

Eight strategies to guide effective consumer representation

Introduction

Effective consumer representation helps regulators and government departments to understand consumers' concerns and priorities and ensure that the sectors they cover deliver the outcomes that consumers need and expect.

Genuinely competitive markets rely on consumers to drive competition by making the best choices for their circumstances. Consumers therefore need to be in a position where they can easily judge and compare issues such as price, quality, value and service. Engaging consumers and their representatives helps regulators to understand where consumers can't or don't engage effectively and to identify solutions that could encourage genuine competition.

Regulators have adopted different strategies for engaging consumers in their work. The UK Regulators Network Consumer Working Group is also reviewing the effectiveness of current consumer engagement and how best practice can be shared across regulators.

Which?'s experience has been that, in order to work well, consumer representation and engagement needs to be integrated throughout a government department, regulator or agency and be a two-way process, with effective feedback and communication to consumers so it is clear how policy aims to address the issues that are raised.

Consumer representation can involve consumer representatives and representative consumers. This includes consumer organisations with a specific remit to promote consumer interests; individuals who have a background in understanding consumer interests and therefore can take a more informed perspectives; and direct engagement with members of the public in a variety of ways to understand their experiences and perspectives.

We have set out, below, the main strategies that we think should guide effective consumer representation, as well as some examples of how these have been applied by other agencies with whom Which? engages.

1. Agency commitment is needed at the highest level

It is essential that there is a strong commitment to consumer engagement at the heart of the organisation. This must be integrated into all stages of the policy-making process including: horizon scanning to identify emerging issues; detriment analysis; and the development and assessment of policy solutions and of how effective they are once implemented. In short, consumer engagement must be part

of the organisation's culture. Strong consumer representation or expertise on the Board is far from the only way to achieve this culture, but it can help to ensure it.

- Experience from consumer organisations in other EU Member States, suggest that a mixture of formal and informal approaches will work best. In the Netherlands, for example, the Competition and Markets Authority (ACM) has a formal requirement to consult with the Dutch consumer organisation, Consumentenbond on its programme of work. The Italian Competition Authority has regular, but more informal, on-going contact with consumer organisations and is viewed by the Italian consumer organisation, Altroconsumo, as taking a consumer-focused approach.
- The Financial Conduct Authority (FCA) has appointed two non-executive directors to its board who have a background in representing consumer interests.
- Two of Ofgem's six non-executive director Board members are consumer representatives.

2. Transparency is essential to ensure trust

Transparency of decision-making is an essential part of good governance. In the context of consumer representation, it is crucial in order to demonstrate that the agency is delivering on its consumer-focused remit. Board meetings should therefore be as transparent as possible. This could include holding open meetings where there is an opportunity for the Board to exchange views with stakeholders so that it is clear how decisions are made and they are open to scrutiny and wider input. Some aspects of business will be confidential, but the onus should be to be as transparent as is feasible given the nature of the authority's work. More generally, the authority needs to pro-actively publish the information that informs its decisions.

- The Food Standards Agency (FSA) Board holds its meetings in public. They are also web-streamed and include a slot at the end of each session where the watching public can ask questions either verbally or by email. Confidential business, such as staffing matters, are discussed in a private session, but this is kept to a minimum. The FSA's scientific advisory committees also hold all of their plenary meetings in open session.

3. Consumer organisation engagement should be managed across the policy decision-making process

It is essential that regulators and government departments effectively engage with consumer organisations at the most appropriate levels throughout the policy and decision-making process. This includes:

- regular bilateral meetings between the Chair and Chief Executive and consumer groups;

- the establishment of a regular (eg. quarterly or bi-annual forum) for the Chair and/ or Chief Executive to meet regularly with a range of consumer organisations;
- formal and informal contact with consumer organisations by policy leads and communications specialists;
- involvement of consumer organisations in stakeholder meetings; and
- inclusion of consumer organisations and the wider public in more formal consultation processes.

Consumer organisations will also be able to contribute their own consumer insight and research to the policy discussions.

- Which? has regular meetings with the Chief Executives and Chairs of key regulators, including the FCA, FSA, Ofgem (and the CMA since April). We also provide direct input into Board discussions when needed, for example, we have regularly participated in FSA Board discussions, most recently providing input into the priorities for its Strategic Plan. These meetings are supplemented with regular meetings at policy level.
- The FCA is an example of a regulator that has put in place mechanisms specifically to over-see this engagement. Its Consumer Network, co-ordinated by the Consumer and Market Intelligence team, manages liaison and assists with linking up the various areas of the FCA with consumer groups. The FCA has also introduced a centralised database to improve tracking of issues raised by consumers and consumer groups.

4. Consumer panels have a useful role but are not a panacea

A consumer panel can provide a focus for discussion and exploration of specific consumer issues and dilemmas, but should not result in side-lining of consumer issues from the main business of the organisation and its Board. There should therefore be a direct link from any panel in to the Board - for example by giving a Board member specific responsibility for regular engagement with the Panel, or chairing it. The Panel should complement the on-going engagement described above, rather than being a substitute for it. In other words, it is just one of several ways to gather consumer perspectives. The agenda for the Panel must be shaped by the members, ensuring a certain degree of autonomy in terms of issues that can be raised, while also responding to specific requests for advice.

Members of the panel should include professional consumer representatives or people with a background in consumer interests. A balance between generalists and those with more specific expertise in the sectors that are covered is also important. Sufficient resources and budget should ideally also be allocated for analysis and research that generates reliable insight to inform the Panel.

- The Financial Services Consumer Panel is a statutory body which primarily advises the FCA but can also conduct its own research and consider the conduct of financial services more generally. Its 14 members are appointed by open competition and it provides a monthly report on its work to the FCA Board.

- Ofcom’s consumer panel includes eight independent experts who act as a policy advisory body on the interests of consumers in the telecoms sector. The panel, a ‘critical friend’ of Ofcom, carries out research and provides advice to the regulator and to Government.
- The FSA has a consumer advisory panel that brings together the consumer representatives that sit on its various scientific advisory committees (see below).

5. Consumer representatives can bring valuable insight to technical discussions

The organisation should involve consumer representatives who have subject expertise and advocacy experience in technical discussions, expert panels and advisory groups. This is not a substitute for other mechanisms to engage and understand the views of a wider range of consumers through consumer research and insight, but it can help to ensure that consumer interests and concerns are effectively acknowledged and addressed.

- The FSA appoints consumer representatives to its scientific advisory committees, such as the Advisory Committee on the Microbiological Safety of Foods and Advisory Committee on Novel Foods and Processes, to help ensure that a consumer perspective is taken into account along with the scientific expertise.
- Ofgem includes a consumer representative on its Balancing and Settlement Code Panel which oversees any changes or modifications to the Code which sets out the rules that govern the arrangements on the balancing and settlement of wholesale electricity transactions.

6. Consumer or citizens’ forums can help test consumer attitudes

A panel, forum or listening event with consumers/ members of the public who are less informed and from a broader background can provide a useful way to test out specific policy proposals - or more pro-actively identify issues of consumer concern.

- The FSA has established a series of citizens’ forums. These can be physical or on-line and enable a more deliberative exchange than is possible through more traditional forms of consumer research (see below). They can also draw in a far wider cross-section of the public, including people from different social backgrounds, regions etc, than is possible through a consumer panel.
- Ofgem’s Consumer First Panel includes 80 domestic consumers from four locations across Great Britain which meets regularly to discuss issues that affect their participation in the energy market.
- Which? has hosted several listening events with consumers. This has included an event with the Chief Executive of the FCA prior to its creation to hear

consumers concerns first hand. Which? has also held events on issues such as clarity of pricing and the future of banking.

7. Complex issues require more deliberative approaches

Citizens' juries, panels or workshops which enable a more focused, in-depth discussion on a specific issue can also be useful when dealing with a more complex area that involves weighing up different risks and benefits and trying to reach a consensus.

- Which? has used this approach when determining an appropriate level of regulatory oversight for new and emerging technologies such as genetically modified (GM) foods or nanotechnologies - but juries have been used for a wide range of public policy questions. A broadly representative panel of people are recruited who have no awareness of the subject, or even of what they are expected to discuss, and are exposed to a range of perspectives over a longer period of time (generally 2-3 days, although they may meet and reconvene) and then provide a more informed opinion based on what they have heard and learned.
- Ofgem conducts workshops and brings consumers and energy suppliers together to explore solutions to complex issues in collaboration.

8. Consumer research and insight needs to be regular and on-going

On-going consumer research through surveys, focus groups and more in-depth understanding of consumer behaviour will also be very important in order to ensure that the authority is effectively targeting its resources and responding to issues of consumer concern. This will enable engagement on a much broader scale, as well as qualitative exploration of more specific issues. This type of approach also enables a more in-depth understanding of the perspectives of different groups of the population on specific issues than is possible through the other approaches. For some sectors, pilots and trials with consumers are also increasingly important as part of developing and monitoring policy solutions.

- The FCA is exploring how behavioural economics can be used to understand consumer behaviour and biases and is using these to develop its proposals for changing markets.
- Ofgem conducts an annual engagement survey and produces a consumer experience report. It also publishes quarterly complaints data and follows up with a sample of complainants every two years to understand how their problem has been handled.
- Ofgem's Energy Demand Reduction Project involved a series of trials looking at how to engage consumers with energy reduction. Although there were some limitations in its design (eg. lack of control groups), it involved 50,000

households and aimed to understand how consumers react to improved information about their energy consumption over the long term.

- Ofcom produces an annual consumer experience report using data from various research reports, including its consumer switching research. It also publishes quarterly complaints data.
- The Which? Consumer Insight Tracker provides a wealth of information on consumers' experience in a range of private and public markets as well as their spending behaviour and levels of trust in different industries. Which? has also developed a tool to identify consumers' everyday frustrations by combining insight from our own data and consumers' use of social media. Both of these tools provide a close-to-real-time snapshot of consumer attitudes and experiences. Which? is also using national data sources to monitor and analyse how consumer spending has changed over time. This allows Which? to understand the issues that have the biggest impacts on consumer budgets as well as to highlight where particular groups of consumers are being particularly impacted.
- Which? also uses observational and behavioural research as a key tool to identify differences between consumer's perceived outcomes and the reality. In our recent work on rail ticket pricing, using a mobile ethnographic app revealed that consumers who were uniformly confident that they had made the right choice were in fact paying a wide range of different prices for the same journey. As this demonstrates, it is important to consider data on self-reported outcomes with insight from more observational methodologies.