Communications Consumer Panel and ACOD response to the Commission's evaluation and review of the regulatory framework for electronic communications networks and services

The Communications Consumer Panel (the Panel) and the Advisory Committee on Older and Disabled People (ACOD) welcome this opportunity to respond to the Commission's evaluation and review of the regulatory framework for electronic communications networks and services.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and microbusinesses.

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 with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

Introduction

We would suggest that this review of the Framework takes as a key principle the Panel's driving force - our belief that, given the increasingly central role of communications in people's lives, society and the economy, it is vital to support fully the communications needs of all consumers, citizens and micro businesses. Consumers, citizens and micro businesses are more reliant than ever on communications services – mobile devices particularly have experienced an exponential rise in use. In the Panel's view, any sub-optimal delivery of communications services has ceased to be a cause of irritation for individual consumers and micro businesses - it is now an issue of real and significant detriment. The causes of such detriment may be (but are not limited to) a result of:

- inadequate infrastructure – be it a lack of reliable, fast broadband or the absence of robust and ubiquitous mobile voice and/or data coverage;
- poor customer service, including delays in service provision or repair;
- or a failure to treat consumers fairly.

Work must continue to ensure that the full range of communications services is made available and accessible to the whole population, together with high standards of coverage, speed and reliability, backed by excellent customer service and complaint handling systems. Given the quick pace of technological change and the dynamics of the market, it is our view that consumers' and micro businesses' interests need promoting and protecting more than ever. The tendency towards the mystification of technology together with pricing complexity mean that consumers' needs and expectations, taken alongside industry consolidation and rapid technological development, add greater impetus to the importance of regulatory protection and industry initiatives in this increasingly important sector. We believe that the cornerstone of a successful telecommunications sector will be a combination of availability, accessibility, reliability, innovation and trust.

Such a market should innovate, improve service standards, offer uncomplicated choice and give good value for consumers. However, market failures do happen – for example, mobile coverage is not optimal, and too many people are unable to enjoy a reliable broadband service at a decent speed. When the market does fail its consumers in these ways, we believe that the regulator must be flexible and nimble enough to act quickly and decisively so that consumers' and citizens' interests are both protected and promoted.

To create an enduring and successful sector that thrives by focussing on its consumers, we believe that any review of an approach must begin with desired consumer outcomes. At the heart of that review should be "what good looks like for the consumer". We believe that the review would be well served to consider this further including, but not limited to, elements such as: price; availability and accessibility; quality of service; informed consent; protection from harm (including complaint handling and redress); inclusivity.

Telecommunications is now rightly regarded as the fourth utility. But in direct contrast to many utilities, there are multiple suppliers who interact with consumers – both residential and business. For consumers to be truly empowered, there has to be an integrated approach – a holistic understanding of consumers' needs underpinning pragmatic solutions at every level – ranging from the regulatory approach to providers' direct support of people's increasingly complex setups.

We would suggest that it is also important that some underlying requirements continue to be maintained. We consider that the current obligations under the USO for public payphones and phone directories should be retained in their current form, which allows flexibility for Member States. Whilst we recognise that the use of public payphones has seen significant decline, in our view, mobile coverage is not yet comprehensive enough to provide support across all geographic locations to allow the obligation to be rescinded. In relation to printed directories, we note research conducted by Ofcom in 2013[1] on the use of, and reliance on, paper telephone directories

[1] http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/1107018/Telephone_Directory_Researc1.pdf

which showed higher levels of use amongst those aged 65+ or without the internet in particular. For this reason, we consider that it is not yet appropriate to remove the obligation.

Changing Nature of the Telecoms Sector

In 2013 Ofcom research highlighted that 94% of businesses said that their business would either 'struggle to function' or could 'only manage for a limited period' without the internet. A similar level of dependence was found amongst residential consumers, with 64% saying that they would 'struggle to function'/ 'could manage but for a limited period' without their internet connection. Consumers' use of the fixed internet and mobile voice/data has changed significantly since 2013 and they are now essential components of many people's everyday lives. The 2015 Communications Market Report noted that 'technology has changed the way we communicate, and for the most part is making life easier. Seven in ten (69%) internet users agree that '*technology has changed the way I communicate*' and six in ten (59%) agree that '*new communication methods have made my life easier*'. Digital communications are seen to bring benefits. Almost two-thirds (64%) of online adults agree that being online is '*invaluable for keeping me informed about current issues'*, and six in ten (60%) agree that it helps them keep in touch with close family and friends. Just over half (52%) agree that it '*inspires me to try new things'*.'

Connectivity is required that is always on, secure, high quality, seamless and ubiquitous. This is needed to support consumers and business needs now – and, if it is not already, will be an essential requirement in the near future. This covers areas such as financial dealings, electronic payments for goods and services, access to digital services, health services, Government services and so on. And on the not too distant horizon, machine to machine communications, the Internet of Things and increasingly connected cities will mean that communications become ever more important.

Indeed, Telehealth and homeworking are both good examples of how communications can support wider societal change. The Royal College of Nursing has stated[2] that "Remote monitoring …offers the potential to help the NHS deliver a range of clinical services more efficiently and effectively, and manage increasing demands on services … for some patients, remote monitoring provides a service that might not have otherwise been available (Scottish Government, 2009; DH, 2011)." Between 2007 and 2012 the number of UK employees who usually work from home increased by 13%. This was an increase of almost half a million people, taking the total to over 4 million employees out of a UK workforce of 30 million[3]. In the near future, people will expect to have the ability to move seamlessly from network to network and from device to device, and the line

[2] https://www.rcn.org.uk/__data/assets/pdf_file/0018/450252/004_232_Using_telehealth_V3.pdf

[3] https://www.carbontrust.com/media/507270/ctc830-homeworking.pdf

between personal and business use of communications will become ever more blurred. Connectivity on demand will become an everyday expectation. In addition to infrastructure provision, there is an increasingly important UK market for digital content and the ease of payment for such content. Fuelled by the always-on culture made possible via mobile devices such as smartphones and tablets, this is a market that is growing rapidly, offering incredible convenience, choice and immediacy.

Infrastructure

We cannot overstate how consumers, citizens and micro businesses are more reliant than ever on communications services – and particularly mobile devices. Voice, text – and at a rapidly increasing pace, data – are all central aspects to people's lives both collectively and individually. Data networks have enabled an explosion in services provided by a variety of new players, with economics that allow very small groups of consumers and the economy to be better served in a range of ways. This over the top, or app, market is very easy to enter, very competitive and can provide good value, but only if the data platform is there and capable.

We believe that the ambition should be for mobile and broadband coverage to be truly ubiquitous – and for mobile coverage to relate to both indoor and geographic coverage, as well as on roads and rail. There is often a lack of effective competition in rural areas. Unless the fundamental economics of rural coverage provision change, the commercial market alone will never achieve universality - so it is imperative that public policy continues to address gaps in the market; is alert to where these are likely to occur in future provision; and takes steps to address them.

Ofcom's Connected Nations 2015 report[4] recognises that while there has been good progress on the availability and take-up of communications services, there is still more to do to improve broadband and mobile availability and quality for consumers and businesses around the country. The report highlights that:

- More than a quarter of homes (27%, or 7.5 million) now have 'superfast' broadband - with a connection of 30 Mbit/s or more
- Superfast broadband is now available to over eight in ten UK homes (83%, almost 24 million)
- Broadband in rural areas also continues to improve, with superfast broadband now available to almost four in ten premises across the UK (37%, or 1.1 million)

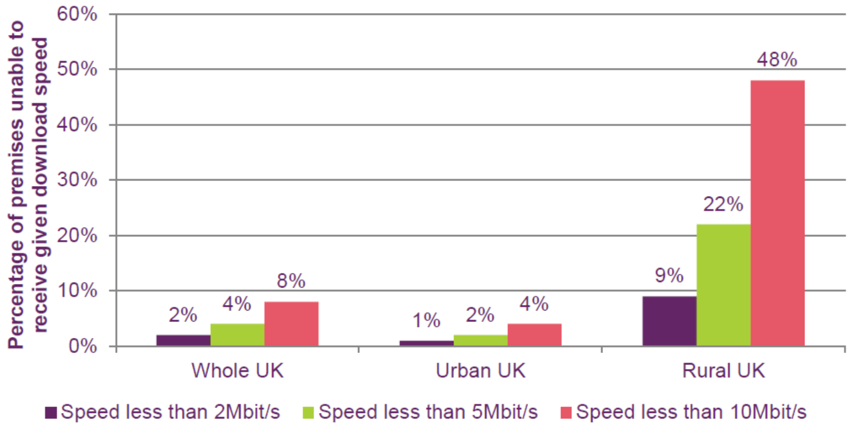
However the report also identifies challenges in improving coverage across the UK:

[4] http://stakeholders.ofcom.org.uk/market-data-research/market-data/infrastructure/connected-nations-2015/

- Around 8% of UK homes - around 2.4 million - are currently unable to receive broadband speeds of 10 Mbit/s or above.

- This continues to be a particular problem for many consumers in rural areas; around 1.5 million, or nearly 50% of, rural premises are connected by lines that are unable to receive speeds higher than 10Mbit/s and one in five rural premises are unable to receive speeds higher than 5Mbit/s.

Figure 9: Many UK premises are connected by lines that are unable to support fast speeds



Source: Ofcom analysis of operators' data

- Although superfast services are now available to the premises of almost seven-in-ten small and medium sized enterprises or SMEs (68%, almost 900,000), almost a half of SMEs (around 130,000) in areas like business parks are unable to receive speeds above 10Mbit/s.
- Ofcom estimates that by 2017, when 95% of all UK premises will have superfast broadband, around 18% of SMEs will still not have access to a superfast service.

Whilst the percentage is small, the absolute number is significant and those who are affected deserve a high level of assistance and support. The likelihood is that the market will serve the mass market and not necessarily all consumers; the full reach of a digital infrastructure must be extended somehow. The Government has committed to launching a scheme with local bodies across the UK in 2015 to subsidise the costs of installing superfast capable satellite services. This will build on the previous commitment that there will be at least 95% superfast broadband coverage by 2017 by offering a superfast capable solution to around a further 1% of premises. We would encourage exploration of technology neutral solutions to enable delivery of accessibility to these remaining areas as soon as possible, and close co-operation between government bodies at all levels to ensure that the experiences and strategies of bodies working in one part of the UK, e.g. Community Broadband Scotland, are shared across the whole of the UK. We would support a requirement for all new housing developments and business parks/premises to include the provision of fibre broadband. The gap between the available speeds is increasing – not decreasing. Those who are disenfranchised are becoming increasingly so.

The inclusion of fixed line and narrowband alone in the Universal Service Obligation (USO) – the legal entitlement to a basic service – is outdated. We were encouraged therefore that the UK Government has recently committed to the desire to see every household able to access a USO of 10mbit/s. This broadband USO must include provision for micro businesses. We await the forthcoming consultation with interest – in our view the UK Government cannot move to "digital by default" for provision of services without committing to universal access to both a fast and reliable broadband service.

It is essential to ensure that basic broadband and mobile infrastructure is in place across the UK. This goal should not be undermined – unwittingly or otherwise – by the temptation to see ultra-fast speeds as a panacea, or some kind of "holy grail". Whilst the Panel understands, and indeed supports, the ambition and value inherent in ultra-fast speeds we believe that a greater and wider benefit would be achieved from a ubiquitous and universal basic broadband service offering a reliable 10 Mbit/s at an affordable consumer price. This should be a priority. We have therefore encouraged an in-depth review of infrastructure competition and investment options as well as that of retail competition. In short, we are concerned that investment in a solid mobile and broadband infrastructure isn't compromised by other commercial imperatives.

We believe that infrastructure cannot stand alone and must be linked to digital participation initiatives. The best connectivity in the world is fundamentally undermined if significant numbers of the relevant population are not able to use it to best effect. In our view, social inequalities will be heavily influenced one way or the other by communications availability and effective digital participation (or lack of these things). Digital participation is a key component of modern society. The lack of participation amongst some groups – because of poor access, affordability, a lack of skills, confidence or motivation - impacts not only on them directly, but also on the overall strength of the economy, impacting the broader population. We expand on this issue later in this document.

Consumers, citizens and micro businesses are increasingly reliant on mobile devices – not only for calls and texts, but also for data. Ofcom's Connected Nations report5 states that more than seven in ten premises (73%) can now receive a 4G signal from three of the four networks, up from 44% last year, as operators continue to roll out faster mobile broadband. However, the report shows there is more work to be done on mobile coverage and quality of service. While 99% of premises can receive a 2G signal, the proportion of the entire UK landmass able to receive a signal from all four operators has remained at 55% since last year. This is expected to increase following an agreement between the Government and all major operators for them to achieve 90% geographic coverage of voice services by 2017.

[5] http://stakeholders.ofcom.org.uk/market-data-research/market-data/infrastructure/connected-nations-2015/

Figure 20: UK coverage for mobile voice services, based on combined 2G and 3G coverage

	O_2	Vodafone	EE	Three
Outdoor coverage				
Premises	98%	98%	99%	98%
Geographic	72%	77%	78%	68%
Indoor/In-car* coverage				
Premises	93%	92%	94%	93%
Motorways	97%	97%	99%	98%
A & B Roads	67%	73%	81%	73%

** For in-car coverage we assume that the phone is used within the vehicle. Coverage would be better if a car kit with an external antenna were used.*

Source: Ofcom analysis of operator data

Not spots and partial not-spots have a negative impact across UK premises, roads, rail and landmass. They have a disproportionately high impact in rural areas and may give rise to serious safety issues. However, partial not-spots are ubiquitous across the whole UK, including London and other major cities, particularly in-building.

Whilst we understand that 4G rollout is important, we would argue that it is far more democratic and equitable for all parts of the UK to have access to at least some acceptable form of mobile voice and data provision via 2G and 3G than for only some areas to have access to 4G, and others to be left with a vastly inferior service.

Consumers have never been able to do anything about not-spots other than buy SIMs from more than one Mobile Network Operator (MNO) and swap them over to gain coverage – which is not a solution, but a costly and inconvenient process; whereas the MNOs do have the capability, technology and financial resources to fix the problem for their customers. Moreover, for many consumers, swapping SIMs is not even a workable solution as their phone is locked to a specific network. Not spots are a particular concern in relation to business owners with a disability and for companies working in many rural areas and outside major conurbations. This is particularly important given the move to provide enhanced emergency services contact over 4G.

The Panel has welcomed the 4G coverage obligation of 98% indoor coverage UK wide, and 95% in each Nation by the end of 2017, and the mobile infrastructure project as tools to increase rural broadband and mobile voice/data coverage. We hope that the recent undertakings given by MNOs to the UK Government - guaranteed outdoor voice and text coverage from each operator across 90% of the UK geographic area by 2017 and full coverage from all four mobile operators increasing from 69% to 85% of geographic areas by 2017 - will make a significant impact and we will encourage close monitoring of their rollout and efficiency. It is vital that this coverage is rolled out and provides robust and reliable voice and data coverage for consumers and microbusinesses. The Panel is concerned about the value and impact of the Mobile Infrastructure Project (MIP). As we understand it, only a very small proportion of the £150 million fund has been used so far.

We note that there is no agreed definition of what constitutes an acceptable threshold level to determine 2G voice call coverage. Based on the Ofcom's drive testing research conducted for last year's Infrastructure Report, Ofcom identified that a signal level of at least -86dBm was needed to provide good 2G voice call coverage. This level was used to report on 2G mobile coverage levels in the report. Mobile operators use a lower (-93dBm) signal threshold to determine 2G voice call coverage. While it is possible to make calls at these lower signal levels, it is more likely from the drive test results to lead to consumers experiencing interrupted and/or dropped calls. While Ofcom's most recent research supports the historic use of -86dBm for traditional phones, a more realistic threshold for modern smartphones is -81dBm. We would welcome work to establish an agreed and commonly used definition of what constitutes an acceptable threshold level.

We were also encouraged by the Department of Transport announcement in February that train operators are being asked to set out how they will meet the commitment to provide free Wi-Fi on trains for passengers. We would urge progress on as many lines as possible in the very near future.

We have encouraged much greater availability of free public Wi-Fi, together with advice about relevant security. Availability of public Wi-Fi is currently patchy which, when the signal degrades, significantly affects the user experience. Moreover there is inadequate supervision of the security of such networks and poor information available to the public in terms of the security of such public Wi-Fi networks. MNOs have a key role to play in raising people's awareness.

Despite the developments in superfast broadband and mobile coverage, we consider that there is still some way to go and it is vital that consumers and citizens in the widest sense should not be left behind, left out or left wanting. Excellent network coverage and call quality combined with the provision of better information will help people make better choices – and make greater use of the functions and applications that they want, which in turn we believe will drive up service levels and ensure that a thriving competitive market benefits all stakeholders.

Market consolidation

Consolidation in the mobile market is an issue of interest to the Panel in the context of consumer impact. The Competition and Markets Authority's recent invitation to comment on one such proposal earlier this year was an opportunity for us to highlight our concerns that the position of all UK telecommunications consumers must not be weakened in any way by the anticipated acquisition. There is now a risk of even fewer providers offering services to consumers. The consumer should be at the heart of a competitive market and the Panel is concerned that a reduction of players in the communications market risks diminishing competition, consumer choice and service provision. It is of significant concern to us that consumers appear to have experienced significant price increases in other European markets (e.g. Austria) where there has been a reduction in the number of MNOs in the market. We have encouraged a detailed and thorough exploration of what safeguards might be necessary to protect consumers. We believe that, outside the economically challenged area of rural provision, competition drives infrastructure investment much more reliably than any amount of consolidation.

It is unclear what will happen to the existing Cornerstone and Mobile Broadband Network Limited (MBNL) Joint Venture agreements, should both the proposed mergers go ahead. We are keen to understand the role that MVNOs can play in expanding coverage. If MVNOs are able to offer multi-network coverage to their customers, this could alleviate problems in a number of partial not spots. We would be interested to know if there are any barriers – for example exclusivity agreements - that are preventing MVNOs from fulfilling this role, which would be a swift and low cost solution.

We note the remarks made by Sharon White recently in relation to the Framework and the regulator's ability to act "… the European Commission and European telecoms regulators have raised concerns that the specialist European framework governing the communications sector may not be sufficiently flexible to allow for the regulation of markets where there is a limited or shrinking number of players - namely an emerging oligopoly.

This specialist framework allows regulators to intervene *ex ante* - in other words, to take action to address damaging market features that could harm consumers, before that harm materialises. It therefore offers greater flexibility than merger remedies alone. The problem is that the framework sets too high a bar for regulating cases where no one company has market power but the market is still highly concentrated, and consumers can be made worse off as a result.

To address any concerns, the framework requires us to show that the market structure is likely to result in a degree of coordination between operators. This may require demonstrating tacit collusion, which by definition is hard to prove.

The European body of telecoms regulators, of which Ofcom is a member, published a paper in June this year raising this issue. It talked of the difficulty of ensuring "the development of effective and sustainable competition" in the presence of what it termed "tight oligopolies", namely highly concentrated markets.

The European Commission has now committed to consider the issue as part of the review of the telecoms framework. This initiative is to be welcomed. I hope it does lead to a revision in the framework so that regulators have the full range of tools to respond to a changing market. This is not about regulators seeking new powers for the sake of it, or regulatory creep. Rather it is a recognition that the statutory framework needs to evolve to deal with emerging challenges in a rapidly evolving sector.

Any new powers would need to be applied proportionately, and with care. Checks and balances should be built into the system to ensure that happens. With a change in the framework we could do more to facilitate the entry of new operators, keep low price deals on the market for longer or require companies to give up spectrum."

We would fully support a review of the Framework which preserves NRAs' ability to respond to evolving needs of their national markets, and to innovate, under a continuation of the existing minimum harmonisation regime, and would oppose a move towards a "full harmonisation" framework. The Framework must enable national regulators to act in the best interests of consumers and citizens and not hamper their ability to intervene where justified and proportionate.

Spectrum Strategy

Whilst the Panel recognises the increase in mobile device ownership, we remain unsure about the evidence base behind demand predictions – the reliability of which we do not believe can be certain. Although it is important that consumers and citizens can enjoy the mobile data services they want and need, there are also sections of society who will not benefit to such an extent from improvements to mobile services. It is important that a balance is struck between the potentially competing needs of these groups. We have raised our concerns when responding to a number of Ofcom's consultations - stating that it is vital that the DTT platform can remain viable, innovative and competitive so that the interests of consumers and citizens who are not on a pay TV platform are protected. We therefore urge that careful consideration is given to the impact that any change in spectrum allocation could have on DTT consumers - especially more vulnerable people. We have strongly encouraged the regulator to work with operators to ensure that they are using their allocated spectrum to best and most efficient effect as part of any process to make further spectrum available.

Quality of Service

A key element of consumers' experience of communications, and probably their closest experience of infrastructure issues, is the quality of service that they receive when new services are installed or when faults occur. We strongly believe that, by whatever means it is brought about, there needs to be a significant improvement in the quality of service that is provided to consumers. As consumers' requirements and hardware and software become more complex, CPs will also need to move to being able to provide a system of seamless support to consumers. It will no longer be acceptable for consumers to be told that it is an issue outwith the CP's control.

Customer Service and Alternative Dispute Resolution

The Communications Market Report 2015[6] reported that satisfaction levels remain high for telecoms services, although satisfaction with fixed broadband and mobile telephony has decreased. The Consumer Experience Report 2014[7] found that the majority of consumers in each market remain satisfied with their services overall, with dissatisfaction at between 4% and 9% across markets - highest in the fixed broadband market. These might seem like small percentages, but in terms of actual numbers of consumers, this aggregates to millions of people. Broadband customers are the most likely to say they have had a reason to complain (12%), followed by mobile (7%), and fixed-line (6%) customers. Not all of these consumers proceeded to make a complaint. In total, 8% of broadband customers said they had made a complaint (this equates to 69% of those with cause to complain) and compares to 4% among mobile customers and 4% among fixed-line customers.

It was these points that we sought to understand further in our 2013 research *Going Round in Circles?*[8] - commissioned to understand the experiences of people who had contacted their CPs provider to try and resolve an issue. We have subsequently continued to pursue the issues highlighted in the research with CPs and Ofcom. We have asked for regular updates from CPs so that we can hold them to account in relation to our recommendations in five key areas from the report: quality of information; contact staff training; consumer contact experience; support for older and disabled consumers; and Alternative Dispute Resolution (ADR) referral processes. We remain particularly concerned about consumers' ability to access ADR schemes.

The Panel was therefore extremely disappointed by the findings of the independent study released on 10 September by Ofcom into ADR referral. Of the cases analysed in the sample, the research highlighted:

- the lack of communication about ADR, with the first mention almost always coming from customers
- that only one-fifth of complaints were logged with a correct start date
- in over 60% of the cases where consumers had requested a deadlock letter, they did not receive one.
- that approximately 5% of the complainants that should have received an eight week letter from their CP (which inform consumers of their statutory right to ADR) had done so.

[6] http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr15/

[7] http://stakeholders.ofcom.org.uk/market-data-research/market-data/consumer-experience-reports/consumer-experience-14/

[8] http://www.communicationsconsumerpanel.org.uk/downloads/going-round-in-circles.pdf

1 http://www.communicationsconsumerpanel.org.uk/downloads/going-round-in-circles.pdf

ADR is an important way to redress the power imbalance between consumers and CPs, who have greater resources, knowledge and control when it comes to complaints about products and services. A crucial step in the complaints handling process is for providers to inform consumers, in a clear and timely fashion, of their right to take a complaint to the relevant ADR service. When ADR was introduced in 2003, the intention was for a free, simple, low risk and easily accessible independent resolution service. Twelve years on, the weak link in the chain remains those providers who have failed in respect of making ADR accessible because they do not inform complainants of their rights and options. This must change, and the Panel has called on all stakeholders to work together to provide consumers with the comprehensive complaints resolution process that they have every right to expect.

The Panel continues to call for serious consideration of a shorter complaint duration time than eight weeks before consumers can approach the ADR schemes and the open publication of data on how providers perform in terms of information about numbers of complaints referred to ADR and numbers upheld. This has recently been launched, successfully, by Ombudsman Services: Energy. Such data should include:

- information about complaints referred to ADR, both the number referred and the number upheld, and taking into account size of provider; and
- information about providers' performance against the code of practice as measured by independent audit.

Consumer Engagement, Switching and Consumer Information

The Consumer Experience Report 2014[9] reported that switching levels have declined since 2013 in all communications markets except digital TV. The largest decline was noted in the mobile market, down four percentage points since 2013 (11% in 2013 vs. 7% in 2014). Switching in the fixed-line and fixed broadband markets each dropped by three percentage points since last year (from 9% in 2013 to 6% in 2014). Reasons for considering, but not switching provider vary by market. In the broadband market 'perceived hassle' was the main reason considerers had not switched (28%). In the fixed-line market it was 'satisfaction with the current provider' (30%) and in the mobile market it was 'terms and conditions' (39%, up 16 percentage points since last year). Despite a general response that it was 'easy to switch', half of all switchers (when prompted) said they had experienced difficulties when switching.

We would welcome a policy approach which acknowledges the sometimes diverse needs of all consumers in the market. Age and/or disability does not necessarily confer vulnerability but, as has been seen, older and disabled people most rely on more traditional communications services and, given lower switching levels, may be more likely to experience detriment. This concern extends to harder-to-reach groups such as rural communities with limited access to broadband,

[9] http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-14/2_Change_Availability.pdf

where everyone is more likely to be disadvantaged in relation to communications, irrespective of age.

The Panel has long called for the process of switching CPs to become easier for consumers and micro businesses. Low switching levels lead to reduced competition and a worse deal for consumers across the board. However switching between CPs is often complex, and involves steps that must be coordinated between different providers in ways that do not arise in other consumer markets. What should be an easy and seamless consumer journey as part of a vibrant market can be an obstacle-ridden process that, evidence suggests, discourages switching and thus deprives consumers of potential benefit. Additionally, consumers may suffer instances of poor service that are in themselves a cause of harm and detriment – as well as having a negative impact on the industry's reputation.

It is our view that a Gaining Provider Led (GPL) process should be the model for all switching processes. The Panel has previously urged providers to work with Ofcom to design a unified switching system as soon as possible. The aim should, we believe, be harmonised switching processes for all communications services including mobile, pay TV and cable services. We are also concerned by providers using a variety of contract end dates within a bundle, which can add to complexity and deter consumers from switching.

It is important that consumers can clearly understand the future implications of the services that they are purchasing – this is particularly relevant given the increasing use of content stored in the cloud and the vital role of email addresses. A lack of portability of either could impact upon people's ability and willingness to switch provider. It is also important that consumers are not mis-sold devices or service packages. Whether it be ensuring that consumers are not upsold devices or service packages that are inappropriate for their needs - or that any debt is handled sensitively and appropriately by CPs.

The increasing breadth of offers, the multiplicity of providers and the increasing trend to bundle services all provide greater choice for consumers – but also bring the potential for greater confusion. One of the key difficulties that consumers face in choosing a new provider can be how to evaluate the plethora of services on offer. This is exacerbated if advertising does not include the cost of all components required to receive a service e.g. line rental. Currently, there is a low level of use of price comparison websites by consumers. In 2009, the two industry websites that provided consumers with information about factors other than prices (e.g. service provision, faults, upheld billing complaints and complaint handling) were closed down. These were Topcomm (for fixed services) and Topnet (for mobile). We believe that the consumer landscape has undergone significant change since the decision was made to close these sites in 2009. The provision of sites which compare the consumer experience are now legion online – and are very popular. Web 2.0 has allowed some – although by no means all – consumers to compare information and voice their opinion of the goods and services they receive in a way that was not previously possible to the general consumer.

We would encourage the reconsideration of such resources being made available through today's accredited sites – and the reinstatement of comparable information across providers. This should be in consumer-friendly formats and offer assistance to people in assessing and evaluating the information. As we have previously stated, we would also like to see the publication of complaint data by the ADR schemes so that consumers can use it to inform their considerations. We have clearly seen the positive effect that the public provision of information can have in other markets, e.g. the food hygiene ratings initiative.

Digital Participation and digital skills

While the advantages of online connectivity apply to all groups in the community, they are especially relevant to disabled people and older people, many of whom may be less mobile than younger people. And yet we know that the take-up of the digital world is unequal amongst the population, with older people more likely to be excluded.

Building on our Consumer Framework for Digital Participation[10] and informed by our 2012 Bridging the Gap: Sustaining Online Engagement research, the Panel identified a number of areas for strategic focus and made a series of recommendations for Governments, policy makers and those delivering on the ground. The Panel has continued to press a range of stakeholders working in digital participation to address the needs of all consumers and citizens.

We now live in an era in which we are seeing many government services become "digital by default" and where being online is becoming more and more a necessity of life and less and less of an optional extra. Whilst solutions may be complex, the issue itself is straightforward: approximately 23% of UK adults lack basic digital literacy skills. The potential consequences of this exclusion are serious: for individuals, especially those who are more vulnerable; for society; for business; and for the UK economy.

An increasing number of commercial services are only available online - or delivered offline in a way that effectively penalises the offline community, through high cost or lower quality. Those people still functionally offline will be at an increasing disadvantage and risk being left behind in terms of ease, convenience, inclusion, speed and cost. It remains our belief that unless fundamental action is taken, the digital divide risks becoming an ever greater digital gulf as the distance increases between those who are online and those who remain firmly anchored in the offline world. Digital literacy, especially on security matters, is going to be critical.

[10] http://www.communicationsconsumerpanel.org.uk/the-consumer-framework-for-digital-participation/the-consumer-framework-for-digital-participation-1

Privacy and security of data

The Internet of Things (IoT) offers many exciting possibilities for consumers and citizens, but its development also leads to concerns in relation to privacy, data protection, the control of data and security. This is particularly relevant to the growth of big data – especially that of machine to machine data. What sets this apart from our current situation is the new development of aggregated data and inferred data. So while there are great opportunities for innovation, there are risks too. Consumers need to be given the tools to control their data and understand how data has evolved, how it might in future, the value of their data and especially the implications of their consent to its release and use. Companies need to ensure that they have a compliance culture (which could involve a Code of Conduct for example) - to supplement any existing regulatory framework - and adhere to it.

Previous research by the Panel *Online Personal Data – the Consumer Perspective*[11] suggested that few consumers have top-of-mind concerns in this area, although they express significant concern when asked about specific privacy issues. However with machine-to-machine data exchange on the horizon, and as the market for personal data becomes ever more complex and monetised, it is increasingly important that people understand the implications of the consent they are giving organisations for the use of their data and, with regard to security, the precautions they can take.

The IoT will potentially involve a vast increase in the collection and transmission of data – and particularly sensitive personal data. The protection of this data is paramount. However, there is an opportunity to learn from the experiences of the use of data online and how it has been utilised along the value chain by some commercial organisations, sometimes to detrimental effect for the consumer - e.g. as a partial cause of nuisance calls. Consumers can only take responsibility if they know how their data is being collected and processed and have the tools to manage its use. This should not mean making privacy policies longer and more complicated – in fact there is a good case for simplifying such information. Consumers should also be able to easily reverse decisions that they have made to share personal data. Companies need to use their expertise in content presentation to provide privacy information and tools in user-friendly ways. We therefore call for consumer-centric policies - clear and layered privacy notices and flexible regulations that allow innovation but hold companies responsible if they misuse data.

There is the risk that IoT devices could be hacked in ways unbeknown to the user. We have already seen examples of this – and it is of particular concern that some devices lack the capability of being adjusted by the consumer to change or increase security levels – e.g. password setting.

[11] http://www.communicationsconsumerpanel.org.uk/online-personal-data/online-personal-data-1

Accessibility

Building on our Going Round in Circles? Work, the Panel has commissioned research into how CPs and other organisations support communication with their older and disabled consumers across the UK. The research agency (Rica) interviewed 41 older and disabled people who discussed their experiences of communication services and CPs. Participants were selected to represent a range of types and severities of impairment, including: cognitive, communication, dexterity, mobility, hearing and visual impairments. We aim to publish the report shortly.

Dovetailing with the Panel's research, we were concerned by the results of Ofcom's mystery shopping exercise which suggest that disabled consumers may not consistently be getting the information they need via in-store, online or telephone interactions in order to find out about the services that are available to them. This gives rise to a serious concern that there is a risk of significant consumer harm within the UK communications market.

The Panel believes that text relay is a vital service as it enables people with hearing and/or speech impairments to communicate with others via the telephone. We will continue to work with Ofcom as it monitors the new text relay service to ensure it meets the required standards and undertakes research to compare the current and new relay service, as well as monitoring developments in speech recognition technology which may support further improvements to text relay services in the future.

We also support Ofcom in encouraging the development of video relay services to enable sign language users to communicate more widely, following the initiative by Ed Vaizey MP, Minister of State for Culture and the Digital Economy, for progress to be made by major organisations, and the pilot scheme introduced by the Scottish Government.

ACOD's remit includes providing specific advice on matters relating to television, radio and other content made available via services regulated by Ofcom. Within this remit, we focus on work to ensure that, as far as practicable, all content users have equivalent access. We have long argued that provision for people with disabilities should be built into technology as standard, rather than as a separate piece of development or hardware.

We have been working to highlight the need for improvements in subtitling on linear television and have also recently responded to Ofcom's consultation **What's on the telly? Proposed improvements to EPG accessibility for people with visual impairments**. In our response we highlighted that we strongly support Ofcom's proposals for amendments to the EPG Code. We believe the proposals will make a significantly positive difference to visually-impaired consumers, with little significant financial impact on EPG providers or TV receiver manufacturers. We agreed that:

- the EPG Code should be amended to require EPG providers to use their best endeavours to secure that TTS-enabled EPGs are incorporated in multi-functional TV receivers.
- the EPG Code should be amended to require EPG providers to use their best endeavours to secure that EPGs in multi-functional TV receivers enable users to highlight or list separately programmes with audio description, and with signing.
- the EPG Code should be amended to require EPG providers to use their best endeavours to secure that EPGs in multi-functional TV receivers enable users to adjust the display of EPG information so that it can be magnified or the text enlarged.
- the EPG Code should be amended to require EPG providers to use their best endeavours to secure that EPGs in multi-functional TV receivers include the option of high contrast displays with a minimum contrast ratio of 7:1.

We recommended clearly defining 'best endeavours', adding timescales for monitoring purposes and encouraging progress towards greater inclusion of accessibility features in more basic TV receivers and the retrofitting of accessibility features in TV receivers that have already been supplied to consumers. We supported retaining the explanation of the abbreviations of accessibility features [AD],[S] and [SL] within the EPG. The full response can be found here.

As more and more content is available online, it is vital that all consumers have equality of access. The Panel continues to engage with Ofcom's range of work on the accessibility of content, and we have also met with ATVOD and the BBC in relation to the provision of access services on video on demand content. We have written to the BBC Trust urging the publication of statistics in relation to the BBC's provision of subtitles on video on demand (VOD) content. We wish to see everything possible being done to improve the provision of subtitles on VOD content sooner rather than later. It is extremely important that the Public Service Broadcasters provide excellent levels of accessibility to content – in its broadest sense.

Micro businesses

The Panel's remit includes micro businesses (those businesses employing nine or fewer people).There are an estimated 5.2 million private sector businesses in the UK and 95% of them can be classified as a micro business. They account for 33% of UK private sector employment and 18% of turnover. In 2014/15, we commissioned and analysed new research into the communications experiences of micro businesses Realising the potential: micro businesses' experiences of communications services. We found that communications services play a vital role for these businesses but their use of these services is hampered – with many of their concerns and frustrations echoing those of individual consumers and citizens. A significant number of respondents in our research were dependent on the reliability and performance of residential grade communications services, particularly with respect to the internet. However, this means that when services are disrupted, there can be longer delays in rectifying issues or repairing faults than would normally be the case in a business environment as businesses are also reliant on residential grade support services. Many micro businesses feel they lack negotiating power or leverage with their communications provider that larger companies enjoy. We have used the findings to give voice to these consumers and discussed the recommendations for action with a number of stakeholders, including CPs around the UK.

Summary

We welcome this review of the Framework. It presents an opportunity to ensure that consumers and citizens not only remain at the heart of communications policy, but that their needs are taken account of as never before. We therefore urge all stakeholders to take a holistic and inclusive long-term view. All consumers, citizens and micro businesses should have access to the services that they need when they need them; the quality of those services should be high, with reliability paramount. In particular, we would like to see:

- A review of the Framework which enables the national regulator to act in the best interests of consumers and citizens and does not hamper their ability to intervene where justified and proportionate.
- Telecommunications fully recognised as a fourth utility and for there to be an ambition for mobile and broadband to be truly ubiquitous.
- Regulators acting quickly and decisively in cases of market failure, using their position to influence others to take direct action and the Government to develop public policy to address the gaps in the market.
- The needs of **all** citizens, microbusinesses and consumers to be considered particularly those who are more vulnerable to detriment.
- An affordable broadband USO of 10 M/bits.
- More effective targets for infrastructure provision and repair.
- More effective provision of consumer information to facilitate well informed consumer choices.
- More done to ensure that everyone can participate in the digital world.
- Improvements to subtitling on linear TV and VOD, in addition to EPG accessibility.
- Tangible improvements in consumer engagement, complaint handling and ADR access.