

## Communications Consumer Panel and ACOD response to Ofcom consultation on the Award of the 700 MHz and 3.6-3.8 GHz spectrum bands

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The Communications Consumer Panel, established by the Communications Act 2003, is a group of independent experts with direct sectoral experience. We ensure the citizen and consumer voice is represented in communications policy development.

The Panel's job is to ensure that the sector works for consumers, citizens and micro businesses - and in particular people who may be in a more vulnerable position in society. We carry out research, provide advice and encourage 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 have many of the same problems 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 (the Advisory Committee for Older and Disabled people) with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

### Response

The Panel supports Ofcom's proposals to encourage competition and to improve mobile coverage for the greatest number of consumers in the UK. One should lead to the other but the market alone may not deliver the best consumer outcomes; so, whilst appreciating the spectrum bands to which this consultation relates, we strongly urge Ofcom to consider widely all possible avenues by which coverage might be most quickly and effectively improved - including national roaming - so that all mobile consumers are treated fairly, which we know is a major focus for Ofcom.

Consumers in rural areas continue to suffer the double detriment that can occur when trying to use a mobile phone indoors. Areas with poor to no mobile coverage are also broadly less likely to have decent broadband speeds, so consumers have no useful alternative to fall back on when their mobile signal fails. Consumers in these areas are thus caught in a poor service 'trap' - switching may not be an option and there may be no incentive for Mobile Network Operators (MNOs) to improve their service as there are few or no competitors in the vicinity.

The Panel agrees that setting coverage obligations in a way that encourages competition is a proportionate and pragmatic approach to achieving good outcomes for consumers. Tackling geographic coverage gaps by setting targets at a level that allows access to more networks should mean more coverage and more choice for consumers.

The Panel broadly supports Ofcom's assertion that "allowing a negotiation window after assignment stage bidding may be the most straightforward option for facilitating post auction trades through the auction, without introducing potentially material implementation or bidding complexity" but feels that Ofcom should set a clear expectation for how long that negotiation window should be, and at this stage not rule out the possibility of intervention should market forces not be sufficient.

### **Outside in**

The Panel encourages Ofcom to require that the increased mobile coverage offered as a result of the spectrum auction is brought to harder to reach communities as a matter of priority, and that coverage build obligations on MNOs are not simply specified in terms of targets to be achieved by the end of a roll out period but instead have intermediate targets that must be hit in order to give consumers and businesses confidence that MNOs will deliver their full commitments. These targets should be underpinned by some form of sanction for failing to meet them.

### **Use it or lose it**

The Panel has previously recommended consideration of a 'use it or lose it' clause, so that no provider has control over spectrum without using it to improve consumers' and micro businesses' experiences. We are strongly in favour of making this a condition of the spectrum awards for the 700MHz and 3.6-3.8 ranges.

### **National roaming**

We note that Ofcom has chosen not to include roaming conditions but does not rule out the possibility they could be imposed in the future. We maintain our view that national roaming - for this and existing mobile spectrum - remains the most effective solution for providing all UK consumers with the best coverage possible. Consumers have been disempowered to do anything about not spots other than to buy SIMs from more than one MNO and swap them over to gain coverage. This is not a solution, but a costly and inconvenient process - which requires a level of resource, effort, knowledge, and skill on the part of consumers that is in our view unrealistic and unacceptable. It also likely to have a disproportionate impact on vulnerable consumers.

By comparison, MNOs have the capability, technology and financial resources to fix the problem for their customers.

We believe that a market intervention is required beyond setting coverage obligations on the winners of spectrum auctions. This award seems like an ideal opportunity for such an intervention - and whilst not the subject of this particular consultation, we urge Ofcom to consider national roaming accordingly. If properly structured, mandated national roaming and the associated economic flows between MNOs have the particular benefit of moving the problems caused by poor coverage away from individual consumers to the MNOs who can muster the resources and competence to address the issues giving the MNOs make/buy decisions in areas where they do not provide coverage, but competitors do.

Rural areas suffer from poor coverage because the economics of provision militate against operating multiple fixed cost networks in low demand density areas. National roaming allows all the demand in an area to be met with a lower overall network cost, so not only does national roaming address a key customer detriment, but it does it more economically efficiently than forcing the over provision of multiple networks.

An additional benefit of national roaming is the prevention of harm to the environment in which rural consumers choose to live and work.

We believe that Ofcom should mandate national roaming with the following characteristics:

- MNOs should be required to allow all their customers to roam onto competitor networks if they cannot provide effective service on their home network for all types of service, voice, text and most importantly, data.
- MNOs should not be permitted to charge their customers any different or additional prices for this roaming, i.e. national roaming should be included within any bundles or allowances.
- MNOs should be able to charge each other symmetric and non-discriminatory rates for roamed traffic. This may need to be set by Ofcom, but provided MNOs have similar overall coverage, most of these charges should net out to zero.
- Roaming should be widely available, as partial not-spots are not limited to rural areas only.
- Although potentially a condition of purchase of 700MHz spectrum, national roaming should apply to all spectrum bands and apply to mobile services, not spectrum per se.

While national roaming will have most impact in converting partial not-spots to full coverage for all network customers, there is also likely to be a positive impact on coverage of complete not-spots. With national roaming in place any new coverage planned for current complete not-spots will not only deliver service to the building network's customers but will generate real revenue from national roaming charges from visitor networks, improving the business case for building out further into currently non-economic areas.

Even putting this additional benefit aside, based upon Ofcom's own data, national roaming could increase the landmass where all mobile customers can get coverage from 66 per cent to 91 per cent at a stroke - a very significant benefit to consumers, small businesses and the economy in general.

Specifically for 5G networks, where the costs of wide area provision are even less attractive, the idea of building a single wholesale network, functionally analogous to national roaming, is, we understand, gaining significant traction internationally.

Given that economic forces and market interventions have failed to close the rural coverage gap over the last 10 to 15 years, the CCP strongly feel it is now time to grasp the nettle and deploy national roaming to solve this problem in an economically rational way and finally give UK mobile customers the coverage that roaming visitors from abroad have experienced for years.

Ofcom's own document 'Further options for improving mobile coverage: Advice to Government' states that "We estimate introducing rural wholesale access would cost £5-15m per operator and annual opex of £2-3m per operator" (page 8). Set against the significant consumer benefit, both in terms of providing better coverage and resilience, we are disappointed at Ofcom's current position.

### **Quality of service**

While not strictly within the remit of the consultation, the Panel encourages Ofcom to ensure that providers that acquire spectrum and provide increased mobile coverage also provide excellent service to consumers, in terms of reliability, resilience and methods of recourse if a service fails. This should also ensure ease of contact for vulnerable users with access needs and who might find the 'standard' methodologies problematic.

### **Summary**

- The Panel strongly encourages Ofcom to take the opportunity of this exercise to require that the increased mobile coverage offered as a result of the spectrum auction is brought to harder to reach communities as a matter of priority;
- Ofcom should ensure that no provider has control over spectrum without using it to improve consumers' and micro businesses' experiences;
- We believe that a market intervention is required beyond setting coverage obligations on the winners of spectrum auctions and recommend national roaming is implemented to fulfil that role;
- The service that the auction winner(s) are required to provide must be reliable for consumers and businesses to use confidently and resilient from attack and the winning bidders should be required to provide easy access to methods of recourse for consumers and micro businesses in instances where their services fail to offer those assurances.