

Communications Consumer Panel and ACOD comments on the report of the working group on consumer and competition policy for Scotland and the Scottish Government's response

The Communications Consumer Panel (the Panel) and the Advisory Committee on Older and Disabled People (ACOD) welcome the opportunity to comment on the report of the Working Group on consumer and competition policy for Scotland, and the Scottish Government's response.

We are delighted that two Members of the Panel and ACOD have been involved in the development of the policy to date. Our Member for Scotland, Mairi Macleod has taken part in discussions with officials and Rick Hill, the Panel and ACOD's Member for Northern Ireland, was appointed by Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy, John Swinney to chair the Working Group to consider these changes to the consumer and competition landscape in Scotland. Given his role in the development of the Working Group's report, Rick has not contributed to this response.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector, as an independent statutory body, set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes - and the needs of micro businesses, which face many of the same challenges as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.



Response

We recognise that consumer advocacy is not devolved for most of the telecommunications market but we feel our experience of tackling the issues discussed below can be of relevance to other areas where advocacy *is* devolved.

Communications services, in all their forms, play an ever-important part in people's lives. Telecommunications is now rightly regarded as the fourth utility, but the market is undergoing significant change - and while many developments offer fantastic opportunities to benefit consumers, they also have the potential for confusion and consumer harm. Trust is therefore a vital component of an effective market. Consumers need to be able to trust their providers - trust that they will behave fairly; give a good service; be careful custodians of consumer data and protect consumer privacy etc. The four pillars identified in the report - advocacy, advice, enforcement and redress - are crucial in terms of underpinning that trust. The Panel supports fully any steps that help create a fair, inclusive and cohesive consumer policy framework that translates into accessible information and support for consumers.

The Panel exists to ensure that the needs of consumers, citizens and micro businesses are fully promoted and protected by providing an independent voice for these groups. We therefore welcome that advocacy and action on behalf of, and by, consumers and citizens are at the heart of the Working Group's report and the Scottish Government's response. We fully agree that "An effective advocacy body must be capable of acting as a bridge between consumers, regulators and policymakers. It must be capable of communicating the consumer interest while also interpreting the language and context of regulation". We are also conscious that micro businesses face many of the same challenges as individual consumers and would welcome the opportunity to work with you more generally to find ways in which we can create a more even playing field for such businesses. Much of the Panel's work takes place during the development of policy and behind the scenes, where we aim to offer expert advice and constructive challenge to Ofcom and other stakeholders. It is the Panel's view that broad consumer representation and input is invaluable because of the unique insight that it can deliver in addition to that gleaned from research. We were pleased to note the undertaking to work with consumer bodies, advocacy groups and regulators. The Panel contains a huge amount of experience from both industry and consumer representation and, by working together with the new body, we would hope to enhance its work. We hope that Consumer Scotland will go on to work collaboratively across the UK as widely as possible and draw on relevant expertise both within and outwith the organisation as appropriate. We look forward to working closely with you in these areas.

As the Working Group's report states, the new independent body should work to ensure "the voice of Scottish consumers is heard, informing debate in devolved and UK and

European contexts with constant critical scrutiny which keeps asking the right questions”. To be able to do this, it is vital that the new body commissions research, in addition to taking account of learnings from other data sources. As a Panel, we have also found that it is essential to be able to look forward and anticipate developments and their impacts as well as deal with current issues of consumer detriment.

Below we highlight several key issues for the Panel and ACOD this year in relation to competition, the provision of advice and redress which link to the findings of the Working Group. Our full workplan is available [here](#).

Market Consolidation

In terms of competition, the Panel is concerned that the position of all UK telecommunications consumers is not weakened in any way by consolidation in the mobile market. The execution of such deals after the physical network sharing deals of the last decade means that there are very few legitimate cost efficiencies available that are directly beneficial for consumers. There is, therefore, a danger that such mergers could be driven by a desire to reduce the competitive intensity of the UK mobile market, to allow prices and margins to rise for the benefit of operators and at a cost to consumers. In our view, beyond benefitting the companies involved - which should not alone be grounds for approving such deals - we have yet to see any credible reasons why such mergers should be allowed to proceed.

Switching

We have welcomed Ofcom’s plans to improve consumers’ ability to switch, but are concerned about the time these initiatives are taking to implement. Low switching levels lead to reduced competition and a worse deal for consumers in all markets. Consumers need to be aware of the potential benefits of switching and to have confidence that switching will be a hassle-free process with effective “safety nets” to mitigate against loss of services.

Provision of advice and information

Robust switching processes are the bedrock of improved switching, but they are not sufficient by themselves. Consumers need to be able to make an informed decision, and be assured that they will not incur excessive cost, time or disruption as a result of a decision to switch. They also need trusted advice and information, in the absence of trust in the market or providers. Accessible, accurate and digestible information is key.

A key aim for consumer policy must be the promotion of engaged and active consumers, who are empowered and well informed; yet increasingly complex pricing makes it harder for people to compare prices and get the best deals and, as we have seen in other



markets, can be a cause of consumer disengagement. Awareness of trusted sources of information is lower among older consumers in each telecommunications market. The proportion of consumers aged 65+ who are unaware of any trusted sources of information is about double the average in each market - ranging from 5% in the bundled services market to 26% in the fixed line market.

The provision of information about providers' performance is vital to informing consumers' decision making, to encouraging providers to maintain or improve performance and to improve transparency and trust within the sector. Regulators and consumer bodies have a key role in helping consumers to assess their options by providing information in easily digestible and accessible formats which can be picked up and widely promoted by the press and online sources. Such information dissemination must utilise the platforms available - including social media - and provide journalists, bloggers, consumers and citizens with the tools to ensure that everyone can engage with and understand the data being published. We support the Working Group's recommendation that consumer education is included in the school curriculum. More broadly, we also support the notion that consumers need to know that advice is available in the first place - so national coordination and clear strategic priorities are crucial.

Postal services

We believe that it is vital to maintain a universal postal service that meets the needs of all consumers. This must be financially sustainable, fit for purpose and, crucially, affordable - recognising both changes in market conditions and in consumer behaviour (both residential and microbusiness customers). Given the absence of any meaningful competition, the Panel believes that consumers need to have a strong and active voice in the market, able to draw on the experience of consumers and to hold providers to account. Continued progress on Royal Mail's efficiency is vital - so that cost management and reduction can link directly to sustaining the universal service at an affordable price for all who choose, or need, to use it - including people on lower incomes and those who live or work in harder to reach addresses. We note that the parcels market is growing. However 45% of consumers have not ordered on a specific occasion because of a concern about delivery.¹ Specifically, online shoppers living in some postcode areas experience a range of delivery issues both during and after online shopping, including higher cost for delivery, longer delivery times and no deliveries.

We believe, too, that access to redress when complaints are unresolved should be well promoted and easy to use.

¹ http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr15/UK_6.pdf

Customer Service and treating consumers fairly

The Panel has an ongoing concern about customer service standards. Our recent research [*Inclusive Communications: We're Not All the Same*](#)² has highlighted many of the customer service issues we originally identified in our 2013 research [*Going round in circles? The consumer experience of dealing with problems with communications services*](#)³.

[*Inclusive Communications: We're Not All the Same*](#) highlights the greater significance that communications services can have for older and disabled people by helping to mitigate some of the potentially disempowering effects of age or disability. They can help to reduce vulnerability by giving people access to information and services they cannot easily obtain through other channels, and by facilitating participation and inclusion. However our research also highlighted that:

- Inflexible customer service responses and poorly trained customer service agents can cause problems and frustrations
- Systems-related issues such as passwords and call routing systems can act as barriers to inclusion
- There is a lack of awareness - among service users and some communications providers' staff - of specific rights for disabled people relating to equivalent access
- People use a variety of strategies to help overcome barriers to inclusion
- Some (but certainly not all) think that disclosing their impairment is a useful strategy to get a better experience
- Being assertive and making complaints are other ways of combating poor treatment but many were reluctant to switch

We believe that, inter alia, with an aging population the need to support people acting on behalf of others via a Power of Attorney will be a growing issue, to which communications providers and others will need to respond. We would encourage a strong focus in the policy on issues of diversity and inclusion.

We particularly welcome the Report's focus on redress - we have also been working to drive improvements in the area of complaints handling, including ensuring that providers make consumers aware of ADR. The Working Group's report rightly identifies the challenges that consumers face when navigating the current redress landscape. We note,

² <http://www.communicationsconsumerpanel.org.uk/research-and-reports/we-re-not-all-the-same-inclusive-communications>

³ <http://www.communicationsconsumerpanel.org.uk/downloads/going-round-in-circles.pdf>



too, the Scottish Government’s view that the recent implementation of the EU Directive on Consumer Dispute Resolution has done little to improve access to redress. The provision of a single portal may well address a number of these issues, but we agree that this is an area that needs monitoring. We have been especially concerned about communications providers’ referral of complaints to the ADR Services and have called for the shortening of the eight week referral period, greater publicity of the Services and publication of information about ADR complaints. Our proposal is that accurate complaints data from the ADR services should be published regularly in a form that is digestible and useful to consumers, so that all consumers and micro businesses can be aware of the performance of their providers and engage more with the market. The data should be in a common format across the ADR Schemes and should, in our view, include: -

- The number of complaints referred to ADR per communications provider.
- The main types of complaint.
- The number of complaints upheld.
- The average financial award.
- The number of complaints accepted where a communications provider has failed to provide either a “deadlock letter”, or an “eight week” notification of the consumer’s eligibility to use ADR.

We believe that this would complement published complaints data; would provide an incentive for communications providers to improve performance; and, most importantly, would enable consumers to better assess the quality of customer service on offer from their providers. This would in turn help them make informed decisions about their choice of provider, switching and exercising their right to redress. It would also raise awareness of the ADR services. We believe, too, that this information could be used by the redress providers to help companies improve their service and that similar procedures would be beneficial in other sectors.

Digital engagement

We would encourage greater consideration within the policy design of consumers’ digital engagement. While the advantages of online connectivity apply to all groups in the community, they are especially relevant to disabled people, those on a low income and older people, many of whom may be less mobile than younger people. And yet we know that the take-up of the digital world is unequal amongst the population, demonstrating that an increase in availability alone does not equate to increased take-up. Ofcom’s latest Adult Media Use and Attitudes Report⁴ bears this out. Ofcom’s recently published research

⁴ <http://stakeholders.ofcom.org.uk/binaries/research/media-literacy/adults-literacy-2016/2016-Adults-media-use-and-attitudes.pdf>



on disabled consumers' access to, and use of, communication devices and services also found that not all disabled consumers with access to communication devices and services were making personal use of them. A fifth of disabled consumers said their disability prevented their use of at least some communication devices and services, with differences seen among consumers with different disability types. This is a serious concern. It is also worth making the point that for the foreseeable future, there will be people unable to go online - and there must be provision to ensure that they are not excluded. We would apply the same right to those who genuinely choose not to go online; assistance must be available.

We will be providing advice to Ofcom on what a new Broadband Universal Service Obligation might look like. We will be making the point that the wider policy has to go beyond a technical solution and has to also look at how to support those currently offline who want to go online.

In summary, we think the proposed plans are sound and we support them. As we have outlined there are certain areas we would like to see strengthened or clarified further, and we hope our suggestions and the information we have provided are useful.

We look forward to continuing to work with you.

Yours sincerely

Jo Connell
Chair - Communications Consumer Panel and ACOD