



# Consultation on Screening Exercise on the Equality Implications of Ofcom's Policies in Northern Ireland

## Consultation

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## Section 1

# Introduction

- 1.1 Ofcom is the regulator for the UK communications industries, with responsibilities across television, radio, telecommunications and wireless communications services. It is independent of Government but accountable to Parliament at Westminster.
- 1.2 Ofcom's sponsoring Departments of State are the Department of Trade and Industry and the Department for Culture, Media and Sport. Ofcom in Northern Ireland liaises with the Northern Ireland Departments of Enterprise, Trade & Investment and Culture, Arts & Leisure as well with other Northern Ireland Departments over relevant matters.
- 1.3 Ofcom was set up, and its powers and duties are provided for, under the Communications Act 2003. Its principal statutory duty in carrying out its function is to:
  - a) further the interests of citizens in relation to communication matters,
  - and
  - b) further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 1.4 Broadcasting and telecommunications are reserved matters, the responsibility of UK central government and not that of the devolved assembly in Northern Ireland.
- 1.5 Ofcom's main office is located in London; it has, in addition, offices in Wales and Scotland and, specifically, an office in Northern Ireland to represent Ofcom to people and organizations in Northern Ireland and to enable them to make contact more easily with Ofcom and articulate their views and concerns.
- 1.6 Under Section 3 of the Communications Act 2003 ('The Communications Act') Ofcom must have regard to the following in the performance of its duties:
  - The different needs and interests, so far as the use of the electro-magnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to make use of it.
  - The need to secure that the application, in the case of television and radio services, of standards falling within subsection (2) (e) and (f) of Section 3 is in the manner that best guarantees an appropriate level of freedom of expression
  - 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 the elderly and of those on low incomes
  - The opinions of consumers in relevant markets and of members of the public generally

- The different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas
- 1.7 Section 21 of the Communications Act gives Ofcom a specific duty to establish an Advisory Committee on elderly and disabled persons and Ofcom has accordingly established an Advisory Committee for Older and Disabled People.
- 1.8 Section 27 of the Communications Act requires Ofcom to promote the development of opportunities for training and re-training of people working in television and radio and in particular, 'to take all steps as they consider appropriate for promoting equality of opportunity' in training and 'for promoting the equalization of opportunities for disabled persons'.
- 1.9 Sections 264 and 265 of the Communications Act require that, in reporting on Ofcom's public service remit and the remit of licence providers, Ofcom should have regard to the diversity of cultural activity in the United Kingdom, the range of religion and beliefs and the lives and concerns of different communities and cultural interests and traditions.
- 1.10 The Ofcom Board provides strategic direction for Ofcom – it is the main statutory instrument of regulation with a fundamental role in the effective implementation of the Communications Act.
- 1.11 The Content Board has been established by the Ofcom Board; this Board has delegated and advisory responsibility for a wide range of content issues, predominantly dealing with broadcasting. One member represents the interests and opinions of people living in Northern Ireland.
- 1.12 An Ofcom Consumer Panel has been established to advise Ofcom on consumer interests in the markets regulated by Ofcom and again includes specific Northern Ireland representation. It has a specific remit to inform Ofcom on consumer issues, specifically those of interest to rural customers, older people, people with disabilities and those on low incomes or who are otherwise disadvantaged.
- 1.13 Ofcom has also established an Advisory Committee for Northern Ireland. This Committee advises Ofcom on the full range of its activities across the communications sectors in Northern Ireland. It specifically provides Ofcom with advice about issues, concerns and special circumstances relating to Northern Ireland and reflects the views of people living there.

### **The statutory duties on equality**

- 1.14 Section 75 of the Northern Ireland Act 1998 (the Act) requires Ofcom, in carrying out all its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity:
- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
  - between men and women generally;
  - between persons with a disability and persons without; and
  - between persons with dependants and persons without.

- 1.15 In addition, without prejudice to the above obligation, Ofcom shall, in carrying out its functions relating to Northern Ireland, have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

### **Ofcom's Equality Scheme**

- 1.16 The overall aim of Ofcom's Equality Scheme is to set out a suitable methodology for assessing how the policies in our functional areas which relate to our work in Northern Ireland will affect each of the categories covered by Section 75 of the Northern Ireland Act and how effectively they promote equality of opportunity between all the nine equality target groups, i.e. religious belief, political opinion, sex, marital status, age, sexual orientation, caring responsibilities, disability and race. Ofcom's Equality Scheme was approved by the Equality Commission on 14 September 2005. Ofcom is now undertaking the screening of its policies to determine which will require a full equality impact assessment.

### **Screening**

- 1.17 The purpose of screening is to determine which of our policies which relate to our work in Northern Ireland are likely to have a significant impact on equality of opportunity for any of the nine categories. This will provide us with a list of those policies which will then be subject to a full equality impact assessment. Part of the screening process also involves determining when during the next five years each policy will be impact assessed.

### **Consultation**

- 1.18 Ofcom is committed to involving the voluntary, community and trade union sectors and those with a legitimate interest in the screening process. Ofcom will not finalise its decisions on which of its policies will be subject to a full impact assessment, or when, until it has had an opportunity to hear the views of those groups and individuals who may be affected by its policies.

## Section 2

# Ofcom's functions and policies

- 2.1 The functions and duties for which Ofcom is responsible in Northern Ireland are outlined in the Communications Act. The functions and duties set out in this Act cover Ofcom's powers and duties as they apply throughout the United Kingdom, including Northern Ireland.
- 2.2 Ofcom assumed the functions previously carried out by a number of predecessor regulators – the Independent Television Commission, the Office of Telecommunications, the Radio Authority, the Radiocommunications Agency and the Broadcasting Standards Commission; in addition, Ofcom was given many additional responsibilities under the Communications Act.
- 2.3 Ofcom's specific duties fall into the following areas:
- i) Ensuring the optimal use of the electro-magnetic spectrum
  - ii) Ensuring that a wide range of electronic communication services including high speed data services is available throughout the UK
  - iii) Promoting plurality and quality through a wide range of TV and radio services throughout the UK
  - iv) Applying adequate protection for audiences against offensive or harmful material
  - v) Applying adequate protection for audiences against unfairness or infringements of privacy.
- 2.4 Ofcom is committed to undertaking these duties by:
- Balancing the promotion of choice and competition with the duty to foster plurality, inform citizenship, protect viewers, listeners and customers and to promote cultural diversity
  - Serving the interests of the citizen-consumer as the communications industry enters the digital age
  - Supporting the need for innovators, creators and investors to flourish within markets driven by full and fair competition between all providers
  - Encouraging the evolution of electronic media and communication networks to the greater benefit of all who live in the United Kingdom.
- 2.5 Ofcom discharges these duties by undertaking the following policies which relate specifically to its functions in Northern Ireland:
- i) A policy of ensuring the optimal use of the electro-magnetic spectrum by:
    - licensing spectrum and making as much of it as possible available for use
    - liberalising the terms of licences to allow changes of use where possible

- encouraging the most efficient users and uses of spectrum through spectrum pricing and trading
  - keeping the spectrum clean through monitoring and enforcement of spectrum licence conditions
- ii) A policy of ensuring that a wide range of electronic communication services including high speed data services is available throughout the UK by:
  - encouraging competition in telecommunications
  - facilitating broadband development
  - promoting the availability of services for people with hearing and visual impairments
- iii) A policy of promoting plurality and quality through a wide range of TV and radio services throughout the UK including:
  - working with UK broadcasters to ensure that their broadcasts comply with Ofcom's standards;
  - working with public service and other broadcasters to ensure a high proportion of European / UK content;
  - ensuring that a wide range of UK TV services is accessible to people with hearing and visual impairments;
  - assisting the Government, broadcasters and Digital UK to promote digital switchover.
- iv) A policy of applying adequate protection for audiences against offensive or harmful material and against unfairness or infringements of privacy by:
  - reviewing broadcast standards to ensure they appropriately reflect community standards
  - ensuring content complaints are dealt with effectively and efficiently

v) Employment Policy

Employment policy for all staff, including recruitment, management, development and retention, is in line with best practice in Northern Ireland. In the appointment of members of the Advisory Committee for Northern Ireland and of the Content Board Member for Northern Ireland and the Consumer Panel Member for Northern Ireland Ofcom complies with the best practice as outlined under OPCA. Consequently the Advisory Committee for Northern Ireland is chosen by open public process and the recruitment process closely follows the Nolan principles. There are nine members of staff currently employed by Ofcom in Northern Ireland at its Belfast office; terms and conditions for these employees are those which generally apply to all staff employed by Ofcom throughout the UK.

vi) Procurement Policy

Procurement within Ofcom is delegated to Group (including National and Regional) buyers. Group buyers are supported by a centralised Procurement



Team, within the Ofcom Finance Department, providing training, advice and assistance. The Procurement team itself has prime responsibility for developing procurement policies and procedures, model contracts and forms, and assisting with major procurements (including framework agreements) which are subject to the EU Procurement Directives. Ofcom complies with best practice as laid down by OJEC.

## Section 3

# Screening methodology

- 3.1 Ofcom has reviewed the range of functions it discharges in Northern Ireland. It believes that the six policies stated in Section 2 include all the activities it discharges in Northern Ireland.
- 3.2 Ofcom assessed each policy against its likely impact on equality of opportunity for each of the nine categories specified in Section 75 of the Northern Ireland Act 1998 i.e. religious belief, political opinion, sex, marital status, age, sexual orientation, caring responsibilities, disability and race. This process involved using the four questions specified in the Guide to the Statutory Duties (Annex 1):
  - Is there any evidence of higher or lower participation or uptake by different groups?
  - Is there any evidence that different groups have different needs, experiences, issues and priorities, in relation to the particular policy area?
  - Is there an opportunity to better promote equality of opportunity or better promote community relations by altering the policy / developing a policy in consultation with others in government or the community at large?
  - Have consultations with relevant groups, organizations or individuals indicated that particular policies create problems which are specific to them?
- 3.3 If the answer to any of the four questions was 'Yes' for a specific policy, Ofcom then sought to determine if the likely impact on equality was significant. If it was the policy was screened in for a full equality impact assessment.
- 3.4 Ofcom will carry out an equality impact assessment on each of the policies which have been 'screened in' over the next five years. The factors used to determine when each policy will be assessed are:
  - relevance to social need;
  - effect on people's daily lives;
  - effect on economic, social and human rights;
- 3.5 The final decision on the policies chosen for full equality impact assessment and its timetable for implementation will take account of the views expressed during consultation.

## Section 4

# Initial screening results

- 4.1 As a result of its screening process Ofcom has determined that four of its six policies which operate in Northern Ireland are likely to have a significant impact on equality for at least some of the nine categories. Accordingly Ofcom proposes to carry out a full equality impact assessment on policies (ii) to (v) of the following policies:
- i) ensuring the optimal use of the electro-magnetic spectrum
  - ii) ensuring a wide range of electronic communication services including high speed data services is available throughout the UK
  - iii) promoting plurality and quality through a wide range of TV and radio services throughout the UK
  - iv) applying adequate protection for audiences against offensive or harmful material and against unfairness or infringements of privacy
  - v) employment policies
  - vi) procurement policies
- 4.2 As a result of its initial screening exercise Ofcom has determined that two of its policies which operate in Northern Ireland are unlikely to have a significant impact on any of the equality categories – namely (i) ensuring the optimal use of the electro-magnetic spectrum and (vi) procurement.
- 4.3 In screening the policy of ensuring the optimal use of the electro-magnetic spectrum it was concluded that it did not raise issues of equality. In delivering this policy in Northern Ireland Ofcom is not likely to make a significantly different impact on any of the nine groups of people identified in the legislation from the impact on any other group. The spectrum policy applies equally to all users of wireless services and technologies, and it is not likely that one group will be advantaged or disadvantaged by it. Ofcom has received no expressions of concern from any groups or individuals in Northern Ireland about inequality in the application of this policy or in its consequences.
- 4.4 In screening the procurement policy it was concluded that Ofcom had a very small operation in Northern Ireland with a tiny percentage of its procurement budget being sourced locally, and thus did not raise significant issues of equality. Indeed in most cases the requisite goods and services for use in Northern Ireland were sourced from Great Britain. There was no evidence that those goods and services sourced locally in Northern Ireland had, or were likely to have, a significant impact on any of the nine equality categories.
- 4.5 Ofcom has proposed a provisional timetable for equality impact assessments on its remaining four policies as follows:
- Year 1 (2007-2008) - (v) employment
  - Year 2 (2008-2009) - (ii) ensuring a wide range of electronic communication services including high speed data services is available throughout the UK

- Year 3 (2009-2010) - (iii) promoting plurality and quality through a wide range of TV and radio services throughout the UK
- Year 4 (2010-2011) - (iv) applying adequate protection for audiences against offensive or harmful material and against unfairness or infringements of privacy.

## Section 5

# Screening consultation

5.1 An integral part of the screening process is consulting with those groups affected by these policies. The decisions listed at Section 4(above) are thus not final until individuals and groups have responded to these decisions and Ofcom revisits its proposals as a result.

5.2 Ofcom would particularly welcome views on the following questions:

*Do you think we have missed any policies which have an impact on your group?*

*Do you think that any of the policies, which our initial screening has suggested should not be subject to a full equality impact assessment, should be? If you do, please describe how you feel each policy is likely to have a significant impact on equality of opportunity.*

*Are there policies in your area of interest which could be usefully grouped together to make assessments more meaningful?*

*Do you agree with our proposed timetable for implementing our impact assessment programme over the next four years? If you do not, please identify when you would like to see policies assessed and indicate why you feel a different priority is justified.*

5.3 An Appendix is attached to allow you to answer these key questions more easily, but please feel free to raise any issues relevant to which of our policies should be impact assessed, and with what priority, over the next four years.

## Annex 1

# Appendix

## CONSULTATION ON OFCOM'S SCREENING OF ITS POLICIES FOR EQUALITY IMPACT

Ofcom welcomes any comments on its initial screening of its policies for their impact on equality. It would particularly welcome comments on the following:

1. Ofcom has reviewed its policies and has determined that it is responsible for six policies which have effect in Northern Ireland:

- i) ensuring the optimal use of the electro-magnetic spectrum
- ii) ensuring a wide range of electronic communication services including high speed data services is available throughout the UK
- iii) promoting plurality and quality through a wide range of TV and radio services throughout the UK
- iv) applying adequate protection for audiences against offensive or harmful material and against unfairness or infringements of privacy
- v) Employment policy
- vi) Procurement policy

(These are explained more fully in Section 2 above)

Do you think we have missed any policies which have an impact on your group?

2. As a result of its initial screening Ofcom has concluded that each of the policies listed at 1 will be subject to a full equality impact assessment, except the policies on:

- (i) ensuring the optimal use of the electro-magnetic spectrum and
- (vi) procurement.

Do you think either of these policies should be subject to a full equality impact assessment?

Yes/No?

If Yes, please indicate how you feel each policy is likely to have a significant impact on equality of opportunity?

3. Are there policies in your area of interest which could be usefully grouped together to make assessments more meaningful?

4. Ofcom has proposed a provisional timetable for each of its policies over the next four years:

- Year 1 (2007-2008) - (v) employment

- Year 2 (2008-2009) – (ii) ensuring a wide range of electronic communication services including high speed data services is available throughout the UK
- Year 3 (2009-2010) - (iii) promoting plurality and quality through a wide range of TV and radio services throughout the UK
- Year 4 (2010-2011) – (iv) Applying adequate protection for audiences against offensive or harmful material and against unfairness or infringements of privacy.

Do you agree with the proposed timetable for impact assessments?

Yes/No?

If No, please state when you would like policies assessed:

Policy (v)                      Year

Policy (ii)                      Year

Policy (iii)                      Year

Policy (iv)                      Year

Please indicate why you feel a different priority is justified.

5. Do you wish to make any other comments in relation to our policies which would help us to focus on those aspects of their impact which most affect equality of opportunity for the groups you represent?

Thank you for your assistance and time. Please return your response to the address below by 30 March 2007. Remember, if you would like to discuss this further, please contact:

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