

Minutes of the forty-ninth meeting of the Ofcom Consumer Panel

Tuesday 10 June 2008 at 10.00 hours

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

Present:

Consumer Panel

Anna Bradley (Chair)

Fiona Ballantyne

Roger Darlington

Graham Mather

Kevin McLaughlin

Jeremy Mitchell

Kate O'Rourke

Bob Twitchin

Allan Williams

In attendance

David Edwards (Consumer Panel Secretary)

Georgia Klein (Consumer Panel Manager)

Dominic Ridley (Policy Executive to the Panel)

Other Ofcom colleagues (items 9 and 10)

1. Welcome and introductions

1.1 The Chair welcomed members to the meeting. Apologies were received from the Deputy Chairman and from Simon Gibson.

2. Declaration of members' interests

2.1 Fiona Ballantyne had been appointed to the board of the Office of the Scottish Charity Regulator. Allan Williams' employer Action with Communities in Rural England was one of the organisations that make up the Government's Consumer Expert Group (CEG) on digital switchover. Although not an attendee at CEG meetings Allan Williams received CEG papers. Kate O'Rourke would be leaving the law firm Dechert LLP.

3. Minutes of the meeting on 20 May 2008 and matters arising

3.1 Minutes of the previous meeting were agreed subject to minor amendment. Reference was made to BT Basic and to BT's 21st century network (BT 21CN). The Secretary would contact BT to arrange a meeting to discuss BT Basic, BT 21CN, relay services and consumer complaints. The Chair, Roger Darlington and Bob Twitchin would attend the meeting. It was agreed that Georgia Klein would have a discussion with the Chair, Roger Darlington and Fiona Ballantyne about consumer activism issues. A brief had been circulated to commission a Panel position paper on public service broadcasting but to date the

work remained to be awarded.

AP1 Secretary to amend Panel minutes.

AP2 Secretary to arrange meeting with BT to discuss BT Basic, 21CN, relay services and consumer complaints.

AP3 Georgia Klein to meet and discuss consumer activism with the Chair, Roger Darlington and Fiona Ballantyne (the latter by telephone).

4. Chairman's report

4.1 The Chair reported on the member recruitment exercise. Several hundred applications had been received; a long list meeting had taken place; a short list meeting would be held on 16 June; and interviews would take place in the week beginning 30 June 2008. The Chair had attended a roundtable event on a series of EU initiatives to transform consumer policy, hosted by the European Policy Forum (EPF) and led by Robert Madelin, Director-General of the European Commission's Health and Consumer Affairs Directorate. [Note: Panel member Graham Mather is EPF President.]

5. Members' updates

5.1 Jeremy Mitchell had met a colleague writing a history of the National Consumer Council (NCC). The Chair had a similar meeting. [Note: Jeremy Mitchell and Anna Bradley are former NCC Directors.] Allan Williams is a member of the Rural Development Programme for England (RDPE) Monitoring Committee. He had expressed concern about take-up of broadband in English rural areas. Broadband was accessible via BT exchanges serving more than 99% of all UK homes and because of this the RDPE had not set a target for increase in internet penetration in English rural areas. His concern was based on the gap between availability and take-up - in 58% of homes – and the variable quality of broadband in rural areas. Fiona Ballantyne had attended the Glasgow launch event for Ofcom's *Communications Market 2008: Nations and Regions – Scotland* report. Fiona Ballantyne reported that the Scottish Consumer Council and Digital UK had given evidence on digital switchover to the Scottish Parliament's Local Government and Communities Committee.

5.2 Kate O'Rourke said that Islington Council had announced plans to charge all council leaseholders £75 to switch to Digital TV. It had struck a deal with BSkyB to adapt the TV aerials of council properties. Kevin McLaughlin had provided a written report on his recent activities which had been copied to members. He mentioned that Ofcom's website included a video in British Sign Language (BSL) providing a guide to Ofcom. He said that consideration could be given to a BSL presentation explaining the role of the Consumer Panel on the Panel website. This could be considered as part of Panel re-positioning. Bob Twitchin had attended a meeting of the British Computer Society's ICT Accessibility Group. Its chairman had said that the theme of his year in office would be the digital divide. Bob Twitchin had attended Ofcom's recent usability event. Roger Darlington and Georgia Klein had met with Jill Johnstone and colleagues from the NCC. They discussed behavioural economics, including

work undertaken by the Organisation for Economic Co-operation and Development; the EU Framework review; the Government's Convergence Think Tank (CTT); and Ofcom's additional charges consultation. Graham Mather had worked closely with Ben Wallis to draft the Panel's position paper on the EU review. He would meet officials from the Department for Business, Enterprise and Regulatory Reform to discuss the EU review. The following week he would join the Chair at a meeting with colleagues from the CTT. Georgia Klein reported that the Deputy Chairman had met David Scott, the new chief executive of Digital UK and issues related to multiple dwelling units remained to be followed-up.

AP4 Georgia Klein to consider a BSL presentation as part of re-positioning.

6. Next generation infrastructure – update and next steps

6.1 On the previous day the Chair, the Deputy Chairman, Allan Williams, Fiona Ballantyne, Kevin McLaughlin and Roger Darlington had attended the Broadband Stakeholder Group's (BSG) *Beyond Pipe Dreams? Prospects for Next Generation Broadband in the UK* conference. The Panel had co-sponsored the event and issued a news release. Roger Darlington said that the event had been positive, forward-looking and attended by around 250 delegates. Speaker presentations were expected to appear on BSG's website shortly and it was agreed that the Panel website should provide links to event material. The Panel Chairman had chaired session 4: *What role for the public sector?* and the Panel's video *Across the generations: contrasting experiences of broadband* had been screened. Roger Darlington summed up the two contrasting views expressed at the event: next generation broadband had to be deployed in the right way but not right now, versus roll-out had to happen and it was a matter of getting on with it.

6.2 Roger Darlington was leading on the Panel's next generation infrastructure (NGI) workstream and was developing a position paper. He commented that the consumer dimension to debates had been missing from the BSG event. The Chair suggested that Francesco Caio, who was leading the Government's independent review on next generation broadband, could benefit from a meeting with consumer stakeholders facilitated by the Panel. Roger Darlington said that after the Summer there could be an opportunity for Panel activity to coincide with a statement expected from Ofcom and publication of both the findings from the Caio review and an EC Recommendation. Next generation access appeared to be moving up the political agenda and a challenge remained to build cross-party consensus. The Panel could engage with the House of Commons Business and Enterprise Committee or the Lord's Science and Technology Committee. It was agreed that consideration would be given to who the Panel should meet to take forward its work on NGI -including government officials and advisers, industry and others – and to the suggestion that the Panel facilitate a meeting between Francesco Caio and consumer stakeholders.

AP5 Dominic Ridley to assemble a BSG event page for the Panel website.

AP6 Dominic Ridley to factor a meeting between Francesco Caio and stakeholders into the NGI workstream.

AP7 Dominic Ridley to consider who the Panel should meet in its work on NGI

and build into the workstream.

7. Digital strategy review

7.1 Panel members had received a discussion paper from Georgia Klein and an annexed paper from a consultant who had re-visited the Panel's previous work on digital inclusion issues. Georgia Klein and Dominic Ridley had met Helen Milner, Managing Director of UK online centres. From both the discussion paper and dialogue with Helen Milner, it appeared that Government thinking lacked clarity and direction. Policy objectives would need to be determined, with consultation on the major issues. A member suggested that Panel work on the digital divide could be put on hold until the issues were clearer - including the terms of reference for the digital agenda, timescales and consultation processes – whilst another wished to make this work a priority. One suggestion was that the Panel could seek a meeting with the Minister for Digital Inclusion. [Note: the Department of Communities and Local Government was leading a cross-government team to produce a Digital Equality Action Plan and following the Panel meeting it was decided that the Panel would submit views.]

8. Pre-discussion on public service broadcasting (PSB)

8.1 Panel members had received a PSB discussion paper. Members wished to identify PSB issues for the Panel. Ofcom had developed four illustrative PSB models. The Panel's initial view was that Model 3 – *BBC/C4 plus limited competitive funding* - and Model 4 – *Broad competitive funding* had most merit. Model 4 would include additional Government funding but it was not clear whether that would be in addition to money from the licence fee. Access services for disabled people could be an issue in relation to new media. Definition of PSB appeared to have shifted from provision to all to provision to a large majority and local TV did not appear to be under consideration as part of the PSB review.

9. Ofcom's 2nd PSB review

9.1 Ofcom colleagues joined the meeting and responded on the issues of definition of PSB, funding and local TV. Ofcom was not seeking to move away from universality but a significant proportion of the population did not engage with PSB, young people in particular, and consumption habits were not confined to a broadcasting definition alone. The merits of funding models were being considered; additional funding referred to earlier could come from via the licence fee or a range of other possibilities. Models and funding arrangements were being considered, and how the two would fit together. Of the four models, Ofcom did not have a preference. Referring briefly to local TV, there was widespread agreement with the editorial concept but the difficulty arose in providing such a service profitably, eg through sufficient advertising revenues. It was agreed that the Panel would provide its views on PSB to Ofcom in an advice note.

AP8 Georgia Klein to draft a Panel advice note on the 2nd PSB review.

10. Pay-TV

10.1 Panel members had received a discussion paper and Ofcom colleagues joined the meeting. Ofcom's Pay-TV consultation had closed in February 2008. Ofcom's Pay-TV team had attended the Panel meeting in the same month and was working on two further consultations, on the Pay-TV market investigation and on the Sky/National Grid Wireless licensing process. Ofcom was considering a number of options arising from its market investigation. Reference was made to the NCC - it had threatened to raise a supercomplaint under the Enterprise Act 2002 as a result of the Virgin Media/BSkyB dispute. Ofcom colleagues agreed to contact the NCC to ascertain the latest position. Litigation was in progress in what was a commercial dispute and not a market power issue, leaving Ofcom without powers to intervene. The Panel would also make enquiries with the NCC about the Virgin/BSkyB dispute.

AP9 Ofcom to make enquiries with NCC about the Virgin/BSkyB dispute.
AP10 Chair and Georgia Klein to raise the Virgin/BSkyB dispute with NCC before deciding any further Panel intervention. [Note: the Panel had issued a news release in March 2007 urging Ofcom to use its influence to help resolve the Virgin/BSkyB dispute.]

11. Other matters to note/agree

11.1 Members had received a written report on Panel activities, Ofcom publications, a summary review of policy projects and details of conferences; its contents were noted.

12. Any other business

12.1 Ofcom's consultation *Initial assessments of when to adopt self- or co-regulation* had closed on 6 June 2008. The Panel had not responded to the consultation but had submitted an advice note in April 2007 and had a further discussion with Ofcom at the November 2007 Panel meeting. The advice note would be posted on the Panel website, with Ofcom's formal response to Panel views. It was agreed that Ofcom's project manager would be invited to discuss self- and co-regulation further at the next Panel meeting.

12.2 There was discussion about responding to consultation documents, of how often the Panel should do so when it could already provide advice and views to Ofcom early in its policy development phase and via other means, eg in meetings or in correspondence with the Ofcom Chairman. There were resource issues to consider in routinely responding to consultations and there was a danger that the Panel's agenda could become driven by Ofcom's work plan. It was argued that Panel consultation responses could give a lead or encourage other consumer stakeholders to submit their views and some members took the view that the Panel should respond to consultations more frequently. It was noted that the Panel's approach had been to provide strategic advice whilst consultation documents often dealt with issues at a detailed level. Having provided advice to Ofcom, eg in an advice note, it was not clear what a

consultation response would add. It was agreed that Georgia Klein would draft a short paper on responding to consultations, on what it might mean for future Ofcom consultations and for discussion at a future Panel meeting.

AP11 Secretary to ensure that self- and co-regulation is on the July Panel agenda.

AP12 Georgia Klein to draft a paper on responding to Ofcom consultations.

.....Chairman

.....Date