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Chairman
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22 February 2013

Dear Colette

Ofcom Draft Annual Plan 2013/14

I am writing to set out the Communications Consumer Panel's and the Advisory Committee on Older and Disabled People's (ACOD) responses to Ofcom's Draft Annual Plan for 2013/14.

As we have previously noted, given the increasingly central role of communications services in people's lives, it is vital to consider what the communications needs of consumers and citizens are in the 21st century - and what role the universal service obligation should play with the introduction of new technologies.

May I also say that the Panel is extremely pleased to see that the Plan includes, at point 9.13, Ofcom's stated intention to adhere to the consumer interest toolkit as a way of ensuring that it identifies and addresses consumer interests across its work.

Ofcom's role

The Panel supports the overarching statements that Ofcom "*...will work for consumers and citizens by promoting effective competition, informed choice and the opportunity to participate in a wide range of communications services, including post*" and "*will provide proportionate protection for consumers*". We note and welcome that the articulation of Ofcom's strategy mentions audiences' confidence in broadcast content (which falls within ACOD's remit). The issue of confidence and trust is not, we would suggest, exclusive to broadcast audiences and is one that the Panel has observed to be increasingly problematic across a wide variety of institutions. The question of confidence and trust appears to be of growing concern to consumers and small businesses - and the integrity, credibility and growth of the communications industry depends upon it. Whilst the Plan already includes information about responding to these concerns, we wondered whether explicit reference

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to them might also be made.

As Members of both the Panel and the Advisory Committee on Older and Disabled People (ACOD), we welcome the programmatic work *“Understanding and promoting the interests of older and disabled consumers”*; the statement that *“Regardless of communications service, it is important to note that there is in all cases a core of consumers excluded from services. Ofcom works hard to guard against involuntary exclusion of consumers by maximising the opportunity to participate. We are especially mindful of disabled consumers and other vulnerable groups in the UK.”*; and that Ofcom will look to *“Promote, and where appropriate intervene, to secure equivalent opportunities for disabled and vulnerable users to participate in the use of communications services.”* As noted in the Plan in point 3.68, there is a particular concern for vulnerable users in respect of legacy services where falling volumes may result in prices rising to unaffordable levels, and particularly with regard to the purchase of stamps by vulnerable consumers.

As with last year, the Panel would encourage Ofcom to look at the ease, or difficulty, of the complete consumer 'journey' across its work - undertaking appropriate research as necessary. For consumers this encompasses the ease, or difficulty, of commencing the journey and dealing with potential customer service issues (not limited to complaints) along the way, with particular attention being paid to access to clear and meaningful information from the very beginning of that journey.

The Panel would also encourage more emphasis on identifying where Ofcom will use its position and expertise to facilitate or encourage other stakeholders working in a given area, even if Ofcom itself is not taking or cannot take direct action.

Panel views on priorities/work areas

During the next financial year, the Panel will continue to advise Ofcom to help ensure that the interests of consumers, citizens and small businesses are properly reflected in Ofcom's decisions. So here we will limit our comments to a few issues where our views might have a bearing on the final Annual Plan for 2013/14.

As you know, the Panel has expressed its concerns about inadequate mobile coverage on many occasions. In the Panel's view, the lack of voice and/or data coverage is no longer one of simple irritation for consumers and small businesses but is now becoming an issue of real detriment. There is an urgent need to drive rapid improvements in rural and semi rural mobile voice and data coverage if these sections of society are not to be left behind by the rapid mobilisation of the way businesses interact with each other and their customers.

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We would encourage further clarity around the monitoring of progress in relation to fulfilment of coverage obligations following the 4G auction. We have expressed the view that having only one operator carrying the obligation to reach the 98% coverage, with 95% in each of the Nations, and relying on market forces to persuade other operators to provide coverage for their customers in the marginal areas, may not achieve the desired result. The areas concerned are likely to be the areas where market forces have failed in the past. We urge Ofcom to keep progress under review and to continue to look to support market based solutions, that with a limited regulatory intervention could deliver immediate and significant benefit to the economy at a time when finding growth levers is so important.

The Panel notes that, under the priority “*to secure optimal use of spectrum*”, there is a strand of work to *Implement the UHF strategy to enable a potential release of 700MHz for harmonised mobile use*. The Panel recognises that Ofcom intends to work closely with stakeholders in this area, but would particularly stress the needs of the emergency and defence services in that spectrum band. A great deal of work is currently being undertaken in relation to DTT coexistence in 800MHz and the Panel would strongly suggest that the learning from this implementation is carried clearly through to the planning for 700MHz, and that consumers’ needs are given priority in policy development.

The Panel has significant concerns about nuisance calls (silent calls and unsolicited marketing calls and texts) and scams - including calls made with an intent to defraud. We appreciate the work that Ofcom is undertaking in these areas, often in collaboration with other public authorities, but would suggest that work in the area of unsolicited marketing calls and texts is defined more clearly and more widely in the final workplan. We also feel that the fact that multiple agencies are involved in seeking to address these issues requires renewed efforts by all concerned to work in a collaborative manner, and to provide greater clarity for consumers about how to report such calls/texts and seek redress. A reduction in people’s trust in their communications service is bad for both consumers and businesses.

The Panel is looking forward to the publication of the assessment of communications provision across the UK - and in the devolved nations particularly. The Panel hopes that any recommendations that are made in the report will be explored with stakeholders during the course of 2013/14.

The Panel and ACOD welcome the current review of GC15 and the work that will flow from it into 2013/14. We strongly support the work under Strategic Purpose 3 *to ensure the adequate provision of services for consumers with hearing impairments* and hope that

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work will be progressed to extend the provision of access services for non-linear services and the provision of a more accessible Electronic Programme Guide.

We are particularly pleased to see that one of Ofcom's priorities for the coming year will be to promote opportunities for people to participate. This is especially important as we move to a society where there will be a 'digital by default' delivery of many government services, and consumers who are not online are increasingly disadvantaged, disempowered and disenfranchised. Being excluded from an increasingly online world has now become a matter of significant consumer and citizen harm. The availability of broadband is crucial - and it is increasingly important that all consumers and small businesses have access to at least a basic service of 2Mbps - although we have some doubts about the appropriateness of 2Mbps as a basic speed going forward. In relation to rural broadband infrastructure, we would support Ofcom in enabling greater competition in rural areas.

However we would encourage a better balance in the Plan between enabling availability and supporting usage/engagement. Currently the draft plan - and the proposed outcomes in this area - seem to place far greater emphasis on the former. Ofcom has an important role to play in the area of usage/engagement - not least through the provision of information and the facilitation of progress by stakeholders. While Ofcom's remit may not provide traditional regulatory 'powers' in this area, Ofcom does, we believe, have an important role to play in respect of encouragement. This would seem to be an example of where Ofcom's 'soft powers' and research can be used to good effect. It would be helpful if the outcomes relating to 'promote opportunities to participate' could define more clearly the roles to be played by Ofcom, distinct from those of stakeholders, for example Broadband Delivery UK (BDUK).

We are very conscious of the extent of the privacy and security issues facing people who are online and would encourage close attention to these areas. We welcome the statement that "*We will also work with industry and other regulators, where appropriate, to ensure that consumers are protected where their data, including their personal data, is being collected as they engage with internet services.*" To that end, we would suggest that under Strategic Purpose 4 (5.64) explicit mention is also made of working with organisations such as Get Safe Online to support consumers and small businesses in this area.

In the coming year, inter alia, the Panel will focus on its remit to protect and promote the interests of small business. We were therefore pleased to note the statement at 6.12 that "*We will specifically consider the communications needs of small and medium enterprises (SMEs) within the business community as we recognise their importance to the current*

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economic fibre and future growth of the UK and its nations.” We would encourage far more emphasis on this area in the coming year, particularly in relation to Ofcom’s engagement and communications strategy with small businesses, which would benefit from a significantly more proactive approach.

The Panel has supported Ofcom’s work this year to empower consumers through the provision of information. In relation to point 3.27 in the Plan we would also suggest that the information provided should be accurate, relevant, timely and in Plain English. In relation to point 4.12 we would suggest that, while research into the broadband speeds that are available to consumers and small businesses is important, it is equally important to check that consumers and small businesses are being given this information before deciding whether to enter into a contract with a provider.

The Panel has encouraged Ofcom to press ahead with its review of switching across services, including mobile and bundled services. The Panel continues to have particular concerns about increasing costs for consumers in the fixed voice market. Consumers need to be aware of the potential benefits of switching and to have confidence that switching will be a hassle-free process with effective “safety nets” to mitigate against loss of services. Robust switching processes are the bedrock of this, but they are not sufficient by themselves - consumers need to be assured that they will not incur excessive cost, time or disruption as a result of a decision to switch. As we have stated, we would encourage Ofcom to take steps to implement a harmonised and unified switching process in all communications markets as swiftly as possible.

In relation to points 9.23 - 9.25, we are pleased to note that Ofcom will continue to develop its e-services initiative to provide a new portal for consumers to get advice, guidance and to be able to log complaints about communications services. We note that this is intended to allow the Consumer Contact Centre (CCT) to deal with the more complex calls that cannot be resolved via the web and to provide assistance to vulnerable consumers and those not yet online. This is welcome. However we would caution that this emphasis on ‘web first’ should not act as a barrier to contact for consumers. Care also needs to be taken to ensure that the provision of information for general monitoring is not mistaken by consumers for the logging of a formal complaint.

Defining intended outcomes

As you know, the Panel has often encouraged Ofcom to identify clearly the outcomes that it is seeking to achieve and to do so in terms of the benefits that consumers and citizens can expect to receive. We believe that consumer-led outcomes add weight and value to

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the Plan. The Panel therefore welcomes the identification of desired interim and final outcomes for each priority, which are useful in setting out the steps to be taken to achieve the identified priorities. We hope that the Annual Report contains clear information about the measurement of progress against these same outcomes.

The DCMS Communications Review is a major opportunity for legislative reform to support consumer and small business needs in the future development of UK communications services. Ofcom's input into this debate - particularly in relation to the consumer and small business interest - will be invaluable.

We look forward to continuing to work with you, in what will be a significant year for the evolution of the legislative framework for UK communications and people's use of them.

Yours sincerely

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