

# *Citizens, consumers and the citizen-consumer: articulating the citizen interest in media and communications regulation*



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**ABSTRACT.** The Office of Communications (Ofcom), established by an Act of Parliament in 2003, is a new sector wide regulator in the UK, required to further the interests of what has been termed the 'citizen-consumer'. Using a critical discursive approach, this article charts the unfolding debate among stakeholders in the new regulatory environment as they attempt to define the interests of citizens, consumers and the citizen-consumer. Ofcom has preferred to align the terms 'citizen' and 'consumer' so that the interests of both may be met, as far as possible, through an economic agenda of market regulation. Among civil society groups, there is growing concern that the citizen interest is becoming marginalized as the consumer discourse becomes more widespread. We conclude by advocating the development of a positive definition of the citizen interests, distinct from the consumer interests, for the media and communications environment.

**KEY WORDS:** *citizen, civil society, consumer, critical discourse analysis, media and communications regulation, Ofcom*

## *Introduction: locating the public at the heart of the changing regulation regime*

Communications regulation is changing. In the UK, the newly formed regulator, Ofcom,<sup>1</sup> has attracted considerable public attention as it seeks to define its remit, scope and working practices in a convergent and increasingly global media and communications environment. In so doing, Ofcom illustrates the discursive, institutional and structural transformations that typify the new 'lighter touch', 'public-facing', risk-centred' regulators emerging in various sectors under 'New Capitalism' (Chiapello and Fairclough, 2002; Jessop, 2002). This new style of regulation in late modern, post-welfare society represents a move away from the previous 'command-and-control' regime, albeit one that focused on the supervision of business conduct through a mix of government departments and self-regulatory bodies. In contrast, Ofcom and other new regulators are statutory

bodies, funded by a levy on industry but accountable to Parliament, that seek a unified and 'principled' approach to risk-based regulation (Black et al., 2005; Chapman et al., 2003; Collins and Murrone, 1996; Lunt et al., 2006).

Economically, the changing style of regulation is driven by the impetus to deregulate global markets. Politically, the new regulatory regime suggests a democratization of power, a renewed importance for civil society, and a devolution of the role of the State (Habermas, 1997; Jessop, 2002). Discursively, the new regulators tend to reposition 'the public' at the centre of the risk society (Beck, 1992) through the shift from government to governance, and by prioritizing values of transparency, consultation, accountability, and individual empowerment and choice (Clarke et al., in press; Lunt et al., 2005; Needham, 2003). As Fairclough (2002: 164; cf. Mumby and Clair, 1997) notes, this discursive shift is enacted through the 'hardware' and 'software' of organizations. Our focus in this article is on how Ofcom's design and practice positions it as an institution in the public sphere with responsibilities for maintaining market confidence and representing the interests of the public as citizens and consumers.

We examine the communications sector for three reasons. First, because in the UK the regulator is new – indeed, it is providing a model for communications regulation elsewhere; hence, the debate over its role is still unfolding. Second, because the focus on 'citizen' and 'consumer' suggests an individualization of that collective entity central to media and communication studies, 'the audience' (Livingstone, 2005). Third, because our research is 'motivated by pressing social issues' (van Dijk, 1993: 252), our critical concern being that, although communication is crucial to the democratic process, nonetheless citizen (or public) interests risk being marginalized as the power elites (industry, state and regulator) reproduce and naturalize a consumerist discourse of communications regulation.

### *Furthering the interests of citizens and consumers*

Our starting point is the legal framework that sets out Ofcom's Statutory Duties (Clause 3 of the Communications Act 2003) thus:

- 3(1) It shall be the principal duty of Ofcom, in carrying out their functions;
- (a) to further the interests of citizens in relation to communications matters; and
  - (b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.

This appears to anchor the citizen interest at the heart of Ofcom's activities, for as Ofcom's Partner for Strategy and Market Developments is quick to claim, 'Ofcom is a creature of statute' (interview with the authors). Yet in its recent draft Annual Plan, setting out its work for 2006/7, the term 'citizen' barely appears, consistently replaced by 'consumer'. This might be puzzling if one were not aware that the framing of Clause 3, above, was fraught with contestation (Livingstone et al., in press). To reprise that debate briefly, we note that the Communications White Paper (2000) had defined Ofcom's purpose as safeguarding the interests of 'consumers', the 'public' and 'citizens'. The Draft Bill (2002), responding to

industry (particularly, telecommunications) pressure, replaced this throughout with the term 'customer'. Responding to civil society protest, the Bill (2002) itself referred instead to 'consumers'. But finally, following widespread lobbying on all sides and some lively parliamentary debate, the Act (2003) used the twin terms 'citizens' and 'consumers', as quoted above (see Livingstone et al., in press).

In short, the inclusion of the citizen interests in the Act was the outcome of a very public struggle over terms, and one that displeased Ofcom itself (Currie, 2003). Indeed, Ofcom quickly hyphenated the terms, reframing its mission statement thus:

Ofcom exists to further the interests of citizen-consumers through a regulatory regime which, where appropriate, encourages competition.

This double elision conjoins citizen and consumer as 'the citizen-consumer' and it foregrounds competition as the primary instrument for furthering both consumer and citizen interests, thus positioning Ofcom primarily as an economic, rather than a social or public, regulator.<sup>2</sup> Early on, the Chief Executive dismissed the distinction between citizens and consumers on the grounds that the reference group ('people', 'all of us') is one and the same:

We are all of us both citizens and consumers. In some activities we are more one than the other. But the interests of the citizen-consumer are an integrated whole. To attempt to separate them or rank them would be both artificial and wrong. So it will be against that combined citizen-consumer interest that we will benchmark all our key decisions. (Carter, 2003)

The modality in this passage (Hodge and Kress, 1988) seems to preclude further debate by drawing a line under the issue in favour of Ofcom's position. Yet this very attempt reveals that much is at stake for communications regulation and for the regulator. 'A creature of statute' accountable to but independent of government, funded by industry but charged with representing the interests of citizens and consumers, Ofcom must maintain a competitive market, meet the needs of the public, and reflexively monitor its own impact on both the market and the public sphere. Just how Ofcom is to reconcile these aims was far from fixed by the Communications Act. Rather, this task has been left to the regulator to negotiate for itself and with its stakeholders.

Not surprisingly, given the complexities of this administrative and public communication context, the regulator does not, in practice, speak publicly with a single voice. A second theme evident in Ofcom's early policy statements identifies citizens and consumers not as 'two sides of the same coin' but rather as binary opposites, for 'at the very heart of Ofcom is the duality of the citizen and the consumer' (Richards, 2003). Richards, then Senior Partner for Strategy and Market Developments at Ofcom, maps the terms 'citizens' versus 'consumers' onto a range of well-established oppositions that structure regulatory discourse: needs versus wants, society versus individual, language of rights versus language of choice, and regulation for the public interest versus regulation against consumer detriment.

The key terms of the Act are thus interpreted both as identical (the citizen-consumer) and opposed (citizen versus consumer). A cursory examination

of Ofcom's reports, speeches, press releases and policy statements reveals that, notwithstanding the avowed preference of senior Ofcom figures for the hyphenated 'citizen-consumer', Ofcom uses a variety of terms: 'citizen-consumer', 'consumer', 'customer' and 'viewers', though rarely 'citizen'. This interpretive flexibility regarding the interests of consumers and citizens inheres partly in the instability of those related terms on which citizen and consumer rely (e.g. needs, preferences, values, diversity, choice). Possibly too, the Act, in prioritizing but not defining these terms, represents a strategically inexplicit political settlement regarding the balance of power between state and market, regulator and public (Goodwin and Spittle, 2002). Notably, 'citizen' and 'consumer' pass as ordinary, their interrelations and ambiguities little challenged precisely because of their familiarity. Yet there is a lively terminological debate occurring over these terms, leading us to ask, how do stakeholders in the communications sector understand the interests of citizens and consumers? Is this really 'more than a matter of semantics', as Lord Puttnam asserted in the *Report of the Joint Committee* (2002: 11) at a pivotal moment in the framing of the Communications Act?

### *The interviews*

The present analysis concentrates on the 22 stakeholder interviews (25 interviewees), conducted during 2005, that aimed to capture the multiple voices debating communications regulation. Interviewees were selected primarily from the regulator (senior personnel responsible for citizen and consumer matters) and from civil society (key organizations representing citizens and consumers); also, the public policy directors for the two main broadcasters were interviewed (Table 1). In depth semi-structured interviews, conducted by the first author, lasted half to one-and-a-half hours. Interviews were conducted 'on the record', usually at the interviewee's place of work (though a few were conducted in the interviewer's university office). Each was audio-taped, transcribed in full, and checked with the interviewee for permission to use.

The interview schedule<sup>3</sup> covered 10 core areas: 1) regulatory change, the new regulator and legacy regulators; 2) regulatory priorities and challenges; 3) development of the regulator; 4) structure/organisation; 5) public consultation participation/criticism; 6) public understanding; 7) public/civil society representation; 8) media representation of regulation regulator; 9) research and

TABLE 1. *Information about interviewees*

<i>Ofcom</i>		<i>Role</i>	<i>Interview date</i>
Colette Bowe	CB	Chairman, Consumer Panel	28/09/05
Neil Buckley	NB	Policy Director, Consumer, Competition and Markets (consumer policy, media literacy)	10/06/05

(Table 1 continued)

(Table 1 continued)

<i>Ofcom</i>		<i>Role</i>	<i>Interview date</i>
Robin Foster	RF	Partner, Strategy and Market Developments, Ofcom (ex-ITC; has since left Ofcom)	09/06/05
Richard Hooper	RH	Chair of the Content Board, Ofcom (retired Dec. 2005)	20/06/05
Graham Howell	GH	Secretary to the Corporation	09/06/05
Kip Meek	KM	Senior Partner, Competition and Content, Director of Competition Policy, Competition and Content	20/07/05
Julie Myers	JM	Policy Manager Consumer Panel, Ofcom (now Senior Policy Executive: Content and Standards)	28/06/05
Helen Normoyle	HN	Policy Executive, Director of Market Research	27/06/05
Matt Peacock	MP	Director of Communications	13/07/05
Tony Stoller	TS	Executive Committee, and External Relations Director (retired Sept. 2005)	10/08/05
Rhodri Williams	RW	Director, Nations (Wales)	11/08/05
<i>Civil Society</i>			
Claire Milne	CM	Freelance Consumer Spokesperson, Antelope Consulting	20/4/05
Pat Holland	PH	Academic members of the	21/07/05
Jonathan Hardy	JHy	Campaign for Press and Broadcasting Freedom (CPBF)	
Gary Herman	GH n		
Jocelyn Hay	JH	Chairman, Voice of the Listener and Viewer (VLV)	19/04/05
Don Redding	DR	Campaign Co-ordinator, Public Voice	09/05/05
Luke Gibbs	LG	Founders, OfcomWatch (a blog for Ofcom)	20/05/05
Russ Taylor	RT		
John Beyer	JB	Director, MediaWatch-UK	12/07/05
Allan Williams	AW	Senior Policy Advisor, Consumers' Association (Which?), now Ofcom Consumer Panel	04/03/05
Paul Skidmore	PS	Senior Researcher, DEMOS	15/03/05
Richard Collins	RC	Academic, Ex Oftel Advisor	19/04/05
<i>Industry</i>			
Stephen Whittle	SW	Controller, BBC Editorial Policy, BBC (and, before that, BSC; has since retired)	08/07/05
Simon Pitts	SP	Controller Regulatory Policy, ITV	15/08/05

evidence-based policy; 10) regulatory successes and failures. To focus answers, the interviews covered both broad areas of policy (e.g. Ofcom's reviews of public service broadcasting, spectrum management and telecommunications) and specific policies (e.g. universal service obligation, digital switch-over, mobile phone tariffs, the broadcasting code, media literacy).

### *Methodological issues*

Interviews with elite actors differ from those with the public: while the latter are selected to represent particular demographic groups (e.g. age, gender, social status) or experiences (e.g. parents, viewers, activists), the former are selected for their particular role – as spokesperson, chief executive or senior figure responsible for a domain under investigation. Gaining access to elites is challenging, requiring a careful positioning of the interviewer and research project (Odendhal and Shaw, 2002). In our study, the request for access was eased by the project being funded by the national research council. Still, interviewees wished to know how the material obtained would be used, especially in public forums.

A reflexive attention to the mutual positioning of interviewee and interviewer is vital during the conduct of the interview. The interviewer must continually, if implicitly, establish themselves as informed, independent and professional (Kezar, 2003). Williams (1989) points to the element of impression management or public relations typical of interviews with powerful elites, and to their attempts to control the information obtained regarding the organization, its decisions and, especially, its difficulties. We had to perform subtle face-work, occasional conversational repair and to respond to interviewees' insertion of their own meta-commentary during interviews, in order to ensure that the interviews could get beyond the public façade of people's roles to access institutional deliberations and uncertainties (as marked by an interviewee's confidential tone, or as provoked by a confrontational interview style).

The analysis of interview transcripts raises further issues. Drawing on the tools of critical discourse analysis (CDA) developed by Chouliaraki and Fairclough (1999); Fairclough and Wodak (1997); van Dijk (1997); van Leeuwen (1993), we attended to the range of terms used – their associations, metaphors and discursive tropes – as well as to the descriptive, normative and justificatory frameworks invoked to account for the conduct of communications regulation. CDA focused the analysis on the ways in which ideological dilemmas were framed and resolved within interviewee accounts (Billig, 1988, 1999; Kress and Hodge, 1979). The interviews were viewed as part of the rhetorical 'performance' of participants in a public debate, revealing steps taken to establish or challenge certain interpretations or to address such pragmatic questions as, who has the right to establish the terms of debate? Some interviewees treated the interview as a liminal space for professional self-reflection (Sarangi and Slembrouck, 1996). Most interviewees asked to see the transcripts, and in some cases, excerpts were marked retrospectively as 'off the record' (these deletions tending to save a more 'tolerant' or 'inclusive' face for the organization).

Transcripts were entered into the qualitative data analysis package, Nvivo, to ensure systematic and comprehensive coding.<sup>4</sup> Although transcripts did not contain the detail required for conversational analysis, pauses, hesitations, equivocations and so on were documented.

### *Just semantics?*

Ofcom's Senior Partner (Competition and Content) spoke for his colleagues when he told us, 'if it wasn't in the Act, citizen-consumer language might not (.) we might decide that wasn't terribly useful' (KM). This ambivalence about terminology occurs at the institutional level (cf. use of the pronoun, 'we'), with the terms 'citizen' and 'consumer' being portrayed as imposed on the regulator (through the Act). This institutional orientation is, however, presented with some equivocation: KM moves from talking passively about Ofcom's role (as in the 'citizen-consumer language might not ...') through to an ambiguous presentation of the institution's agency (as in, 'we might decide ...'). Ambiguity is also apparent in the account given by Ofcom's Director, Nations (Wales): 'Well I think we would accept and this is probably true in many contexts that what are consumer issues and citizen issues overlap to very great extents. They're not mutually exclusive categories' (RW). The extensive use of modal qualifiers ('I think', 'might') reveals the care being taken to convey the notion that, although the citizen/consumer distinction cannot be ignored, since it is in the Act, the regulator questions the value of these terms in framing its statutory duties.

Ofcom's Director of External Relations takes a different approach, noting of the citizen/consumer distinction, 'there are counters which are black and there are counters which are white, but most of the counters are shades of grey' (TS). In other words, he claims the distinction is too categorical for the requirements of a principled regulator, though they may suffice for ordinary discussion. Combining this claim for a lack of subtlety with the claim that the terms are ambiguous, Ofcom seeks to warrant an apparent lack of action regarding the citizen interest in particular (see later), this illustrating how actor descriptions are used to shape or avoid practice (van Leeuwen, 1993, 1996). However, since these are ordinary language terms, Ofcom uses them freely when presenting (and legitimating) its work in the public domain, although it distances them from the actual conduct of its work. For example, Ofcom's Director of Communications, responsible for public relations, conflates the terms so as to meet the requirements of the Statute (i.e. to use the terms), while also asserting Ofcom's common touch: 'citizens/consumers, people basically, as I prefer to call them' (MP). The Director of Market Research also suggests that ambiguity over the terms justifies questioning whether they can guide Ofcom's research activities:

It's a very tricky question. Because some issues are obviously consumer issues and some issues are obviously citizen issues but at the end of the day we're talking about people. So I, my personal preference is to cast the net wide and not to be too presumptive about what it is that we're talking about. (HN)

These three directors (of Ofcom's External Relations, Communications, and Market Research) are required by their role to communicate between the regulator and external bodies, including the public. They, more than those focused on internal policy development, questioned whether the citizen/consumer distinction is workable. While the Director of Communications describes his attempt to standardize Ofcom's use of terminology across its many reports and press releases, the Director of External Relations is more critical:

I think anyway, frankly, it's a totally artificial distinction (.) but that's my view not Ofcom's view, I think it's a nonsense. (.) because I don't think that actually I have a different interest when I'm being a consumer as to when I'm being a citizen. (TS)

The Director of External Affairs is careful to frame his view as 'my view not Ofcom's view', while also suggesting that common sense would not support the use of artificial distinctions as the rationale for regulatory practice. The Director of Market Research similarly presents her research practice as a 'personal preference' (quoted above), while criticizing as 'presumptive' those who might challenge her sidestepping the exact terms of the Act. Thus we see key Ofcom figures seeking a discursive resolution by which the regulator's arguably ill-defined duties can be interpreted so that Ofcom may, as they would contend, follow the spirit rather than the letter of the law and so, in practice, further the interests of both citizens and consumers. Critics would argue that, in escaping the letter (or terminology) of the law, its spirit may be more readily sidelined.

A strategy of avoiding or rejecting the key terms of the Act is supported in less cautious terms by some of those not bound by Ofcom's statutory obligations. One civil society lobbyist comments, 'I think it's horrible, the "citizen-consumer" opposition' (GHn). The Consumers' Association (Which?) also brushes aside the distinction as unimportant: 'Well, they [Ofcom] talk about citizen-consumer, I mean, as much as we do – everyone fudges that' (AW). Yet the institutional response from Ofcom remains cautious: rather than wholly dismissing the terms as unworkable, Ofcom's Senior Partner (Competition and Content) recognizes that something important is at stake, observing of the Communications Act:

It was hard fought over because as with many of these things, it became a metaphor for (.) whether, you know for the sort of it was a the sort of 'soul of Ofcom' was being fought over and the, you know, if you include the word citizen, QED Ofcom will not just be an economic regulator, it will look more broadly than that and that is what it was about. (KM)

Ofcom's recognition of the ideological significance of discursive formulations is itself interesting. Constructed as reflecting the 'soul of Ofcom', the ideological connotations are mapped onto practices: economic regulation is portrayed here as lacking soul, the citizenship agenda is described as introducing it (a view that resonates with those who fought to include the term 'citizen' in the Act; Livingstone et al., in press). But it is this ideological conflict that other civil society bodies, not inclined to fudge the citizen/consumer distinction, seek to bring to the front of the public agenda. The Campaign Co-ordinator of the civil society body, Public Voice, has protested formally about Ofcom's hyphenation of the two terms, because then:



...the two twin but separate and distinct principal duties become aligned and subordinated into the consumer, essentially but principally because you say, well, the vehicle is competition. Well the Act doesn't say that. The Act says, normally you'd expect the vehicle to be competition when you're dealing with consumer issues but no such link is made with citizens' issues ...Last year in their annual plan consultation there were eight, nine, ten out of whatever it was sixty, sixty-five responses that raised that issue about the mission statements and said please change it. It had no impact ... and there it is now, they've stopped apparently using 'citizen-consumer', hyphenated, to show that they don't conflate the two anymore. But they still say, 'both where appropriate through competition. (DR)

His argument is carefully framed, challenging this 'creature of statute' by referring to the wording of the Act, and demanding that the self-avowedly open and consultative regulator to take note of public consultation. And he draws on wider public frustration regarding Ofcom's framing of its mission statement: critics focus both on the troublesome hyphen of the 'citizen-consumer' and on the problematic comma that determines whether the phrase 'where appropriate by promoting competition' attaches only to furthering the consumer interest or also includes the citizen interest.

The debate moves on, and after a year of hyphenating citizen and consumer, it seems that Ofcom has quietly conceded the point.<sup>5</sup> However, one cannot yet judge the implications for citizen interests, not least because the emphasis on addressing consumer and citizen interests through market competition continues. For example, when Ofcom's Content Board Chairman tells us,

Our major clause says we are in the business of furthering the interests of citizens and of consumers, where appropriate by competition. That's what our job is, our job is to basically instil competition into the markets and to make sure the consumers and citizens are satisfied. (RH)

... he focuses on the reformulating the second half of the mission statement (and omitting to note the equivocation contained in the 'where appropriate' clause). 'What our job is' is stated as a fact, with primacy given to economic regulation, obviating the need for any definition of a citizen agenda. The form of argumentation used here (evasion of a central clause) defines what is worthy of consideration and what can be ignored, supporting moves that discredit the citizen/consumer distinction on both definitional grounds and as a basis for regulatory practice (van Eemeren et al., 1997). By contrast, the Chairman of Voice of the Listener and Viewer (VLV) makes clear that the focus on competition is only one aspect of the Act:

As a result partly of our lobbying, the Bill was amended and the Act included as the two principal duties to serve the needs, I think it is, of citizens and of consumers where possible by using competition. (JH)

Here she emphasizes the phrase that the Content Board Chairman underplayed, namely the balance between citizens' needs and those of consumers, with competition relevant only 'where possible'. Each apparently pedantic matter of phrasing points to a concern regarding Ofcom's focus: is it more concerned

with the consumer, thus marginalizing the citizen? Is it primarily an economic regulator or is it not? As an academic commentator suggests:

I think this is one of the areas where the Act is incompletely coherent. Um, and I think that Ofcom have dealt with that incoherence with a semantic sleight of hand, by conjuring into existence, this, you know, the citizen-consumer thing ...It's not in the Act [...] If you look in the foyer of Ofcom the next time you're there, they've got a little sort of slab up on the wall, which says, you know, Ofcom is about six things; none of these six things mention either consumers or citizens. (RC)

### *Defining the citizen*

Thus the struggle over the phrasing of the Act was about more than semantics. It addressed the question of whether citizen interests were to be represented alongside consumer matters, and whether Ofcom would be equally accountable for meeting the needs of citizens as for consumers. These concerns were not, it seems, answered simply by including the term 'citizen' in the Act and so the question of how to define and assert citizen interests remains. But this, it seems, is difficult. A Senior Policy Advisor to the Consumers' Association explains:

The risk is if you have just the language of citizens then you end up with, with a load of nebulous and quite high level public interest-type objectives rather than actually looking are people getting the best deal in this market ...they may be fuzzy at the margins but ...there are a whole set of issues that you can see quite clearly, that's a consumer issue and ...whether you are getting good value on your telecom bill is a consumer issue ...(AW)

The use of terms such as 'fuzzy' and 'nebulous' to characterize the term 'citizen' warrants the idea that the term is indeed difficult to define, questioning its usefulness for regulatory practice. By contrast, consumer issues are positioned in the above extract as relatively straightforward, with a contrast drawn between tangible interests (e.g. whether 'people [are] getting the best deal in this market'), for which concrete examples of consumer concerns can be readily provided and intangible ones (paralleling the accounts by Ofcom executives who contrast 'real' and 'artificial' issues or concerns). The absence of a positive account of the citizen interest suggests that none exists.

The Chairman of Voice of the Listener and Viewer, who advocates that Ofcom should encompass citizen interests, nonetheless recognizes that:

It is much easier to regulate consumer issues which are basically economic issues and redress and fair representation and so on than citizenship issues which involve social, cultural, democratic issues which are far more difficult to quantify and measure. (JH)

This reference to quantification is important: Ofcom is an evidence-based regulator, with a sizeable research department and budget. Consequently, issues that fit poorly within a market research ethos fit poorly within its purview altogether, a point we return to below.

The Chairman of Ofcom's Consumer Panel adds another argument regarding the relative difficulty of citizen over citizen issues:

The citizen issues are much harder because you have to find some other deliverers who you can forge an effective alliance with to deliver. Doesn't mean you're not still responsible for doing something, but it's a harder and more complex, more diffuse. (CB)

The language of alliances is important to Ofcom's ethos, for the new regulatory regime replaces the enforcement of top-down regulations with multi-stakeholder collaboration. Building horizontal alliances while retaining responsibility for outcomes poses challenges of process and accountability that the new regulators are still grappling with. CB's language is relatively conciliatory as regards the evaluation of Ofcom's actions, but it still speaks to the language of outcomes by highlighting the injunction 'to deliver,' and invoking the language of performance ('effective'). Still, the citizen interest remains undefined – still 'something ... complex, more diffuse'.

If those responsible for external scrutiny of Ofcom find the citizen interest difficult to manage, it is no surprise that Ofcom does. Again, the contrast with the consumer interest is striking. The Senior Policy Advisor to the Consumers' Association has no trouble noting how much work Ofcom is undertaking to further the consumer interest:

I mean, fortunately Ofcom are taking their own consumer responsibilities very seriously and we've been working with them on a couple of project which I don't think I can really tell you about but we are persuaded that they are taking consumer research and the idea of basing regulation on a real understanding of consumer behaviour, actual risk and what consumers want in the market, we're persuaded they're taking that extremely seriously. (AW)

This account, not only of Ofcom but also of its work with consumer bodies, wards off alternative assessments of the regulator's performance. AW sees Ofcom achieving 'real understanding' alongside an assessment of 'actual risk', two phrases that invigorate the principles of regulation as those by which issues positioned as real are worthy of attention whereas those positioned as social constructs can be dismissed. Since consumer issues fit the former category, they are being taken 'extremely seriously', even though this claim is based on something 'which I don't think I can really tell you about'. This speaker is engaged in important face-work, presenting himself as an expert with inside knowledge about the regulator, this conferring on him the authority to speak about Ofcom. Indeed, such face-work hints at the conditions (of mutual benefit, privacy, confidentiality) surely necessary to build multi-stakeholder alliances between the regulator (as an expert economic regulator) and other bodies. Yet these may undermine the evaluation of the regulator's function as an institution in the public sphere (in terms of accountability, transparency, disinterestedness).

### *Responsibility for the citizen interest*

The principled approach to regulation allocates resources according to a risk analysis of particular issues or objectives. If the citizen interest is, by contrast to the consumer interest, difficult to define clearly and unambiguously, requires

the construction of diffuse alliances with other stakeholders, and is not readily amenable to quantifiable research, this makes it hard to allocate resources to furthering the citizen interest, notwithstanding its inclusion in the regulator's general duties. Indeed, this applies not only to the regulator but also to civil society bodies, the very names of which were coined before the terms 'citizen' and 'consumer' became zeitgeist following the Communications Act (The Consumers' Association, The Voice of the Listener and Viewer, etc.), constraining their ability to act in this changed discursive terrain, and so creating expectations that the regulator should lead in furthering the citizen interest.

In many interviews we heard of the limited capacity of civil society organizations to invest time in consultations, attend meetings, lobby the regulator and conduct independent research. As the Chairman of VLV stated: 'it is a difficult area because a lot of these decisions are subjective ... We don't have the resources to do the research that is necessary in order to make it objective' (JH). This account gives primacy to 'hard facts', acknowledging a threshold of objectivity to be passed if civil society voices are successfully to question the evidence-base of Ofcom's policy. Lacking such resources, the VLV instead seeks to establish a dialogic relationship with a (primarily) economic regulator. So, in the above quotation, the Chairman engages in a form of rapport management in which she mirrors Ofcom's commitments (Martin and Rose, 2003; Spencer-Oatey, 2000). These complex dependencies between the regulator and civil society bodies lead to a convergence in public discourse regarding regulatory matters, as is evident in the handling of the debate over consumers and citizens.

The regulator has its own reasons for its apparent reluctance to encompass the citizen agenda of civil society. As the Director of External Relations asks, 'if you engage with consumers, do you engage separately with citizens?' He continues, yet more sceptically, 'do we get better advice from self-appointed, um (.) probably issue-driven, (.) non-representative groups?' (TS). His questions imply that even if civil society groups had adequate resources to challenge Ofcom, the regulator would question whether they reasonably represented either the citizen or the consumer or if they were partisan. His scepticism is presented with a degree of equivocation (via the modal qualifier 'probably', together with the pauses and hedges apparent in his utterance), for Ofcom is driven by the imperative to be efficient, clear in its purposes, transparent in its workings, perceived as legitimate by all stakeholders.

Both these internal and external perspectives, we suggest, are now motivating a change in what Ofcom terms its 'philosophy' as well as its regulatory structures, practices and, of course, its discourse. As the Senior Partner for Competition and Content puts it, discussing the contrast between consumer and citizen interests:

... it's a question of ...can Ofcom straddle these things? I think it can straddle these things, it's just that the philosophical route is rather different I think in competition and markets vs. content and standards. So, that doesn't mean it's irreconcilable, indeed if they were done by completely separate organisations ...you'd still hope for ...some sort of consistency, and there are some benefits from doing it all in one organisation. But nevertheless there's different types of thinking associated with both approaches. (KM)

## *Marginalizing the citizen interest? The view from outside*

The Campaign for Press and Broadcasting Freedom (CPBF) discusses the inclusion of citizen interests in the Communications Act as ‘a slightly symbolic victory but important victory’ (JHn), this metaphor of competition or war pointing to the ideological conflicts at stake, the qualification of the victory as ‘symbolic’ acknowledging how easily the struggle could yet be lost. For the Voice of the Listener and Viewer, the inclusion of the citizen interest in the Act was equally vital: ‘It matters enormously ...As a result partly of our lobbying the Bill was amended and the Act included as the two principal duties to serve the needs, I think it is, of citizens and of consumers’ (JH). But what does this victory mean in terms of the institutional practices of the regulator?

Civil society bodies are struggling to define the citizen interest and to distinguish it from the consumer interest, though they are clear about the importance of critiquing the dominant economic competition view (Collins and Murrioni, 1996). Thus far, the debate has produced a rather unsatisfactory and negative conclusion, defining citizen issues as whatever important is left over after determining first what markets alone can achieve. The CPBF are among the few voices expressing an ambitious and positively definition, arguing against the industry position, which they characterize as asserting that:

...public service, finance state aid regulation should only step in to secure a minimum required set of citizen values based around news, information and plurality as it applies to news and information. Now, we’ve challenged that strongly. We don’t believe that that’s an adequate expansive definition of public service media, both broadcasting and where it needs to go. Even if the mixed funding provision erm through particular channels is under pressure (.) I think we’d acknowledge that (.) the principles of mixed programming, mixed genre entertainment, the role for citizenship to include children and education and cultural diversity and so on is absolutely critical. So it’s a real concern that the espousal of citizenship may cloud and cover a narrowing of public service (.) media space and fits Ofcom’s overall argument which we see as dismantling a public service system and creating a much more residual space. (JHn)

Though well intended, this account may seem to justify the Consumer Association’s anxiety about ‘nebulous’ claims (discussed earlier). The account is personalized (‘we believe’) and aligned with forms of subjectivity rejected by other civil society interlocutors (who are more painstaking in their attempts to conform to the communicative and evidential styles favoured by the regulator). As the account moves towards a positive definition of ‘citizenship’, it loses articulacy; the definition takes the form of a list (mixed programming, children’s programmes, etc.) rather than expressing the principles of citizenship (e.g. plurality, inclusiveness, participation), though, diversity is stressed. The account connects with the risk-based regulation agenda, warning of a negative outcome if the citizen interest is marginalized, but no evidence is provided for this claim. Nor did our other interviewees find it easy to articulate the citizen interest. The BBC’s Controller of Editorial Policy was the most forthcoming, talking in a language of positive public values (value, culture, education, nation) that finds little resonance within Ofcom:

...my concern would be ...that citizen is indeed understood in the broader sense of issues around public value, and that is not just about information, it's also about culture, it's about encouraging the British story, so to speak, being reflected within British production. And also it's around educative programming as well. (SW)

This strong definition is enabled by the speaker's avoidance of the face-saving strategies used by others to enhance their relationship with the regulator (e.g. the use of factual language and the discourse of risk). SW instead presents his ideas as a personal 'concern', rendering it unclear if he is speaking for the BBC; thus he avoids presenting the BBC as in conflict with Ofcom.

In fact, Ofcom acknowledges the BBC's agenda, but restricts it to television (or broadcasting, via the remit of the Content Board), opening the way to position it as an agenda from the past. Ofcom's Partner (Strategy and Markets) elaborates:

Well, I think the point about television as a medium is that it is, it is special because it has the potential, whatever is on it, to have a powerful impact on our lives and the way we think about ...the society we live in. Therefore it becomes important to pay a particular interest to the nature of the content and the providers of that content ...Now, I don't think you can say that about many products, I don't even think you can say that about a lot of media. (RF)

Television's unique position within the nation-state has long been legitimated on just these grounds (Scannell, 1989). What is less widely accepted, indeed what seems a new argument recently advocated by Ofcom, is the idea that as the media and communication environment diversifies, the citizen interest in communication matters declines. In the above extract, the degree of equivocation and the use of nebulous language suggests that RF recognizes the tendentious nature of the argument (that media other than television lack a special power), as also signalled by becoming rather bullish by the end of the extract.

Rather than developing a positive account of the citizen agenda in communications, many of our interviewees find it easier to criticize Ofcom's regulatory processes. For example, the Campaign Co-ordinator for Public Voice points out that 'there is no single focal point in, you know, other than the Chair of the Content Board, there is no single focal point in Ofcom for citizens' issues whereas the Consumer Panel gives one ...for consumer issues' (DR) and this, he implies, impedes the effective representation of citizen interests. As we have seen elsewhere, the comparison (between Ofcom's treatment of consumers and citizens) is used to highlight the relative neglect of citizens, as viewed by its critics. DR thus highlights the diffuse nature of Ofcom's treatment of citizens (by contrasting it with the 'focal point' provided for consumers). The academic commentator agrees that Ofcom is biased in the attention paid to its twin duties: 'Yes, I think there an asymmetry at the moment in the debate in that Consumer Panel represents the consumer interests on every topic except content, which by and large, we would see as more of a citizen interest than a consumer interest. ... The Content Board inside Ofcom represents the citizen on all issues to do with content – broadcast content, but no other issue' (RC). Note that although identifying this 'asymmetry' suggests a critique of Ofcom, the term itself derives from the language of economic policy,

and so points to an underlying degree of convergence between the discourses used by the regulator and its critics.

There also appears to be some consensus that the settlement over Ofcom's general duties encoded into the legislation leaves important issues open and unresolved in practice. The Chairman of the Consumer Panel suggests that the citizenship agenda is built into the very structure of Ofcom, and that Parliament will hold Ofcom to account for delivering on its twin duties:

The scrutineer is the public, I mean literally the scrutineer has to be Parliament, I think. Parliament acting on behalf of the public, has to be. Parliament needs, I think, to be able to say this is what we want this regulation to deliver, this is why we legislate it. And, you know, interestingly in Ofcom's case, the word 'citizen' is used in the legislation as well as 'consumer', and I think it's for Parliament to hold Ofcom to account for how it's interpreting that remit. (CB)

Drawing on the language of Parliament (scrutineer, legislate) reminds us of the democratic foundation of the citizen/consumer debate. Although CB presents the power of the public to scrutinize the regulator, through Parliament, as unproblematic, the frequent use of hedges in her account ('I mean', 'I think') hints at an uncertainty regarding the citizen agenda (especially if the logic of the independent regulator should conflict with the expectations of Parliament).

Ofcom has recently identified a work stream to scope the citizen's interest (cf. its Annual Plan 2005/6), thus acknowledging that it has not yet given sufficient priority or resources to defining and addressing the citizen interest. Yet the regulator appears sanguine about the outcome of this process:

I think the good thing is that on the whole I don't think there are citizen groups out there who think that the citizen has been neglected. And certainly I don't think consumer groups, I mean there are ...big arguments of philosophy with consumer groups. I mean the biggest argument is that by and large Ofcom would say that its job is to get effectively working and mature competitive markets because they bring consumer benefit. There are people in the consumer lobby who argue that competition's been not particularly good for consumers and that Ofcom should work directly on consumer information, tariffs and all that stuff. And I think that is a live philosophical debate and there's no obvious answer to it. (RH)

Ofcom's Secretary adds:

I think it's one of those things that the board is very alive to, the citizen-consumer, and what comes up quite often during board discussions is, 'are we really gripping the citizen end of this because we get so much of it's a consumer focus' ... I'm not conscious of us being put under pressure by citizens' groups to suddenly bring citizenship up the agenda. I think it's more a feeling that maybe we haven't quite brought it out. (GH)

Both these extracts acknowledge the challenge of defining the citizen interest, but provide a narrative of extensive dialogue with consumers and consumer groups that wards off the criticism that this issue has been neglected. Still, a defensiveness is evident: RH reveals this through the double-negative, 'I don't think there are citizen groups out there who think that the citizen has been neglected'. GH is

similarly defensive when he denies being 'conscious of us being put under pressure by citizens' groups'.

The Consumer Panel, interestingly, is quietly seeking a way of tackling the citizen interest without explicitly trumpeting its approach. Talking of their recent innovation (the 'Consumer Toolkit'), the Policy Manager of the Consumer Panel says,

...citizen interest issues take the debate so much further on that we thought, well, we'll just concentrate, as a starting point, on this idea of, you know consumer int-, you know, if it looks like a consumer issue, that's what, that's what we're talking about. (JM)

In effect, this strategy is to encompass citizen interests within a broadening of the scope of consumer interests, rather than to define one against the other.

### *Organizing the citizen and consumer interest: the view from inside*

Given a lack of capacity on the part of civil society, a perceived lack of external pressure on the regulator, and a general uncertainty over how to define the citizen interest, one might think that little will change. But there is another motivation for change, one that is internal to the regulator, and driven by the criteria by which the new regulatory regime is evaluated – clarity of purpose, transparency, efficiency and accountability. In short, Ofcom's own organizational structures are not wholly, as they would say, 'fit for purpose', and this in turn threatens to compromise its reputation.

Note first that it was the binary formulation (citizens versus consumers, as in the Act) rather than the hyphenated one (as in the Mission Statement) that was translated into Ofcom's organizational structure. Citizen interests, the core business of the Content Board, were associated with broadcasting content (public service broadcasting, quality of news and current affairs, protection of children's programming, representation for ethnic, religious and regional broadcasting, etc.). Consumer interests, ensured by Ofcom's consumer complaints and consumer policy work, in addition to the Consumer Panel, were more associated with telecommunications services (ensuring a competitive market delivering value for money to consumers in telecommunications, mobile services and broadband, etc.). Ofcom's Secretary to the Corporation explains this in everyday terms, though he also hints at some uncertainty about just why it is in the citizen's interest to restrict content:

On the telecoms side really we are trying to help competition, we're trying to give the consumer open competition and in simple terms, trying to make sure BT doesn't maintain its monopoly and therefore, in some way, disadvantage consumers. In a sense that's what we do in telecoms. But on the broadcasting side, it's much more citizen-based, isn't it, because we're not really stopping competition, we're being more restrictive on, 'well this is what you can and can't see on your television', ...it's very interesting how ...the two things split. (GH)



This binary mapping of terms is well-established in Ofcom and beyond (as the Chairman of VLV states, ‘citizenship comes under the content board’; JH), and thus she knows who to lobby about what). Thus the discourse that separates off, and so contains, the citizen interests, was built into the design of the regulator through the following binary oppositions:

Consumer:	Citizen
Consumer Panel:	Content Board
Telecommunications:	Broadcasting
Enable competition:	Regulate competition
Avoid detriment:	Restrict content

Yet things are not so simple, as the Policy Manager for the Consumer Panel suggests when she argues that ‘there are consumer issues around broadcasting ...like digital switch over’ (JM). As it turns out; there are citizen issues in relation to telecommunications. The Policy Director for Consumer, Competition and Markets explains:

There are complexities to just perhaps having a simple distinction – where the market works, that’s about consumer issues, and where the market doesn’t work, that’s citizenship issues. Because you know sometimes it’s about how the market works but it could work better, or how the market works but we need to support confidence in the market by taking particular forms of action. And there you’ll sometimes, you’re coming from it from a very consumerist policy but it’s underpinned by what I would, you might call, citizenship-type concerns. (NB)

Whereas earlier accounts suggest a neat division between citizen and consumer issues (mapped onto broadcasting and telecoms, respectively), the above extract emphasizes the complexity. NB attempts to support the ‘shades of grey’ argument, linking the citizen interest to the market. But the concepts remain ill-defined, perhaps because Ofcom has a stake in maintaining terminological ambiguity in the public debate until such a time as it has defined its citizen remit for itself. For those outside the regulator, such definitions come more easily. As the BBC’s controller of Editorial Policy suggests:

What I think that the Communications Act was trying to recognize is ...you can characterize the interests involved in two ways. That there is a citizen interest in broadcasting because we have always traditionally taken the view that broadcasting is a matter of public space and of public value ...Equally, there’s a consumer interest too, in terms of how it’s paid for and in terms of what services are delivered to you, and whether or not the price you are having to pay is a reasonable or fair one. And that was a concept of course that also in terms of Ofcom translates into the telecom sector, because again, in the telecom sector, the original requirements laid on BT were that it should provide a universal service, that the possibilities of universal access to telephony was a part of their responsibility. So even again in the telecom sector there’s a tradition of, you know, you don’t just provide to the people who it’s easiest to get to. (SW)

The above extract defines the citizen agenda both within and beyond broadcasting. Here, normative concerns around broadcasting are construed as reflecting a citizen agenda (‘public space’, ‘public value’). Through the word ‘equally’,

citizen and consumer interests are construed as having parity, which rhetorically enables the SW to fit his vision of citizen interest within Ofcom's discursive framework. However, primacy is given to the citizen agenda through the invocation of a temporal context ('traditionally'). This context is reinvigorated at the end of the extract when SW describes the 'tradition' of providing access within telecommunications (which is portrayed as a citizen issue). Such recourse to 'tradition' asserts that the citizen agenda runs alongside a consumer focus. The tone of the account (which is largely conceptual) makes possible a whole range of associations between the two agendas that are less easy to formulate for the regulator, whose starting point is to articulate an approach to regulatory action focused on risk and on quantifiable evidence.

So, for Ofcom, there is a tension between the strategy of fudging the boundaries between citizen and consumer and the strategy of protecting the binary mapping of consumer and citizen onto Consumer Panel (and other Ofcom units) and Content Board respectively. Ofcom's Partner for Strategy and Market Developments describes the relation between Ofcom's duties and its organizational structures as 'a delicate balancing act', noting of the citizen interest that:

it was ...largely talked about in terms of the media, the broadcasting side of Ofcom's activities, but in fact when you, the more you think about it, the more some aspects ...of the issues which actually the Consumer Panel, so-called, is very interested in, are in many ways what I would describe as citizenship issues. They're about universal availability of telecom services around the country, they're about affordable access to, telephony services ...for the less well off. They're about protecting the more vulnerable groups to make sure they have access to, uh, to communications. And all of those actually feel more like citizen rather than consumer issues. (RF)

In this extract, through various hedges and equivocations, RF enacts a distance from his otherwise sympathetic characterisation of the Consumer Panel as encompassing citizen interests (since this is contrary to the organizational design of the regulator). The chairs of both Content Board and Consumer Panel are more forthcoming in challenging the neat binary mapping of Ofcom's general duties onto its organisational structure. As the Chair of the Content Board says, 'it's just that I think the way that the Communications Act set us up (.). They set up this rather strange structure that there was a Content Board inside covering certain issues and a Consumer Panel outside covering certain issues but not content' (RH). While for RH, Ofcom's original design is 'strange', the Chairman of the Consumer Panel is ready to move forward by expanding the definition of the citizen interest:

If we were all to accept that ...there's consumer detriment that flows from confusion over mobile phone tariffs, then we'd say, OK, let's do something about it. There are all sorts of ways you can tackle that, there are websites that give comparisons, you know, there's a raft of things you can do. There's a kind of standard ...consumer policy response, all of which is within the ...capability, of a regulator. If, however, you say, well, actually, there's another set of issues over here, which, let's generalize it and say there's an issue for many people in our society about how they choose, this technology, ...televisions, phones, whatever, and how they use them. That then becomes an issue that extends beyond just this regulator, it becomes

an issue about public policy quite broadly defined. Doesn't let the regulator off the hook, but it means they have to find ways in which to collaborate with other deliverers of public policy outcomes in order to secure an outcome. (CB)

Her argument is that, first, the regulator has a standard, well-recognized repertoire of interventions to address consumer detriment; second, communications technologies also occasion public policy challenges (i.e. the citizen interest) which the regulator must address; but fortunately, third, it is safe for the regulator to acknowledge this because together with the public policy focus comes a wider range of stakeholders who collectively must meet the challenge. It is this third area of her account which provides the key to understanding how the citizen interest is framed by the regulator. She discusses it as presenting 'another set of issues over here', implying they are external to the work of the regulator and, instead, linked to public policy. Rather than simply state that this has nothing to do with Ofcom, she advocates a new kind of citizen-facing agenda, requiring dialogue with other stakeholders (and, as we have seen, as befits the new regulatory regime). Ofcom is, in short, already furthering the citizen interests in some ways, and is already in dialogue with those who should further them in other ways. Looking beyond matters of broadcast content, she introduces a different, but equally legitimate area of citizen interest, focused on social inclusion.

We realized very quickly ...that what we were talking about was not consumers. We were talking about citizens. We were talking about people who were perfectly capable in principle of going to the shop and buying the thing as a consumer, but actually might they be isolated from our society in a way that made it difficult to know that that was what they should be doing? (CB)

For CB, the consumer interest must encompass the citizen interest, and so she rejects the citizen/consumer opposition not because the market discourse will suffice (consumer swallowing up citizen), nor because there is no positive definition of the citizen interest, but because social exclusion is an inevitable outcome of a society that prioritizes market competition and consumer choice (thus, consumers are, really, citizens):

So we realized after we had been going for a year that actually a lot of what we do is about citizens and the idea that there is a sort of, um, one lot of issues is consumers and one lot is citizens is a slightly false dichotomy, actually. Because you can start off thinking that an issue like digital switch over is about consumer issues. I-I we regard consumer issues as being about price, choice, access. So you might say, well, you know digital switch over is about consumers. Actually where the problems come, and why they are important, is in the area of citizens when it's about ...where you live and who you are. (CB)

The very prosaicness of her language contrasts with the complexity asserted by academics who seek to theorize the citizen interest in communication (e.g. Conover et al, 2004; Graber, 2004; Murdock, 2005). Yet this prosaicness may provide an effective means for policy to prioritize citizen interests, overcoming the charge of being 'nebulous' by being straightforward and ordinary. In CB's interview, the consumer interest is reduced to a list (price, choice, access) while the citizen interest is elevated to a fundamental concern.

I've had many groups of people come to talk to me about citizen issues. And it's actually through talking to those concerned groups that I've realized that actually most of what we do is about citizen issues, and that part of our really important role in life is to not be afraid to stand up and say 'I can't give you hard and fast evidence about this but I'm prepared to assert that it is important that people stay connected to communications because otherwise our society will lose some of its cohesion'. (CB)

This claim for the importance of citizen issues is made in the absence of evidence, requiring therefore a defiant stand ('not afraid to stand up'). CB thus solves the problem, to some extent, by bringing what are generally considered citizen issues under the umbrella of consumer interests. This simple act of re-labelling turns a problem into a solution, albeit just for one particular aspect of the citizen interest, that of the vulnerable or excluded citizen. However, generates its own problems, as we see below.

### *The vulnerable citizen*

The logic of market competition permits regulatory intervention on few grounds; that of vulnerability is less contestable, it seems, than alternatives based on concepts such as public value. Ofcom's Partner for Strategy and Market Developments puts the argument for focusing on vulnerable groups with some awkwardness:

We have to think and should think about the more vulnerable groups in society because these are not just commodities we're talking about they are, they are products and services which have wide social impact as well. So I think it's quite complicated ...for Ofcom. (RF)

Repositioning commodities as services enables the regulator to encompass the social implications of telecommunications, which would otherwise lie outside its remit. The imperative ('we have to') creates an injunction to incorporate the social into the economic, and thus conjoins the citizen and consumer agendas. How is this achieved? On several occasions, Ofcom figures recounted narratives of the vulnerable citizen, at risk of social exclusion, thus warranting a normative approach combining the ideology of social welfare with a neoliberal agenda. This approach relies on a quantitative, market research analysis in which the 'citizen' is constructed as a segment of the population, as Ofcom's Director of Market Research observes:

When it comes to citizen issues (.) a lot of the work that we would do focus on more disadvantaged groups or people who might be considered to be vulnerable or in danger of being left behind. (HN)

Thus citizens are defined as 'more disadvantaged groups', with no acknowledgement of alternative conceptions of citizenship. Nonetheless, by this means the regulator establishes an injunction to intervene in the case of social exclusion.

...the primary interest for most commercial organizations would be the consumer-type person, they tend to be less interested in the citizen-type issues. Whereas as a regulator, the consumer and the citizen aspect ...of equal and critical importance to us. (HN)

In the above extract, the use of the word 'type' draws on the market researcher's logic of segmentation to distinguish between the citizen and consumer. Some remnant of the concrete versus ethereal connotations of consumer versus citizen remains, however, since the 'consumer-type' is a person while the 'citizen-type' is an 'issue'. But the Director for Market Research attempts to quantify the citizen segment nonetheless (here talking of telecommunications):

So this is an instance where Ofcom or maybe the government or whoever would need to do something to intervene, to protect these citizens and to make sure that they don't get left behind because the market by itself will not take care (.) it'll take care of the eighty percent or the ninety percent who are economically active or fit. (HN)

HN thus acknowledges the limits of a market approach, and illustrates Ofcom's face management as inclusive, caring about the marginalized or vulnerable. However, there is an equivocation in the claim that the regulator 'or maybe the government or whoever would need to do something' would 'protect these citizens'. More subtly, the use of statistics reifies the priority accorded the consumer over the citizen, since the latter, in this logic, represents just a small fraction of the population. Hence, a negative definition of the citizen interest is implied, one in which citizens are those numerically insignificant group who are excluded by the market. However, excluding the majority of the population from the citizen interest is, to say the least, an unexpected outcome of framing 'the vulnerable' in terms of the citizen interest (i.e. via the social exclusion agenda), as the Consumer Panel's Policy Manager recognizes:

You have consumer groups who may well represent sort of low income consumers, consumers with disabilities, but you know, who's there actually talking for people who aren't in any of those particular groups? The generality of consumers. (JM)

Her return to the language of consumers is telling, for the apparent openness of the Consumer Panel to citizen issues could be thought of as furthering the obligations of the regulator to maintain market confidence across the 'generality' of consumers, precisely by visible attempts to be inclusive. Perhaps, she suggests, the public (whether considered as citizens or consumers) should not be divided simply into the vulnerable and the rest. The BBC's Controller for Editorial Policy observes that, in a diversified communications environment, there is no 'generality' of consumers or citizens, just a 'range':

You've got this extraordinary range now of both the very sophisticated users and the relatively passive, ...and not only users but of course also contributors, ...they're actually participating, they're interacting, ...and the passive user. And it's very hard indeed, I think, to have a one size fits all kind of policy. (SW)

According to Ofcom's Senior Partner for Competition and Content, the segmented approach focuses on 'different classes of consumers – the standard consumer and the disadvantaged consumer or the vulnerable consumer' (KM). Although this contradicts the assumption of equality that characterizes traditional definitions of citizens, it fits Ofcom's requirement to be an 'evidence based' regulator. Quantitative research on citizens is relatively readily presented as 'transparent', an

important concern for a new regulator, as its Secretary observes: ‘...we’re not a private sector outfit ...because we’re in the public sector, we have to be much more transparent, much more open ...there’s a sense of trying to be as open as we can about everything’ (GW). The Director of Nations for Wales adds, ‘we have to be able to demonstrate that we ... are doing what Parliament told us to do. That we are actually safeguarding the interest of citizens and consumers in the field of communications’ (RW). This need for transparency is one driver of change, as the Policy Manager for the Consumer Panel explains:

...the tone has changed, there has been very much more emphasis on consumer issues ...the point of what Ofcom are doing is about, you know, consumer objectives and citizen objectives. Whereas before they were left implicit, um, and you know the tone has changed significantly ... it’s a cultural change for the organization ...it’s not going to happen over night. (JM)

Civil society bodies are now appraising the success of this endeavour. The Campaign for Press and Broadcasting Freedom notes:

I feel as if there has been a shift as a result of those earlier pressures within Ofcom, you know I think that they are more open to arguments around citizen (.) they do use the idea of citizenship, they’re exploring the idea of citizenship they talk about content regulation which was something that was considered, they haven’t exactly got as far as using the phrase like ‘positive regulation’ or ‘enabling regulation,’ which are the sorts of phrase we would use but I think there, there has been a definite opening to those ways of thinking. (PH)

What the outcome will be remains for the future. Ofcom’s Secretary hints that little, after all, may need to change: ‘But maybe we do deal with the citizen. Maybe in what we do and how we regulate we are doing all we can to help the citizens. It’s just we don’t quite word it like that.’ (GH)

## *Conclusion*

In this article, we have examined the rhetorical and discursive strategies at play in public discussion regarding what is stake for the public in the regulation of media and communications. The regulator has succeeded in facilitating a debate among stakeholders in which issues crucial for democratic society are discussed. Expressed in terms of furthering the interests of citizens and consumers, the debate has included many voices, not all equally influential. We have traced the discursive strategies in play which variously seek to influence the debate and to establish and protect participants’ ideological positions. Several years after the passing of the Communications Act, exactly what is meant by citizen and consumer interests remains unresolved. And, as Ofcom struggles to balance market competition and public values, the role of the regulator in relation to state, industry and public remains untested. Consequently, it also remains unclear who carries the responsibility to ensure the communication requirements for democratic engagement and participation.

We have argued that the terms ‘consumer’ and ‘citizen’, as used in the Communications Act 2003, have not succeeded in containing and managing the

different concerns and interests at stake. Indeed, we have documented a variety of ways of defining 'consumer' and 'citizen', ranging from the opposed to the highly overlapping. These varying definitions have resulted in a complex and contested mapping of terminology onto organizational structure, regulatory purposes, policy domains and entry points for civil society bodies. However, a series of anomalies and difficulties have arisen, both within Ofcom's internal 'philosophy' and in its external relations with stakeholders, partly because the concepts cannot be so unequivocally mapped, partly because behind them lie major conflicts over how regulation should be conducted. These conflicts are ideological in nature, centring on the tension between Ofcom's technical role as an economic regulator and its broader public role.

Ofcom's dilemma is undoubtedly a difficult one: how should an expert administrative system (the regulator), accountable to parliament and working in partnership with both industry and civil society, represent the public? Can the public 'voice' find recognition (i.e. as citizens)? Are its views best understood in terms of the individual's choice (as a consumer) to 'exit' from relationships with service providers who disappoint them (Dowding and John, 2006)? Or, as civil society bodies worry, can citizen interests be articulated so as to avoid being simply incorporated into (or marginalized by) consumer agendas? Though vigorously pursued, the debate over the citizen and consumer interests remains unresolved, even regarding the terms of the debate itself (Walton, 1989), notwithstanding a series of attempts at closure.

Most important is the continued lack of a positive definition of the citizen interest in relation to media and communications. While the term 'consumer' is seen as relatively unproblematic, the inclusion of 'the citizen' in the statutory duties of the new communications regulator has been challenged through discursive strategies that question its definition, its coherence and its applicability to regulatory practice. One route to undermining this possibility would be to offer a clear and workable definition of the citizen interests. But this, as we have shown, is proving difficult. Ofcom's own strategy is to turn to market research (as is consistent with its emphasis on the market and on being an economic regulator), collecting data on social exclusion that warrants its conception of the consumer. The outcome is a conception of the citizen as a vulnerable minority, leaving the majority to express their citizen interest primarily through their active role as consumers in the marketplace. But this is a conception that critics would question, because it does not offer citizens a route to represent themselves directly, and because it concentrates the citizen interest on the vulnerable few rather than the public as a whole.

The definition of, and responsibility for, the citizen interest in communication matters because, in seeking to chart the twists and turns of this still-unfolding narrative, we have also been exploring the public discourse of late modern society (Giddens, 1991; Habermas, 1997). Contemporary public debate is no longer focused on Parliament, supplemented by elite commentary from the press and sometimes argued among the public in the streets and living rooms. Rather, or additionally, key social changes are enacted through the shift from government to governance, and from social contract to devolved regulation. In this sense, these

debates reflect what Habermas (1997) and Mouffe (1992) have been arguing about regarding the potential for critique in contemporary society, given the complex dependencies between administration and civil society. On this view, critique will emerge from the complex interdependencies and conflicts among the various institutions of governance and civil society bodies (Cohen and Arato, 1994). At the same time, however, it seems that more conservative voices can claim that citizens can enjoy new opportunities to express their interests, albeit when construed as vulnerable, as minorities or as consumers.

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#### NOTES

1. The Office of Communications (Ofcom) resulted from the Communications Act 2003. Ofcom was conceived as a powerful sector-wide regulator that could flexibly respond to new challenges while being 'future proofed' against changes that could otherwise destabilize or impede technological innovation and market expansion. It represents the convergence of five legacy regulators responsible for broadcasting, spectrum and telecommunications (see [www.ofcom.org.uk](http://www.ofcom.org.uk)).
2. As argued by Ofcom's Chairman, Lord Currie (2003) and contested by civil society groups (e.g. Redding, 2005).
3. Available on request from the authors.
4. Coding schedule available from the authors on request.
5. Documents no longer hyphenate citizen and consumer, but the mission statement has not been revised.

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