

Response by the National Association of Deafened People (Registered Charity no 294922) to the Department for Digital, Culture, Media and Sport Consultation on “Reforming Consumer Advocacy in Telecoms”

1. The National Association of Deafened People (“NADP”) is a nationwide charity run by its members who are deafened. Our members have experienced hearing loss to varying degrees during their lifetimes. Some have had a hearing loss since birth or early childhood, others may have become deafened suddenly during adulthood . Many share a gradually deteriorating hearing loss with age. Our members have a wide ranging experience dealing with their hearing loss, many use hearing aids while others have been fitted with Cochlear Implants. Our membership includes people of working age and those who have experienced deafness during their working lifetime. NADP welcomes the opportunity to respond to this consultation and in our responses to the questions raised we have attempted to incorporate the views and practical experiences of our members. Our response echoes in parts our response to the BEIS Green Paper “Modernising Consumer Markets”¹

Q1a - Do you agree with the proposed remit and activities of the new telecoms advocate, as described above?

Q1b - Are there any additional activities that should be included in its remit?

2. Whilst we agree that the proposed remit should include vulnerable people we believe there needs to be a clear distinction between this remit and that of addressing the needs of consumers as a whole.
3. Furthermore, we believe that too much emphasis has been placed on attempting to consider all permutations of when consumers may become vulnerable rather than to address the most likely scenarios of those people most likely to become vulnerable, that is Persons with Disabilities (“PWD”). NADP believes that since the term vulnerable has become popular the needs of persons with disabilities has been further reduced. We strongly believe that the needs of deafened people who rely on telecommunications in the UK have largely fallen behind in priority compared to other consumers who in reality have greater flexibility to choose from a greater range of products in the telecommunications sector and ultimately have benefited from a largely competitive market resulting in lower costs for consumers as a whole. However, for the wide range of people with a hearing loss the efficiencies of a competitive market have not been seen. In our view it is the role of the regulator to protect these consumers and encourage and enforce equivalent services for them. We believe a successful advocate should hold the regulator to account.
4. Since funding was reduced to the Communication Consumer Panel alongside the incorporation of the ACOD in 2013, in our view the plight of deafened people in telecommunications (and broadcasting) has increased. We

¹ <http://www.nadp.org.uk/app/download/5814549929/Green+Paper+response+Final.pdf>

provided some examples in our previous response to the BEIS Green Paper but repeat some of these below as we strongly believe these need to be addressed by the new advocate and prioritised.

Telephone Relay Services

5. Currently the only Telephone Relay service available in the UK is the Next Generation Text Relay service (“NGTS”) previously known as Text Relay or TypeTalk. This service is provided by BT and involves a relay assistant typing up what is said by the called party using a conventional keyboard. The service attempts to address the needs of the wide spectrum of people with a hearing loss, some of whom may use British Sign Language as their first language whilst others may use English as their first language and may only have a mild or moderate hearing loss and so be able to hear most of what is said on the phone needing support with occasional words. We believe an advocate should be able to distinguish the needs of different cohorts of the deaf population and identify the best type of relay services to meet these needs.
6. We would expect that an advocate would support the work NADP has done to address concerns raised by members about the functionality of NGTS. From our survey carried out in 2016 NADP identified some key issues with the NGTS app. These included:-
 - I. The difficulty users were having in setting the app up;
 - II. The difficulty users were having to use the app to make, and in particular, to receive a call; and
 - III. The slow transcription speed that made conversations slow and disjoint.
7. We formerly raised these issues with BT and Ofcom through the All Party Parliamentary Group on Deafness in May 2018 where BT committed to improve the app by April 2019. At the date of this response we are still waiting for the improved app to be provided. We would hope that a new advocate would see this as a priority for immediate work.
8. Since the advent of NGTS we have questioned the low take up of NGTS by the deaf community. Our research showed that many people simply had not heard of it despite having a mobile phone and a clear relationship with a Communication Provider. It was clear that despite regularly receiving information about billing, new phones, etc, their CP was not informing them of the availability of NGTS for them despite the requirement under the General Condition 15 for them to promote the service. We have raised this with Ofcom but to date no CP has been reprimanded. We believe a strong advocate should be able to hold Ofcom to account for this non compliance.
9. Going forward we believe that there needs to be a wider array of telephone relay services as offered in other G7 countries and as recommended by ITU in its Recommendation ITU-T F.930 Multimedia telecommunication relay

services². Captioned Telephony, for example, provides an average transcription of 140 - 160 words per minute compared to a transcription speed of 60-80 words per minute currently offered through NGTS would appeal particularly to deaf people who still use their voice. This includes wide range of people from those with a mild or moderate loss to those severe and profound loss who have a cochlear implant or use hearing aids. This demographic as highlighted in the NHS/DWP publication “What Works: Hearing Loss and Employment”³ are more likely to be underemployed or unemployed compared to their hearing peers. Many of these identify that they are less able to use the telephone as a result of their hearing loss. There is therefore an economic benefit of ensuring these people have an equivalent telephone service compared to their peers and which we would expect to be of interest to a consumer advocate.

10. When we raised our concerns about the slow transcription speed of NGTS and the impact this could have on a employed deafened person’s ability to perform alongside their peers to Margot James MP at the launch of the Fairness for Customers of Communications Services event on 3 June 2019, it was met with a very positive response and we are hopeful that a consumer advocate would champion this need.
11. Similarly our question to Margot James about greater publicity of NGTS by CPs was met with a response suggesting that all customers should be told about the service (regardless of whether they had disclosed a hearing loss or not). We are optimistic that despite Margot James no longer being involved that other responsible parties including a new advocate will see this action through.
12. Whilst outside NADPs remit it is worth us going back to an earlier point about NGTS being the only telephone relay service in the UK being available to address the wide spectrum of the deaf population including, at the extreme, people who use BSL as their first language are required to use English to communicate by phone to contact essential services such hospitals, doctors and the emergency services. Clearly there is a need for a Video Relay Service to be made available to be made available not only under Ofcom’s Fairness for Customer agreement but also to comply with the European Electronic Communication Code⁴ which states “Member States should take specific measures to ensure that emergency services, including the single European emergency number ‘112’, are equally accessible to end-users with disabilities, in particular deaf, hearing-impaired, speech-impaired and deaf-blind end-users and in accordance with Union law harmonising accessibility requirements for products and services.”

² https://www.itu.int/rec/dologin_pub.asp?lang=e&id=T-REC-F.930-201803-I!!PDF-E&type=items

³ <https://www.england.nhs.uk/wp-content/uploads/2017/09/hearing-loss-what-works-guide-employment.pdf>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2018:321:FULL&from=EN>

We would expect a consumer advocate to recognise the importance of ensuring full access to emergency services in an equivalent manner for all deaf people.

Subtitles

13. We recognise that the remit of the Consumer Advocate only covers Telecommunications but the continual convergence of broadcasting and telecommunications raises the question as to why the remit should not also include broadcasting. From our perspective there is considerable overlap particularly given the increasing delivery of content through Video on Demand through broadband or mobile devices. It is extremely important for our membership to have accurate and timely subtitles on all content that they view. Simply put our members do not understand why subtitles would need to be on content viewed on line when they had previously seen the same content shown on their TV with subtitles. Our response to Ofcom's consultation on "How should On-demand Programme Services be made accessible?"⁵ echoes this belief and that regulation of subtitles of content on video on demand should be the same as in existence for broadcasting. There is therefore a significant overlap between telecommunications and broadcasting, and its regulation with regards subtitles. It is therefore not clear why Broadcasting would not be included within the remit of a new consumer advocate.
14. We recognise that the CCP addresses both Broadcasting and Telecommunications replicating that of Ofcom and the CCP has been supportive of the need for quality subtitles on both live and on demand content. Its own research "Access to Broadcast and On Demand Content : Time to Catch Up"⁶ showed how the quality of life experienced by deaf people as a result of the lack of or poor quality of subtitles, alongside the level of satisfaction when this was provided. It would therefore make sense for a consumer advocate to similarly replicate and build on this work.
15. It is worth noting that hearing loss is typically age related and commonly accompanied by other disabling factors. This means that many more older people rely on the television to retain some social interaction and mental stimulation. Without this they are more likely to suffer from loneliness and potentially mental health issues. As such these people become more vulnerable in increasing circumstances. It is therefore essential that they continue to be able to enjoy broadcasts through the provision of subtitles.
16. As a priority we believe a consumer advocate should review the findings of the research carried out by Ofcom on the quality of live subtitles⁷ and address the next steps highlighted in the report in November 2015.

⁵ https://www.ofcom.org.uk/__data/assets/pdf_file/0016/131119/NADP.pdf

⁶ <https://www.communicationsconsumerpanel.org.uk/access-to-broadcast-and-on-demand-content-time-to-catch-up/access-to-broadcast-and-on-demand-content-time-to-catch-up>

⁷ <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/live-subtitling>

17. If Broadcasting remains outside the remit of a new consumer advocate, we would suggest that a separate advocate be set up to address the needs of consumers of Broadcasting which would include Video on Demand.

Q1c - What are your views on how the new advocacy body should interact with other organisations, including Ofcom and the CCP?

18. We believe that a new advocacy body should offer an open forum for all market participants, providers, regulators, consumer bodies, the CCP and CA, to discuss specific items within its remit that addresses the needs of persons with disabilities in telecommunications and broadcasting. We believe this should be organised regularly, say on a quarterly basis with a pre set agenda offering all participants the opportunity to present and raise any questions. Not only would this offer an opportunity for the industry to progress effectively with all interests addressed but also with a shared objective. By involving all market participants it would allow improved understanding of how the needs of persons with disabilities can be recognised at the outset of innovation rather than as an after thought which tends to involve a far higher cost and resistance to change.

Q2a - Do you agree that option 1 should be the preferred option and with our analysis of:

• **Option 1 (Appointing Citizens Advice)?**

19. NADP would be keen to work directly with CA should they be made the new Consumer Advocate. However, it is not clear what experience they have representing PWD nor that it has the resources to address these needs. We would expect that they would value the contribution of PWD and their representatives. This would need to be balanced and fair.

20. Our concerns remain with regards the potential dilution of the needs of persons with disabilities when encompassed within the remit of the wider Consumer Group. We would expect there to be transparency with regards how funds are allocated to different consumer cohorts and in particular that funds for the representation of PWD are ringfenced. We would also want to ensure that a separate fund is set up to fund communication support for all deaf, deafened and hard of hearing people as well as support identified by other disabled stakeholder as essential for full participation so that these monies are not detracted from the fund allocated to represent PWD. We emphasise that we believe CA is a great representative of consumers and clearly has experience as an advocate of other regulated services but we question its ability to address the specific needs of the deaf population for which the telecommunication sector is directly linked to their ability to enjoy and participate in society.

21. As such we believe CA would need to specifically segregate its work related to persons with disabilities compared to that of general consumers. Currently we understand that CA has no specific expertise to address the needs of deaf population and as such there would be a steep learning curve

involved. If they were to represent PwD or specifically those with a hearing loss then we strongly believe that they would need to proactively involve people with those disabilities that they are addressing, and ideally in light of the diversity agenda, employ persons with disabilities with those characteristics.

22. In the meantime we believe our proposal suggested in response to Question 1c) should be trialled as an interim measure with the potential for this to be adopted within the remit of the new Consumer Advocate responsibilities should it prove to be successful. We provide more thought on this suggestion in response to question Q2b below.

● **Option 2 (Expanding the CCP)?**

23. In our response to the Green Paper, we set out how we valued the work of the Consumer Panel but that it had been impacted by the lack of resources. We recognise its support for our activities on behalf of deafened people but felt this was limited to reactive rather than proactive support, the latter of which we would expect from a strong Consumer Advocate. As such we believe that extending the remit of the CCP and resource would reduce the specific focus of the CCP and ultimately its role as a “critical friend” of Ofcom.

24. It is worth noting that as far as we are aware no member of the panel has identified having a hearing loss since 2012 and as such we would question the ability of the panel to experience first hand the needs of deafened people and walk in their shoes.

25. We would hope that should the Disability Advisory Group idea be adopted, as raised in our response to the Green paper and in section 1c) then this would offer the opportunity for CCP to identify and support the needs of people with a hearing loss and include ideas addressed in its discussions with Ofcom.

● **Option 3 (Creating a new ALB)?**

26. As a deaf led charity we believe that the needs of persons with a disability should be addressed separately to those of general consumers. Focussing on the actual needs of persons with disabilities ensures a better understanding of what can be achieved and ultimately can make a more significant impact on the lives of PwD. As we have mentioned earlier in our response it would appear that the focus of regulators appear to be on consumers as a whole of which PwD will be a subgroup and so also benefit, thus effectively ticking both boxes. For example, we understand that focus on the fixed charge for people who only have a landline and not broadband, was on people on a low income but that vulnerable people could be included in that cohort. We questioned why a similar fixed charge was not applied for the many deafened people who do only use their landline for broadband. The response was that this had not been thought about at that time. It is therefore

welcoming that Ofcom has recently announced that broadband only customers will be entitled to a reduced charge, although again. We believe that if PWD are involved in these discussions at outset then the needs of PWD would be thought about sooner rather than later.

27. NADP believes that the needs of PWD should be the focus of regulators and the new advocate for a number of reasons. Firstly, in an efficient market the natural market forces should allow consumers to choose the best options for their own circumstances. The fact that prices of broadband and telephony have reduced over the years demonstrates that this is the case. Obviously markets are not always efficient and this is where the regulator comes into play. However, some of these inefficiencies come down to irrational behaviour which cannot be countered or in other cases, as highlighted by FCA in its own research of consumer cohorts that people who are cash rich and time poor are more likely to be exploited, such as the excess roaming charges in Europe. However for PwD the market is less likely to be efficient as their needs are simply not being met. For example, whilst NADP welcomes the work of comparison sites for individual and bundled products, this does not allow for the needs of deafened people such as showing VoD providers with proportion of subtitled content, or mobile phone contracts with no voice minutes. These areas are not a priority for consumers as a whole and so tend to be ignored.
28. Secondly, we believe that by focussing on PWD there is more likely to be a benefit for consumers as a whole than the other way round. Let us not forget that the Telephone was developed by Alexander Graham Bell to assist his mother who had a hearing loss. Similarly research by Ofcom shows that the proportion of people using subtitles far exceeds the proportion of people with a hearing loss. This has been evidenced even more recently with the popularity of tablets and smart phones where people view content with subtitles switched on. The BBC research has shown that over 20% of adult content and over 40% of childrens' content on BBC iPlayer is shown with the subtitles switched on.
29. Thirdly, there is a cost efficiency in considering accessibility in the design stage rather than as an afterthought. PwD are best placed to provide this input as they experience their disability day in day out, not just in normal working hours. As an example we understand that one of the main issues for VoD providers in offering accessibility on content has been that they had not considered accessibility in the design stage introducing accessibility later is both relatively more resource intensive and expensive than had it been introduced at outset. Had the regulator required all content to be accessible from outset, as the deaf community had strongly suggested, then this would have benefited all parties in the long term.
30. In our response to the Green Paper we suggested that a Disability Advisory Group could be set up. This could be similar to the Disability Advisory Committee⁸ ("DAC") that was set up by Federal Communications

⁸ <https://www.fcc.gov/disability-advisory-committee>

Commission in United States in 2014. Its purpose is to provide advice and recommendations to the FCC on a wide array of disability issues. As quoted from its website:-

“The DAC provides a means for stakeholders with interests in accessibility issues to exchange ideas, facilitates the participation of consumers with disabilities in proceedings before the Commission, and assists the Commission in educating the greater disability community and covered entities on disability-related matters. The DAC keeps the Commission apprised of current and evolving communications issues for persons with disabilities. Topics to be considered by the DAC, as specified by the Commission may include, but are not limited to, the following:

Communications Access

- Advanced Communications Services and Equipment
- Access to Telephone Emergency Services (9-1-1)
- Hearing Aid Compatibility
- National Deaf-Blind Equipment Distribution Program
- Telecommunications Relay Services
- Telecommunications Services and Equipment

Video Programming Access

- Access to Televised Emergency Information
- Accessible User Interfaces on Video Programming Apparatus and Access to Program Guides and Menus Provided by Navigation Devices
- Closed Captioning
- Video Description

31. Whilst NADP recognises that the UK and US regulations are different there is considerable commonality in the themes addressed and which are also shared with the international community particularly through the ITU. NADP believes that there are considerable benefits in sharing of information between market participants and stakeholders in the UK with the experiences internationally and domestically, and by working with and for PwD there is an opportunity to improve the equality and diversity of the Telecommunications and Broadcasting sectors within the UK.

32. It is essential that should a Disability Advisory Group be set up then its contributors should be selected to be representative of PwD based on their experience and expertise reflective of the community they represent following clear and predetermined procedures.

Q2b - Do you have views on other options we should consider, including for the period before new legislation is introduced and the new advocate is fully established?

33. We believe that our response to Q2a - Creating a new ALB could be set up relatively easily and quickly. The model in the US for Disability Advisory Committee demonstrates that this could be reviewed on an annual basis to ensure efficient use of funds. The new Advocate could then adopt this set up or, as we would prefer, this group continues in its own right. We would suggest that the Chair of the CCP or a representative of Citizens Advice be involved in the committee from outset along with suitable selected representatives of industry stakeholders.

Q3 - What are your views on the processes by which the funding of the enhanced consumer advocate would be raised and provided to the advocate on a year to year basis?

34. Whilst we agree that the expenditure needs to be in line with other advocacy services we believe that there needs to be an increased expenditure to get the advocacy arrangements up to speed, making up for the lost time that suitable arrangements have not been in place and thereby improve the satisfaction of consumers. We agree that interim measures need to be put in place whilst the advocate is set up and we would like to see these interim measures to include what we have proposed earlier in this response. It is not clear how quickly DCMS could obtain funds from providers as proposed and so would expect that the government provides funds in this interim period.

35. For people with a hearing loss communication is key to their continued involvement in society, employment and well being. We believe that there needs to be a greater focus on their needs in telecommunications, addressing the different levels of hearing loss and how their use of telecommunication needs may differ as a result. For example, good quality voice and availability of captioned telephony.

36. In light of these views we believe that people with a hearing loss are best placed to advise and inform what works best for them rather than have hearing people speaking on their behalf. As such any arrangements need to be representative of the population that they are attempting to reach. We are fully supportive of the Nothing About Us Without Us concept and believe this is an efficient way of ensuring persons with disabilities needs are met.

37. Our concern with this form of funding is that it is not directly attributed to vulnerable people or indeed persons with disabilities. We believe it is difficult to manage a shared budget when the needs of the many appear to outweigh the needs of the few, when in fact the needs of those few with a hearing loss would make a more significant impact on their lives. We therefore believe the fund should be segregated.

38. We are in agreement with the way that funds for the advocacy arrangements would be met and we feel this could form a basis in a review how relay services are funded in the UK.

39. We believe that there needs to be a mechanism in place whereby the appointed advocate is able to request more funds as and when required. It would be worth having a suitable metric in place to measure the satisfaction of key cohorts of consumers to ensure that each group meets a specific benchmark. This could help determine how funds could be allocated to each cohort.

Q4a - Do you agree with our analysis of the likely scale of funding for the new advocate?

Q4b - Are you aware of any other reasons that would make telecoms advocacy more or less costly than in other sectors?

40. As a voluntary organisation NADP does not have the resources to be able to carry out the search into the viability of the model. However, we would draw attention to the costs associated with the Disability Advisory Committee for FCC and would suggest these were appropriately scaled in line with the relative size of the US and UK markets.

41. Given our views expressed earlier we would expect a greater relative expenditure towards the needs of the deaf population of the UK compared to other sectors given their greater reliance on communication to ensure their quality of life and involvement in society and employment. People with a hearing loss are more likely to be older and as such more likely to watch more linear television. We would also expect the needs of this group to be greater per cost expenditure per consumer as they are more likely to have less money.

Simon Pearse
Vice Chair, NADP
simon.pearse@nadp.org.uk
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