reaching out

The consumer perspective on communications in Scotland
About the Scottish Consumer Council

The Scottish Consumer Council (SCC) was set up by government in 1975. Our purpose is to promote the interests of consumers in Scotland, with particular regard to those people who experience disadvantage in society. While producers of goods and services are usually well-organised and articulate when protecting their own interests, individual consumers very often are not. The people whose interests we represent are consumers of all kinds: they may be patients, tenants, parents, solicitors’ clients, public transport users, or simply shoppers in a supermarket.

Consumers benefit from efficient and effective services in the public and private sectors. Service-providers benefit from discriminating consumers. A balanced partnership between the two is essential and the SCC seeks to develop this partnership by:

- carrying out research into consumer issues and concerns;
- informing key policy and decision-makers about consumer concerns and issues;
- influencing key policy and decision-making processes;
- informing and raising awareness among consumers.

The SCC is part of the National Consumer Council (NCC) and is sponsored by the Department of Trade and Industry. The SCC’s Chairman and Council members are appointed by the Secretary of State for Trade and Industry in consultation with the Secretary of State for Scotland. Future appointments will be in consultation with the First Minister. Martyn Evans, the SCC’s Director, leads the staff team.

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The SCC assesses the consumer perspective in any situation by analysing the position of consumers against a set of consumer principles.

These are:

ACCESS
Can consumers actually get the goods or services they need or want?

CHOICE
Can consumers affect the way the goods and services are provided through their own choice?

INFORMATION
Do consumers have the information they need, presented in the way they want, to make informed choices?

REDRESS
If something goes wrong, can it be put right?

SAFETY
Are standards as high as they can reasonably be?

FAIRNESS
Are consumers subject to arbitrary discrimination for reasons unconnected with their characteristics as consumers?

REPRESENTATION
If consumers cannot affect what is provided through their own choices, are there other effective means for their views to be represented?

We can often make our publications available in braille or large print, on audio tape or computer disk. Please contact us for details.

This is a shortened version of the discussion paper, Consumers and Communications in Scotland (January 2002). Copies of both reports can be downloaded free of charge from our website, or are available from our office.

Consumers and Communications in Scotland £14.00
Reaching Out £10.00
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Introduction

In relation to the implications of the communications market for consumers in Scotland, there are key issues surrounding the economic and social environments, and the realities of cross-border regulation and its interaction with the devolved political environment. These issues must be addressed if Scotland's consumers are not to lose out in the information society.

According to the government, the pace and scope of change being seen in the information technology sectors is so important that it is “fuelling a democratic revolution of knowledge and active citizenship”.1 These changes are transforming the way we relate to each other. Communications technology is changing our leisure time, how we shop, how we work, bank and seek medical care. It may eventually dictate how we vote.

For almost everyone this revolution is a dizzying challenge. The technologies involved are complex. Wrong choices are easy and cost-effective choices are not always obvious. As communication 'platforms' change, so too does the content carried. New services – such as Internet banking – are only available to those with access to the technology. Some goods, services and even job opportunities are only available on the Internet.

In the colourful language that has greeted the information revolution, it is perhaps easy to overlook the fact that Internet users and digital television subscribers are still a minority. Scotland's media are dominated by relatively few major news providers and a significant number of people are likely to be excluded from the broadband network for many years to come.

These are just some of the changes that have transformed our experience of modern communication and illustrate how critical this market is for practically everyone either directly or indirectly. In Scotland, the market is particularly critical and issues around universal service and access to technology are particularly relevant.

Apart from the central belt, Scotland has a very scattered population of rural communities and large geographical tracts of remote countryside

1 DTI/DCMS, A New Future for Communications, Dec 2000
where small communities and individual households exist in isolation. Access to an effective communications market is an economic and social lifeline and a necessity if people are to participate in modern society. The knowledge economy is the key to improving access to education and employment opportunities, the delivery of services and the subsequent injection of life into local economies. Having the infrastructure to make this happen, and at the right time, will be crucial.

The effects of the market are just as critical in all areas in Scotland, even where the infrastructure exists. Scotland has some of the most deprived communities in Europe and higher proportions of unemployed people and low-paid workers than in the rest of the UK. The irony of the information society is that disadvantaged consumers who cannot afford to access the new technology face further marginalisation.

So what practical choices do people in Scotland have in relation to communications? And how can people exercise their choices in order to take full advantage of them?

The recent Communications White Paper analysed the UK communications market and set out the government's vision for making that market work in the interests of all stakeholders and in the context of global developments. The vision includes the establishment of Ofcom, a new unitary regulator.

This report gives the consumer perspective on the different and converging strands of the market in Scotland. Overall, our evidence suggests that the knowledge revolution is having less of an impact in Scotland than it is in most of the UK and that consumers are finding it harder to exploit new technologies. We highlight how the market is working (or not) for consumers and look at the key areas of telephony,

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2 Lothian Anti-Poverty Website, www.lapa.org.uk
3 DTI & DCMS, A New Future for Communications, Dec 2000
Internet access, broadband provision and broadcasting. We highlight what needs to be done to make the market work better and what structures need to be in place to ensure that the consumer voice in Scotland is heard.

In relation to the implications of the communications market for consumers in Scotland, there are key issues surrounding the economic and social environments, and the realities of cross-border regulation and its inter-action with the devolved political environment. These issues must be addressed if Scotland’s consumers are not to lose out in the information society.
Regulation of telecommunications and broadcasting is reserved to Westminster and it is impossible to examine communications policy in the UK and Scottish context without reference to the government's White Paper - A New Future for Communications. The White Paper is not only important because it will shape communications in the UK for the foreseeable future. In the Scottish context it is also the first major government policy initiative on communications since devolution. As such, it tackles a vital policy area that is reserved, yet cuts across key priority areas for the Scottish administration - on education, economic development, area regeneration and social inclusion. A legitimate question for Scottish consumers is whether the priorities and objectives of the White Paper are right for Scotland.

Current regulatory structures at UK level which will be dismantled under the new regulatory regime include:

- **OfTEL**, the regulator for the UK telecommunications industry. OfTEL has a statutory consumer advisory committee for Scotland with which it has to consult.

- **The Broadcasting Standards Commission** which regulates standards and fairness in broadcasting. The Commission is held accountable by Parliament and it has a statutory Member for Scotland.

- **The Independent Television Commission (ITC)** which regulates commercial television in the UK independently of government. The ITC has a Scottish Viewer Consultative Council and an office in Scotland, and the Commission has a statutory Member for Scotland.

The BBC is currently self-regulating and will remain so after the establishment of Ofcom.
The UK regulatory structure has to operate within a European Union framework which is aiming to introduce consistency in regulation in reflection of technological convergence, increasing competition, universal service issues and the onset of the single market. The European Commission also has a strategy (eEurope) to accelerate the uptake of digital technologies across Europe and ensure that all Europeans have the necessary skills to use them. More importantly, the eEurope project has been establishing a series of new benchmarks to “enable member states to compare their performance and identify best practice.”

It is clear therefore that communications is an important element in the success of policy objectives for devolved areas of responsibility. The Scottish Executive, however, has to operate within the legislative framework put in place by the European Union and Westminster.

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4 Communication from the Commission to the Council and European Parliament. The eEurope 2002 Update. 7th and 8th December 2000
THE MARKET

As in the rest of the UK, there is a wide range of suppliers in the telecoms market in Scotland. As well as BT, many households in urban areas can opt for a cable telecoms provider. Competitors to BT can also offer a complete rental and calls service over BT’s lines and many people use indirect operators for specific calls. All four mobile networks are available in most urban areas throughout Scotland and, as in the rest of the UK and Europe more generally, mobile penetration has exploded over the past few years. The introduction of prepayment packages has been largely responsible for this sudden upsurge in penetration. A large majority of residential mobile users now use phones with prepaid packages and 71% of Scottish homes have at least one mobile phone.5

However, an increase in the number of players in the market and the associated pace of technological development will not in themselves guarantee an effectively competitive marketplace for consumers. In Scotland, there are particular problems in the residential market:

- The market continues to be dominated by BT, the incumbent service provider. Oftel recognised BT’s dominant position in the residential market last year when it announced the extension of the retail price controls that have applied to BT’s licence since privatisation in 1984. Even with the use of price controls to protect residential customers, BT has been able to exploit its position as the incumbent operator. Its dominance still distorts the market and prices are higher than they should be if the market were truly competitive. In publishing its decision on the future of the price control, Oftel said that ’BT’s returns on calls, assessed on the basis of BT’s cost allocation, remained substantially above a reasonable level’ and that the ’overall level of profitability exceeded what BT requires to cover its full costs and make a reasonable return’.6

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5 Oftel, Consumers’ use of mobile telephony. Summary of Oftel residential survey July 2001
6 Oftel, Proposals for Network Charge and Retail Price Controls from 2001, February 2001
• The geographical clustering of cable networks has meant that large tracts of rural and semi-rural Scotland are still without access to cable services and remain particularly reliant on BT.

• Despite the introduction of a range of measures by the regulator, OfTEL, to remove barriers to effective competition across the UK, consumers in Scotland are least likely to switch their supplier.

• One of the most formidable barriers facing residential consumers is the difficulty in comparing phone company prices. Tariff structures and discount schemes, coupled with different rental packages and minimum charges, make it almost impossible for consumers to make meaningful calculations. In response to consistent pressure from consumer groups OfTEL has also introduced a scheme (www.phonebills.org.uk) that enables consumers to compare telephony tariffs. However, telephone companies are not obliged to join this scheme and only a minority have done so far, thus reducing its effectiveness for the limited number of consumers who can access the web in the first place.

• OfTEL has identified the main reasons why consumers have failed to take advantage of lower prices offered by BT’s competitors. These four themes are: satisfaction with current supplier; inertia; insufficient savings elsewhere; and, lack of awareness about alternatives. Awareness of indirect operators is lowest in Scotland, Wales and Northern Ireland. If consumers in Scotland have lower levels of awareness about service options more generally, then this may help explain why so few households have switched from BT.

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7 OfTEL, Proposals for Network Charge and Retail Price Controls from 2001, February 2001
8 OfTEL, Consumers’ use of fixed telecoms services, August 2000, 4.2
• Fewer consumers in Scotland have switched network operator than in any other region in the UK. Only 22 per cent of mobile users in Scotland had switched mobile supplier or package compared with more than a third of those in the north and thirty per cent in the Midlands.9

• For many people, mobiles are used primarily as a means of staying in touch while on the move. The quality of network coverage is particularly important in Scotland where large patches in remote areas still have coverage that is either unreliable or non-existent. While the networks may be correct in claiming they cover 98 or 99 per cent of the population, this is perhaps meaningless if what you are interested in is staying in touch while you commute to and from Inverness, for example. In many parts of Scotland consumers do not have a choice of four networks. BTCellnet and Vodafone have only just, and with public sector investment, completed a large network upgrade to bring mobile coverage to more remote areas of the North West Highlands and Islands. In many of these areas One 2 One and Orange do not function.

• Six percent of people in Scotland do not have access to a fixed line phone and a further two percent have neither a fixed nor a mobile connection10.

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9 Oftel, Mobiles - Barriers to switching, and quality of service issues, (April 2000 survey), Fig 4b
10 Oftel, Consumers’ Use of Telecoms. July 2001
MAKING THE TELEPHONY MARKET WORK FOR CONSUMERS IN SCOTLAND

In Scotland, the telephony market is less well-developed than it is in most other areas of the UK. BT continues to dominate the market, large tracts of the country remain without cable, and mobile penetration and coverage are lower than in most parts of the UK. Many people do not have access to a phone at all and there is lower consumer awareness of the alternatives which do exist. These problems with access to the most basic telecommunications technologies are a worrying baseline from which to launch the next wave of the information society. If Broadband Scotland is going to work for consumers, the essentials must be in place first. This cannot wait until the establishment of Ofcom but is a situation which the regulator, Ofcom, the UK government and the Scottish administration must address now and in readiness for the new convergent regulatory framework.

Recommendations

To Ofcom

1. Ofcom should take action now to develop the telephony market in Scotland so that the commitment in the Communications White Paper to ensure universal access to affordable services for consumers in Scotland is met. Specifically, this should include:

1A. Ensuring that forthcoming and future reviews of price controls and the universal service obligation include specific consumer impact assessments in relation to the market in Scotland.
1B. Carrying out an effective public awareness programme to highlight to consumers in Scotland the choices which exist in the marketplace.

In addition, we support the recommendations of the National Consumer Council\textsuperscript{11} that Ofcom should:

2. Apply pressure on telephone companies to introduce easy to use, flexible pre-payment schemes which consumers on low incomes can afford.

3. Ensure that there is a choice of payment methods to help people manage their bills.

4. Undertake research with consumers in Scotland to build a profile of people who are disconnected.

5. Underpin operators’ codes of practice with formal obligations to ensure they are ultimately enforceable, including making it clear that failure to meet targets will lead to mandatory licence amendments and possible use of sanctions.

To the DTI and DCMS

6. Ofcom’s powers should be strengthened to require the operators to disclose price information in a standardised comparative format.

The lack of adequate comparative information on tariffs has been one of the key barriers to switching suppliers and empowering consumers to

\textsuperscript{11} National Consumer Council, Response to the Communications White Paper, Feb 2001
make choices which are in their own best interests. Oftel has no power to make companies disclose such information and the current system is voluntary, incomplete and therefore inadequate.

To the Scottish Executive, the DTI/DCMS, and Oftel

7. **The Scottish Executive, the DTI/DCMS and Oftel should work together, and be seen to be working together, to make the Scottish market work for all consumers.**

The regulatory responsibilities at UK level overlap with the profound social, economic and environmental issues which are devolved to the Scottish Executive. Therefore, a co-ordinated approach to resolving the problems in the market is essential. It will be important that Oftel, which has no office in Scotland, develops a stronger presence in Scotland.
Internet Access In Scotland

Perhaps the government’s most important policy response to the development of the Internet is the promise to achieve universal access by 2005 for those who want it. This is a key aim of the White Paper A New Future for Communications. Although a lofty goal, it is clear that the value of this commitment depends on the definition of ‘universal access’. The goal is likely to be harder to achieve in Scotland where there is the lowest proportion of homes connected in the UK.

THE MARKET

The digital divide is wider in Scotland than anywhere else in the UK:

• 24% of homes in Scotland have access to the Internet as against the UK average of 37%.

• The growth rate too is slower - 3% for Scotland as against 5% for the UK.

• Access tends to be lowest among: those aged 55 and over; C2 and DE social groups; small households of one or two people; those on low incomes; and those not working.

It is widely recognised that access to the Internet is about more than being able to afford to buy a PC. It's about having the confidence and the skills to use it. It’s about wanting to use it in the first place and being aware of the benefits it has to offer.

In line with UK government policy, the Scottish Executive has declared its commitment to securing universal access by 2005 and has published its strategy for achieving this. Digital Inclusion, Connecting Scotland's People outlines the significant investment which the Executive has already made to tackle all the factors which make up digital exclusion. The strategy for the future continues on this holistic theme and sets out a range of initiatives to enhance awareness and promotion, access, advice and support, skills, content, and community involvement.

However, while telecommunications infrastructure is a minor factor in contributing to digital exclusion, it takes on greater significance in rural areas where data speeds can be a real problem. BT currently has a
universal service obligation (USO) to supply telephony service with a minimum data speed of 2.4 kbits per second. While acceptable for voice telephony this is much too slow for normal Internet use. In September 2000 OfTEL stated that most UK users - around ninety per cent - had access to much faster speeds of 28 kbits per second which it said should provide 'adequate speeds for reliable access to e-mail services and many current uses of the Internet'. However, ten per cent did not have access to 28 kbits per second and OfTEL announced its intention to seek further information from BT about data speeds being achieved by the remaining users. There is a lack of information about data speeds in rural and remote Scotland, although, anecdotally, it is well-known that many users in rural parts of Scotland do not access the Internet at 28 kbits per second and find that connection speeds are frequently much slower.

INTERNET ACCESS: MAKING THE MARKET WORK FOR CONSUMERS IN SCOTLAND

'In future, the delivery of public services direct to the citizen in his or her home must be central to public policy in this area. We see insufficient signs of such centrality in the Communications White Paper.'

If the 'digital divide' exists anywhere in the UK, it exists in Scotland. Fewer consumers have home access to the Internet north of the border than any region in England. Just as worryingly as the overall connection rate is the fact that the growth rate is slower and therefore the gap widening. This is compounded by the marked divisions in access to the Internet between different social groups in Scotland.

We welcome the holistic approach being taken by the Scottish Executive to bridge the gap and agree that buying a PC for every home in Scotland is not only an impossible financial aim but a counter-
productive one. However, bearing this in mind, we still believe that the Executive's strategy is incomplete in that it fails to provide a consistent and clear definition of what it means by universal access. We believe that universal access must mean access in the home. If the Executive nominally achieves access for all in community centres is it going to assume that it has reached its goal? In the age of 21st Century Government and electronic delivery of essential public services, public access to the web, while welcome, will not ensure effective access to these services. If you can't access your doctor's surgery from the house, and in confidence, what is the point of going to a public terminal instead of the surgery itself?

We would also like to see the Scottish Executive's strategy for digital inclusion publish meaningful targets and performance indicators which are placed within the context of eEurope and the Communications White Paper.

**Recommendations**

**To the Scottish Executive**

8. The Scottish Executive should redefine 'universal access' to the Internet as access in the home.

9. The Scottish Executive's strategy for digital inclusion needs to be accompanied by the identification of meaningful targets which are placed within the context of eEurope and the Communications White Paper, and with details on how they will be achieved and measured. The benchmarking and monitoring techniques being developed at EU level should be utilised. The initial target should be to have a
growth rate in access equal to that of England but the ultimate aim should be to ensure universal access in the home.

We agree with the House of Commons Select Committee that a focused approach to the delivery of public services direct to the citizen in his or her home must be an essential feature of public policy. This is in the spirit of the eEurope vision that every citizen, home, school, business and administration should be online. This strategy must also aim to include effective participation of people with disabilities in line with the eParticipation initiative.

10. The promotion of Internet access through digital television should be a key part of the Scottish Executive's strategy.

While uptake of digital television has been relatively slow until now, the ongoing expansion of services and technology, combined with analogue switch-off, presents a highly accessible way of achieving digital inclusion. We cannot agree more with the House of Commons Select Committee that digital television is “an easy and affordable gateway to the Internet”.

11. Formulation and evaluation of grass-roots and community initiatives to promote digital inclusion must have consumer input from an early stage.

There has been a top-down approach to tackling digital inclusion. Communities must be involved in identifying what is needed at local level and in evaluating the outcomes. The new emphasis on community involvement in Connecting Scotland’s People is very welcome. However, we note that communities will have to submit bids containing a coherent strategy and development plan. This is a tall order for community groups with limited resources and we believe that this
initiative must be accompanied by a mechanism to assist communities to formulate bids which will have a reasonable chance of success. Evaluation of the pilots must be followed by a commitment to rolling out the initiative.

To Oftel and the DTI/DCMS

12. In preparation of the expected relaxation of the current European requirements for minimum data speeds in 2003, Oftel should ensure that it has a complete picture of data speed being achieved by users across the whole of Scotland and, in particular, rural and remote areas. The regulator should then set minimum data speeds which reflect typical usage across the board to ensure that consumers in Scotland receive an adequate service.

Access to the Internet at an acceptable speed should be a high priority for Oftel and Ofcom. Any gaps in information need to be filled. This needs to be followed up with a minimum threshold for data speed which is enforced and reviewed regularly.
Broadband In Scotland

Broadband provision should not be developed in isolation from the overall context of the communications market in Scotland as it affects consumers. Effective development of the new economy must have a wider focus than the needs of business. Equally, it must aim to ensure effective and universal participation of consumers in the marketplace.

THE MARKET

Central to the discussion about the future of the Internet is the roll-out of broadband technology. Technically, broadband can be defined as a service or connection allowing large amounts of data to be carried very quickly, and which can split the available bandwidth into multiple channels. However, it is the services that this technology can bring that will have such a profound impact. The Scottish Executive states that the services that broadband technology are bringing ‘are changing the way we work, communicate, learn, shop and spend leisure time. Societies and economies which respond vigorously to the opportunities which digital technologies bring are likely to be more prosperous and inclusive than those which are slow to respond.’

Broadband is, however, not universally available and this fact alone has led to fears that a 'digital divide' may emerge. If this happens, it is argued, large areas – mostly away from urban centres – will be disadvantaged as consumers and businesses are unable to exploit the new technology.

It is beyond the scope of this report to give a detailed analysis of the complex and constantly developing technologies which are involved. However, key issues which must be addressed include:

• The current patchwork provision of broadband across Scotland, exacerbated by the fact that BT, as the incumbent provider, controls the legacy of privatisation – a physical connection to every home user.

• The inadequacy of the current infrastructure in rural and remote areas. Research by Ovum, reveals that there is a high probability that the Highlands and Islands region (and other rural areas) will be disadvantaged in the broadband services market over the next few years.

19 Scottish Executive. Digital Scotland. May 2000
• The substantial investment which would be needed to deliver services across rural Scotland and the reluctance of the industry to make that investment without concrete evidence of demand.

Another crucial point that is rarely made in debates about broadband access is that as Internet technology speed of access improves for some people, the experience for those relying on slower technology actually degrades. As more and more people access higher bandwidth technologies, Internet designers respond with better content such as complex graphics, video and audio. Ovum has actually predicted that the 'Internet experience' for those using ISDN2 (at 128 kbit/s) will become 'frustrating' within the next few years.21 This is already a problem in Scotland, where in some areas people can only access the Internet at 14 kbit/s.

The Scottish Executive's solution to the broadband dilemma was outlined in its recent strategy statement, *Connecting Scotland: Our Broadband Future*.22 The Strategy includes:

• Close liaison at a UK level on regulatory proposals and on UK policy developments.

• A programme that will progressively aggregate public sector demand for broadband infrastructure - building out from the needs of schools, local authorities and the health service - with government support centred on areas which would otherwise be demand deficient.

• Identify if there is any need for direct support measures as anticipated under the Highlands and Islands Special Transitional Programme.

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22 Scottish Executive, *Connecting Scotland*, August 2001
The Executive believes that its purchasing power will stimulate the investment which is needed from the private sector. The partners involved in the aggregated procurement process will include local authorities (for example, schools, libraries, corporate networks), the health service, prisons, and the higher and further education sector. The Executive’s aim is to procure connectivity on a zonal basis and it has identified two pathfinder areas where it will test this approach, selected on the basis that the market is most unlikely to meet anticipated demand under current procurement practice. These areas are the Highlands and Islands and the South of Scotland.

By overturning current public sector buying practices and pursuing a joined up approach to procurement so that all major public sector services in an area pool their purchasing power, the Executive is taking a bold step but one which it thinks is necessary to stimulate demand and bring with it the connectivity which Scotland needs now. The Executive states that Scotland must be ready for the “Next Internet which will deliver applications in e-learning, e-government, e-health and e-business.”

BROADBAND IN SCOTLAND: MAKING THE MARKET WORK FOR CONSUMERS

Effective and immediate roll-out of broadband across all areas of Scotland is of crucial social and economic importance, and in particular for rural and remote areas. There, the infrastructure is inadequate, broadband provision is patchy, and remote users are disadvantaged. This is compounded by the speed of change in the technology, the dominance of the incumbent, BT, and the uncertainties about which company can provide which service and at what cost. The prospect of
digital exclusion raised by inadequate access to PCs and the Internet for many consumers will become even more of a reality if the infrastructure is not there to deliver the innovative services from which others will benefit and come to see as the norm.

Yet consumers are being left at the mercy of complex market forces and are in the middle of the debate between government and the industry about who kick-starts the roll-out and how. The debate is being dominated by a reluctance of the industry to invest and the view that infrastructure upgrades must be demand led. Government is being forced to balance the risks of waiting for the market to gain its own impetus and for the industry to make the investment when it thinks the gain is worth it, against substituting that investment from the start so that rural and remote areas don't lose out.

The Scottish Executive has decided to use aggregated public procurement to drive demand for broadband services and to see broadband rolled out more quickly. This will be focused on key areas where demand creation is needed most. There will be additional funding to help meet the costs of upgraded requirements in these areas. However, while targeted pump-priming is not ruled out, it is not included as a key part of the Scottish Executive's strategy for broadband.23 We think a strategic, targeted approach to government investment in areas of need should have been included and that regulatory policy support for rural areas, as has happened in the US, is something which the Scottish Executive should raise at European level.

We welcome the development of this strategy and are supportive of the pro-active measures being proposed to stimulate demand and the parameters within which any government intervention will occur. The first parameter sets out the need to encourage competition as far as

23 Scottish Executive, Connecting Scotland, September 2001
possible. This will be a key factor in the successful implementation of the strategy and procurement processes must ensure that this happens and that the advantages which incumbent operators possess do not detract from the onset of a competitive marketplace.

However, while we welcome Connecting Scotland’s aim to “make affordable and pervasive broadband connections available to citizens and businesses across Scotland”, we are concerned that this is being addressed in isolation from and without regard to the overall context of the communications market in Scotland as it affects consumers and as set out in this report. Broadband provision will mean nothing to consumers who can’t take advantage of a competitive market in basic telephony, who can’t, or don’t know how to access the Internet at home, and who can’t access essential public services without going to a public terminal. Effective development of the new economy must have a wider focus than the needs of business. Equally, it must aim to ensure effective and universal participation of consumers in the marketplace.

From the consumer perspective, an attractive option would be the extension of the universal service obligation. However, we are not convinced that this is the answer at such an early stage of the development of the market. While the services to be delivered via broadband will become essential, we are not yet at that stage and the service is not yet used by anywhere near the majority of the population. Extending the USO is constrained by European legislation which does not allow higher levels of service to be funded by industry levy. Therefore, for the time being, government would have to meet the cost of the extension through taxation. This would provide no incentive for companies to make the up-front investment which is needed.
However, this does not detract from the fact that universal access will be of fundamental importance to the economic and social fabric of Scotland. In principle, USO must be extended to include broadband at an optimal time for consumers. This must be kept under continual review.

Recommendations

To the Scottish Executive

13. We welcome the publication of Connecting Scotland, the Scottish Executive's strategy for broadband in Scotland, and agree with the principles it has adopted to accelerate the roll-out of broadband. However, there needs to be more information on how procurement will ensure that competition develops and that the development of the market is not hampered by incumbent monopoly suppliers. The Scottish Executive should identify appropriate outcome measures, progress against which should be published annually. This must be supported by flexible publicly-funded pump-priming which is targeted towards areas identified as having the greatest need, together with appropriate regulatory invention to support development in these areas. Regulatory policy support for rural areas, similar to that in the US, is something which the Executive should raise at European level.

To Oftel, Ofcom and the DTI

14. Oftel's commitment to keep the definition of the universal service obligation under review should pay particular attention to the specific conditions of the market in
Scotland. Meanwhile the government should work with the EU to ensure that the future definition of universal service is expanded to include broadband. Oftel's proposed market research to monitor consumer access, preferences and demand in relation to broadband should include separate Scottish figures.

To Oftel

15. Oftel should take all possible steps to ensure that local exchanges are unbundled and opened up to competitors as soon as possible.

The continued dominance of BT in Scotland is unacceptable. Oftel must work with BT and the rest of the industry to find adequate solutions so that unbundling can develop.

To the DTI/DCMS and Ofcom

16. Ofcom should be given a statutory duty to have due consideration to the needs of people living in rural areas and to low-income consumers.
THE MARKET

The BBC in Scotland

Proposals in the Communications White Paper exclude the BBC from the regulatory clutches of Ofcom and retain overall control with the Board of Governors. A key issue is whether the BBC’s centralised governing structure has addressed effectively the political reality and cultural diversity of devolution, and in doing so worked in the interests of the consumers in Scotland who pay their fair share of the licence fee.

Whatever the current strengths of the national and regional structure of the BBC, it is an inescapable fact that London dominates BBC’s television and radio production. Financially too, the BBC is dominated by an administrative and production hub based in London. Of the 8,776 hours of networked television output produced by the BBC in the year 2000/01, 7,259 hours originated in London. Scotland produced 217 hours.24

The BBC’s 1997 decision not to devolve prime-time news programming by having a Scottish Six was taken by its Board of Governors and in the face of widespread support for the programme from stakeholders in Scotland including the Broadcasting Council for Scotland, BBC staff, politicians and the public. The BBC now includes news headlines from Scotland, Northern Ireland and Wales in the national six o’clock news bulletin. However, the main editorial eye is still based firmly in London.

There is an argument over whether the BBC decision on the Scottish Six can be a stable solution and whether it gives people in Scotland the analysis of Scottish politics that they want.

“Having a few minutes of Scottish Newsnight is not the answer. It's not peak programming and therefore it is not providing the service that most people would want.”25

24 BBC Annual Report 2000/01. Facts and Figures. Table 12
25 Interview, Philip Schlesinger, Head of Stirling Media Research Unit, 2001
BBC Scotland itself has pointed out that current Scottish TV news programmes are extremely popular and that there is a clear trend which shows that Reporting Scotland and the ITV equivalents are more popular than the main UK news bulletins.26

In examining the approach taken by the BBC towards the Scottish Six debate, it is interesting to look at how the thriving print media market works in Scotland. It can be argued that the fact that people in Scotland support a selection of Scottish national daily and Sunday newspapers is proof of demand for news produced and edited in Scotland that reflects a Scottish agenda and a Scottish perspective on the world. The Daily Record has the largest 'regional' circulation (600,684)27 of any morning paper in the UK followed by The Herald and The Scotsman which are both in the top ten.

“It is very clear that Scottish consumers - when given the choice between UK and Scottish produced papers, on the whole choose either Scottish papers or Scottish editions of UK papers with relatively few exceptions. I think that is a consumer choice which you can quite reasonably assume is related to regional and national ideas of identity.”28

In many ways the very public row over the question of a Scottish Six dominated the debate about how the media should respond to political devolution. Yet, from the perspective of the Scottish consumer, there are further fundamental questions about the organisation of broadcasting in Scotland and how their interests can best be served. The Scottish Six debate obscured the wider issue of the imbalance in investment in programme-making between London and the UK nations and the

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26 Interview, BBC Scotland, 2001
27 ABC Circulation March - August 2001
28 Interview, Philip Schlesinger
regions of England. Arguments that BBC output in Scotland does not reflect Scottish culture and the Scottish news agenda well enough, might carry less weight if more programmes produced by BBC Scotland were screened on the BBC network. However, as we have seen above, the BBC’s output is dominated by its London base.

The BBC stresses that the £10 million 'devolution package' announced in 1998 was only part of its response to the 'changing UK'; that £10 million was agreed as a contribution to BBC journalism north of the border and that equally important packages are in the pipeline aimed at improving local programming and drama. Overall, it claims that the funding packages represent the biggest investment in BBC Scotland's history and that, while the issue of the journalistic response to devolution is still 'on the table' and open for debate, BBC Scotland's strategic priority is now to increase investment in entertainment and drama.

The most recent BBC Annual Report\(^29\) gives details of these funding packages. A commitment to improving services in the light of devolution remains a key objective of the BBC. Funding for BBC Scotland has indeed risen by £26 million over the last two years and is expected to increase by another £40 million in the current year to a total of £160 million.\(^30\) However, we note that the additional investment in Scotland, although significant, must be set within the overall UK context of plans to invest an additional £265m in services over the next two years.\(^31\)

**Commercial Television, Devolution and Consolidation**

A key proposal in the government White Paper on Communications is to abolish the fifteen per cent limit on share of TV audience. This effectively opens the door to further mergers and takeovers as the major

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\(^{29}\) BBC Annual Report 2000/01  
\(^{30}\) BBC Scotland Annual Review 2000/01  
\(^{31}\) BBC Report & Accounts 2000/01, BBC Review of the Year 2000/01 and BBC
ITV franchise companies seek to consolidate, and has particular implications for broadcasting in Scotland. This is illustrated by the current domination of one company in commercial television in Scotland - the Scottish Media Group which owns Scottish and Grampian.

Yet this is not the only issue that may have a profound impact on the media industry in Scotland. Current rules prohibit any single newspaper owner with more than twenty per cent of the national market from owning an ITV, Channel 5 or commercial radio franchise. Similar rules prevent one company that owns one or more local newspapers with a combined market share of twenty per cent in a Channel 3 region from holding a licence to provide that regional Channel 3 service. The White Paper sidestepped the potentially explosive issue of cross-media ownership in the UK and instead invited comments on changing these rules.

SMG also owns The Herald newspaper, one of Scotland's biggest-selling quality broadsheets. It also owns the Sunday Herald. Other media interests held by SMG include a 25 per cent holding in GMTV, Virgin Radio and Pearl and Dean. It acquired the Ginger Media Group in March 2000 which 'strengthened the group further, creating a move into the high-growth radio sector, while elevating our ranking in UK network television production.' This is how SMG described its business in Scotland in 2000:

"SMG's position in Scottish media is unrivalled. Our ownership of the two main ITV franchises serving Scotland, and three of the country's most influential newspapers, results in the group's products reaching almost every home in Scotland."33

32 DTI & DCMS A New Future for Communications. Annex B. December 2000
33 SMG Annual Report. 1999–00
SMG’s its peak-time audience share of both Scottish TV and Grampian TV was 37 per cent in 2000/01.  

In February this year SMG extended its holding in Scottish Radio Holdings - the company which dominates commercial radio north of the border. SMG now has a 24.9 per cent stake in SRH. It is widely assumed that SMG will mount a full takeover bid as soon as it can. Current cross-media rules prevent one company holding a licence to provide a local radio service from holding a licence to provide a regional Channel 3 service whose coverage area is to a significant extent the same. This means SMG cannot yet make a formal bid. However, it is widely assumed that legislation following the White Paper consultation will see this rule on Channel 3 and local radio ownership scrapped.

If SMG were allowed to take over Scottish Radio Holdings it would be possible, and perhaps even likely, that a sizeable proportion of Scots in the central belt might get through a whole day listening and reading news produced entirely by SMG.

However, both the row over proposals for a Scottish Six and the proposed relaxation of media ownership rules signal a much wider debate about broadcasting policy response to devolution. On the one hand, the White Paper seeks to allow mergers and takeovers with the possibility that there may be just one ITV company covering the whole of the UK. On the other hand the government has said that it is committed to 'maintaining diversity and plurality' and building competition.

“There is a central contradiction running throughout the document which is that you can somehow sustain regionality but also concentrate ownership.”  

34 Scottish Media Group Annual Report 2000/01
35 BusinessAM. SMG ups the ante by adding to stake in SRH. 27th Feb 01
36 BusinessAM. SMG ups the ante by adding to stake in SRH. 27th Feb 01
However, to take advantage of consolidation the rationalising of production makes economic sense. It also makes economic sense to cut the number of hours you commit to regional production and increase the proportion of networked hours. In short, it can be argued that the economics of consolidation works against the principles of public service broadcasting for the UK nations.

How the government intends to 'strengthen' regional broadcasting is not clear. Instead, it says the government wants to 'encourage a debate among broadcasters, independent production companies and citizen groups at local and regional level about how regional programming could be strengthened and developed, particularly using the potential of new technology to foster innovation.'

Recognising the potential impact that further takeover activity could have on regional output the government says the 'regional dimension of the ITV network will be retained as a 'counter-balance to the possible further consolidation of ITV'.

The White Paper states that Ofcom will have the power to strengthen regional obligations whenever licences change hands and that Ofcom will have a duty to ensure compliance with public service broadcasters' regional programming obligations.

The ITC wants the government to go far further however. It proposes that there should be a Charter for Nations and Regions which includes specific targets set by Ofcom for 'regional production, an “out of London” network production target and minimum hours of output within each region for news, current affairs and regional diversity.' It also argues that Ofcom should have the powers to require the appointment of local independent Chairmen and a local MD for each ITV franchise. Furthermore, the ITC states that:
“...we suggest that OFCOM should be given a statutory objective of promoting regional diversity and production, to provide the necessary underpinning powers to give effect to the ‘Charter for the Nations and Regions’. ”

The fundamental question for Scottish consumers is whether the BBC's changes in response to devolution and the plans detailed in *A New Future for Communications* for commercial broadcasting will make sure Public Service Broadcasting north of the border will meet these challenges.

In 1999 Schlesinger and Tambini argued that:

"To date, broadcasting's solution to the problem of British diversity has taken two main directions. Either it has been centralist and, until very recently, has seen nations as simply another kind of region (so-called 'national regions'). Or it has been regionalist and divided audiences according to franchise areas that have cut across national realities."

It is difficult to see how broadcasting in Scotland can break from this mould without a more radical rethink of how broadcast journalism should respond to political devolution. News and current affairs content produced in Scotland take on a new significance as executive power over a wide range of issues now resides in Edinburgh and not in London. For people in Scotland the main focus of political debate is now the Scottish Parliament.

It is the duty of public service broadcasting to provide an open and balanced public debate and to act as the main forum within which society discusses its disagreements. It is difficult to reconcile these tasks with the level of devolved journalism so far offered by the BBC and the commercial public service broadcasters.

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39 Taking Stock: Broadcasting and Devolution in Scotland and Wales. Shlesinger and Tambini, 1999
Digital Broadcasting
The advent of digital television brings viewers the chance to access hundreds of different channels as well as to use their sets for interactive and world-wide web services. Because the government is so convinced of the benefits of digital television it has committed itself to switching off the analogue network by 2010. However, in line with principles of universal access, it has promised that it will not do so until 95 per cent of consumers have access to digital equipment.

The sticking point with digital television is that consumers must proactively choose to switch to digital with all the associated costs. These costs include: a new digitally-compatible television or a set-top box linked to an existing television; and installation costs with some systems. Costs are also a potential barrier for those consumers interested in receiving free-to-air public service broadcasts only.

The alternative to buying a set-top box is to purchase an integrated digital TV - but these are significantly more expensive than ordinary analogue TVs. For many consumers, therefore, the switch to digital would represent the cost of an expensive new TV - roughly between £600 and £700. Furthermore, many households have more than one TV and all non-digital sets will be useless following analogue switch-off. Although consumers have greater choice of free-to-view content and can access digital television without a subscription fee, take-up therefore remains slow. Only around one fifth of the population of the UK has opted for the service and the penetration rate of twenty per cent for Scotland reflects the UK trend.41

41 Joint ITC, Oftel and OFT advice to government on Digital TV. Page 4. Nov 2000
BROADCASTING: MAKING THE MARKET WORK FOR CONSUMERS IN SCOTLAND

In our view, there have been few signs up until now that broadcasting has responded to the realities of political devolution. The Communications White Paper gives us cause for concern in relation to some of the proposals for broadcasting. However, the prospect of legislative change also presents real opportunities to get it right for Scotland.

Part of the role of public service broadcasters is to help inform the democratic debate. Executive power over a wide range of issues affecting consumers now resides in Edinburgh and this should have led to a radical change in the way public service broadcasting is organised in Scotland. Simply put, the Scottish Parliament and policy issues that are decided in Scotland do not have a strong enough profile on programmes broadcast north of the border. We would also expect Scottish news programmes to provide a Scottish perspective on UK, European and international issues.

The Scottish Six debate is in the past. Our concern here is not about what decision was taken by the BBC but how that decision was arrived at by the BBC Governors and against the advice of the Broadcasting Council for Scotland, BBC staff in Scotland and the wider community. In our view this raises particular issues about the BBC’s accountability in Scotland which will not be helped by excluding the BBC from independent regulatory control by Ofcom.

We welcome the recent investment in programme-making in Scotland in this area and look forward to seeing evidence of continuing investment which reflects adequately the personal investment made by
consumers in Scotland through the licence fee. We welcome the fact that a commitment to improving services in the light of devolution remains a key objective of the BBC. However, we note that the additional investment in Scotland, although significant, (£26m over the last three years and another £40m in the coming year) must be set within the overall UK context of plans to invest an additional £265m in services over the next two years.42

The White Paper seeks to defend regionalism but gives the green light to greater consolidation in the commercial sector. Consolidation and any further relaxation of rules on cross-media ownership will have particular implications for the market in Scotland. Any future assessment of the merits of consolidation at UK level may fail to take account of the political and cultural diversity of Scotland.

There are key issues for Scotland in relation to digital in rural and remote areas and analogue switch-off. Ninety-five per cent of the UK population with access could, in theory, pass the government's threshold for switch-off but leave large tracts of rural Scotland with no television. This is another area where complex technology is moving ahead quickly - we have real concerns about affordability and about standards, information and redress.

Recommendations

To the BBC

17. The BBC’s level of investment in programme-making in Scotland and the proportion of programming on the networks which is made in Scotland should reflect, and be able to demonstrate, the investment being made by consumers in Scotland through the licence fee.
We welcome the current rise in investment but consumers in Scotland will need to be re-assured that it will be sustained in the longer term through a strategy which aims to ensure that investment levels are based on Scottish population levels and income from the licence fees paid by Scottish consumers.

18. The BBC should review its governance in Scotland.

We believe that there are lessons to be learnt from the BBC's handling of the Scottish Six question and the degree of its accountability to stakeholders in Scotland.

To Ofcom, the BBC and Commercial Television Companies and the DTI/DCMS

19. There should be a statutory requirement for Scotland to have a devolved peak-time national news programme to reflect the fact that executive power over a wide range of issues affecting consumers now resides in Edinburgh and also to provide a Scottish perspective on UK, European and international issues.

To Ofcom and DTI/DCMS

20. Consideration of consolidation in the commercial sector and any future relaxation of cross-media ownership rules should include an impact assessment of the effects on the market in Scotland and in particular the effects on regional identity, plurality and choice.
21. The proposals in the White Paper to protect regional identities should be strengthened. As an absolute minimum, the government should adopt the safeguards for regional programming proposed by the ITC, including a requirement that proposals for mergers or takeovers should include targets for maintaining regional plurality which would form part of any licence agreement.

22. If Ofcom is to fulfil its commitments to regional broadcasting in Scotland, then it will be essential for it to have an office in Scotland.

To the government and the Scottish Executive

23. The future regulation and governance of the BBC should be subject to a review by Parliament.

We are aware that the BBC was subject to a review by the House of Commons Select Committee on Culture, Media and Sport in 1999. However, we do not see this as justification for excluding the BBC from the new regulatory regime. As we have said above, we have concerns about how accountable the BBC Board of Governors are to Scottish stakeholders. There is a conflict between the Board having responsibilities to put out programmes and to regulate what they themselves do.

We agree with the House of Commons Select Committee:

“By failing to provide for an integrated approach by the new regulator to all broadcasters including the BBC, the government has left a large amount of unfinished business.”
24. The Scottish Executive, in conjunction with the DTI, should carry out a major public education campaign on digital television in Scotland, accompanied by measures to promote industry standards and improve information on products.

In the run-up to analogue switch-off and in an attempt to increase take-up, there needs to be a visible campaign organised for the Scottish market and aimed at the Scottish audience, accompanied by the development of high standards and good practice in customer service in the industry.
This report shows that there is a clear Scottish communications agenda. Many of the problems we have highlighted are distinctive to Scotland and require solutions debated, discussed and formulated in Scotland. For example, the best way to improve the rate of Internet access in deprived areas is a matter for Scottish policy. Broadband roll-out in rural areas in Scotland is a crucial issue that cuts across a range of responsibilities that reside in Edinburgh. It is also time that public service broadcasting properly recognised the realities of political and cultural borders. The proposals for public service broadcasting in the White Paper may not be the best option for Scots as consumers or citizens.

How then does the White Paper propose to make sure that the voices of those in different parts of the UK will be heard when these issues are debated in the offices of Ofcom? How can we ensure that the consumer voice is articulated in policy discussions within Scotland?

A New Future for Communications proposes to establish a new consumer panel to advise the regulator. 'It will be able to research consumer views and concerns on service delivery, represent these concerns to Ofcom and other relevant bodies, and publish its findings and conclusions.' The panel is to be semi-autonomous from Ofcom and independently appointed. It will be required to take due account in its work of the views of consumers with special needs, including those on low incomes or with disabilities.

There is, in fact, no mention of consumer representation from the UK nations and no recognition that there are issues and problems distinctive to different parts of the UK – different consumer agendas.

The White Paper restricts itself to requiring Ofcom to establish 'good links' with relevant policy committees and the executives of the devolved assemblies. It may be that the government considers this safeguard enough to make sure issues relating to the UK nations and regions are heard.

43 DTI & DCMS A New Future for Communications. 7.5 December 2000
However, we do not believe that this short reference is good enough and want to see regulatory and consumer representative structures for Scotland which have a statutory basis, are built into the system from the start, and which are not subject to the vagaries of political change.

The inadequacy of the White Paper in addressing the implications of devolution has already begun to surface. The existing regulators commissioned Tower Perrins to produce their detailed vision for the structure of Ofcom.44 This report has now been published and submitted to government as the way forward. It contains no reference to devolution and no structures for dealing with it in practice.

Furthermore, the abolition of the Scottish Advisory Committee on Telecoms, the ITC and the Broadcasting Standards Commission will dismantle the existing statutory basis for the representation of consumers in Scotland in communications. The White Paper admits that ‘industry lobbies the regulator hard in pursuit of its interests. That is to be expected. But it should be balanced by proper and full representation of consumers' concerns’.45 From the perspective of the Scottish consumer, this is lacking in the White Paper proposals.

In the interests of consumers in Scotland it will be essential for both Ofcom and the Consumer Panel to have a physical presence in Scotland. It will also be essential for both bodies to have clear and effective policy relationships with the Scottish Executive, the Scottish Parliament, and with the range of stakeholders within Scotland. The Consumer Panel in particular has to be able to articulate the policy issues which are important to consumers in Scotland.

We have concerns also about the lack of consumer input into initiatives on digital inclusion and the knowledge economy. We have already stressed the importance of having effective involvement of communities in local initiatives. However, this is not enough. Digital Scotland and

44 Tower Perrins, Ofcom Scoping Project, Report to Regulators' Steering Group, October 2001
45 DTI & DCMS A New Future for Communications. 7.5.3 December 2000
other strategic initiatives have focused on businesses and public sector organisations as the “customer” and have failed to recognise the central role played by consumers in creating demand and driving forward a competitive economy. This theme has been echoed in Connecting Scotland, the Executive’s broadband strategy which, although welcome, fails to make the link between digital inclusion and universal participation in the new economy.

Recommendations

To the DTI/DCMS and Ofcom

25. There should be a statutory requirement for the Consumer Panel to establish a Committee for Scotland and to maintain an office in Scotland. Similar requirements should be placed on Ofcom.

Given that there is a clear Scottish communications agenda which cuts across a range of devolved policy areas, it is crucial that the Scottish consumer voice should be heard in the new regulatory structure and on a statutory basis. It is therefore of vital importance that consumer representative and regulatory arrangements incorporate a strong policy remit for Scotland within the UK-wide structure. Moreover, the Scotland Act recognises that public bodies which are accountable to the UK Parliament will continue to be significant in the economic and social life of Scotland.

To the Scottish Executive

26. The importance of the consumer perspective should be recognised at strategic level through effective consumer involvement in the formulation and development of policies and strategies for the knowledge economy.
At strategic level, there has been too much emphasis on the views and needs of business and commerce and inadequate recognition of the pivotal role of consumer demand in competitive markets and economic development.

To the Scottish Executive and the DTI/DCMS

27. The Scottish Executive and the UK Government should develop and publish an integrated strategy for communications in Scotland, taking into account all segments of the market and ensuring that all current policy initiatives are "joined-up." This strategy should include both economic issues in relation to service delivery and content issues in relation to public service broadcasting.

We have already noted that the market in telephony is less well-developed in Scotland and that there is still a long way to go before basic levels of access to the Internet can be guaranteed for everyone, particularly disadvantaged consumers. Yet at the same time we are seeing significant investment in the electronic delivery of essential public services and in new broadband technology. The market will only work for consumers if there is an integrated approach to service provision and delivery, particularly in view of the fact that regulation will be carried out at UK level.

In addition to market issues, this report also shows that there is a clear Scottish agenda in public service broadcasting in the light of cultural and political diversity and that, from the consumer perspective, this is not being addressed adequately in either current practice or future UK policy.