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Representing citizens and consumers in media and communications regulation

Sonia Livingstone, LSE

and

Peter Lunt, Brunel University

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Contact details for first author

Professor Sonia Livingstone
Department of Media and Communications
London School of Economics and Political Science
Houghton Street, London WC2A 2AE, UK
t +44 (0) 20 7955 7710
f +44 (0) 20 7955 7248
e s.livingstone@lse.ac.uk

Biographies

Sonia Livingstone is a Professor in the Department of Media and Communications at the London School of Economics and Political Science. She has published widely on the subject of media audiences and, more recently, on children, young people and the internet. Recent books include *Audiences and Publics* (edited, Intellect Press, 2005) and *The Handbook of New Media* (edited with Leah Lievrouw, Sage, 2006).

Peter Lunt is Professor of Media and Communications at Brunel University. His main research interests are in consumption studies and audience research. He recently published a report for the UK's Office of Fair Trading, entitled *The Psychology of Consumer Detriment* (2005). Together with Sonia Livingstone, he is currently conducting a study of financial and communications regulation in the UK.

Abstract

What do citizens need from the media, and how should this be regulated? Western democracies are witnessing a changing regulatory regime, from "command-and-control" government to discursive, multi-stakeholder governance. In the UK, the Office of Communications (Ofcom) is required to further the interests of citizens and consumers, which it does in part by aligning them as the citizen-consumer. What is meant by this term, and whether it captures the needs of citizens or subordinates them to those of consumers, has been contested by civil society groups as well as occasioning some soul-searching within the regulator. By triangulating a discursive analysis of the Communications Act 2003, key actor interviews with the regulator and civil society bodies, and focus groups among the public, we seek to understand how these terms ('citizen', 'consumer' and 'citizen-consumer') are used to promote stakeholder interests in the media and communications sector, not always to the benefit of citizens.

Keywords

Citizen interests, consumer representation, media and communications regulation, civil society, public understanding of regulation

Introduction

> 'Today our viewers and listeners are far more empowered. Digital television, the internet and increasingly broadband is putting more choice in the hands of the user. As a regulator, we will reflect that, welcome and encourage it. There can no longer be a place for a regulator … determining what people "ought" to have'. (CEO, Office of Communications; Carter 2003a)

The terms 'citizen' and 'consumer' have become widespread in contemporary political and public discourse. This article examines the relation between them through a telling case study: the UK's Office of Communications (Ofcom) is a new 'super-regulator' formed by converging five legacy regulators following the Communications Act 2003. Conceived as a powerful sector-wide regulator that can respond flexibly to new challenges, Ofcom is developing a common approach to broadcasting, spectrum and telecommunications in a manner that reflects broader changes in governance occurring internationally and across many sectors under New Capitalism (Chiapello and Fairclough 2002; Jessop 2002). The new style regulation moves away from the previous hierarchical, 'command-and-control' regime (Black, Lodge and Thatcher 2005). Its 'softer', 'lighter touch', 'joined-up' approach claims to democratize power by dispersing and devolving the role of the State, establishing accountable and transparent administration and engaging multiple stakeholders, including civil society, in the process of governance. Regulation must, it is argued, make unified and strategic decisions for the whole market that reflect economic, technical and social policy trends and balance the needs of the market with those of an 'empowered' public.

For cultural critics, key questions arise regarding media and communications market developments, contents and services available to the public, mechanisms for representing the range and nature of public interests at stake and, crucially, the regulatory underpinning for the information and communication requirements of a democratic society. To address these questions, critics must not only be clear about what citizens need and deserve from the media but also, we argue, they must engage with the emerging regulatory framework. Our starting point is the unstable, indeed contested, relation between 'citizens' and 'consumers'. Is 'consumer' taking over from 'citizen' in the communications sector, as suggested by the ubiquitous discourse of choice and empowerment? Does the 'citizen' have a voice in regulatory debates or is this subordinated to the market? To approach these questions, we begin with the story of the UK's Communications Act 2003.

The Communications Act 2003 – a tale of two terms

Central to the lively debate over media and communications regulation during the 1990s was a struggle over the position of the public (or 'audience'; Livingstone 2005) in a converged market and a deregulatory regime prioritizing governance over government. Two distinct terms emerged as the discursive solution – 'citizen' and 'consumer', supposedly dividing the semantic terrain neatly between them, resolving ambiguities in the plethora of 'listeners', 'viewers', 'users', and 'customers', of the legacy regime. Yet once the Act was passed, this solution almost immediately began to unravel, with boundary disputes demanding remedial action of various kinds on the part of the regulator and civil society (Livingstone, Lunt, and Miller in press-a).

'The communications revolution has arrived', stated the Department for Trade and Industry and the Department for Culture, Media and Sport's Communications White Paper (December 2000). This proposed 'a new framework for communications regulation in the 21st century' (Foreword) whose central objectives (Executive Summary) were:

> 'Protecting the interests of consumers in terms of choice, price, quality of service and value for money, in particular through promoting open and competitive markets; Maintaining high quality of content, a wide range of programming and plurality of public expression; [and] Protecting the interests of citizens by maintaining accepted community standards in content, balancing freedom of speech against the need to protect against potentially offensive or harmful material, and ensuring appropriate protection of fairness and privacy.'

To achieve these objectives, the White Paper proposed The Office of Communications (Ofcom), including a quasi-independent Consumer Panel to further consumer interests and, within Ofcom, a Content Board to ensure citizen interests in relation to broadcast content.

Following a lively public consultation, the Draft Communications Bill (2002) marked a surprising linguistic shift, replacing the language of 'consumer', 'public', 'community' and 'citizen' with that of 'customer' throughout. This apparently excluded the citizen interests expressed in the White Paper, signaling the intention to form Ofcom as primarily an economic regulator. A decisive intervention was made during pre-legislative scrutiny of the Bill, conducted by the Joint Select Committee for the House of Commons and House of Lords chaired by Lord Puttnam. After hearing a considerable body of evidence from diverse stakeholders (Harvey 2006; Redding 2005), the Joint Committee Report (2002, 103) argued that the draft Bill downplayed consumer and citizen interests through portraying them as 'customers', and argued instead for 'the need for a broad understanding' of 'consumer'. Stressing the media's influence in shaping society, the report advocated two principal duties for Ofcom: to further the interests of citizens and to further the interests of consumers.

In its response, the Government acknowledged the terminological confusion muddle impeding the passage of the Bill by issuing a note (DTI/DCMS 2002) which explicated the Government's rationale through, in effect, a mapping of discursive categories onto power relations among state, industry and public. This proposed that the consumer interest should be understood in relation to economic goals while the citizen interest inheres in cultural goals, and that these in turn map onto the domain of telecommunications networks and services, on the one hand, and broadcast content on the other. Consumers are understood as individuals while citizens have collective status. The former interests would, it was proposed, be addressed by Ofcom's Consumer Panel (taking over the agenda of the legacy regulator, the Office of Telecommunications), while the latter would be addressed by Ofcom's Content Board (updating the role of legacy regulators such as the Independent Television Commission and the Broadcasting Standards Commission). Hence:

Consumer interest	Citizen interest
Economic focus	Cultural focus
Networks and services	Broadcast content

Individuals	Community
Consumer Panel	Content Board
Legacy regulator: Oftel	Legacy regulator: ITC, BSC

Nonetheless, in another surprising turn, Clause 3 of the November 2002 Communications Bill stated simply that the general duty of Ofcom would be 'to further the interests of consumers in relevant markets, where appropriate by promoting competition'. So, the 'customer' of the draft Bill became the 'consumer', but there was no equivalent mention of citizens, notwithstanding the recommendation of the Joint Committee and the DTI/DCMS terminological note. As Jocelyn Hay (2002), Chair of the civil society body, Voice of the Listener and Viewer, commented acidly, 'the Bill simply re-iterates a now largely discredited faith that the "market" and competition will provide choice and quality; it does NOT as experience shows'.

Matters came to a head in June 2003 when the Bill reached the Lords. Here Lord Puttnam proposed an amendment to Clause 3, reiterating the Joint Committee's proposal that Ofcom should further the interests of both citizens and consumers. There followed a heated debate over the meaning of these terms, and over whether the Bill should dictate how Ofcom should resolve conflict between these interests. Although citizen interests were defended – as a term with 'a lengthy and distinguished pedigree' (Lord Bragg), as 'fundamentally different from that of consumer' (Lord Peyton) - little light was thrown on the nature of the citizen interest in media and communications. Lord McIntosh, speaking for the Government, sought to fend off dissent by asserting that consumer and citizen 'are two sides of the same coin':

> 'It is not our intention - nor is it in the English language - to equate consumers with markets. The word that I have always used, in 50 years with the Labour Party, is that we have to be on the side of the "punters". I think everyone understands that… "Consumers" is not a doppelganger for the wicked and self-seeking market, which some people in the Chamber seem to fear.'

Lord Puttnam countered equally forcefully:

> 'My Lords, I do not wish to quibble with the Minister over words. However … They are quite different, both in law and as far as concerns Parliament.'

The subsequent vote defeated the Government and, a few days later, the Communications Act 2003 was passed in July. Clause 3 states:

> '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.'

<u>Furthering the interests of citizens and consumers – an unfinished tale</u>

The discursive distinction between 'citizens' and 'consumers' emerged as the outcome of a protracted, public negotiation among multiple stakeholders. But what does it mean for regulatory practice (Black et al. 2005)? Subsequent deliberations over terms have been led by Ofcom, following its launch in December 2003. Just days after the Lords' debate, Lord Currie (2003), Ofcom Chairman, noted with frustration:

> 'You may well have noticed that the careful balance established in the Communications Bill between the duties to citizens and those to consumers has been upset by a recent House of Lords amendment…that requires Ofcom to give paramountcy to the citizen in all matters concerning broadcasting and spectrum...This late change… seems to us to be unfortunate.'

Interestingly, Ofcom then defined its mission statement thus: 'Ofcom exists to further the interests of citizen-consumers through a regulatory regime which, where appropriate, encourages competition.' This differs from the actual terms of the Act, conjoining 'citizen' and 'consumer' as the 'citizen-consumer', and foregrounding competition as the primary instrument to further both sets of interests, not just the consumers'. Ofcom as an economic regulator is thus reasserted and, consequently, has been contested (e.g. Redding 2005). In practice, Ofcom's everyday discourse generally elides the two terms, speaking loosely of citizens-'n'-consumers and making little systematic distinction between them. As then-CEO, Stephen Carter, commented (2003b):

> 'We are all of us both citizens and consumers. ...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.'

Similarly, Kip Meek, Senior Partner (Competition and Content) observed that 'if it wasn't in the Act, citizen-consumer language might not - we might decide that wasn't terribly useful'[1]. This may seem a pragmatic resolution of a tricky problem. However, we would argue to retain the distinction, supporting Lord Puttnam's view that 'this is more than a matter of semantics' (Joint Committee Report 2002, 11). Jonathon Hardy from the Campaign for Press and Broadcasting Freedom described the inclusion of citizen interests in the Communications Act as 'a slightly symbolic victory but important victory'.[2] So, what is it a matter of, what kind of victory?

Interestingly, Ofcom does not speak with a single voice. Ed Richards (2003), then Ofcom's Senior Partner, Strategy and Market Developments and now the new CEO, observed that 'at the very heart of Ofcom is the duality of the citizen and the consumer'. He contrasted the terms thus. The consumer interest centers on wants and individual choice. Under conditions of spectrum scarcity, market intervention was required to maximize the range and balance of content, but this requirement reduces in a digital age of abundance when consumer preferences will be expressed through viewing choices and broadcasting will become more like the publishing, film and music industries, permitting regulation to recede. By contrast, the citizen interest centers on the long-term societal benefits of broadcasting in relation to democracy, culture, identity, and learning, all traditionally delivered through public service broadcasting and providing a continued justification for market intervention. Hence:

Consumer interest	Citizen interest
Wants	Needs
Individual	Society
Private benefits	Public benefits
Language of choice	Language of rights

Short-term focus	Long-term focus
Regulate against detriment	Regulate for public interest
Plan to roll back regulation	Continued regulation to correct market failure

Defining the citizen interest

Implicit in these negotiations are the multiple interests being advanced in a multi-stakeholder negotiation. Strikingly, the key terms of the Act are interpreted both as identical (the citizen-consumer) and as opposed (citizen versus consumer). Just how Ofcom is to define the terms and, more fundamentally, reconcile the aims of maintaining a competitive market, meeting the needs of the public, and reflexively monitoring its own impact on both market and public sphere, was far from fixed by the Act. Rather, this remains for the regulator to negotiate with its stakeholders. We now examine the views of three groups of stakeholder – the regulator, civil society, and the public.[3] Parliament is also a key stakeholder, but we have omitted this in part because its strategy is to devolve the role of the state to self- and co-regulation; the regulator's perception of Parliament's role does matter, however.

Through key actor interviews with senior figures at Ofcom and in civil society (25 interviewees in all, conducted 'on the record'; see Livingstone et al. in press-b), we identified considerable confusion regarding the definition of the citizen interest, the consumer interest being notably easier to grasp. Meek recognized the stakes are high, observing of the Communications Act:

> 'It was hard fought over because as with many of these things, it became a metaphor for … the soul of Ofcom was being fought over and …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.'

The 'soul of Ofcom', however, remains elusive. Ofcom's Director of External Relations, Tony Stoller, noted 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'.[4] The Director of Communications, Matt Peacock, responsible for public relations, conflated the terms - 'citizens/consumers, people basically, as I prefer to call them'.[5] For the Director of Market Research, Helen Normoyle, definitional ambiguity justifies setting them aside in Ofcom's research activities:[6]

> '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.'

Such questioning of the practicability of the citizen/consumer distinction is commonplace although, as here, often expressed as a 'personal' view lest the speaker seem to evade the requirements of the Act. For Ofcom, distinguishing citizen from consumer raises issues of representation. Stoller asks, 'if you engage with consumers, do you engage separately with citizens?' His concern is partly with the task of identifying distinct consumer and citizen representatives, but more fundamentally with the question of who they really represent. He asks, 'do we get better advice from self-appointed, um - probably issue-driven - non-representative groups?' In short, the citizen interest might mean that people could and should represent themselves (by

contrast with the consumer interest which is, for Ofcom, appropriately and effectively measured through the tools of market research). Indeed, from a market research perspective, the citizens who speak up appear unrepresentative. Yet as an institution in the public sphere (Habermas 1997), Ofcom is accountable for which voices it includes and how they are weighed. For civil society bodies, these questions are equally critical. It is salutary to note that the civil society bodies we interviewed struggled to give an adequate account of their legitimacy among the constituency they represent, making them indeed vulnerable to the charge of being partisan or biased.

More surprisingly perhaps, though clear about the importance of critiquing a reliance on economic regulation, civil society groups also struggle to define the citizen interest. Gary Herman of the Campaign for Press and Broadcasting Freedom comments, 'I think it's horrible, the citizen/consumer opposition'.[7] Allan Williams, Senior Policy Advisor for communications at Which? (formerly, The Consumers' Association) also brushes aside the distinction as unworkable:[8] 'Well, they [Ofcom] talk about citizen-consumer, I mean, as much as we do - everyone fudges that'. For civil society groups, the issue is less one of representation than one of communicative effectiveness. Williams 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.'

An advocate requires a clear message to be effective, and the 'nebulous' or 'fuzzy' concerns of citizenship (perhaps as advanced by academics) can frustrate the civil society cause. Despite supporting a role for Ofcom in relation to citizen interests, Jocelyn Hay recognizes that:[9]

> '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.'

This reference to quantification is important: Ofcom is an evidence-based regulator, with a large research department, but issues that fit poorly within its market research ethos fit poorly within its purview. However, civil society bodies lack the resources to conduct alternative research. Hay continues, 'We don't have the resources to do the research that is necessary in order to make it objective'. Williams agrees, 'it's a capacity issue, you know, that there are lots of issues that we can deal with as a consumer organization and we try and prioritize…' These accounts give primacy to 'hard facts', acknowledging a high threshold to be passed if civil society voices are successfully to question the evidence-base of Ofcom's policy or to counter its individualized, segmented conception of the public (Freedman 2005). Capacity depends on money and time, but also on expertise. The challenge for civil society bodies lies in obtaining these resources without compromising their independence.

Paradoxically, the more open and transparent the regulator, the greater the problem of capacity for civil society. Ofcom, like other new regulators, is required to put considerable effort into a sustained engagement with diverse stakeholder interests across industry, the political sphere, consumer representatives, journalists, and the public. Thus it publishes numerous reports, press releases and consultations each year. In responding, civil society bodies are stretched, facing tough decisions about

priorities, and worried about their funding base; meanwhile the regulator is frustrated at the difficulty of obtaining sufficient representation from civil society. This is, again, more problematic for citizen than consumer interests, as Chairman of Ofcom's Consumer Panel, Collette Bowe, explains:[10]

> '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.'

Emerging directions

So, the citizen interest is difficult to define, it requires the construction of diffuse stakeholder alliances, and it is less amenable to quantitative research; this will surely undermine allocating resources to furthering the citizen interest. Such problems are compounded by the lack of direction and capacity in civil society, reducing the likelihood of externally-driven change. As Deputy Chair, Richard Hooper, observed: '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.'[11] Ofcom's Secretary, Graham Howell, adds: 'I'm not conscious of us being put under pressure by citizens' groups to suddenly bring citizenship up the agenda.'[12] However, there is another – internal, organizational - motivation for change which is driving the regulator to reconsider the citizen interest, namely Ofcom's anticipation of being externally evaluated in terms of its clarity of purpose, organizational efficiency and accountability to Parliament. For Ofcom is 'a creature of statute', as Robin Foster, Ofcom's Partner for Strategy and Market Developments notes.[13] Collette Bowe adds:

> 'The scrutineer is the public, I mean literally, the scrutineer has to be Parliament, I think. Parliament acting on behalf of the pubic… 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.'

Clearly, it is inconsistent to claim both the citizen and consumer is an artificial and unworkable distinction and, simultaneously, that the terms refer to distinct issues that map neatly onto the remit of the Content Board and Consumer Panel respectively. Moreover, it is becoming evident that the latter is not the case. Rather, the Consumer Panel is now broadening its purview to encompass citizen interests, for 'there are consumer issues around broadcasting …like digital switch over', said Julie Myers (Policy Manager of the Consumer Panel[14]), and citizen issues in relation to telecommunications. Robin Foster described the relation between Ofcom's duties and its organisational 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.'

Driving this is the idea of the citizen interest as social inclusion (Ofcom Consumer Panel, 2005). Collette Bowe explains:

> '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?'

Indeed, Ofcom (2005, 39) announced a new work area for 2005/6, namely to 'identify and articulate more clearly how the interests of citizens should be incorporated in Ofcom's decision-making process in a transparent and systematic way'. Civil society bodies are now appraising the success of this endeavor. Pat Holland, Campaign for Press and Broadcasting Freedom, is cautiously optimistic:[15]

> 'they are more open to arguments around …citizenship... 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.'

However, although this may presage an expanded conception of the citizen interest, a related trend (c.f. above quotations from Foster and Bowe) narrows the notion of citizenship, associating it (paradoxically) with vulnerability. For, in the discourse of economic regulation, justifying regulatory intervention is more easily sustained on the grounds of vulnerability than on the grounds of public value. Several Ofcom figures recounted narratives of the vulnerable 'citizen', at risk of social exclusion, this warranting a normative approach combining the ideology of social welfare with a neo-liberal agenda. The paradox of the citizen-as-vulnerable is supported by Ofcom's market research perspective, for this constructs the 'citizen' as a quantifiable but small segment of the population. For Helen Normoyle, citizens are the 10-20 percent who are vulnerable, lacking a voice to represent themselves directly and so usefully revealed through market research rather than collective action:

> '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.'

The public's perspective

And what are the public's views? We have seen how both the regulator and civil society speak for the public, so now we consider how the public envisions the role of regulation in their lives. We conducted 16 focus group interviews during May 2006, with 114 people selected from diverse socio-demographic circumstances, asking them about public understanding of regulation broadly conceived, with communications as one area for focus.[16]

Their views, we suggest, are best captured by Billig et al.'s (1988) 'dilemmatic' thinking, for they are neither apathetic and disengaged, nor actively engaged and

responsive to regulatory initiatives or consultations. Rather, they are ambivalent, expressing strongly felt but contrary views that, though aware of the contradictions, they seemed unable to resolve. Where we had feared puzzled responses or silence to our initial probe – 'what do you think of when we say, "rules and regulations"' – instead we received an initial barrage of anti-regulation views. Stories of stupid or unnecessary rules – in the workplace or school, getting a pension or hiring a car – were plentiful. Hostility to the 'nanny state' and tales of 'red tape' impeding the application of common sense suggested a public supportive of the deregulation agenda: consumer choice, individual rights, liberalized markets. As a middle class, midlife interviewee said, 'Health and Safety at work - get the garlic and crosses out! It is ruining the industry, it's controlling this country I think. Ridiculous at times it gets.' This theme was readily picked up – 'they bring another rule out instead of thinking, well, we've already got enough rules, why don't we perhaps manage the ones that we actually have a little bit better?' One retired respondent concluded cynically, 'the people that actually make the laws haven't a clue what they're doing.'

Yet these views were qualified further into each discussion. Alternative stories emerged - of consumer failures, unprotected consumers, dangerous situations, and exploited individuals. Talking of finance contracts, one young person had learned the hard way that 'they write these things and the consumer can fall foul of regulations designed to protect you by virtue of your own ability to understand it.' Concerns for vulnerable groups (the young, elderly, and weak), pressured consumers (suffering lack of time or 'information overload'), and irresponsible individuals (damaging the collective through their selfishness or thoughtlessness) all revealed limits to public support for deregulation and, indeed, a rather righteous support for consumer protection regulation. One retired person, recalling now-gone financial regulations, observed that 'it's now just a market, and so what the government tries to do is to get banks to regulate themselves, to not lend too much to the wrong people.' Another respondent concludes, 'I don't think they [the banks] have any moral conscience at all.' Regulation, on this view, should be guided by public values.

However, although the discussions covered many issues, those that directly influence people's health, work, finances, or family generated more attention than media and communications issues. On prompting, we obtained tentative statements about the importance of trustworthy news media, complaints about media panics, and concern over mobile phone tariffs; but overall, this was not an area of regulation that elicited strong views. Possibly, for risks that affect people as individual consumers (price, contract, choice, product information, etc), the connection between regulation and daily life matters; for risks that affect people as citizens, as a collective, particularly in the long-term, such connections are less compelling. Certainly, across the entire range of issues, and notwithstanding the strong views often expressed, few people described taking action regarding rules they considered unfair, regulations they wished changed, contracts they could not understand, risks they were worried about, or institutions meant to advise or support them (see also Couldry, et al. in press). In short, the public struggles to speak as a collective, being torn between its self-image as agentic and as vulnerable. It is also unclear how to articulate its responsibilities (especially compared with its rights), and cannot readily find a point of focus for action (- hence exit without voice is a common response; Hirschman 1969).

Critical alternatives

We suggest that contemporary debates over governance are shifting 'the public' center stage. But how should society conceive of this public – as citizen, consumer, or in some other way? For critics, we suggest that the explicit contestation surrounding these terms offers an opening for intervention. Ofcom's critics – including the Consumer Panel, known informally as Ofcom's 'critical friend' – argue that the regulator should encompass the 'citizen interest' instead of broadening the notion of the 'consumer interest', partly because to market liberals (notably, the media and communications industry), the consumer interest is and will continue to be interpreted narrowly in terms of price, choice, and value for money, thus legitimating an economic model of regulation. Arguments to broaden the consumer interest, instead of in favor of the citizen interest, could therefore become aligned with this narrow agenda, one that, as Needham (2003, 5) points out, replicates:

> 'patterns of choice and power found in the private economy. The consumer is primarily self-regarding, forms preferences without reference to others, and acts through a series of instrumental, temporary bilateral relationships. Accountability is secured by competition and complaint, and power exercised through aggregate signalling.'

How should critics frame the citizen interest in positive terms? Most academics concerned with the relation between the media and politics agree that access to information and communication resources are fundamental to informed citizenship and a prerequisite for democratic participation. Many worry that neo-liberal economics and neo-conservative politics have altered the balance of power in media and communications to the detriment of citizens, through increasing conglomeration in the political economy of media ownership, globalisation and cultural imperialism, and the mainstreaming of a conservative media culture that marginalises the expression of diverse or radical opinions. The outcome, it is held, is that the public is granted the rights of consumers (choice, price, etc) but not of citizens.

What is the alternative? Murdock and Golding (1989) focus on the distribution of communicative resources - notably, access to information and communication content and technologies, maximum diversity in content production, and mechanisms for feedback and to enable participation. Developing Scannell's (1989) advocacy of 'communicative entitlements', Hamelink (2003, 1) gathers under the label, 'Communication Rights', those rights recognised by the United Nation's Universal Declaration of Human Rights that relate to information and communication, in order to promote their visibility and implementation:

> 'Communication is a fundamental social process and the foundation of all social organization….Communication rights are based on a vision of the free flow of information and ideas which is interactive, egalitarian and non-discriminatory and driven by human needs, rather than commercial or political interests. These rights represent people's claim to freedom, inclusiveness, diversity and participation in the communication process.'

He argues that governments and civil society bodies must guarantee the conditions for freedom of expression, universality of access, diverse sources of information, diversity of ownership, and plurality of representation. Garnham (1999) develops Sen's analysis in terms of capability rather than either resources or rights, arguing that, given considerably unequal starting points within any population, public policy should seek to equalise the set of alternatives genuinely open to people (i.e. their

capabilities), recognising that they may then choose to take these up or not. Access to, and the content of, the press, television, internet etc should be evaluated, therefore, not in terms of what contents or services they provide but in terms of the possibilities they afford or impede. The citizen interest, in other words, lies in determining what real choices are open to them in seeking to meet their needs, in a particular information and communication environment? Others have focused on practical efforts to translate the citizen interest into action. McChesney (e.g. McChesney and Nicholls 2003) has been spearheading a media reform movement that supports such interventions as developing community radio and television, applying antimonopoly laws to the media, establishing formal study to determine fair media ownership regulations, reinvigorating public service broadcasting, and so forth. Pitched partly at the American context and partly at the global communications market, this represents one among several movements at local, national and international levels that seeks to challenge the consumer-focus of the contemporary communications sector and its regulators. To the extent that national contexts vary, such movements must inevitably be tailored to specific regulatory regimes. But to the extent that the critical concerns are common, each can and should learn from the other, developing and sharing a discourse of – in the UK's terms, the citizen interest, but in other terms, communicative resources, rights, entitlements, and capabilities – in order to intervene in the process of media and communications governance more widely and wisely.

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Endnotes

[1] Interview with the first author, 20 July 2005.
[2] Interview with the first author, 21 July 2005.
[3] It is beyond our scope to explore the views of industry, though this absence – empirically the most difficult to rectify, being significantly outside the public record - inevitably undermines the completeness of our account.
[4] Interview with the first author, 10 August 2005.
[5] Interview with the first author, 13 July 2005.
[6] Interview with the first author, 27 June 2005.
[7] Interview with the first author, 21 July 2005.
[8] Interview with the first author, 4 March 2005.
[9] Interview with the first author, 19 April 2005.
[10] Interview with the first author, 28 September 2005.
[11] Interview with the first author, 20 June 2005.
[12] Interview with the first author, 9 June 2005.
[13] Interview with the first author, 9 June 2005.
[14] Interview with the first author, 28 June 2005.
[15] Interview with the first author, 21 July 2005.
[16] They were half men and half women, half middle class and half working class, living in eight areas of the UK (urban, suburban, rural), and from four categories of life stage: young people in their first jobs, parents with young children, those in midlife, and the recently retired.