

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

Thursday 21 June 2018 – 10.30-3.40pm

Present:

Liz Leonard – Chair ACS
John Trower – 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)
Jonathan Ruff – Ofcom (from item 8)
Joseph Powell – Ofcom (from item 8)

Action

1. Welcome and apologies

1.1 Ian Mackay had submitted his apologies.

2. Members' interests

2.1 There were none to declare.

3. Minutes of previous meeting of 1 May 2018

3.1 These were approved with one amendment.

AS

4. Matters arising

4.1 Wednesday, 26th September was agreed for the evening event to mark Philip Schlesinger's contribution to the ACS and Content Board.

5. Information Security Policy

5.1 ACS discussed the implications of the new measures, particularly the need to download papers within a completely secure IT environment. There were mixed views about going completely paperless. Suggestions included creating one PDF file containing all the ACS papers, Ofcom Scotland staff printing off papers for sending by registered post and having a secure ACS SharePoint site.

6. Director's Report

6.1 GP highlighted the following developments:

- a. Audit Scotland report on the superfast broadband programme;
- b. the SNP's Growth Commission;
- c. the new Screen Unit;
- d. STV's strategic review; and

e. radio deregulation

6.2 On (d), ACS discussed the issue of media plurality across the piece and whether there was a market for local TV. The lack of public response to the STV2 closure was noted.

6.3 On (e), ACS agreed to make a submission. It would consider the following:

LL/CT

- costs and revenue of the sector;
- other delivery methods for delivering content; and
- citizen and consumer issues.

LL would confer with CT and encouraged other members to contribute.

7. General policy/political update

7.1 ACS discussed measures to improve mobile coverage including national/rural roaming, Ofcom's approach to auctions and the positions of the UK and Scottish Governments. The need for Ofcom to keep within its remit of providing technical advice to governments was noted.

8. Broadband USO/ R100 update

8.1 JR provided ACS members with an update on Ofcom's work on the broadband USO and Scottish Government's R100 programme covering:

- Application of the USO in Scotland
- Wayleave access
- Sharing of information between governments

8.2 ACS discussed potential issues around BT acquiring the tender for both programmes and the impact this might have on consumers, and how the interaction between both programmes will be communicated to consumers. ACS was advised that Ofcom was aware that current communication could be better.

8.3 On the issue of local authorities' involvement in the programmes, AB suggested careful consideration of their role in consumer communication. ACS was advised that Ofcom is one of a number of players and that effective communication required involvement from a range of organisations. AB also stated this needed to consist of more than just a communications portal.

8.4 BD raised the point that the highest proportion of those left without superfast broadband connections were always likeliest to be in Scotland. This would become more aggravated as dependency increases rendering effective communication of information more crucial.

8.5 LA suggested government should be engaging with other industries on this issue given concerns about the impact in the context of for e.g. rural banking closures.

9. 700 MHz coverage project update

9.1 JR summarised Ofcom's recent work on the clearance of the 700Mhz band of spectrum.

- Pushback from mobile operators concerned about cost
- Suggestion auction process should be run as a "beauty parade"

- Scottish Government looking into other approaches from around the EU
- Request to work with Ofcom closely on analytical work

9.2 LL asked if there was merit in broadening the theme of the proposed, forthcoming mobile summit to cover mobile broadband. GP advised that the Cabinet Secretary, Fergus Ewing had requested two separate events, one on the theme of 'Beyond Fibre' covering wireless solutions to broadband, the other on the theme of mobile connectivity.

9.3 ACS considered the merits of involving consumers in these events, with GP suggesting this could be worthwhile as well as involvement from Citizens Advice Scotland and the Scottish Government's consumer task force.

9.4 BD suggested that some industry bodies may be less inclined to attend an event featuring direct consumer engagement.

9.5 JR raised the point that Ofcom should be looking into the overlap between consumers with no broadband or 4G access in order to assess how best they can be assisted.

10. 700 MHz clearance programme update

10.1 ACS was updated on the progress of the 700Mhz clearance. JT asked about the impact of this on PMSE work in Scotland. ACS was advised the impact was currently uncertain as not all PMSE devices operated on the band being cleared.

10.2 ACS was advised there was currently no reason to suspect Scottish consumers would be disproportionately affected. JT highlighted potential costs of a compensation scheme for consumers effected.

11. Future role of the Advisory Committee and Forward Look

11.1 LL offered the view that it was crucial ACS remained as independent from Ofcom as possible. She also stated that face to face meetings were important and suggested future meetings could be conducted around a theme. LL also raised the idea of holding more meetings outside of Edinburgh.

11.2 JT described the importance of ACS not appearing as a governance body and agreed that face to face meetings perhaps held less frequently were important. He was also in favour of a strategy away day to utilise members' expertise as best as possible.

11.3 LA promoted the idea of clarifying ACS's role as representing consumer interests. She also stated that committee meetings could sometimes lack time to discuss issues at length. LA also emphasised that the committee is "advisory" and therefore that advice could be offered but Ofcom has no obligation to adopt it.

11.4 CT welcomed consideration of where ACS could add the most value to Ofcom. She pointed out that the distinctly Scottish view of the ACS should be of use, as well as offering an insight into industry to Ofcom colleagues who may not have had direct interaction with it for some years. CT suggested the committee hold a 'horizon scanning' session or develop a set of annual priorities.

11.5 IM had suggested that ACS would benefit from bringing industry figures into meetings more regularly in order to provide their perspective and discuss any

concerns in a less formal manner. GP reminded ACS there were examples of doing this, but a greater frequency could be beneficial.

- 11.6 BD believed his place at ACS was to strengthen his contributions to the Ofcom board, and that ACS was highly valuable as a place to listen to views.
- 11.7 AB agreed with LA that ACS's value was in its representation of consumer interests internally.
- 11.8 LL concluded by suggesting a different style of Agenda for the next meeting, providing more time to discuss Ofcom's different regulatory issues, as they pertain to Scotland, in more depth. As an example, she cited the annual presentation by Channel 4, which has traditionally been more of a "PR" exercise. Instead, ACS might invite players from within the different regulatory areas to discuss, in confidence, particular issues pertaining to their industry from a Scottish perspective. She also suggested a refocusing of ACS's role back to "identifying those aspects of Ofcom's work and of communications in general of particular importance to the diverse regions and communities of Scotland, working with Ofcom to inform themselves on those topics." (Communications Act 2003). **All**
- 11.9 GP welcomed members sending in agenda suggestions for the September and November meetings. **All**

12. Representation and Portrayal Review update

- 12.1 The ACS were updated on Ofcom's first thematic review of the BBC, which was focused on representation and portrayal as part of the BBC's public purpose to represent and serve the diverse communities of all the United Kingdom's nations and regions.
- 12.2 Members discussed the emerging insights from recently completed qualitative research as well as BARB analysis and Ofcom's BBC Performance tracker survey, noting Scotland should not be viewed as a homogenous place with likely differences in perception in different geographic regions (including between the major cities).
- 12.3 The committee also noted the further work being carried out on content analysis and off-screen research, the latter covering BBC and independent production company staff and designed to test how BBC initiatives on diversity and inclusion worked as part of the commissioning process.

13. BBC Annual Report

- 13.1 Committee members were provided with an overview of Ofcom's progress towards publishing its first annual report on the BBC. The team was also seeking members' views on the key themes and issues that might arise in Scotland.
- 13.2 It was explained that the Annual Report will cover the period between 1 April 2017 to 31 March 2018. However, only a limited number of Operating Licence conditions came into force in January 2018, with some requirements applying from 1 April 2018. Therefore, Ofcom would have limited compliance data against Licence conditions for the first report.
- 13.3 Members noted the report would cover three core areas of BBC regulation; content standards, performance against Licence conditions and competition

assessments. A separate Performance Report will be published as an annex to the Annual Report and will include a more detailed assessment.

- 13.4 LL noted that the wider public interest in Ofcom's assessment of BBC performance and asked about the team's stakeholder engagement strategy. LL suggested engaging with stakeholders early as a way of managing expectations on any gaps in the data. Ofcom colleagues agreed and advised that the team had already been engaging regularly with a wide variety of key stakeholders. They also noted the success of the BBC academic events held in Edinburgh and London.
- 13.5 GP highlighted the importance of BBC regulation in Scotland, noting that Cabinet Secretary for Culture, Tourism and External Affairs Fiona Hyslop MSP had raised the issue in recent meetings.
- 13.6 DC asked about the interplay between the BBC's Annual Plan and Ofcom's Annual Report, suggesting that Ofcom would need to communicate to many different audiences/stakeholders who have an interest in the wider editorial decisions of the BBC.

14 BBC Scotland and the Operating Licence

- 14.1 Members were updated on Ofcom's ongoing preparatory work for the new BBC Scotland Channel, specifically considering how this might sit within the wider BBC Operating Licence (in the event the new channel received regulatory approval). The paper had been updated to reflect discussions at an earlier ACS meeting which had identified two potential issues.
- 14.2 ACS members were reminded that the BBC Framework Agreement does not refer to nation-specific TV services that are not variations of other network services. This would potentially reduce the amount of programming from Scotland appearing on the network (with possible associated implications for representation and portrayal of Scotland across the network) and adversely affect the creative economy objectives for the country.
- 14.3 It was also explained that Ofcom is considering which licence conditions are appropriate to write into the Operating Licence to ensure the BBC Scotland Channel contributes to the delivery of the public purposes including which, if any, of the existing BBC Two Scotland conditions should be retained. These could include requiring the new channel to offer a suitable range of programmes, and to provide a range of genres in its programming that reflects Scotland's culture.
- 14.4 It was noted that these matters are highly sensitivity to some stakeholders in Scotland, including the independent production sector and political stakeholders including the Scottish Parliament's Culture Committee.
- 14.5 LL asked about the possible impact on BBC Alba of these changes as well as the impact on 'out of London' production quotas. The provisional view was not to include any requirements for Gaelic programming (the BBC had advised Ofcom it did not envisage featuring Gaelic language programming on the BBC Scotland Channel).
- 14.6 In response to a question from DC, Ofcom colleagues also offered to consider how certain terms would be used to explain original productions and repeats. It was

noted that there was nothing to prevent Ofcom adding further requirements at a later date should it be appropriate to do so.

15. Brexit update

- 15.1 JP provided members with an update on the key Brexit developments in Scotland and at a wider UK level.
- 15.2 JP advised that on 15 May the Scottish Parliament withheld its consent to the devolved elements of the UK Government's EU Withdrawal Bill currently going through the UK Parliament. There was a brief discussion about some of the recent media coverage of this and the wider constitutional significance. JP reminded members that the Scottish Government had produced its own legislation, the legislative competence of which would be considered by the UK Supreme Court towards the end of July.
- 15.3 There was a short discussion about Ofcom's role. Members were advised that Ofcom continues to engage with DCMS and provide technical input on their developing policy approach in respect to broadcasting services and different Brexit scenarios.

16. Consumer Panel/ACOD update

- 16.1 AB briefed ACS on the key points of her paper, including the Green Paper "Consumer Modernising Consumer Markets" dealing with consumer advocacy in the telecoms sector. The CCP's response would highlight the different models of consumer advocacy. The CCP was a critical friend for Ofcom and could shape thinking at an early stage. There was a more complicated picture in Scotland with consumer advocacy having been recently devolved.
- 16.2 JR advised the SG's concept of Consumer Scotland was for it to be a more independent body compared to the CCP. GP suggested the ACS response could recognise the complexity of the situation in Scotland. The Green Paper did not say much about the Scottish Consumer Taskforce. It was agreed to check if the SG and Citizens Advice would be responding to the Green Paper. Responses could be sent to LA to decide whether ACS should respond.

JR/LA

17. Nations Committee update

- 17.1 LL updated ACS on developments with BT and Openreach which now had separate branding. A BT investment Board now took high level investment decisions. It was agreed to circulate Ofcom's progress report on this area which had been published recently. GP summarised the key findings. BD asked if Ofcom received disaggregated complaints statistics for Scotland.

GP

18. AOB

None