

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

Tuesday 20 March 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
Kevin McLaughlin
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)
Panel research manager (item 5)
and Ofcom colleagues (items 7 and 8)

1. Welcome and introductions

1.1 The Chairman welcomed Panel members to the meeting. She thanked them for their contributions to a discussion with Ofcom's media literacy team that had taken place the previous evening. Members would forward points they had raised to Dominic Ridley, he in turn would collate and forward them to Ofcom. The Panel meeting would be followed by a meeting of the Consumer Forum on Communications (CFC), hosted by the Panel.

AP1 Members to forward media literacy points to Dominic Ridley by 30 March who will then forward on to Ofcom.

2. Declaration of members' interests

2.1 Simon Gibson had become Chairman of Enfis Ltd, a company that designed and manufactured advanced LED technology solutions and systems.

AP2 Secretary to amend register of members' interests entry for Simon Gibson.

3. Minutes of the meeting on 27 February 2007 and matters arising

3.1 Minutes were agreed subject to minor amendments. The Chairman commented that cross-membership between the Panel and 'Consumer Voice' was included in a bill going through Parliament. Enactment would result in a change in Panel governance. The Chairman would meet Department of Trade and Industry (DTI) officials shortly to discuss the Panel's web portal proposal arising from work on connecting older people.

3.2 Dominic Ridley had circulated a note to members on premium rate service (PRS) telephone numbers and TV quiz phone-ins. Viewers and a number of stakeholders had raised concerns and there was brief Panel discussion about consumer protection and the respective roles of Ofcom and ICSTIS (the PRS regulator). It was agreed that Dominic Ridley would raise questions with Ofcom about whether regulators could have known about any fraudulent activity; whether procedures were in place to detect it; what action it took when the TV quiz issue came to light; who had benefited at consumers' expense; and arrangements to ensure that similar problems did not occur again in the future. On a related point Dominic Ridley commented that Ofcom had just announced a market investigation into the pay TV industry.

AP3 Secretary to amend February minutes.

AP4 Dominic Ridley to raise questions with Ofcom related to TV quiz phone-ins to allow it to provide answers in time for the next Panel meeting.

4. Chairman's report

4.1 Referring to her letter on the dispute between Virgin and BSkyB the Chairman said that her purpose had been to register concern that consumers were being disadvantaged and to urge Ofcom to use its influence to facilitate resolution. The Chairman had taken part in a BBC Radio 4 discussion about the dispute. She had received a response from Ed Richards and members would be given a hard copy in the course of the meeting. Ofcom's announcement of its pay TV market investigation was received in the course of the meeting and was duly noted by the Panel. Ed Richards had suggested that Ofcom colleagues could meet the Panel to discuss the investigation and it would be an agenda item at the April 2007 Panel meeting.

4.2 The Chairman and Graham Mather gave an update on the Panel's work with the Consumer Interest Toolkit. Graham Mather reported that application of the toolkit to Ofcom's mobile number portability project was progressing well and a final report would be available shortly. He and the Chairman had held a scoping discussion on a toolkit study of Ofcom's Digital Dividend Review (DDR) but such a project would be for a later date. The Chairman reported that there continued to be keen interest in the toolkit in Brussels and Meglena Kuneva, the European Commissioner for Consumers, wished to meet to discuss the toolkit.

4.3 The Chairman and the Deputy Chairman had met Shaun Woodward MP,

Minister for Creative Industries and Tourism. Discussion topics included digital switchover (DSO) and multiple dwelling units and the DSO targeted help scheme. The Chairman said that there had been new senior appointments at Ofcom. Philip Rutnam had joined the Ofcom Board and Ian Hargreaves, already a non-executive Board member, had taken up an executive position. The Secretary would invite Ian Hargreaves to dine with the Panel, ideally in July. Discussion could focus on his international responsibilities at Ofcom and the future of the Union and the devolved administrations.

AP5 Dominic Ridley to copy members Ed Richards' response to the Chairman's letter and details of Ofcom's pay TV market investigation.

AP6 Secretary to invite Ofcom colleagues to the next Panel meeting to discuss Ofcom's pay TV investigation.

AP7 Secretary to invite Ian Hargreaves to meet the Panel.

AP8 Julia Guasch to arrange a Panel dinner this side of the summer, ie for 9 July 2007.

5. Members' updates

5.1 The Panel's research manager joined the meeting and Fiona Ballantyne updated members on the Panel's consumer research. The Panel's 'tracker' report - Consumers and the communications market: 2007 - was in draft and would be discussed at the April Panel meeting. The Panel's research sub-group had been presented with feedback on the first stage of the consumer experience of DSO research, results from the second stage were due in May 2007. Briefings on the children and internet and the small enterprises research were due at the end of March. A study on specialist and mainstream equipment would be pursued after discussion with Ofcom colleagues about the regulator's work in this area. The research sub-group would be having a brainstorming session in April – all Panel members would be copied summary details of research projects and details about the brainstorm. The various research projects would result in reports and each publication was expected to be accompanied by a news release. Summary details of research activities would be included in the Looking Ahead section of the Panel's re-launched website. Allan Williams reported that a research briefing on the children and the internet project would held shortly.

5.2 A paper by Georgia Klein on the Panel's social inclusion literature review and the review itself had been copied to members. The paper proposed use of material in the review to produce a fact sheet, with the report made available as a background document. There were different views and a number of suggestions about how the Panel could make best use of the literature review:

- the literature review should be published but the Panel should not rush to determine a policy position, it should seek views and stimulate a debate;
- the literature review could be used as the focus for a stakeholder event;
- although the literature review was well-structured and provided valuable insights it did not seem to communicate the social inclusion "story" in a readily accessible fashion, hence the fact sheet proposal;
- a series of focussed questions would be required to accompany

- publication of the review;
- the review could be published with a foreword from the Panel Chairman and reader friendly executive summary;
- the complexities of inclusion would need to be spelt out;
- the review was a snapshot rather than a continuous “story” and more research was coming forward.

5.3 The Chairman drew discussion of the literature review to a close. The review appeared to be a useful but limited resource and it could be made available on the Panel’s website. If used in a Panel event it would be necessary to prepare a number of questions for discussion. Georgia Klein would put together a paper setting out the key points in the review, those points and the review could go on the Panel website in due course.

5.4 Kevin McLaughlin had met an Ofcom colleague to discuss the work of Ofcom’s Advisory Committee on Older and Disabled People (ACOD), he would share attendance at future ACOD meetings with Bob Twitchin. The Chairman and the Deputy Chairman would be meeting the ACOD Chairman in the afternoon. Bob Twitchin was concerned about Ofcom’s resourcing of ACOD, since the departure of the committee’s policy support person a replacement had not been appointed. ACOD had responded to Ofcom’s DDR consultation and Bob Twitchin would arrange for it to be copied to Panel members. The Deputy Chairman had separate meetings with Digital UK and with the DTI to discuss DSO. Roger Darlington, Bob Twitchin and Alan Williams had also attended the DTI meeting. The meetings had also touched on the DDR and discussion about High Definition television (HDTV). The Panel intended to reduce its involvement with DSO, now that DSO was entering its implementation phase. Bob Twitchin said that it would be important to monitor developments related to accessibility and DSO equipment. Simon Gibson had met Ofcom’s Advisory Committee for Wales. The committee had some new members and was taking a keen interest in the DDR. Simon Gibson commented that a lot of interest appeared to be focussed on DSO but in his view roll-out of and migration to 21CN (BT’s new IP-based telecoms network) could prove to be a more complex exercise. The Panel was considering holding a meeting in Wales and the Chairman and Secretary would discuss a possible date.

5.5 Roger Darlington had attended a meeting of Ofcom’s Advisory Committee for England (ACE). The ACE Chairman would meet the Panel at the April 2007 Panel meeting. Referring back to the DTI meeting Roger Darlington expressed frustration concerning the government’s digital strategy – since its publication two years earlier there appeared to have been a loss of momentum. Dominic Ridley said that a government review of the strategy was underway and he reported that its Digital Inclusion Unit was looking at how the 3rd sector, ie community and voluntary organisations, and government could deliver the strategy. The strategy would be a topic for the Panel to return to later in the year. Fiona Ballantyne had attended a BBC Audience Panel meeting in the Borders. She highlighted concern about a ‘light’ version of Freeview, ie availability of fewer Freeview channels in certain parts of the country. Graham Mather had attended a telecoms conference in Brussels and mobile roaming continued to be high up the EU agenda – the

Commission was leaning towards an EU-wide roaming tariff with a price cap.

AP9 Panel research manager to email members with summary details of Panel research projects.

AP10 Julia Guasch to email members with details of the Panel research sub-group's brainstorm meeting.

AP11 Secretary to ensure that summary details of Panel research projects are in the Looking Ahead section of the new-look Panel website.

AP12 Bob Twitchin to arrange for Panel members to receive ACOD's response to the DDR consultation.

AP13 Chairman and Secretary to discuss a date for a Panel meeting in Wales.

AP14 Georgia Klein to put together a paper setting out the key points in the Panel's social inclusion review (documents to go on the Panel website).

6. Update from Consumer Panel Manager

6.1 The Chairman and Panel members took the opportunity to wish Georgia Klein well – she would begin maternity leave shortly. Dominic Ridley had provided members with an update on a number of Ofcom policy projects in the monthly report (see item 10). He would draft an advice note to Ofcom on self- and co-regulation after completing the Panel's response to Ofcom's consultation on the DDR. He informed the Panel that Ofcom was aiming to publish a DDR related consultation focusing on proposals related to the PMSE (programme-making and special-events) sector in May 2007. A mobile roaming and a Wimax market review were also planned by Ofcom.

AP15 Dominic Ridley to draft an advice note on self- and co-regulation.

7. Ofcom's citizen interest project

7.1 Members had received a discussion paper and a draft Ofcom Arena paper on furthering citizen interests – the latter was a vehicle to encourage debate and not a consultation paper on a particular policy issue. An Ofcom colleague introduced discussion and Panel members made comments or raised questions:

- the section in the paper on trade-offs between consumer and citizen interests needed to be more explicit about the resolution of conflicts; a model could be devised to measure or evaluate trade-offs; an Ofcom colleague said that the first part of the exercise was to make trade-offs transparent, the challenge then to do so in the course of Ofcom projects;
- it would not be easy to "operationalise" the citizen interest, as an example the DDR did not appear to have taken account of citizen issues; work on universal service would require a sharp focus on such interests; an Ofcom colleague said that a particular challenge would be to ensure that citizen interests were pursued in Ofcom projects where they were less obvious, eg in market reviews where the emphasis was on economic analysis;
- when redrafting the Arena paper Ofcom could consider issues raised by the Panel in its recent response to Ofcom's draft Annual Plan; an Ofcom colleague said the paper had already drawn on the Panel's suggestion

that a minimum set of communications services should be available throughout the UK;

- a Panel member asked what had led Ofcom to produce the Arena paper on citizen interests; an Ofcom colleague said that Ofcom wished to show that it took citizen interests seriously; in the past it may have been clear what was involved in furthering citizen interests; that could be less certain in the future;
- the Chairman said that the Panel had looked at both consumer and citizen issues and its research had examined a number of the latter issues; she added that there were philosophical questions to consider, eg whether it was possible to know what was a good society or what a better society looked like;
- the Chairman made a number of other points: in trying to achieve positive outcomes for citizens the process had to be transparent; Ofcom could make a virtue out of its governance structure, using its advisory committees to get to the root of what citizens were thinking; she argued for a dynamic concept of citizens and their wants.

7.2 The Chairman drew discussion to a close. She said that the Panel would be pleased to take part in an Ofcom event on citizens, if one was to take place. A Panel member said that the citizen interest project would be of interest to the CFC and the Secretary would include this suggestion in agenda planning.

AP16 Secretary to include the citizen interest project in CFC agenda planning.

8. Update on consumer enforcement

8.1 Members had received a detailed information paper on Ofcom's consumer enforcement activity. Ofcom colleagues summarised this. Consumer enforcement had moved up Ofcom's agenda, with greater resource applied to it and the emergence of a number of in-house Ofcom enforcement specialists. The Chairman asked if Ofcom had sufficient regulatory powers at its disposal, eg the ability to impose appropriate fines. An Ofcom colleague said that Ofcom had made progress in this area but it did not have blanket powers to fine. Ofcom's main sectoral powers only gave it the power to fine after providers had first ignored a notification to comply with regulations but the reputational effect of Ofcom actions should not be underestimated. There could also be instruments under European legislation and Ofcom was working to obtain adequate powers but it was a slow process. Graham Mather asked what it was that tended to trigger enforcement work. An Ofcom colleague said that two thirds of investigations were at Ofcom's own initiative. On occasions trading standards departments worked closely with Ofcom. The situation regarding unsolicited phone calls had improved with Ofcom working closely with the Information Commissioner to enforce compliance with the Telephone Preference Service. The main complaints received from small businesses concerned "slamming" – where telecoms customers were being switched supplier without their knowledge or consent – and mis-selling, where customers agreed to change supplier but based on false or misleading information. Jeremy Mitchell expressed concern that supplier codes of practice (CoPs) were inadequate. An Ofcom colleague

said that there could be a need to move away from a CoP approach; as CoPs invited suppliers to set their own compliance standards.

9. Consumer engagement

9.1 There was a detailed discussion of this item based on a 'think piece' by Roger Darlington containing 21 ideas on forms of engagement and a paper by Georgia Klein on the art of the possible. Roger Darlington introduced discussion and highlighted some points as follows:

- more regular content on the Panel's website;
- a regular and reader friendly newsletter;
- news releases accompanying all Panel advice submissions to Ofcom;
- the Consumer Panel Managers' report at Panel meetings to include reporting on website traffic;
- making Panel contributions to Ofcom's consumer stakeholder online forum a priority; and
- engagement with young people, via a school or college, on communications issues.

9.2 Georgia Klein responded:

- the Panel website was being redesigned to improve accessibility and organisation of content;
- routine news releasing would help to raise the Panel's profile;
- a weblog could conflict with the Panel's Memorandum of Understanding with Ofcom, ie with issues about what could be made public;
- the proposal to engage with young people was an exciting idea;
- Panel events were useful but productive engagement required considerable effort and targeted themes.

9.3 Members made a number of comments:

- important questions were: who should the Panel engage with?, and why? – this was part of a discussion of the Panel's priorities and the way it should go about its work;
- this amounted to asking the question: what is the Panel trying to achieve?; the Panel was not a complaint handling body like Energywatch or Postwatch, its role was to advise the Ofcom Board; what else did it wish to achieve and with whom?
- with 'Consumer Voice' about to be set up, the Panel had to be clear about its role;
- should the Panel be widely known?, engagement suggestions could be productive if they were part of strategy;
- if the Panel represented many millions of consumers, there were limits to how much the Panel could inform itself by consumer research;
- a higher profile for the Panel could be about the messages it put out as much as consumer engagement activities;

- it was surprising that more people did not make contact with the Panel, this was partly due to its profile but also to a lack of understanding about what the Panel did;
- the Panel was not a traditional consumer body and its consumer interest toolkit had attracted interest;
- one issue was about the Panel being effectively informed, another was about whether it had a role in informing consumers; normally the Panel was not expected to do the latter;
- a prior question was: what is the Panel already doing in the area of engagement?, ie an audit to find out where there were gaps;
- the Panel needed to be clear on who it wished to influence and from whom it wished gain views;
- the shape of the Panel as an organisation, ie its resources, made it difficult to deliver some of the engagement ideas that had been proposed;
- Roger Darlington's 'think piece' had provided what was asked for but the Panel was now asking for a strategy, separating out profile and engagement;
- a discreet 'insider' role, based on a trusted and constructive relationship with Ofcom, could be more effective than a higher profile and wider external engagement;
- the Panel had mediated contact with the outside world via the support team, that was welcomed.

9.4 The Chairman made a number of comments and drew the discussion to a close as follows:

- it was timely to discuss the Panel's objectives; current membership of the Panel would shortly come to an end and thought needed to be given to the future shape of the Panel; a number of issues needed to be thought through prior to new appointments;
- there was a distinction between consumer engagement and Panel profile; regarding the latter an important consideration was whether a higher profile would make the Panel more effective; it was important to choose when to make interventions otherwise currency would be devalued;
- members were reminded that the Panel's mode of operation had allowed it to successfully maintain its existence in the face of pressures to absorb it as part of 'Consumer Voice';
- the issue of consumer engagement was important for the Panel, it was also important for Ofcom;
- there remained the challenge to go beyond traditional forms of engagement, to build a capability to understand the concerns of consumers and citizens; primitive communications methods were being used that bore little resemblance to the technologies that were available;
- Roger Darlington's paper allowed the Panel to debate these issues;
- a strategy paper was required that took stock of the present and looked ahead to the future; it was agreed that there should be further discussion and that the Chairman and Dominic Ridley would draft the paper, ideally for discussion at the April 2007 Panel meeting.

AP17 Chairman and Dominic Ridley to draft a Panel strategy paper (related to the March consumer engagement discussion), ideally for discussion at the April Panel meeting.

10. Other matters to note/agree

10.1 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.

11. Any other Business

11.1 There was no other business.

.....Chairman

.....Date