

# Minutes of the 67<sup>th</sup> meeting of the Communications Consumer Panel

Wednesday 12 May 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 (Items 9-12)  
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 and 9)  
H Nwana - Ofcom Partner, Spectrum Policy Group (item 4)

## 1. Declaration of members' interests

1.1 Members declared no interests.

## 2. Minutes of the meeting on 14 April 2010, matters arising and progress on actions

2.1 Members **APPROVED** the draft minutes for signature by the Chair.

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

- AP4 - Net neutrality - AIB and AnB met with Peter Philips to communicate Panel views, which will be followed up with a letter. Ofcom are planning to publish a discussion paper in June and are willing to contribute to the Panel's potential seminar with POLIS.

## 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 - Spectrum policy 2010+

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

- aims to optimise the value of spectrum and drive more net value to citizens and consumers either by contributing to GDP or increasing value to society;
- engages in spectrum management via: recycling/clearing spectrum to enable more efficient/effective usage; allocating spectrum via a market orientated system; and licensing via an authorisation framework;
- looks at where markets fail to deliver services required by society (such as emergency services) and intervenes where necessary;
- considers the best way to improve mobile coverage is to free up 900mhz spectrum for 3G services to allow mobile operators to improve coverage;
- is undertaking a number of spectrum projects to bring benefits to citizens and consumers;
- is undertaking activities to analyse the supply and demand of spectrum in the future, which be matched to consumer and citizen requirements; and
- will develop its measurement of the value of spectrum to society over the next three months.

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

- factor future consumer demand into its analysis of the future supply and demand of spectrum;
- develop its analysis of the social value of services on a micro level as well as a macro level, ensuring the needs of vulnerable consumers are expressed; and
- develop a way to describe its work from a consumer view point so that Ofcom can clearly communicate its reasoning to consumers.

4.3 The Panel **DECIDED** it would follow up on the following issues with Ofcom via routine meetings and Panel updates as appropriate:

- offer advice on and input to Ofcom's development of social value measurement and demand studies; and
- help Ofcom develop a common shared understanding of citizen and consumer benefits, possibly via the use of the Panel's framework or Toolkit.

4.4 Once Ofcom colleagues left the meeting, Members **AGREED** that it will:

- consider undertaking further work in relation to spectrum issues if resources permit;
- consider reviewing a spectrum project as part of the Panel's review of Ofcom's projects using its Consumer Interest Toolkit;
- consider at a future Panel meeting whether spectrum should be used for social policy, such as delivering the USO; and
- at the June Panel meeting ask Chris Woolard to address the likelihood that Ofcom will need to review its market-led approach to spectrum management.

## 5. Digital Participation Policy Proposals

5.1 The Panel **CONSIDERED** a paper which updated the Panel on work undertaken by the Advisory team (team) and contained the final draft of the Panel overview publication on digital participation. The following points arose from the discussion:

- the proposals will be signed off by AnB, sent to print on 19 May and launched on 26 May; and
- Members could add to the event invite list via EK.

5.2 The Panel **AGREED** to:

- review the report to replace words disliked by stakeholders, reflect the change of Government and ensure consistent language;
- consider what strategy to recommend to Government to take account of the non-adopters;
- describe the recommendations in the overview publication as 'some of the things' which can be done to improve digital participation;
- identify a key message from the research;
- send the proposals to new Ministers identifying possible new initiatives at an appropriate time; and
- consider the wider value of the framework in other areas, to target interventions and/or review use of resources.

## 6. Draft Panel advice to Ofcom Board on Switching

6.1 The Panel **CONSIDERED** a paper which provided Members with a draft of the Panel's advice to the Ofcom Board on switching. The Panel **AGREED** to:

- structure the paper using the principles developed by the Panel's workshop on switching;
- check that a gaining provider led option is viable;
- set out clearly at the start of the paper the ideal consumer journey and the Panel's position;
- highlight that the Panel considers the gaining provider led option as fit for purpose for most people most of the time, but that specific protections must be available for vulnerable consumers;
- consider whether to expand the bundling argument by showing (graphically) the current situation and bundling trends in other sectors; and
- find out about the option for an independent third party and how this will work, including reviewing existing mechanisms.

6.2 The Panel **DECIDED** that it would like an opportunity for some Members to present the paper to the Board, if an invitation to do so is given. [Secretary's note: The Board would like an information paper only on this occasion.]

## 7. Implementing the Panel's Work Plan

7.1 The Panel **REVIEWED** a paper which set out proposals as to how the Panel and the team work together to ensure the Panel carries out its role effectively and efficiently. The issues identified as arising from the Panel's review session were taken as read.

7.2 In relation to the system of Panel leads, Members **AGREED**:

- the general approach;
- to review the list of Panel leads against the final workplan to ensure all projects are covered appropriately including Anna and stakeholder leads;
- the team will bring to the Members attention any issues arising in priority areas via the weekly update;
- Panel stakeholder leads representing particular types of consumers will ensure the team and Members are aware of any particular issues affecting their group of stakeholders. A meeting between Panel leads, the Chair and the team will be arranged to agree planned work;
- a template paper will be drafted for completion by the stakeholder leads to update the July Panel on work planned;
- to add to the procedure, circulation to all Panel members of the final output of a project when Anna's view is sought;
- to check the Communications Act to ensure that the Panel is covering all stakeholder groups identified.

7.3 The following points arose from discussion in relation to how the team plans to monitor progress against the Work Plan and record the Panel's impact:

- Over the summer the team will give consideration to possible options for future work and will bring proposals to the Panel in September.
- Media and stakeholder engagement will be identified on the plan, in particular new Government ministers, primary stakeholders and relationships with the media. Over the summer consideration will be given to resourcing stakeholder and media engagement work.
- A summary of the responses to the Panel's workplan consultation followed by an explanation of what changes the Panel made to the plan as a result have been published. Those who responded were thanked and sent a copy of the workplan and summary of responses.

## 8. **Illegal File Sharing Draft Principles**

8.1 The Panel **CONSIDERED** a paper which provided Members with an update on work undertaken and contained a list of draft principles designed to guide Ofcom in drafting the planned Code of Practice and designing an appeals mechanism. The following points arose from the discussion:

- Conversations with other bodies will continue to encourage them to sign up to the principles.
- It is preferable for consumers to receive information about the impact of illegal file sharing and the existence of legal alternatives in the form of a generic pamphlet, uniform across all ISPs, rather than individual ISP letters. It is hoped such a pamphlet will be funded by legal download services.
- Ofcom have a duty to report on what industry is doing to promote and educate consumers, therefore the distribution of information should be monitored as part of this duty.

## 8.2 The Panel **AGREED** to:

- publish the principles when Ofcom launches its consultation;
- provide an individual response to the illegal file sharing code consultation;
- respond to the BIS cost model consultation, stating that cost should not be a barrier to appeal and recommending no cost to consumers if sufficient time available;
- change the principles as discussed to:
  - explain the rights, including data protection rights, of consumers on the list of infringers;
  - refine the description of a consumer lay member on the appeals body; and
  - include a category of consumer/citizen interest expert on the appeals body;
- ask the Citizens Advice Bureau whether they wish to sign up to the principles; and
- arrange a meeting with Ofcom to discuss their role in relation to consumer information, monitoring and ISP responsibilities.

## 8.3 The Panel **DECIDED** that:

- owing to resource constraints, work on this area will focus on completing work on the principles and developing a response to the subsequent consultation;
- consideration will be given to further work on this area in the longer term; and
- Ofcom should be asked to engage with the Panel on measurement later on in the process.

## 9. Ofcom - Mobile Coverage and Mobile Broadband research

9.1 The Panel **CONSIDERED** a paper which updated Members on Ofcom's current research programme on mobile coverage (not-spots) and mobile broadband. The following points arose from the discussion:

- Ofcom's research shows that mobile operators can be unaware of coverage problems experienced by their customers;
- Ofcom is conducting a coverage pilot study in Devon using recording equipment on vehicles. Ofcom hopes to roll out the pilot nationally to provide national coverage data - especially if it can be supported by vehicle fleets that already drive around the country on a regular basis such as refuse trucks;
- Ofcom is considering setting up a portal for consumers to register their interest, to give Ofcom an indication of consumer demand;
- Ofcom is working with the Commission for Rural Communities to facilitate community group action to improve coverage and track community initiatives. Ofcom will ask operators about how they would respond to community led solutions; and
- National roaming between operators is possible; however it has some technical and commercial issues which currently prevent it from being used as a solution.

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

- consider using crowd sourcing or other data gathering exercises such as google applications to give an overall picture of coverage problems. This will help focus future efforts on the highest priority areas where consumer demand is high;
- encourage operators to recognise that they have coverage problems;
- explore coverage solutions as soon as possible by piloting possible solutions in problem areas;
- publish accurate mobile operator relative coverage information as a lever to get operators to recognise coverage problems and start improving coverage; and
- provide its research to the Panel when available and keep in touch with the Advisory Team.

9.3 Once Ofcom colleagues left the meeting, the Panel **DECIDED** it:

- will consider using the Panel's research to stimulate political interest in mobile coverage by targeting MPs in all Nations and in relation to SMEs via the Chamber of Commerce and Federation of Small Businesses;
- wants mobile operators to start focusing on quality of service and coverage rather than price and retention of profitable customers. Members feel the lack of interest from mobile operators in improving coverage is a key issue which must be tackled;
- will explore the legal position surrounding the number of days consumers ought to have to establish coverage when purchasing a mobile phone and pressurise mobile operators to ensure adequate time is made available to consumers; and
- is concerned about the availability of reliable coverage information. Inaccurate coverage information will be confusing and potentially disadvantageous to consumers.

## 10. Mobile Coverage

10.1 The Panel **CONSIDERED** a paper which updated the Panel on progress made by the team in this area, particularly the results of the Panel's mobile coverage mystery shopping research.

10.2 The following points were noted, in relation to the Synovate mobile mystery shopping research:

- the research will be shared with Ofcom prior to publication;
- mobile operators will be provided with their individual results and generalised results of the research prior to publication;
- a media engagement plan will be developed, considering engagement with particular journalists and launch event; and
- the research identifies that seven days for consumers to establish coverage when purchasing a mobile phone is not enough time and that return policies are not clear to consumers.

10.3 The Panel **AGREED** that the:

- Chair will sign off the report for publication;
- team will follow up agreed actions; and
- sub-group will identify key messages from the research.

10.4 The following points were noted, in relation to the mobile sector developments paper:

- Members feel that the likely impact on consumers of the release of spectrum will be significant;
- Ofcom has raised the Northern Ireland data roaming issue with COMREG;
- when looking at the issue of net neutrality the Panel should cover mobile;
- consideration should be given to including the issue of fixed and mobile convergence in the Panel's 2011/12 Workplan; and
- the issue of cost of 0800 numbers on mobiles will be considered as part of Ofcom's review of non-geographical calls which will be discussed at the July Panel meeting.

10.5 The Panel **AGREED** that in relation to the release of spectrum it will:

- find out from Ofcom whether it will be helpful for the Panel to have a policy position;
- at the next Panel meeting ask Chris Woolard to say whether the Government is likely to pursue the direction needed to implement the spectrum modernisation programme put forward by the previous Government; and
- decide whether the Panel should develop a policy position to influence Government.

## 11. Panel round up discussion of agenda policy items

11.1 The Panel reviewed the policy items which had been discussed during the day and agreed any further actions as reflected in the minutes above.

## 12. Any Other Business

12.1 The Commission for Rural Communities is conducting some work on mobile coverage which may be relevant to the debate about the future scope of universal service.

12.2 Anna and Mike O'Connor - Chief Executive of Consumer Focus, discussed a number of potential future developments and agreed to wait until these are clear before reviewing the MoU (probably in the Autumn).