

**What is the citizen's interest in communication matters?  
A response to Ofcom's discussion paper,  
'Citizens, communications and convergence'<sup>1</sup>**

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**Preamble**

Writing 20 years ago, Colin Seymour-Ure (1987) surveyed the 'now you see it, now you don't' character of British media policy with dismay. He lists a litany of regulatory inconsistencies across the media landscape, itself ill-defined, the implication being that a coherent media and communications policy is desirable. Writing ten years on, and with the internet already a reality, Collins and Murrone (1996) again surveyed the multiplying regulators and regulatory incoherence and ineffectiveness in relation to media policy.<sup>3</sup>

Another decade has passed and we've now had a converged regulator – the Office of Communications, Ofcom – for five years. Yet, surprisingly perhaps, some key dimensions of communications regime remain as ill-defined as ever. The nature of the citizen's interest in communications matters is one such dimension, possibly the most important.

Ofcom's 2008 discussion paper is, therefore, much to be welcomed. Appearing as it does five years later than many have hoped, there are now two problems to be addressed. The first is to identify a productive, ambitious yet practical way forward. The second is to convince the public that Ofcom is listening, that it takes the citizen interest seriously.

In possibly the only public event held to discuss this consultation, Philip Graf, Chair of the Ofcom Content Board began his address to the Voice of the Listener and Viewer on 2<sup>nd</sup> October 2008 with an academic analogy – likening citizens and consumers to Oxford University's mix of arts and sciences in its PPE degree.<sup>4</sup> I take the liberty of continuing in this academic vein, offering a short essay on the crucial question of the citizen interest and addressing these two problems in reverse order.

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<sup>1</sup> Available at <http://www.ofcom.org.uk/consult/condocs/citizens/discussionpaper.pdf>

<sup>2</sup> This response draws on my paper, "What is the citizen's interest in communication regulation?", presented to the *Media, Communication and Humanity Conference*, 21 -23 September 2008, LSE. It also draws on a research project conducted by Peter Lunt and Sonia Livingstone, entitled, *The Public Understanding of Regimes of Risk Regulation*, funded by the Economic and Social Research Council (ESRC) as part of the 'Social Contexts and Responses to Risk Network'(RES-336-25-0001). See [www.lse.ac.uk/collections/PURRR/](http://www.lse.ac.uk/collections/PURRR/) for research outputs.

<sup>3</sup> Seymour-Ure, C. (1987). Media policy in Britain: Now you see it, now you don't. *European Journal of Communication*, 2, 269-288. Collins, R. & Murrone, C. (1996) *New Media, New Policies: Media and Communications Strategies for the Future*. Cambridge: Polity.

<sup>4</sup> Philip Graf, 'Public Service Broadcasting - Putting the People First'. Speech to the Voice of the Listener and Viewer, 2/10/08. Available at [http://www.ofcom.org.uk/media/speeches/2008/09/vlv\\_psb](http://www.ofcom.org.uk/media/speeches/2008/09/vlv_psb)

## Taking the citizen interest seriously

The word on the street is that Ofcom has little interest in this consultation. I hope this is mistaken. Only recently, a senior policy maker put it to me that 'citizen is a meaningless term'. Since many in civil society fear that 'empowerment' is fast becoming a code word not for positive regulation but for deregulation, there seem to be grounds for scepticism. As this consultation, 'Citizens, Communications and Convergence' itself states, "The fact that we have not published an equivalent statement on citizens has led some stakeholders to suggest that Ofcom lacks commitment in discharging its responsibilities in this area" (July 2008 p.4). Consider three grounds for doubt.

First, the unexplained resistance to including the citizen interest in the Communications Act. As I and my colleagues set out clearly in recent articles,<sup>5</sup> the citizen interest nearly did not make it into the Communications Act 2003.<sup>6</sup> To be sure, as was argued in the House of Lords debate in summer 2003, it can be claimed that the citizen interest is already covered by the consumer interest, that the citizen is not a term that can appear in any UK law for it refers only to immigration status, that this is all an unnecessary semantic distraction, and that we must trust Ofcom to do the right thing. Nonetheless, many consider an explicit recognition of citizen issues to be paramount in all spheres of life and, as regards communication matters, those who fought for the citizen interest in the Act had serious reasons to do so.<sup>7</sup>

Second, the unexplained omission of explicit attention to the citizen interest in Ofcom's first five years of practice. To paraphrase Seymour-Ure, now you see it, now you don't. As has been strongly contested and finally conceded, Ofcom's original mission statement was misleading both in aligning citizen and consumer interests and in subjecting the citizen interest to a regulatory regime that prioritised market competition.<sup>8</sup> However intended, it is notable that, while Ofcom established

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<sup>5</sup> See Livingstone, S., Lunt, P., and Miller, L. (2007) Citizens and consumers: Discursive debates during and after the Communications Act 2003. *Media, Culture & Society*, 29(4): 613-638. See also Livingstone, S., Lunt, P., and Miller, L. (2007) Citizens, consumers and the citizen-consumer: Articulating the interests at stake in media and communications regulation. *Discourse and Communication*, 1(1): 85-111. Available at <http://eprints.lse.ac.uk/993/>. Third, see Livingstone, S., and Lunt, P. (2007) Representing citizens and consumers in media and communications regulation. In *The Annals of the American Academy of Political and Social Science*, 611: 51-65. Available at <http://eprints.lse.ac.uk/996/>.

<sup>6</sup> Summarising our above articles, we traced the sequence of events as follows. In December 2000, the Communications White Paper proposed a converged regulator for the benefit of consumers (focused on choice and value for money) and citizens (focused on standards, fairness and privacy). In May 2002, the Draft Communications Bill proposed that Ofcom should further the interests of customers (of broadcasting and telecommunications services). No citizens or consumers. In July 2002, Lord Puttnam's Joint Select Committee concluded a wide-ranging public consultation and – rejecting the customer of the draft bill - recommended that Ofcom should have two principal duties – to further the interests of citizens and of consumers. A DTI/DCMS note on terminology issued at that time explained that the consumer interest referred to an economic focus on networks and services, for the benefit of individuals; by contrast, the citizen interest referred to a cultural focus on content, for the benefit of the community. In Ofcom, these would be represented by the Consumer Panel and Content Board respectively, and the hitherto separate interests of telecoms and broadcasting would be thereby converged in one regulator. But in the Communications Bill of November 2002, Clause 3 (General duties of Ofcom) specified that Ofcom was "to further the interests of consumers in relevant markets, where appropriate by promoting competition" – no mention of the citizen. A lively debate in the House of Lords followed, in June 2003, with Lord Puttnam leading the case for the citizen interest against the Government. But the government lost the vote, and in July 2003, the Communications Act was passed, requiring Ofcom "to further the interests of citizens in relation to communications matters; and to further the interests of consumers in relevant markets, where appropriate by promoting competition."

<sup>7</sup> See, for example, Puttnam, D. (2006). The continuing need to advance the public interest. In E. Richards, R. Foster & T. Kiedrowski (Eds.), *Communications in the Next Decade*. London: Ofcom.

<sup>8</sup> Once established in late 2003, Ofcom painted on its walls and website its mission statement: "com exists to further the interests of citizen-consumers through a regulatory regime which, where appropriate, encourages competition".

institutional structures and roles relating to consumer policy, reported its progress in meeting consumer concerns, adopted the consumer toolkit developed by the Consumer Panel, and offered advice to consumers, little explicit accountability was forthcoming regarding actions to further citizen interests. Repeated requests from civil society groups to define and report on Ofcom's efforts to further the citizen interests received little response.

Third, although the present consultation is encouraging, other evidence suggests this issue continues to be a low priority. Consider this example from Ofcom's 2007 document, *Taking account of consumer and citizen interest. Progress and evaluation – 12 months on*. Here again, the two duties in the Act are inappropriately elided into one. Second, the citizen interest fades in and out of the diagram inexplicably. This is not unusual.

Ofcom has a principal duty to further the interests of both citizens and consumers.



In Ofcom's Consumer Policy Statement of December 2006, it is stated that "consumer and citizen interests are closely related and that for many people, the distinction is not very important" (p.8). Well, for many others, the distinction is indeed very important.

This seems hard for Ofcom to recognise. As the current consultation curiously states:

"We tend to think of a market as a vibrant, enticing place where consumers interact, but there is not an equivalent metaphor for the way that citizens interact in civil society" (p.8).

The 'we' of this claim is unfamiliar to those suffering from the credit crunch, fuel poverty, or even mobile phone scams. The excitement of the market is also foreign to those who fear the might of Rupert Murdoch, the end of regional television news, or the future for indigenous children's drama. Furthermore, those of us excited by prospects for democracy can indeed think of some engaging metaphors – consider the vibrancy of the Athenian public sphere or, in today's version, of the blogosphere. Claims such as these suggest Ofcom may be ill-equipped to advance the vision demanded of it by the Act.

## Moving ahead in furthering the citizen interest

Of course, none of this is to say that Ofcom has not furthered the citizen interest. Public service broadcasting has been at the top of the agenda for the past five years. The question of universal service for broadband is rising up the agenda. Community radio has been strengthened by Ofcom's efforts. The digital dividend review, digital inclusion and media literacy strategies, among others, all evidence means of furthering the citizen interest.

But as Philip Graf said in his VLV speech (op cit., p.2), together these and other activities result in 'a bit of a laundry list'. And what's needed, in addition (not instead), is a principled framework. One good place to begin, perhaps, is with a speech given by Ofcom's present CEO, then senior partner, Ed Richards in 2004.<sup>9</sup> He mapped out the following contrasts:

<u>Consumer rationale</u>	<u>Citizen rationale</u>
Wants	Needs
Individual level	Social level
Private benefits	Public/social benefits
Language of choice	Language of rights (inclusion)
Short-term focus	Long-term focus
Regulate against detriment	Regulate for public interest
Plan to roll back regulation	Continued regulation to correct market failure

We must, in short, now identify citizen needs in communication matters, their importance and contribution to society, the vital public and social benefits that will accrue from meeting these needs, their relation to the human rights and consequences for inclusion and, last, the implications for positive regulation. This is a matter for all citizens to engage in, and Ofcom bears the responsibility of enabling such engagement.

In Ofcom's Consumer Policy Statement of December 2006, it is stated that "Citizen-related policy is concerned with changing market outcomes in order to meet broader social, cultural or economic objectives." (p.8). What are these broader objectives? Ofcom does not specify, but several hundred years of academic work does. And in more range, breadth and detail than I can possibly refer to here. But every effort should now be made to engage with current accounts of such multidisciplinary insight.

Let me identify five ways to advance this.

1. First, and most obviously, Ofcom should host some wide-ranging debates among political scientists, civic activists, journalists, civil society groups, human rights specialists and so forth, including the general public, to scope what might be envisioned and what could be done. In so doing, it should think beyond the Act – both because its primary duty already takes it beyond the detailed requirements noted in the consultation paper, and because a new Act is now under discussion, so this is the time for intellectual ambition on behalf of all UK citizens.

2. Second, it should go beyond its current tendency to technological determinism. It is fine to ask, as the consultation document does, how the mobile phone, or video-on-demand, or even universal service may benefit citizens and/or consumers. But Ofcom must also scope citizens' communication needs and rights irrespective of

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<sup>9</sup> Speech to Westminster Media Forum Ofcom Review of Public Service Broadcasting. See [http://www.ofcom.org.uk/media\\_office/speeches\\_presentations/richards\\_20040525](http://www.ofcom.org.uk/media_office/speeches_presentations/richards_20040525)

particular and present technologies, so as to identify how both the current and future communication environment could enable them to meet these better.

In other words, we should not only judge the citizen interest from the point of view of the technology to hand, but also we should measure progress towards, or the short fall in, meeting what Ofcom itself has termed 'broader social, cultural, [political and] economic objectives'. Since it is in the nature of objectives that they can be clearly stated, let's identify them, state them, and evaluate progress towards them. Otherwise it is very difficult to be clear which citizen interests are not being furthered. Ofcom should, surely, be able to state not only what it has achieved but what it has not (yet) achieved, whether for reasons of resources, remit or time. Then citizens could really engage in decisions about priorities and responsibilities to meet these.

3. Third, Ofcom should recognise the genuine diversity and, indeed, contestation and struggle, that is easily masked by the bland use of 'we' (as in, "As citizens, we participate in society."- p.6 of the consultation paper). For the media, by and large, still – increasingly even – speak to the 'mainstream', the average. Many voices are not heard, many experiences go unrecognised, many groups cannot get a platform. At the same time, dominant views are endlessly repeated, across channels – the same headlines, images, comments from some, while others never get the floor. What's the desired relation between mainstream and minority channels? Between national and local or community broadcasting? Between delivery to citizens and providing platforms for communication among citizens, including the institutions that seek to represent them? Do we know whether certain constituencies feel underrepresented, or misrepresented?

Such questions seem rarely to be asked. In addressing the UN General Assembly, Robin Mansell argued that 'Even where it works, however, the liberal mainstream news media are severely limited. They are self-contained, self-referential, and often elitist, rarely crossing difficult boundaries'.<sup>10</sup> Is Ofcom addressing this problem? The European Parliament concluded recently that "community media are an important means of empowering citizens and encouraging them to become actively involved in civic society, (...) they enrich social debate, representing a means of internal pluralism (of ideas), (...) an effective means to strengthen cultural and linguistic diversity, social inclusion and local identity".<sup>11</sup> Is this being delivered, and how could/should such media relate to mainstream media?

4. Fourth, it should take seriously the notion of communication rights or entitlements in scoping the citizen interest. Cees Hamelink (2003: 1) puts under the heading of 'communication rights' or 'communication entitlements' all those rights recognised by the UN's Universal Declaration of Human Rights that relate to information and communication, arguing that:

"Communication is a fundamental social process and the foundation of all social organization... Communication rights are based on a vision of the free flow of information and ideas which is interactive, egalitarian and non-discriminatory and driven by human needs, rather than commercial or political interests. These rights represent people's claim to freedom, inclusiveness, diversity and participation in the communication process."<sup>12</sup>

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<sup>10</sup> Mansell, R. (2007) Crossing Boundaries with New Media: Introductory remarks for the panel on 'the responsibility of the media', *United Nations General Assembly Third Informal Thematic Debate on 'Civilizations and the Challenge for Peace: Obstacles and Opportunities'*, New York, 10-11 May 2007.

<sup>11</sup> European Parliament (2008) Report on Community Media in Europe - A6-0263/2008, 24/06, EP: Brussels, pp.5-6.

<sup>12</sup> Hamelink, C. (2003, 11 December 2005). *Statement on communication rights*. Paper presented at the World Forum on Communication Rights. For communication entitlements, see also Scannell, P (1989),

In a heavily mediated society, communication rights are broad ranging, vital for cultural expression, civic engagement, democratic participation, valued identities, mutual understanding and more. How can Ofcom contribute to advancing this agenda? How far are we from achieving it? What indicators of progress can be identified? With which groups in civil society, journalism, media trade unions, media reform groups etc does Ofcom expect to deliberate in framing the next steps?

5. Fifth and perhaps most important, Ofcom should broaden its scope not only to ask, how do citizens relate to the media but, crucially, how do they relate through the media to their society? How people relate to the media is important. But it is through the media that we know our politicians, the events of other countries and, even, ourselves. Yet we live in an age of unprecedented distrust, scepticism, misrepresentation and disillusion - not simply (or even) about the media, but about government, education, health, other nations, people living within our own borders. It is here that the citizen interest in communication matters is to be found.

Such questions cannot be reduced to a consideration of 'the news' or any other selected genres, nor can they be focused on any one medium or technology, especially in a convergent age. Citizens require media that connect in both directions – so that they may recognise what is going on, and so that their contributions and criticisms may be properly heard – and to analyse and evaluate this requires a considerable breadth of vision. Does Ofcom think we have this already? If not, what can be done?

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Public service broadcasting and modern public life. *Media Culture & Society*, 11:135-166. For communication capabilities, see Garnham, N. (1999), Amartya Sen's "Capabilities" approach to the evaluation of welfare: Its application to communications. In A. Calabrese & J.-C. Burgelman (Eds.), *Communication, Citizenship and Social Policy* (pp. 113-124). Boulder, Col.: Rowman & Littlefield.