

Communications Consumer Panel and ACOD's response to Ofcom's consultation on Net Neutrality Review

About us

The Communications Consumer Panel, established by the Communications Act 2003, is a group of independent experts with direct sectoral experience. We ensure the voice of UK consumers, citizens and micro-businesses 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, 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.

Our response

We welcome Ofcom's review of Net Neutrality and its latest proposals to safeguard citizens' and consumers' access to the open internet, the open internet as an engine of innovation and well-run, robust and efficient networks.

Our interest in safeguarding citizens and consumers is clear from our remit; we also believe that Innovation is key to meeting the changing demands of consumers and citizens and well-run, robust, efficient networks are a current - and will be an ongoing - need of consumers and citizens.

We believe these three cross-relating objectives are well chosen and support Ofcom's focus on them. We recommend a slight amendment to improve inclusivity, as we will explain below.

Inclusivity and fairness

As the statutory consumer panel for the communications sector we have been aware of and have input into the evolution of thinking by Ofcom and others on traffic management and Net Neutrality for several years.

We welcome the depth and wealth of information provided by Ofcom to those who wish to

respond to this consultation. Conversely, we are somewhat disappointed that the information is not presented in a more user-friendly format, so that consumer organisations and charities representing citizens and consumers might be more likely to be able to understand and respond to Ofcom's proposals.

Responding to a public consultation on technical matters can require a serious investment of time, particularly for organisations less familiar with the terminology used by the regulator and industry.

We welcome the event Ofcom held to discuss Net Neutrality, but we are confused that this took place a day before the closure of this consultation, which may not afford attendees with enough time to respond formally.

We trust that Ofcom has conducted outreach activities as part of the consultation process to ensure that the proposals have been understood and responded to by those representing people they may affect. We hold quarterly National Hub meetings with consumer and citizen representatives from across the UK and would be happy to put Ofcom's team directly in contact with participants if that would be helpful, now or at any point in the future, or to invite the Ofcom team to present to Hub participants in a session facilitated by the Panel. Summaries of key points raised by consumer representatives at the Panel's National Hubs are [published on the Panel's website](#) and provided to Ofcom's Networks and Communications Director.

We also hold meetings with groups of consumer representatives from the Hubs who would like to discuss a particular issue in more depth - for example, we met recently with representatives of consumers and citizens with sensory loss, from across the UK, to understand barriers faced by people with sensory loss to accessing communications services. While the topics discussed did not include Net Neutrality, we heard from representatives of consumers who use assistive technology such as screen readers and communications support such as captioning and British Sign Language interpretation services that digital communications services are more important to them than ever. Participants stated strongly that these services need to be designed and operated more inclusively. To enable their online experience to be accessible and equivalent to that of a consumer or citizen without sensory loss, we believe it would be beneficial to consumers using assistive technology or communications support if the wording of one of one of Ofcom's objectives were to be slightly amended, such as we set out below:

“consumers - including consumers using assistive technology and communications support (such as, but not limited to - screen readers, Video Relay, British Sign Language interpretation and closed captioning) - are able to access and distribute online content, applications and services of an appropriate quality and at reasonable prices and use the terminal equipment of their choice via an appropriate internet access service;” and therefore:

“citizens - including consumers using assistive technology and communications support (such as, but not limited to - screen readers, Video Relay, British Sign Language interpretation and closed captioning) - are able to access and distribute the widest range of lawful information online, are unconstrained in how they can express their opinions

and participate in the public debate and other democratic processes, and can access a wide range of public services”

We believe this would be also assist other users of assistive technology, such as neurodiverse consumers and citizens who use a screen-reader or other software.

To summarise, we believe that as Ofcom’s research, appended to the consultation, demonstrates Net Neutrality is not widely understood by consumers and to us that suggests that it is all the more important that consumer representatives are able to represent their needs in policy-making on this topic. We hope that if they have not already done so, Ofcom will consider consulting directly with other consumer groups as they have with the Panel. We believe strongly in inclusivity and fairness by design and would encourage Ofcom to build in these approaches in every aspect of their policy-making, to promote and lead a culture shift towards inclusivity and fairness in this sector.

Ofcom’s proposals

We welcome Ofcom’s proposal to issue guidance that clarifies their approach to assessing compliance with the current Net Neutrality rules and its call for views on its analysis of issues beyond the scope of the current rules. We look forward to continuing to work closely with Ofcom as its thinking develops.

We appreciate Ofcom’s confirmation that most zero-rating offers will be allowed. This has been a vital consumer protection during the pandemic. In our National Hub meetings, mentioned above, on the topic of [Affordability of Communications Services](#), stakeholders highlighted to us the benefits of zero rating access to educational content.

From our regular meetings with providers, we understand that many have partnerships with charities, including mental health and debt charities, which we welcome. We would like to ensure that Net Neutrality rules allow for consumers to access charities’ websites without incurring additional cost wherever possible, supporting wider social aims to safeguard UK citizens living through what have been widely described as a ‘mental health crisis’ and a ‘cost-of-living’ crisis’.

We would also welcome safeguarded access to zero-rated video content for people who have an access requirement such as the need to access Video Relay and British Sign Language interpretation services and captioning, for reasons of inclusivity, as set out above. Video Relay is offered as a method of communication by some, which we strongly support, however, we have heard from representatives of consumers with sensory loss that calls can take longer than the average voice call, given the need to connect with a translator and in some cases to tackle barriers such as understanding a local dialect.)

Therefore, we continue to believe, as per our 2021 response to Ofcom, that zero-rating is a valuable asset to consumers and citizens that needs to be retained in guidance. We support Ofcom’s three ‘Types’ approach as a proportionate way of safeguarding consumers and citizens access to socially benefitting content, while taking note of industry respondents’ concerns regarding competition. We applaud Ofcom’s approach to this.

We also welcome Ofcom's proposal not to prioritise enforcement action where there is clear public benefit, in relation to: - the prioritisation and zero-rating of all communications with the emergency services; - traffic management of internet services provided on transport; - the use of parental controls and other content filters involving the blocking of traffic; and - blocking access to fraudulent or scam content.

We agree with Ofcom that the freedom for consumers to use their own choice of terminal equipment remains important and that restrictions on the use of terminal equipment in agreements for internet access services are likely to be contrary to the net neutrality rules.

We agree with a more focused approach to traffic management, but recognise that Ofcom would need to manage the risk of 'throttling' by providers. Consumers must be able to access a reliable service and should be able to register with their provider any additional needs or requirements. As previously mentioned, some consumers may use more data due to a need to access Video Relay or other communications support services. Other needs may include access to services when inadvertently roaming to a network outside of the UK. ISPs should not simply rely - as we have said previously - on the transparency of their policies, but should apply an understanding of the requirements of their customer base and a culture of fairness and care.

We agree with Ofcom's proposal to issue guidance setting out the additional reporting and transparency needed from ISPs to allow them to monitor the effects of the increased flexibility they are providing to ISPs. Consumers may need protection from any increase in traffic management and we welcome Ofcom's proactive stance on this, to safeguard quality of service for consumers. Annual reporting appears proportionate given the fast pace of this sector and we recommend that annual reports are published on Ofcom's website.

Summary

We previously responded to Ofcom's 2021 Net Neutrality Framework and would summarise our response as follows

- The internet must, we believe, be fair for all to access - and a space for free speech.
- Rules governing the internet must be clear and easy for consumers to understand, so that they know what they are paying for and are able to afford what they need; Ofcom must ensure that providers do not simply rely on the transparency of their policies, but instead get to know their customers' needs so that they can provide services that work for - and are affordable by - everyone.
- Ofcom must work with providers and consumer groups to understand the full range of consumers' and micro businesses' usage needs and requirements, for example consumers' use of video services and ensure that these needs and requirements are taken into account when developing policies.
- We were pleased to see Ofcom and industry working together to support home schooling, via 'zero rating' websites - we encourage flexibility, but would urge collaboration and transparency across the whole of the UK.

We urge Ofcom to take note of any impacts of migration to all-IP networks on consumers using telecare alarms, video relay services and any other services that may lead a



consumer to breach a data cap due to their telephone service being run over the internet since migration and act to protect consumers, without them incurring additional charges.

We believe that Ofcom's updated thinking reflects an understanding of these points - we would however urge that the wording of Ofcom's objectives and guidance should be strengthened to ensure safeguarding of consumers with additional requirements, such as consumers with sensory loss and those subject to inadvertent roaming and that Ofcom and ISPs should listen to the diverse range of consumer needs in ensuring innovation enables and empowers consumers. The internet must, we believe, be fair and affordable for all to access - and a space for free speech.