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# Annual Plan 2018/19

Making communications work for everyone

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**STATEMENT**

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## About this document

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Ofcom's purpose is to make communications markets work for everyone. To achieve this, we have three main goals: to promote competition and ensure that markets work effectively for consumers; to secure standards and improve quality; and to protect consumers from harm. Our Annual Plan highlights some of the key work areas that we will seek to deliver in order to meet these goals, across the UK and its nations. We also outline our broader ongoing work to support these goals, and how we will work for consumers across the UK's nations.

We published our *Proposed Annual Plan 2018/19* for consultation on 1 December 2017. In January 2018 we held public events for stakeholders to present and discuss the Plan in London, Belfast, Edinburgh and Cardiff. We received 46 responses which are summarised in Annex 2. This final Plan takes into account stakeholders' views on, and responses to, the proposed Plan.

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# 1. What we do

- 1.1 We regulate fixed-line and mobile telecoms, TV, radio, video-on-demand services, post, and the airwaves used by wireless devices. We help UK businesses and individuals get the best from communications services and protect them from unfair treatment and practices. Where appropriate, we support competition as the basis for delivering good consumer outcomes.
- 1.2 We act independently from governments and commercial interests to deliver our duties. However, we are accountable to Parliament, and to perform our role effectively we need to engage openly and constructively with the UK and devolved governments. We provide technical advice to governments (for example, our regular reviews of public service broadcasting) and in some cases, we act as a formal representative of the UK Government (for example, in international negotiations on spectrum).

## **Our principal duty is to further citizen and consumer interests**

- 1.3 Ofcom was established under the Office of Communications Act 2002 and operates under a number of Acts of Parliament<sup>1</sup>. The Communications Act 2003 states that our principal duty is to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition. In postal services, our duty is to carry out our functions in a way that we consider will secure provision of a universal postal service in the UK. We implement and enforce communications, competition and consumer protection laws; our competition powers are outlined later in this section.

## **Our main legal duties guide the direction of our work**

- 1.4 Our main legal duties are to ensure that:
- the UK has a wide range of electronic communications services;
  - optimal use is made of the radio spectrum;
  - a wide range of high quality television and radio programmes are provided by a range of different organisations, appealing to a range of tastes and interests;
  - people are protected from harmful or offensive material, unfair treatment and invasion of privacy on television and radio; and
  - the universal service obligation on postal services is secured in the UK.
- 1.5 Ofcom can enforce consumer law on behalf of consumers but does not have the power to resolve individual consumer complaints about telecoms or postal services, unlike in TV and

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<sup>1</sup> These include the Communications Act 2003, the Wireless Telegraphy Act 2006, the Broadcasting Acts 1990 and 1996, the Digital Economy Acts 2010 and 2017 and the Postal Services Act 2011.

radio. Where appropriate, we provide advice to complainants and refer them to the alternative dispute resolution (ADR) schemes that we have approved.

## Ofcom's competition law powers

- 1.6 In addition to our regulatory responsibilities set out above, we have powers in relation to communications matters<sup>2</sup> to:
- enforce the prohibitions on anti-competitive agreements and abuse of a dominant position, set out in the Competition Act 1998, and the corresponding provisions under the Treaty on the Functioning of the European Union; and
  - investigate markets and make references under the Enterprise Act 2002 to the Competition and Markets Authority (CMA).
- 1.7 Ofcom considers whether it is more appropriate to exercise Competition Act or sectoral powers in any given case, subject to the specific legislative requirements.

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<sup>2</sup> The term 'communications matters' covers various aspects of electronic communications, as well as broadcasting and the provision of postal services. We exercise these powers concurrently with the CMA.

## 2. Market context

- 2.1 Communications markets are fast-moving, with changing consumer and business needs and ongoing innovation in networks, devices and services. In setting our goals in this plan we have considered the environment in which we operate, how it is changing and how this impacts on our approach to furthering the interests of consumers and citizens. This section highlights some of the cross-cutting issues that have formed our approach in this plan.

### Supporting network investment

- 2.2 Consumers and businesses continue to demand faster and better fixed and mobile internet connections. In the last couple of years, the average monthly data use per residential broadband connection, and average monthly data use per mobile connection, have both increased by over a third. With more people wanting to use multiple connected devices, the increasing popularity of video-on-demand services, and the increasing importance of connectivity to businesses, expectations with regards to quality of experience have increased, and this trend seems set to continue.
- 2.3 In order to deliver what consumers want and what businesses need there must be ongoing investment in fixed and mobile networks. We believe investment is beneficial for consumers and Ofcom's role is to support it by creating the right conditions for companies to invest. Our Digital Communications Review set out a clear objective to promote more investment in ultrafast, full-fibre networks and in the next generation of mobile networks.<sup>3</sup> Our preference is for competition between companies to drive investment, but we acknowledge that may not be possible in some parts of the UK. In those cases, co-investment may play a role and in other areas investment may only happen following Government or Ofcom intervention.
- 2.4 We are continuing our work aimed at driving investment by:
- creating a more independent Openreach, that takes network investment decisions in the interests of all its customers, and monitoring if this is happening in practice;
  - looking at reducing network build costs by improving the availability and use of duct and pole access, and working with Government to reduce planning barriers;
  - implementing any necessary regulation following our review of the wholesale local access market in which we consider ways of protecting investment incentives for both Openreach and other network investors; and
  - ensuring that additional spectrum is ready for the next generation of mobile networks, while driving improvements in the coverage of existing mobile services.
- 2.5 Recently, strong momentum has built towards full-fibre broadband in the UK. A range of broadband companies have announced plans to invest, including:

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<sup>3</sup> Ofcom, March 2015, *Digital Communications Review*.

<https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/digital-comms-review>

- Virgin Media has made progress on its previous commitment to reach a further four million premises, half of which will be full-fibre;
- Gigaclear to reach 150,000 rural properties by 2020;
- Hyperoptic to cover five million premises with full fibre by 2025;
- KCOM to have full-fibre coverage across all of its network by March 2019, covering 200,000 premises in the Hull area;
- CityFibre, in partnership with Vodafone, to roll out full fibre to up to five million homes by 2025;
- Openreach to connect three million homes and businesses to full fibre by 2020; and
- TalkTalk to cover three million premises with full fibre.

2.6 These plans could take coverage of full fibre in the UK from 3% today to up to 20% by 2020. Our work is designed to help deliver this and promote further investment beyond these ambitions.

## Ensuring markets work for consumers

2.7 Although we are focused on encouraging effective competition to deliver the investment needed to build the future services that consumers want, we are conscious of the need to balance this focus with securing positive outcomes for consumers now.

2.8 For example, a considerable number of UK homes still have an internet download speed of less than 10Mbit/s. Similarly, although mobile coverage has increased, there is an enduring concern that coverage in some parts of the UK is still relatively low. There is a risk that consumers in rural parts of the UK and its constituent nations, either in premises or on the move, will continue to experience difficulties in using mobile services.

2.9 At the end of 2017, after publication of our proposed Plan, the UK Government announced that it would legislate for a broadband universal service obligation (USO), giving UK consumers a legal right to request a 10Mbit/s broadband connection.<sup>4</sup> We expect that Ofcom's role in this will be set out in legislation in due course, and this will become a priority for us. We will continue to provide tools and data to help inform consumers about the broadband speeds and mobile coverage they are likely to experience, as well as specifically looking at the needs of vulnerable consumers. We will ensure that mobile coverage obligations are met and consider obligations in new awards of spectrum.

## Securing standards in broadcasting

2.10 The way consumers watch content continues to change. The major on-demand subscription streaming services continue to increase their subscriber bases. In 2016 the average time spent viewing broadcast TV per person continued to decline moderately: while there was a steep decline in average viewing of broadcast TV among children aged 4-

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<sup>4</sup> Department for Digital, Culture, Media and Sport December 2017, *High speed broadband to become a legal right*. <https://www.gov.uk/government/news/high-speed-broadband-to-become-a-legal-right>

15 and adults aged 16-24, average viewing for over-64s increased slightly.<sup>5</sup> Despite these changes, broadcasting has been resilient, and an important part of Ofcom's work will be to continue our regulatory activities in broadcasting and content regulation, including to maintain and strengthen public service broadcasting (PSB).

- 2.11 Last year we took on the regulation of the BBC: a focus for this year will be incorporating this work into our ongoing work programme. For example, this year we will be looking at how the BBC is meeting the requirements of its Operating Framework and Operating Licence, as well as reviewing proposals for BBC public services and their potential impact on competition. We will also review the requirements for programmes with particular public service value to UK audiences; for example, programmes made outside London. We will continue to look at diversity and equality of opportunity in TV and radio broadcasting, and report on how the industry is performing.

## Understanding convergence and market changes

- 2.12 It is important that our regulation takes account of change in the markets for which we are responsible. In addition to our work plan and ongoing programme of work, we monitor developments, and review our approach to regulation, in light of the increasing convergence in markets, the emergence of new services, and the changing way in which content is delivered.
- 2.13 For example, the increasing consumption of news content through online content services raises questions about how regulation can continue to secure standards and protect audiences, and in the longer term may have implications for the consumption and sustainability of such content in the PSB framework. The increasing deployment and use of internet-based communications and content services, particularly by younger consumers, may over time have implications for the requirements for traditional telephone networks and broadcast distribution.

## Adapting to regulatory changes

- 2.14 We will continue to adapt our work to the changing regulatory and policy environment. In addition to embedding the regulation of the BBC in our work programme, we will commence work under our new duties set by the Digital Economy Act 2017, including, for example, conducting a review of children's content.
- 2.15 As the UK's media and telecoms regulator – neutral and independent of government and of the companies that we regulate – Ofcom takes no view on the means or merits of Brexit. But we fully support the Government's desire for continued effective regulation, delivered through close collaboration with European partners. We are providing advice to the UK Government on topics related to the sectors we regulate, and we will continue providing support to the Government in its negotiations going forward.

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<sup>5</sup> Source: BARB; Ofcom, August 2017, *Communications Market Report 2017*, p.38.

## 3. Our goals and project highlights for 2018/19

3.1 Ofcom's purpose is to make communications markets work for everyone. To achieve this, we have three high-level, long-term strategic goals:

**Promote competition and ensure that markets work effectively for consumers**

**Secure standards and improve quality**

**Protect consumers from harm**

3.2 Ofcom's 2018/19 work programme will ensure that the following areas are adequately prioritised:

- work with industry to support investment in advanced competing infrastructure, including co-investment, and also additional investment by Openreach as a result of regulation and legal separation. We will actively monitor and report progress on the legal separation of Openreach from BT;
- complete the integration of our new responsibilities for regulating the BBC, including a first Annual Report on the BBC, a first competition assessment of the BBC's proposals for a Scotland TV service, and our first thematic review of the BBC;
- prepare for future awards of spectrum as they are cleared and released to help meet the growing demand for capacity and in preparation for new 5G services;
- extend availability of services, specifically by starting implementation of a broadband USO and introducing new coverage obligations for mobile spectrum.

3.3 To achieve our goals, we need to address specific challenges within our sectors. For each goal, we highlight below the work areas of particular importance in 2018/19. Further detail on our wider work plan, including these highlighted areas of work, can be found in Annex 1. Our broader ongoing programmatic work also supports these goals.

### **Promote competition and ensure that markets work effectively for consumers**

3.4 Our aim is to ensure that consumers and businesses benefit from a range of communications products and services, with the market providing good outcomes in terms of choice, price, quality, investment and innovation.

3.5 We do this by ensuring that markets work effectively, through regulation where appropriate, so that consumers can gain from the benefits of competition.

3.6 In particular, in the 2018/19 period we will:

- 3.7 **Support investment in network infrastructure.** We will implement regulation following the Wholesale Local Access market review<sup>6</sup> and continue to work with all industry players as necessary to further support the range of underway and announced investment in advanced competing full-fibre network infrastructure, including co-investment.
- 3.8 **Effective Openreach reform.** We will actively monitor and report progress on arrangements for the legal separation of Openreach from BT. We will assess the effectiveness of actions taken in benefiting consumers, including addressing our competition concerns and encouraging new investment in networks.
- 3.9 **Prepare for the next market reviews,** including an assessment of the needs of businesses and telecoms companies and leased-line services (**BCMR**).
- 3.10 **Help consumers, including SME businesses, engage with communications providers** by identifying and addressing barriers to competition and exercising choice.
- 3.11 **Prepare for future awards of spectrum bands** as they are cleared and released. This will include the design of auctions, any obligations, and measures to promote competition as part of a licence award for the 700 MHz and 3.6 to 3.8 GHz bands.
- 3.12 Conduct our **first competition assessment on the BBC's proposals to launch a new BBC Scotland TV service.**

## Secure standards and improve quality

- 3.13 Our aim is to secure the widespread availability, affordability and accessibility of good quality communications and broadcast services for end-users across the UK.
- 3.14 While competition is at the heart of our approach to ensuring good outcomes for consumers, we recognise that competition alone cannot deliver the full range of desirable outcomes. Where appropriate, we make targeted interventions to improve consumer and citizen outcomes.
- 3.15 In particular, in the 2018/19 period we will:
- 3.16 **Consult on a broadband universal service obligation (USO).** Ofcom will implement a broadband universal service obligation once the Government has put in place secondary legislation setting out the key features of the service. We will consult on the designation of a universal service provider(s) (USP), how the USO will be funded, and the conditions imposed on the designated USP.
- 3.17 **Improve mobile coverage.** We will ensure existing coverage obligations have been met, and we are already consulting on proposals for new 700 MHz spectrum licence obligations<sup>7</sup>, requiring operators to deliver improvements in mobile coverage in rural areas.

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<sup>6</sup> Ofcom, March 2018, *Wholesale local access market review*. <https://www.ofcom.org.uk/consultations-and-statements/category-1/wholesale-local-access-market-review>

<sup>7</sup> Ofcom, March 2018, *Improving mobile coverage: Proposals for coverage obligations in the award of the 700MHz spectrum band*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0022/111937/consultation-700mhz-coverage-obligations.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0022/111937/consultation-700mhz-coverage-obligations.pdf)

- 3.18 **Publish Ofcom's first annual report on the BBC:** We will set out how we have carried out our new duties and assess the BBC's compliance with the specified requirements in Operating Framework and Operating Licence. We will also publish a separate report measuring the BBC's performance in meeting the mission and public purposes across its public services. Additionally, we will publish the results of our first thematic review on how the BBC represents and portrays the diverse communities of the UK's nations and regions.
- 3.19 **Review the guidance to public service broadcasters for production outside London,** and consider if this remains fit for purpose in supporting and strengthening production across the UK's nations and regions.
- 3.20 **Review of children's content.** We will review the quantity, range and quality of content available to younger audiences, including the possibility of setting criteria for children's programming.
- 3.21 **Promote diversity and equality of opportunity in broadcasting.** We will publish our second annual report on the UK TV industry, and our first report on the UK radio industry, to provide a comprehensive picture on how well individual broadcasters – and the industry as a whole – are performing on equality of opportunity, diversity and inclusion in employment.
- 3.22 **Review EPG Code and PSB prominence.** We are required to report on provision by electronic programme guides (EPG) of information about, and access to, programmes included in public service channels or PSB on-demand programme services. We will report on PSB prominence as it stands, consider wider policy questions that arise from this work and review Ofcom's EPG Code.

## Protect consumers from harm

- 3.23 Our aim is to ensure consumers do not face unfair practices and vulnerable consumers are protected from specific harms where they may be at risk.
- 3.24 We do this by intervening directly to protect consumers, especially vulnerable groups at risk of harm. We implement additional measures where there is a risk of exposure to harmful behaviour by firms, or to offensive content on television and radio.
- 3.25 In particular, in the 2018/19 period we will:
- 3.26 **Review the cost of calling directory enquiries services,** to ensure that prices are transparent and fair to consumers.
- 3.27 Identify and address issues raised by communication providers' **migration to voice over IP,** including the potential future switch-off of the PSTN, with the aim of protecting consumers from harm and minimising disruption.
- 3.28 **Ensure that network operators design and operate networks in line with our guidance and good security and resilience practice.** This will include preparing for and implementing the requirements proposed under the *Network and Information Security Directive (NIS)* and supporting the DCMS pilot TBEST scheme for cybersecurity assurance.

## Engage during changes to European legislation

- 3.29 We will **safeguard and promote UK businesses and consumers' interests throughout the Brexit process**. We will consider potential impact on markets and relevant legislation from the changing nature of our relationship with the EU. We will continue to engage to ensure that proposed changes to regulations under the Electronic Communications Framework and Audiovisual Media Services Directive meet UK consumers' needs as relevant.
- 3.30 Ofcom takes no view on the means or merits of Brexit. But we fully support the Government's desire for continued effective regulation, delivered through close collaboration with European partners. We are providing advice to UK Government on topics related to the sectors we regulate, and we will continue providing support to Government in its negotiations going forward.

## Our approach to regulation

- 3.31 To deliver our purpose of making communications work for everyone, it is essential that the regulations that apply to communications markets remain appropriate. Under the Communications Act 2003, Ofcom is required to minimise the burden it places on the companies it regulates. The Act requires us to keep regulation under review to ensure that it does not bring about (a) the imposition of burdens that are unnecessary; or (b) the maintenance of burdens that have become unnecessary. Ofcom is required to remove or reduce unnecessary burdens where it finds them. These requirements inform all our regulatory work, including our market review programme.
- 3.32 Ofcom's consumer protection regulation is underpinned by the General Conditions of Entitlement, a set of legal obligations to which electronic communication providers or networks must adhere. Following consultation, we have removed unnecessary, redundant and unused powers to ensure that the General Conditions reflect our current policy priorities, and that they are fit for purpose in today's market. A new set of General Conditions which are clearer and more practical will come into effect in October 2018<sup>8</sup>. This should make it easier for businesses to ensure compliance and easier for Ofcom to enforce compliance in the interests of the general public and consumers.
- 3.33 We review existing regulations and restrictions and whether they remain necessary. For example, we will complete our assessment of certain costing and accounting rules which are applied by Royal Mail in preparing its financial reports. We will also review the safeguard price caps for second class standard letters, large letters and small and medium parcels. And we will continue our work looking at future use of the 3.8 to 4.2 GHz spectrum band, with the aim of consulting on proposals to enable greater shared access between existing and new users.

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<sup>8</sup> Ofcom, September 2017, *Review of the General Conditions of Entitlement*. <https://www.ofcom.org.uk/consultations-and-statements/category-1/review-general-conditions>

- 3.34 We are actively exploring new areas in which we can empower stakeholders and consumers through the provision of better and more accessible information. For example, we continue to promote our open data policy<sup>9</sup>, and have reviewed the schedule and structure of our market reports programme to better meet stakeholder needs and in turn benefit citizens and consumers. We will continue to release information on spectrum use in an open format, including by publishing interactive spectrum maps, to enable stakeholders to better understand how spectrum is used.

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<sup>9</sup> Ofcom, January 2018, *Open data*. <https://www.ofcom.org.uk/research-and-data/data/opendata>

## 4. Ongoing work to achieve our goals and fulfil our duties

- 4.1 In Section 3 we have highlighted areas of work that will help us meet our goals in 2018/19 across the UK. Our broader programme of ongoing work also helps us achieve our three strategic goals. This section sets out some of our ongoing work relevant to these goals.
- 4.2 Much of Ofcom's ongoing work programme is non-discretionary and is set in legislation. Our duties have been extended to regulating the BBC in respect of its performance, compliance with programme standards for due accuracy and due impartiality in news and current affairs, and its impact on competition. In 2018/19 we will be considering the requirements preventing the BBC's commercial subsidiaries from gaining unfair competitive advantage, and our guidance on the BBC's commercial and trading activities.
- 4.3 Other areas of Ofcom's ongoing work programme relate back to, and help implement, previous key work areas. For example, Ofcom concluded its review of postal regulation in 2017, but as part of our ongoing work we will continue to monitor a range of factors, including Royal Mail's performance on efficiency, quality of service, the financial performance of the universal service network, and competition in parcels and letters. Similarly, we continue to monitor the quality of copper and fibre telecoms networks to ensure compliance with conditions imposed as a result of our market reviews.
- 4.4 There is also important ongoing work to ensure that consumers experience good outcomes in communications markets. For example, in securing the best use of telephone numbers to encourage efficiency and innovation. In 2018/19 we will continue our work to address nuisance calls which continue to be a concern, particularly for vulnerable consumers, and will publish an update to our joint action plan on the progress we have made in tackling this issue over the past year, and our priorities for the year ahead.

### **Promote competition and ensure that markets work effectively for consumers**

#### **Allocating numbers**

- 4.5 Ofcom allocates telephone numbers to communications providers, who then issue these to consumers. We ensure efficient use of numbers, minimising the need for disruptive and costly measures to address shortages.

#### **Monitoring pay TV**

- 4.6 Ofcom tracks market developments across the pay-TV value chain to understand the consumer experience and retail competition as the sector evolves. We will continue to monitor any concerns in relation to access to pay-TV content (including supply of premium sports content) and TV platforms, enabling us to intervene quickly when necessary.

## **Accreditation of price comparison sites**

- 4.7 We ensure the effectiveness of the scheme to ensure it remains relevant in today's market.

## **Monitoring the effectiveness of the regulatory framework for post**

- 4.8 As one of the key safeguards of the regulatory framework we will continue to monitor a range of factors, including Royal Mail's performance on efficiency, quality of service, the financial performance of the universal service network, and competition in parcels and letters. We will also continue to monitor consumers' experiences in the postal sector.

## **Enforcing competition conditions**

- 4.9 Ofcom enforces regulatory conditions that we impose on communications providers to promote competition. We also assess complaints and determine disputes between providers of electronic communications networks and services and conduct investigations under competition law.

## **Regulating the impact of the BBC on fair and effective competition**

- 4.10 Ofcom has a duty to consider the potential adverse impact on competition of new BBC public services or material changes to existing public services proposed by the BBC. We have an ongoing role to monitor the BBC's compliance with requirements preventing the BBC's commercial subsidiaries from gaining an unfair competitive advantage or distorting the market as a result of their relationships with BBC public services. We will also undertake trading and separation assessments in relation to proposals for material changes to the BBC's commercial activities, and consider complaints referred to us about the BBC's compliance with competition requirements if the complainant is not satisfied with its resolution by the BBC.

## **Secure standards and improve quality**

### **Managing spectrum and planning for future requirements**

- 4.11 Ofcom ensures UK radio spectrum is used in the most efficient way. This includes planning for future spectrum requirements, such as for mobile data and fixed wireless backhaul. We will continue to undertake application and band specific analysis on specific sectors' use of spectrum to support our strategic reviews and inform our policy.

### **Analysing and releasing information on spectrum use**

- 4.12 We release information on spectrum use in an open format, including by publishing interactive spectrum maps to analyse the various geographic aspects of spectrum use, to enable stakeholders to better understand how spectrum is used.

## Authorising spectrum use

- 4.13 Ofcom plans efficient use of radio spectrum in the UK in ways which limit interference between users and maximise benefits to consumers. We authorise the use of spectrum through the licences we issue. Where appropriate, we also make exemptions to allow spectrum use without a licence. We implement changes to our authorisation approach in response to our sectoral reviews and ensure we have the right tools to deliver efficient use of the spectrum. We also undertake reviews of licence fees.

## Assuring and enforcing rightful use of spectrum

- 4.14 Ofcom advises and assists spectrum users to help resolve harmful interference. Our Spectrum Technology, Engineering and Enforcement Teams handle reports of interference and carry out activities to protect and manage the UK's spectrum. These include investigating cases of interference, including to safety-of-life communications, and proactively preventing unauthorised use of spectrum by identifying and addressing unlicensed use of spectrum and the sale or use of non-compliant equipment. Ofcom works with stakeholders to raise awareness of the Government's Radio Equipment Directive<sup>10</sup> requirements and develops strategies for the enforcement of its provisions.

## Monitoring quality of wholesale telecoms services

- 4.15 Ofcom will continue to monitor the quality of both the provision and repair of copper and fibre based wholesale telecommunications services to ensure compliance with conditions imposed as a result of our market reviews.

## Ensuring network operators comply with guidance on security and resilience

- 4.16 Network operators are required to design and operate networks in line with good security practice, and we work to ensure compliance with our guidance in this area. We also collate reports on network failures, summaries of which are published in our annual *Connected Nations* report and provided to the European Commission. To minimise future risk, we follow up incidents of concern to understand the causes and the steps that have been taken as a result, and take action where appropriate.

## Comparing quality of service

- 4.17 Ofcom's annual *Comparing Service Quality* report provides consumers and industry with comparative metrics on communications providers' quality of service. We will continue to produce quarterly publications that present data relating to complaints recorded by Ofcom against the largest telecoms and pay-TV providers.

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<sup>10</sup> Regulatory Delivery and Department for Business, Energy & Industrial Strategy, July 2017, *Radio Equipment Directive*. <https://www.gov.uk/government/consultations/radio-equipment-directive>

## Publishing our *Connected Nations* report

- 4.18 Ofcom publishes an annual *Connected Nations* report, and periodic updates to this through the year, with accompanying visualisation tools and mobile apps. These provide accessible and comparable information to consumers regarding availability and estimated speeds for superfast and ultrafast fixed broadband and for mobile networks. This year, we will publish data on broadband and mobile coverage in spring and summer, in addition to our full *Connected Nations* report in December. The report includes information relevant to progress towards universal broadband provision and on the security and resilience of communications services. In addition, we continue to provide updates to the Government's Digital Infrastructure and Inclusion Task Force on broadband speeds.

## Licensing TV and radio broadcast services

- 4.19 Ofcom issues licences for all UK national and local commercial TV services, and all analogue and digital commercial and community radio services. This helps secure a range and diversity of services available across the UK. Ofcom can impose penalties for non-compliance with licence requirements and, in serious cases, Ofcom can revoke licences.

## Enforcing requirements for access services

- 4.20 Ofcom ensures that broadcasters provide a proportion of their programming with access services for people who are visually or hearing impaired. We report bi-annually on broadcasters' provision of subtitling, signing and audio-description. Ofcom also collects data on accessibility of video-on-demand services which meet the statutory definition of an 'on-demand programme service' (ODPS) and is working to align reporting on accessibility across broadcast and on-demand services.
- 4.21 In 2018/19 we will conclude our consultation to help inform Government regulations on accessibility of ODPS<sup>11</sup>, and will subsequently consult on a new Code on Access Service Requirements for these services.

## Protect consumers from harm

### Reducing nuisance calls

- 4.22 Ofcom works with UK communications providers to monitor and block problematic call traffic, and with international partners on enforcement and caller line identification. We also work closely with the Information Commissioner's Office (ICO) and other bodies to reduce nuisance calls, which are particularly harmful for vulnerable consumers.

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<sup>11</sup> Ofcom, December 2017, *Consultation: How should On-demand Programme Services be made accessible?*  
<https://www.ofcom.org.uk/consultations-and-statements/category-1/odps-accessibility>

## **Enforcing programme standards**

- 4.23 Ofcom ensures that programmes broadcast on TV and radio services meet relevant standards and that audiences are appropriately protected from harmful content. We consider complaints received from members of the public if the complainant believes a programme fails to meet these standards. Complaints received are considered against the Broadcasting Code and other relevant codes and guidelines. We also check for, and identify, breaches of our broadcasting standards rules through ongoing targeted monitoring.
- 4.24 Ofcom also regulates video-on-demand services which meet the statutory definition of an 'on-demand programme service'. These services are required to meet a specific set of editorial standards requirements.
- 4.25 With regard to content on BBC TV channels, BBC radio stations, the iPlayer and the BBC website, in the majority of cases Ofcom considers complaints referred to us if the complainant is not satisfied with its resolution by the BBC. For online material on the BBC website and apps, complaints may be referred to Ofcom for its opinion.

## **Enforcing regulatory conditions to protect consumers**

- 4.26 Ofcom actively enforces the regulatory conditions that we impose on communications providers, as well as general consumer law. We routinely monitor complaints, analyse evidence and take swift action to deal firmly and effectively where we see harm, including formal investigations and penalties where appropriate.

## **Improving complaints handling and customer service**

- 4.27 Communications providers must have, and comply with, procedures that conform to the Ofcom-approved Code of Practice for complaints handling. We have an ongoing programme to drive improvements in this area, including improvements to customer service standards. This is to ensure that consumers have a positive experience when dealing with their providers and are made aware of their rights to go to alternative dispute resolution (ADR) if their complaints remain unresolved.

## **Enforcing net neutrality**

- 4.28 Internet service providers (ISPs) must allow end-users to access and distribute the information and content of their choice, to use or provide the applications and services of their choice, and use the terminal equipment of their choice, via their internet access service. We actively evaluate complaints, ISP offers and practices, and engages with stakeholders as compliance questions arise, and where appropriate, take enforcement action. Ofcom reports on its activities annually.

## Enforcing international roaming regulation

- 4.29 Since 15 June 2017, consumers who have international roaming services have been able to use their phone abroad within the EU for no extra charge, subject to certain safeguards. We actively monitor compliance with the roaming rules, including through consumer complaints, engage with stakeholders if compliance concerns arise, and where appropriate take enforcement action.

## Other work across our goals

### Conducting market research and reporting market intelligence

- 4.30 Ofcom undertakes a broad programme of research into communications markets and consumer preferences and behaviour. This research ensures that we have an up-to-date and thorough understanding of consumers in the markets we regulate. Our market intelligence work collects data directly from industry stakeholders and makes it available through publications and website data updates. Our key planned publications are included in Annex 1. Our *Statistical Release Calendar*<sup>12</sup> provides links to all our statistical data releases.

### Reporting on adults' and children's media use and attitudes

- 4.31 As part of our media literacy duties, we publish reports providing data on adults' and children's media use and attitudes across TV, radio, games, mobile and the internet, with a particular focus on online use and attitudes.

### Monitoring and analysing technical and commercial developments

- 4.32 Ofcom monitors and analyses technical and commercial developments in the market in order to inform our policy work and ensure we're addressing tomorrow's problems.

### Engaging and providing advice to the UK Government, devolved governments and administrations, and other bodies, on audience protection

- 4.33 Ofcom engages with governments, industry and other bodies to promote the safety of audiences, especially children, across traditional and online environments. We play an active role in supporting the Government's UK Council for Child Internet Safety (UKCCIS). We also work closely with other regulators across Europe, through the European Regulators' Group for Audiovisual media services (ERGA), to enhance the protection of audiovisual services.

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<sup>12</sup> Ofcom, November 2017, *Statistical release calendars*. <https://www.ofcom.org.uk/research-and-data/data/statistics/>

## **Engaging and providing advice to the UK Government, devolved governments and administrations, and other bodies, on network infrastructure**

- 4.34 Ofcom engages with governments and administrations, and a range of other bodies across the UK, advising on technical issues. For example, we advise the UK Government and devolved governments and administrations on availability issues through our work as part of the Digital Infrastructure Task Force, and provide support for improving mobile coverage across the UK.

## **Engaging with international stakeholders**

- 4.35 Ofcom engages with a range of international stakeholders in the field of communications regulation, to learn from their experiences and ensure that emerging policy thinking, and any relevant legislative initiatives, respond to the needs of the UK communications sector. We will continue to cultivate existing relationships and to build new ones with stakeholders in Europe and in the rest of the world. We actively participate in European regulatory networks, such as the Body of European Regulators for Electronic Communications (BEREC), the Radio Spectrum Policy Group (RSPG), the European Regulatory Group for Audiovisual media (ERGA), and the European Regulators' Group for Post (ERGP), as well as regional organisations such as the European Platform for Regulatory Authorities (EPRA). We represent the UK, under Ministerial Direction, in the International Telecommunications Union (ITU) and the Conference of European Postal and Telecoms Administrations (CEPT), where we participate in global and regional discussions across a range of issues. We also have an active programme of bilateral engagement with stakeholders and regulatory counterparts from around the world (such as the FCC in the US, the ACMA in Australia, the IFT in Mexico, and the IMDA in Singapore, among others).

## 5. Delivering our goals across the UK

- 5.1 The full range of Ofcom's work on regulating communications, postal services and broadcasting is important for people and businesses across the UK. Good quality communications services are critical to people and businesses wherever they are located. This section highlights some aspects of our work for the coming year which are common to all nations, alongside some specific work with particular relevance for individual nations.
- 5.2 We are committed to delivering our goals for citizens and consumers across all the nations and regions of the UK. To do this effectively, we need to take account of national and regional diversity. We do this by engaging with a range of stakeholders in each nation through our national offices, and by working closely with Ofcom's four National Advisory Committees.
- 5.3 Further devolution to Scotland, Wales and Northern Ireland over recent years has resulted in changes to Ofcom's governance. The administrations in Edinburgh, Cardiff and Belfast are now each responsible for appointing a new Ofcom Board member in consultation with the Secretary of State for Digital, Culture, Media and Sport. The Scotland member of the Ofcom Board, Bob Downes, was appointed in February 2018. Appointments of members for Wales and Northern Ireland are expected to follow in due course.
- 5.4 In addition, new Memoranda of Understanding (MOU) between the devolved administrations, the Department for Digital, Culture, Media and Sport and Ofcom will set out the process for how Ofcom will consult with devolved governments and legislatures on our Annual Plan, the frequency of engagement between Ofcom and devolved governments and Ofcom's duty to provide evidence to Parliamentary and Assembly Committees. Ofcom is implementing the MOU it has with the Scottish and UK Governments and Scottish Parliament.<sup>13</sup> Similar MOU are expected to be agreed with the administrations in Wales and Northern Ireland with implementation through 2018/19 and beyond.

### Common challenges

- 5.5 Providing fixed broadband, mobile, and postal services that meet the needs of consumers and SMEs in rural and remote areas presents particular challenges. These areas fall disproportionately within Northern Ireland, Scotland and Wales, but the same challenges also affect some English regions.
- 5.6 National, regional and local broadcasting services should also meet the needs, and reflect the diversity, of audiences across the regions and nations of the UK.
- 5.7 In the 2018/19 period we will:

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<sup>13</sup> Memorandum of Understanding between the UK Government, Scottish Government, Scottish Parliament and the Office of Communications, April 2017 <https://www.gov.uk/government/publications/memorandum-of-understanding-between-the-uk-government-scottish-government-scottish-parliament-and-the-office-of-communications>

- 5.8 Publish our **Connected Nations report** on broadband and mobile coverage and speeds, including variations between rural and urban consumers and in different areas of the UK. We will make this information available to consumers through applications and tools to encourage use and informed choice.
- 5.9 Consult on **improving mobile coverage**, including proposals to provide specific coverage targets for each of England, Northern Ireland, Scotland and Wales.<sup>14</sup>
- 5.10 Consult on a **broadband universal service obligation (USO)**. A higher percentage of people in Scotland, Wales and Northern Ireland do not have access to a decent broadband service. The Scottish Government, Welsh Government and Northern Ireland Executive have announced publicly-funded broadband initiatives and these, alongside the broadband USO, will help to address this.
- 5.11 Continue to engage with stakeholders on our findings on the causes and effects of **parcel surcharging** in Northern Ireland and the Highlands and Islands of Scotland.
- 5.12 Publish our **first annual report on the BBC's performance** against the requirements in its Operating Licence, including the particular requirements for the BBC to deliver in each of the UK's nations. Additionally, we will focus our first thematic review on how the BBC represents and portrays the diverse communities of the UK's nations and regions.
- 5.13 Review the **guidance to public service broadcasters for programmes made outside London** and in the nations, as required by their licence conditions, and consider if this remains fit for purpose in supporting and strengthening production across the UK's nations and regions.

## England

- 5.14 As well as the question of connectivity in rural areas, the high population density in England's urban areas - and London in particular - presents different challenges for network operators. Our work on mobile broadband speeds and consumer research on reception and ease of access will help us to identify network and quality-of-service problems, including potential issues for urban users.
- 5.15 Due to the geographic size of England and its large population, there is great diversity of social factors and socio-economic groups within and between different communities which Ofcom's work will take into account.

## Northern Ireland

- 5.16 Northern Ireland's border with the Republic of Ireland presents unique challenges, with many services available in both jurisdictions. As the UK prepares to leave the European Union, we will continue to work closely with our counterparts in the Republic of Ireland,

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<sup>14</sup> Ofcom, March 2018, *Improving mobile coverage: Proposals for coverage obligations in the award of the 700Mhz spectrum band*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0022/111937/consultation-700mhz-coverage-obligations.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0022/111937/consultation-700mhz-coverage-obligations.pdf)

ComReg and the Broadcasting Authority of Ireland, to coordinate and preserve cross-border services.

- 5.17 We will monitor the implementation of BT's Protocol for Northern Ireland, and work with the Openreach Monitoring Unit, to ensure that the particular circumstances, where BT's Northern Ireland Networks division acts as Openreach's agent, also allows stakeholders in Northern Ireland benefit from the new arrangements.
- 5.18 We will offer regulatory and technical advice, particularly in support of improved broadband roll-out and mobile coverage, to Northern Ireland government departments and local councils.

## Scotland

- 5.19 We will continue to work with the Scottish Government, Committees and Members of the Scottish Parliament and the Office of the Secretary of State for Scotland, including through the provision of technical advice and relevant data where appropriate. We will engage proactively with the Scottish Government's proposals to create a Scottish Consumer Taskforce in relation to the relevant markets regulated by Ofcom. We will also continue to act as Secretariat to the Scottish Parliament's Cross Party Group on Digital Participation and engage with other, relevant Cross Party Groups.
- 5.20 Ofcom has developed its new premises in Edinburgh into a policy and operations hub to help ensure that we can effectively consult with stakeholders and represent the interests of citizens and consumers, not just in Scotland, but on issues that apply across the UK. In Scotland specifically, this will include engaging with stakeholders on our assessment of the BBC's proposals for a new BBC Scotland TV channel. We will also work closely with MG Alba on reviewing our joint protocol, and regarding appointments to the MG Alba Board. We will also continue to engage with the Scottish Government on all relevant aspects of its Digital Strategy,<sup>15</sup> including its Reaching 100% initiative<sup>16</sup> (designed to deliver speeds of 30 Mbit/s to 100% of premises in Scotland by 2021) as well as its plans to tackle mobile coverage not-spots in some of the more rural areas of Scotland.

## Wales

- 5.21 Following the publication of its Mobile Action Plan<sup>17</sup>, we will continue to collaborate with the Welsh Government to improve mobile voice and data connectivity. We will also continue to provide technical advice and share data where appropriate to assist the Welsh Government in achieving its ambition of finding both creative and innovative solutions to

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<sup>15</sup> Scottish Government, March 2017, *Realising Scotland's full potential in a digital world: A Digital Strategy for Scotland*. <http://www.gov.scot/Publications/2017/03/7843>

<sup>16</sup> Scottish Government, July 2017, *Digital Scotland – Reaching 100% Programme*. <http://www.gov.scot/Publications/2017/07/4529/343135>

<sup>17</sup> Welsh Government, 2017, *Mobile Action Plan*. <http://gov.wales/docs/det/publications/171003-mobile-action-plan-for-wales-en.pdf>

improving coverage. With the conclusion of the Superfast Cymru project, 96% of premises in Wales will have access to superfast broadband. We will continue to support the Welsh Government in its efforts to provide superfast services to those premises in Wales without access.

- 5.22 We will work with the UK Government and S4C to implement any recommendations relating to Ofcom arising from the independent review of S4C<sup>18</sup>.
- 5.23 We will maintain our track record in implementing our Welsh Language Standards and fulfil the requirement to produce an annual report to the Welsh Language Commissioner outlining our performance to date.

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<sup>18</sup> Department for Digital, Culture, Media & Sport, Office of the Secretary of State for Wales, August 2017, *S4C Review Terms of Reference*. <https://www.gov.uk/government/publications/s4c-review-terms-of-reference>

## 6. Ensuring value for money

### We will continue to deliver efficiencies and savings

- 6.1 We are entering the third year of the UK Government's 2015 Spending Review period and remain committed to achieving real-terms savings consistent with the public sector, as well as our own drive to be an efficient and effective regulator for a dynamic communications sector.
- 6.2 The passing of the Digital Economy Act 2017 provides a more practical funding model for Ofcom where we are now funded entirely through industry fees and charges. This helps to underline our independence.
- 6.3 The proposals set out for 2018/19 build on our previous work to moderate our budget. Ofcom continues to deliver like-for-like real-terms budget reductions, and will continue to identify efficiencies where possible.

### Our budget for 2018/19

- 6.4 As we take on new challenges and responsibilities in the markets we regulate, our focus on delivering value for money endures. We set out, in our *Proposed Annual Plan*, a proposed budget for 2018/19 of £121.2m (then revised to £121.4m). Since then, the Government has requested that Ofcom's remit widens, with new or expanded roles in respect of broadband universal service and cybersecurity. Our final budget includes incremental capacity to deliver on these new roles and duties. Our 2018/19 budget will therefore be £124.2m, an increase of £2.8m. Excluding these new duties, our budget for the coming financial year represents a real-terms reduction compared to 2017/18.
- 6.5 Costs for 2018/19 by stakeholder sector will be published in our *Tariff Tables*.<sup>19</sup> Our work plan is reflected in the tariffs we have set, and there is no change to the method we have used to calculate these charges.

### How we will manage our resources in 2018/19

- 6.6 We continually look at how we carry out our work, to make sure that what we do supports our aim to make communications markets work for everyone. Where resources are limited, we will make choices, guided by our goals and our duty to promote citizen and consumer interests.
- 6.7 We are adopting a more effective, strategic and integrated approach to our annual budgets, with a focus on the resources, skills and capacity needed to deliver on our plans and duties. This will flow through into how we assess our progress during the year, with a longer-term, more progressive approach to planning.

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<sup>19</sup> Ofcom, *Tariff tables*. <https://www.ofcom.org.uk/about-ofcom/annual-reports-and-plans/tariff-tables>

- 6.8 To optimise the use of our London headquarters, we are continuing with building modifications to reflect a transition to agile working and to maximise the flexibility of our workforce. This will ultimately reduce our London footprint by about 25% and reduce our property overhead going forward. Agile working presents an opportunity to make best use of our resources throughout the year and respond to any reactive work that arises.
- 6.9 The successful relocation of a number of roles to offices in the North West of England and Scotland is an integral part of our move to an agile working environment and helps to ensure we use all our property space as efficiently and effectively as possible.
- 6.10 As part of our agile working project, we are also investing in ICT to move some of our functions and systems to cloud-based platforms and to support a more collaborative way of working. We will integrate new planning and reporting tools to support our project work and promote how we can best deploy our resources.
- 6.11 We have a robust assurance framework in place with a focus to secure value for money on the 700 MHz spectrum clearance programme, and to maximise the benefits to the wider UK economy, and we are working closely with the UK Government to deliver the programme objectives to an accelerated delivery plan.
- 6.12 In recent years we have completed a number of significant cost reduction and efficiency initiatives. The savings from these will continue to flow through to this year and future years.

## A1. Work plan for 2018/19

A1.1 Below, we set out our work plan for 2018/19. We provide detail on the projects underpinning our priority work areas as well as our wider work plan to achieve our goals. Since the proposed Plan, we have added several projects following recent regulatory announcements and have also confirmed our key market research publications.

### Promote competition and ensure that markets work effectively for consumers

Project details	Project Director	Milestone
<b>Support investment in network infrastructure:</b> We will implement regulation following the Wholesale Local Access market review and continue to work with all industry players as necessary to further support the range of investment in advanced, competing full-fibre network infrastructure, including co-investment.	Paul Jacobus/ Tim Cross	Investment Conference Q1 2018/19
<b>Effective Openreach reform:</b> We actively monitor and report progress on arrangements for the legal separation of Openreach from BT. We will assess the effectiveness of actions taken in benefiting consumers, including addressing our competition concerns and encouraging new investment in networks.	Gaicho Rasmussen	Implementation report Q1 2018/19; Monitoring report Q3 2018/19
<b>Prepare for the next market reviews,</b> including an assessment of the needs of businesses and telecoms companies and leased-line services (BCMR).	Tim Cross	BCMR Consultation Q1 2018/19; BCMR Statement Q4 2018/19
<b>Help consumers, including SME businesses, engage with communications providers:</b> We will publish research into barriers to competition and exercising choice, and consult on potential solutions if appropriate.	Jane Walsh	Publish research and update Q1 2018/19; Consultation Q2 2018/19; Statement Q4 2018/19
<b>Prepare for future awards of spectrum bands as they are cleared and released.</b> This will include the design of auctions, any obligations, and measures to promote competition as part of a licence award for the 700 MHz and 3.6 to 3.8 GHz bands.	Gideon Senensieb	Consultation Q3 2018/19
<b>Conclude BBC Scotland BCA:</b> We will conduct our first competition assessment on the BBC's proposals to launch a new BBC Scotland TV service.	Siobhan Walsh	Statement Q1 2018/19
<b>Review of BBC Studios:</b> We will collect evidence and consider whether the activity of BBC Studios meets the trading and separation requirements.	Siobhan Walsh	Call for input Q4 2018/19

<b>Consult on guidance on BBC commercial and trading activities:</b> We will consider, and consult on, updates to our requirements and guidance on the BBC's commercial and trading activities.	Siobhan Walsh	Consultation Q2 2018/19; Statement and updated requirements Q3 2018/19
<b>Consult on Ofcom's approach to BBC commissioning:</b> We will consider and consult on guidance and requirements to protect fair and effective competition.	Siobhan Walsh	Consultation Q1 2018/19; Statement Q3 2018/19
<b>Complete the market review of 070 call termination:</b> We will complete our competition assessment of the market for termination of calls to 070 telephone numbers.	Markham Sivak	Statement Q1 2018/19
<b>Postal regulatory financial reporting review:</b> We will complete our assessment of certain costing and accounting rules which are applied by Royal Mail in preparing its financial reports.	David Brown	Consultation Q2 2018/19; Statement Q4 2018/19
<b>Advice on regulation for cross-border parcels:</b> We will continue to offer advice to Government on the proposals for regulation to increase oversight and transparency of EU internal cross-border parcel delivery services, including on amendments proposed in discussions with Council and European Parliament, and will work with the ERGP on the implementation of any agreed measures.	Philip Groves	Implementation of measures Q1-Q3 2018/19

## Secure standards and improve quality

Project details	Project Director	Milestone
<b>Broadband universal service (USO):</b> Ofcom will implement a broadband universal service obligation once Government has put in place secondary legislation setting out the key features of the service. We will consult on the designation of a universal service provider(s) (USP), how the USO will be funded, and the conditions imposed on the designated USP.	Selina Chadha	Consultation Q3 2018/19
<b>Improve mobile coverage:</b> We are consulting on proposals for new licence obligations that would require improvements in mobile coverage in rural areas, linked to the award of the 700 MHz spectrum band.	Richard Wronka / David Harrison	Response to consultation Q3 2018/19
<b>Publish Ofcom's first annual report on the BBC:</b> We will set out how we have carried out our new duties, as well as assessing the BBC's compliance with the specified requirements in the Operating Framework and Operating Licence. We will also publish a separate report measuring the BBC's performance in meeting the mission and public purposes across its public services.	Siobhan Walsh / Jacquie Hughes / Tony Close	Statement Q3 2018/19
<b>Publish a first thematic review of the BBC:</b> The first review will be in relation to the BBC's public purpose to	Rebecca Taylor	Report Q3 2018/19

reflect, represent and serve the diverse communities of all of the UK.		
<b>Review the guidance to public service broadcasters for production outside London:</b> We will review the guidance to public service broadcasters (PSBs) in meeting their licence conditions for programmes made outside London and in the nations, and consider if this remains fit for purpose in supporting and strengthening production across the UK's nations and regions.	Simon Terrington	Consultation Q2 2018/19; Statement Q4 2018/19
<b>Review of children's content:</b> We will review the quantity, range and quality of content available to younger audiences, including the possibility of setting criteria for children's programming.	Simon Terrington	Report Q2 2018/19
<b>Promote diversity and equality of opportunity in broadcasting:</b> We will publish our second annual report on the UK TV industry, and our first report on the UK radio industry, to provide a comprehensive picture of how well individual broadcasters – and the industry as a whole – are performing on equality of opportunity, diversity and inclusion in employment.	Vikki Cook	Publish Radio industry report Q1 2018/19; Publish TV industry report Q2 2018/19
<b>Review EPG Code and PSB prominence:</b> We are required to report on provision by electronic programme guides (EPG) of information about, and access to, programmes included in public service channels or PSB on-demand programme services. We will report on PSB prominence as it stands, consider wider policy questions that arise from this work and review Ofcom's EPG Code.	Simon Terrington	Consultation Q1 2018/19; Statement Q3 2018/19
<b>Review of the second class safeguard caps on universal service letters and parcels:</b> We will assess the safeguard caps for second class standard letters, large letters and small and medium parcels.	Richard Orpin	Consultation Q2 2018/19; Statement Q4 2018/19
<b>Small-scale digital audio broadcasting (DAB):</b> Following a consultation and draft Order planned by Government, we will develop plans for the implementation and licensing of small-scale DAB.	Neil Stock	Consultation (following draft Order by Government - expected Q3 2018/19)
<b>Localness in radio:</b> Ofcom will review its approach to the regulation of localness in local analogue commercial radio.	Neil Stock	Consultation Q1 2018/19; Statement Q3 2018/19
<b>Promoting the accessibility of TV and on-demand programme services (ODPS):</b> We will conclude our consultation about regulations on accessibility of ODPS and make our recommendations to Government.	Tony Close	Recommendation to Government Q2 2018/19
<b>Media ownership review:</b> We have a statutory duty to review every three years the media ownership rules set by Parliament and report back to the Secretary of State.	Simon Terrington	Report Q3 2018/19
<b>Responding to Channel 4 Corporation's annual Statement of Media Content Policy:</b> We will publish an	Simon Terrington	Report Q1 2018/19

analysis of, and our response to, Channel 4 Corporation's delivery of its media content duties and plans for the following year as set out in its statement.		
<p><b>Connected Nations report:</b> We will continue to provide accessible and comparable information to consumers regarding availability and estimated speeds for superfast and ultrafast fixed broadband and for mobile networks. Relevant data will be published in our annual <i>Connected Nations</i> Report, our periodic <i>Connected Nations</i> updates and accompanying visualisation tools and mobile apps. We will also report on broadband universal service and on the security and resilience of communications services. In addition, we will continue to provide updates to the UK Government's Digital Infrastructure and Inclusion Task Force on broadband speeds.</p>	Gary Clemo	<p>Updates and data Q1 and Q2 2018/19</p> <p>Report, data and online tools Q3 2018/19</p>
<p><b>Improving consumer information on fixed and mobile coverage and performance:</b> We will improve the functionality of our broadband checker tool and mobile coverage tool to provide more accurate consumer information on the quality of experience different services provide in different locations. We will update the data used in the tools frequently, working closely with industry to ensure that the information provided reflects the services currently available to consumers.</p>	David Harrison	Update tools Q3 2018/19
<p><b>Cross-sector reporting on the UK communications market:</b> We will publish our annual overview of the UK communications market, highlighting key market developments and publishing data across television and audiovisual, radio and audio, fixed and mobile telephony, internet take-up and consumption, and post.</p>	Ian Macrae	Publish report Q2 2018/19
<p><b>Reporting on outcomes for UK audiences:</b> We will publish a new annual report which will take a broad look at how UK audiences are served. This will incorporate the public service broadcasting report and public service compliance reports we have published in previous years, and also include video-on-demand and radio content.</p>	Ian Macrae	Publish report Q2 2018/19
<p><b>Reporting on home broadband performance:</b> We will report on data collected from a panel of residential broadband users who have monitoring units connected to their router. It will include assessments of how speeds and other performance metrics vary by technology, provider, time of day and geography.</p>	Ian Macrae	Publish report Q1 2018/19
<p><b>Reporting on consumers' mobile experience:</b> This report will be based on data collected from a panel of mobile users who have installed the Ofcom research app on their smartphones. It will include an assessment of the performance and consumer perceptions of mobile connections for voice and data services and how these vary by a range of factors including technology, geography and time of day.</p>	Ian Macrae	Publish report Q1 2018/19

<b>Reporting on pricing trends:</b> We will report on trends in the pricing of fixed, mobile and pay-TV services. This will include a review of the prices available to consumers buying different types of services and a summary of what, on average, consumers are paying. It will also look at tariff structures and how 'discounted' prices vary from standard or 'list' prices.	Ian Macrae	Publish report Q1 2018/19
<b>Report on quality of service in the fixed and mobile sectors:</b> We will provide consumers and industry with comparative metrics on communications providers' quality of service.	Siobhan Pointer / Andrew Ward	Publish report Q1 2018/19; Complaints report quarterly
<b>News report:</b> We will continue to provide an overview of news consumption habits and attitudes across the UK, based on our annual survey data.	Deborah McCrudden	Publish report Q2 2018/19
<b>Reporting on adults' media literacy:</b> We will publish our annual <i>Adults' Media Use and Attitudes</i> report, looking at media literacy among UK adults. It will include data on the media use, attitudes and understanding of adults aged 16 and over, and how these change over time. The report will have a particular focus on those groups who are less likely to participate digitally.	Emily Keaney	Report Q1 2018/19
<b>Reporting on children's media literacy:</b> We will publish our annual <i>Children's Media Use and Attitudes</i> report, providing detailed evidence on media use, attitudes and understanding among children and young people aged 5-15, as well as detailed information about the media access and use of young children aged 3-4. The report will also include parents' views about their children's media use, and the ways parents monitor or limit children's use of different types of media.	Emily Keaney	Report Q3 2018/19
<b>700 MHz spectrum clearance:</b> We will continue to work to clear DTT and PMSE services from the 700 MHz band in order to release this spectrum for mobile data. We will also work to clear PMSE services from the band and support migration to a new spectrum allocation. Our current objective is to make the 700 MHz band available for mobile services by mid-2020.	Graham Plumb	Clearance events start in areas in Wales, Scotland, England and Channel Isles in 2018/19
<b>700 MHz clearance grant scheme:</b> We will administer a grant scheme to fund incremental costs broadcasters incur as a result of the infrastructure changes associated with 700 MHz clearance. We will develop a grant scheme to fund a proportion of the costs PMSE users incur as a result of loss of access to the 700 MHz band.	Helen Hearn	Statement Q1 2018/19
<b>Shared access in 3.8 to 4.2 GHz:</b> We will continue our work to enable greater shared access in this band. In doing so our aim is to protect existing users of the band while also promoting access for new users. We will consult on proposals, including consideration of the appropriate authorisation mechanism and database solutions for dynamic spectrum access.	Helen Hearn	Consultation Q4 2018/19

<p><b>World Radiocommunications Conference (WRC-19):</b> The next World Radiocommunications Conference will be held in Oct/Nov 2019 and will consider a range of important spectrum related issues including spectrum for mobile broadband (5G), satellite use and RLANs (wifi). Ofcom will work closely with UK stakeholders and European partners to develop UK and European regional positions to take into WRC-19 with the aim of achieving outcomes which are best aligned with UK interests.</p>	Chris Woolford	Updates in lead up to WRC in 2019
<p><b>Preparing to make sufficient spectrum available for 5G:</b> We will continue to update our spectrum roadmap to support wireless broadband growth. We will prepare to make sufficient spectrum available for new wireless technologies including 5G to facilitate the rapid roll-out of services so that the benefits of 5G are delivered to citizens and consumers across the UK. This will include contributing, during 2018/19, to international studies to define the technical conditions for 5G, and evaluating the potential of different bands for 5G.</p>	Cristina Data	Ongoing
<p><b>26 GHz planning:</b> We will continue our work on 26 GHz as the pioneer mmWave band for 5G. Our focus is to ensure the spectrum is authorised in such a way as to reflect the characteristics of the spectrum and the potential use cases, to ensure innovation and competition. We will monitor demand, continue our engagement with stakeholders and contribute to the WRC-19 preparatory process to identify 26 GHz as a global band.</p>	Cristina Data	Ongoing

## Protect consumers from harm

Project details	Project Director	Milestone
<p><b>Review the cost of calling directory enquiries services:</b> We will review the cost of calling directory enquiries services, to ensure that prices are transparent and fair to consumers.</p>	Andrew Ward / John O’Keefe	Consultation Q1 2018/19; Statement Q4 2018/19
<p><b>Migration to voice over IP services:</b> We will identify and address issues raised by communication providers’ migration to voice over IP, including the potential future switch-off of the PSTN, with the aim of protecting consumers from harm and minimising disruption. We will set out principles for compliance with GC3 (on emergency services).</p>	Alan Pridmore	Statement Q2 2018/19
<p><b>Ensure that network operators design and operate networks in line with our guidance and good security and resilience practice.</b> This will include preparing for and implementing the requirements proposed under the <i>Network and Information Security Directive</i> (NIS) and supporting the DCMS pilot TBEST scheme for cybersecurity assurance.</p>	Huw Saunders	Implementation from Q1 2018/19 onwards

<b>Participation and vulnerability:</b> We will publish our second <i>Access and Inclusion</i> report, examining the take-up and use of services by disabled consumers and consumers in vulnerable circumstances.	Cristina Luna-Esteban	Report Q4 2018/19
<b>Audience protection and assurance:</b> We will consider whether there is a need to further develop the regulatory framework to protect audiences from harmful content and to promote safety and assurance in an online environment.	Tony Close	Ongoing
<b>Mandatory daytime protection:</b> We are considering whether it is appropriate to update rules in the Broadcasting Code relating to the protection of children. Specifically, whether broadcasters should be able to show programmes more suitable for adults during the day, provided a mandatory PIN protection is in place.	Tony Close	Statement Q2 2018/19

## Engage during changes to European legislation

Project details	Project Director	Milestone
<b>Safeguard and promote UK businesses and consumers' interests throughout the Brexit process:</b> We will consider potential impacts on markets and relevant legislation from the changing nature of our relationship with the EU. We are providing advice to UK Government on topics related to the sectors we regulate, and we will continue providing support to Government in its negotiations going forward.	Liz Bates	Ongoing
<b>The Audiovisual Media Services Directive (AVMS):</b> Proposals reviewing the AVMS Directive were published in May 2016, and negotiations are ongoing. Our engagement seeks to ensure that the regulatory framework for audiovisual media services continues to deliver protection that audiences expect and to promote a vibrant European content market in the digital age.	Camilla Bustani	Ongoing - expected adoption during 2018
<b>EU Electronic Communications Framework:</b> The European Commission published proposals reviewing the Electronic Communications Framework in September 2016. We will continue to work with the European institutions, other EU regulators and the UK Government to help ensure that any new legislation is proportionate, reflects the challenges facing the sector and meets the needs of consumers now and in the future.	Camilla Bustani	Ongoing - expected adoption during 2018.

## A2. Responses to the consultation

### Consultation events and responses

- A2.1 We published our *Proposed Annual Plan* on 1 December 2017 for consultation.
- A2.2 In January 2018 we hosted events in Belfast, Cardiff, Edinburgh and London. This gave us the opportunity to engage with a wide range of stakeholders and hear diverse views on Ofcom's priorities from across the UK.
- A2.3 We received 46 written responses to our *Proposed Annual Plan* from firms active in a range of communications markets, trade bodies, consumer interest organisations and individuals.
- A2.4 We have considered all submissions in finalising our Annual Plan and have published all non-confidential submissions in full on our website.<sup>20</sup> Below we provide a summary of the submissions received, as well as our responses to key points raised, grouped by strategic goal and theme.

### Promote competition and ensure that markets work effectively for consumers

#### Support investment in network infrastructure

- A2.5 **Openreach** noted that it would be interested in more information on the investment conference mentioned in the plan.
- A2.6 Ofcom's **Advisory Committee for Northern Ireland** considered Ofcom has a role to play as a facilitator among interested parties to ensure the successful roll-out of faster broadband services across Northern Ireland.
- A2.7 **Chris Barwise** described his personal experiences of broadband services and his view that investment should be in fibre-to-the-premises as this is future-proofed.
- A2.8 **George Adam** noted that Scottish consumers have fewer internet service providers (ISPs) to choose from, and questioned who will provide the backhaul capacity to enable more ISPs to connect their networks and compete. He was concerned that a monopoly will be created if suppliers do not provide wholesale service for other ISPs.
- A2.9 The **Federation of Communication Services** noted that it supports the deployment of fibre-to-the-premises, but not overbuilding. It wanted to see industry coordination to enable switching across different platforms and technologies and was concerned that new Openreach wholesale products (SOGEA and SOGfast) would make its members' relationship with Openreach more distant. It also urged Ofcom to consider influencing

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<sup>20</sup> Ofcom, December 2017, *Consultation: Proposed Annual Plan 2018-19*. <https://www.ofcom.org.uk/consultations-and-statements/category-1/proposed-annual-plan-2018-19>

planning regulation on new building developments so that they would require internet connectivity.

- A2.10 **Telefonica** noted that while Ofcom will be crucial to 5G deployment, its focus should be removing barriers to investment, not prescribing the model for network providers. It called on Ofcom to work with Government to look at planning regulations to make it easier to deploy networks.
- A2.11 The **Welsh Government** commented that only full fibre will be able to deliver future bandwidth requirements and this needs to be reflected in policy, regulation and investment decisions. It noted that it expects this issue to be prominent in future Ofcom work programmes.
- A2.12 The **Communications Consumer Panel and ACOD** ('Communications Consumer Panel') urged Ofcom to "improve quality and reliability, not just speed" of broadband and mobile users' experiences, noting that reliable service and excellent customer service are of great importance to consumers.

### Our response

- A2.13 Supporting investment in network infrastructure is one of the key priorities for Ofcom in the coming year. We agree that greater investment is needed to build broadband networks that are fit for the 21st century. This includes full-fibre networks that can deliver speeds in excess of 1 Gbit/s; are more reliable than copper-based networks, with five times fewer faults; and can give more consistent performance with speeds closer to those advertised. We believe competition among different networks is the most effective way to spur continued investment and innovation in high-quality, fibre networks.
- A2.14 Promoting competition is central to our efforts to stimulate investment in the UK's telecoms sector and the infrastructure the country needs. We have therefore adopted a major strategic shift in our Wholesale Local Access market review (WLA) to encourage large-scale investment in full-fibre networks, and away from reliance on the predominantly copper-based technologies of BT's existing network. This regulatory approach will support recent commitments by broadband companies to connect several million premises to full-fibre over the next few years and is designed to promote further investment beyond these ambitions.
- A2.15 There are two complementary measures we can take to encourage competitive network investment:
- i) reducing the cost and making it quicker and easier for competing providers to build their own networks (by using BT's ducts and poles); and
  - ii) ensuring that competing providers have appropriate incentives to build their own networks rather than buying wholesale services from Openreach (by not regulating prices of Openreach's fastest wholesale superfast broadband products).

- A2.16 In 2018/19 we will implement regulation following the Wholesale Local Access market review.<sup>21</sup> In particular, we will work with Openreach and telecoms providers as they take forward the detailed implementation of the duct and pole access remedy, including the publication of the reference offer. In addition, we will put in place an ongoing monitoring programme to ensure that duct and pole access is effective. We will continue to work with industry as necessary to support investment in advanced, competing network infrastructure, including co-investment. We will also hold an investment conference in Q1. This will bring together the community of investors and decision-makers from across industry and government to increase investment in full-fibre infrastructure. Attendees will have the opportunity to hear from both UK and overseas fibre investors, highlighting the growing demand for ultrafast connectivity in the UK, and how infrastructure barriers are being overcome to support companies in laying their own full-fibre networks. The event will illustrate how Ofcom and the UK government's commitment to improving connectivity will provide more certainty and greater clarity to the investment decisions needed to make full fibre a reality.
- A2.17 With regard to investment in 5G, Ofcom's intention is to ensure that regulation does not prove an impediment to innovation in 5G. As set out in our discussion document *Enabling 5G in the UK*<sup>22</sup>, we are working with our partners to ensure that the regulatory framework, and in particular net neutrality rules designed to preserve the benefits of the open internet, do not create a barrier to innovative uses for 5G. We continue to work on ensuring that additional spectrum is ready for the next generation of mobile networks, while driving improvements in the coverage of existing mobile services.
- A2.18 Ofcom is not responsible for planning regulations, but we continue to engage in a proactive manner with Government and local authorities to try to ensure these are not a barrier to investment.
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## Effective Openreach reform

- A2.19 The **Communications Consumer Panel** urged Ofcom to ensure that the benefits to BT's competitors of separating Openreach from BT are passed on to consumers, and that outcomes for consumers in Northern Ireland are also considered.
- A2.20 The **Federation of Communication Services** expressed concern that ownership of Openreach's assets will remain with BT plc instead of being with Openreach itself. It is concerned that Openreach will merely maintain the network and that there will be no incentives to invest. It calls for transparency in setting Openreach's budget, and restrictions on the movement of staff between Openreach and the wider BT Group.

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<sup>21</sup> Ofcom, March 2018, *Wholesale local access market review*. <https://www.ofcom.org.uk/consultations-and-statements/category-1/wholesale-local-access-market-review>

<sup>22</sup> Ofcom, March 2018, *Enabling 5G in the UK*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0022/111883/enabling-5g-uk.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0022/111883/enabling-5g-uk.pdf)

A2.21 **Telefonica** considered that for Openreach to be genuinely treating all its customers on an equivalent basis, as it rolls out BT's fibre-to-the-premises products, it will need to clear, repair and map the duct network so that competing providers can use it. It also suggests that BT should be required to use the same duct and pole access remedy as its competitors.

#### **Our response**

A2.22 The separation of Openreach should be seen in the context of all the activity coming out of the Digital Communications Review and our work on ensuring that markets work for consumers. We consider that a more independent Openreach, working for the benefit of all its customers, will have the right incentives to invest in high quality networks to deliver real improvements in broadband services for businesses and consumers. We will monitor Openreach's performance against various outcome measures in a series of reports drawing on data from external Ofcom publications, such as our *Connected Nations* research, and information from the Openreach Monitoring Unit (OMU). This will include assessing how effective the new arrangements are in supporting positive outcomes for consumers and businesses across the UK (including Northern Ireland). We consider that the extent to which the new model is delivering these benefits for consumers and businesses is likely to become clear within three years of its implementation.

A2.23 We will engage in robust and proactive monitoring of the new arrangements to assess whether BT and Openreach are living up to both the letter and spirit of their commitments. This will include whether the new governance rules are being observed, and the extent to which Openreach is acting independently and treating all its customers equally. We note the specific issues raised by FCS in its response. The OMU's activity will focus on monitoring the commitments, as they were notified to Ofcom in March 2017. We welcome feedback from industry stakeholders to understand how the new arrangements work in practice; this will feed into the wider Ofcom assessment of whether the new model works as intended over time.

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A2.24 **Vodafone** considered that securing the availability of high quality, reliable and consistent regulatory accounting information in respect of Openreach is important, and that Ofcom should invest time and resources into improving the accounts. It added that the information asymmetry could only be addressed by high quality, reliable and transparent regulatory accounts.

#### **Our response**

A2.25 We will continue to review and update BT's regulatory financial reporting requirements to ensure they provide the information that we need to make informed regulatory decisions, and to provide reasonable confidence to stakeholders that BT has complied with its SMP conditions, while adding credibility to the regulatory financial reporting regime.

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## BBC competition assessments and guidance

A2.26 **PACT** (the Producers Alliance for Cinema and Television) noted the first BBC competition assessment process for the new BBC Scotland Channel, its interest if the outcome meant revisiting the BBC operating licence, and its desire that it and other third parties should be involved with consultations on this. PACT considered that Ofcom should immediately carry out an ad-hoc review on BBC Three, based on its responsibilities for performance and competition. PACT also considered that Ofcom should review BBC Studios as soon as possible, given the recent merger with BBC Worldwide. It also considered that there was a need for Ofcom to set up a new regulatory framework to get access to, and monitor and oversee, the BBC's transfer pricing arrangements between divisions.

### Our response

A2.27 If we were to decide to approve the BBC's proposal to launch a new BBC Scotland channel, it is likely that we would need to assess any implications for the existing Operating Licence. In the case that there were any proposed changes as a result of the new service, we would consult with the BBC and any interested parties before amending the licence.

A2.28 We are not currently planning to carry out an ad-hoc review of BBC Three, but we will monitor it in light of our duties, including through the range of appropriate licence conditions and performance measures.

A2.29 In light of the merger of BBC Studios and BBC Worldwide, and our work to better understand the BBC's commercial activities, we recently confirmed our intention to review BBC Studios, starting in 2018/19.<sup>23</sup> We plan to engage with stakeholders over the coming months to help us develop the scope of the review.

A2.30 In October 2017 we imposed deadlines on the BBC's publication and provision of information to Ofcom on the BBC's commercial and trading activities. This included a requirement to publish the BBC's methodologies used for transfer pricing with its commercial subsidiaries. We recently announced our intention to consult on proposed updates to our requirements and guidance on the BBC's commercial and trading activities<sup>24</sup>, and this project is included in our final Annual Plan. This will include proposals related to the information the BBC reports to Ofcom and which it publishes. Stakeholders will be able to comment on our proposals in the context of information the BBC will have published by that time.

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<sup>23</sup>, <sup>24</sup> Ofcom, March 2018, *Overview of Ofcom's work regarding BBC Studios and the BBC's commercial and trading activities* <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework/competition/bbc-studios-bbcs-commercial-trading-activities>

## Future awards of spectrum bands

- A2.31 **The EMEA Satellite Operators Association** noted Ofcom’s plans to expand mobile access in the 3.6–3.8 GHz spectrum band, stated that the satellite industry depends on this spectrum for future satellite deployments, and that, if the band is re-farmed for data/5G services, in some cases it may not be possible for satellite earth stations to relocate to new bands or alternative means of delivery.
- A2.32 **BT** urged Ofcom to “pursue the clearance of 3.6–3.8 GHz by mid-2020 with equal vigour to that expended to completing the 2.3 and 3.4 GHz auction” and to bring forward plans to consult on the award of 700 MHz and 3.6–3.8 GHz spectrum bands from Q3 2018-19 “given the importance of getting spectrum to the market in a timely fashion.”

### Our response

- A2.33 Our plans to expand spectrum access for future mobile services in the 3.6-3.8 GHz band were the subject of consultations in October 2016 and July 2017, and we received a number of responses including from satellite operators. In October 2017 we published a statement<sup>25</sup> confirming our approach to existing registered users of the band: to remove current authorisations for fixed links, and no longer take registered satellite earth stations with a receive component in the 3.6 to 3.8 GHz band into account for frequency management purposes. We therefore began the statutory process to propose (i) varying existing authorisations for satellite earth stations operating under PES licences and grants of RSA for ROES and (ii) revoking licences for fixed links. Having carefully considered representations made by current users of the band, we completed this process in December.
- A2.34 In July 2017 we set out our intention to make the 3.6 GHz-3.8 GHz band available for mobile use as soon as possible, and we have recently published an update on when this spectrum will become available.<sup>26</sup> The effect of our decisions is that spectrum will be available to enable future mobile services in the 3.6 GHz-3.8 GHz band to be deployed in many areas from June 2020, but not necessarily nationwide before the end of 2022. We have considered BT’s suggestion that we should consult on the award of 700 MHz and 3.6-3.8 GHz earlier than our current plan, but our current view is that this is unlikely to be practicable.

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<sup>25</sup> Ofcom, October 2017, *Improving consumer access to mobile services at 3.6GHz to 3.8GHz*.

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0019/107371/Consumer-access-3.6-3.8-GHz.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0019/107371/Consumer-access-3.6-3.8-GHz.pdf)

<sup>26</sup> Ofcom, July 2017, *Improving consumer access to mobile services at 3.6GHz to 3.8GHz – statement and consultation*.

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0017/103355/3-6-3-8ghz-statement.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0017/103355/3-6-3-8ghz-statement.pdf)

Ofcom, February 2018, *Improving consumer access to mobile services at 3.6GHz to 3.8GHz: Update on timing of spectrum availability*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0018/110718/3.6GHz-3.8GHz-update-timing-spectrum-availability.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0018/110718/3.6GHz-3.8GHz-update-timing-spectrum-availability.pdf)

## Business Connectivity Market Review (BCMR)

- A2.35 **Three** considered that both regulated access to Openreach's dark fibre and a duct and pole access remedy are needed, to address competition issues in the leased lines market and to enable 5G deployment.
- A2.36 **Openreach** urged Ofcom to take full account of the Competition Appeals Tribunal's judgement regarding the 2016 Business Connectivity Market Review, and in particular its rulings on product market definition, geographic market definition and the competitive core. It further urged Ofcom to ensure that its approach is consistent with the principles of the regulatory framework, that remedies are proportionate and that their effect is to promote efficient investment. They stated that this means that mandated minimum service levels must be achievable, and set using up-to-date evidence, and that charge controls must allow full recovery of efficiently incurred costs. Openreach also reiterated its view that Ofcom should consider the dark fibre remedy as part of the next Business Connectivity Market Review after having conducted a full market analysis and assessment of costs and benefits.
- A2.37 The **Internet Services Providers' Association (ISPA)** commented that the time-scale for the Business Connectivity Market Review would place undue burden on its members in order to respond fully.
- A2.38 **Zayo** considered that Ofcom was inconsistent in its approach to regulating the wholesale local access market, where it encourages network competition, and the closely related business connectivity market, where it discourages network competition. It noted that for it to justify investing in new fibre networks it needs access to all revenue streams from both the retail and wholesale markets to generate a sufficient rate of return. It urged Ofcom to assess how it can best regulate all markets that use fibre networks and encourage investment in them. Zayo referred to its previous response to Ofcom's consultation on a dark fibre access remedy, and restated its view that it considered the remedy ill-conceived and that Ofcom should close its consultation and instead focus on new fibre networks serving all relevant markets.

### Our response

- A2.39 During 2018/19 Ofcom will consider the appropriate regulation of business connectivity markets. We will take full account of the findings of the Competition Appeals Tribunal's decision regarding the 2016 BCMR on market analysis. As part of the review we will also consider whether there is consistency with our approach to wholesale local access markets. However, if the market circumstances differ between the relevant services it may be appropriate to take a different approach to regulation.
- A2.40 As a result of the time taken for the appeal of the Ofcom 2016 decision relating to business connectivity services, there is less time than would typically be the case before the 2016 regulation will come to an end, so it is necessary to complete the review quickly. Ofcom will consult widely with industry as part of its work and is open to any suggestions on how it can do that in a way that reduces the burden on stakeholders.

## Postal regulatory financial reporting review

A2.41 **Royal Mail** considered it is an unnecessary regulatory burden for Ofcom to build a cost model of its business and that this will create uncertainty. It considered that Ofcom has visibility of how its costs are allocated under its existing obligations, and that a review will be costly, time consuming and would divert management time. It considered that the parcel sector is highly developed and competitive, so regulatory intervention is unnecessary and disproportionate. It asked instead that Ofcom engages with Royal Mail on its own long-run average incremental cost model.

### Our response

A2.42 Building our own cost model is the continuation of our effort to better understand Royal Mail's business and operations, and how it could be impacted by changes in the market and by our regulation. It is a regulatory tool to enable further transparency and there is no reason why it could lead to any uncertainty for Royal Mail over any period of time. Our review of Royal Mail's cost allocation is part of the work, which we promised stakeholders in our March 2017 statement we would do, to address any potential inappropriate cross-subsidisation between letters and parcels. We do not expect this work to cause a significant regulatory burden, and that in the longer term it should reduce rather than increase uncertainty.

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A2.43 **Royal Mail** urged Ofcom to fundamentally review the design of its margin squeeze control. It states that regulating the price of individual contracts is disproportionate and overly prescriptive. It considered Ofcom should remove the contract test but, if not, should use the long-run average incremental cost model.

### Our response

A2.44 Royal Mail made a similar point in its response to our 2017 Review of Regulatory Financial Reporting for Royal Mail. We will be consulting on proposals relating to the margin squeeze control and will consider Royal Mail's response as part of this review.

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A2.45 The **Communications Workers Union** called on Ofcom not to set unreasonable efficiency expectations for Royal Mail, and to introduce minimum quality standards in the parcels market.

### Our response

A2.46 We do not impose any particular efficiency obligations on Royal Mail. We will continue to monitor and publish our view on the rate of Royal Mail's efficiency performance in the interests of the users of postal services, and the financial sustainability of the universal postal service. We already require all postal operators to put in place simple, inexpensive

and transparent complaints procedures. We considered the case for imposing additional regulation on parcel operators during our 2017 review of the regulation of Royal Mail: however, we concluded this was not supported by the evidence. We will continue to monitor the postal market closely, including the extent to which consumers are satisfied with postal services, and will consider the regulatory implications of these findings in the future.

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## Consumer engagement

- A2.47 **BT** noted that Ofcom has an ongoing work programme on consumer engagement and that it would welcome more co-ordination and transparency between Ofcom and the Government in this area, and transparency about how the work will be organised, to ensure that initiatives are aligned and not duplicated.
- A2.48 The **Communications Consumer Panel** urged Ofcom to particularly include the views of disabled people, and people and businesses in harder-to-reach geographic areas when considering initiatives to improve competition and engagement. They also suggested that Ofcom require providers to promote their services for disabled customers to all customers, to increase awareness of these services' availability.
- A2.49 **Roger Mann** considered that one of the main barriers to people moving to a different internet service provider (ISP) is the necessity to change email address, as although it is technically possible to keep the same address, ISPs are reluctant to do this, and such a service should be offered free of charge for consumers to encourage competition.

## Our response

- A2.50 We provided an overview of our work on consumer engagement in our July 2017 Call for Inputs<sup>27</sup>. We will set out the next steps for our work in 2018/19 and will discuss these with the UK Government in the context of its Consumer Green Paper. Ofcom regularly updates the UK and devolved governments on its work programme.
- A2.51 We have been carrying out extensive qualitative and quantitative research to develop our understanding of any possible engagement barriers, and to explore the potential for solutions, if appropriate. This includes looking at whether vulnerable consumers face different or additional issues when engaging in and navigating markets.
- A2.52 Ofcom has a strong focus on consumer vulnerability and clear policies in relation to access and inclusion; for example, working to help disabled consumers access communications services, and mandating priority fault repair, free directory enquiries, text relay, third party bill management and accessible bills. Ofcom has new rules coming into force in 2018/19 that will require communications providers to establish, publish and comply with clear and

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<sup>27</sup> Ofcom, July 2017, *Call for inputs: Helping consumers to engage in communications markets*. <https://www.ofcom.org.uk/consultations-and-statements/category-2/helping-consumers-engage-communications-markets>

effective policies and procedures for the fair and appropriate treatment of consumers whose circumstances may make them vulnerable.

- A2.53 In relation to e-mail portability, we do not consider this a major inhibitor to switching. It is already open to consumers to create free, portable email addresses (e.g. Gmail, Yahoo Mail) should they wish to do so, making porting addresses relatively easy, and technical barriers to e-mail portability are low. Providers already allow customers to use their old email addresses/account services after they switch their services, although some provide access for a limited period of time.

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## Secure standards and improve quality

### Broadband universal service obligation (USO)

- A2.54 The **Communications Consumer Panel** noted Ofcom's potential role in a USO and was interested in Ofcom's approach to promoting and protecting the interests of all consumers, including micro-businesses, in this context. It would like to see Ofcom encourage communications providers to improve coverage so that fewer households are dependent on the USO when it is introduced.
- A2.55 **Openreach** noted Ofcom's potential role in a USO and considered it "will require Ofcom to identify the universal service provider, ascertain the extent of any net cost burden on the USP that will need to be funded and establish a USO fund with clear rules for identifying who must contribute and on what basis...we stand ready to support Ofcom in developing workable solutions including the development of a fit for purpose broadband USO."
- A2.56 **BT Group** noted that since the publication of Ofcom's Proposed Annual Plan, the Government had announced the introduction of a regulatory USO. They looked forward to Ofcom's articulation of this and were keen to comment and input.
- A2.57 The **Welsh Government** felt it would be helpful to have more information around the design and introduction of the regulatory USO in the Annual Plan; specifically, how Ofcom will engage with stakeholders including the Welsh Government.

### Our response

- A2.58 We are beginning to prepare for implementing the broadband USO once the UK Government lay the Universal Service Order setting out the specification for the USO. In 2018/19 Ofcom will publish consultation documents that will lay out our proposals for how universal service provider(s) (USP) will be designated, how the USO will be funded, and the conditions we will impose on the designated USP. This is now a priority project in our final Annual Plan.

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- A2.59 The **EMEA Satellite Operators Association** noted Ofcom's potential role in a USO and in improving mobile coverage, highlighted the benefits it perceived in satellite delivery and urged Ofcom to reconsider the potential role that satellite broadband could play in

establishing the USO. **Hughes Network Systems Europe** also urged Ofcom to recognise the importance of satellite services in the provision of 5G services and broadband connectivity for UK consumers.

### Our response

A2.60 We recognise the role of satellite in the provision of broadband connectivity for UK consumers. Our review of the space sector highlighted the role of satellite broadband, and one of our spectrum priorities is to enable growth in satellite broadband communications.

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## Diversity in broadcasting

A2.61 Simon Albury of the **Campaign for Broadcasting Equality** supported the idea of a Diversity Summit for broadcasters. He considered that, in advance of this, Ofcom should ask the public service broadcasters and Sky to report on their action plans, as set out in 2000 at the formation of the Creative Diversity Network. He considered Ofcom should ask the BBC to ring-fence funding for diverse production and that its expenditure on such initiatives should be audited by the National Audit Office (NAO). He thought that Ofcom should collect and publish data on the diversity of producers at programme level, including from the independent production sector, and that if necessary Ofcom should request the powers to do so to Government.

A2.62 **BECTU** (the Broadcasting, Entertainment, Communications and Theatre Union) welcomed Ofcom's approach to diversity in broadcasting but urged Ofcom to make changes when publishing its second report on the UK TV industry, and its first report on radio, to: cover all qualifying broadcasters; publish equality monitoring data not by broadcaster but by licence; and require broadcasters to monitor freelancers they employ. BECTU also urged Ofcom to introduce contract compliance to broadcasters; insisted that Project Diamond monitoring data should be published at qualifying programme level; and insisted on action to enable experienced BAME professionals to progress in their careers.

### Our response

A2.63 Citizens and consumers reasonably expect to see and hear themselves reflected and represented on television screens and radio, and to feel that content of interest to them and their communities is being provided.

A2.64 We are in the process of finalising the agenda for the CEO summit due to be held in April, and will use the discussions to inform our work on driving forward diversity and inclusion in the industry. Ofcom's publications<sup>28</sup> relating to diversity in 2018 are on its website, and we will consider additional publications as appropriate.

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<sup>28</sup> Ofcom, February 2018, *Overview of Ofcom's work on diversity and equality 2018/19*. <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/guidance/diversity/ofcoms-role/overview-work>

- A2.65 We have set the BBC a range of obligations relating to diversity and we will assess its compliance with those obligations in our BBC annual report. In addition, we are undertaking a thematic review of representation and portrayal, to allow us to understand in greater detail what audiences expect from the BBC, and whether the BBC reflects and portrays the lives of all people across the whole of the UK.
- A2.66 Ring-fenced funding was considered as part of Ofcom’s consultation on the BBC Operating Licence, and the decision was taken that this was not appropriate at that time. We do not oversee the BBC’s budget, nor is it for Ofcom to suggest the NAO review individual schemes. We will continue to assess the BBC’s performance on an annual basis and review different options for the BBC and other broadcasters for the promotion of equal opportunities.
- A2.67 Ofcom wrote to the then Secretary of State for DCMS in 2017, identifying some areas where Ofcom believed that its powers relating to equal opportunities might benefit from review. The Secretary of State was supportive of our work and suggested that Ofcom continues to encourage broadcasters to improve these areas on a voluntary basis to ensure we have explored all options.
- A2.68 We are continually reviewing the information that we collect to gain greater insights into the diversity of the industry and to identify areas for improvement. We appreciate BECTU’s comments about ‘licence by licence’ data, which we have considered but for now have decided that we will gain greater insight by focusing on improving data collection at broadcaster level and improving clarification around job types, such as separating back office from creative roles. We will continue to engage regularly with the main five broadcasters and other broadcasters across the industry, though there will still be a focus on the largest employers with the largest audiences, as they have a key role to play in the impact on the wider industry. Ofcom has no remit or powers in relation to freelancers or independent production companies, but where broadcasters employ production staff directly, they will be included in our report. We continue to encourage broadcasters to improve progression for all under-represented groups and will feature relevant initiatives in our report. We will be asking broadcasters if they have in place any specific initiatives designed to promote the diversity of nations and regions, or any diversity initiatives that are targeted in certain locations. We hope this information will help broadcasters to identify which groups are lacking a voice in programme-making, and where they can make improvements.

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## Code on Access Services

- A2.69 The **Communications Consumer Panel** looks forward to contributing to the Code on Access Services and hopes that it will raise awareness of access services among audiences and raise the profile of access services for providers.

### Our response

A2.70 We share the goal of increased access to on-demand services and increased awareness of access services more generally. As set out in Annex 1, we will work with the Government on its proposed regulations and then consult on new rules in this area. We continue to meet regularly with industry and consumer groups on these issues, and in 2018 will be supporting them in developing an audio-description awareness campaign.

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## Ofcom's first annual report on the BBC

- A2.71 The **Voice of the Listener and Viewer (VLV)** stated that it was disappointed that the process of assessing the BBC's performance will involve discussion with stakeholders but not a formal public consultation, and it questioned the transparency of this approach. It considered that there is currently no forum for citizens to provide general feedback on the BBC's performance, which represents a significant reduction in the accountability of the BBC, and that Ofcom should ensure it therefore maintains stakeholder engagement in its work regulating the BBC.
- A2.72 **John Holder** considered that the BBC "are struggling to fill their channels with anything of substance in view of the vast increase in repeats and the practice now of a next-day repeat for new programmes", and that Ofcom's plan should place much more emphasis on this and how it can be properly delivered.
- A2.73 The **Welsh Government** referred to its response to Ofcom's consultation on the BBC's Operating Licence in 2017 and expressed disappointment that the licence had not been amended to reflect a number of improvements that it had suggested in this. It stated that "the Welsh Government and the National Assembly will both be closely monitoring the BBC's progress against the requirements of the Service Licence...and welcome (Ofcom's) assurance that the Operating Licence and performance measures will evolve over time."
- A2.74 The **BBC** considered "this will be an important document, but necessarily a transitional one...as many of the obligations set in Ofcom's Operating Framework and Operating Licence were only introduced during the past year" or come into effect in the next two years.

## Our response

- A2.75 We consulted on our proposals for the Operating Framework and Operating Licence in 2017<sup>29</sup>, and have taken the responses we received into account in preparing for our first BBC Annual Report. Although at this stage we are not planning to consult on this report, as it focuses on compliance with set conditions, we will welcome stakeholder comments after publication. We will publish a separate report measuring the BBC's performance in meeting its mission and public purposes across the range of its public services.

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<sup>29</sup> Ofcom, October 2017, *Holding the BBC to account for delivering for audiences: The BBC's performance*.  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/107069/bbc-performance-statement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/107069/bbc-performance-statement.pdf)

- A2.76 We note the response from the Welsh Government which draws attention to proposals it made in its response to Ofcom’s consultation on the proposed BBC Operating Licence. We considered this response at the time, alongside others, and set out the reasons for the decisions that we made on the Operating Licence in our statement in 2017. In this we stated that the licence and performance measures will evolve over time, and we expect the BBC to continue improving how it delivers against its Mission and Public Purposes. Our first Annual Report on the BBC will assess its compliance with the Operating Licence conditions for the first time, and our first Performance Report will look at how the BBC is meeting its mission and public purposes, rather than being a further review of the requirements themselves.
- A2.77 As part of our measurement of the BBC’s performance we have developed a new BBC research tracker which will collect the views of a range of audiences about the BBC on an ongoing basis. Our BBC tracker is the main vehicle with which we gather representative audience views about BBC performance. This survey will cover a broad range of audience groups including gender, age, socio-economic group and region/nation. We monitor sub-groups for ethnicity, sexual orientation and religion, where sample sizes allow.
- A2.78 Our research shows that original UK-commissioned content is important to audiences and that they expect it from the BBC. In our Operating Licence for the BBC, we have set specific conditions to emphasise new and original content, including increased requirements for original productions on BBC One, BBC Two, CBBC and BBC Four. We will measure and monitor on an ongoing basis the BBC’s range of output across all of its services to ensure that it is delivering for all audiences.
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## Review of guidance for production outside London

- A2.79 **KMTV** stated that it strongly supported the review and would want to have an opportunity to comment further at an appropriate time.
- A2.80 The **Welsh Government** stated its disappointment that, in the BBC’s Operating Licence, Ofcom “confirmed the inadequate, population share targets for production in the nations”. It welcomed Ofcom’s review of the guidance but considered that improvements in this would deliver significantly improved outcomes for the nations and regions only if production quotas were also addressed.
- A2.81 The **BBC** stated that it was committed to establishing and further developing sustainable production bases in the devolved nations and English regions, and as such “it is important that the guidance is fit for purpose, and we will work closely with Ofcom to support their work in this area. We would also note that significant changes to the definitions may require amendments to the quotas in the Operating Licence.”

### Our response

- A2.82 The BBC’s out-of-London production requirements were set in the Operating Licence in 2017. This project is focused on the guidance for out-of-London production that applies to

all the public service broadcasters. We have published a Call for Evidence<sup>30</sup> and we welcome stakeholders' input to this.

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## 700 MHz clearance and grant scheme

A2.83 The **British Entertainment Industry Radio Group** noted the forthcoming statement on the funding scheme for PMSE equipment owners displaced by the 700 MHz band clearance. It drew attention to points made in its response to the consultation: that all owners and operators of PMSE equipment affected in any way by the 700 MHz clearance should be left no worse off, and that Ofcom should “redress the shortfall of spectrum for PMSE caused by the 700 MHz band clearance”, including trying to resolve barriers to the uptake of the 960-1164 MHz band and “bands that other European administrations are opening up for PMSE.”

### Our response

A2.84 We have consulted on the funding scheme and will take account of all stakeholder responses in arriving at our decision. We expect to publish a statement shortly subject to Treasury approval. As part of mitigating the loss of the 700 MHz band on PMSE we have allowed access to the 700 MHz guard band (694 to 703 MHz) and made additional spectrum available within the band 960 to 1164 MHz.

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## Mobile coverage

A2.85 **Which?** considered that there were many areas of the UK that continue to suffer with poor broadband, mobile data and voice coverage. It welcomed the work that Ofcom plans to undertake to ensure that the existing coverage obligations are met and said it was essential that Ofcom's findings from this work are published. It also urged Ofcom, as part of the next round of spectrum auctions, to consider how it can use coverage obligations, or other incentives, to improve mobile coverage in the UK.

A2.86 **Three** supported the ambition for improved mobile coverage in the UK, but considered that in certain areas of the UK, particularly remote and hard-to-reach areas, it is not economic for mobile network operators (MNOs) to provide mobile coverage. It urged Ofcom and the Government not to mandate increased coverage requirements for all MNOs beyond 90% of the UK landmass “not least because the cost of extended mobile coverage obligations would disproportionately affect smaller MNOs, including Three.” It considered that instead appropriate that government funds are used to achieve greater coverage, or alternatively Ofcom could include a coverage obligation in one of the 700 MHz licences to be awarded.

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<sup>30</sup> Ofcom, March 2018, *Call for Evidence: Review of Regional TV Production and Programming Guidance* [https://www.ofcom.org.uk/data/assets/pdf\\_file/0013/112315/call-evidence-regional-production-review.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0013/112315/call-evidence-regional-production-review.pdf)

- A2.87 The **Welsh Government** welcomed the reference to the Mobile Action Plan for Wales and the continued commitment to collaborate with the Welsh Government, but wanted Ofcom to more closely understand the opportunities, and challenges, of geographically differentiated regulation. It considered that the award of the 700 MHz spectrum has great potential to deliver usable and reliable mobile voice and data coverage in rural areas, wants to see appropriate geographic coverage obligations attached to the auction, and to achieve this, wants Ofcom to engage with the Welsh Government and other stakeholders in Wales in the design of the auction. It would like to see Ofcom investigate other regulatory interventions, such as mast sharing and roaming, and how Ofcom could use the regulatory tools at its disposal to introduce this.
- A2.88 **Chris Barwise** considered coverage of 4G services “should be available everywhere first before even considering 5G”.

### Our response

- A2.89 We consider that good quality data services of the type that are provided over 4G networks should be very widely available. In March 2018 we published the outcome of our assessment of compliance<sup>31</sup> which confirmed that the mobile operators had met their coverage obligations. We also published a consultation<sup>32</sup> setting out proposals for new coverage obligations to be attached to the 700 MHz spectrum licences that we expect to auction in 2019. The consultation proposals include setting targets for coverage in each of the UK nations, taking into account their different starting points.
- A2.90 Our work to clear the 700 MHz band to make it available for mobile services is well under way. We will continue our clearance work with the intention of ensuring that the band is available nationally for mobile data by mid-2020. We expect to conduct an award for this band in 2019.
- A2.91 We do not believe that this objective will be in conflict with early deployments of 5G services, in part because the new coverage obligations will become formal licence conditions that the licence holders will be obliged to deliver.
- A2.92 Aside from coverage obligations, we have a wider programme of work to help improve mobile coverage including, for example, work to support better connectivity on transport routes and exploring the role increased levels of infrastructure sharing could play.

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## Review of electronic programme guide (EPG) and PSB prominence

- A2.93 Ofcom’s **Advisory Committee for England** noted the work on EPG prominence and urged Ofcom to pay attention to ways of accessing services where the remote control has pre-set

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<sup>31</sup> Ofcom, March 2018, *Mobile coverage obligation*. [https://www.ofcom.org.uk/spectrum/information/cellular-coverage?utm\\_source=updates&utm\\_medium=email&utm\\_campaign=mobile-coverage](https://www.ofcom.org.uk/spectrum/information/cellular-coverage?utm_source=updates&utm_medium=email&utm_campaign=mobile-coverage)

<sup>32</sup> Ofcom, March 2018, *Improving mobile coverage: Proposals for coverage obligations in the award of the 700MHz spectrum band*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0022/111937/consultation-700mhz-coverage-obligations.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0022/111937/consultation-700mhz-coverage-obligations.pdf)

buttons for on-demand services that may bypass any EPG for linear services. Ofcom's **Advisory Committee for Northern Ireland** noted the work and asked whether it could include the discoverability of services such as TG4 (an Irish language service).

A2.94 The **BBC** welcomed "the prompt manner in which Ofcom has launched this review and would encourage Ofcom to make recommendations in good time for any statutory recommendations to be made in this Parliament."

#### Our response

A2.95 Ofcom's duties in respect of EPG regulation are set out in the Communications Act 2003, and the terms for our review were set by Parliament in the Digital Economy Act 2017. As set out in our recent paper on *Public Service Broadcasting in the Digital Age*<sup>33</sup>, we seek to ensure the widest availability and prominence of PSB services, and this will be a priority area in 2018/19. We will be undertaking a review of the EPG Code and will be consulting on proposals, and would welcome views from stakeholders to this consultation.

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### Connected Nations report

A2.96 **uSwitch** was disappointed that there was not a project specifically looking at access to provider and product specific broadband speeds and mobile coverage data via APIs. **George Adam** asked whether it would be possible to promote the coverage checker application more widely online, and whether a list of active ISPs in an area could be provided.

#### Our response

A2.97 Ofcom recognises the benefits to consumers in making better information available on fixed broadband and mobile services. We already make such information available to consumers via our mobile application and online coverage checker and will continue to develop the functionality of these tools. We have working relationships with a number of providers of fixed broadband and mobile coverage information, including via our price comparison website accreditation scheme, and will continue to work with these providers to explore ways to make accurate and comparable information available to as many consumers as possible.

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### Review of second class safeguard caps on universal service letters and parcels

A2.98 **Consumer Futures Unit** (Citizens Advice Scotland) urged Ofcom to ensure that the review considers the impact on all consumers, particularly vulnerable consumers and those on low incomes. The **Consumer Council for Northern Ireland** expressed similar concerns and also

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<sup>33</sup> Ofcom, March 2018, *Public service broadcasting in the digital age: Supporting PSB for the next decade and beyond*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0026/111896/Public-service-broadcasting-in-the-digital-age.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0026/111896/Public-service-broadcasting-in-the-digital-age.pdf)

wanted to see solutions to improving price transparency in the cross-border international parcel market.

- A2.99 **Royal Mail** asked for the work on the second-class safeguard caps to be accelerated. It asked for an outcome by early September 2018 and a consultation by May 2018, to give it time to take any changes into account for its 2018-19 tariff setting. It noted that tariff setting was a lengthy process and it needed to allow enough time for customers to implement changes.

### Our response

- A2.100 We look forward to working with each of the consumer advocacy bodies as we take forward our review of the second-class safeguard caps. We will consider the need to ensure that the relevant services covered by the caps remain affordable, as well as the financial sustainability of the universal postal service.
- A2.101 We do not intend to revise our timetable for the review of the second-class safeguard caps. It would not be appropriate to accelerate this important review simply to suit Royal Mail's operational practices. It is important that stakeholders – especially those representing vulnerable consumers whom the safeguard caps are designed to protect – have adequate time to comment on our proposals, and that Ofcom has time to consider responses. The timetable that we set out in our Proposed Annual Plan already anticipates providing Royal Mail with at least one month's notice between our final decision and the expiration of the current safeguard caps on 31 March 2019. This is so that Royal Mail has sufficient time to meet its regulatory obligations to provide one month's notice of any changes it intends to make to the terms and conditions of the services within scope of the safeguard caps, including prices, should that be necessary. We therefore intend to publish a consultation in Q2 2018/19 and a statement in Q4.

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## World Radiocommunications Conference

- A2.102 The **Voice of the Listener and Viewer** was concerned that mobile network operators' desire for more spectrum will be at the expense of digital terrestrial television (DTT) and harm public service broadcasting (PSB). It noted that spectrum for DTT is not on the agenda for the conference and would like Ofcom to support DTT and PSB at it.
- A2.103 The **BBC** considered it important that Ofcom offers stakeholders an opportunity to give their views on all agenda items ahead of the conference.

### Our response

- A2.104 Ofcom is investing significant effort in preparations for the 2019 World Radiocommunication Conference (WRC-19). There is no agenda item at WRC-19 relating to the spectrum used by DTT, and hence we do not envisage developing a formal UK position on this topic. It is worth noting that although we do not expect this issue to be addressed at WRC-19, we do anticipate that the next WRC, in 2023, will consider spectrum used for

mobile and spectrum currently used by DTT. Ofcom will work closely with stakeholders regarding the development of UK positions for WRC-19, giving stakeholders the opportunity to contribute to the process.

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## Protect consumers from harm

### Review of directory enquiries services

A2.105 Ofcom's **Advisory Committee for Northern Ireland** and the **Communications Consumer Panel** welcomed this as a priority work area: the latter suggested extending the review to include access charges and to monitor any unintended unfair consequences of the UK Calling initiative introduced in 2015.

#### Our response

A2.106 Following concerns about the rising cost of directory enquiries (118) services, Ofcom launched a Call Cost Review in 2017 to ensure that prices are transparent and fair to consumers. We have gathered evidence from a number of sources and are reviewing this evidence to assess the nature and scale of harm experienced by consumers who use these services. We will then be considering if remedies are appropriate and what form they might take.

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### Participation and vulnerability report

A2.107 The **Consumer Futures Unit** was keen for this report to examine outcomes for vulnerable consumers in postal markets and suggested that it should cover scam mail as well as the affordability of, and consumers' reliance on, post.

#### Our response

A2.108 Our Access and Inclusion report will examine the take-up and use of services by disabled consumers and consumers in vulnerable circumstances. Separately, our work on postal services will include working with each of the consumer advocacy bodies as we take forward our review of the second-class safeguard caps and continue to monitor the affordability of postal services through our postal tracker surveys. As part of this work we will engage with Citizens' Advice on its work on scams.

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### Migration to voice over IP services

A2.109 The **Communications Consumer Panel** welcomed Ofcom's work on the migration of voice services and considered Ofcom should "ensure that consumer impact, information and support are at the forefront of its thinking".

A2.110 **Openreach** considered Ofcom would have an important role to play in any migration of voice services by providing 'in principle' support to the switchover concept; by ensuring a smooth migration; and by removing obligations on Openreach to provide copper-based services where and when appropriate.

### Our response

A2.111 We will continue to work closely with industry stakeholders to understand their plans for ensuring that their proposed migration processes are communicated effectively and do not result in harm or poor outcomes for consumers and businesses. We are alive to the need to ensure that regulation does not inhibit innovation or the migration of services onto more capable and efficient networks. We have signaled that we are open to modifying regulation in our recent market reviews. For example, our recent consultation on Hull regulation included the proposed removal of KCOM's copper-based local loop unbundling obligation in Hull, now that KCOM has invested in a city-wide FTTP network.

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## Network security and resilience

A2.112 The **Internet Services Providers' Association (ISPA)** asked for more clarity on the regulatory remit of Ofcom and other regulators in relation to cyber security. It noted there were several regulatory bodies and reporting mechanisms and they thought compliance was more onerous than it should be.

### Our response

A2.113 During 2017, we consulted on revisions to our published guidelines with regard to how we apply Section 105A of the Communications Act that sets obligations on communications providers' approach to network security and resilience. The revised guidelines<sup>34</sup> set out how the relationship will work between our remit and that of the NCSC and other bodies that have overlapping jurisdiction on cyber-security matters.

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## Audience protection

A2.114 **Mediawatch-UK** wanted Ofcom to outline steps to address the numbers of parents concerned by what their child has seen on pre-watershed TV and wanted Ofcom to explore the reasons behind the low engagement of viewers with the broadcasting complaints process in response to offensive material. Mediawatch-UK requested that it and similar organisations meet every six months with Ofcom and are invited to contribute to future discussions around developing the regulatory framework for audience protection.

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<sup>34</sup> Ofcom, December 2017, *Statement: Review of Security Guidance*. <https://www.ofcom.org.uk/consultations-and-statements/category-1/review-security-guidance>

## Our response

A2.115 The protection of children from unsuitable broadcast content is one of Ofcom's most important duties. Our report *Children and Parents: Media Use and Attitudes* found that in 2016 6% of parents of 3-4 year-olds and 9% of parents of 5-15 year-olds were concerned about what their child had seen on pre-watershed TV, although the majority continue to say they are not concerned. Our report on UK audience attitudes towards broadcast media in 2017 found that one fifth (19%) of adults were personally offended by something they had seen on TV in the last year. This is consistent with results in previous years. The most common reaction towards seeing offensive material was to switch over to a different channel (43%), compared to 2% whose reaction was to complain to the broadcaster or regulator. Opinions can vary greatly about programmes but that does not necessarily mean that a breach of our rules on offence has occurred. We carefully assess every complaint we receive to ensure that our rules about pre-watershed material are followed, and we take robust action when they are not. We continue to ensure that our complaints process is easily accessible for all viewer and listeners should they wish to make a complaint, and that any proposed changes to our rules are considered through an open public consultation process. We are also happy to engage with stakeholder and consumer groups to discuss any broadcasting standards issues.

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## Engage during changes to European legislation

### Safeguard and promote the interests of UK consumers and businesses during Brexit

A2.116 Several respondents urged Ofcom to ensure that consumer and business interests are protected during Brexit. **Openreach** recommended a dialogue with industry on what a post-Brexit regulatory framework will look like. The **Federation of Commination Services** thought future regulation by Ofcom unconstrained by EU law might better reflect the increasingly converged nature of markets. **Royal Mail** was concerned about the smooth passage of parcels across borders particularly arising from changes to customs duties and taxes on cross-border mail.

A2.117 The **EMEA Satellite Operators Association** highlighted the special significance of Ofcom's role to international satellite operators based in UK, or for which UK is the managing administration, and which rely on international access to orbital positions, satellite co-ordination, and harmonised spectrum. It said it would be pleased to engage in ways that will allow Ofcom to continue to play a proactive and authoritative international role.

## Our response

A2.118 The Brexit negotiations and any changes to the future UK legislative framework are a matter for Government. However, Ofcom is happy to discuss these areas with industry as part of its ongoing industry engagement on Brexit. We recognise that frameworks for market analysis need to evolve over time to reflect changing market conditions; the

European Framework itself has changed over time for this reason. We will continue to consider how best to define and assess markets under the evolving UK legal framework that we are governed by. We will also work with Government and industry to minimise disruption to the postal sector. However, any changes to the customs or tax regime are a matter for Government and are not areas in which Ofcom has any role.

- A2.119 We will continue to engage with stakeholders to understand their views on international issues and will continue to take a leading role in international negotiations on the most important issues for the UK. We acknowledge that Ofcom's role in representing the UK at international bodies relating to spectrum is particularly important for the satellite sector.

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## EU Electronic Communications Framework and Audiovisual Media Services Directive

- A2.120 **Openreach** considered it is essential to retain the positive features of the current Electronic Communications Framework and to resist proposals that it considers would damage investment and discourage network competition.
- A2.121 The **BBC** noted both the Electronic Communications Framework and the Audiovisual Media Services Directive as important opportunities to modernise the rules for both content standards and distribution. It noted that it wanted to avoid an increased administrative burden when broadcasting across borders in the EU, and it wanted to see rules securing the distribution of PSB channels on the main TV platforms expanded to include similar protections for on-demand services.

### Our response

- A2.122 Ofcom remains fully engaged in discussions with European legislators with a view to ensuring that the revised Electronic Communications Framework remains pro-competition and pro-investment and continues to serve the needs of UK consumers and businesses. We are assisting Government in negotiations on the framework where the scope of the must-carry provisions is under discussion. We are also closely following the negotiations on the AVMS Directive and are supportive of the Country of Origin principle. We would also be concerned to avoid increased administrative burdens as the BBC describes.

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## Ongoing work to achieve our goals

### Managing spectrum, planning for future requirements and authorising spectrum use

- A2.123 The **Communications Consumer Panel** suggested that Ofcom "continues to think creatively" about the allocation of spectrum - for example, incorporating a 'use it or lose it' clause, "so that no provider has control over the airwaves without using them to improve consumers' and micro businesses' experiences."

- A2.124 The **EMEA Satellite Operators Association** considered that current Ofcom rules do not allow satellite unco-ordinated earth stations (fixed, nomad, or in motion) to operate in the upper half of the 14.25-14.5 GHz spectrum band due to the shared allocation with the Fixed Service (FS), and asked if Ofcom could confirm the adoption of a strategy to remove the remaining FS links from this band by 2020.
- A2.125 The **Joint Radio Company** considered that the operational communication needs of energy utilities will require access to additional spectrum and encouraged Ofcom to establish a specific work item to address these needs. It noted the work of the Ofcom Field Teams and Spectrum Licensing Teams but said that in recent years the original 21-day maximum turn-round time for licence processing had doubled to 42 days and that this needed to be addressed. This was also noted by the **Federation of Communication Services (FCS)**, which also considered that Ofcom should continue to ensure that adequate resources are devoted to increasing access to spectrum by the business radio sector, and to ensure that radio spectrum is not interfered with.
- A2.126 In respect of electrical equipment, **Roger Laphorn** asked Ofcom to “ensure full compliance with mandated standards...of devices on the market in the UK (for example certain switch mode power supplies) that do not comply and result in harmful interference and spectrum pollution.”
- A2.127 Several stakeholders – **Nominet, Microsoft** and the **Dynamic Spectrum Alliance** – considered that Ofcom’s Plan for 2018/19 should include a review of the TV White Spaces Framework which came into force in 2015, as at the time Ofcom said it intended to review whether a licensing regime was still required by the end of 2018.
- A2.128 **Thingitude** considered that Ofcom’s Plan “appears to entirely ignore the internet of things, in particular the absence of nationwide low power wide area networks in the UK” and asked what Ofcom was doing to encourage competition and the availability of LPWAN networks.

### Our response

- A2.129 We carry out our work in line with our statutory duties, including our duty to secure the optimal use of spectrum.
- A2.130 The lower part of the 14 GHz band already provides 250 MHz of bandwidth that is available for uncoordinated satellite earth stations in the UK, and the upper half of this band (14.25-14.5 GHz) is available for co-ordinated permanent satellite earth stations and transportable satellite earth stations. We do not currently have any plans to remove the remaining fixed links in the upper half of the band. Nonetheless we welcome any further evidence from stakeholders on the benefits of, and the demand for, an additional 250 MHz of bandwidth for uncoordinated satellite earth stations.

- A2.131 In our Statement on the strategic review of UHF Band 1 and Band 2<sup>35</sup> we recognised the changes taking place relating to increasing communication needs for utilities, particularly for electricity generation and distribution. We noted that there are various options for communications, and that an exclusive designation of spectrum is not necessary, but that we would work closely with stakeholders to better understand their requirements and how these might best be met. We are engaging with utility stakeholders, individually and collectively, and will continue to do so as we develop our understanding of the sector's spectrum needs.
- A2.132 Ofcom's Spectrum Licensing team has recently undergone major changes to both resources and systems, and we accept that these changes have had an effect on processing times. The issues affecting processing times have been addressed, and, as of February 2018, the average processing time for new applications across all products is 19 days, and for variations to existing licences 12 days. Ofcom's statutory target for new applications is 42 days, or 65 days if international co-ordination is required. We continue to monitor our processes and services to find more efficient ways of working with businesses and consumers.
- A2.133 We note the concerns of the FCS regarding the impact of interference and believe that the current level of resources is sufficient to meet current demands. However, our resources are finite, and we do prioritise more serious cases. Further information about our approach to enforcement is set out in full on our website.<sup>36</sup>
- A2.134 We recognise that we proposed a general review of the TV White Spaces (TVWS) framework and initially suggested that this could be within 18 months of operation of the framework. In our Statement<sup>37</sup> we clarified that the "key trigger for such a review will be the emergence of significant applications with the potential for high-volume dissemination and so will keep the timing open for the time being, whilst we keep the development of white space equipment and use under review." We are of the view that the current level of deployment does not currently justify a significant review of the framework. However, we do engage closely with TVWS stakeholders, including database providers and operators, and are aware of certain key issues that stakeholders have raised in relation to the framework and its implementation. We will continue to work closely with the sector to address these under the general management of the framework.
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<sup>35</sup> Ofcom, December 2016, *Statement on Strategic Review of UHF Band 1 and Band 2 – 410 to 470 MHz*.

<https://www.ofcom.org.uk/consultations-and-statements/category-1/strategic-review-of-uhf-band-1-and-band-2>

<sup>36</sup> Ofcom, November 2017, *Spectrum enforcement*. <https://www.ofcom.org.uk/spectrum/interference-enforcement/spectrum-enforcement>

<sup>37</sup> Ofcom, February 2015, *Implementing TV White Spaces*.

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0034/68668/tvws-statement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0034/68668/tvws-statement.pdf)

## Monitoring the effectiveness of the regulatory framework for post

A2.135 Ofcom's **Advisory Committee for England** was concerned that less attention was being paid to postal services than to other areas, and it wanted to see more emphasis on consumer experiences alongside an economic review of the market.

### Our response

A2.136 Having concluded a fundamental review of the regulation of Royal Mail in 2017, our postal work programme is intentionally more focused in 2018-19. However, we continue to closely monitor the evolution of postal user needs and preferences as part of our annual postal tracker surveys and through our monitoring regime. We now place greater emphasis on postal consumer needs and preferences in our annual monitoring reports, with a dedicated chapter: *Consumer and business experience of postal services*.

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A2.137 **The Depot Box Ltd** wanted to see Royal Mail using a bar-code system in deposit boxes as proof of delivery.

### Our response

A2.138 These are detailed operational matters which are best taken forward by industry. We do not consider there is a role for Ofcom in such matters.

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A2.139 **Consumer Futures Unit (Citizens Advice Scotland)** wanted Ofcom to review the postcode area exemptions in Royal Mail's quality of service targets and asked whether the exemptions should apply to all addresses in those postcodes. They noted that delivery to certain islands is not included in the overall delivery targets because of the islands' remoteness, but also that some areas in some exempt postcodes (KW, ZE and HS) have mainland addresses, while some areas of other postcodes (KA, IV, PA and PH) have remote or island addresses but are not exempt.

### Our response

A2.140 Royal Mail is subject to several minimum quality of service obligations to ensure that users of the universal postal service receive a quality of service that meets their reasonable needs. The postcode area performance target is just one of these targets. In light of the particular challenges in delivering to the HS, ZE and KW postcode areas, these areas are exempt from the postcode area performance target. However, Royal Mail's performance in these postcode areas is assessed as part of its performance against each of the other relevant standards. This includes the national first and second class quality of service standards. We do not have any plans to review the quality of service framework in 2018/19. However, we expect to undertake a review of postal users' needs before 2022, which may provide an opportunity to consider the appropriateness of the quality of service framework.

A2.141 **Royal Mail** called for regulatory intervention to ensure the sustainability of the universal service. This should include reviewing the scope of the universal service, reforming the quality of service regime, raising consumer standards across the industry and looking at employment practices in the industry.

#### Our response

A2.142 We concluded a fundamental review of the regulation of Royal Mail in 2017. We made it clear that we do not agree with Royal Mail's argument that further regulatory intervention is necessary to secure the financial sustainability of the universal postal service. The regulatory regime already affords Royal Mail significant commercial flexibility and we remain of the view that such flexibility, along with the achievement of a reasonable rate of efficiency improvement in future, is the most likely means by which Royal Mail will be able to secure the financial sustainability of the universal postal service despite the challenges it faces.

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### Media literacy

A2.143 Ofcom's **Advisory Committee for Northern Ireland** expressed disappointment "that Ofcom's media literacy statutory duty is limited to a single paragraph in the proposed plan...as promoting and measuring media literacy could be a powerful light for Ofcom to shine."

#### Our response

A2.144 Ofcom has a duty to promote, and carry out research in, media literacy. Our research programme on media literacy, which we have set out in more detail in Annex 1, provides a detailed understanding of critical literacy among adults and children, and our outreach and dissemination of the findings with stakeholders helps them to prioritise their work. Separately we investigate in detail adults' news consumption and attitudes, which further helps consumers and stakeholders gain a clearer understanding of the key issues.

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### Payphone network

A2.145 **BT** considered that, as part of any wider work Ofcom may undertake on USO, it was an opportunity to reconsider whether the public payphones element of the USO remains relevant in the light of the changing patterns of telephone use and the availability of alternatives such as mobile phones.

A2.146 **Vodafone** considered Ofcom urgently needs to conduct a payphone review, both to control the spread of urban payphones motivated purely by advertising and to remove the outdated payphone access charge.

A2.147 The **Campaign to Retain Payphones (CARP)** felt that the system of regulation for phone boxes "is not fit for purpose and needs urgent reform", with competition existing only "in a

few big cities". CARP argued that Ofcom fails to either regulate prices or encourage competition, meaning that phone boxes are "disappearing much faster than they need to".

### Our response

A2.148 BT and KCOM, as universal service providers, are required to ensure the adequate provision of public call boxes throughout the UK in order to meet the reasonable needs of end-users in terms of geographical coverage, the number of boxes and the quality of services. BT and KCOM must consult the relevant local authorities before they remove the last box from a site, and they may not remove that box if the local authority objects. Ofcom will continue to monitor the application of these rules.

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## Nuisance calls

A2.149 The **Communications Consumer Panel** considered "that nuisance calls deserve a higher priority on Ofcom's agenda than is implied in the Plan, reflecting the work that is taking place to tackle this issue, which remains of significant concern to many, including vulnerable consumers" and suggested that a reduction in nuisance calls should be a strategic priority for Ofcom. **Charles Meehan** also considered that the area should be a strategic priority and asked whether Ofcom required further powers to enforce its guidance on caller line identification to block calls. **Chris Barwise** considered that enforcement fines were too low in cases where companies did not comply with Ofcom rules.

A2.150 Ofcom's **Advisory Committee for Northern Ireland** considered that nuisance calls continue to be an issue for consumers and industry, and it suggested that Ofcom's work should consider scams; greater clarity on the respective responsibilities of the ICO and Ofcom; and clearer information on which organisations consumers can or should complain to.

### Our response

A2.151 Nuisance calls remain a significant concern, and we commit to work on an ongoing basis on a number of fronts to attempt to reduce calls. This includes working with CPs to implement technical solutions to disrupt and prevent calls and strengthening the requirements on communications providers in relation to caller line identification. The nature of the issue, and therefore the work needed to address it, is multi-faceted, ongoing and enforcement based. We publish an annual update to Ofcom's Joint Action Plan with the ICO.<sup>38</sup> In 2017 and 2018 this included sharing intelligence with others, including international partners and enforcement agencies with responsibility for tackling scams and fraud, and continuing to identify opportunities through joint working with other regulators and agencies in order to deter and punish organisations and individuals responsible for nuisance calls.

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<sup>38</sup> ICO and Ofcom, February 2018, *Nuisance calls and messages: Update to ICO-Ofcom joint action plan*. [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/110957/nuisance-calls-joint-action-plan-2018.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/110957/nuisance-calls-joint-action-plan-2018.pdf)

## Price bundling

- A2.152 **Three** considered Ofcom should monitor pricing practices across fixed and mobile telecoms, to ensure that providers can not advertise unachievably low headline prices for mobile services “while hiding the much higher cost of fixed services.”
- A2.153 Another organisation noted differences in pricing practices, bundling and transparency, and the extent of regulation in this respect between retailers and providers of mobile and fixed-line services. It also considered that the accreditation scheme for price comparison sites should move to a tiered model to reflect different service levels.

### Our response

- A2.154 We are considering the issue of pricing complexity and bundling of equipment with airtime plans as part of our work on consumer engagement. As set out in our Call for Inputs<sup>39</sup> to this project, we consider that bundles of communications services can benefit consumers as they can offer convenience, choice and value, but can also result in an increasing range of tariffs and tariff permutations which may make it difficult for some consumers to navigate the market (e.g. to compare the overall price of different services). We believe that any pricing should be transparent and clearly set out to consumers, and we have rules to this effect. We include tariff structures in our reporting on pricing trends.
- A2.155 Ofcom's accreditation of price comparison sites gives assurances to consumers that they are receiving accurate, transparent and comprehensive pricing information. We continue to engage with stakeholders to ensure that our voluntary accreditation scheme is effective in ensuring that these sites help consumers choose a new service, or switch.

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## Auto-compensation and broadband speeds

- A2.156 The **Communications Consumer Panel** welcomed the conclusion of Ofcom's work on automatic compensation for consumers. It hoped to see the process implemented as soon as possible, and the amounts of compensation offered reviewed on a regular basis by Ofcom. It considered that “when it comes to broadband speeds, we believe there is a strong case for proportional billing to be implemented...where a broadband service consistently fails to deliver the promised speeds, the customer should pay proportionally less for that service”. The Panel said it would like to see Ofcom consider how it could move the market in this direction.

### Our response

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<sup>39</sup> Ofcom, July 2017, *Call for inputs: Helping consumers to engage in communications markets*.  
<https://www.ofcom.org.uk/consultations-and-statements/category-2/helping-consumers-engage-communications-markets>

- A2.157 We continue to monitor the development and implementation of automatic compensation and have committed to review the scheme after it has been in place for 12 months.
- A2.158 Our new Broadband Speeds Codes of Practice, published in March 2018,<sup>40</sup> sets out consumers' right to exit in the event that their broadband speeds fall below a minimum guaranteed level. In our judgement, proportional billing where prices are charged to each consumer based on the speed they receive would significantly increase complexity for consumers and would reduce transparency. Proportional billing would also affect all customers. We consider that our approach is more targeted and proportionate in that it focuses on customers experiencing speeds below the minimum guaranteed download speed. Our new codes of practice also encourage internet service providers to consider providing discounts alongside the right to exit, for those customers with speeds below the minimum guaranteed speed.

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## Complaints handling and alternative dispute resolution (ADR)

- A2.159 The **Communications Consumer Panel** wanted to see an item added to the work programme to show how Ofcom intends to encourage communications providers to improve their customer service, handling of complaints and access to alternative dispute resolution (ADR), holding them to account where necessary.
- A2.160 **The Internet Service Providers Association (ISPA)** considered that ADR is an area in which Ofcom could take a more proactive approach, to follow its work in 2017, and that ISPA has been working closely with members actively seeking to improve the existing ADR system.

### Our response

- A2.161 Improving industry complaints handling and customer service standards is an important priority for Ofcom. We have an ongoing industry-wide enforcement programme to assess communications providers' compliance with the rules. Our current focus is to reduce customer service complaints, and this will remain a key area of focus for the year ahead.
- A2.162 Our recent review of the ADR schemes concluded that both meet the required approval criteria. While we did not see strong evidence to suggest that there are any systemic issues with the acceptance of cases that should be out of scope, in the light of the responses received we will commission an external consultancy in early 2018 to review a sample of cases to see if there are any underlying issues that need to be addressed. Both schemes have agreed to participate in that piece of work.
- A2.163 We have delivered improvements to ADR awareness over recent years through improved ADR signposting by CPs, with significant increases in the volumes of ADR letters now being sent. While this is positive, we continue to work with CPs to drive further improvements and have strengthened rules in this area as part of the new GCs. We will monitor CPs'

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<sup>40</sup> Ofcom, March 2018, *Better Broadband Speeds Information: Voluntary Codes of Practice – Statement*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/111696/statement-broadband-speeds.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/111696/statement-broadband-speeds.pdf)

compliance with the new rules to see whether these are leading to quicker resolution of complaints or prompter referrals to ADR. ADR complaints data is also a useful source of information for consumers regarding CP performance and may help them when deciding which CP to purchase services from. We will continue to work with the ADR schemes to publish more complaints data when we are satisfied that it is robust and comparable.

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## Number porting

A2.164 The **Federation of Communication Services, the Internet Telephony Services Providers' Association (ISPA)** and one other organisation expressed disappointment that fixed number portability did not feature in either Ofcom's review of the General Conditions in 2017 or Ofcom's proposed Annual Plan, as they considered that the current system has deficiencies. They highlighted their long-standing concerns about the effectiveness of legacy fixed-line number portability arrangements, as voice services switch from traditional copper-based products to IP voice products provided over increasingly fibre-based broadband connections. Among other things, concerns were expressed about compliance with our regulations requiring telecoms providers to provide customers with number portability. They urged Ofcom to prioritise a review of number portability arrangements.

### Our response

A2.165 We have recognised that there is scope for improvement in the way fixed numbers are ported today and are aware that porting is an issue of concern, particularly for smaller businesses. In our 2016 strategic review of digital communications we explained that we had not been able to reach industry consensus on how to take this forward when we had looked at this in the past. We therefore encouraged industry to reach some consensus on how improvements could be made, for example through the relevant OTA forums.

A2.166 We understand that industry representatives working with the OTA have now developed a proposal for submission to us, setting out a shared view of how the operating model for UK fixed number porting needs to transform in order to meet future needs, while also addressing current inadequacies. We expect to review this shortly.

A2.167 In the meantime, we will continue to investigate complaints about telecoms providers failing to comply with their obligations to provide portability, and where necessary we will enforce our regulations.

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## Number charging

A2.168 **BT Group** noted that it is still waiting for the conclusions from Ofcom's review of its pilot scheme to charge for geographic numbers. BT looks forward to Ofcom's conclusions and hopes for an alternative system that rewards efficient utilisation.

### Our response

A2.169 We have considered proposals from BT and other stakeholders for alternative measures and have considered changes to the charging scheme to incorporate their contributions. We will publish our statement concluding our review of the pilot scheme to charge for geographic numbers shortly.

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## Licensing of broadcast services in Wales

A2.170 The **Welsh Government** considered that, when television and radio licences for stations in Wales are awarded or reviewed, due consideration should be given to the bilingual nature of Wales and the importance of the Welsh language, and that “linguistic diversity, especially the Welsh language in services for Wales, should be set as a target when granting and regulating services for Wales.”

### Our response

A2.171 The activity of broadcasting is exempt from the Welsh Language Measure 2011. Ofcom licenses a number of TV and radio stations in Wales and assesses applications for these licences (and subsequent changes to licences) against specified statutory criteria. These do not include Welsh language considerations specifically, although applicants may propose to include Welsh language in their services and this would be incorporated into their licences. Changes to the statutory criteria would require legislative amendment.

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## Organisational issues

### Ofcom Board Members for Wales and Northern Ireland, and engagement with the Ofcom Board

A2.172 Ofcom’s **Advisory Committee for Northern Ireland** was concerned about the potential delay in appointing an Ofcom Board Member for Northern Ireland and called on Ofcom and Government to ensure that Northern Ireland is not disadvantaged by this situation.

A2.173 The **Welsh Government** noted that it intends to proceed with the recruitment of an Ofcom Board member for Wales as soon as possible and discussions are ongoing with Ofcom Wales officials and DCMS. Additionally, Welsh Ministers would welcome the opportunity to discuss a number of the ongoing developments outlined in its response with the new Chair of Ofcom, as well as continuing the dialogue with the Chief Executive of Ofcom which began in September 2016.

A2.174 The **Welsh Government** noted that it has worked with Ofcom and DCMS to finalise the Memorandum of Understanding (MoU) outlining the relationship between UK Government, the Welsh Government, the National Assembly for Wales and Ofcom, and hoped that the MoU will be signed shortly.

## Our response

A2.175 We look forward to the appointments of Ofcom Board Members for Wales and for Northern Ireland, and the signing of MoUs with the devolved administrations, in due course. In the interim, Ofcom continues to have structures in place to represent the concerns of people in each nation, including its National Advisory Committees, and representatives on the Content Board and Communications Consumer Panel. Ofcom Board members and the Ofcom Executive also engage regularly with the devolved administrations, political parties and other organisations and communities in the UK nations, and would be pleased to discuss any developments outlined in the responses.

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## Ofcom capacity and recruitment

A2.176 The **Welsh Government** remains concerned as to whether Ofcom, at a UK level and in Wales, has sufficient capacity to undertake its additional responsibilities in relation to the BBC. It also noted its previous questions on an intention for Ofcom to have comparable expansion in the other devolved nations, including Wales, to ensure parity with Scotland. It noted an increasing number of posts being relocated or advertised by Ofcom in London, North West England and Edinburgh, and was interested in the rationale behind this and why Cardiff had not also been listed as a location.

## Our response

A2.177 In order to deliver our new responsibilities for the BBC we have recruited colleagues across all disciplines, but with a particular focus on content policy professionals who will work to hold the BBC to account for the delivery of its responsibilities, including output and services that meet the needs of the UK's nations and regions. We consider the number of colleagues recruited is sufficient to deliver this.

A2.178 Ofcom decided to open new premises in Edinburgh and Warrington as part of its strategy to move part of its operations outside London, and to develop a more diverse operational spread across the UK's nations and regions. Resource and other considerations mean that we cannot do this at the same scale in all our offices. Our objective of building a policy and operations hub in Edinburgh is to help ensure that we can effectively represent the interests of citizens and consumers, not just in Scotland, but across the UK. This presence will ensure that we have closer proximity to key challenges which are faced by all nations, including those presented by geographically dispersed and remote rural populations, and on-going issues relating to the coverage, reliability and availability of communications services.

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## Role of consumer representation

A2.179 **Clare Milne** commented that there is an increasing need for properly resourced independent consumer representation and that "while Ofcom itself may not be able to

bring about much greater resources for consumer representation, they could press for legislative change to enable some penalty revenue to be devoted to this end (along the lines of Ofgem's consumer redress options)." She considered there was also a growing need for Ofcom to work closely with other regulators, not just on enforcement but to achieve coherent policies, potentially via a set of inter-agency MoUs. She also felt a review of improvements to Ofcom's consultation process suggested by the CCP should be scheduled.

### Our response

- A2.180 The Communications Consumer Panel is an independent statutory advisory body to Ofcom. We welcome its advice across many areas of Ofcom's work, including to our Annual Plan and consultation processes. Ofcom hosts the Consumer Forum for Communications, an informal forum for consumer representatives to share information and views with each other, and with people who formulate and implement communications policies that affect consumers. Any change to the legislation regarding penalty fees for the resourcing of consumer representation would be a matter for Parliament.
- A2.181 Ofcom works closely with other economic regulators, through the UK Regulators Network and other forums, to share experiences and examples of good practice, especially in relation to work to improve services for vulnerable consumers. For example, as set out in the section on nuisance calls, we work very closely with the ICO on a joint action plan.

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## Ofcom's work plan and measuring regulatory outcomes

- A2.182 The **Communications Consumer Panel** requested that there be more detail in the outcomes for consumers (including microbusinesses) and citizens in each of the projects listed in our plan.
- A2.183 **Vodafone** commented that Ofcom should consider "the success criteria for an intervention" before making one. It felt that defining relevant KPIs and reporting them to industry would help stakeholders assess the effectiveness of our interventions, cited the first *Quality of Service* publication as a good example and asked to understand how consumers have engaged with this report.
- A2.184 **ISPA** asked that Ofcom "minimise the number of consultations it launches" and "to ensure it is minimising the burden it places on ISPs, as per its requirements under the Communications Act 2003, and allows space for innovation".
- A2.185 **BT Group** recognised the need for Ofcom to be agile and set priorities throughout the year, but reiterated its request that Ofcom consolidate its work plan and programme of work into one document. BT Group also asked Ofcom to consider moving to longer market review cycles and argued that consumers and stakeholders would benefit from understanding how Ofcom sees its projects over a longer time-frame. BT Group would also like the opportunity to input into Ofcom's annual report on its performance against its plan, suggesting public workshops as one option.

### Our response

- A2.186 The Communications Act 2003 places a statutory obligation upon Ofcom to review existing and proposed regulation to ensure that we do not a) impose burdens which are unnecessary; or b) maintain previously imposed regulatory burdens which have become unnecessary. We actively identify areas where we consider there may be scope for deregulation; some of these are summarised in Section 3.
- A2.187 We publish our programme of work alongside our Annual Plan. However, because we update the programme of work on a quarterly basis, whereas we issue the Annual Plan once a year, we do not feel it would be practicable to consolidate the two documents into one. However, our Annual Report and Accounts includes a Performance Report. This provides a summary of our progress on delivering against our annual plan priorities. In this we provide an overview of what we have done and what outcomes in the market we expect to result from our actions. We are happy to receive any comments or suggestions from stakeholders on its findings.
- A2.188 Where possible, we seek to signal to stakeholders our consultations and other regulatory reviews, and try to set out longer-term planned activity, for example, in the timing of statutory or market reviews. Our Annual Plan is a key way of doing this. However, due to changes in the market, and regulation, it is not always possible to plan or commit to activity beyond the forthcoming annual period.
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### Market assessments

- A2.189 The **Welsh Government** would like Ofcom to develop new regulatory approaches that take account of specific local market conditions in terms of topography and population. It suggests that a new approach might recognise market failures that are not evident in a macro-level assessment of the market.
- A2.190 The **Communications Workers Union** called for Ofcom to “introduce a fundamental shift in emphasis towards raising minimum quality standards and incentivising investment for the benefit of all stakeholders”, including workers in the sector and users with less market power. It said there should be a “clear strategy” to improve services in rural areas, Wales, Scotland and Northern Ireland, and that regulation must take account of the cost of additional jobs, skills and training required to develop “a world class digital network”.

### Our response

- A2.191 As part of our competition assessments, we consider how competitive conditions vary across the country as we are able to vary the extent of regulation in different areas. Our assessments also take into account the impact on different stakeholders. However, we do not have a particular role regarding employment and training or the creation of jobs.
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## Industry convergence and innovation

- A2.192 **ISPA** felt that we should better reflect the breadth of the market in certain policy projects and initiatives. It regarded our market and industry reviews as valuable, but also in need of more detail and information on the breadth of the market.
- A2.193 The **Federation of Communication Services** considered that mobile and fixed services are becoming increasingly converged. It argued that “mobile network operators are not regulated enough to provide any form of equivalence of access through wholesale models” and that competition between MNOs is considered “adequate” to drive consumer benefit. It considered that therefore the business market is unable to realise the full potential of these converging technologies.
- A2.194 The **Welsh Government** suggested it would be useful to see in the Annual Plan how Ofcom intends to innovate to keep pace and how it will engage with stakeholders at home and abroad to develop innovative solutions, and to see what work Ofcom is doing to encourage and to identify and remove barriers to innovation.
- A2.195 The **BBC** considered that it is essential for Ofcom to fully understand the changes that are occurring in the audiovisual market, the pace of these changes and their implications for the regulation of public service broadcasting. It considered it critical that Ofcom ensures that there is a level playing field, both for the PSBs and for the global players that are operating in, and changing the nature of, the UK market. It is also critical that Ofcom ensures that changes are in line with consumer expectations, public value and market norms.

### Our response

- A2.196 We will continue to monitor changes in markets in the context of our duties, and actively research and monitor developments in the markets we regulate. Examples of understanding change are summarised in Section 2 of this document and are supported by our extensive market research and insight programme set out in Annex 1. This includes our duties to maintain and strengthen public service broadcasting for UK consumers. By example, we recently published a document setting out challenges facing the PSB system in the context of market change.<sup>41</sup>

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## Ofcom tariffs and fees

- A2.197 **Vodafone** stated “[We] urge Ofcom to have the necessary safeguards in place to prevent any area from being overlooked and we would welcome a clear focus on each sector, each of which, in its own right, is vital to the UK’s economic and cultural wellbeing. We were disappointed to learn last year that we faced a rise of 14% in the administrative charges

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<sup>41</sup> Ofcom, March 2018, *Public service broadcasting in the digital age: Supporting PSB for the next decade and beyond*. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0026/111896/Public-service-broadcasting-in-the-digital-age.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0026/111896/Public-service-broadcasting-in-the-digital-age.pdf)

levied by Ofcom on the communications sector for 2017/18. With an expanded remit we hope that Ofcom will be able to operate more efficiently, with common costs shared more widely and the burden distributed across the various sectors regulated by Ofcom, resulting in a reduction in communication sector fees in the years ahead.”

A2.198 **Royal Mail** commented on regulatory fees. Royal Mail stated that “Ofcom’s 2018-19 plan signals an overall reduction in postal work relative to previous years...In light of Ofcom’s planned reduction in postal work - and its overarching objective to achieve a real term decrease in its budget - we expect to see a significant reduction in fees in 2018/19. It reiterated its view that the recovery of postal regulation and consumer advocacy costs should be extended to providers of single-piece end-to-end letter delivery services and access services as well as to parcel operators. It also noted that “Ofcom consulted on reforms to recovering postal regulation and consumer advocacy costs in July 2017”. In both cases it would welcome Ofcom “making its decision this financial year so that the new arrangements can go live in 2018-19.”

### Our response

A2.199 Since its inception, Ofcom has consistently delivered real-terms savings in the cost of regulation. The specific charges to sectors will increase/decrease in line with the programme of work we plan to undertake each year as seen in the networks and services sector.

A2.200 Although the Digital Economy Act 2017 means that we are now funded entirely through industry fees, the current Statement of Charging Principles<sup>42</sup> remains valid and there will be no change in how we set fees to the regulatory sectors.

A2.201 Our fees and charges are published at the start of each financial year. We do not comment on the level of our regulatory fees in advance of publishing the tariff tables.

A2.202 Since taking responsibility for postal regulation in 2011, Ofcom has reduced the cost of regulation in the postal sector by more than 50% in real terms. We completed our comprehensive review of the regulation of Royal Mail in 2017. As such, our planned work for postal regulation is less than it has been in previous years. However, future tariffs may not continue at this level as they will be determined by the work we need or plan to undertake in any given year.

A2.203 We have already received representations from Royal Mail in relation to our ongoing review of recovering postal regulation and consumer advocacy costs.<sup>43</sup> We are in the process of considering these representations, alongside the views of other stakeholders who responded to our consultation proposals, and we expect to publish a further document in the near future.

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<sup>42</sup> Ofcom, [https://www.ofcom.org.uk/data/assets/pdf\\_file/0019/51058/charging\\_principles.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0019/51058/charging_principles.pdf)

<sup>43</sup> Ofcom, July 2017, *Recovering postal regulation and consumer advocacy costs*. <https://www.ofcom.org.uk/consultations-and-statements/category-2/recovering-postal-regulation-costs>

## Statutory information requests

A2.204 **Openreach** called on Ofcom to review its practices on processes for statutory information requests (SIRs) to ensure that they are proportionate and targeted and do not impose unnecessary burden on stakeholders, and that Ofcom should include a work programme for 2018/19 in this respect.

### Our response

A2.205 The exercise of statutory information-gathering powers is an essential part of the tools available to help Ofcom fulfil its statutory duties. This may at times involve significant work for respondents, and Ofcom is mindful of the need to ensure that any requests are targeted and proportionate, and so do not impose unnecessary burdens on stakeholders. To the extent stakeholders feel that they are subject to information requests that are disproportionate or insufficiently targeted, we are always happy to engage with them to resolve any such concerns. Ofcom takes very seriously any failure to provide accurate and complete information, as such failures undermine the integrity of the regulatory regime. Over the past year we have taken enforcement action in a number of cases for failure to comply with our statutory request for information, and we will continue to take enforcement action in this area when appropriate.