

Marco Marini
Ofcom
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Dear Marco,

Re: Consultation on Ofcom's Draft Annual Plan 2009/10

We welcome the opportunity to comment on the Ofcom Draft Annual Plan for 2009/10 ('the Draft Annual Plan') and commend Ofcom for setting out its draft views in a consultative document. We have set out below our general observations, specific thoughts, suggestions and responses to the consultation questions.

Consumer Focus

Consumer Focus is the new statutory organisation campaigning for a fair deal for consumers in England, Wales, Scotland, and, for postal services, Northern Ireland.

Consumer Focus is the voice of the consumer and works to secure a fair deal on their behalf. It was created through the merger of three consumer organisations – energywatch, Postwatch and the National Consumer Council (including the Welsh and Scottish Consumer Councils). The new approach allows for more joined-up consumer advocacy, with a single organisation speaking with a powerful voice and able to more readily bring cross-sector expertise to issues of concern.

There are a number of areas identified in the Draft Annual Plan that are of interest to Consumer Focus' work. Consumer Focus' broader work across communications issues is identified in our Work Programme to March 2010:

http://consumerfocus.org.uk/en/content/cms/About_Us/Work_planning/Work_planning.aspx

Rating Regulators

As you know, Ofcom was one of six regulators assessed by Consumer Focus in its Rating Regulators study, which considers regulatory performance from the consumer perspective. Our findings will be published in a report issued on 26 February. Ofcom comes out well overall in our analysis, although we have suggested room for improvement in some areas. We would welcome the development of an action plan by Ofcom to address the points raised in our study.

The importance of the consumer in Ofcom's work

Ofcom has clear principal duties to further the interests of citizens and consumers in the area of communications and we welcome the discussion of these duties in the Draft Annual Plan.

We are pleased to see the discussion contained in paragraphs 2.10-2.13 of the importance of the principal duties, balancing the interests of consumers and citizens and the conflicts that can sometimes occur when trying to strike this balance.

Strategic framework

We recognise the need to frame strategic targets within the structure of the principal duties to advance consumer and citizen interests, and to balance this against clear targets. However, we think some further detail is needed about the weighting, importance and internal prioritising of these issues. In making this observation, we note the graphic representation of Ofcom's key work areas for 2009/10 at paragraph 1.12, and the description of the four areas of focus set out in paragraph 1.8.

Given the overarching nature of Ofcom's principal duties to further consumer and citizen interests, we note that this graphic representation shows the 'Protecting and informing consumers' key work area as sitting in separate 'box', rather than running through the other key work areas (Spectrum, Public Interest, and Competition and Innovation). Although we appreciate that these areas require specialist expertise, knowledge and resources, Consumer Focus would be interested to see the 'protecting and informing consumers' work represented as running throughout Ofcom's key work areas for 2009/2010 in a more integrated and thematic way, in addition to as a dedicated, 'stand alone' area of work .

We would welcome some additional detail regarding the proposed priorities for 2009/10 identified at paragraph 1.14, particularly whether there is an internal weighting within this list of ten priorities, as stated above.

Mobile

We are pleased to see that mobile (in the context of Competition and Innovation) appears as a high-priority area in Ofcom's key work for 2009/10 in the Draft Annual Plan. Consumer Focus identified in its Work Programme to March 2010 (at item 8.5) that it would scope consumer needs and the opportunities to influence improvements in the GB mobile phone sector throughout 2009/10, working to inform and complement work already underway in this area, whilst avoiding duplication. We therefore welcome the prioritisation of work in this area and look forward to further detail about Ofcom's planned work.

We note the question posed at paragraph 5.24 about scope for deregulation, competition and innovation:

5.24 As a result of our first consultation, and further research, we aim to publish proposals aimed at answering the final question of our initial scope for this assessment: What is the scope for deregulation, competition and innovation in the mobile sector?

We appreciate Ofcom's statutory obligations in this area. We would like to see greater discussion of the purposes, aims and objectives in terms of consumer and citizen interests in the context of this issue. In this way, the question might have been posed: in seeking to advance the interests of consumers and citizens, what scope is there for deregulation, competition and innovation to help deliver such advances?

In general, we welcome Ofcom's focus and further consideration of the issues highlighted in the first consultation on the Ofcom *Mobile Sector Assessment*, and the discussion of the broader mobile issues Ofcom plans to take forward (paragraphs 5.22-5.25). We look forward to further information about this work.

Promoting media literacy

We welcome a focus on empowering consumers and citizens in their consumption of media products. However, we would like more detail at paragraphs 5.39-5.45 spelling out how this will be advanced. In particular we are interested to see how Ofcom plans to assess the differential ways in which consumers interact with or consume media.

Developing and enforcing consumer protection policies

We welcome Ofcom's focus on consumer protection (paragraphs 5.46-5.49). We would be interested in more detail about the continuing work in the mis-selling and switching areas, particularly regarding whether this work will consider if complexity in products and services plays a part in the consumer experience of these issues.

We recognise that mis-selling may become more of a problem as products become more complex. However, we would welcome a further review of that very complexity. As has been seen in financial services, complexity can be used to mask underlying poor performance or indeed an underlying industry structure that serves consumers poorly. We would welcome Ofcom looking at whether the citizen and consumer interest is served by increasing complexity in communications product and service provision.

Regulation of Post

If Ofcom's future regulatory remit is to include post, Consumer Focus would look forward to seeing specific proposals on how Ofcom intends to deal with the regulatory recommendations contained in the Hooper report. It would be important for Ofcom to engage with consumer organisations on its proposals. Consumer Focus would also look forward to receiving clarity about the transfer of Postcomm's section 42 functions in relation to the PO network, including the annual report on the PO network to the Secretary of State which we hope would continue.

Consumer Focus would expect Ofcom, as its primary objective, to ensure that the universal service is maintained, which is a key challenge. Ofcom would need to understand consumer requirements from the universal service and to balance these against commercial imperatives.

Engagement with stakeholders

While we welcome the generally clear, accessible presentation of the report, we note that there are relatively few mentions in the text of mechanisms that would enable Ofcom to report back to stakeholders on its progress in meeting its targets. We would welcome a note in the strategy that set out how Ofcom proposes to report back on its strategy implementation and, in particular, how Ofcom proposes to consult and engage with all stakeholders.

We would also welcome an indication of whether a move towards greater use of accessible language and defined technical terminology will form part of Ofcom's 09/10 work.

Consultation questions

1. *What are your views on the continued relevance of Ofcom's three-year strategic framework for the proposed work programme in 2009/10?*

As discussed above, we would like more detail about how the key work areas will be prioritised and where the principal duties in respect of citizens and consumers sit within in this framework. We would like to see consumer and citizen interests work running across the three-year strategic framework and the proposed work programme for 2009/10, avoiding a situation where consumer and citizen interests work falls into a silo-like remit.

2. *What are your views on Ofcom's proposed policy work programme and top priority areas for 2009/10?*

We welcome the willingness of Ofcom to set out a proposed work programme in this document. As discussed above, we are concerned that the principal duties of Ofcom in respect of consumers and citizens are not relegated in Ofcom's overall policy, research, investigation and enforcement work.

As an overall comment, we note that the Draft Annual Plan states at paragraph 1.8:

In developing our proposed work programme for 2009/10, we have used the three year strategic framework, which we set out in 2006. We plan to focus on four areas:

- *driving forward a market-based approach to spectrum;*
- *promoting competition and innovation;*
- *ensuring the delivery of public interest objectives; and*
- *improving empowerment, protection and enforcement for citizens and consumers.*

We would welcome a strategic focus that integrated consumer and citizen interests throughout key work areas. We would suggest incorporating additional consumer focused goals, perhaps including a plan to deliver on the following stated objectives:

- *improving the empowerment of consumers and citizens in relevant markets and debates;*
- *protecting citizens and consumers where necessary and taking firm enforcement action to support this effort;*
- *ensuring public interest objectives are protected and delivered upon;*
- *driving forward a market-based approach to spectrum allocation to ensure greater innovation and service provision for consumers; and*
- *promoting consumer-focused competition and innovation.*

3. What are your views on the elements which should be contained within Ofcom's new strategic framework?

As we advocate above, we would like to see a strategic framework that integrates consumer and citizen interests across Ofcom's wide work remit. We would like to see a framework that aims to deliver on the principal duties of promoting consumer and citizen interests by adopting the focus outlined in our response to question 2 (above).

In terms of broader goals, we see a framework in which consumers are a central consideration working to ensure that communications markets work well for consumers and citizens – as well as for industry – during the immediate, challenging years ahead.