

Minutes of the 71st meeting of the Communications Consumer Panel

Wednesday 13 October 2010 at 9.00 hours

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

Present

Consumer Panel

Anna Bradley (Chair)

Fiona Ballantyne

Kim Brook

Colin Browne

Roger Darlington (items 5 & 6)

Maureen Edmondson

Leen Petré

Damian Tambini

Bob Warner

Louisa Bolch

In attendance

Alistair Bridge (Principal Adviser) (not item 5)

Nicola Ebdon (Panel Secretary) (not item 5)

Emily Keaney (Policy Adviser) (not item 5)

Colette Bowe (Ofcom - Chairman - item 5)

Ofcom colleagues (items 4, 7, 8 and 9)

1. Declaration of members' interests

1.1 Members declared no interests.

2. Minutes of the meeting on 15 September 2010, matters arising and progress on actions

2.1 Members **APPROVED** the draft minutes for signature by the Chair and **NOTED** the current status of actions arising.

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 - Mobile Coverage

4.1 The Panel **CONSIDERED** a paper which updated Members on Ofcom's approach to mobile coverage and network quality issues, including a summary of Ofcom's research on the impacts of not spots. The following points arose from the discussion:

- Ofcom is expecting to publish its not-spot research report with next steps at the end of October 2010;
- Ofcom is attempting to improve the accuracy and comparability of information on mobile coverage available to consumers as a potential solution to improving mobile coverage via encouraging competition;
- Ofcom is relying on information from the Devon not-spot trial to cross check reliability of mobile coverage information; and

- Ofcom's role is to ensure effective competition in order to improve coverage and to identify and explain to Government mobile coverage issues which may be outside Ofcom's remit.

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

- reconsider the provision of better mobile coverage information to consumers as a solution to improving mobile coverage via competition, as it is not likely to achieve the best outcome for consumers;
- consider the resource implications of pursuing the solution of mobile coverage information against the limited expected benefits;
- recognise that not-spots have a huge impact on rural areas, particularly Northern Ireland, Scotland and Wales where there is little competition. Since the roll out of 2G networks has essentially ceased and the roll out of 3G networks is unlikely to go beyond the existing 2G network footprint, information will not help improve coverage in those areas that are currently by one or no networks;
- actively look to develop solutions to address the market failure that has resulted in complete or partial mobile not-spots;
- focus on developing solutions which will share and extend networks and develop technology such as femtocells to improve coverage;
- consider in its report the Panel's recommendation that consumers should be able to 'try before they buy' and build on the Panel's success in achieving significant improvements in the coverage cancellation policies of mobile operators and retailers;
- consider whether the upcoming spectrum auction and potential coverage obligations can provide any solutions to mobile not-spots;
- revisit the conclusions of the Illuminas report before it is published to ensure that any conclusions are accurate and justifiable;
- ensure any coverage statistics used in Ofcom's analysis are fully explained so as not to be misleading and ensure that misleading coverage statistics do not underpin any decisions; and
- ensure the research appropriately identifies, describes and assesses the social and economic impact of mobile coverage not-spots on consumers referring to other existing research to reinforce analysis.

4.3 Members **AGREED** to provide a summary of their concerns that Ofcom's proposed actions on mobile coverage will do little if anything to meet the objective set out in its Annual Plan of making progress on mobile not-spots to Ed Richards and Colette Bowe.

5. Colette Bowe - Ofcom Chairman

5.1 The Panel welcomed Colette Bowe to the meeting and held a private session.

6. Ofcom Governance Review

6.1 Members discussed the outcome of the Government's review of consumer bodies. Members **AGREED** to support Citizen's Advice as far as possible in the transfer of functions and to find a way to communicate the Panel's sector specific intellectual capital. The Panel **AGREED** that the Chair will consider how to produce and disseminate a paper to consolidate its views, policy positions and continuing concerns. The Panel **AGREED** to engage with the Department for Business, Innovation and Skills and Citizens Advice referring to points raised in the Panel's letter to Ed Davey, MP Minister for Consumer Affairs which highlighted the benefits

of a Panel consumer representation model and the innovative nature of the sector which requires a responsive consumer representation body.

6.2 The Panel discussed the outcome of Ofcom's Expenditure Review Project in relation to Ofcom's governance structure. Members expressed deep disappointment at Ofcom's decision to remove the Panel from its governance structure and concern that the new governance structure will not enable representation of consumer and citizen interests at the same level as via the Panel model. The Panel considered how the interests of consumers and citizens could continue to be represented effectively through Ofcom's proposed governance structure. The following points arose from the discussion:

- it will be important for Ofcom to receive advice on the interests of UK consumers overall, as well as on the interests of people in Northern Ireland, Scotland and Wales;
- it will be important for Ofcom to receive advice on the interests of older and disabled people and small businesses;
- the advice that Ofcom receives should be published in order to reassure consumers and citizens that its regulatory decisions are being properly scrutinized;
- Ofcom should consider whether its advisory committees should respond formally to Ofcom consultations to ensure that consumers' and citizens' interests are taken into account in a transparent way during the regulatory process.
- Ofcom's advisory committees should be proactive in identifying the issues on which they wish to advise and at a point during the regulatory process when their input is likely to be most valuable, i.e. before regulatory options are finalised;
- Ofcom's advisory committees should be resourced to provide forward-looking advice on the issues that will matter to consumers and citizens, particularly to inform the development of Ofcom's Annual Plan and longer-term strategic framework;
- Ofcom's advisory committees should have the capacity to contribute to Ofcom stakeholder events on, for example, switching processes or net neutrality;
- Ofcom should take into account the likely demand for the advisory committees' input in deciding how frequently they should meet;
- Ofcom's advisory committees should be able to provide advice to Government or other bodies if they have concerns that Ofcom does not have the powers to address; and
- Ofcom's advisory committees should have a mechanism to influence project teams and escalate concerns if necessary.

6.3 Earlier in the meeting Colette Bowe asked the Panel to develop a paper to gather its thoughts on the proposed governance arrangements. Members **AGREED** to draft this paper, following engagement with relevant Members of Ofcom's Advisory bodies and a further discussion at its November meeting, for submission to Colette and other Board Members in November.

6.4 The Panel **AGREED** to discuss its transitional arrangements at the November Panel meeting, once the detail of Ofcom's Expenditure Review Project has been announced and advise Colette Bowe of the outcome of this discussion. Members **AGREED** to revisit its work plan for 2010/11 at the November meeting, however in the meantime will continue work on its planned projects and areas of monitoring with engagement. Members **AGREED** that following Ofcom's announcement on its expenditure review on 21 October 2010, Colin Browne will contact residual Panel

Members to gather thoughts and will contact Colette Bowe to gain clarification on arrangements for a transitional Panel Chair.

7. Ofcom - Alternative Dispute Resolution (ADR) Review

7.1 The Panel **CONSIDERED** a paper which updated Members on Ofcom's review of the ongoing approval of two ADR schemes in the telecommunications sector. The following points arose from the discussion:

- through the call for inputs Ofcom will be looking for any evidence of consumer detriment;
- Ofcom has a duty to ensure consistency between schemes;
- Ofcom will ask CISAS and Otelo to make changes to their operations based on the results of an operational audit;
- a situation of unnatural competition has arisen due to the fact that providers chose which scheme to join, but consumers do not have a choice;
- withdrawal of approval from an ADR scheme can only be made if the scheme does not meet Ofcom's test of operational effectiveness;
- the levels of satisfaction identified in the paper are measured by independent research with consumers; and
- Ofcom will be reviewing the quality of decisions made by both ADR schemes.

7.2 The Panel **CONSIDERED** an information paper which summarised various options available to Ofcom for publishing provider-specific customer service information. The following points arose from the discussion:

- Ofcom would like to undertake at least two of the proposed options in the longer term;
- accuracy of data collection by Ofcom's OAT will need to be improved prior to considering publication; and
- Ofcom is looking to provide a snapshot of customer service performance in the short term via market research.

7.3 The Panel gave the following **ADVICE** to Ofcom, it should ensure that it:

- considers any detrimental effects on consumers of having two ADR schemes;
- considers any economic effects of two schemes undertaking the same role;
- analyses the quality of outcomes for consumers from each of the two bodies to ensure equality of justice;
- considers publishing market research data over time as this may lead to a improvement in customer service;
- considers including standard customer service metrics in the annual Consumer Experience Report rather than commissioning stand alone research; and
- takes a decision on whether to publish ADR scheme complaints as soon as possible, and announce the decision at the relevant time to provide companies with an appropriate lead time to publication.

7.4 Members **AGREED** to ensure that Panel advice on the review of ADR schemes and publication of provider-specific customer service information is explained to Ofcom's Director of Consumer Affairs.

8. Ofcom - Geographic Numbers

8.1 The Panel **CONSIDERED** a paper which updated Members on Ofcom's approach to geographic numbers. The following points arose from the discussion:

- Ofcom wishes to ensure the supply of geographic numbers continues with the least impact on consumers;
- Ofcom will manage demand for and monitor use of numbers as much as possible, but is planning now for a time when the supply of available numbers will run out;
- Ofcom plan to improve number allocation administration processes to ensure communication providers provide utilisation information to Ofcom;
- Ofcom are considering charging for issuing number blocks to encourage communication providers to utilise allocated numbers;
- consumer research shows that consumers prefer the option of closing local dialling which results in consumers changing dialling habits;
- the option of introducing a second area code will involve costs to changing numbers and consumers view the numbers as not 'local';
- Ofcom propose to close local dialling on a local basis as required, then introduce overlay codes if required in the longer term; and
- a system of closed local dialling is being used successfully in other countries.

8.2 The Panel gave the following **ADVICE** to Ofcom, it should ensure that:

- communication providers prove to Ofcom that they are adequately utilising numbers already provided, before Ofcom decides to undertake any of the outlined options;
- consideration is given to closing local dialling on a national rather than regional basis (unless evidence shows this is not the best solution), as Members feel regional rollout could be more expensive and more confusing for consumers (with the exception of London);
- a communication plan is developed which limits costs and ensures communication with all consumers including vulnerable consumers, those without a landline and those who move between regions;
- the communication plan covers how much communication will cost and who will bear these costs; and
- takes account of the experience of digital switchover.

9. Ofcom - Wholesale Broadband Access (WBA) Market Review

9.1 The Panel **CONSIDERED** a paper which updated Members on Ofcom's review of competition in the WBA market. The following points arose from the discussion:

- wholesale regulation will create more wholesale competition but will not necessarily extend broadband coverage;
- the review considered fixed services only and regulation can only be imposed if a provider has significant market power;
- Virgin is not considered to have significant market power;
- the size of market where BT has significant market power is reducing over time but at an increasingly slow rate; and
- most providers cannot see a business case to compete in the Hull market.

9.2 The Panel was satisfied that Ofcom has addressed the main consumer issues.

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 reflected in the minutes above.

11. Any Other Business

11.1 The Panel gave their thanks to Kim Brook, Leen Petré, Damian Tambini and Louisa Bolch who will be leaving the Panel as from 27 October 2010 as their term of office has not been extended.

11.2 The Chaiman noted that her term of office is also due to expire in January 2011.

.....ChairmanDate