

response to ofcom review of the universal service obligation: statement and further consultation

September 2005

About the Scottish Consumer Council

The Scottish Consumer Council (SCC) was set up by government in 1975. Our purpose is to promote the interests of consumers in Scotland, with particular regard to those people who experience disadvantage in society. While producers of goods and services are usually well-organised and articulate when protecting their own interests, individual consumers very often are not. The people whose interests we represent are consumers of all kinds: they may be patients, tenants, parents, solicitors' clients, public transport users, or simply shoppers in a supermarket.

Consumers benefit from efficient and effective services in the public and private sectors. Service-providers benefit from discriminating consumers. A balanced partnership between the two is essential and the SCC seeks to develop this partnership by:

- carrying out research into consumer issues and concerns;
- informing key policy and decision-makers about consumer concerns and issues;
- influencing key policy and decision-making processes;
- informing and raising awareness among consumers.

The SCC is part of the National Consumer Council (NCC) and is sponsored by the Department of Trade and Industry. The SCC's Chairman and Council members are appointed by the Secretary of State for Trade and Industry, in consultation with the First Minister. Martyn Evans, the SCC's Director, leads the staff team.

Please check our web site at www.scotconsumer.org.uk for news about our publications.

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The SCC assesses the consumer perspective in any situation by analysing the position of consumers against a set of consumer principles.

These are:

ACCESS

Can consumers actually get the goods or services they need or want?

CHOICE

Can consumers affect the way the goods and services are provided through their own choice?

INFORMATION

Do consumers have the information they need, presented in the way they want, to make informed choices?

REDRESS

If something goes wrong, can it be put right?

SAFETY

Are standards as high as they can reasonably be?

FAIRNESS

Are consumers subject to arbitrary discrimination for reasons unconnected with their characteristics as consumers?

REPRESENTATION

If consumers cannot affect what is provided through their own choices, are there other effective means for their views to be represented?

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SCOTTISH CONSUMER COUNCIL

RESPONSE TO OFCOM REVIEW OF THE UNIVERSAL SERVICE OBLIGATION: STATEMENT AND FURTHER CONSULTATION

Introduction

The Scottish Consumer Council (SCC) welcomes the opportunity to respond to this consultation. The universal service obligation has particular implications in Scotland in the light of its geography and any moves to alter or reduce the extent of the USO will fail if they do not take full account of the resulting impact on consumers living in rural, remote and island communities. Our response focuses on issues that are particularly important for consumers in Scotland. The response from the National Consumer Council addresses the wider consumer issues and we are fully supportive of the NCC response and have been engaged with our colleagues in its development. We also consider it essential going forward that Ofcom's regulatory approach to ensuring affordable universal services draws on the wider work of the NCC in relation to meeting basic needs.¹

Scope of the Universal Service Obligation

We agree that it would not be reasonable, at this stage, to expand the scope of the USO to include broadband internet and mobile phones. We recognise that decisions on the scope of the USO are outwith the remit of Ofcom. Nevertheless, we note that the European Universal Services Directive only sets out a minimum USO requirement. Ofcom will be free to make proposals for an enhanced USO to the Secretary of State. We therefore, urge Ofcom to keep this matter under regular review and to make decisions based on market reviews that are sensitive to geographical variations and with supporting research data that have been disaggregated appropriately. The rapid growth in rollout and take-up of broadband internet means that it may well become an essential service in Scotland's rural and remote communities and one that, without a USO, may in future exclude the more vulnerable members of these communities. However, this phenomenon may be camouflaged if market data remained aggregated across the whole of the UK or if a minimalist approach was taken to defining the scope of the USO.

Revised Target Scheme

We are disappointed with the revised tariff proposals. While they are an improvement on previous proposals, it is our view that they will not go far enough in tackling universal access for low income and vulnerable consumers. An effective USO must be framed by an over-arching definition of affordability and

¹ See Georgia Klein, National Consumer Council, Life lines. *The NCC's agenda for affordable energy, water and telephone services*. September 2003.

what the acceptable threshold should be so that everyone has access to the service that has been defined as essential.

For example, DEFRA has set 3% of household expenditure as a measure of affordability of water as part of its sustainable development indicators. It has been calculated that this affects around three million households.² We need a similar indicator for telecoms so that we are able to define affordability and set targets to ensure that it is achieved.

We refer also the recommendation made by NCC in its response, referring to the need to assess households' true disposable income, possibly by way of the Government's poverty threshold of household annual income below £10,400 as a starting point.

Our specific concerns about the proposals are as follows:

- They are targeted at those in receipt of certain Benefits and this is a crude way of measuring affordability that fails to take proper account of ability to pay. Moreover, many people are unaware of, or do not claim their full Benefit entitlement. And many others on low incomes may not qualify for Benefits but still struggle to pay their bills.
- They exclude consumers on monthly mobile contracts or those on pre-pay who spend more than £10 per month. Mobile phones have ensured access to telephony for the first time for very many lower income consumers. They should not be penalised in this way. Once again, this fails to take into account ability to pay and is likely to act as a bar to access for vulnerable groups.
- We consider it unacceptable that there should be charging differentials across different payment methods and schedules. We do not agree, therefore, that those without bank accounts, the majority of whom are low income consumers, should be penalised by virtue of the fact that direct debit customers will receive a reduction on line rental. Such measures add to the double detriment experienced by disadvantaged consumers and should not form part of any scheme relating to the USO or one which aims to target vulnerable groups.
- The introduction of an Early Payment Discounts could be beneficial to some vulnerable consumers. However, we remain concerned that it may offer little relief to many people struggling to pay their bills and give advantage to those who have no problems paying. In addition, many older or disabled customers may not be able to take advantage of this in the light of a reliance on using cash payments, limited mobility, and reliance on carers or others to make their payments for them at times

² National Consumer Council, *Lifelines*, 2003

outwith their control. What is needed instead is a payment system that is flexible to individual circumstance.

As the universal service provider, BT should be required by Ofcom to introduce a meaningful scheme that offers true help to all those who cannot pay, whether on receipt of Benefits or not, and regardless of whether they own a mobile phone. We support NCC's recommendation that Ofcom requires BT to modify its current proposal to include the following changes:

- Availability to low-income households regardless of whether they receive State benefits, own additional lines or mobile phones.
- Availability to customers in debt and disconnected customers.
- Predictable payments scheme on a weekly, fortnightly or monthly basis in order to help vulnerable consumers manage their finances and prevent debt and disconnection.

We welcome Ofcom's commitment to monitor targets on uptake of the scheme and to relate failure to achieve targets as a way of reviewing and reducing disconnections. However, in the light of the concerns we have expressed above, if this scheme goes ahead, it must be accompanied by a full understanding of the effects of the scheme on consumers' experiences i.e. comprehensive impact analysis. We would expect Ofcom to report publicly on its findings and to engage with stakeholders in Scotland with the aim of resolving any issues or concerns raised by the impact assessment.

Public Call Boxes (PCBs)

Public Call Boxes have played an important role in Scotland's rural and remote communities and any proposals that aim to reduce or remove them will always arouse concerns, both in affected communities, and in the wider policy and political environments. Full consultation at local level will always be essential and we welcome Ofcom's commitment to achieving this, including the proposal to lengthen the consultation period.

However, this in itself will be inadequate unless accompanied by further measures that will ensure effective public participation rather than tokenism. Until we can be convinced that all local authorities have in place mechanisms to ensure meaningful consultation on PCB removal, then we cannot support removal of the right of Community Councils to veto PCB removals in their area. Ofcom proposes to provide guidance to public bodies to assist them when making a decision on removal of a PCB. This guidance is to be welcomed but will be inadequate in itself if not accompanied by measures to ensure that these decisions are informed through effective public consultation. If Ofcom is to proceed with giving local authorities the sole right of veto then we consider it essential that Ofcom publishes good practice guidance on engaging with consumers on PCB proposals, and that it adopts a pro-active and transparent

approach to monitoring practice, promoting good practice and reviewing complaints about PCB removals.

The automatic right to remove any PCB, based on a definition of site alone, will always carry with it the risk that an essential PCB will be removed and effectively rules out the prospect of any public consultation on this removal. We do not support the proposal to increase the definition of a site from 100 metres to 400 metres. This will effectively rule out public consultation on many PCBs, the removal of which may have significant impact on elderly or disabled people.

We are also concerned at the restricted definition of emergency services given in the proposed guidance (restricted to police, fire and ambulance services). There needs to be a wider definition of what is meant by emergency calls. We would be very concerned if PCBs in Scotland were removed on this narrow basis when their existence could be essential in relation to mountain rescue or coastguard services.

The criterion in the guidance on mobile coverage should be changed from “no mobile coverage” to “low or sporadic mobile coverage.” It will also be essential for there to be an accurate picture, available to the public of mobile phone coverage in Scotland. There is a duty on Ofcom to publish an accurate map, showing the combined mobile networks’ coverage. Consumers and communities in Scotland need access to data that are up to date, independent of market providers, and comprehensive. Community councils and local authorities will need it to ensure that decisions taken on PCB removals are well-informed.

Provision of a Connection upon Reasonable Request

We believe that Ofcom has failed to demonstrate that the proposed uniform tariff threshold of £3,400 is reasonable. The supporting information on cost does not give us enough detailed information to make an informed response on what it means for consumers or groups of consumers. We urge Ofcom to undertake and publish the results of a full cost benefit analysis before making any changes to the economic scope of the USO.

We are also concerned with Ofcom’s proposal that “the Provider does not need to take into account whether other consumers in a geographical area may subsequently also want service thereby benefiting from the construction work carried out.” The costs of an installation or connection to a particular area must be distributed fairly. The approach here is contradictory in that it aims to ensure cost-reflective pricing for the Provider but in essence builds in cross-subsidy between consumers or groups of consumers, and between present and future consumers. This could have serious implications in Scotland’s remoter areas where initial connection costs could be higher. We are also concerned about the proposal that the decision to provide vulnerable consumers with a connection at a standard charge when that cost is above the £3,400 threshold should be left to

the Provider's discretion. This is likely to be the case on many occasions in remote and rural Scotland and we consider that the responsibility to ensure that vulnerable consumers can afford a connection is Ofcom's.

Conclusion

We emphasize again the significant effect that changes in the scope and content of the USO will have for consumers in Scotland. Stakeholders in Scotland will expect Ofcom to accompany its final statement on the Review of the USO with measures to ensure that the announcement has the highest possible public profile. The message must not fail to reach those consumers who live in the remotest parts of Scotland, and also the wider population of vulnerable consumers who depend most on the existence of an effective USO.