Meeting of the Consumer Forum for Communications
25 March 2009, 2 – 4.30pm
Room 1.10 at Ofcom

Present

Chair: Claire Milne (CM)

Ofcom

Claudio Pollack (CP)
Other Ofcom colleagues

Communications Consumer Panel

Roger Darlington (RD)
Bob Warner (BW)

Other organisations

11 Million (LW)
Centre for Utility Law (LL)
CISAS (NH)
Citizen's Advice (TH)
Consumer Focus (BJ)
Consumer Focus (HB)
Consumer Focus (StB) (for item 2)
National Consumer Federation (JWN)
PhonepayPlus (SiB)
TAG (DM)
TAG (RM)
Telephone Helplines Association (RW)
Trading Standards Institute (JT)
VLV, (RC)
W4B (TL)
Which? (CW)

1)   Introductions

Those present introduced themselves.

2)   Rating the regulators

StB took the Forum through the Consumer Focus publication *Rating the regulators*, published on 26 February 2009. The report assessed six regulators from the consumer perspective. The regulators were: the Financial Services Authority, the Food Standards Agency, Ofcom, Ofgem, Ofwat and Postcomm. The report examined issues such as transparency; access; how regulators grasp the broader perspective; how they intervene on behalf of

vulnerable individuals; and how they use enforcement tools. *Rating the regulators* included an assessment using twenty indicators based on six categories: each regulator's legal framework, their culture and accountability, their state of readiness, their ability to take action, their impact on consumers; and their ability to learn from their work and decisions. Recommendations were made under each of those headings.

Findings were based on an analysis of evidence collected from a range of sources, including staff interviews; stakeholder opinion; an omnibus survey; desk research; and analysis of each regulator's establishing legislation. The report summarised the regulators' strengths and weaknesses and included examples of good practice and innovation. The regulators appeared to be getting better at understanding consumers and were using enforcement tools more effectively than in the past. Weaknesses included over-reliance on market forces; self-regulation appeared to be preferred; vulnerability of certain consumers was not always a high enough priority; consumer expertise was sometimes in a silo rather than spread throughout an organisation; and there were some issues about working in a devolved setting. There was some confusion amongst stakeholders about where the role of Government ended and that of the regulators began.

The principal strengths identified for Ofcom included: a positive sea-change in its level of consumer focus; establishment of its consumer policy team; consumer expertise on the Board; use of the Consumer Interest Toolkit; and greater use of enforcement powers. There was concern about an over-reliance on self-regulatory approaches.

There was discussion of the report and Forum numbers made a number of points or raised questions. CM requested clarification of Consumer Focus's definition of 'consumer' - did it include small businesses for example? StB said that the study had been initiated by the National Consumer Council (NCC), Consumer Focus' predecessor body. The NCC's remit did not include businesses and the report did not consider business related issues.

RC enquired whether Consumer Focus had assessed how well the regulators made themselves known to consumers. StB said that regulator recognition was a weakness and there was a tendency for regulators to use jargon. Ofcom had attempted to counter this with plain English publications, blogs and consumer leaflets. Ofwat had initiated Project Explain and recognised this was an area for improvement.

RW asked how Consumer Focus would follow-up its recommendations. StB said that Consumer Focus did not have powers to oblige regulators to act on its findings but had taken to steps to raise awareness. A good practice seminar with regulator participation was planned for the Summer. Consumer Focus had news-released its report and given evidence to a parliamentary committee. The regulators with the best report ratings, Ofcom and the Food Standards Agency, had issued their own news releases. It was hoped that all the regulators would improve over the next two to three years.

RM said that consumer researchers were sometimes not good at communicating with people with a hearing impairment. StB acknowledged this but confirmed that *Rating the regulators* had looked at issues of accessibility in relation to the regulators.

LW asked how the report had taken account of the views of children and young people. StB said that 16-24 year-olds were included in sampling and that organisations representing young people had been consulted.

RD enquired about how Ofcom would use the report findings. He commented that the report's assessment of Postcomm had been less favourable and that Ofcom would soon take on regulation of post. He suggested that the Forum request Ofcom to provide an assurance that it had studied the report at the highest level and that it would produce an action plan. CP was able to respond for Ofcom and said that an Ofcom project had been set up to address issues raised in the report and that in its news release Ofcom had confirmed that it would take on board the recommendations made in the report. **CM requested that Ofcom consult the Forum on any actions it proposed, possibly via the Forum's online discussion forum.**

3)   Consumer vulnerability

LL delivered a short slide presentation on work she had undertaken on consumer vulnerability. She spoke about the value of terms like 'vulnerability', whether this led to stereotyping or an approach based on rationing, target schemes and gate-keeping to assistance and advice. Vulnerable was an unhelpful term and disadvantaged was inadequate. LL had been developing a concept based on risk factors and on the premise that anyone could be at risk or vulnerable at some time or other, in the short term or long term.

Risk factors should not be underestimated, with 13 million people in the UK living in poverty; 10-13 million disabled people – also at risk of poverty; 6 million carers; and 1 in 4 adults experiencing mental health problems. These and other factors could make dealings with the market difficult. Better understanding was required in the context of equality and human rights legislation. People who were more at risk were more likely to experience serious disadvantage.

The consumer landscape was changing, with a lack of access to shops, to Post Offices and cash-points. Much was made of increased consumer choice but this could disappear when consumers tried to access choice. Usability, or its lack, was an issue with many services and equipment designed in ways that were not user-friendly – the mobile market being an example, with a multitude of options inaccessible to a consumer with a mild dexterity impairment. Using terms like 'vulnerable consumers' could let providers off the hook and products often appeared to be designed to suit the needs of industry rather than users. 'Design for all' had become an accepted term but not enough was being done. It was necessary to move away from special schemes and the notion that consumers were the problem. Suppliers needed to audit their practices to see where they could be improved.

There was a brief discussion. RM questioned what was meant by 'design for all'. LL said that it meant products and services that could be used by the vast majority of people, including people with disabilities. 'Design for all' was more likely to be achieved when people were not viewed as being part of sub-groups. RM argued that an agreed 'design for all' specification was required. LL said that greater awareness was required by industry on the importance of ease of use. RC and TL raised examples of the lack of a radio designed to meet the requirements of a consumer with a visual impairment, thereby benefiting all consumers, and the lack of a mobile handset with large keys. TL suggested that regulation was required to mandate provision. LL said that in narrow market terms suppliers were missing out on commercial opportunities.

CP said that there could be limitations in thinking solely about the average consumer. For example, if a policy objective was a low income telephony tariff it could be necessary to segment 'vulnerable' consumers. Ofcom had a duty to encourage availability of easily usable apparatus under Section 10 of the Communications Act 2003 but had no powers to mandate this. Another issue was that when such equipment was available it was not widely publicised.

It was agreed that the Forum would return to usability as an agenda item at a future meeting.

4)   Communications Consumer Panel update

BW spoke briefly about the Panel's provisional work programme 2009/10. Work fell into three broad areas. First, influencing policy processes, eg by providing advice to Ofcom, responding to consultations and using the Consumer Interest Toolkit. Second, influencing UK and EU policy decisions and in three particular areas: the Digital Britain agenda, access and inclusion and universal service. Referring to universal service, provision of broadband was increasingly being seen as an essential service and the Panel had commissioned consumer research in this area. Broadband speeds were an issue but so were the services people wished to use. Third, calls to action as and when necessary and these could include the issue of usability.

RM commented that broadband was not expected to become available to people in some rural areas in the foreseeable future. BW said that view would depend on what was meant by broadband and on what was regarded as an adequate service.
CM said that Digital Britain had been considered as an agenda item for the Forum meeting and urged Forum members to respond to the Government's interim report. The Forum's online discussion forum could be a vehicle to assemble views. She added that usability went beyond issues for consumers with a disability. There were products and services that were difficult to use for most people although many young people appeared to take new services and technologies in their stride.

LW commented that what was 'new media' for most adults was simply media for children and young people. She stressed the importance of taking their views into account.

5)   Quality of Service

An Ofcom colleague introduced discussion of Ofcom's Quality of Service (QoS) review. There had been a consultation in July 2008 and since then Ofcom had commissioned related consumer research, which had been published in January 2009. Ofcom planned to revoke the current Direction on the provision of QoS information, issuing a statement in April/May 2009.

Another Ofcom colleague explained that the research had shown that generally consumers were content with QoS most of the time. Other sources such as contacts with the Ofcom Advice Team and MPs' letters suggested that consumers were dissatisfied. This did not match the research. Ofcom planned to conduct further research. It would ask consumers who had recent contact with their telecoms providers customer service function about that experience and whether they felt they would have benefited by knowing about QoS in choosing their supplier. Ofcom would then consider whether it was necessary to replace the TopComm scheme, the industry body established to implement the Direction. A third Ofcom colleague explained that the new research was at the scoping stage.

RD asked whether TopNetUK was included in the Ofcom review. TopNetUK provided QoS information on the network performance and voice call quality of GSM mobile network operators: O2, Orange, Vodafone and T-Mobile. An Ofcom colleague confirmed that TopNetUK was not part of the review but the coming research would look at the customer service performance of suppliers of mobile telephony, fixed telephony and broadband.

NH said that it would be useful to obtain relevant data from the Alternative Dispute Resolution (ADR) schemes and SiB asked how Ofcom's QoS and ADR reviews were linked. CS asked how Ofcom would ensure that its research sample included a spread of consumer experiences, eg including consumers who had received a satisfactory response to a query or had called up their supplier's technical help line, and how many suppliers would be involved in the survey. LL expressed concern about consumers whose contacts were with other parts of their supplier's business or who had grown too weary to complain about customer service.

An Ofcom colleague said that a pragmatic approach would be adopted in choosing the issues to be surveyed and in the selection of suppliers there would be twelve, including mobile, fixed line and broadband suppliers. Another said that a degree of compatibility between the suppliers would be required. Ofcom expected to acknowledge that it would be surveying a subset of consumers rather than a fully representative sample and the results would help to inform decision making.

CP said that a subset of consumers would be surveyed but Ofcom could combine the findings with research data from other more general surveys. An issue for Ofcom would be the intensity of dissatisfaction, not just the number of people who were dissatisfied. Commenting on dispute resolution he said that many consumers were not aware of the ADR schemes. The QoS review was about helping consumers choose a supplier according to their preferences and to create incentives for suppliers to improve. Referring to TopComm and TopNetUK he said that the latter was a voluntary initiative and about network quality rather than customer service quality.

LW asked if the views of children and young people would be sought, they used services without their names being on the bill. An Ofcom colleague said that the survey would capture the views of adults. Another Ofcom colleague said that other Ofcom research projects surveyed the views of young people. CM drew discussion to a close and commented with TopNetUK in mind that a lack of success of such initiatives could be the result of reliance on self-regulation.

6)   Access and inclusion

CP delivered a slide presentation on Ofcom's Access and Inclusion consultation. He spoke about: what Ofcom meant by access and inclusion - the enablers to allow people to take part in the economy, democracy and society as a whole; which communications services mattered to consumers – the importance of fixed voice telephony and TV had been long recognised but it was important to determine which other services helped people to take part in society and whether a majority were already using those services to participate, eg broadband internet, mobiles and digital radio. There were concerns about availability of services, take-up and effective use - the latter about media literacy and accessibility for consumers with a disability.

The Ofcom consultation would close on 3 June 2009 and Ofcom sought views on a range of issues, in particular: whether broadband internet could play an important role in promoting access and inclusion and should be a policy focus; whether Ofcom's immediate priorities should be broadband availability and take-up, 999 mobile roaming, services for people with a disability, review of the existing universal service obligation and media literacy; and whether there were other important or more urgent issues.

TL referred to the Digital Britain agenda and said that it was important for Government to explore why some people were not engaging with broadband or other new services. There was also a danger of reliance on electronic communications leading to increased social isolation, with increased reliance on on-line delivery of social care and other services, eg shopping on-line. RC asked if views were sought on broadcasting issues. CP said that Ofcom was considering issues that included ease of use of TV and set-top boxes. RM expressed concern about consumer issues that could fall between the functions of Ofcom, the remit of DigitalUK and the role of Government. TH welcomed the fact that Ofcom's access and inclusion project included

consideration of both supply and demand side issues. He commented that there were parallels with the issues of financial inclusion.

CP asked for a response to Ofcom's proposal to hold a stakeholder workshop, probably in May 2009, and CM confirmed that the Forum welcomed this. CM added that it would be important for Forum members to respond to the Ofcom consultation. She closed discussion and flagged the value in Ofcom examining how certain groups benefited from use of the internet via intermediaries, eg older people via their adult children. **[Note: a separate workshop on Access and Inclusion is now planned for 15.00 on 19 May at Ofcom. All members are welcome; please RSVP on the groupsite].**

7)   Ofcom update

An Ofcom colleague said that Ofcom had published its March 2009 Consumer Bulletin. He drew Forum members' attention to an article on strengthening rules on mis-selling and the section that detailed future Ofcom publications.

An Ofcom colleague said that questions from Ofcom colleagues on the digital dividend had been posted on the online discussion forum and views would be welcomed. She said that Ofcom planned to use the online forum as its means of communication with Forum members. The front page would comprise the latest blog.

RM expressed a preference for email reminders about Forum meetings. An Ofcom colleague confirmed that the online forum had been set up to send fortnightly reminders to members. CM said that members could adjust their parameters to determine how often they received reminders. The Ofcom colleague encouraged Forum members to blog on the site.

8)   Any other business

SiB said that it would be useful to have more information about the Forum's terms of reference and a list of members. CM said that participation with the online forum would provide that information.

BJ said that in April 2009 Consumer Focus was planning to publish a review of consumer detriment in the mobile market. She would provide links to the review via the online forum.

RD reminded members that Ofcom had a new Chairman, Colette Bowe. She had chaired the Forum meetings during her time as Chairman of the Ofcom Consumer Panel. **CM said that she would write to welcome the new Ofcom Chairman's appointment. [Note: the welcome letter is available on the groupsite and Colette Bowe will attend the September CFC meeting].**