

17 February 2010

Jakub Dubaniewicz
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Dear Mr Dubaniewicz,

Consumer Focus is grateful for the opportunity to comment on Ofcom's draft Annual Plan for 2010/11.

Over the past 12 months, Consumer Focus has welcomed a positive level of engagement with Ofcom, including:

- seminars and events, such as the presentation of Harris Interactive research on consumer issues in the mobile phone sector, hosted by Consumer Focus in June 2009
- a wide variety of meetings on subjects including Digital Britain, digital TV switchover, spectrum, telephone numbering, switching and mobile number portability
- information sharing and advice regarding Consumer Focus publications, including during the preparation of the consultation paper *Mobile: What's the problem?* in April 2009
- a presentation to the Consumer Focus Scotland Board
- a number of regular and senior meetings between Ofcom and Consumer Focus Wales

Consumer Focus has responded to several Ofcom consultations over the past 12 months, including consultations on mobile number portability, premium rate services, quality of service, access and inclusion, media ownership rules, mobile call termination rates and Ofcom's Mobile Sector Assessment.

Our *Rating Regulators* report, published in March 2009, commended Ofcom for their presence in the devolved nations, and both Consumer Focus Scotland and Consumer Focus Wales have engaged with Ofcom in Scotland (and Wales) on a regular basis over the past year. We welcome these positive working relationships.

Consumer Focus is supportive and encouraging of Ofcom's commitment to extensive stakeholder engagement. We have responded to several of the consultations that Ofcom has issued in the past year, though we have some concerns that smaller stakeholders, particularly those representing specific groups of vulnerable or disadvantaged consumers, may not have sufficient resources to provide detailed written responses to multiple consultations. This is likely to be less

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of an issue for commercial stakeholders, who may be in a position to allocate greater resources to communicating with Ofcom. Where a limited number of consultation responses from consumer organisations are received, an understanding should follow that this may be a result of their limited resources, and consideration should be given to other forms of engagement that could be arranged to gather views, feedback and expertise. In some cases, stakeholder consultation events have been held to provide an alternative means of engagement; Consumer Focus encourages Ofcom to continue, and expand where appropriate, this approach.

The remainder of this response will address some of the items proposed for inclusion within Ofcom's 2010/11 work programme.

The draft Annual Plan makes reference to the progress that Ofcom intends to make in tackling **broadband and mobile not-spots**. Poor network coverage has been identified in Consumer Focus's research as a key area of detriment for mobile phone consumers¹, so we support Ofcom's proposal to address this. There is little detail in these draft proposals over what form this work will take; we would welcome further clarity in the final Annual Plan. As well as addressing not-spots at the infrastructure level, for example by encouraging network investment, Ofcom should improve the facilities available to consumers to check mobile coverage. Consumer Focus has concerns that the lack of a robust, independent coverage checker hinders consumers' ability to make informed decisions when choosing a mobile phone provider and urges Ofcom to act to address this need. We are supportive of the work of the Communications Consumer Panel to promote the right of consumers to return phones if coverage is unacceptable; the issue of 'right to return' is highlighted in the Best Deal campaign that Consumer Focus is jointly carrying out with Ofcom, and we welcome this cooperative working.

Further to the value Ofcom can add through the use of consumer empowerment tools, the draft Annual Plan refers to both the continuation of the **accreditation scheme for price comparison websites** and the provision of quality of service information to consumers. Consumer Focus believes the accreditation scheme has the potential to provide considerable value to consumers but is concerned that in the case of mobile phones, only one switching site has been approved under the scheme to provide accurate best deal information. Consumer Focus research found that only one in five consumers found it easy to navigate the mobile phone market, with 67 per cent of respondents feeling that there were too many mobile tariffs in the market place². Rather than continuing the scheme on a 'status quo' basis, greater effort should be made to realise the value that it can offer consumers, through promotion of the scheme to both consumers and non-accredited website operators. Action must also be taken to improve the availability and access of impartial, high quality price information to the one in three consumers who do not use or have

¹ In responses to a consultation run by Consumer Focus in 2009, complaints about poor mobile network coverage were raised more than any other issue. A summary of the consultation findings was included in the publication *Consumer Focus priorities in the mobile phone sector* (October 2009):

<http://www.consumerfocus.org.uk/assets/1/files/2009/11/ConsumerFocusprioritiesinthemobilephonesectorOctober2009.pdf>

² Further details of this research can be found in the above publication

access to the internet. Similarly, there is currently no accredited website providing an online calculator for the 57 per cent of mobile users that use pay-as-you-go deals. Consumer Focus would welcome further engagement with Ofcom in this area.

As expressed in our most recent consultation response to Ofcom's quality of service review, Consumer Focus is disappointed that Ofcom has not taken a more pro-active approach to the publication of clear, accessible, comparable **quality of service information** to consumers. We believe that, alongside comparable information on price and mobile network coverage, quality of service information is an important resource for consumers to use when making switching decisions. Ofcom's decision to withdraw the Topcomm Direction without clear plans for what should replace it has left an information vacuum and an uphill struggle to convince the industry of the value of Ofcom collecting and publishing this information. The proposal to give consumers access to quality of service information should be taken forward as a matter of priority.

A number of work projects related to **switching** are proposed, including on rollover contracts, mobile number portability and the effectiveness of switching processes. On the first two of these, Consumer Focus has engaged with Ofcom in the past 12 months, and will continue to do so, particularly regarding the serious concerns we have around the impact of rollover contracts on consumers.

Ensuring that switching processes are effective and barriers to switching are removed should be central to the work of Ofcom. This should include an awareness that switching to get the best deal may not only mean changing provider, but can also involve changing to a different tariff or package with the same provider. As referred to above, Consumer Focus will shortly be undertaking a joint mobile Best Deal campaign in conjunction with Ofcom. We are pleased to be able to carry out this collaborative work and are happy to participate in joint working with Ofcom where this can be shown to achieve greater impact and value for consumers. Particular research must be undertaken to ensure not only that more consumers are switching, but that they manage to switch to a better, if not the best, deal for them. An investigation by the energy regulator Ofgem published in October 2008 produced the concerning results that, when switching, around a third of consumers moved on to a worse energy deal.

The draft Annual Plan sets out Ofcom's proposed work around **consumer protection from harm and unfair practices**. We are concerned that, while Ofcom has been carrying out effective work in this area in recent years, confidence in the telecoms sector appears to reflect a poor consumer experience. The 2009 Consumer Conditions Survey reports that less than half of mobile phone consumers and just over half of fixed-line consumers have high levels of confidence that their rights are protected in those markets. Consumer Focus urges Ofcom to prioritise this work and will welcome engagement with any reviews of current regulations that take place.

An important element of this protection is the information that is given to consumers to make them aware of the unfair practices that they may encounter when engaging in the market. Consumer

Focus would welcome a commitment from Ofcom to explore options around the provision of this information, including options such as telephone access and access via information in stores. Research suggests that information at the point of sale would be particularly valuable to consumers; according to the 2009 Consumer Conditions Survey, nearly two-thirds of recent contacts across all markets surveyed took place face-to-face in a shop. In the fixed and mobile telecoms market, a high number of contacts were made by phone, while in both cases, a relatively low level of contacts took place online, reflecting the continuing importance of non-internet-based information sources.

The draft Annual Plan includes an intention to promote **effective competition in telecoms**. For Consumer Focus, a crucial issue related to competition is the impact of the potential merger of Orange and T-Mobile. Ofcom will be aware that Consumer Focus has written a joint letter with the Communications Consumer Panel to the European Commission calling for the merger to be reviewed in the UK, and that the Office of Fair Trading has submitted a request to be given jurisdiction to review the merger by the Commission. Consumer Focus intends to monitor closely the merger process, engaging where appropriate to represent the interests of mobile consumers. We would expect Ofcom to take a close interest in the joint venture, providing expertise through its detailed knowledge of the UK mobile sector and highlighting any distinctive characteristics of the domestic mobile market that could be affected by the merger.

Finally, Consumer Focus looks forward to maintaining a positive working relationship with Ofcom, continuing to liaise on relevant pieces of work and building on existing channels of information sharing where possible.

Yours sincerely,



Audrey Gallacher

Head of Company Performance and Consumer Experience