

Consumer interest audit 'tool-kit'

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Background to the project

- The Panel's statutory duty is to advise Ofcom and others on the interests of consumers in the communications market-place.
- With limited resources, it cannot hope to offer advice on all the consumer-related matters that might come before it. To address this, the Panel has opted to identify more strategic ways of adding value to the regulatory process.
- The Panel decided in 2004 to see if it could find a way to satisfy itself that Ofcom effectively identifies and gives due weight to consumer interests in its regulatory decision-making. It observed that whilst there are tools for assessing outputs of regulation (impact assessments, etc) there are currently few if any ways of assessing 'inputs' to regulation.
- The objective of this project has therefore been to develop a methodology for "auditing" the way in which Ofcom (or any regulator) takes consumer interests into account in the formation and implementation of regulation.

The “problem statement”

- How to define the consumer interest, or the framework for identifying the consumer interest, in sufficient detail so that:
 - It is clear to those undertaking a regulatory project, and those interested in the output, what the consumer issues are in relation to the work of Ofcom; and
 - It is strategically consistent and coherent between the different areas Ofcom is responsible for.
- How to ensure that “taking the consumer interest into account” is sufficiently well-evidenced through the processes undertaken by Ofcom colleagues that they are capable of being audited, whilst not promoting a tick-box approach.

Consumer interests or citizen interests?

- In preliminary discussions with Ofcom the question of whether the audit's scope could be extended to address the consideration of citizen interests in addition to consumer interests was asked.
- Whilst in theory there is no reason why a similar methodology can not be applied to citizen interests, for practical reasons this project limited itself to considering the consumer interests in Ofcom. This was primarily because the consumer interest debate was sufficiently far advanced and embedded into cross-Ofcom thinking to be easily identified and evidenced.
- We would be very interested to explore how the methodology we have identified can be applied to citizen interests and believe that it should be possible to do so.

Key findings

- It **is** possible to devise an auditable methodology to be used by a regulator for identifying and analysing the consumer interest.
- Ofcom's processes are in the main capable of being audited and the initial review suggests that Ofcom **should** be well-placed to provide evidence that it has considered and taken into account consumer interests in its work.

A word of caution:

- The study did not cover all areas of Ofcom activity in depth – there remain some areas where further clarification would be required in order to establish the robustness of processes;
- In terms of defining the consumer interest, there is currently no formal structure in place to ensure that there is a consistent and coherent approach taken across Ofcom. We expect the work of the new Director of Consumer Policy, building on the output of the Consumer Strategy Project, to begin to address this.

Key characteristics of the tool-kit

- The tool-kit methodology covers three broad areas:
 - Defining the consumer interest eg:
 - How are consumer interests identified?
 - Are consumer definitions shared across the organisation?
 - Providing evidence that the consumer interest has been taken into account eg:
 - Are there adequate risk assessment and planning processes to address consumer interest issues?
 - Is there an effective internal challenge process?
 - Communicating the consumer interest internally and externally eg:
 - Is there sharing internally of best practice methods for defining consumer interests?
 - Is there an explicit and transparent communication to all stakeholders about the way in which interests are identified?
- For more detail see Section 1 of the report

Use of the tool-kit

- The methodology, whilst developed with Ofcom in mind, has been designed to be easily adopted by other organisations concerned with regulating in the consumer interest. It is for this reason that it is described as a ‘tool-kit’ offering as it does a form of evaluative review that can be adapted to different projects at different times by different parties.
- Examples of potential uses:
 - A quality assurance tool for use by Boards (on the analogy of Internal Audit)
 - An external audit by eg NAO for the purposes of providing an opinion on an organisation
 - An external stakeholder eg Consumer Panel requiring assurance on the way an organisation fulfils its obligations to consumers
- Evidence levels would vary depending upon use:
 - An external opinion from independent auditors would require ‘high’ levels of evidence
 - For internal high-level self-assessment purposes lower levels of evidence required
 - As a discussion tool at e.g. an away day, the tool-kit could be used to structure the discussion

Next steps

- Discussion with Ofcom colleagues over use within Ofcom – both by Ofcom and the Panel
- Discussion with some other potentially interested parties eg FSA and DTI
- External publication
- Joint seminar with NAO