participation framework. It had featured in a discussion the previous afternoon between the Panel and the Ofcom Content Board. The Panel now needed to be clear about how it would use the framework and the language that it should employ. There was discussion and comments as follows.

Participation framework

- The framework would assist the Panel in its thinking and could be used to engage with a wide range of stakeholders, including the Digital Inclusion Taskforce, of which the Panel Chair was a member. The Chair supported that suggestion but commented that the Taskforce was still in the process of establishing itself. Panel member Leen Petré was chairman of the Government's Consumer Expert Group (CEG) and she indicated that she would raise the framework with the CEG, following revisions. The framework could then feed into the CEG's report on the issues affecting people with disabilities in their use of the internet.
- In due course the framework might become a component of the Panel's Consumer Interest Toolkit. It could also be used to set benchmarks or indicators. The Chair reported that the issue of metrics had come up in her conversations with Ofcom about the consortium of stakeholders for delivery of a National Plan for Digital Participation.
- Digital Britain gave Ofcom a leadership role beyond its statutory remit. The consortium was being led by Ofcom and this represented a different way of working. A Panel ambition would be to see the consortium make use of the framework. This would require an understanding of consumer behaviour, motivations and interests and the framework could be a tool to that end. Consideration would need to be given to Ofcom's role relative to the creative aspects of digital participation, i.e. effective communication and creation of online content by consumers.
- In the meantime, more work was required by the Panel to clarify the purpose of the framework and to revisit some of its categories and consumer competencies. Arising from discussion with the Content Board, the framework graphic could be modified and framed by reference to governmental, political and economic drivers and by individual motivation. Other elements would refer to its purpose; how it could be used; what it might mean for regulators; a sense of the digital journeys that consumers made and the packages of reasons why some consumers were not engaging with digital communications. The latter would need to be rooted in evidence, with the focus on issues of prominence for consumers rather than personal stories.

- A number of detailed comments were made about recasting some sections of the graphic, alteration of or re-positioning some of the wording. There was agreement, however, that the graphic itself should not be overcomplicated and that some of its power resulted from its simplicity.

4.2 It was agreed that the framework would be revised to take account of members' comments. It would then be shared more widely.

Literature review

4.3 Emily Keaney reported that the draft literature review had been shared with Ofcom's media literacy team. Some minor but additional work would be needed to complete it, including insertion of a summary of its content and key themes. A final draft would be completed in time for the October Panel meeting – subject to other work pressures - when a decision could be made about publication. There was brief discussion as follows.

- The reference to the 2008 report by the Department for Communities and Local Government (DCLG) needed to make clear that it had not been compiled by disability experts.
- There were some points to refine including: consumers were not accessing the internet solely via a PC but also using other devices; and although the internet may not be used to perform new things it was transformative in terms of the range and volume of information available, its ease of access, the ability to shop and compare prices, etc. These were qualitative changes for lives of consumers.
- Whilst there were digital equivalents of many everyday activities many interactive public services were still lacking. For this reason, the Panel and bodies such as Consumer Focus could not ignore consumers not online.
- Consideration could be given to the tone in certain sections of the review, eg including some reticence or skepticism about risks and benefits. The bibliography could be expanded and a clear indication of the review criteria.

4.4 The Chair drew discussion to a close. It was agreed that members would look again at the draft review and forward any further comments by email.

AP6 Emily Keaney and Panel subgroup to amend the Panel's participation framework graphic in the light of the meeting discussion.

AP7 When the Panel's digital participation framework has been developed further, Chair and Advisory Team to share with the Digital Inclusion Taskforce, Consumer Focus, Which? and other relevant bodies.

AP8 Emily Keaney to send draft digital participation framework to Leen Petré as an input to the work of the CEG.

AP9 Members to email Emily Keaney any additional comments on the digital participation literature review.

AP10 Emily Keaney to revise the digital participation literature review in the light of discussion at the Panel meeting and other comments from members.

5. Panel research on mobile coverage

5.1 Members had received a summary of the Panel's proposed response to Ofcom's consultation *Mostly Mobile - the Mobile Sector Assessment 2*, slides with the Panel's mobile coverage research findings, mobile coverage case studies supplied by Citizens Advice Bureau (CAB) and the executive summary of the consultation. The intention was to publish the research and to issue separate news releases in the Nations. The Panel's consultation response drew on the research findings to provide the Panel's evidence base. There were a number of comments as follows.

- Mobile phones cannot be used on the London Underground and it was suggested that reference be made to this in the coverage research report.
- The research revealed that mobile reception (coverage) was considered to be the most important factor when choosing a network provider. Low income mobile-only households did not indicate markedly different satisfactions levels for mobile coverage, whilst levels of dissatisfaction were significantly higher for people in employment compared with those not in work.
- Despite the importance of mobile reception the majority of consumers were unlikely to have acted to express dissatisfaction to their network provider. This could be related to expectations and an acceptance of limited reception. Most people had a good service most of the time but for some lack of coverage was a regular problem. The latter group was small as a percentage of the population, say 5%, but could amount to over half a million people and this was a significant number.
- A surprising finding was that mobile reception at home was rated most important to consumers in the survey. Femtocells could be a solution, provision of mobile reception via a customers fixed broadband service. True mobility was important for some users and the solution here could be a value-added service to ensure that, e.g. national roaming for those willing to pay. Before moving to national roaming as a solution there remained doubts about the accuracy of coverage data provided by operators. If the Panel felt that there was insufficient reliable coverage information it would have to communicate this to Ofcom. A consistent method to measure coverage should be used by all the mobile companies.
- It was necessary to consider all the potential solutions and their relative costs. Despite national roaming there could remain not-spots where no mobile network was present or genuine obstacles related to geography. The solution could be installation of a mobile mast but there was the question of cost and whether there could be shared investment between the network providers and local communities. There was then the likelihood that network providers would only have an interest where there were more, rather than less, customers. On occasions there would be adverse community reactions to masts being installed. Realistic and technically feasible solutions were required - one of these could be to 'piggy-back' on the introduction of 999 roaming although this would not be the solution where there was no coverage at all.
- There were issues related to the representation of mobile services at the point of sale, i.e. the importance of providers being up-front with customers about coverage. Case studies from CAB supported the view that if on the basis of information a consumer made the wrong choice of mobile provider, for coverage purposes, there should be the opportunity to give up the mobile contract without penalty. The onus should not be on the consumer to prove lack of coverage.

- The phrasing of research questions was a consideration, eg the value of asking respondents whether they had experienced a problem with mobile coverage as opposed to the importance they placed on coverage. The costs and benefits of coverage to consumers would give a clear idea of the extent of the problem.
- Members made a number of drafting comments related to the draft consultation response.

5.2 The Panel agreed that it would emphasise to Ofcom the importance of establishing the level of detriment due to poor mobile coverage and the action required to remedy it; the Panel would argue that consumers were in need of coverage information to make a mobile service purchase decision. Emily Keaney would revise the draft Panel response to the mobile sector assessment consultation, including a separate section on complaints-handling, in the light of Panel discussion and further comments, and copy to members for final approval. The Panel's draft response would be copied to PhonepayPlus.

AP11 Emily Keaney to revise the draft Panel response to the mobile sector assessment consultation.

AP12 Emily Keaney to send the Panel's draft response to the mobile sector assessment consultation to PhonepayPlus to allow them to comment.

AP13 Emily Keaney to inform CAB about the findings of the mobile coverage research.

AP14 Advisory Team to ensure correct branding of Panel working papers (i.e. avoidance of the Ofcom PowerPoint template for the Panel's research findings).

AP15 Emily Keaney to prepare Panel mobile coverage research report for publication.

6. Mobile Sector Assessment and Ofcom mobile coverage research

6.1 Members had received a discussion paper from Ofcom on the state of play in its Mobile Sector Assessment, on Ofcom's approach to mobile consumer issues and proposed Ofcom research on mobile coverage. An annex indicated the possible locations for not-spot case studies. The research would investigate the underlying causes of not-spots and the scope for resolutions. It would begin with a pilot study later in the year. If that produced strong findings cost-effectively a full scale study was expected to be completed by March 2010, followed by publication of a report. The Panel was joined by Ofcom colleagues for discussion and members raised the following issues.

- It was suggested that the locations for not-spot research should be varied, including places where there was no mobile coverage and areas where not all the mobile networks were present.
- The Panel's research highlighted the importance consumers attached to mobile coverage in the home and emphasised the value of local coverage information. Coverage information based on post codes was of limited value since large areas were often involved. It was suggested that operators had more coverage information than they provided to Ofcom and that disaggregated information should be made available to Ofcom and to consumers. Ofcom colleagues confirmed their desire to make good use of operators' data.
- Data on complaints to mobile companies related to coverage issues could contribute

to Ofcom's analysis of mobile coverage.

- Panel research had indicated that information about coverage was important when choosing a mobile network provider - with coverage often less than was claimed. Here the issue was the pressing consumer need for access to reliable and useful coverage information. The best information could be an aspiration, but better information would be a good place to begin. Referring once again to post codes, it could be useful to withdraw provision of information that could prove to be misleading, whilst moving towards provision of the best information over time.
- Ofcom colleagues recognised the need for better information and had discussed the need for consistent information from operators to allow consumers to make valid comparisons. Ofcom expected to gain a number of new powers, one of which would require mobile operators to provide Ofcom with coverage information. It wished to make the best use of the information held by operators but currently did not formally request data on coverage related complaints. Ofcom possessed its own complaint data from issues raised with the Ofcom Advice Team.
- The Panel was encouraged by the research that the MSA team was planning to do, but wanted to ensure that a debate about options for improving coverage then followed.
- The Panel also encouraged the MSA team to work with the mobile operators in the meantime to explore how information about coverage could be improved. The Panel said that it did not necessarily accept that it would be too difficult for the operators to produce more comparable and granular information.

6.2 This item concluded with brief discussion of the day's announcement by Orange and T-mobile that they proposed to merge their UK businesses. An Ofcom colleague explained the regulatory implications and summarised what Ofcom's role could be in a merger. A merger was relevant to the earlier discussion of coverage, if it went ahead it could lead to increased network sharing but also make competition, to build out networks to new areas, less intense.

7. Next generation access

7.1 Members had received two documents related to next generation access (NGA): a discussion paper from Dominic Ridley that reviewed the Panel's position on NGA and an updated version of Roger Darlington's January 2009 paper on local NGA initiatives in the UK. Roger Darlington began the discussion of the Panel's position on NGA and raised the challenges posed by Lord Carter's Digital Britain Final Report related to NGA, including plans for a Next Generation Fund - an annual £6 levy on fixed telephone lines - to ensure NGA rollout to the 'Final Third' of homes. There was discussion as follows.

- Panel members highlighted a number of uncertainties, for example there would be government intervention to reach 90% of the population but a question mark over the last 10%; and the commercial rollout of NGA was yet to begin. On the political front there was a legislative timetable to be followed and the parliamentary time required, plus a General Election in 2010. There would then be the issue of timing of implementation.
- The Chair commented that the current emphasis needed to be on creating the right conditions for NGA rollout. Despite a contrary view previously expressed by the

Panel, the Chair was not certain that the social value arguments for NGA rollout were well understood. In relation to local NGA initiatives, opinion on their positive value no longer appeared to be divided. She took the view that the Panel should not focus on debates about the merits of the levy itself but instead should continue to push for rollout to the 'Final Third'. Panel members shared this perspective.

- The Government was expected to consult on the Next Generation Fund. The Panel would need to respond and could support the principle of establishing a form of intervention; arguing that should it transpire that the levy was not the right mechanism then one or more alternatives would need to be found. Potential welfare loss could be raised and the value of a range of funding options stressed.
- The Panel should pursue a number of routes to gain wider support for both the social value of NGA and the importance of reaching the 'Final Third' whilst ensuring that this work did not takeover the Panel agenda. These could include publication of the revised paper on local NGA initiatives; discussion with BSG and a speech at its forthcoming conference; discussion with officials at the Department for Business, Innovation and Skills (BIS); and discussion at one of the Panel's policy lunches.
- The revised paper on local NGA initiatives reported on schemes of varying size and scope. There was now greater co-ordination between them and wider acceptance of the need for common standards. A map would be useful to show the spread and location of schemes. Members would forward any minor amendments to the paper to the Advisory team.

7.2 The Panel agreed to make its focus the 'Final Third' and arguments for the social value of NGA rollout. It agreed a number of actions to that end, see below. Subsequent to these actions Alistair Bridge would be in a position to consider adjustment of the Panel's NGA policy position.

AP16 In due course Advisory Team to draft a response to the Government's consultation expected on the Next Generation Fund.

AP17 Advisory Team to consider how to generate more agreement on the social value of addressing the 'Final Third' and, in doing so, consider the impact of developments since the publication of the BSG/Panel report on this topic.

AP18 Panel Chair and Alistair Bridge to have discussions with the BSG and BIS on how the 'Final Third' of homes would be reached by next generation broadband.

AP19 Revised paper on local NGA initiatives to be published on Panel website, taking account of any amendments from members.

AP20 Alistair Bridge to find out more about the DCLG's proposed work to map broadband coverage.

8. Digital Britain stock-take

8.1 Alistair Bridge delivered a short slide presentation. He spoke about the governance arrangements for Digital Britain; progress on a range of topics including the universal service commitment and digital participation; changes to Ofcom duties; and illegal file-sharing. There was discussion of the Government's proposals to amend Ofcom's duties and the question of whether the Panel should take a view and respond to the public consultation. After some debate it was agreed that the Panel would submit a response but after careful consideration of the proposed changes in the consultation

and its supporting impact assessment. It was also agreed that a Panel email discussion should inform the response. Separately it was agreed that the Panel would submit a response to the consultation on illegal file-sharing.

AP21 Alistair Bridge to draft a Panel response to the Government's consultation on Ofcom's principal duties.

AP22 Alistair Bridge to draft a Panel response to the Government's consultation on illegal file-sharing.

9. Ofcom communications team briefing

9.1 Ofcom colleagues joined the meeting to update the Panel on various recent Ofcom consumer communications activities and initiatives to enhance consumers' experience of both Ofcom and wider communications scene. These included a revamp of the Ofcom website homepage making it a consumer, as opposed to an industry, portal with a shift towards use of plain English copy; launch of a frequently asked questions (FAQ) engine; use of social media such as twitter; and publication of a number of Ofcom consumer guides and videos. Ofcom website statistics indicated a large increase in hits on the Ofcom home page and high satisfaction ratings for answers found using the FAQ engine. Ofcom now planned a more extensive redesign/relaunch of its website.

9.2 Members reacted very positively to these developments. Leen Petré highlighted the importance of an accessible Ofcom website and inclusion of audio description for all video materials. She also suggested that users of access technology be asked to test the new Ofcom site before going live.

AP23 Leen Petré to forward details related to accessibility and website user testing to Ofcom colleagues.

10. Any other business

10.1 Ofcom had published its Review of Television Access Services on 3 September. From time to time it was required to revise a code related to quotas for broadcasters to subtitle, sign and audio describe TV programmes. The Code on Television Access Services had been published in July 2004 and Ofcom was now undertaking its second review. A particular focus in the review was provision of audio description (AD) and it was noted that RNIB would be responding with its views on AD targets and related matters. The Panel had not previously submitted views on TV Access Services but it was agreed that it would do so on this occasion.

AP24 Panel to engage with Ofcom's Review of TV Access Services and Emily Keaney, working with Bob Warner and Leen Petré, to draft a short response.

.....Chairman

.....Date