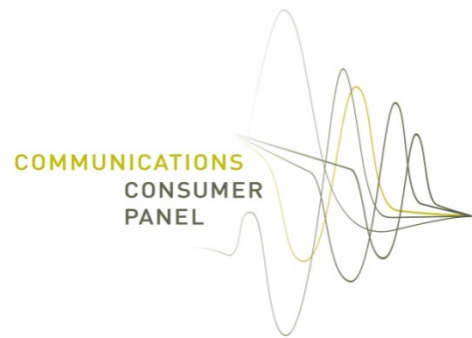


# Communications Consumer Panel: Response to Ofcom's MSA 2 Consultation



## Executive Summary

The mobile market, and in particular mobile coverage, is increasingly important to consumers and small businesses. However, the Panel are concerned that many consumers and small businesses continue to experience problems making and receiving calls. These problems are experienced at home, at work and on the move. At the moment coverage of mobile broadband is less extensive than coverage of voice services. But operators are continuing to roll out mobile broadband, whereas rollout of the 2G networks used traditionally for voice services has probably reached its commercial limit. We believe that improving coverage for voice, as well as for mobile broadband, needs to be a priority for Ofcom and mobile operators.

This response sets out our position on the issues raised by *Mostly Mobile*, Ofcom's second consultation on its mobile sector assessment. The majority of the response focuses on voice coverage issues, although it also addresses consumer information and protection issues that are relevant to both voice and mobile broadband.

## Problems with coverage

Our research, published alongside this response, shows that coverage is very important to consumers and small businesses, more important than cost when choosing a network provider.

However, large numbers of consumers and small businesses experience problems with coverage, with around a third of both groups experiencing regular problems.

## Improving coverage

Research by the Panel found that mobile coverage is very important to both consumers and small businesses, but that substantial proportions of both groups experience problems.

We welcome the fact that Ofcom is planning to conduct research into the causes of coverage problems. We would like them to use the findings from this research as a basis for improving coverage in areas which have poor quality, intermittent or no coverage for people on the move.

## Information about coverage

We are concerned that the information currently available to consumers and small businesses does not allow them to make an informed choice about the coverage they are likely to receive.

## How coverage is measured

It is difficult to measure coverage precisely. The only way to measure coverage across the country is through modelling. Each of the mobile providers model the likely level of coverage provided across their networks. These models calculate likely outdoor coverage across the country. Mobile operators use this data to build postcode checkers. These give consumers an indication of the 2G and 3G coverage they are likely to receive from each operator. However, the data provided by operators has a number of limitations:

- Coverage can be affected by a variety of factors, including local topography, the position of buildings, and even weather conditions. It is difficult to build models that can accurately take into account all of these factors. This means that the areas of poor coverage are not always reflected in the data;
- The modelling provides an estimate of outdoor coverage, and does not offer an accurate picture of what coverage people will have when using their mobile phone indoors;
- Operators model their data in different ways. This means that operators' models may not be directly comparable.

Ofcom also uses the mobile operators' data to publish estimates of 2G and 3G coverage across the UK. These estimates are an important resource for policy making and regulation.

### **Improving the information provided to consumers**

Because different operators model their data in different ways, consumers who use the postcode checkers are not necessarily comparing like with like. This matters because coverage is the most important factor for consumers when choosing between different providers.

In addition, the methodological limitations set out above mean that the postcode checkers may not provide consumers with an accurate prediction of the coverage they will receive in the places that matter to them, particularly at home.

We recognise the complexity of measuring mobile coverage. However, we believe there is still room for improvement. The Panel believes that Ofcom and the mobile operators should work together to ensure consumers have access to better quality, more comparable information about coverage.

### **Complaints handling and coverage disputes**

Not all consumers use the postcode checkers provided by the operators. Many rely on information provided at point of sale. We are concerned that evidence from the Citizens Advice suggests that some point of sale information about the level of coverage people can expect is misleading, resulting in people making purchasing decisions that do not meet their needs.

We also recognise that even with the best available information it may not be possible to accurately predict whether a consumer or small business will be able to get coverage in the places that are important to them. Ultimately we would like coverage to be improved so people do not experience routine problems with coverage. However, we recognise that this will take time. Immediate action is also required to ensure consumers and small businesses are not locked in to contracts that do not provide them with the coverage they need.

### **Improving the information produced by Ofcom to inform policy making and regulation**

The information produced by Ofcom is not intended as a consumer guide. However, it is used to assess the extent to which mobile coverage is meeting consumers' needs, and whether there is any need for regulatory intervention.

Previous figures published by Ofcom suggested that coverage was near universal, with a UK figure of 99 per cent for 2G coverage. This is at odds with the Panel's research findings, which show that large numbers of people experience problems with coverage.

In part this is due to the fact that in previous reports Ofcom defined a postcode district as covered by mobile if at least 75 per cent of it had outdoor coverage from one or more mobile networks. This meant that the not-spots (up to 25 per cent of the postcode district) were not reflected in these statistics.

In this year's Communications Market Report, published in August 2009, Ofcom changed the threshold for describing a postcode district as covered to 90 per cent. On this basis, the report estimates that England has 99 per cent 2G coverage; Wales and Northern Ireland have 92 per cent coverage and Scotland has 89 per cent coverage.<sup>1</sup>

This provides a better proxy for coverage than the 75 per cent measure. While it is still not entirely representative, it provides a more realistic picture of the way consumers experience coverage, particularly in the Nations. This is important because good regulatory decisions rely on good quality information about consumers' experiences. Therefore any improvement to the data is to be welcomed.

Even with the new threshold, the data is still based on an estimate of outdoor coverage and is subject to the methodological limitations of the providers' data on which it is based. We hope the steps recommended to improve the quality and comparability of coverage information collected by the operators should also address some of these. In the meantime Ofcom should clearly explain those limitations when it publishes coverage data.

## **Consumer Protection and empowerment**

The consultation document sets out a number of areas where action is being or may need to be taken to ensure consumers are protected, such as mis-selling, mobile number portability and complaints-handling. The Panel is already engaging with Ofcom on these issues, and is supportive of the work that Ofcom is undertaking to protect and empower consumers.

## **Joined up regulation**

We are concerned that there is potential for consumers to suffer from a lack of clarity about regulatory responsibility in cases where responsibility is unclear, or is shared by several different bodies.

The launch and then suspension of the 118 800 mobile phone directory run by Connectivity is a recent example. This fell outside the regulatory framework for directory enquiry services in the UK, but came under the jurisdiction of the Information Commissioners Office and PhonepayPlus.

Mobile applications, such as ringtones, are another example: regulated by Ofcom and PhonepayPlus if bought by premium text message, but through general consumer law if purchased over mobile internet using a credit card.

The Panel believes Ofcom should take steps, where possible, to minimise this confusion.

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<sup>1</sup> This is estimated on a population basis, rather than a geographic basis. E.g., 99 per cent of the population in England live in postal districts where at least one operator reports at least 90 per cent 2G coverage.

## Next steps

We welcome the work Ofcom has done in this area to date, and looks forward to working closely with Ofcom on future work to improve the information and level and quality of coverage available to consumers and small businesses.

## Recommendations

The Panel is calling upon Ofcom to:

- 1. Use findings from its own research into the causes of coverage problems, and the Panel's research (published alongside this response), as the basis for further work into the options for improving coverage in areas which have poor quality, intermittent or no coverage.** This should include:
  - gathering statistics on the extent to which planning objections create an obstacle to improving coverage;
  - looking at the feasibility of regional and/or national roaming;
  - looking at the feasibility of increased network and infrastructure sharing
  - assessing the extent to which further investment in 3G and 4G technologies is likely to help fill existing gaps in coverage for voice as well as data, and what the likely timescale is for this.
- 2. Use the findings from its own research into the causes of coverage problems, and the Panel's research (published alongside this response), to inform its thinking about how best to improve coverage for people on the move.**
- 3. Work with the mobile providers to ensure that consumers have access to better quality, more comparable information about 2G and 3G coverage.**
- 4. Continue to work with providers to ensure that the best available information about 2G and 3G coverage is available to consumers before and at point of sale.** Ofcom should consider the best ways to deliver this kind of information as part of its wider work on consumer empowerment, taking into account the ways in which consumers make decisions, the types of information they need to make those decisions, and the most appropriate format and delivery of that information.
- 5. Work with providers to ensure that consumers are not locked in to contracts where their service provider is unable to provide them with the 2G or 3G coverage they need or were led to expect.** This should include a right to return for all consumers and small businesses within a specified time frame after purchase if coverage levels are not adequate.
- 6. Continue to use the new approach to calculating coverage data, in which a minimum of 90 per cent of a postcode district has to receive coverage from one or more operators to be considered 'covered' (an increase from 75 per cent).** We believe that this measure provides a better proxy for outdoor coverage. We would like Ofcom to use this measure consistently in future to allow year-on-year comparison of 2G coverage.
- 7. Include contextual information to accompany the publication of future coverage data, making it clear that this is based on a model of predicted outdoor coverage, and indicating the minimum quality of coverage that mobile phone users are likely to receive in areas that are considered 'covered'.**
- 8. Minimise the possibility of consumer confusion in the area of mobile regulation.**

## 1 Introduction

The Communications Consumer Panel (the Panel) was established under the Communications Act 2003 as an independent advisory body with the role of advising Ofcom, and such other persons as the Panel thinks fit, on the interests of consumers and citizens in the communications sector.

The Panel defines its role more specifically as:

“To influence Ofcom, Government, the EU, and service and equipment providers so that the communications interests of consumers and citizens are protected and promoted.”

The Panel’s remit, as set out in the Act, includes a duty to protect the interests of vulnerable consumers, including the elderly, people with low incomes, people with a disability or people living in rural areas. The Panel’s remit also covers the interests of small businesses. Small businesses are defined as businesses with up to 10 employees.

The mobile market, and in particular mobile coverage, is increasingly important to consumers and small businesses. We support Ofcom’s recognition of the value that consumers place on mobile communications set out in *Mostly Mobile*, its second assessment of the mobile sector.

The Panel also accepts Ofcom’s assessment that commercially driven 3G roll-out will continue, but that roll-out of 2G has probably reached its commercial limit. However, the Panel is concerned that many consumers and small businesses continue to experience problems making and receiving calls and text messages. This is an important issue for consumers and small businesses and we want Ofcom and mobile providers to prioritise improvements to voice services as well as continuing to roll out mobile broadband. The majority of this response therefore focuses on voice coverage issues, although it also addresses consumer information and protection issues that are relevant to both voice and mobile broadband.

To support our response the Panel has commissioned research exploring consumers and small businesses experience of mobile coverage. The research looked at the importance of coverage; the extent, frequency and nature of the problems respondents experienced with coverage; how satisfied respondents were with the level of coverage they receive from their provider; and whether respondents had taken action to try to resolve coverage problems.

Full research reports, setting out the findings, have been published alongside this report, as well as a short video illustrating some of the problems that people with poor reception experience. These can be found on our website: [www.communicationsconsumerpanel.org.uk](http://www.communicationsconsumerpanel.org.uk)

## 2 Problems with coverage

The Panel agrees with Ofcom’s assessment that there are commercial limits to the extent of both 2G and 3G mobile coverage, and that 2G rollout has probably reached its commercial limit.

While it is widely acknowledged that there are large areas that do not currently receive 3G coverage, available data on 2G coverage, most recently in the Communications Market Report published in August 2009, states that 2G coverage is ‘universal or near universal’<sup>2</sup>.

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<sup>2</sup> See page 55 of the Communications Market Report, <http://www.ofcom.org.uk/research/cm/cmr09/>

The experience of consumers and small businesses however suggests that this is not the case. Responses to the MSA 1 consultation pointed to a variety of issues including the inability of people to access a network where they live, intermittent lack of coverage when travelling, and poor quality coverage even where networks are 'available'.

Market research conducted by Ofcom has also found that quality of coverage is an important concern for consumers<sup>3</sup>. Problems with signal and reception are a primary source of consumer concern, as significant in importance as the cost of services, in unprompted feedback.

Research by the Panel into consumers' and small businesses' experience of mobile coverage supports this picture. The research found that mobile coverage is very important to both consumers and small businesses, but that substantial proportions of both groups experience problems. The findings of the research are set out below.

### **Findings from the Communications Consumer Panel's research report: Experience of mobile phone coverage among UK consumers**

Mobile phone coverage is important to consumers, with respondents rating it as more important than cost when choosing a network provider.

Over half (56%) of UK consumers have experienced problems with coverage, a third of them (33%) regularly.

Coverage is particularly important to people who are working. This group are also significantly more likely than those who are not working to experience problems with coverage.

The most common problem people experience is not spots, where people get no reception at all: 36% of UK mobile users have experienced this, 18% regularly. The next biggest problem is poor sound quality/breaking up of sound, experienced regularly by 8%.

Reception at home is most important to consumers (with an importance rating of 8.3 out of 10, where 1 was not at all important and 10 was very important), followed by reception while walking (with a rating of 7.9).

When asked to rate the performance of their provider for coverage in different areas, consumers cited reception while travelling by train as the worst performing area. This was also the coverage type that received the lowest importance rating, although consumers still gave it an importance rating of 6.1.

Overall satisfaction with coverage is relatively high (with customers giving a mean score of 7.7 out of 10). However, people who regularly experience problems with reception have a significantly lower opinion of their provider than people who say they have never experienced a problem.

A fifth of consumers who have experienced problems have taken action as a result. Amongst these the most common response is to contact their provider's customer service team, although some people have also resorted to buying a new phone or changing provider.

<sup>3</sup> <http://www.ofcom.org.uk/research/tce/ce08/>

### **Findings from the Communications Consumer Panel's research report: Experience of mobile phone coverage among UK small businesses**

Mobile phone coverage is important to small businesses in Britain, with respondents rating it as more important than cost when choosing a network provider.

Almost all (91%) of small business respondents had experienced problems with reception, more than a third of them (34%) regularly.

The most common problem for small businesses is 'not spots' where they get no reception at all: 80% of respondents say they have experienced this, 24% regularly. The next biggest problem is poor sound quality/breaking up of sound, experienced regularly by 13% of small businesses.

Reception at work is most important to small businesses (with an importance rating of 8.4 out of 10, where 1 was not at all important and 10 was very important), followed closely by reception while travelling by road (8.1).

When asked how satisfied they were with the coverage they received, small businesses gave their providers a satisfaction rating of 7.1. This was comparable with the other areas we asked about, including cost and quality of customer service.

When asked to rate the performance of their provider for coverage in different areas, small businesses cited reception while travelling by train as the worst performing area. This was also the coverage type that received the lowest importance rating, although small businesses still gave it an importance rating of 6.3.

57% of small business respondents took some sort of action in response to coverage problems.

The most popular course of action was to stop using their phone (39%), followed by asking friends/family for advice (27%) and contacting customer services (26%).

Over 1 in 10 small business respondents had changed their network provider as a result of problems with coverage.

These findings show that there is a real problem with coverage for voice. A substantial proportion of both consumers and small businesses have persistent problems, and consumers who experience regular problems report significantly lower levels of satisfaction with their provider. The significance of the problem is evidenced by the fact that some consumers and small businesses have been driven to purchase a new phone or change provider as a result.

The importance of coverage, and the problems it can cause for consumers, is substantiated by evidence from other consumer groups. For instance, evidence from Citizens Advice, set out below, shows that some consumers can have problems when they try to cancel their contract due to lack of reception.

### **Citizens Advice Case Studies: August 2009**

A Citizens Advice Bureau (CAB) in Berkshire reported that when their clients moved to the area to be closer to family they found that the mobile phone coverage and reception was poor and they could not get any signal in their home. Complaints to the mobile operator led nowhere so the client eventually cancelled their mobile contract, in so doing incurring a fee of approximately £250 (the balance of what was owed on the contract). Although the client objected to this charge he felt he had no option but to pay, so he started paying off £50 a month at the mobile operator's shop. The client had paid two installments of £50, leaving an outstanding balance of £156 when, without warning, he received a letter from a debt collection agency headed 'Notice of Intended Litigation' asking for £358 for the mobile phone debt (£258 allegedly owed to the mobile operator plus £100 costs and fees). Since both the client and his wife are retired and disabled their income is very limited and they are therefore unable to afford such an inflated amount.

A CAB in Surrey reported a case in which their client, a 56 year old Bulgarian who had a contract mobile phone with her current mobile operator for about four years, came to the bureau for help due to problems with mobile coverage in her area. The client had renewed her contract in September 2008 but since then had found that the mobile reception in her area had been very poor. Since the client's first language is not English her friend called the mobile operator on her behalf on several occasions and the mobile operator 'reset' the signal to improve reception. However, this had only worked temporarily and the client had then had to put up with a poor signal. The client came to the CAB because she was exasperated at her predicament and wanted to cancel her mobile phone contract. The bureau called the mobile operator on the client's behalf and was passed between different departments. Each department confirmed that the signal in the client's area was unsatisfactory but nevertheless insisted that the client would have to pay £200 to cancel her contract since it runs until May 2010.

A CAB in Northumberland reported that their client, a woman with three children under seven years of age, came to the bureau because she had experienced a problem with her mobile phone contract. She had taken out a contract over the phone when she was assured that the network signal with the new service provider would be as good as she had with her present provider. However, when she received the phone she found the signal to be totally unreliable, meaning that there were many occasions when the client could not make or receive calls. This was particularly worrying for her as she needs to be contactable in case of emergencies since her children are at school or in crèche.

## **3 Improving coverage**

Our research shows that consumers and small businesses are experiencing significant problems with basic voice services. These problems are experienced at home, at work and on the move. Coverage of newer services, like mobile broadband, is less extensive, but operators are continuing to roll out these services. We believe that improving coverage for voice, as well as for mobile broadband, needs to be a priority for Ofcom and mobile operators.

### **3.1 Not spots and poor quality coverage**

The Panel welcomes Ofcom's proposal to work with public bodies considering initiatives to resolve not-spots in their area, and to conduct further research to identify the nature of coverage issues in



more detail. The Panel looks forward to discussing the results and implications of this research with Ofcom.

**Recommendation 1: The Panel urges Ofcom to use the findings from its own research into the causes of coverage problems, and the Panel’s research (published alongside this response), as the basis for further work into the options for improving coverage in areas which have poor quality, intermittent or no coverage.** This should include:

- gathering statistics on the extent to which planning objectives create an obstacle to improving coverage;
- looking at the feasibility of regional and/or national roaming;
- looking at the feasibility of increased network and infrastructure sharing;
- assessing the extent to which further investment in 3G and 4G technologies is likely to help fill existing gaps in coverage for voice as well as data, and what the likely timescale is for this.

### 3.2 True mobility

The Consumer Panel’s research shows that mobility is important to people, with reception while walking and while travelling by road both receiving importance ratings of over 7.5 for consumers and over 8 for small businesses.

The research also shows that there are real problems with coverage on the move, with consumers and small businesses rating reception on trains as being particularly problematic. While this was also the coverage type that received the lowest relative importance rating, it still received ratings of 6.1 (consumers) and 6.3 (small businesses).

The Panel therefore welcomes Ofcom’s proposal to conduct further research to identify the nature of coverage issues in more detail. This research should include coverage on the move, including on trains and road routes.

**Recommendation 2: The Panel believes that Ofcom should use the findings from its own research into the causes of coverage problems, and the Panel’s research (published alongside this response), to inform its thinking about how best to improve coverage for people on the move.**

## 4. Improving coverage information

Our research also shows that coverage is the most important factor consumers take into account when choosing a mobile phone provider, more important even than cost. However, we are concerned that the information currently available to consumers and small businesses does not allow them to make an informed choice about the coverage they are likely to receive.

### 4.1 How coverage is measured

It is difficult to measure coverage precisely. The only way to measure coverage across the country is through modelling. Each of the mobile providers model the likely level of coverage provided across their networks. These models calculate likely outdoor coverage across the country. Mobile operators use this data to build postcode checkers. These give consumers an indication of the 2G and 3G coverage they are likely to receive from each operator. However, the data provided by operators has a number of limitations:

- Coverage can be affected by a variety of factors, including local topography, the position of buildings, and even weather conditions. It is difficult to build models that can accurately take into account all of these factors. This means that the areas of poor coverage are not always reflected in the data;
- The modelling provides an estimate of outdoor coverage, and does not offer an accurate picture of what coverage people will have when using their mobile phone indoors;
- Operators model their data in different ways. This means that operators' models may not be directly comparable.

Ofcom also collects and aggregates the operators' data, and uses this to publish estimates of 2G and 3G coverage across the UK. This data is not sufficiently detailed to be a useful decision-making tool for consumers, but it is an important resource for policy making and regulation.

#### 4.2 Improving the information provided to consumers

The fact that the different operators model their data in different ways means that consumers who use the operators' postcode checkers to identify which operator provides the best coverage in their area are not necessarily comparing like with like. This matters because, as our research shows, coverage is the most important factor for consumers when choosing between different providers.

In addition, the methodological limitations set out above mean that the postcode checkers may not provide consumers with an accurate prediction of the coverage they are likely to receive in the places that matter to them, particularly as our research shows that these are most likely to be indoor locations: at home and in the office.

While the Panel acknowledges the complexity inherent in this area, and recognises that it is not possible to provide perfect coverage information, we still believe that there is room to improve the information currently available to consumers.

**Recommendation 3: The Panel would like Ofcom to work with the mobile providers to ensure that consumers have access to better quality, more comparable information about coverage.**

#### 4.3 Complaints handling and coverage disputes

The Panel is aware that not all consumers use the postcode checkers provided by the operators. Many consumers rely on information provided at point of sale. We are concerned that evidence from the Citizens Advice suggests that some point of sale information about the level of coverage people can expect is misleading, resulting in people making purchasing decisions that do not meet their needs.

**Recommendation 4: The Panel would like Ofcom to continue to work with providers to ensure that the best available information about 2G and 3G coverage is available to consumers before and at point of sale.** Ofcom should consider the best ways to deliver this kind of information as part of its wider work on consumer empowerment, taking into account the ways in which consumers make decisions, the types of information they need to make those decisions, and the most appropriate format and delivery of that information.

Given what we know about the way information about coverage is compiled however, we recognise that even with the best available information it may not be possible to accurately predict whether a consumer or small business will be able to get coverage in the places that are important to them.

Ultimately we would like coverage to be improved so people do not experience routine problems with coverage. However, we recognise that this will take time. Immediate action is also required to ensure consumers and small businesses are not locked in to contracts that do not provide them with the coverage they need.

**Recommendation 5: The Panel urges Ofcom to work with providers to ensure that consumers are not locked in to contracts where their service provider is unable to provide them with the 2G or 3G coverage they need or were led to expect.** This should include a right to return for all consumers and small businesses within a specified time frame after purchase if coverage levels are not adequate.

#### **4.4 Improving the information produced by Ofcom to inform policy making and regulation**

The information produced by Ofcom is not intended as a consumer guide. It is not sufficiently detailed to be useful for consumers. However, it is used by Ofcom and government to assess the extent to which mobile coverage is meeting consumers' needs, and whether there is any need for regulatory intervention.

Previous figures published by Ofcom, including data cited in the *Mostly Mobile* consultation document, have suggested that coverage was near universal, with a UK figure of 99 per cent for 2G coverage. This is at odds with the Panel's research findings, which show that large numbers of people experience problems with coverage.

In part this is due to the fact that in previous reports Ofcom defined a postcode district as covered by mobile if at least 75 per cent of it had outdoor coverage from one or more mobile networks. This meant that the not-spots (up to 25 per cent of the postcode district) were not reflected in these statistics.

In this year's Communications Market Report, published in August 2009, Ofcom changed the threshold for describing a postcode district as covered to 90 per cent. On this basis, the report estimates that England has 99 per cent 2G coverage; Wales and Northern Ireland have 92 per cent coverage and Scotland has 89 per cent coverage.<sup>4</sup>

This provides a better proxy for coverage than the 75 per cent measure. While it is still not entirely representative, it provides a more realistic picture of the way consumers experience coverage, particularly in the Nations. This is important because good regulatory decisions rely on good quality information about consumers' experiences. Therefore any improvement to the data is to be welcomed.

**Recommendation 6: The Panel calls on Ofcom to continue to use the new approach to calculating coverage data, in which a minimum of 90 per cent of a postcode district has to receive coverage from one or more operators to be considered 'covered' (an increase from 75 per cent).** We believe that this measure provides a better proxy for outdoor coverage. We would like Ofcom to use this measure consistently in future to allow year-on-year comparison of 2G coverage.

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<sup>4</sup> This is estimated on a population basis, rather than a geographic basis. E.g., 99 per cent of the population in England live in postal districts where at least one operator reports at least 90 per cent 2G coverage.

Even with the new threshold, the data is still based on an estimate of outdoor coverage and is subject to the same methodological limitations inherent in the operators' data on which it is based. We hope the steps recommended above to improve the quality and comparability of coverage information collected by the operators should address some of these limitations. In the meantime Ofcom should clearly explain the limitations when it publishes coverage data, so that policy makers and regulators who use it understand what it can and cannot tell them about people's experience of coverage on the ground.

**Recommendation 7: The Panel suggests that Ofcom should include contextual information to accompany the publication of future coverage data, making it clear that this is based on a model of predicted outdoor coverage, and indicating the minimum quality of coverage that mobile phone users are likely to receive in areas that are considered 'covered'.**

## 5 Consumer protection and empowerment

The consultation document sets out a number of areas where action is being or may need to be taken to ensure consumers are protected. The Panel is already engaging with Ofcom on these issues. This response does not therefore set out a detailed response to each of these, rather it briefly summarises our position on each of the areas highlighted.

- *Mobile number portability (MNP).*  
The ability to switch providers is important for consumers. The Panel therefore welcomes Ofcom's consultation on mobile number portability. However, we think it is important that changes to the mobile switching process should not be viewed in isolation from the switching processes for other communication services. We ask Ofcom to consider how a revised MNP process should be tied into an overarching Ofcom strategy to develop a single, unified process for switching communication services, including bundles of services, and porting phone numbers.
- *Access to information needed to get a good deal, including review of additional charges, review of information about quality of service and price accreditation.*  
The Panel supports these initiatives. However, it is important that they are not treated as isolated projects. They need to be part of a wider and more systematic assessment of how to empower consumers that takes into account how consumers make decisions, what kind of information they need to make those decisions and given that, what the most appropriate format and delivery mechanisms are.
- *Review of alternative dispute resolution (ADR) and complaints handling procedures.*  
The Panel welcomes the steps that Ofcom has taken to make ADR more accessible by reducing the period before consumers can go to ADR from 12 to 8 weeks. We also support the objective of increasing awareness of the right to go to ADR. However, we also believe it is important that Ofcom takes action to improve complaints handling generally, including unresolved faults, so that more complaints are resolved by providers. This is particularly important for vulnerable consumers, who may not have the skills or confidence to pursue their complaints, or may not know that they can escalate a complaint.
- *Review of mobile mis-selling.* The Panel supports Ofcom's continued efforts to reduce mis-selling by introducing a new general condition that should lead to more effective enforcement.

- *Review of access and inclusion.* The Panel supports Ofcom's work in this area, and will continue to engage with Ofcom on these issues in the future. The Panel is particularly keen to see successful implementation of emergency roaming by October 2009.

## 6 Joined up regulation

The Panel is concerned that there is potential for consumers to suffer from a lack of clarity about regulatory responsibility.

The recent launch and then suspension of the 118 800 mobile phone directory run by Connectivity is an example of where consumers could be potentially confused both about their rights and about the appropriate regulatory body to complain to. This service falls outside the regulatory framework for directories and directory enquiry services in the UK, which fall under the remit of Ofcom. However, it is subject to rules governing the use and misuse of data, managed by the Information Commissioners Office and, as a 118 service, is also regulated by PhonepayPlus, an agency of Ofcom.

The consultation document highlights another example where there is potential for confusion: the regulation of mobile phone applications. Mobile applications, such as ringtones, are subject to different types of regulation. If they are bought by premium text message they are subject to regulation by Ofcom and PhonepayPlus, while if they are bought over mobile internet using conventional payment methods such as a credit card they are regulated in the same way as any other purchase through general consumer law.

**Recommendation 8: The Panel believes that Ofcom should minimise the possibility of consumer confusion in the area of mobile regulation by:**

- establishing the extent to which consumers are already confused and providing information to address this confusion where necessary, for instance guidance on who to complain to in cases where there is overlapping regulatory responsibility;
- establishing the extent to which the different regulatory regimes provide fair and consistent protection for consumers;
- monitoring those areas where there is potential regulatory confusion;
- identifying where regulatory responsibility could be streamlined and advising government accordingly.

## 7 Next steps

The Panel welcomes the work Ofcom has done in this area to date, and looks forward to working closely with Ofcom on future work to improve the information and level and quality of coverage available to consumers and small businesses.