Communications Consumer Panel and ACOD's response to Ofcom's consultation on its Plan of Work 2023/24

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 the opportunity to comment on Ofcom's latest Plan of Work. With its current and expanding remit, we agree that Ofcom's role is an ever-important one and more challenging than ever. Communications services – post, landline, mobile, broadband (and alternative forms of connectivity) and broadcast and on demand content are services that are relied upon by consumers and citizens and these services must now be as reliable and affordable as the water that comes of a tap, particularly during a cost-of-living crisis.

It is vital that Ofcom's plan is focused on protecting people who rely on and do not have personal control over the infrastructure that provides communications services in the UK, whether they be consumers, audiences, users, citizens – or micro-business owners. We use the word 'consumer' throughout this response, for simplicity, but recognise the different roles people play when using communications services, from active and empowered users, engaged shoppers, hagglers and switchers, to recipients of landline calls and letters and people who rely on uncompetitive services such as Relay UK and BSL 999.

In our view, the power and influence of industry players cannot be curtailed by competition alone and must be placed back in consumers' hands by Ofcom. The case for regulatory oversight of the complex matrix of converged and consolidated services across the UK communications industry is strong. Ofcom's power to take tough action to protect consumers must be retained and strengthened in line with the issues and impacts facing

those using and affected by communications services. We broadly support Ofcom's priority outcomes for the year ahead - internet we can rely on; media we trust and value; we live a safer life online; enabling wireless services in the broader economy - and we provide additional thoughts and advice on these and other aspects of the Plan below.

Access, infrastructure and network resilience

We welcome Ofcom's expertise in considering "how the duties applied to traditional telecoms networks apply to the virtualised networks" and its support towards the Government's thinking on the future requirements for resilience of digital infrastructure.

We urge Ofcom to ensure there are no 'winners and losers' in this – it is vital that the entirety of the UK is protected and that prompt action is taken to ensure protection and prompt recovery from infrastructure attacks or accidents leading to outages that could cost money and lives, in all parts of the UK, working with other sectors to build contingency.

Consumers should not have to build in their own contingency for network failures. If a water pipe bursts, it is unlikely that a water provider will expect that all consumers in that area have a fridge full of bottled water, water is provided by the provider. In the same way, if the landline network goes down post-VOIP migration, we do not find it reasonable for communications providers to rest on the expectation that all consumers will have a working, charged mobile phone. We expect Ofcom to ensure that communications providers ensure that they understand the risks faced by their customers in the parts of the UK that they serve and to offer contingency to those at higher risk (e.g. people using telecare or living in a remote rural location where mobile connectivity is less reliable than elsewhere).

We welcome Ofcom's strategic exercise to assess the resilience of digital infrastructure, especially where it underpins communication services and other critical industries and applications and hope that Ofcom places the consumer (and citizen) at the heart of this exercise. We offer any useful input from the Panel and its National Hubs stakeholders that may assist with this exercise.

Use of Ofcom's regulatory powers, remit and influence – what's missing: postal services and 'soft power'

Ofcom has highlighted the official requirement that it follows the UK Government's Statement of Strategic Principles (SSP) statement. The statement sets out a set of priorities, as below:

Section 1: World-class digital infrastructure
The Government's commitment to world-class digital infrastructure for the UK, reflecting the conclusions of the FTIR.

Section 2: Furthering the interests of telecoms consumers
The Government's commitment to safeguarding the interests of telecoms consumers, including the vulnerable and less engaged, by ensuring they are better informed and protected.

Section 3: Secure and resilient telecoms infrastructure
The Government's commitment to ensuring the UK's telecoms networks and services are secure and resilient.

Section 4: Postal services
The Government's commitment to a universal postal service and need for industry and Ofcom to work together to secure the long-term sustainability of the sector.

As a reader of the Plan Ofcom's priority outcomes appear to fall silent on postal services and we believe this leaves postal service users under-served at a time when they need Ofcom's protection more than ever. We welcome Ofcom's continued monitoring of postal services and its ongoing work with Royal Mail, as well as its work across the UK Nations, as set out in the Plan, but believe that this is the minimum that is expected of Ofcom under its remit and would like to see Ofcom do more.

We believe that some postal services users risk being left behind, particularly those who will not benefit from Ofcom's priority outcomes – those who chose not to or are unable to use the internet, for example.

In our view, postal services users' needs should be given the same weight as consumers of other communications service users and postal services must remain affordable to those who rely on them.

We appreciate Ofcom's previous research into the needs of postal service users and would encourage further research to ensure people are getting what they need, particularly groups of people at higher risk of loss, delay or poor accessibility. These include people in Northern Ireland, the Highlands and Islands and people who have additional access requirements as highlighted in Ofcom and the Communications Consumer Panel's research by people who had parcels left in inaccessible places or not delivered as they couldn't get to the door in time, compounded for some who were unable to access the internet to advise the parcel delivery company of their access requirements or track their parcel's arrival time.

Use of 'soft power' to facilitate change

We have often encouraged Ofcom – across its remit – to use its influence even where it does not have formal enforcement powers to protect, promote and elevate the rights of consumers. We would like to see more commitment to this.

In our view as the Advisory Committee for Older and Disabled People, the Plan does not say enough about what Ofcom plans to do to ensure that services are accessible and usable by all and we are disappointed by this.

Aspects of Ofcom's work still show alignment to the medical model e.g. 'limiting conditions', but Ofcom appear to be willing to learn from the social model. We hope to see a significant shift in language from 'limiting conditions' with more emphasis of people's access requirements.

We regularly share with Ofcom insights from consumer representatives at our National Hubs who represent consumers with sensory loss who have additional access requirements and find these insights invaluable to our own knowledge – we would encourage Ofcom to

meet more regularly with these groups to ensure that communications services work for people with sensory loss, for example users of Relay UK, subtitles, audio description and signing – not forgetting that consumers who use telecoms and broadcast and on-demand services may also use postal services.

We would encourage Ofcom to proactively seek more insights into the barriers faced by consumers in accessing communications services, being mindful of requirements under the Communications Act and UK equality legislation, but not simply adhering to regulatory requirements.

Consumers living in remote and rural parts of the UK

Consumers living in the most remote and rural parts of the UK experience multiple layers of detriment in using communication services and the issues some consumers in these areas experience can intersect with other barriers, for some people a lack of digital skills and confidence without a regular opportunity to build them due to poor connectivity and no local training, for some, sensory loss, which may or may not be age-related. For people who rely on Welsh as a first language a further barrier may exist. All of these existing barriers may be compounded by major changes to infrastructure and service design led by industry. It is vital, in our view, that Ofcom prioritises public safety so consumers are not the victims of unintended consequences from communications industry change programmes.

As highlighted above, co-designing with consumer representatives is an approach we recommend to ensure that industry and policy-makers raise awareness of changes and listen to the needs of consumers who face barriers, in this case due to location. The pace of technological development means that many consumers who moved to a remote location (or already lived in one) could not have predicted that in years to come other parts of the UK would be connected to ever-faster and more reliable internet service speeds, while they would be left behind.

It is vital that speeds, reliability and outages are measured in these areas and that proper consideration is given to the impact on these communities – often not large numbers of people, but people who can be left isolated as a result of so many other services relaying on communications infrastructure, as highlighted by recent years' power cuts.

We will be commissioning research to better understand the experience of remote and rural living consumers using communications services, which will look at a small number of participants' experience in-depth and look forward to providing insights to Ofcom and industry to help illustrate current challenges and hopefully some best practice.

We would like to see a more innovative take from Ofcom to increase consumer protection, listening to consumers and their representatives to co-design policies and processes. This could include promoting the use of user testing across the communications sector, so that all communications services are designed and made inclusively. We will say more about this later in this response under 'From 'protecting vulnerable consumers' to applying a 'Social Model of Consumer Inclusivity' that provides protection and drives down barriers'.

A more holistic and transparent approach to treating consumers fairly

We believe that each of the priorities and projects outlined in Ofcom's plan has been well thought about and presented, but the plan overall does not have a holistic, joined up, inclusive feel. We would encourage Ofcom to learn from within its own 'walls' – from its wealth of respected research and intelligence base - from building knowledge from sub-sectors to inform its regulation of other sectors, to learn what helps to provide an inclusive, high quality, affordable and reliable consumer experience in one part of the industry to enable it to regulate another sub-sector in an informed way.

We welcome Ofcom's promise to "continue to work to make sure consumers are treated fairly, are empowered to make choices that are right for them and are protected. Ensuring that people can access affordable services remains a priority for Ofcom, and we are committed to our initiatives to support fairness for customers and to promote social tariffs."

We believe that Ofcom should find a way to share publicly with consumers its findings, to help to hold industry players to account on consumer fairness, empowerment and protection. In the interim, we welcome any interactions between Ofcom and our National Hub participants to raise awareness of Ofcom's actions to improve the fairness and empowerment of consumers and provide a feedback loop that helps Ofcom to target those actions.

We would highlight that micro-business owners experience many of the same issues as individual consumers and are a vital asset in the UK's economy – we would encourage Ofcom to ensure they are treated fairly by communications providers and are empowered to run their businesses without any barriers from this sector.

From 'protecting vulnerable consumers' to applying a 'Social Model of Consumer Inclusivity' that provides protection and drives down barriers

The Plan does not provide much detail on Ofcom's approach to 'consumer vulnerability' in the year ahead, aside from references to consumers experiencing online harm and a reference within Ofcom's ongoing scams programme and cross-sector work with UKRN.

We believe that communications services should be treated as essential and as a consumer and citizen right and we support learning from other sectors as the actions taken by providers in one sector may impact the way consumers interact with services in another sector.

We support Ofcom's work with other sectors, crossing international barriers, on the prevention of scams – not only can the individual scams have a devastating effect on consumers, but so can the 'chilling effect' after experiencing a scam, as we found in our recent research, shared with Ofcom.

We also support Ofcom's work with UKRN, to learn from and inform other sectors and we would encourage cross-sector research on the overall experience of consumers who are struggling financially or facing other barriers to accessing services in more than one regulated sector. We support a holistic approach and welcome further engagement with

both Ofcom and UKRN. We would welcome Ofcom and UKRN's attendance at our Industry Forum should they find this a useful way to present information or obtain feedback from communications providers. We are keen to help promote consumer take-up of social tariffs and other relevant low-cost tariffs that help to empower consumers on low incomes or in debt, who have difficult decisions to make about the way they spend their money.

We also encourage Ofcom, in its consideration of 'vulnerability', to place greater emphasis on examining the intersections of detriment that can exist or be created, as described in this response. This accords with the Panel and its stakeholders' support in applying the 'Social Model of Disability' as opposed to the 'Medical Model of Disability' – we encourage Ofcom to apply a new 'Social Model of Consumer Inclusivity' in the communications sector.

We believe Ofcom should lead communications providers to a more inclusive culture where usability and accessibility are built in from the outset, by co-designing services with consumers and those who represent them, as stated earlier in this response.

We therefore urge Ofcom to promote a more inclusive, positive and proactive stance across this sector, expanding on the work it has done with communications providers, to expand their definition of – and look beyond - 'vulnerability' and 'limiting conditions'.

Summary

- ➢ We broadly support the contents of Ofcom's Plan of Work and welcome any strengthening powers given to Ofcom in future to empower Ofcom to regulate this complex, converged and consolidated market and protect consumers from harm;
- ➢ We believe postal services users are at risk of a loss of service quality and affordability and require a higher priority that the Plan gives them;
- ➢ We support Ofcom's focus on the resilience of networks and on affordability for consumers, both of which are vital in reducing risk to consumers in different ways;
- ➢ We encourage Ofcom to look beyond its formal regulatory powers and create a culture across the subsectors it regulates of inclusivity, transparency and innovation, the latter not just in terms of innovative tech, but also in terms of keeping up to speed with consumers' needs;
- ➢ We would like the Plan to have said more about Ofcom's work on ensuring consumers who experience barriers to an equal service in this sector and to recognise more clearly the intersections of detriment some consumers experience; and
- ➢ We urge Ofcom to work toward addressing these barriers by applying a 'Social Model of Consumer Inclusivity', working with consumer bodies and other sectors to look beyond terms such as 'Vulnerability' and 'Limiting Conditions' to make sure no-one is left behind.