

Minutes of the 66th meeting of the Communications Consumer Panel

Wednesday 14 April 2010 at 9.00 hours

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

Bob Warner

In attendance

Alistair Bridge (Principal Adviser)

Nicola Ebdon (Panel Secretary)

Emily Keaney (Policy Adviser)

Angela Stainthorpe (Policy Advisor)

Ofcom colleagues (items 4, 6 and 7)

Tom Wright - Chief Executive of Age UK (item 5)

Sir David Brown (Chairman), Phillipa Marks and Philip Marnick from OSAB (item 8)

Richard Halton - BBC, Liz Williams and Greg Mook - BT (item 9)

1. Declaration of members' interests

1.1 Members declared no interests.

2. Minutes of the meeting on 17 March 2010, matters arising, progress on actions and forward plan 2010

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

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

- AP12 (17/02/10) - NE will check understanding of Ofcom's response and inform Members. [Secretaries note: ADR is available to firms with less than ten employees. Also Ofcom will be reviewing whether it makes sense to have two ADR schemes].
- AP 4 - The Panel will revisit its policy position after the general election on next generation access and other issues. Ofcom will be asked if they are intending to develop a paper analysing regulatory implications arising from the general election, which can be shared with the Panel. Chris Woolard will be asked to comment on regulatory implications of the general election when he attends the May Panel meeting.
- Ofcom will be asked when the WBA research on duct sharing will be available for the Panel to review.

2.3 Members **NOTED** the content of the meeting forward plan.

3. Panel discussion of approach to agenda policy items

3.1 The Panel reviewed the policy items for discussion during the day and discussed a number of key points which are reflected in the minutes below.

4. Ofcom - Net Neutrality

4.1 The Panel **CONSIDERED** a paper and presentation which updated Members on Ofcom's current thinking in this area. The following points arose from the discussion:

- Ofcom is looking at the conclusions of the broadband speeds mystery shopping research and the experience internationally to identify the best way of achieving transparency via consumer information;
- Ofcom plans to undertake research from a behavioural economics perspective over the course of the summer/autumn once the phase one discussion document is published;
- The EU Commission will consult on net neutrality in the summer;
- Ofcom will consider whether and how to respond and feed in views on the net neutrality EU Consultation through BEREC (who is working on its own report);
- Ofcom can investigate discrimination in relation to traffic management following consumer or third party complaints; and
- Industry and political pressures are driving debate as to how to address the issue of internet congestion and new business models, which is a growing problem internationally, particularly in mobile.

4.2 The Panel gave the following **ADVICE** to Ofcom, it should:

- research the problems and opportunities for consumers rather than the available remedies of discrimination and transparency. Then it should identify any potential remedies, including issues outside Ofcom's remit;
- reframe the discussion document to include consideration of public policy issues and give a wider definition of transparency. This will ensure that different remedial approaches are considered, for example consideration whether consumers prefer a guarantee of services they will get, rather than information about the services they will not get;
- give consideration to ensuring that consumers are informed why their provider blocks certain content;
- consider overlapping the consumer and industry workshops to help each understand the others position;
- be more explicit about what can be done to avoid congestion; and
- consider the issues raised by consumers being content providers.

4.3 The Panel **DECIDED** it would feedback thoughts to Ofcom via a letter to Peter Philips and recommend other consumer organisations for Ofcom to engage with. Members requested sight of Ofcom's draft discussion paper. It was **AGREED** that Ofcom and the Advisory Team will discuss how the Panel can feed its thoughts into BEREC.

5. AgeUK

5.1 The Panel welcomed Tom Wright from Age UK to the meeting and **RECEIVED** a presentation. The following points arose from the discussion:

- Breaking down inter-generational barriers is an important challenge; however it is difficult to achieve, particularly on a large scale;
- Obstacles to improving the availability of technological communications products for the older population in the UK are mainly attitudinal. The UK tends to view mobile phones as being for the young with demand driven by low prices, rather than quality of service which is essential for the old;
- AgeUK are working with retailers to make after care services affordable;
- AgeUK are looking for ways to make broadband available on a pay-as-you-go basis. The large up-front costs of broadband are a particular barrier to getting online for the older population;
- A common assumption is that the digital divide will correct itself over the short term. However as technology changes and a larger percentage of the older population are living alone it could be a longer term challenge;
- The UK is behind other countries in the availability of age friendly mobile telephones,

but some retailers may make some available soon;

- A number of universities are undertaking research into next generation age friendly assisting technology mobile telephones. However there are no practical applications to date; and
- AgeUK has a number of devolved organisations which share some policy objectives with AgeUK, but which can have other objectives and initiatives.

5.2 The following actions were **AGREED**:

- That it will be useful for AgeUK to talk to the Panel's advisory team regarding the Panel's Digital Participation research and literature review;
- AgeUK will write to the Panel outlining any policy or regulation barriers which the Panel could look to exert influence, to help AgeUK achieve its aims;
- That the two bodies will have an ongoing relationship via the advisory teams and ensure they work in complimentary ways.

6. Ofcom - Switching

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

- The Panel is pleased with Ofcom's progress and looks forward to receiving the consumer research results;
- Qualitative research regarding bundling shows that the in-ability to port provider specific email addresses does not appear to be a barrier to switching. Ofcom will refer back to the research and report to the Panel in more detail on this issue;
- The consumer research was conducted in a segmented way. Currently there does not appear to be any significant differences between segmented responses;
- Ofcom are conducting a survey of switching practices across the EU communications markets on behalf of BRERC;
- Ofcom are considering how to undertake stakeholder engagement during the consultation process, including the possible use of workshops or working groups;
- Ofcom will be undertaking a two stage consultation process before publishing a statement; and
- Consideration of issues such as new versus existing customer deals and the pricing of bundles are part of the project in so far as they influence consumer switching.

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

- Look to ensure that any processes developed both within the UK and EU are consistent across all communications markets; and
- Since the evidence appears to point clearly towards one solution, Ofcom should move to recommending one option as quickly as possible. Then focus on developing this option further and making their preference clear in the consultation document. They should focus on gathering support for the option by clearly articulating the consumer and industry outcomes.

6.3 The Panel **DECIDED** that it would:

- Develop its recommendations for Ofcom on this issue and draft a paper for the Ofcom Board as invited to do so. The draft paper will be considered at the May Panel meeting following consideration of the Ofcom consumer research on switching; and
- Develop its thoughts on how Ofcom could best engage with consumer groups during the consultation process.

7. Ofcom - Illegal file sharing - Code of Practice

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

- In order to meet the Digital Economy Act deadline Ofcom are drafting a Code of Practice that in the absence of an agreed industry code will be published for consultation in May 2010. With a final statement published by 30 September 2010;
- Prior to consultation Ofcom wish to undertake stakeholder engagement;
- Ofcom has a number of concerns regarding citizen and consumer interests: ensuring the appeals process is robust and fair, ensuring that the effects of the 'technology arms race' are mitigated as far as possible and mitigating any legal challenges to the Code;
- Ensuring an appropriate evidence base is established to measure any reduction in copyright infringement is key to allowing phase one a chance of succeeding. Ofcom are intending to establish the base line using data from a variety of sources, including consumer and peer to peer networks research. A decision on whether to move to phase two will be made by the Secretary of State informed by a report provided by Ofcom;
- As part of the data gathering Ofcom will be able to request rights holders to demonstrate that they have engaged in self-help and education as well as writing to notify consumers of detected copyright infringement;
- Ofcom reassured the Panel that the system will be fair to individual consumers and small businesses that make small infringements. The fact that rights holders will pay the full costs of any legal action taken against (alleged) infringers and will not want to incur adverse publicity will deter them from targeting smaller infringements. In addition the letters sent to someone undertaking copyright infringement will provide advice on how to prevent abuse and provide some protection to those making small infringements. Ofcom is obtaining legal advice to establish the complex issue of the liability of WiFi service providers; and
- The legislation will cover the UK only, within which there are estimated to be between two and three million people who have undertaken copyright infringement.

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

- Ofcom should provide the Panel with early sight of the draft Code, so that the Panel can help with its drafting before publishing it for consultation; and
- Ofcom should liaise with the Panel's Advisory team to organise a Panel sub-group meeting and timetable for engagement.

7.3 The Panel **DECIDED** that:

- It would ask Ofcom for the stakeholder engagement plan, so that advice to Ofcom can be provided; and
- This area is important for the Panel over the next couple of months and any implications of committing resource to this area will be reviewed against the work plan.

8. OSAB - Discussion of the role of wireless technologies

8.1 The Panel welcomed Sir David Brown, Phillipa Marks and Philip Marnick from OSAB to the meeting for a general discussion over lunch about a number of issues, including:

- Mobile coverage/quality of service;
- Next-generation access;
- Government's spectrum modernisation programme; and
- 'Game-changing' technologies for consumers [the importance of ensuring an appropriate international regulatory regime that allows for the development of 'game changing' technologies].

8.2 In conclusion OSAB recommended that the Panel consider further the issues of:

- Convergence - how this has led to increased complexity and issues of transparency;
- Network neutrality - in a language consumers understand; and
- Spectrum - the importance of the proposals for spectrum allocation.

9. BT - Project Canvas

9.1 The Panel welcomed Richard Halton from the BBC, and Liz Williams and Greg Mook from BT to the meeting and **RECEIVED** a demonstration of Canvas. Richard gave answers to a number of questions and the following points arose from the Panel discussion:

- The Canvas platform partners have made an investment in the project, from which there will be limited cost recovery. The cost of set-top boxes will be incurred by box manufacturers and the costs of publishing content on Canvas will be incurred by third parties;
- Income will be generated to box manufacturers via the purchase of boxes and to content providers by consumers purchasing content;
- Content providers will be able to add content to the platform through the use of a software development kit. Consumers will be able to get access to similar kit via facilitators - such as the Arts Council;
- Canvas will have a browser search function, to search for available content; however is not currently set-up to enable internet access. In future it will be possible for consumers to access the internet via Canvas, including the ability to complete transactions, if this feature is enabled by Canvas. Currently consumers do not appear to desire access to the internet via their television;
- Content providers will decide how their content will look when accessed via Canvas and be responsible for ensuring it complies with any relevant regulation. Ofcom will be responsible for deciding whether any content is in breach of regulation;
- Canvas are communicating with Government with regard to accessing public services via Canvas, such as Directgov and NHS direct;
- Canvas will enable consumers to set preferences, via pin protection, to prevent access to certain types of content;
- To improve accessibility Canvas has made a number of software developments, however has decided not to proceed with development of text to speech functionality on its hardware. If developed this function would only be in relation to Canvas content and not content by other providers. Canvas is keen for manufacturers to use technology being developed by the RNIB, enabling text to speech functionality for all content on television. They are keen for at least one of the set-top box manufacturers to develop a box with text to speech functionality;
- Canvas is aimed at consumers who are on the verge of going online and will appeal to broadband users who have not purchased Sky;
- In order to ensure a minimum level of programme quality, content will be downloaded with a buffer and the most popular downloaded content will be automatically saved on the hardware;
- Canvas are working on consumer messaging to help consumers understand why something is happening on screen. They will have a call centre to route consumers to the correct provider to deal with problems; and
- Canvas will give consideration as to whether some common standards could be developed to sell the Canvas functionality worldwide.

9.2 Members felt that in order for Canvas to increase digital inclusion it is important that it has the functionality to enable consumers to access the internet and complete transactions. For consumers wishing to go online without purchasing a computer, Canvas will be considered a safe and easy option. It will encourage consumers to purchase broadband and hopefully enable them to see the benefits of being online. However Members felt that non-pc users may find the Canvas interface initially difficult to navigate as it is based on pc navigation.

9.3 The Panel **REQUESTED** access to Canvas research to help identify whether there are any gaps between programme quality provided via Canvas and what is expected by consumers. The Panel welcome a further opportunity to discuss Canvas in the future.

10. Panel round up discussion of agenda policy items

10.1 The Panel reviewed the policy items which had been discussed during the day and agreed any further actions as follows (others reflected in the minutes above):

- Dependent on the outcome of presenting its thoughts to the Ofcom Board on switching, the Panel will look for other such opportunities and consider drafting a note to the Board in relation to consumer information with examples of issues with common themes of importance to the Panel.

11. Any Other Business

11.1 Members **NOTED** that the Digital Inclusion Taskforce had been absorbed into the Digital Inclusion Consortium and Martha Lane-Fox is now the Governments' Digital Champion. Anna Bradley is no longer involved with the Taskforce.

11.2 Members **AGREED** to consider the request to complete a 1 minute interview and send any completed interviews to the Advisory team.

11.3 Members **NOTED** that they will be emailed with regard to training available from Ofcom. Access to online training tools and content as well as the ability to book onto Ofcom face-to-face courses will be available to Members via the mypc access, if desired.

11.4 Members were **REQUESTED** to feedback comments on the use of space on the agenda for Panel discussions to Anna.