

Dame Colette Bowe
Chairman
Ofcom
Riverside House
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14 February 2014

Dear Dame Colette

Ofcom Draft Annual Plan 2014/15

I am writing to set out the response of the Communications Consumer Panel and the Advisory Committee on Older and Disabled People (ACOD) to Ofcom's Draft Annual Plan for 2014/15.

As we have noted previously, given the increasingly central role of communications services in people's lives, it is vital to consider what the communications needs of consumers and citizens are in the 21st century and how we can ensure that the full range of communications services can be made available to practically the whole population.

Ofcom's role

The Panel continues to support the overarching statements that Ofcom "*...will work for consumers and citizens by promoting effective competition, informed choice and the opportunity to participate in a wide range of communications services, including post*" and "*will provide proportionate protection for consumers*".

During the next financial year, the Panel will continue to advise Ofcom to help ensure that the interests of consumers, citizens and micro-businesses are properly taken into account in Ofcom's decisions. So here we will limit our comments to a few issues where our views might have a bearing on the final Annual Plan for 2014/15.

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Panel views on priorities/work areas

Nuisance calls

A point we made last year, and which continues to be at the forefront of our minds, is that questions of confidence and trust appear to be of growing concern to consumers and micro-businesses. As well as being of high importance to consumers, the integrity, credibility and growth of the communications industry depends to a large extent upon such characteristics. In this context, and alongside the central issue of protection from harm, the Panel remains particularly concerned about the impact of nuisance calls on consumers. Nuisance calls (including live marketing calls, silent calls, abandoned calls, recorded marketing message calls and texts from businesses) can cause consumers irritation, anxiety and distress and even financial loss. There is also a risk that they adversely affect people's likelihood of engaging with commercial services by phone, which in turn could mean lost business, not just for the offending organisation, but for other players in the same market. A reduction in people's trust in their communications services is bad for consumers, businesses and the sector generally. We therefore welcome the statement in the draft Plan that Ofcom's programme of work will, where appropriate, include enforcement against those firms found to be making silent and abandoned calls along with other measures to help tackle nuisance calls and messages as a whole. However we believe that, in order to maintain momentum and help gain consumer confidence, the agencies involved should commit to a timetable of action, with clear milestones. We would also welcome a more particular focus on the needs of more vulnerable consumers.

Availability and quality of service information

We welcome the themes of availability and quality of service. We note that, under the priority of promoting effective competition and informed choice, Ofcom plans to promote effective choice for consumers by ensuring that clear and relevant information is readily available.

In the Panel's view, sub-optimal delivery of communications services as a result of inadequate infrastructure - be it a lack of fast broadband or the absence of mobile voice and/or data coverage - has long since ceased to be a matter of simple irritation for consumers and micro-businesses, and is now an issue of real detriment. These issues are equally important to people in rural and urban locations. 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. However there is still some way to go, for instance some recent programs of mast rationalisation have raised concerns about a reduction or loss of service in some areas and very poor customer service responses.

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We would encourage very close monitoring of progress in relation to fulfilment of coverage obligations following the 4G auction. We have expressed the view that having only one operator carrying the obligation to reach the 98% coverage, with 95% in each of the Nations, and relying on market forces to persuade other operators to provide coverage for their customers in the marginal areas, may not achieve the desired result. The areas concerned are likely to be those where market forces have failed in the past. We urge Ofcom to keep progress under review and to encourage MNO's to develop contingency plans for the very predictable areas which might be affected, and to continue to support market based solutions that, with a limited regulatory intervention, could deliver immediate and significant benefit to the economy.

Consumers, citizens and micro-businesses are increasingly reliant on mobile devices. 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. In particular, consumers and citizens in the widest sense should not be left behind, left out or left wanting.

Switching

We welcome the fact that Ofcom plans to *develop and implement policies that will improve the ease of switching between communications providers*. Low switching levels lead to reduced competition and a worse deal for consumers. The Panel continues to have particular concerns about increasing costs for consumers in the fixed voice market. Consumers need to be aware of the potential benefits of switching and to have confidence that switching will be a hassle-free process with effective "safety nets" to mitigate against loss of services. Robust switching processes are the bedrock of this, but they are not sufficient by themselves - consumers need to be assured that they will not incur excessive cost, time or disruption as a result of a decision to switch.

The new switching regime on the fixed copper network means that consumers should benefit from better value services and innovations. The Panel has encouraged Ofcom to press ahead with its review of switching across services, including mobile and bundled services. The Panel has also urged providers to work with Ofcom to design a unified switching system as soon as possible. Ofcom's strategic aim should, we believe, be harmonised switching processes for all communications services such as mobile, pay TV and cable services. We were encouraged by the DCMS' announcement in Connectivity, Content and Consumers that it planned to legislate to give Ofcom a duty to ensure a

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consistent and effective experience for consumers switching between bundles. It is essential that this issue continues to receive priority.

A theme that recurs across our work is also relevant in relation to switching - the vital need to increase the transparency of communications service provision. In the case of switching, we consider that prominent “plain English” information about contract length and early termination charges (ETCs) should be available to all customers - on bills, by phone and online, and specifically when enquiring about switching. We also believe that clear information about service level expectations, pricing and customer service standards should be readily available to consumers without the need for undue searching. The Panel would also encourage consideration of what steps could be taken to facilitate switching for more vulnerable consumers and to support them, where needed, through the process.

Postal services

We welcome under *Priority Three, Promote Opportunities to Participate*, that Ofcom will secure the continuing provision of the universal postal service. We are very conscious of the importance of postal services to consumers, citizens and micro-businesses across the UK - and that older and disabled consumers value postal services even more highly than the population in general. It is vital that Ofcom continues to ensure that the postal services provided are of high quality, affordable and accessible. To this end, in addition to the other workstreams, we would urge the close monitoring of quality of service targets and robust enforcement action if these are not met.

Customer Service

It is relevant, under *Strategic Purpose 1: promoting effective competition and informed choice*, to mention the Panel’s ongoing concern about customer service standards. We have made a series of recommendations following our 2013 research ***Going round in circles? The consumer experience of dealing with problems with communications services***¹. Following the issues highlighted by the research, and our own subsequent exploration of the topic, the Panel has made recommendations in five key areas:

- the quality of information provided to consumers
- contact centre staff training should be reviewed and strengthened
- the consumer contact experience should be improved
- greater support should be provided for older and disabled consumers

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

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- escalation and ADR (Alternative Dispute Resolution) referral processes should be reviewed and strengthened

Individual communications providers, ADR schemes and Ofcom all have a role to play - as does Openreach in delivering services that meet the requirements of its wholesale customers and the residential and business customers served by them. We would encourage Ofcom to maintain its focus on complaints handling and to undertake, together with the Schemes and industry, a review of the ADR process with a view, inter alia, to considering shortening the timescale within which a customer can refer his or her unresolved complaint to ADR from the current eight weeks.

Unfair Terms

As the Consumer Rights Bill progresses through Parliament and there is debate about the requirements in relation to the prominence of unduly onerous or unusual contract terms, we welcome Ofcom's continued focus on Unfair Terms in Consumer Contracts and the monitoring of complaints. This is particularly relevant in the light of the recent developments in relation to GC9.

Protecting Consumers from Harm

We welcome and support *Strategic Purpose 4: protect consumers from harm* and the identified priority to implement reform of non-geographic numbering to ensure price transparency. We look forward to working with Ofcom in taking this project forward. In our own plan, we recognise that the fast changing communications environment means that we must build flexibility into our plans in order to be responsive to new challenges. We anticipate that Ofcom will continue to plan its priorities in this area in a similar manner as it identifies new issues which are of importance to consumers and which warrant its attention.

We appreciate the work which is to be undertaken in relation to the protection of children's online safety and continued support for UKCCIS.

Public Policy developments

We are conscious of the potential impact of the EC's Connected Continent proposals and are pleased to see that Ofcom has explicitly noted its intention to ensure that these are delivered in a manner that is consistent with UK interests.

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The Business Consumer

The Panel's remit includes representing the interests of micro-businesses. We are currently conducting research into micro-businesses' experiences of communications services and how these can support growth in such businesses. We welcome Ofcom's intention to conduct quantitative research in this area, to provide a robust evidence base to inform policy; and we look forward to working with Ofcom and stakeholders to explore how best the industry and regulators can deliver services that meet the needs of these business consumers. We would encourage even more emphasis on this area in the coming year, particularly in relation to Ofcom's engagement and communications strategy with micro-businesses, which would benefit from a more proactive approach.

Potential release of 700 MHz

The Panel notes that, under the priority "*to secure optimal use of spectrum*", there is a strand of work related to the *potential release of the 700MHz band*. A great deal of work has been undertaken in relation to DTT coexistence in 800MHz and the Panel would strongly suggest that the learning from this implementation is carried clearly through to the planning for 700MHz, and that consumers' needs are given priority in policy development. We are concerned that if a further major switchover becomes necessary, it is potentially people on low incomes and vulnerable people who may be most affected, and would encourage contingency plans to be developed to mitigate against this possibility.

Digital engagement

We are particularly pleased to see that one of Ofcom's priorities for the coming year will be to promote opportunities for people to participate. This is especially important as we move to a society where there will be a 'digital by default' delivery of many government services, and consumers who are not online are increasingly disadvantaged, disempowered and disenfranchised. Being excluded from an increasingly online world has now become a matter of significant consumer and citizen harm. As we note above, the availability of broadband is crucial - and it is increasingly important that all consumers and micro-businesses have access to at least a basic service of 2 Mbps - although we have significant doubts about the appropriateness of 2 Mbps as a basic speed over the next few years.

As last year, we would encourage a better balance in the Plan between enabling availability and supporting usage/engagement. Currently the draft plan seems to place far greater emphasis on the former. Ofcom has an important role to play in the area of usage/engagement - not least through the provision of information and the facilitation of

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progress by stakeholders. While Ofcom's remit may not include specific regulatory powers in this area, Ofcom does, we believe, have an important role to play in respect of encouragement and leadership. This would seem to be an example of where Ofcom's 'soft powers' and research can be used to good effect.

Privacy and security

We are very conscious of the extent of the privacy and security issues facing people who are online and would encourage close attention to these areas. We welcome the fact that the Plan highlights Ofcom's intention to support government and industry initiatives to improve levels of user trust in internet services. It is also vital that Ofcom works to ensure that consumers' trust in internet services is well-founded initially. To that end, we would suggest that explicit mention is also made of working with organisations such as Get Safe Online to support consumers and micro-businesses in this area.

We are glad to see the emphasis in *Strategic Purpose 3: promote opportunities to participate* on:

- the interests of vulnerable consumers and citizens;
- mobile coverage and service information;
- support for the promotion of the availability of fixed and mobile superfast broadband; and
- the affordability of core electronic communication services.

The Panel is extremely pleased to see that the Plan includes, at point 4.52, Ofcom's stated intention to work closely with the Panel, to help Ofcom in its understanding of consumer issues and concerns.

The Panel has previously conducted work specifically in the area of mobile usability and we would strongly support Ofcom in its work to promote the development and availability of easy to use consumer equipment.

In relation to research in these areas, we would encourage the construction of samples which are sufficiently large to enable analysis at sub-group level - particularly in relation to older and disabled consumers, those in rural areas and in low-income households.

We note and welcome that the articulation of Ofcom's strategy mentions audiences' confidence in broadcast content (which falls within ACOD's remit). The participation in programmes, and the accurate portrayal of older and disabled people are central pillars to maintaining such confidence.

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We look forward to the provision of next generation text relay by 18 April 2014 and stress the importance of monitoring the implementation of the new service to ensure it is bringing about the desired improvements. We are pleased that Ofcom provides the option of video relay for those stakeholders and consumers who wish to use it and encourage Ofcom to continue assisting groups working towards the wider provision of this important resource.

We would also ask that Ofcom maintains its focus on standards of subtitling, continuing the work it has commenced in this area.

Generally, the Panel would also encourage more emphasis on identifying where Ofcom will use its position and expertise to facilitate or encourage other stakeholders working in a given area, even if Ofcom itself is not taking or cannot take direct action.

This year's Consumer Experience Report has highlighted that much progress has been made. However as we know, in this fast moving sector, there is constant development and change which means that there is no room to relax and there is still much to be done to ensure that consumers get the most from their services; are protected from harm; and are treated fairly.

We look forward to continuing to work with you.

Yours sincerely

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