

Section Three

Approach to regulation

- 3.1 Ofcom's approach to regulation has been to reflect the fast-moving nature of the communications sector. The take-up of new services since Ofcom began operating in 2004 provides just one example of how quickly communications markets are changing. The number of households with digital TV has increased by 40% to 70% of homes; the percentage of households with portable digital music players has doubled to 35%; and the number of broadband connections now stands at over 11m, an increase of 80%.
- 3.2 The speed at which the communications sector is changing makes it especially important for us to have clear guiding principles. We seek to ensure that our activities are transparent, proportionate, consistent, accountable and targeted. These principles of better regulation inspired the development of a more specific set of regulatory principles, which are set out in figure 3.1.

Figure 3.1: Ofcom's regulatory principles

When we regulate

- Ofcom will operate with a bias against intervention, but with a willingness to intervene promptly and effectively where required.
- Ofcom will intervene where there is a specific statutory duty to work towards a public policy goal that markets alone cannot achieve.

How we regulate

- Ofcom will always seek the least intrusive regulatory methods of achieving our policy objectives.
- Ofcom will strive to ensure that our interventions are evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome.
- Ofcom will regulate with a clearly articulated and publicly reviewed annual plan, with stated policy objectives.

How we support regulation

- Ofcom will research markets constantly and will aim to remain at the forefront of technological understanding.
- Ofcom will consult widely with all relevant stakeholders and assess the impact of regulatory action before imposing regulation on a market.

- 3.3 Our bias against intervention is designed to minimise the risk of unintended consequences which could distort or stifle the development of competitive and rapidly changing markets.
- 3.4 Where intervention is required, however, we will intervene quickly and decisively. The emergence of new services and technologies creates an increased risk that

consumers will fall victim to scams, such as internet rogue diallers. Taking firm action to prevent such activities is vital in ensuring that consumers have the confidence to benefit from the increased flexibility and choice which convergence brings.

- 3.5 To ensure that regulation helps rather than hinders the development of markets, we also aim to use the least intrusive regulatory mechanisms. An example of this is the creation of a Telecoms Adjudicator to deal with disputes about Local Loop Unbundling (LLU). This meant that problems with the implementation of LLU could be dealt with in a pragmatic and efficient way, without the development of the market being held back by lengthy formal investigations.
- 3.6 The rapid pace of change in the communications sector makes it vital that our decisions are underpinned by a clear understanding of people's attitudes and of how markets are developing. Our commitment to evidence-based decision-making is underpinned by a comprehensive programme of market research, and we publish regular reports on the communications market.
- 3.7 We also recognise the importance of consulting the full range of our stakeholders, both informally as policy options are being identified and refined, and formally through the publication of consultation documents.
- 3.8 Carrying out impact assessments helps ensure that we follow good practice when making policy decisions. An impact assessment involves being clear about the issue which needs to be addressed, identifying a range of policy options and analysing the impacts which they would have. Parliament gave us a principal duty to further the interests of citizens and consumers. This makes it particularly important for us to understand how our decisions will affect them.
- 3.9 We are all citizens *and* consumers. As consumers, we participate in the marketplace, acquiring or using goods and services. In short, we seek what is good for ourselves. As citizens, we are concerned not with our narrow individual interests, but with what is good for society. The interests of citizens can be determined by Parliament or through some other process of democratic authorisation. For example, to enable citizens to provide input to our decisions we have used deliberative research processes that allow groups of citizens to weigh up alternative options.
- 3.10 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 higher-speed broadband 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. It would also benefit consumers who would not otherwise be able to receive higher-speed broadband, such as those living in remote parts of the UK. As consumers, some of us might have to pay more for services that would have been available to us anyway, but we would benefit from a society which enjoys more widespread access.
- 3.11 In making policy decisions, it is important that we identify both the interests of citizens and the interests of consumers. We can then understand and make clear the trade-offs which our decisions often involve. This will be especially important as we respond to converging, and increasingly competitive, markets. For example, not all new services will be made available to everyone, meaning that the impact of convergence could be uneven. We will therefore need to work with government to determine which services society believes should be accessible more widely, bearing in mind that this may mean some consumers have to pay more for those services than might otherwise have been the case.