

Citizens, Communications and Convergence

Discussion Paper

Ofcom have produced this discussion paper to “clarify Ofcom’s role in furthering the interests of citizens”. Ofcom’s responsibilities towards citizens come from the Communications Act 2003 and they have a duty to further the interests of both citizens and consumers but recognise these interests can be different and that furthering citizen, rather than consumer, interests may also involve distinct regulatory approaches.

They say that other stakeholders have suggested that there is no practical difference between consumer and citizen interests and that it is not necessary to distinguish between them.

Ofcom say that they need to think in new ways about the outcomes that regulation seeks to deliver for citizens and the mechanisms that are used to deliver them:

- Changes in the way that internet content is supplied and consumed mean that the existing model of content regulation will need to evolve.
- The increasing range of services on offer raises the question of which services should be available to all members of society. At the moment, BT (and Kingston in Hull) has a universal service obligation that requires it to provide a phone line to anyone who wants one, and to do so at a reasonable cost. Over time, there may be calls for additional services, such as higher-speed broadband, to be made available more widely.

BT believes that all CPs should make their services available to the same degree BT is obliged to.

The limits to our powers mean that we cannot address all the issues that our stakeholders are concerned about and it may be appropriate for us to seek to influence future legislation, at UK or EU level.

Whilst the UK may be held up as a good model within the EU we would want to see that Europe becomes a more level playing field and that BT and its customers are not constrained in improving its services by more regulation.

Defining citizens’ and consumers’ interests

Ofcom has recognised that citizens’ and consumers’ interests are different. They want to provide greater certainty about how these interests should be defined and their role in furthering them.

- Consumers participate in the marketplace, buying or using goods and services eg what is good for private individuals or businesses.
- Citizens participate in society, which includes the marketplace and beyond it. Citizens are free to exchange goods and services, but are also free to

participate in a whole range of social, cultural and political activities that are not the subject of commercial contracts.

Furthering citizens' interests

Ofcom's role in furthering the interests of citizens involves ensuring that people have access to the services, content and skills needed to participate in society, and that they are protected appropriately. To some extent, the market will deliver these aims, so meeting the needs of society will certainly not always require regulatory intervention.

BT aims to make all of its services benefit society aside from its CSR programmes. In providing products and services to as many people as possible it is hoped that UK citizens will become BT consumers.

When considering whether to intervene to achieve a defined broader public interest, there may be uncertainty about the extent to which the market will deliver. Deciding whether regulatory intervention is necessary involves careful assessment. Intervention to extend the availability of communications services could stifle investment and innovation, but on the other hand, failure to intervene could mean that some citizens are excluded or services of public value lost.

BT has a long track record in providing services to prevent exclusion especially in regard to older and disabled customers and feels that other CPs could follow BT's lead. BT would prefer self regulation and that its current USO obligations should be extended to other CPs to provide customers with a greater choice of supplier.

Sometimes the interests of citizens may be at odds with the interests of at least some individual consumers. For example, promoting the availability throughout the UK of faster broadband access than is now commonly available might involve going beyond what the market would deliver. Such public intervention could be viewed as being in the interests of all citizens in that it would promote a more inclusive, interconnected society.

Ofcom want to encourage the availability and use of broadband internet access throughout the UK and high-speed data transfer or broadband is singled out as being a service that people should be encouraged to use.

Using this example, whilst faster BB speeds are desirable from a commercial and customer point of view the introduction of new network technology should be encouraged and supported and not be imposed upon CPs that may impact on its investment plans, profitability and competitiveness. It would be better to let the market drive this with Ofcom and UK government support.

Specific duties

Within the Communications Act there are a number of provisions designed to promote inclusion, such as:

- the duty to promote media literacy (section 11);

BT recognises the subtle differences between citizens and consumers and do not have any issue with the Ofcom framework model shown in the discussion paper as Fig 4.1.

Addressing tensions between citizens' and consumers' interests

The framework recognises that it may be necessary to address tensions between the interests of consumers and the interests of citizens. For example, making services available more widely for the benefit of society as a whole may mean that some consumers have to pay more for those services than might otherwise have been the case.

Deciding whether regulatory intervention is necessary, therefore, involves understanding how a decision will affect different groups of citizens and consumers, and weighing carefully the pros and cons. Intervention could stifle innovation that would otherwise deliver benefits for consumers and lead to increased productivity, whereas waiting too long to intervene could deny citizens access to important services that they need to participate in society.

BT would hope that by widening the appeal/availability of its services to citizens that they may, in turn, become BT customers. However, this must not be at the expense of our ability to operate profitably or oblige BT to make significant investment for little or negligible return. In weighing up the 'pros and cons' Ofcom should also factor in the cost impact any decision or regulation may have on a CP. BT would prefer to work with Ofcom (and other CPs when appropriate) to achieve any agreed aims.

Factors to take into account

The Communications Act sets out a range of factors that Ofcom take into account when making decisions. This includes the needs of different groups of citizens and consumers, namely:

- the vulnerability of children and of others whose circumstances appear to Ofcom to put them in need of special protection;
- the needs of persons with disabilities, of older people and of those on low incomes;
- the different interests of living in rural and in urban areas.

BT fully support this approach and have, for some time, designed specific products and services to support each of these groups – and continues to do so. Again, in doing so the onus to deliver this should not be the sole responsibility of BT via the USO.

Conclusions

Ofcom's role in furthering the interests of citizens involves ensuring that they have access to the services, content and skills they need to participate in society. For Ofcom, furthering the interests of citizens involves closing the gap between what the market and competition will deliver and an identifiable broader public interest.

BT aims to help achieve this and would support Ofcom's role in doing this too.

Ofcom is concerned that the rollout of new services will lead to an increased digital divide. Growing competition in telecoms markets means that we may need to revise the way in which universal access to essential services is defined, delivered and funded.

BT is active in trying to reduce digital exclusion and would support practical and viable initiatives that would help. However, BT's traditional role as the dominant supplier should not mean that it carries the bulk of this responsibility and that all CPs should play their part including any shared funding. New developments in technology should not be hampered by short term focus on solutions that may have a limited appeal and life-span.

By distinguishing clearly between citizens' and consumers' interests and seeking to recognise where they may conflict and overlap, we will be able to make consistent and transparent decisions.

BT believes that Ofcom should also consider the commercial implications of any decisions and come up with a more balanced and practical decision making process.