


Observations from Consumer Panel on Ofcom consultation process

Philip [Rutnam],

1. The Consumer Panel has asked me to write to you on their behalf to outline their concerns about the process Ofcom has adopted in relation to publication of consultation responses i.e. publishing only after a consultation has closed. This topic was discussed at the Consumer Panel meeting on 18 May, reflecting the importance that the Panel attaches to this issue.
2. The Panel takes as its starting point the view expressed by Ofcom in its document "How will Ofcom consult?" that "*We [Ofcom] think it is important for everyone interested in an issue to see the views of others during a consultation*". The Panel fully endorses this view but questions whether the post-closure publication approach that Ofcom has adopted actually prevents maximum value being extracted from consultation responses.
3. In recognition of Ofcom's desire to engage with its many and varied stakeholders during consultations and in support of their request to you to review the practice of post-closure publication, the Consumer Panel makes the following observations:
 - a. Early publication of responses is likely to stimulate more debate on contentious issues – an objective the Panel recognises is often hard to achieve. Their view is that publication of a controversial or challengeable point of view is likely to spur those with contrary views or conflicting evidence to enter the debate with comments/submissions of their own. The Panel believes this would allow Ofcom to consider a fuller and more informative range of views on key issues.
 - b. Several Panel members have experience of working with small organisations. The challenges facing such groups, of limited resources and/or expertise, often conspire to inhibit the contribution that can be made to debates of critical importance to their constituencies. For these groups, who are often the hardest to reach or solicit opinions from, it was agreed that there would be an efficiency benefit in seeing responses from others; allowing small groups to signal agreement, disagreement or context to other submissions.
 - c. Whilst acknowledging that in many consultations there can be a surfeit of irrelevant submissions, Ofcom is required to act transparently and to ensure public confidence in its consultation process. There is therefore an integrity argument to support publication of responses in good time to allow assessment and reflection by other stakeholders.

- d. The Panel appreciates that there will be occasions where respondents request that their submissions remain confidential and that there may be legitimate grounds for certain of these requests. It would however urge Ofcom to clarify the grounds for agreeing to a response remaining confidential in order to prevent information being withheld on spurious grounds.
4. More generally, and irrespective of any review of process, the Panel would like to confirm its own position in relation to consultation responses. There will be particular consultations that the Panel has a keen interest in, and others where although the substance of the consultation is not high on the Panel's agenda, the nature of responses from particular groups e.g. disability organisations, consumer groups or groups connected with the nations and/or regions, would be of interest to the Panel. We have exchanged emails on this briefly in the past and I believe we agreed that advance sharing of information would be possible, and in the spirit of the Ofcom/Panel Memorandum of Understanding, except for commercially confidential submissions.
5. The Panel trust that their observations add value to the on-going development of Ofcom's consultation process and would welcome your reaction.


15 June 2004