

Minutes of the 64th meeting of the Communications Consumer Panel

Wednesday 17 February 2010 at 9.00 hours

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

Present

Consumer Panel

Anna Bradley (Chair)

Fiona Ballantyne

Kim Brook

Louisa Bolch

Colin Browne

Roger Darlington

Maureen Edmondson

Leen Petré

Damian Tambini

Apologies

Bob Warner

In attendance

Alistair Bridge (Principal Adviser)

Nicola Ebdon (Panel Secretary)

Emily Keaney (Policy Adviser)

Angela Stainthorpe (Policy Advisor)

David Scott (CEO) and Simon Crine (Digital UK) (item 3)

Peter White (CEO) and Wilf White (Helpscheme) (item 3)

Ofcom colleagues (items 5, 6, 8 and 9)

1. Declaration of members' interests

1.1 There were no interests declared.

2. Minutes of the meeting on 20 January 2010, matters arising, progress on actions and forward plan 2010

2.1 Members **APPROVED** the draft minutes for signature by the Chair, subject to some small amendments.

2.2 Members **NOTED** the current status of actions arising including:

- AP 8 - AIB had met with Stuart McIntosh to discuss Ofcom's main competition projects with which the Panel might wish to engage and will meet with Ofcom's competition policy directors to find out more information. The Panel is invited to present at an Ofcom Competition Group monthly lunch.
- AP 9 - The meeting with GH to agree a list of areas in relation to which the Panel might write a paper setting out its position for the Ofcom Board was postponed.
- AP 12 - AIB will find out from CC who would be particularly interested in receiving the Panel's response to the Department of Business (BIS) consultation on illegal file sharing and send a copy accordingly, with a covering note. Members to advise AIB of any individuals they feel should be sent the response.
- AP 16 - AIB & EK met with Ofcom's Consumer Policy and Chief Economists teams to discuss behavioural economics and consumer information. EK will draft a provisional project scope and circulate to Ofcom for further development. A decision on how the project will be completed and funded will be made later.
- AP 22 - Members were provided with a list of Ofcom one day courses. Members to contact EK if they would like to book onto a course.
- Minute 11.2 - The research agency conducting the ethnographic research confirmed that retrospective agreement has been gained from participants to use video material in

presentations and on the Panel's website.

- AP6 (2/12/09) - AIB to circulate to Members an email from Ofcom on the legal position in relation to the accessibility standards part of the Universal Service Directive.
- AP 10(2/12/09) - AIB had commented on a summary of the internal review of disability issues raised by stakeholders from Ofcom and will ensure it is provided to Members shortly.
- Small businesses - AIB confirmed that he will review and circulate to Members advise from Ofcom in relation to the extent to which consumer protection type rules apply to small businesses.

2.3 Members NOTED the content of the meeting forward plan.

3. Post Granada Switchover

3.1 The Panel welcomed David Scott and Simon Crine from Digital UK and Peter White and Wilf White from the Helpscheme to the meeting and **RECEIVED** a verbal update on a number of issues arising from presentations which had been circulated to Members in advance. The following points arose from the update and Panel discussion:

- There is a small segment of the population who do not realise they will be affected by switchover, despite relevant communications, until switchover actually happens. To reach this segment the Helpscheme ran a campaign after switchover in the Granada region which worked well and are continuing to develop their approach to reaching this segment;
- Digital UK has completed research to identify whether it is appropriate to change the current two stage switchover process to a one stage process. The majority of the population would prefer a one stage process, however the minority who benefit from the two stage process are those most vulnerable and have the most difficulty with switchover;
- The Helpscheme conduct the majority of after care visits either before or shortly after switchover and adjust resources accordingly. The Helpscheme will be building an understanding of any need for continuing care after the one year timeframe for their obligation in an area has elapsed, dealing with for example out of warranty equipment failure and the need for longer term help;
- The Helpscheme have been instrumental in encouraging the supply of digital boxes which include an assisted retune function, which is a very helpful feature particularly for the most vulnerable and those who live in areas where television regions overlap. Digital UK have met with suppliers to encourage the assisted retune feature to become a feature of their equipment, as this is not currently a feature of many digital boxes. There is no current plan for Digital UK to recommend that the Government amend the digital tick to include a requirement for assisted retuning to be included in all digital equipment;
- Some viewers in Oxford recently experienced reception problems due to temporary changes to engineering works on the local transmitter, prior to digital TV switchover in the Meridian TV region in 2011. At this stage, Digital UK has received around 500 calls about this disruption. Some consumers have bought new equipment unnecessarily in an attempt to improve service. Such changes are being made to transmitters on an ongoing basis as part of a long term programme of work. Digital UK quickly communicated with viewers once the disruption was identified, but would have preferred to have given appropriate messaging to viewers in advance. Digital UK is reviewing all paperwork in an attempt to identify any other anticipated, serious problems with coverage caused by future transmitter work related to digital switchover;
- As a follow on from switchover, a trial is being planned in Granada by Ofcom and the BIS to help the digitally disengaged access the internet. Digital UK are supportive of the trial, however expressed the view that this work must follow after switchover, to ensure viewers are not confused at the point of switchover. The Helpscheme is keen to ensure that the community support is not limited by including this additional role; and
- The Helpscheme is considering whether to progress with an option for those consumers who already have equipment provided by the Helpscheme to download

software to add the assisted retune function. Although the assisted retune function is helpful, the download could cause significant disruption and confusion to consumers.

3.2 The Panel gave the following **ADVICE** to Digital UK:

- Give consideration to how consumers generally can be educated about the advantages of digital boxes which include an assisted retune function and how suppliers can be further encouraged to include the assisted retune function in their products, and advise the Panel of any plans in this area;
- Give further consideration to whether Digital UK should recommend that the Government amend the digital tick to include a requirement for assisted retuning and advise the Panel of its thoughts; and
- Ensure any future problems with coverage associated with switchover-related transmitter changes are identified and communicated to consumers appropriately, and give consideration as to how the cost to consumers of buying unnecessary equipment can be mitigated. Advise the Panel of such problems and associated communication plans.

3.3 The Panel **DECIDED** that it would consider what future engagement it would like with Digital UK.

4. Panel review of Complaints Handling

4.1 The Panel **REVIEWED** a paper which summarised previous views expressed by the Panel on complaints handling and discussed the issue further in order to refine the Panel's thinking in this area. The following points arose from the discussion:

- Ofcom should examine the system by which consumers provide feedback to providers, including the making of complaints to ensure that the incentives for companies to improve customer service, including complaints handling, are clearly identified. This should:
 - include consideration of how companies can encourage consumers to provide feedback;
 - recognise that complaints are not bad for companies, they are an opportunity to improve; and
 - recognise that a good result of improving complaints procedures will be a rise in the level of complaints.

This review should lead to the definition of the principles that should be built into the system by which consumers engage with their providers to ensure the best outcome for consumers in this area, for example:

- A swift resolution of issues;
- Incentives for companies to learn from feedback; and
- Good procedures for addressing issues.

Possible ways of improving complaints handling could then be appraised against the principles;

- The definition of a complaint should be clear (preferably one where the consumer can define their issue as a complaint) and procedures should be clear to ensure that consumers know how to escalate an issue if necessary;
- Publication of complaints information is likely to be key to incentivising companies to improve their complaints handling procedures. There are a number of different types of information which the Panel would like published:
 - Information from companies regarding customer satisfaction - publication of which will enable good service to be rewarded;
 - Information from Ofcom's OAT regarding complaints which have been unsatisfactorily handled;
 - Information from the two ADR schemes re number of complaints sent to ADR, taking into account size of provider; and
 - Information gathered by Ofcom auditing companies against the Code of Practice (if established) - to enable good practice to be rewarded;
- Ofcom should clarify the rules or action by providers that affects consumers' credit ratings, where a complaint is being considered by providers and ombudsman; and

- The independence of the ADR schemes from companies is important in ensuring consumers are protected.

4.2 The Panel made the following **DECISIONS**:

- It would draft a response to Ofcom's consultation on complaints handling;
- It would ask Ofcom to review the reasons behind having two ADR schemes and explore the experience of ADR schemes in other sectors; and
- It would brief Ofcom on the Panel's views on this area (as above) and ask whether SME's are covered by Ofcom's proposed Code of Practice and the ADR schemes.

5. Ofcom - Mobile Merger Issues

5.1 The Panel **CONSIDERED** a confidential update on the proposed joint venture between T-Mobile and Orange which included the three issues of concern to the Panel should the joint venture go ahead without appropriate remedies being established, which were:

- the joint venture's 1800Mhz spectrum holding;
- the impact of the joint venture on H3G's position in the market; and
- the impact of the joint venture on competition in the market.

5.2 The Panel asked Ofcom for clarification on a number of issues to ensure that consumers interests were central to the current negotiations and to identify any particular issues in relation to the impact of the joint venture in the Nations.

5.3 The Panel **NOTED** the current timeline for a decision to be made by DG Comp regarding whether to approve the joint venture or move to phase 2. The Panel **DECIDED** that should the joint venture approval process move into a second phase then it would decide whether to engage further on this issue.

6. Consumer Affairs Update

6.1 The Panel **CONSIDERED** an update on progress made with Ofcom's consumer policy projects and enforcement work since November 2009 and expected activity over the next quarter. It was **NOTED** that the next quarterly update would be structured differently to consider policy and enforcement work in relation to each issue and reflect activity undertaken with stakeholders and industry (such as work to improve switching).

6.2 The Panel sought clarification on a number of issues and the following points arose from the discussion:

- Ofcom are developing a Digital Participation Consortium plan, which will identify the mechanisms for spending money and is due in March; and
- The issue of automatically renewable contracts with early termination charges is of considerable concern to Ofcom, and econometrical analysis is being undertaken to inform Ofcom's work on this issue.

6.3 The Panel **ADVISED** Ofcom to:

- Ensure that the BIS are made aware that consultation on their draft National Plan (as drafted by Ofcom) has been limited to members of the Digital Participation Consortium (which does not include formal representation from the Nations); and
- Consider the impact of behavioural economics on the way consumers use information, before deciding to publish the results of its research on quality of service.

6.4 It was **AGREED** that Ofcom will;

- engage with Ofcom's NI Office in relation to the issue of consumers living along the boarder with Ireland incurring high accidental cross boarder data roaming charges;
- check whether there has been any progress in relation to digital radio and inform Members;

- clarify what the current situation is between Ofcom and BIS in relation to the accessibility of equipment clause in the R&TTE Directive and inform Members. LP will send a note to the Panel on another EU Directive that may be relevant;
- undertake some initial thinking on the issue of whether the inability to change service provider specific email addresses is a barrier to switching;
- share with Members the results of its quality of service research;
- undertake some initial thinking in relation to the potential impact on consumers of paperless billing and the fairness of a charge for paper bills;
- provide figures on paperless billing to Members; and
- consider consumer understanding of the wording used in letters informing consumers about automatically renewable contracts.

6.5 The Panel **DECIDED** that it would speak to BIS to ensure that where the Panel's Digital Participation Framework is used, the Panel is suitably acknowledged and that the Panel maintains version control.

7. Panel Work Plan

7.1 The Panel **REVIEWED** the Panel's draft work plan for 2010/11 and **AGREED** that it would be published for consultation subject to:

- The work on behavioural economics being identified as a separate piece of work; and
- Digital Switchover would be included in the workplan as an item for periodic review along with Ofcom's DTT Clearance project.

7.2 The Panel **DECIDED** that it would delegate to a sub-group the design of the combined annual report and workplan. Issues for further consideration by the sub-group are:

- Whether to publish the whole document, or just part of it in hard copy;
- The size and length of any publication - short and A5 size preferable;
- Published document preferably to include a summary of research, with back flap to enable insertion of more current information; and
- Annual Report to highlight areas where the Panel has been the main or a distinct voice with a summary of other areas of work.

8. Ofcom - A Review of Consumer Complaints Procedures

8.1 The Panel **CONSIDERED** a paper which provided Members with an update on developments in Ofcom's work in this area since September 2009. The following points arose from the discussion:

- The Panel is pleased with the work undertaken by Ofcom in this area and welcomes the concept of a Code of Practice;
- Some providers are actively contacting customers following calls to customer services, which both Ofcom and the Panel welcome;
- Ofcom are looking closely at the data available from Ofcom's OAT, and have commissioned consultants to advise on how to improve reliability, with a view to publishing it in the longer term;
- New questions will be asked via Ofcom's OAT which will enable identification of companies who do not comply with the Code of Practice;
- SME's with 10 or fewer employees are included in the ADR scheme; and
- Ofcom believed that there is a general condition that prevents action that might affect consumers' credit ratings while consumers are pursuing a complaint.

8.2 The Panel gave the following **ADVICE** to Ofcom:

- Ofcom should examine the system by which consumers provide feedback to providers, including the making of complaints to ensure that the incentives for companies to improve customer service, including complaints handling, are clearly identified. This should:
 - include consideration of how companies can encourage consumers to provide feedback;

- recognise that complaints are not bad for companies, they are an opportunity to improve; and
- recognise that a good result of improving complaints procedures will be a rise in the level of complaints.

This review should lead to the definition of the principles that should be built into the system by which consumers engage with their providers to ensure the best outcome for consumers in this area. Possible ways of improving complaints handling could then be appraised against the principles;

- In relation to the publication of complaints information Ofcom should consider a number of different types of information which could be published:
 - Information from companies regarding customer satisfaction levels;
 - Information from Ofcom's OAT;
 - Information from the two ADR schemes; and
 - Information gathered by Ofcom auditing companies against the Code of Practice (if established).
- Within providers Codes the definition of a complaint should be clear and procedures should be clear as to how to escalate a complaint and request a deadlock letter; and
- That Ofcom make sure that the ADR schemes are not reliant on information from companies which as a result of the timescales set by Ofcom for companies to maintain records may not be available.

8.3 The Panel **DECIDED** that it would respond to Ofcom's consultation.

9. Ofcom Wholesale Local Access Market Review and Wholesale Broadband Access Market Review

9.1 The Panel **CONSIDERED** an update on the current programme of work being undertaken by Ofcom in these areas in order to ensure that consumers have a choice of services and new networks are developed to support the provision of next generation access. During the discussion the following points were noted:

- Ofcom is considering whether to regulate the wholesale broadband access sub-national markets differently;
- One barrier to ensuring consumer choice is that in around 30% of the market, competition is limited. Therefore, in these areas regional remedies need to be considered;
- In relation to local access, currently BT and KCOM have a monopoly in their respective areas which will prevent other providers from deploying networks, therefore remedies to allow access to other providers and possibly price regulation to encourage other providers to enter the market may be necessary; and
- A new remedy of duct access is being considered by Ofcom which will allow competitors access to BT's ducts and poles. Ofcom has commissioned a cost benefit analysis which will inform whether this potential remedy is feasible. If this remedy is included in the final statement it is expected that it will take at least eight months for the remedy to be implemented.

9.2 The Panel **ADVISED** Ofcom to structure its consultation papers to articulate the consumer benefits which Ofcom are attempting to achieve as part of the scene setting section.

9.3 The Panel **AGREED** that it will review an amended draft of the consultation documents if requested by Ofcom.

10. Any Other Business

10.1 It was suggested that the Panel's paper template be amended to include the consumer issues section nearer the start of the paper.

10.2 Members **REVIEWED** a number of alternative colours for a refreshed Panel logo, which are designed to make the logo more accessible and easier to photocopy. Of the options presented Members felt that if possible the Panel should continue to use a shade of green which would maintain consistency of brand. However before deciding to keep green, the logo should be tested for photocopying clarity. Guidance should be obtained from the designers in relation to a minimum size of the logo and minimum pt size for wording.

10.3 Members **NOTED** that they had been granted secure access to Ofcom’s network in order that they can view past and current Panel meeting documentation. Discussions with Ofcom’s IS department are continuing in relation to allowing Members print access from the secure site. Further details on how Members can access the network will be provided to Members via email. Members should inform NE of their operating system(s) so that relevant guidance on how to set-up access is provided.

10.4 In relation to an information paper provided by Ofcom on Digital Europe the Panel **AGREED:**

- To engage with the Ofcom International team as suggested in the paper;
- To **ADVISE** Ofcom to include in their list of strategic priorities:
 - the Framework review of regulation for consulting on consumer views on an European level; and
 - accessibility issues.
- To ask the Ofcom International team whether they are aware of any issues in Europe on data roaming, to feed into the work being undertaken by Ofcom’s Consumer Affairs team on data roaming along the NI border.

10.5 It was **NOTED** that agreement has been reached on the appointment of an agency to undertake the mobile mystery shopping research. Details will be circulated to the mobile sub-group members so that contributions to the kick-off meeting can be provided.

.....ChairmanDate