## Advice to Ofcom from the Ofcom Consumer Panel

**CONSUMER PANEL**

**Ofcom**
OFFICE OF COMMUNICATIONS

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| **Title of Ofcom Project:** | Regulatory challenges posed by next generation access |
| **Date:** | 28 February 2007 |
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| **Advice given at meeting Date:**<br>**Attendees:** Ofcom<br>Panel | Consumer Panel Meeting<br>14 December 2006<br>Xxxxx Xxxxxx |
| **Paper no.** | AO/62 |
| **Ofcom milestone(s)** | On 23 November 2006 Ofcom published a discussion paper. Next steps will be decided in Spring and may include a consultation document or statement. Initial policy conclusions proposed to come to 20 March 2007 Panel meeting. |
| **Advice given to (and response needed from)** | Xxxxx Xxxxxx / Xxxxxx Xxxxx |

1. Ofcom presented a discussion paper on the regulatory challenges posed by next generation access to the Consumer Panel on the 14 December 2006 (paper CP/2006/46). The Panel made comments on the paper and committed to reiterating its advice in writing to the Ofcom policy team.

**Anticipating a digital divide**

2. In 2006/07, the Panel focused on digital inclusion as one of its key policy priorities and will continue to do so next year. The Panel views Ofcom's approach to regulating next generation access (NGA) networks as critical to the future management and nature of the digital divide. The approach will be key in helping to resolve the current digital divide and to avoid exacerbating it, creating a new one along geographic lines.

3. For example, the investment by BT and other organisations into NGA networks will offer some future consumers the opportunity to have increased bandwidth to their homes. Whilst the nature, implications or the full benefits of future innovative services that could be delivered

over an NGA network cannot be fully predicted, it is known that investment in next NGA networks is more attractive in dense urban areas.

4.  The Panel is concerned that this is likely to exacerbate the existing urban-rural digital divide with rural consumers either being unable physically to access these services or, due to geographic de-averaging, having to pay differential rates. The Panel is therefore keen to see that any regulatory approach taken by Ofcom anticipates – rather than lets unfold - this predictable (although not yet quantifiable) consumer detriment in rural areas. The Panel will take a keen interest in the development of this policy.

## Social policy intervention

5.  Access to current and future NGA networks is clearly of significant public interest. Central and local government as well as Regional Development Agencies (RDAs) have all commented on the need for a high speed data network to be made available to the UK population as a whole in order to reinforce economic competitiveness, to enable the delivery of government services and for citizens to participate in the digital society. UK cities see the social value of their populations being connected and are investing large sums of money into blanketing city areas with access to a wireless high speed data network. The government is currently undertaking a review of the UK's digital strategy. And while all this is about current network access it is likely that the same debate and views that centred on the rollout of the current generation network will be reflected in the NGA rollout. In fact some RDAs are not only looking at reviewing their own digital strategy but are funding, or looking to fund, Fibre to the Home (FTTH) programmes.

6.  The Panel accepts that the use of public funding may well distort competition and create an unpredictable regulatory environment which in turn may have a negative impact on investment. We note that Ofcom and the DTI have recently published a best practice guide for public broadband schemes[1]. We also note that Ofcom states in the document that:

    *"It is not for Ofcom to determine when or how public policy is employed with respect to next generation access deployment. However, the wider social implications are a key feature of the debate on next generation access."* (Para 3.42)…*"It may be that the socially optimal outcomes with respect to social benefits or coverage of next generation access*

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[1] The Department of Trade and Industry (DTI) and Ofcom have published advice for public bodies who may be considering the use of public funds to support the provision of higher speed broadband networks in particular areas of the UK. This advice is published at:
http://www.ofcom.org.uk/media/mofaq/telecoms/pbs/dti_pbs.pdf

*may not be achieved by commercial deployments of next generation access "(para 3.50).*

7. And while the Panel understands why the document looks at NGA in relative isolation rather than the round, it does think that any regulatory approach in this area must take into account the recent and possible future social policy interventions and the wider stakeholder climate that are mentioned above.

8. The Panel therefore recommends that Ofcom's policy development in this area is linked closely to – and perhaps becomes a test bed for – Ofcom's developing work on how it will explicitly take "citizen" interests into account in the formation of policy.

## Regulating the new service architecture

8. As next generation networks are deployed, supply bottlenecks could emerge, in a similar way to that which has emerged for local loop unbundling. As an example, BT's control of network application servers could result in suppliers being dependant upon them for service deployment and access. Other IP traffic control measures could also be deployed to disadvantage competition and consumer choice. The past has, in our view, been driven by access and bandwidth; the future will be more determined by availability of value added services. These services may be delivered from both the core and access networks. The Panel would like to understand how Ofcom has considered the bottlenecks that may emerge in this emerging NGN service architecture.

## Equipment failures

9. Early twenty-first century trials have indicated that there may be some equipment failures occurring with the change in the network. It is understood that efforts are being applied to tackle these compatibility issues but the continued working of some equipment, such as social and utility alarms are non-trivial and could put people at risk. Hence communications about these possibilities and contingency planning must be effective before this work proceeds. Continuity of service is critical in light of the potential negative social consequences. The diversity of equipment being connected to the network cannot be overestimated and this should not be a problem that the service provider simply throws back at the manufacturer base. In the case of social alarms, there has been considerable industry consolidation over the last 2 decades and many of the terminal equipment manufacturers no longer exist, which could exacerbate this problem.

10. The Panel is also concerned that some of the component equipment for providing digital TV may also fail with a network switch. The fall-out from a potentially widespread cessation of access to television would

be significant. The Panel is therefore interested to know whether Ofcom has considered this possibility and taken steps to ameliorate it.

## International comparisons

11. The discussion document is bullish about the UK's relative international standing in the take-up of broadband. The Panel believes it would be of interest to learn more about the lessons of other countries' regulatory approaches to their NGA rollout programmes.

## Key points for Ofcom

12. The Panel therefore proposes that Ofcom should address the following key points in the development of its regulatory approach:

- How can NGA be used to ameliorate current, as well as prevent future, urban/rural digital divides. This will necessarily involve consideration of Ofcom's current work on geographic de-averaging in broadband markets.

- In this connection, the scope for, and desirability of, Government and Regional Development Agency interventions.

- Citizen issues arising from the provision of NGA.

- Ensure that BT cannot migrate services to 21 Century Network until it is satisfied that it has resolved any problems about migrating any existing services over to the new network. Particular attention should be paid to social alarms and digital TV equipment.

- How other countries are tackling these issues, and lessons learned for the UK

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