

Draft Annual Plan 2007/08

http://www.ofcom.org.uk/condocs/annual_plan2007/annual_plan200708

The Purpose of this OSAB document is to respond to the Ofcom draft Annual plan 2007/8 and its related consultation questionnaire covered in annex 4. I have limited the OSAB comments here to matters related to OSAB remit and given emphasis mainly to the OFCOM areas of strategic intent, new priorities and ongoing priorities.

1. Introduction

The Ofcom annual plan for 2007/8 gives a very good overview of priorities from a Communications industry viewpoint, but with a strong emphasis on competition within Communications and consumer protection mechanisms. However, there are three overarching themes that perhaps have less attention than were expected for this time frame in the following areas:-

A. Enterprise customer requirements – it may be felt that the needs of business can be handled through purchasing power alone. The needs of business customers from a Spectrum point of view and perhaps customer choice of Communications perspective do not seem well covered. This also could include the wholesale choice available to the major Communications service providers.

B. Needs of key Sectors – the long term nature of an Annual plan with its two to three year strategic priorities lends itself to describing how Applications are being used in key Sectors. The opportunity for joint long term Communications needs analysis and joint R&D for such Sectors seems to be missing. Why not consider whether joint Sector reviews particularly for enhanced spectrum management in Transport, Environment, Health and Defence – perhaps one Sector per year? This will also move the emphasis in the plan away from the Communications industry to UK needs from Communications.

C. International Benchmarking – one of the areas of evidence gathering that is implied but not stated is that the Communications policy for the UK should help with UK competitiveness. As a matter of strategic intent it would seem very important that this is stressed and given more emphasis for all the work that is being covered within the timeframe of this plan. The key regions for inclusion should be north East Asia, EU, and North America.

2. Strategic intent

The five priorities shown on page 5 Figure 2.1 are shown as policy priorities. It is not clear how the proportion of efforts would be divided between these, but on the basis of where Ofcom can effect pragmatic change, it would seem that from OSABs perspective that these priorities should be split broadly as:-

- A. Driving forward market based approach to Spectrum – 30%
- B. Promoting competition and innovation in converging markets – 30%
- C. Delivering public outcomes as platforms and services converge – 10%
- D. Improving compliance and empowering consumers – 10%
- E. Moving towards more consistent legal and economic frameworks – 20%

A - Is given a high percentage due to the large amount of work that is seen as needed in the next two to three years. This should include but not be limited to point 1C above and the influence on international spectrum policy.

B - Is also given a high percentage as it is believed this is Ofcom's core role. However, OSAB would be concerned if the innovation was limited to the Communications industries and not considered jointly with sectors as suggested in 1B above.

C - Is also a core task of Ofcom but the ability of Ofcom to deliver in this area is more constrained to one of encouragement by industry to adopt best practice. The impact of the internet and other forms of new media may also be beyond the current Ofcom remit.

D - As with C, this has a low percentage but we think working with other regulators on compliance and making enforcement more effective in this process will be key.

E- The move towards Better Regulation principals would suggest that some regulatory measures are not just about consistency but are also about proportion and deregulation. The EU impact and working with other regulators may be resource intensive initially but could be given more emphasis to keep this down to a 20% level.

There is also a strong case for EU spectrum regulators to focus on critical infrastructure investment or pan European services where pure spectrum management on a national basis will not work (E.G defence, security, economies of scale)

3. New Priorities

These new priorities are less of a surprise but we would expect the resources to be coupled with the percentages shown for A, B, C, and D above.

A - a lot of spectrum liberalisation and trading work already appears well under way, with the DDR consultation and previous spectrum announcements made in quarter 4 2006. OSAB will respond separately to the DDR consultation but are a little concerned that some of the liberalisation in the UK may not be matched at an equivalent pace in other EU countries. It would seem wrong if this more UK open approach is not used to seek reciprocation and the principal of equivalence of access and information from other EU member states.

B - the emphasis on convergence seems to overlook the trend towards digital Applications which may require joint sector reviews to encourage a broader digital UK. Without this, some of the new sources of market power may not be well understood.

C - it seems that the areas to protect viewers and listeners that may need the most attention may be associated with internet/new media which may not fully be under Ofcom control.

In order to promote access and inclusion, the whole area of Content rights and associated DRM/costs seem to be missing. With the increased availability of spectrum and networks in a digital age it is likely that content rights become a more significant "bottleneck" that will need more overt Ofcom activity. There will also be a changing environment represented by increasing user generated content.

There are excellent, but insufficiently recognized, business opportunities in designing for inclusion. While 'market forces' decide whether particular products/systems/services succeed, good sales figures are not necessarily a valid indicator of a good match with the requirements of the individual citizen. This is particularly the case in regard to many disadvantaged groups. Increased inclusion can only result from the application of a genuinely citizen-centric approach which engages people in design decision-making. Such an approach gives rise to a better understanding of the real needs, wants and aspirations of disadvantaged individuals/groups and is essential to develop innovations that will prolong independent living and improve quality of life. For example, more differentiated profiling of older people can only come through engaging older people directly in seeing the possibilities and being involved in design and development processes. To fulfill its role described above, requires that Ofcom promotes citizen engagement and participation and encourages business to recognise the crucial potency of innovation in tackling the

needs of the UK's ageing population and excluded groups.

D - the media literacy activity would seem to need better efforts between Ofcom and industry rather than Ofcom alone. This outreach to industrial customer care and to partnering with other regulators should be given more attention.

We support the emphasis on improving enforcement but would prefer to see this handled with other regulators in a co-regulatory model and with more orientation with partnering with key network licensees.

The inadequacy of public awareness and understanding of how best to utilise communications technologies is indeed a concern. To exercise choice and to protect themselves requires citizens to be in an informed position. Further, citizens can only demand or influence innovation if they have an understanding of the potential benefits and impacts of it. There are many tools and methods available such as envisioning techniques to enable people to see the outcomes and impacts that are possible. Ofcom has a legitimate role in encouraging adoption of the emerging good practice around the world –and could do this by showcasing relevant case studies and scenarios to promulgate the learning.

The notion of 'consumer choice' has validity only to the extent that consumers understand the implications of making particular choices (eg regarding ease of use, cost, reliability, performance and sustainability). The dearth of such understanding accounts for many abandoned or underused consumer purchases. Building this capacity among citizens is therefore crucial if the concept of consumer choice is to be authentic.

4. Ongoing Priorities

OSAB also feel that the ongoing priorities should be tilted towards the percentage priorities shown in section 2 above. The spectrum management approach appears to be going in this direction but the promotion of competition in converging markets does not seem to fully take into account the points mentioned in section 1 above.

In order to ensure competition and efficient investment in Networks it is far better to have a policy framework agreed well in advance which illustrates indirect competition but also is coupled to real demand forecasts – these could come out of joint sector reviews as indicated under 1 above. The evidence gathering and research processes are also worth a review in terms of market information accuracy, cost effectiveness and partnering approaches.

In order to maintain diverse and high quality content the emphasis will need to move to more of a cross platform

model where new platforms such as internet and wireless access are given more at least equal emphasis. It is unlikely that this can be addressed without a stronger understanding of the Public Service Publisher concept and the wider content rights regime already referred to above.

To ensure consumers can switch providers quickly and easily actually needs to focus on areas where they genuinely need to or cannot easily switch. This applies more to pay TV and next generation networks than it does to telephony in all its forms, and seems overstated in the Ofcom ongoing priorities.

It is great to see an emphasis on reducing regulation and minimising administrative burdens, but there seems to be no score card to indicate a measure of success. The same applies to the ongoing priority of maximising impact on international policy development. For this, it would seem important that Ofcom develop a much stronger axis or partnership with the UK Cabinet office to ensure that UK competitiveness is a higher consideration than for example matters of pure spectrum management.

5. Conclusion

OSAB feel that the Ofcom Annual plan 2007/08 including its strategic framework represents a good way forward. However, as indicated above we feel there are some gaps in coverage and emphasis that will need more specific attention in the next two to three years.

Within current Ofcom resource constraints it will also be important to work with other UK regulators to evolve in the direction of Better Regulation and to work with industry to help the communications industry progress to meet all customer needs and sustainable investment.

OSAB would also like to see some recognition in the Annual Plan of the increasing diversity of content provision.

Annex 4

Consultation Questions and Answers

1. *What are your views on Ofcoms proposed three year strategy policy framework?*

A1 – See conclusion and back up material above.

2. *What are your views on Ofcom's proposed priorities for 2007/08?*

a – What are your views on the work Ofcom should do in 2007/08 to drive a market based approach to spectrum?

A2a - It represents a good start but OSAB have remaining concerns that there needs to be a more strategic approach to dealing with:

- i) UK competitiveness
- ii) EU reciprocation on spectrum management
- iii) An ongoing need to monitor critical infrastructure requirements and economies of scale where best applied strategically on an international base
- iv) A need to assure equivalence and access to other spectrum information in partner EU countries equal or better to Ofcom's approach.

b – What are your views on the work Ofcom should do in 2007/08 to develop new ways to deliver public outcomes as platforms and services converge?

A2b – Most of this is covered above but there is insufficient attention spent on enterprise customer requirements, key Sector needs analysis and international benchmarking. Also working better with other regulators and with the commercial customer care activities will require stronger partnership models.

c – What are your views on the work that Ofcom should do in 2007/08 to improve business compliance and empower consumers?

A2c – See above for more detailed comments. Our primary concern would be that to improve enforcement by working better with other regulators (e.g. ICSTIS, ASA) could be a more explicit target.

d – What are your views on the work which Ofcom should do to promote competition and innovation in converging markets?

A2d - OSAB see this as a core Ofcom activity but based on the above material we are concerned that innovation is better based on customer requirements and that Ofcom should really be working on joint needs analysis as indicated above.

3. *Are there additional areas where Ofcom should reduce regulation and minimise administrative burdens?*

A3 – It is likely that regulation has to be looked at on a holistic basis with other regulators as the Communications industry is rapidly becoming a key enabler for the digital economy and many spectral Applications. This will require a stronger approach to co regulation, but only based in areas where market failure has demonstrably occurred. It is less clear that Ofcom should devote a large amount of attention to media literacy. It is clear though that Ofcoms trajectory towards spectrum liberalisation and trading is to be supported. It is also of concern if Ofcom do not work

together more fully on a European strategic spectrum management framework, where at least critical infrastructure can be treated more harmoniously with at least a common EU spectrum management approach.

The evidence base for Ofcom work should also take inputs from market research undertaken in industry rather than relying on its own limited funds and on occasion too many expensive consultations