

**Meeting of the Ofcom Advisory Committee for Scotland held at the Ofcom Scotland Offices, 125 Princes Street, Edinburgh**

**Tuesday, 1 May 2018 – 10.30-15.15**

**Present:**

Liz Leonard – Chair ACS  
John Trower – ACS (from item 7)  
Ian Mackay – ACS  
Carmel Teusner – ACS  
David Connolly – ACS  
Laura Anderson – ACS  
Amanda Britain – ACS (Consumer Panel Member for Scotland)  
Bob Downes – Ofcom Board Member for Scotland

Glenn Preston - Ofcom  
Alan Stewart - Ofcom  
Emma McFadyen – Ofcom (by VC)

**Action**

**1. Welcome and apologies**

- 1.1 Apologies were received from Philip Schlesinger, Jonathan Ruff and Joe Powell.
- 1.2 IM advised that he was a Board Member of Critiqom Ltd which had an interest in Ofcom’s current consultation on recovering postal regulation and consumer advocacy costs. ACS accepted there was no need for committee to take a position on the consultation which had no Scottish dimension so there was no conflict of interest.

**2. Minutes of the previous meeting of 21 February, 2018**

- 2.1 AS updated ACS on a discussion with Napier University about their involvement in STV2. IM stressed that a lot of the work to support STV2 had been at FE/ college level and not only through higher education institutions.
- 2.2 GP advised ACS that Brexit would return as a specific item at the June meeting.
- 2.3 AB advised that presenting on access services at the Cross-Party Group on Participation was still subject to discussion (date of the next meeting to be confirmed). GP updated ACS on plans for a “Garden Lobby” event at the Scottish Parliament where the role of the CCP could be promoted.
- 2.4 The minutes were approved subject to members’ amendments.

**AB/JR**

**AS**

**3. Matters arising**

- 3.1 None

#### **4. BBC Scotland Competition Assessment**

4.1 The team updated ACS on Ofcom's recent provisional assessment and subsequent discussions with stakeholders.

4.2 The Chair noted there were five substantial items on broadcasting on the agenda and it was important for ACS to recognise they all impacted on each other.

4.3 Key points discussed on the BCA were:

- The potential impact of the new channel on viewing, particularly if its schedules contained popular Scottish content. There was a need for Ofcom to consider the potential impact on STV.
- The potential for incremental change to the channel and the possibility of Ofcom having to go through another competition assessment in the future.
- The appeal of the new channel being mainly to older people who were being given greater choice at a time when the viewing of BBC output by younger age groups was in decline.
- The negative views of the newspaper industry despite the potential positive impact of new jobs.
- The issue of needing to separate out the management of BBC from the regulation of the BBC.
- A recognition that overall there is support from stakeholders for the new channel to go ahead.

4.4 ACS agreed to respond to the consultation. DC agreed to lead, and other ACS members were invited to get comments to him within the next week.

#### **5. New BBC Channel – Implications for the Operating Licence**

5.1 The project team highlighted the issues around having the restrictive option of defining the channel only as network or non-network. ACS were briefed on Ofcom's likely approach to setting conditions for the new channel (if approved) in the Operating Licence. The team offered to come to the June ACS meeting and a ACS response to the consultation would be welcome.

5.2 IM said limited stakeholder awareness of the issues could escalate and care would be needed with the implications of using terms like "zero rating". There was the potential for unintended consequences elsewhere. CT warned of the possibility of setting a precedent for other nations.

5.3 The team clarified terms used in the paper and acknowledged the potential for unforeseen consequences and the need to be as transparent as possible. They also advised they had held initial discussions with the Ofcom team working on the Out of London Guidance Review.

#### **6. PSB Futures**

6.1 The team referred to their intention to start a conversation with interested parties building up to Ofcom's next PSB Review.

- 6.2 LL praised the position paper and repeated the earlier point about the interwoven nature of the broadcasting issues. She was pleased to hear Ofcom colleagues were working collaboratively on them but noted that, simply because PSB has been woven into UK broadcasting since 1922, the dangers to PSB in the years ahead should not be underestimated. Brand awareness was a major issue for the BBC among younger viewers/consumers. Viewing levels for the main five PSB channels (51%) were referred to in positive terms but there was no room for complacency because the next generation did not regard the BBC as the most important brand. LA queried the scope of the research around Netflix and also noted some households may have a TV licence but may not watch the BBC.
- 6.3 DC queried the nature of Ofcom support of PSB and how realistic it was to expect the broadcasters to collaborate. The team responded by referring to the BBC historically showing leadership, for example in technical standards. Ofcom believed PSBs should try to work collaboratively.
- 6.4 LL said ACS would come back to this subject and it was good for Ofcom to be ahead of the game.

## **7. Made Outside London Project**

- 7.1 ACS noted that this project was currently at the stage of stakeholders coming back to Ofcom with firm evidence. It was agreed the ACS should respond during the further consultation period when it could see more detail from stakeholders.
- 7.2 LL asked about the regional production requirements not including representation and portrayal. The team advised the guidelines were primarily rooted in industrial policy and that representation and portrayal were not viewed as primary outcomes. The team was also aware of the importance of the OOL review for Scotland but had to take into account the potential for a “straightjacketing” effect on programme content. LL said the issues in this area were about sustainability for the industry.
- 7.3 ACS discussed the significance of “lift and shift” and the differences in approach between companies moving to Scotland. Charlotte Moore of the BBC had recently made a speech about commissioning which would be circulated to the ACS. GP referred to the ongoing Screen sector inquiry by the Scottish Parliament’s Culture Committee. It was likely Ofcom would have an informal meeting with the committee before the end of May to help them formulate final recommendations, which could include suggestions relating to Ofcom’s regulatory responsibilities in this area.

AS

## **8. USO/R100 Update**

- 8.1 GP noted that since the last meeting of the ACS the UK Government had laid secondary legislation on the USO, with Ofcom subsequently being formally responsible for its implementation, including designation of the universal service provider[s].
- 8.2 GP also highlighted the key elements relating to eligibility, noting it would only be available to homes and businesses who cannot receive at least the broadband USO

specification from existing networks, and are not due to be covered by other publicly-funded roll out programmes in the year following their request.

- 8.3 On payment, GP set out the terms of the secondary legislation, which includes a reasonable cost threshold of £3,400 per connection. It would be possible for properties to pay excess costs or do some of the deployment work to bring costs down. The secondary legislation also requires the USO provider to aggregate local demand, potentially bringing more connections under the reasonable cost threshold.
- 8.4 JT referred to the issues resulting from not being able to compare the two schemes (one on demand, one infrastructure roll out) on a like-for-like basis; there were also timing issues with the risk that some people may still not be connected even with the 100% aspiration of the Scottish Government scheme. GP noted it was the intention to bring a paper to the June ACS meeting that covered these issues and the intersection of the UK and Scottish schemes (including the interaction of the USO and any "R100" voucher scheme) in more detail.
- 8.5 ACS went on to discuss the practical challenges around the reasonable cost threshold and how to aggregate demand. AB emphasised the important role intermediaries, including local authorities, could play in ensuring people understood the options available to them. GP advised there was a strand of work looking at communications and this would be an important part of the ongoing discussions with the Scottish Government.
- 8.6 BD asked about the extent to which strict obligations could be placed on Openreach. GP noted there was some flexibility in relation to the implementation of aspects of the USO with other elements clearly defined. In relation to R100, there had already been public discussion about the Scottish Government writing in contractual obligations to the eventual winner of the procurement process. IM suggested that interpretations and obligations were critical. There was also the risk of the schemes not working in some communities simply because individuals were not motivated to sign up.

## **9. Cyber security/resilience**

- 9.1 ACS was briefed on Ofcom's overall approach to resilience, European engagement, options for enforcement and the review of guidelines. Cyber-security was part of this broader landscape. Telecoms networks were generally resilient but could suffer from being a conduit linked to another system. There were efforts to establish a better regime for cyber security with the TBEST pilot scheme in which Ofcom was heavily involved. Ofcom had certain relevant powers covering a subset of the internet. There would be detailed planning in this area over the next three months along with recruitment.
- 9.2 JT raised issues affecting subsea cables, noting that there were some concerns about the inability of operators to identify where their respective routes go.
- 9.3 In response to a question from IM, ACS was advised that cyber security was recognised in Ofcom's governance process and was within its remit though there were questions around to what extent.

## **10. Director's Report**

10.1 GP highlighted developments including the following:

- a meeting with Openreach;
- interviews for the new Content Board member;
- an evidence session at the Scottish Affairs Committee;
- SG procurement on 4G infill;
- a debate at the Scottish Parliament on the National plan for Gaelic;
- Culture Committee Screen Sector Inquiry;
- Ofcom's 700 MHz consultation;
- Brexit;
- MG Alba appointments; and
- STV/STV2

10.2 Following discussion, it was agreed to seek clarification about the STV2 licences and ACS was advised Ofcom would review the Screen Industries Inquiry report on its publication.

**AS**

## **11. General policy/political update**

11.1 ACS was advised about the growing level of Parliamentary interest in cyber-security and internet regulation. On the latter, LL asked when ACS could have a more thorough discussion about how Scotland could be affected. ACS was advised that UK legislation was required and a similar approach to broadcasting regulation was viewed as unworkable. Transparency was important. It was agreed to wait to see if there was a genuine chance of legislation and at that point ACS input would be helpful.

11.2 ACS was updated on Ofcom being asked to carry out a public interest test on the completed acquisition by Trinity Mirror plc of certain assets of Northern and Shell Media Group Limited.

11.3 ACS discussed signs of the growing concerns around advertising linked to obesity. AS advised of SG interest in this area.

11.4 JT asked if there was a Scottish dimension to the Digital Implementation Taskforce. ACS was advised this was a UK body, which it was hoped would reflect devolution. It was agreed to check the current state of play.

**GP**

## **12. Consumer Panel/ACOD Presentation**

12.1 AB briefed ACS on the CCP workplan and the consultation responses received. The key areas of engagement were around broadband, mobile coverage and quality of service. The interaction between the USO and R100 was relevant. The CCP also took the view that nuisance calls/texts was still a lively topic in a Scottish context. Surcharging penalties applied to broadband in rural areas was also of potential concern, if corroborated. There would soon be research available on complaints handling. The future of voice calls was also on the CCP's agenda.

- 12.2 LL asked if AB had the opportunity to attend events throughout the UK and especially outside the Central Belt of Scotland, such as the Rural Parliament. AB advised she was now keen to do more external engagement. It was agreed that LL would help identify appropriate events outside of the meeting. **AB/LL**
- 12.3 JT said the ACS used to communicate better as a body and would welcome members sharing more information. It was agreed to assess what information could be usefully circulated and events attended, in particular to help increase knowledge outside of central Scotland. **GP**
- 13. Nations Committee**
- GP highlighted the two issues of substance considered by the Nations Committee. On BBC representation and portrayal, Advisory Committee Chairs thought the review should include news, but the team were not focussing on that particular genre at the moment. On EPG Prominence, the potential impact of the new BBC channel and of possible STV2 licence handback were raised. The team addressing this area would be coming to the ACS in June.
- 14. Local TV**
- 14.1 The team briefed ACS on the key trends.
- 14.2 LL asked if there was more granular information on audiences for STV2 in the research available. The team advised there was not, and that Ofcom only published data in aggregated form in the Communications Market Report. DC advised that BARB was not reliable at level of local TV. The team said they would pick this up with GP and AS. **NS/GP/AS**
- 14.3 IM referred to the map showing the extent of licences owned by That's Media. He asked if there was concern that Ofcom was not dealing with a truly local TV channel. The team advised they were aware of issues around what can be delivered in terms of local TV, in context of ad revenues. If it came to the point when many licences were returned, Ofcom would have to consider whether re-advertising was justified. It was also worth noting that the local TV multiplex carried channels other than local TV.
- 15. AOB**
- 15.1 The consensus was the new arrangement of circulating papers electronically only but with printed copies available on request was broadly acceptable.
- 15.2 LL acknowledged the contribution made by Philip Schlesinger and advised of plans to have a dinner, probably in September.
- 15.3 BD gave his perspective on his role as work in progress and with listening being very important. Most meetings he had attended so far were on broadcasting though there were plans to put regular meetings with the Scottish Government's Digital Director in the diary. He would be seeking ACS input in the future. So far quite a lot of issues at Ofcom Board level had been relevant to Scotland.
- 15.4 BD welcomed ACS members suggesting contacts for him to meet. JT noted the ACS agenda had been dominated by broadcasting over the past 12 months. AS agreed

to discuss the balance of the agenda with GP. For future meetings the agenda would be discussed in advance between GP and LL.

- 15.5 AB queried if ACS had a strategy day. JT described ACS as being more effective around a year ago and now being back in a period of learning, due to the number of new members. LL said it was not only important for members to input in relation to their own areas of expertise but also, where relevant, to input from an individual consumer's perspective. She cited nuisance calls as an example from a few years ago.
- 15.6 DC asked if was acceptable to meet other contacts. LL advised she did that and it was important to keep in touch. AS advised he had liaised with LL in advance of meetings with contacts and it was useful to receive feedback afterwards.
- 15.7 LA suggested it could be useful when laying out agenda to differentiate between telecoms and broadcasting items; chunk the agenda so it was clear.
- 15.8 JT referred to the difference in roles between board member and ACS members. He perceived a pent-up demand in industry to have dialogue with Ofcom outside formal channels. ACS members had a responsibility to consult, seek opinions and perhaps be more visible.