

Minutes of the thirty-third meeting of the Ofcom Consumer Panel

Tuesday 16 January 2007 at 10.00 hours

Ofcom, Riverside House, 2A Southwark Bridge Road, London SE1 9HA

Present:

Consumer Panel

Colette Bowe (Chairman)
Ruth Evans (Deputy Chairman)
Fiona Ballantyne
Roger Darlington
Simon Gibson
Graham Mather
Jeremy Mitchell
Kate O'Rourke
Bob Twitchin
Allan Williams

In attendance

David Edwards (Consumer Panel Secretary)
Julia Guasch (Consumer Panel Support Executive)
Georgia Klein (Consumer Panel Manager)
Dominic Ridley (Policy Executive to the Panel)
Ed Richards (Chief Executive, Ofcom) (items 1 and 2)
other Ofcom colleagues

1. Welcome and introductions

1.1 The Chairman welcomed Ed Richards, Ofcom Chief Executive, and members to the meeting. 2007 would be the last year for the Panel's founding membership. Apologies were received from Kevin McLaughlin. It was proposed that the May and October meetings would be held in Wales and Scotland respectively, with Inverness suggested as the venue for the meeting in Scotland. Simon Gibson agreed to consider the format for a Panel meeting in Wales.

AP1 Simon Gibson to consider the format for a Panel meeting in Wales in May.

2. Ed Richards

2.1 There was discussion between Ed Richards and the Panel. Helen Normoyle was leading on Ofcom's work on media literacy and it was agreed that Helen Normoyle would be invited to meet the Panel to discuss this.

AP2 Secretary to invite Helen Normoyle to the February Panel meeting.

3. Declaration of members' interests

3.1 The Chairman had been appointed as a non-executive Director of Electra Private Equity plc, from 1 March 2007, and had resigned from the boards of Thames Water and the Yorkshire Building Society. Simon Gibson was no longer a Director of Ubiquity Software Corporation.

AP3 Secretary to update register of members' interests.

4. Minutes of the meeting on 14 December 2006 and matters arising

4.1 Minutes were agreed. There were no matters arising.

5. Chairman's report

5.1 The Chairman reported that Dominic Ridley would be acting Consumer Panel Manager during Georgia Klein's maternity leave from April 2007. There would be recruitment of a temporary Policy Executive. The Chairman had met Lydia Thomas, acting Chairman of Ofcom's Advisory Committee on Older and Disabled People (ACOD). ACOD had Digital Switchover (DSO) and research subgroups, the latter on the issue of anxiety about changing technologies. The Chairman asked the Secretary to ensure that the Panel receives regular updates on the work of the ACOD subgroups. The previous day the Chairman and Graham Mather had met the consultants that had tendered to conduct the Panel's consumer interest toolkit study of Ofcom's Mobile Number Portability project. Europe Economics would do the study subject to a contract being agreed. A set-up meeting would be held shortly. The Chairman would meet the Ofcom Advisory Committee for Northern Ireland the following week in Belfast.

AP4 Secretary to ensure that the Panel is kept up-to-date with the activities of ACODs sub-groups on DSO and research.

6. Update from Consumer Panel Manager

6.1 The Chairman said that an update from the Consumer Panel Manager would be a standing agenda item to inform members about the activities of the support team. Georgia Klein summarised the process to determine Panel agendas and to decide whether to respond to Ofcom consultations. It was guided by the Panel's principles on relevance, detriment etc, agreed strategic themes, regular contact with Ofcom project managers and access to papers submitted to Ofcom's Policy Executive. Some issues were pursued by Panel sub-groups or discussed at full Panel meetings, depending on timing and decisions taken in consultation with the Chairman. Members received a monthly report with meeting papers. Its format had been revised to give details of support team activity related to Ofcom projects and publications, including tracking and evaluation of Panel input. The report was a standing agenda item and provided members with an opportunity to comment or discuss Panel involvement in a particular project.

6.2 Panel members welcomed summary information on projects. Jeremy Mitchell asked about the process between meetings if members felt action or a response was required on a particular topic. The Chairman said that in the first instance members should contact the Consumer Panel Manager, part of that discussion would be about managing workload, and the Chairman could be involved if required. She said that the Panel was operating close to capacity and anything additional would have to be of interest to the Panel as a whole.

7. Members' updates

7.1 The Deputy Chairman said the Panel expected to reduce its involvement in switchover. She and the Chairman would meet Ed Richards the next day to discuss outstanding DSO issues. Members had seen the paper covering the points that would be raised at that meeting. Jeremy Mitchell and Fiona Ballantyne would attend an Ofcom Digital Dividend Review (DDR) event in Glasgow the following day. Kate O'Rourke would continue to meet Ofcom's consumer enforcement and policy teams and Dominic Ridley would keep the Panel informed of Ofcom's work in this area. A meeting would be held to discuss Ofcom's consumer protection consultation. Julia Guasch would arrange for Kate O'Rourke to meet Ofcom's Peter Davies to discuss radio issues. Roger Darlington and Allan Williams had attended an Ofcom DDR event. Roger Darlington had maintained contact with BT on launch of its new social telephony service. Fiona Ballantyne said that the Panel was engaged in a number of research projects and discussion with Ofcom's research team to avoid duplication. A research manager under contract would manage the projects. Jeremy Mitchell said that a report had appeared in Computer Which? on older people and digital technologies. Julia Guasch would obtain copies for members. Graham Mather would provide written evidence to the House of Lords Select Committee on Regulators on behalf of the Panel. Bob Twitchin had been approached by BT to discuss its work related to disabled consumers and the "Switched-on" information campaign to increase awareness of roll out of BT's new 21st Century Network (21CN). He had discussed the Panel's research proposal on specialised equipment with Dominic Ridley. Simon Gibson had met an Ofcom colleague and discussed 21CN in Wales. Simon Gibson would visit Wick, near Cardiff, with the Ofcom Board in March 2007 – Wick is the first community in the UK to be transferred to 21CN. At the end of January he would meet Andrew Davies, Welsh Assembly Minister for Enterprise, Innovation and Networks. In March he would meet with the Broadband Observatory of Wales.

AP5 Julia Guasch to arrange meeting for Kate O'Rourke on radio issues.

AP6 Dominic Ridley to keep the Panel informed on Ofcom's ongoing consumer protection work.

AP7 Julia Guasch to obtain report on anxiety about digital technology and circulate to Panel members.

8. Ofcom Annual Plan

8.1 Members had received a discussion paper on Ofcom's Draft Annual Plan.

An Ofcom colleague summarised the Annual Plan process to date. The Panel took part in an Ofcom strategy event with the Board and its advisory committees and had the opportunity to discuss Ofcom's strategic framework project at the October 2006 meeting. Ofcom was keen to receive further views prior to publication of the Plan in April 2007. The Chairman agreed that the Panel had already provided input. There had been discussion and correspondence with Ed Richards on what the Panel considered to be Ofcom's priorities for consumers. With increasing on-line content the Panel would have an interest in developments in the technologies to deliver it and to manage access, eg parental controls to block access to certain content. Switching was another important consumer issue and the Panel was about to launch a consumer interest toolkit audit of Ofcom's Mobile Number Portability project.

8.2 The Panel made a number of comments:

- Fiona Ballantyne highlighted the importance of promoting access and inclusion in remote areas, where markets were more expensive, there were fewer providers and poorer services, eg coverage and reception; Simon Gibson said that increased emphasis on the market could mean increased disadvantage for remote areas;
- the Chairman suggested that the Panel comment to Ofcom as follows: Ofcom wished to use market incentives to bring about desired outcomes, with this should be a commitment to deliver a minimum set of services that UK citizens could expect in terms of connectivity; this would be important for the unity of the UK and to ensure a standard entitlement;
- Simon Gibson suggested that mandating mobile roaming in rural areas could be part of the package;
- Graham Mather said impact assessments would be required; he favoured market incentives but new regulatory powers could be required to mandate provision of certain services, matters for Ofcom or for Parliament;
- Jeremy Mitchell suggested that the Panel could try to define the basic entitlement, then think about who would be responsible for its delivery, whether Ofcom or via legislation, whilst recognising that needs would change over time;
- the Chairman said this was a theme to develop with Ofcom but with the emphasis on rights rather than needs, ie articulation of a right of access and the question of how Ofcom would set about its delivery; Graham Mather asked about the basis for such a right and suggested that it might be pursued as an aspiration; the Chairman said that the Panel could use its response to the Draft Annual Plan to raise this matter; an Ofcom colleague said that when the Plan talked about 'public outcomes' it was about enabling participation and how it should be delivered and he acknowledged the need for a debate about such outcomes in the future;
- Jeremy Mitchell asked about evaluation of the previous year's Plan, ie its outcomes and achievements; an Ofcom colleague said outcomes were reported in Ofcom's Annual Report and that its website had a section

reporting the progress of projects; Roger Darlington said that Ofcom could be more specific about outcomes and what it hoped to achieve to allow the former to be verified; the Chairman suggested that it could be helpful if the Annual Plan was anchored in an assessment of past performance and it said more about performance measures.

8.3 It was agreed that the Panel would respond to the consultation, re-iterate points made in the Panel's recent letter to Ed Richards and flesh out the earlier discussion on national outcomes. There was further discussion of the latter. The Chairman said that the experience of the Panel was that the ability of individuals to obtain access to the same products was different across the UK. Research suggested that these were sometimes co-incident, ie multiple, 'black holes' in service provision, where instead of being able to make choices consumers were affected by their local terrain or the costs of service delivery. The question for Ofcom was whether it regarded this as a satisfactory outcome for UK citizens. Graham Mather said that problems were not co-incident with regions or Nations, he preferred the concept of a minimum UK service standard. The Chairman agreed that the emphasis should be on location and geography rather than the Nations. Jeremy Mitchell said that there were socio-economic factors and gave the example of public housing with dense urban populations but no mobile signal. Roger Darlington agreed to draft a response for members to comment. It would be submitted to Ofcom prior to the next Panel meeting or held over until the February Panel meeting, should further debate be required.

AP8 Roger Darlington to draft a Panel response to Ofcom's Annual Plan consultation by 26 January and to copy to Panel members, members to provide comments to Georgia Klein by 2 February (the final draft would be submitted or delayed for discussion at the February Panel meeting).

9. Panel priorities for 2007 and individual members' focus

9.1 The Chairman had written a paper for discussion and this had been copied to members. The paper covered matters on which the Panel was required to give advice under the Communications Act 2003 and the priorities identified at the last meeting. The Act and priorities appeared to be broadly in line. The Chairman felt that higher priority should be given to dispute resolution and wished to pursue with Ofcom the idea of a capability for having direct contact with people who speak on behalf of consumers.

9.2 It was agreed that people with a disability should be included under Digital Participation along with the topic of social isolation. It was suggested that digital switchover (DSO) could be less prominent in the list of priorities if the Panel was going to scale back its involvement during the implementation phase. The Chairman said that DSO could be reviewed six months hence. There was discussion of how to make visible consumers concerns, ie going beyond research, issues raised with Ofcom's Contact Centre and meetings with the usual consumer stakeholders and by making use of communications technologies. A first step would be to define the problem and Roger Darlington agreed to write a

short paper. The priorities paper referred to rural vs urban issues, this would be amended to “location issues”. The Chairman would take responsibility for relations with Consumer Voice and Dominic Ridley would ensure that Ofcom colleagues kept the Panel informed of developments in Parliament on related legislation. Work on access issues led by Bob Twitchin would include DSO and other communications issues. Kate O’Rourke would also cover radio issues but otherwise members were content with their allocated areas of focus.

AP9 Roger Darlington to write a paper on building a better capability for engagement with consumers.

AP10 Dominic Ridley to ensure that relevant Ofcom colleagues keep the Panel informed of Consumer Voice developments in Parliament.

AP11 Secretary to ensure that minutes record agreements reached on the Panel’s 2007 priorities (see text above).

10. Digital Dividend Review (DDR)

10.1 Members had received a paper from Dominic Ridley setting out issues arising from Ofcom’s DDR consultation. The discussion would be to agree key questions for Ofcom and agree a way forward for the Panel’s work on spectrum. A feature of the DDR was its sheer complexity and understanding the issues was a demanding exercise. Dominic Ridley summarized the paper and the Panel commented as follows:

- Simon Gibson felt there were a number of omissions in Ofcom’s proposals; eg provisions to allow recovery of spectrum, he used the analogy of land compulsory purchase powers; no plans to reserve spectrum for the social good; no “use it or lose it” provision; he added that it was possible that spectrum would become a commodity and traded on the market; there were outstanding questions about allocation of spectrum for local analogue TV post switchover;
- Jeremy Mitchell said there could be a large speculative element to any spectrum auction process and result in huge overbidding; the converse could be huge underbidding and excessive profits; there needed to be sufficient safeguards to prevent monopoly outcomes;
- Kate O’Rourke said that Ofcom proposals were drafted from the perspective of an auction process and no alternative vision was being proposed; she expressed concern that a minimal amount of spectrum should be held back, not just for innovation but also for the public good;
- Roger Darlington said much discussion could be academic since the Cave report on spectrum management had already set the terms for debate;
- Fiona Ballantyne said that there were many unknowns associated with a liberalised spectrum market; innovation could be inhibited if there was the threat that spectrum could be taken back; she asked whether there would be concern if a large amount of spectrum was purchased by overseas buyers; it was agreed that Dominic Ridley would provide the Panel with details of thinking on spectrum liberalisation in other EU countries;

- Allan Williams referred members to a note he had circulated on the DDR; Ofcom did not appear to be working back from desired consumer outcomes, instead it wished to leave outcomes to the market, nor did it appear to have done very much scenario testing; he agreed that a “use it or lose it” provision would be sensible but since spectrum would have a high value it was doubtful that it would be purchased and not used;
- Bob Twitchin said there were concerns about future provision of accessibility services; allocation of spectrum for social good could help;
- Fiona Ballantyne said that it would have been useful if the consultation had contained details of alternative service delivery mechanisms.

10.2 The Chairman said that to proceed it would be necessary to interrogate the Ofcom DDR process and Dominic Ridley would produce a list of questions for Ofcom’s Philip Rutnam for discussion at the February Panel meeting. Dominic Ridley would also ensure that members are informed of any DDR stakeholder events organised by Ofcom. Related to the consultation was the idea of a toolkit study of the DDR with a focus on developing a set of questions to measure public value. Dominic Ridley would provide members with details of how the BBC Trustees measured public value. The Chairman, Graham Mather and Dominic Ridley would give further thought to a toolkit study.

AP12 Dominic Ridley to provide Panel with an overview of EU countries’ views on spectrum liberalisation.

AP13 Dominic Ridley to draft a note containing key Panel questions on the DDR for Philip Rutnam, to be sent to Philip Rutnam prior to the February meeting.

AP14 Dominic Ridley to advise Panel members of any DDR events.

AP15 Dominic Ridley to forward Panel members details of how the BBC Trustees will measure public value.

AP16 Chairman, Graham Mather and Dominic Ridley to consider how the DDR could be turned into a toolkit study.

11. Other matters to note/agree

11.1 Members had been provided with a written report on Panel activities, Ofcom publications, policy projects and events and approaches to the Panel; its contents were noted.

12. Any other Business

12.1 There was no other business.

.....Chairman

.....Date.