Annual Plan 2009/10

Contents

Foreword

This year's annual plan is published at a time of immense, even unprecedented, economic uncertainty. All sectors are feeling the effects of the downturn, including the communications industries. We have already seen a number of austerity packages and redundancies within the sector. More may follow.

We recognise that the conditions faced by companies in our sector are severe. Yet there are also good reasons to be optimistic about the future. Unlike many other sectors, communications has already come through the so-called dotcom crash of 2002. And throughout the world, including in the UK, the power of the communications sector to support wider economic recovery and growth is being recognised by governments.

We welcome the UK government's own Digital Britain initiative, and look forward to taking forward the various action points contained in its interim report. At the same time, Ofcom's focus must remain resolutely on the interests of citizens and consumers.

We can be satisfied that we have taken action to make broadband speeds more transparent, to help restore trust in TV phone-in shows and to secure High Definition broadcasts though a TV aerial, to name only a few initiatives. In the future, we need to work harder still to ensure that the communications market continues to work for consumers and citizens.

The communications sector continues to be an area of tremendous change and innovation. Over the past year, we have seen the rapid growth of mobile broadband, as well as increasing pressure on free-to-air advertiser funded public service broadcasting. In these areas, and many others besides, Ofcom must remain close to consumer, market and technological trends. We must be ready to take action where necessary, willing to set a clear path to support innovation, and able to promote effective and sustainable competition. It is also crucial that we establish the conditions for efficient and timely investment, particularly in the current economic environment.

Our key priorities for the forthcoming year reflect these imperatives. So as we promote competition in pay TV and fixed telecoms, we will seek new ways to increase access and inclusion in communications. As we support the evolution of radio for the digital era, we also enable clear regulation for super-fast broadband. And as we release more spectrum for new services, we will develop our consumer protection.

In these uncertain times, Ofcom must also be nimble enough to respond to changing events and circumstances. This plan describes how we are ready to meet challenges that we cannot presently anticipate. And it sets out how we will continue to deliver and improve those services upon which our stakeholders depend, from allocating new telephone number ranges to spectrum planning for the London Olympic and Paralympic Games.

For the first four years of Ofcom's life, we delivered annual real-term reductions. These in large part reflected the benefits of scale from the merger and reorganisation of our legacy regulators. That process is now very largely complete, but we will continue to pursue and deliver further efficiency gains. Our aim remains to deliver the maximum value for money to our stakeholders, including a further real terms reduction in our like-for-like costs this year.

Our work plan reflects the views of those stakeholders, as well as input from the Communications Consumer Panel, Ofcom's advisory committees for England, Scotland, Wales and Northern Ireland, Ofcom's Spectrum Advisory Board, and the Advisory Committee for Older and Disabled People. Our Draft Plan was also discussed at events in Leeds, Glasgow, Cardiff, Caernarfon and Belfast. Those views collectively have been most helpful in finalising this plan. We look forward to working with all concerned to implement it over the forthcoming year.

Colette Bowe   **Ed Richards**

Chairman   **Chief Executive**

Section 1

Executive summary

The final plan reflects feedback received from stakeholders

1.1   Ofcom's Annual Plan sets out our planned work programme for the twelve months from April 2009 to March 2010. Alongside this document, a table showing our planned projects and outputs is published on our website[1].

1.2   We published a Draft Annual Plan for consultation for ten weeks on 4 December 2008[2]. During that period, we consulted with a range of stakeholders around the UK, met with Ofcom's advisory bodies, and conducted further analysis of market developments. Consultation responses to our draft Annual Plan were broadly supportive of our proposed work programme. Stakeholders generally agreed that our three-year framework remains relevant, and that the identified top priority areas for 2009/10 are the right ones.

1.3   A number of specific questions about Ofcom's approach to planning and prioritisation were raised. We have taken these comments on board and adjusted the final annual plan to reflect this feedback. In addition, consultation responses contained many useful comments and suggestions on specific policy issues. Annex 1 summarises Ofcom's responses to consultation feedback.

There have been significant changes in the communications sector

1.4   The past twelve months have seen a number of important developments in the wider communications market. A range of new and innovative services in the market have increased in popularity; for example, mobile broadband, allowing people to access the internet easily on the move. We have successfully started the process of digital switchover in the UK, and the convergence of new and traditional media and business models is now upon us.

1.5   At the same time, we now face significant economic pressures on a global scale – from which the communications sector is not immune. The uncertainty and volatility of the current climate means that we need to be prepared to act quickly and firmly if any consumer harm arises as a result. As many stakeholders have noted, worsening economic conditions also increase the urgency of some of our planned policy activities. The implications of economic pressure will be a common consideration throughout all of our policy work in 2009/10, as we seek to promote a sustainable level of competition in all the markets we regulate to deliver the needs of citizens and consumers.

1.6   The government's Digital Britain review, which published an interim report in January 2009, demonstrates the increasing importance of the communications sector to the UK's overall economy. We welcome this initiative and look forward to working with the government over the coming months. We will also continue to engage with governments in the devolved nations to support relevant initiatives in the communications sector across the UK.

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[1] http://www.ofcom.org.uk/about/accoun/reports_plans/annual_plan0910/projects/
[2] http://www.ofcom.org.uk/consult/condocs/draftap0910/draftap0910.pdf

1.7 Additionally, the independent review of the UK postal sector commissioned by the government[3] recommends that Ofcom become responsible for postal regulation. Any change in our responsibilities to this effect would require legislation. At the present time, the implications of that recommendation are still emerging, but we will work with the Government to ensure a smooth transition of responsibilities.

Our 2009/10 work programme reflects these developments

1.8 Our programme of future work for 2009/10 reflects stakeholders' feedback, developments in the communications sector and builds on our progress to date. In this challenging economic climate we will work hard in the coming year to ensure that both citizens' and consumers' interests are promoted and protected. We will help to achieve this by providing opportunities for growth and innovation.

1.9 Our work programme for 2009/10 was broadly supported by respondents to our consultation. It is based upon our current strategic framework, which focuses on four areas:

- driving forward a market-based approach to spectrum;

- promoting competition and innovation;

- ensuring the delivery of public interest objectives; and

- improving empowerment, protection and enforcement for citizens and consumers.

1.10 These four objectives are supported by additional themes that cut across all areas of Ofcom's work. These include:

- continuing to simplify and reduce regulation where appropriate, and minimising administrative burdens on stakeholders;

- maximising our impact on international policy development, to best represent the interests of UK citizens and consumers; and

- ensuring that our policy developments are sensitive to, and reflect, institutional developments and market conditions in each of the nations in the UK.

1.11 As many stakeholders have suggested, we must also give serious consideration to the longer-term changes happening in the communications sector, building on the government's work on Digital Britain, and reflecting the changed economic climate. In the course of the next year we will develop a new strategic framework, which will enable us to plan and focus our efforts beyond 2010.

We have a detailed programme of work for 2009/10

1.12 In light of recent developments and current trends, our wide-ranging work programme consists of 19 major work areas, grouped under the four key objectives of our strategic framework.

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[3] The final report of the independent review of the UK postal services sector (Hooper report) can be found at http://www.berr.gov.uk/files/file49389.pdf

1.13   Figure 1 illustrates some of the key areas of our focus for next year. A detailed diagram of our programme of work is shown on page 17.

Figure 1: Illustration of Ofcom's key work areas in 2009/10
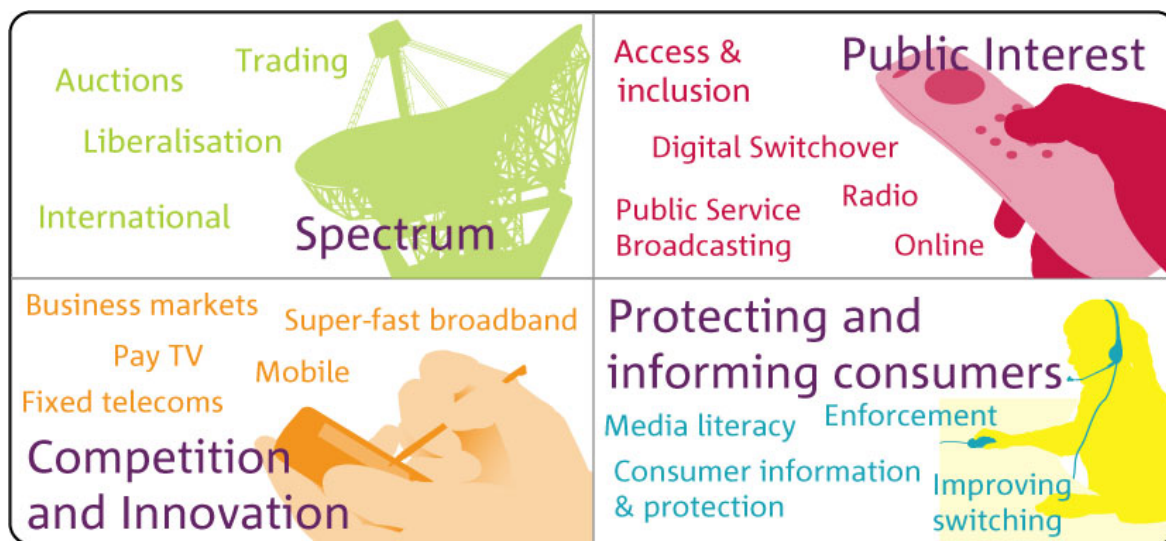
1.14   Within our work programme we have identified ten priorities for Ofcom. These are work areas where successful outcomes are vital in 2009/10 to ensure that Ofcom fulfils its longer-term intention of maximising the benefits of convergence for citizens and consumers across the UK.

1.15   Our policy priorities for 2009/10 are:

Releasing spectrum, including the digital dividend	Promoting access and inclusion
Promoting competition in fixed telecoms	Preparing for the future of public service broadcasting
Promoting competition in pay TV	Supporting the evolution of radio
Enabling clear regulation for next generation access and core networks	Promoting media literacy
Assessing our regulatory approach in mobile	Developing and enforcing consumer protection policies

1.16   The nature of the communications sectors will inevitably give rise to unexpected issues during the coming year. Our contributions to industry discussions on online copyright infringement, and broadband speeds, are two examples of issues that emerged (but which we did not plan for) in 2008/09. To ensure that Ofcom has sufficient resource to carry out such unplanned tasks without compromising our ongoing work, we will reserve a share of capacity for unexpected tasks in 2009/10.

We will also deliver key services for all our stakeholders

1.17   In addition to our policy work programme, Ofcom delivers a range of services to stakeholders. These include keeping the airwaves free from interference, allocating telephone number ranges, providing information services to the market and planning

for the London Olympic and Paralympic Games. These are valuable services for stakeholders and we are looking at how we can continue to improve their delivery.

1.18   In delivering our policy work programme and services to stakeholders we remain committed to maximising our efficiency, particularly in the current economic climate. Our aim is to deliver the maximum value for money to our stakeholders and we will pursue a series of initiatives to identify opportunities for increased efficiency, alongside a rigorous process of budget review.

Section 2

Ofcom's strategic approach

2.1   This section describes our approach to regulation and discusses the key areas of focus that derive from our strategic framework. Stakeholder responses to the draft Annual Plan consultation supported our conclusion that the current framework remains relevant to achieving Ofcom's objectives next year. Consequently, our work programme for 2009/10 will be focused on advancing work that is already in progress, while responding to the evolving market conditions.

Our work programme reflects economic pressures

2.2   Ofcom was created in 2003 in anticipation of convergence in the communications sector and to respond to the changes in the communications industries and markets during the following years. Since then the UK communications sector has changed significantly, and has enjoyed continuous overall growth, despite falling consumer spend due to lower prices. More generally, communications industries have also benefited from steady growth in the wider economy.

2.3   For the first time since its creation, this year Ofcom plans its activities in a time when the economic climate is characterised by uncertainty and volatility. We are aware that this could increase the risk of harm to consumers and citizens. As many stakeholders have noted, worsening economic conditions also increase the urgency of some of our planned policy activities. Consistent with our regulatory principles, we will act firmly and quickly where needed. The implications of economic pressure will also be a common consideration throughout all of our policy work in 2009/10, as we seek to promote a sustainable level of competition in all the markets we regulate, to deliver the needs of citizens and consumers.

Ofcom's approach to regulation

2.4   In this environment of ongoing rapid change it is important that Ofcom has a clear approach to fulfilling its regulatory remit and its duties towards citizens and consumers. To achieve this, we outlined a number of principles about how we would develop and implement regulation.

2.5   Our regulatory principles (as set out in figure 2 on the next page) ensure that we address policy issues effectively, and in a timely, robust and comprehensive manner. They also help to provide clarity to our stakeholders about Ofcom's approach to regulation. On our website we have also recently integrated our regulatory principles with those we expect to adhere to in the regulation of postal services[4].

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[4] The updated version of Ofcom's regulatory principles, including those for postal services is available at http://www.ofcom.org.uk/about/sdrp/

Figure 2: Ofcom's regulatory principles

When we regulate

- Ofcom will operate with a bias against intervention, but with a willingness to intervene promptly and effectively where required.
- Ofcom will intervene where there is a specific statutory duty to work towards a public policy goal that markets alone cannot achieve.

How we regulate

- Ofcom will always seek the least intrusive regulatory methods of achieving our policy objectives.
- Ofcom will strive to ensure that our interventions are evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome.
- Ofcom will regulate with a clearly articulated and publicly reviewed annual plan, with stated policy objectives.

How we support regulation

- Ofcom will research markets constantly and will aim to remain at the forefront of technological understanding.
- Ofcom will consult widely with all relevant stakeholders and assess the impact of regulatory action before imposing regulation on a market.

2.6 Our bias against intervention aims to ensure that we regulate only where necessary. Excessive intervention could distort or stifle the development of competitive and rapidly changing markets. However, where intervention is required we will act quickly and decisively. For example, wider economic pressures may increase the risk that consumers will fall victim to scams.

2.7 We must ensure that regulation helps, rather than hinders, the development of markets. To achieve this, our principle is to use the least intrusive regulatory mechanisms appropriate for the situation as, for example, in our recent work on facilitating an industry-led code of practice relating to advertised broadband speeds.

2.8 We are committed to evidence-based decision-making. This requires us to understand consumer attitudes, which we achieve through a comprehensive programme of market research, and to understand market developments, which we do through gathering and analysing market intelligence.

2.9 We also recognise the importance of consulting with the full range of our stakeholders, both informally as policy options are being identified and refined, and formally through the publication of consultation documents.

2.10 Carrying out impact assessments helps to ensure that we follow good practice when making policy decisions. An impact assessment involves being clear about the issue which needs to be addressed, identifying a range of policy options and analysing the impacts each would have. This is particularly important during times of rapid change in the sector and the wider economy.

2.11 When Ofcom was formed, Parliament gave us a principal duty to further the interests of citizens and consumers, making it particularly important for us to understand how

our decisions affect these groups. As consumers, we participate in the marketplace, acquiring or using goods and services. As citizens, we are concerned not with our narrow individual interests, but with what is good for society.

2.12   Sometimes the interests of citizens may be at odds with the interests of at least some individual consumers. For example, very few people watch all types of public service broadcasting programmes. But most people agree that some types of programmes – such as children's or regional news – are in the interests of all citizens, even though they may not watch them themselves.

2.13   Therefore, in making policy decisions, it is important that we identify both the interests of citizens and the interests of consumers. We can then understand the trade-offs which our decisions often involve. This will be especially important as we respond to converging and increasingly competitive markets. For example, not all new services will be made available to everyone. This may mean that the impact of convergence is uneven across different consumer or citizen groups. In this case, we would need to work with government to determine what services society believes should be accessible more widely, bearing in mind that this may result in some consumers having to pay more for those services. We will also need to ensure that we fulfil our statutory responsibilities that require us to promote equality between people of different races, different genders and between people with disabilities and those who are able bodied.

2.14   Ofcom's annual planning process seeks to set out our future work programme with this approach to regulation in mind. Last year's annual plan is broadly on track, with significant progress having been made in a number of priority areas, including public service broadcasting, next generation access, pay TV and the regulation of fixed telecoms. A number of other major work areas have also been delivered successfully, including our work on promoting trust in broadcasting, which is now being taken forward by the industry.

Our strategic framework identifies the key objectives of our work

2.15   We noted in last year's plan how convergence has shaped the evolution of the communications sector: the take-up of digital technologies continues to grow, convergent services are now available across a wide range of devices and consumption trends imply greater control and participation[5].

2.16   Convergence presents both challenges and opportunities, but Ofcom's aim is to maximise its benefits. To this end, in 2006 we designed a three-year strategic framework that shaped Ofcom's policy direction by focusing on five key areas:

- driving forward a market-based approach to spectrum;

- promoting competition and innovation in converging markets;

- ensuring the delivery of public interest objectives;

- empowering citizens and consumers and improving regulatory compliance where necessary; and

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[5] A discussion of these and other recent trends in communications sector can be found in our *UK Communications Market Report 2008*, http://www.ofcom.org.uk/research/cm/cmr08/

- supporting the evolution of legal and economic frameworks for communications regulation.

2.17   In addition to these five areas, some themes cut across all our work:

- reducing regulation and minimising administrative burdens; and

- maximising our impact on international policy development, to best represent the interests of UK citizens and consumers.

2.18   For the first time, this year we will introduce a third theme, to recognise that we will need to prepare a new strategic framework for Ofcom from 2010 onwards. The government's Digital Britain review will have to be considered carefully as we think about how Ofcom's role will evolve and how, strategically, Ofcom should address the key issues in the communications sector from 2010 onwards.

2.19   Ofcom's work programme for 2009/10 focuses on four of the five key areas of the strategic framework. Work that would have previously belonged to the theme 'evolution of frameworks for regulation' will be subsumed into the preparatory work for our new strategic framework and our work on international policy engagement.

Figure 3: Ofcom's current strategic framework
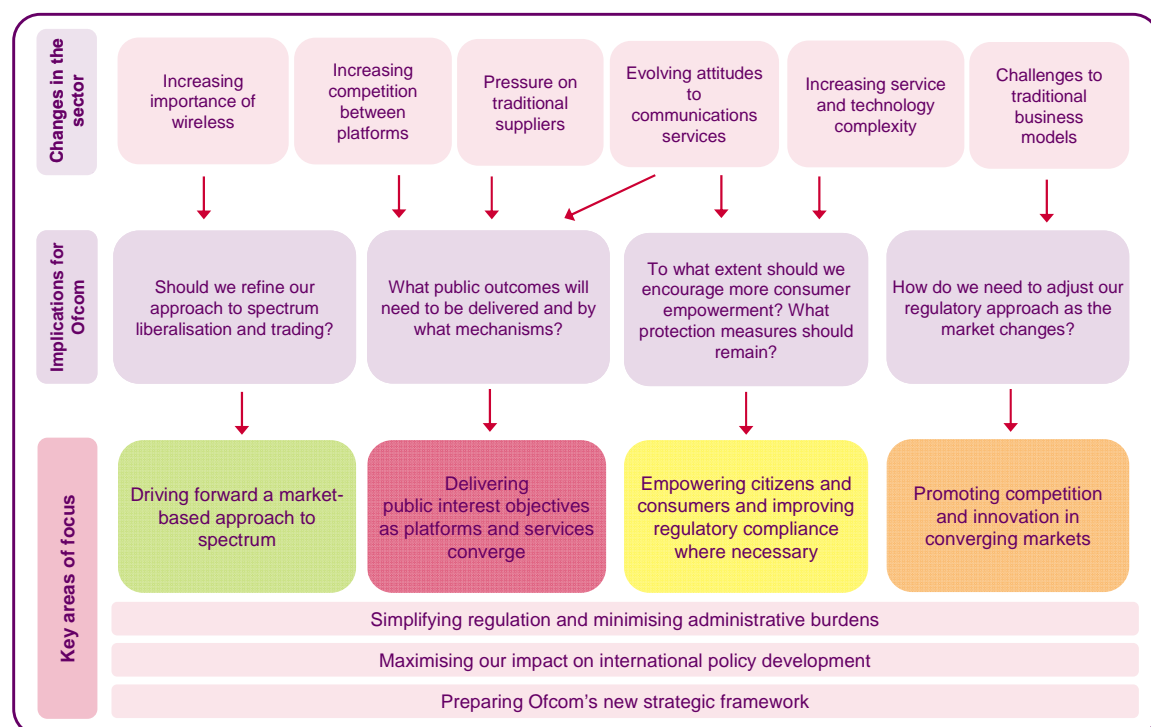
2.20   Over the past few months, we have reflected on the continuing relevance of our three-year framework in the light of ongoing market changes. Our analysis concluded that the framework remains highly relevant to achieving Ofcom's objective of maximising the benefits of convergence. Stakeholder responses to the Draft Annual Plan consultation were broadly supportive of this conclusion.

2.21   In the following section, we summarise the main developments under each of the four key elements of the framework on which we will be focusing this year, and the ways in which these will affect our strategic approach and our work programme for the coming year.

Spectrum remains a key resource for the UK, and we will be driving forward our liberalisation programme

2.22 The importance of wireless platforms and services to consumers and industry has been a key theme since Ofcom was created. Evidence shows that the demand for old and new wireless services continues to grow. Digital TV take-up has reached 88%, and there are now strong prospects for HDTV on a variety of platforms, including DTT and satellite. Mobile services are now more popular than ever: mobile take-up has surpassed that of fixed lines, and new uses for this spectrum, such as mobile broadband, are gaining pace.

2.23 The speed of innovation in wireless services and platforms means that the number of possible uses for the same airwaves (or spectrum) is growing. Spectrum is a key resource for the UK economy and society, and we think that in general a market-based approach to spectrum management is the most suitable way to achieve the best use of this resource.

2.24 In 2005 we set out a programme of spectrum release and liberalisation, allowing spectrum trading as part of our Spectrum Framework Review[6]. We are now in the final phase of implementing this programme. Twelve spectrum auctions have now been held in the UK, nine of them by us since 2006.

2.25 During 2008 we decided to start the award process of the 2.6 GHz band, which is currently unused spectrum, and important for the further development of wireless broadband services. However, this award has been delayed by legal challenges. A further crucial spectrum band for the delivery of new or improved wireless services is the digital dividend; the spectrum that will be freed up after digital switchover, and we are progressing with work on the release of this band. We also plan to conduct further work on spectrum trading and liberalisation.

2.26 We are co-ordinating with Digital Britain our work on the liberalisation of the spectrum already used by mobile services in the 900 and 1800 MHz bands. The government highlighted[7] the importance of resolving quickly this issue and gave the industry until the end of April 2009 to agree a set of spectrum trades. We have recently published a consultation[8] which sets out Ofcom's proposals as to what an imposed regulatory solution could look like, were the industry to fail to agree an acceptable way forward by the end of April 2009.

Promoting competition and innovation remains central to the delivery of consumer benefits

2.27 Promoting competition is an important part of Ofcom's work to deliver the benefits of convergence to all UK citizens and consumers. Market developments over the past year highlight the benefits of competition in the communications sector. Household spend on communications services has been declining in real terms since 2004, while take-up and use continue to grow.

2.28 Promoting effective competition results in positive outcomes, not only for consumers, but also for business customers. For example, opening up the infrastructure to alternative communication providers and investment in local loop unbundling (LLU)

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[6] http://www.ofcom.org.uk/consult/condocs/sfr/sfr/
[7] As indicated in the Digital Britain interim report:
http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf
[8] http://www.ofcom.org.uk/consult/condocs/spectrumlib/

has increased broadband availability and choice, both for consumers and businesses, in large parts of the UK. However, the needs of business and residential customers can differ substantially, and it is important for us to tackle issues that affect both groups. For this reason, we plan to conduct new areas of work that will focus specifically on the business consumer.

2.29   In broadcasting, many of the major players have launched services on new platforms: online catch-up TV services are becoming very popular, and the BBC and ITV have also launched Freesat, a free-to-air satellite service that offers HDTV (high-definition TV) channels. We have started the reorganisation of digital terrestrial television (DTT) multiplexes, which will allow viewers to access HDTV channels on Freeview. The challenges that we identified last year in the pay TV market continue to be relevant, and Ofcom is now considering whether to proceed with the proposals we set out in the consultation document published in September 2008.

2.30   While broadcasters expand their services on a variety of digital platforms, telecoms companies can use new fixed and wireless broadband technologies to allow them to deliver innovative applications. Investment plans in super-fast broadband have been announced in the last few months. BT is planning to deploy next-generation access[9] to about 10 million UK households by 2012, while Virgin Media has already started offering 50Mbps to its cable customers. Targeted deployments are also being carried out by new entrant companies and many local authorities and communities are showing a growing interest to deliver super-fast broadband to their areas.

2.31   As we move towards effective deployment and transition to new fibre networks, it is important for Ofcom to work to implement the recently developed NGA regulatory framework, so to ensure that consumers can continue to enjoy the benefits of competition, innovation and choice. As in previous years, Ofcom remains committed to the full delivery of equivalence in telecoms, where BT has to offer other providers wholesale access to its networks on an equal basis. Next year we will respond to the new challenges of delivering effective equivalence as a result of the transition to new fibre networks.

2.32   Mobile is the largest market that Ofcom regulates, accounting for more than a quarter of all retail communications revenues. Currently 40% of all voice minutes are mobile calls and SMS (text message) levels continue to grow rapidly. Alongside the continued expansion of traditional mobile services, mobile broadband dongles have experienced very high levels of growth over the past year.

2.33   Even though the sector is growing and innovating, the first document published as part of our Mobile Sector Assessment[10] highlighted some areas of concern in consumer protection, poor coverage in some areas of the nations, and social exclusion. During 2009/10 we will look at these, and other, longer-term issues around the evolution of mobile regulation, including mobile termination charges.

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[9] Next-generation access is a general term indicating the various telecoms technologies which enable the delivery of super-fast broadband. In the case of BT, the deployment of next-generation access involves the replacement of copper wires with fibre optic cables, capable of delivering faster broadband speeds.

[10] *Mobile citizens, mobile consumers* - http://www.ofcom.org.uk/consult/condocs/msa08/

Delivering public interest objectives remains crucial in the converging communications sectors

2.34 People's attitudes and use of communications technology are becoming increasingly diverse. In some ways, public outcomes are easier to deliver because of increased competition and choice. In others, the existing models for delivering public interests are facing serious challenges. Examples of this are Public Service Broadcasting (PSB) and the Universal Service Obligation (USO).

2.35 Our recent PSB review raised many of these issues – including the challenging economics of children's TV, regional news provision and the broader financial pressures faced by commercial PSBs.

2.36 The radio sector is facing significant difficulties, posed by severe economic conditions and changing technologies. In particular, the economics of DAB remain challenging for the players operating on this platform. The Digital Radio Working Group and the Digital Britain review have made initial recommendations about the future of digital radio, and over the next year we will continue to support these activities.

2.37 Ofcom is increasingly being asked to help secure public interest issues in online media. An example of this is the work where we responded to an invitation from the music, film and ISPs industries to support their discussions on measures to tackle illegal peer-to-peer file-sharing. When undertaking such activities Ofcom continues to have a role to ensure that the interests of citizens and consumers are effectively reflected in any decision we have to take.

2.38 With advances in availability and take-up of digital technologies, issues around access and inclusion remain critical across all of the communications sector and in our policy work. For example, there are differences in take-up and use of communications services between certain groups in the population, prompting further concerns about digital inclusion. Older consumers, as well as disabled people and those on lower incomes, typically lag behind the rest of society in the take-up of new services. We recognise that improvements in digital inclusion benefit individuals and society as a whole.

2.39 There are also gaps in mobile coverage in a number of parts of the UK; problems arising from this are particularly felt in some areas of Scotland, Wales and Northern Ireland. We also have challenges relating to the availability of new platforms, such as super-fast broadband technologies, which will be far from universal in the short term, and achieving a sustainable future for the USO.

2.40 During 2009/10 we plan to tackle the problems of geographic availability and take-up, and promote effective use of services and technologies by improving media literacy.

Consumer empowerment and compliance are as important as ever in times of severe economic conditions

2.41 Consumer empowerment and compliance are as important as ever in times of severe economic conditions. The UK communications sector is unlikely to remain immune to the significant economic pressures currently being felt on a global scale. A climate of increased uncertainty and volatility may create incentives for misconduct, aimed at taking advantage of uninformed consumers. Therefore, it is very important to ensure that efficient measures are in place to address any practices by service providers that result in consumer harm or detriment.

2.42   In a market in which the number of new offers is growing continuously and service propositions are increasingly complex, we need to ensure that consumers are able to make well-informed choices and move easily between services. In telecoms services, the number of consumers switching providers is increasing, but still represents a minority of total users. Moreover, in different segments of the sector there are barriers to switching. But there have been improvements in the level of consumer awareness and switching between services, and we must ensure that this continues.

2.43   We also need to sharpen our focus on media literacy. As the Digital Britain interim report emphasised, a media literate society will have the skills, knowledge and understanding that people need to make full use of the opportunities presented by both traditional and new communications services. It will also enable people to protect themselves and their families from the possible risks presented by new services, or misconduct by service providers. Responding to the step change in media literacy called for in the Digital Britain interim report, we have established a working group composed of representatives from a variety of institutions to work towards a National Media Literacy Plan.

There are some common themes throughout the policy areas described above

2.44   In addition to the areas discussed above, our strategic framework includes three cross-cutting areas of focus which will be relevant in 2009/10:

- **Simplifying regulation and minimising administrative burdens**: Ofcom will continue its commitment to reducing regulation and administrative burdens on the businesses we regulate in the interests of citizens and consumers. We seek to do this throughout our policy work, simplifying rules where needed and removing unnecessary intervention which may stifle market development and innovation. As the current economic pressures are likely to pose additional challenges for many of our stakeholders, it becomes imperative for Ofcom to reduce any unnecessary burdens caused by regulation

- **Maximising our impact on European and wider international policy development**: wider external developments over the past few years have indicated the need for increased focus on communications regulation and policy-making at an international level. During this past year we have actively engaged with the EU institutions in various legislative initiatives, such as the review of the European framework for electronic communications. This has progressed and will soon enter its implementation phase. 2009/10 will be characterised by a similar level of international engagement. Ofcom is strongly committed to a regulatory approach which is global in outlook, as many of our stakeholders are now part of multi-national operations. For this reason we will continue to embrace and, where appropriate, share best practice with our peers internationally, beyond Europe.

- **Preparing Ofcom's new strategic framework:** as we enter the final year of implementation of our current strategic framework, we recognise that the time is right to start developing a new strategic framework for Ofcom, which will enable us to plan and focus our efforts in the medium to long term. This work is now under way and will be closely linked to the support we will provide to the government's Digital Britain review.

Digital Britain

2.45   A number of respondents to our consultation referred to the importance of the government's Digital Britain review, and asked about the implications of the interim

report for Ofcom's work programme. This government-led review, overseen by Lord Stephen Carter, Minister for Communications, Technology and Broadcasting, is co-sponsored by DCMS and BERR.

2.46   Ofcom, as an independent regulator, is represented on the Digital Britain Steering Board which provides input to the review as it progresses.

2.47   The interim report, published in January 2009, specifically tasks us to make an assessment of our current responsibilities in relation to media literacy and, working with the BBC and others, to recommend a new definition and ambition for a National Media Literacy Plan. More detail about our planned work relating to media literacy is on page 28.

2.48   Additionally we will support the broader work programme identified in the Interim Report as required. In particular, where issues are directly linked to our own responsibilities we will provide market intelligence and other assistance to the Digital Britain team. For example, next generation access, illegal file-sharing and universal service obligations are highly relevant to our own work.

2.49   A final report from Digital Britain is expected later in the spring. Once published, we will seek to implement any findings or outcomes that affect our responsibilities and stakeholders as efficiently as possible.

Postal regulation

2.50   Following the recommendation of independent review of the UK postal services sector (Hooper report)[11] that responsibility for regulating the postal services sector should be transferred to Ofcom, we have been working closely with the government on the preparation of the Postal Services Bill. The Bill was introduced in the House of Lords on 26th February 2009 and Royal Assent is expected in July 2009, with powers formally transferring from Postcomm to Ofcom in October 2009.

2.51   Subject to the legislation Ofcom expects to have three main aims with respect to postal services:

- our overriding duty to carry out our functions in relation to postal services in a way we consider will secure the provision of a universal postal service;

- duties to further the interests of users, including where appropriate through competition; and

- duties to promote efficient investment and affordable prices.

Ofcom's proposed work programme has been designed to take these developments into account

2.52   The developments described above offer the prospect of new forms of consumer benefit, and new ways for citizens to engage in society. But they also pose a number of specific challenges for regulation. Additional challenges may arise from the increased uncertainty about the wider economic outlook. In face of significantly increased economic uncertainties, during 2009/10 we will work to promote opportunities for growth and innovation for the benefit of citizens and consumers.

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[11] http://www.berr.gov.uk/files/file49389.pdf

2.53   The analysis set out in the previous section shows that the key elements of our current strategic framework remain relevant. Consequently, the key focus of our work programme in 09/10 will be to continue work that is already in progress, while responding to the evolving market conditions.

2.54   As shown in Figure 3 on page 17, there are two broad types of activities:

- **Ongoing implementation**: these are activities resulting from past policy projects which are now being implemented; for example, Ofcom's work on digital switchover and the promotion of competition in fixed telecoms, following our telecoms strategic review. While major policy development work has in some cases now been completed, our focus on the smooth implementation of these policies is vital to achieving the aims of regulation.

- **Current policy development:** this category includes areas of policy development in 2009/10; for example, our work relating to online concerns such as privacy and copyright infringement, and issues facing business markets.

Figure 3: Strategic policy framework and major work areas for 2009/10

Elements of the framework	Driving forward a market-based approach to spectrum	Promoting competition and innovation in converging markets	Delivering public interest objectives as platforms and services converge	Empowering citizens and consumers and improving regulatory compliance where necessary
Policy implementation	• Releasing spectrum, including the digital dividend • Delivering international spectrum goals	• Promoting competition in fixed telecoms • Promoting competition in pay TV	• Promoting access and inclusion • Supporting the Digital Switchover	• Promoting media literacy • Developing and enforcing consumer protection policies • Enforcing competition and resolving disputes
Policy development	• Supporting the development of spectrum trading and liberalisation	• Enabling clear regulation for next generation access and core networks • Assessing our regulatory approach in mobile • Business consumers	• Preparing for the future of PSB • Supporting the evolution of radio • Supporting new approaches for online issues	• Promoting consumer information and improving switching procedures

Simplifying regulation and minimising administrative burdens

Maximising our impact on European and wider international policy development

Preparing Ofcom's new strategic framework

Enhancing Ofcom's ability to deliver on key critical areas

2.55   Our analysis of market developments suggests that there are a number of areas where delivery is vital in the short term. At the same time, convergence presents Ofcom with challenges that need to be addressed across the board. To ensure that we are well-equipped to deliver on our commitments to citizens and consumers, we have looked at our ability to plan and focus on the most critical work.

2.56   In doing so, we have identified a number of top priorities within our work programme that we think are key to delivering our statutory objectives. We will also reserve a share of Ofcom's capacity explicitly for dealing with unexpected issues arising during the course of the year.

A number of work areas are critical to the long-term needs of citizens and consumers

2.57   Delivering on all areas of the work programme is vital if Ofcom is to meet its statutory duties for citizens and consumers. However, within this programme there are a number of issues that will be particularly critical, for citizens, consumers, our stakeholders and Ofcom, in the coming year. These are the elements of our work that will deliver the greatest potential benefits to citizens and consumers, that address the greatest risks for citizens and consumers, and those which are most time-sensitive.

2.58   We have identified several priority areas for the coming year, as outlined in Figure 4 below. These were reached following input from Ofcom's statutory advisory bodies, which look after specific elements of consumer and citizen interests.

Figure 4: Highest-priority areas for 2009/10
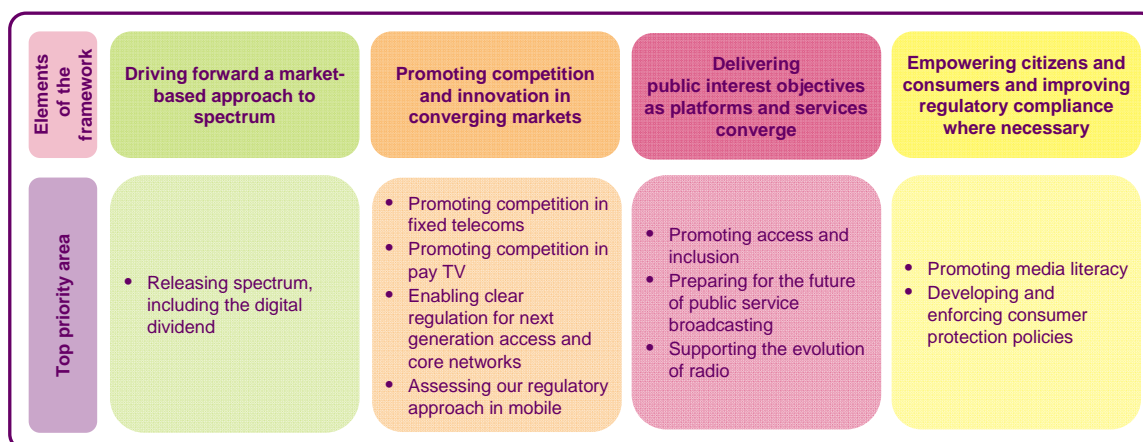
2.59   Ofcom will work to ensure that these highest-priority areas are adequately resourced to ensure delivery of our plans. Where additional resource requirements arise in the course of the year due to unexpected developments, these areas will take precedence over other areas of activity.

2.60   However, designating highest priority areas does not mean that other areas of policy and operational work identified for 2009/10 are unimportant. All the areas of policy work we have set out have been identified in our planning process as key to our fulfilling our duties towards citizens and consumers. We will continue to work to ensure that our plans in all areas of the work programme are fulfilled to the highest possible standard, and to deliver results in the critical areas identified.

Effectively tackling new issues that arise during the year

2.61   Our experience over the past five years has shown that, while our strategic framework enables us to identify key areas to address in the long term, the complexity and fast-paced nature of change in the communications sector means that unexpected issues will inevitably arise.

2.62   We have had to adjust our plans in a variety of areas over the past year due to unplanned external developments. Examples include our work on illegal peer-to-peer file sharing and broadband speeds.

2.63   As in previous years, we will reserve some capacity for unplanned work, to enable us to respond quickly and efficiently to any urgent citizen and consumer issues that arise in the course of the year.

Our approach should be consistent across our policy work

2.64   In addition to these defined work areas, the following principles will remain important throughout our policy projects in 2009/10:

a) **Considering the policy as it relates to each nation of the UK**. Ofcom's work is increasing influenced by the implications of institutional changes and differences in the nations, which our policy work must be sensitive to.

b) **Adhering to Ofcom's consumer interest toolkit.** This was introduced by Ofcom's Consumer Panel in 2006 as a way of ensuring that Ofcom identifies and addresses consumer interests in the development and implementation of its policy. It includes a series of questions that every internal policy project team should ask, to ensure that consumers are appropriately considered.

c) **Considering potential new bottlenecks and areas of regulatory concern**. This was previously identified as a standalone policy project in the 2008/09 plan, and it is now widely agreed that this is a critical feature of a large amount of our policy work.

d) **Open consultation with Ofcom's advisory committees and panels,** at numerous points in the policy-making process, will help to ensure that our policy work considers a range of implications for each nation, for older and disabled people and for consumers, including efficient use of spectrum, where appropriate.
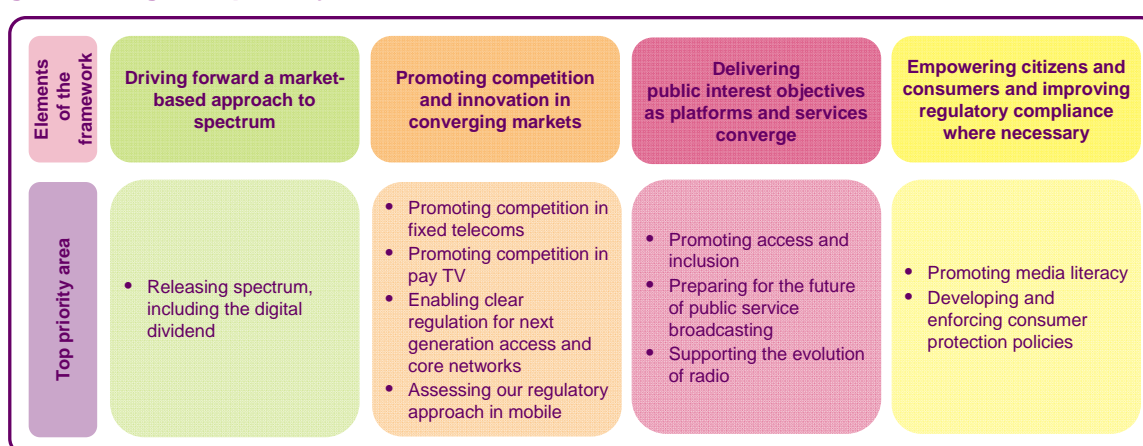
Section 3

Detailed work programme

3.1   This section describes:

- the work we will conduct under each of the prioritised policy areas; and

- an overview of the proposed activities under other major areas of work, grouped by the key elements of our strategic framework.

Prioritised policy areas in 2009/10

Figure 5: Highest-priority areas for 2009/10

Elements of the framework	Driving forward a market-based approach to spectrum	Promoting competition and innovation in converging markets	Delivering public interest objectives as platforms and services converge	Empowering citizens and consumers and improving regulatory compliance where necessary
Top priority area	• Releasing spectrum, including the digital dividend	• Promoting competition in fixed telecoms • Promoting competition in pay TV • Enabling clear regulation for next generation access and core networks • Assessing our regulatory approach in mobile	• Promoting access and inclusion • Preparing for the future of public service broadcasting • Supporting the evolution of radio	• Promoting media literacy • Developing and enforcing consumer protection policies

Releasing spectrum, including the digital dividend

3.2   The release of spectrum to the market for new uses is one of the most important ways in which we can help further the interests of citizens and consumers. Spectrum is the vital invisible resource for all forms of wireless communication and fundamental to the development of innovation and competition in sectors such as mobile communications and broadcasting.

3.3   We have prioritised developing and implementing our spectrum strategy ever since we were created. Twelve spectrum auctions have now been held in the UK, nine of them by us since 2006. Looking ahead, two crucial bands are now ready or well advanced in preparations for release.

3.4   The first of these is the 2.6 GHz band. This comprises some 205 MHz of high quality spectrum in the ranges 2500-2690 MHz and 2010-2025 MHz. This spectrum is important for the next generation of mobile broadband technologies, because it constitutes a large amount of mobile spectrum and creates a key opportunity to introduce new technologies with high bandwidths such as Long Term Evolution (LTE) and WiMAX. The latter is already being deployed in the US and some other markets. This spectrum also offers the prospect of new entry into the mobile communications market. The award of the 2.6 GHz band was scheduled for 2008 but has been delayed by legal challenges brought by two of the existing mobile operators. The starting date for the awards, when we invite applications, depends on the outcome of

this litigation. The spectrum is largely unused at present and is available for new commercial and consumer uses in the UK now.

3.5   The second band is the digital dividend. This is the spectrum that will be released as a result of digital switchover (DSO), which will conclude in 2012. There are two distinct types of spectrum within the digital dividend. One is the spectrum that will be cleared of existing uses across the UK by the end of 2012, mainly as a result of DSO: a total of 128 MHz. The second is the capacity that will be available within the 256 MHz of spectrum retained for use by the six digital terrestrial television multiplexes that will operate after DSO. This is known as interleaved, or white space, spectrum.

3.6   We set out our strategy for releasing the digital dividend at the end of 2007[12], and we are now in the process of implementation. We have proposed releasing the spectrum as soon as possible, with a programme of awards that began earlier this year with the auction of two packages of interleaved spectrum suitable for local television in the Manchester and Cardiff areas. The release of the digital dividend will remain a key strategic priority for Ofcom to take forward during 2009-10, particularly given our proposals to align part of the spectrum with the digital dividends increasingly being identified by other European countries.

3.7   We will also take forward work on other spectrum that can be released for new uses. This includes some smaller bands where we are preparing detailed proposals, notably at 872-876/917-921 MHz. We will also work closely with the Ministry of Defence to support its plans to release spectrum that it currently manages, including spectrum in the important 3.4-3.6 GHz band. Work is under way to examine options for other significant bands managed by the public sector, such as 2.7-3.1 GHz. We also expect a conclusion in 2009 to the EU process now under way to award spectrum for new satellite and terrestrial networks at 2 GHz, immediately adjacent to the frequencies auctioned by the Government for 3G services in 2000.

Promoting competition in fixed telecoms

3.8   The principles of equivalence and functional separation are fundamental to ensuring effective competition where there are enduring bottlenecks in the fixed telecoms market. It is now over three years since the BT Undertakings came into effect and much has been achieved during that period. Nevertheless, there are still some major Undertakings milestones to be achieved. Further, the advent of next generation core and access networks brings with it a number of new challenges, which could have an impact on the practical application of equivalence. We will continue to work with all parties to promote fair competition. This includes ensuring access to the equivalent wholesale next generation core and access networks products that alternative operators need to provide services to end users.

3.9   In 2009/10 we will focus on the following key areas:

   1) Ensuring that BT Group plc implements its Undertakings effectively by:

       •   monitoring BT's next generation core and access network deployment plans, to ensure that these developments do not prevent the effective delivery of obligations around network access and equivalence of input;

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[12] *Digital Dividend Review: a statement on our approach to awarding the digital dividend*
http://www.ofcom.org.uk/consult/condocs/ddr/statement/statement.pdf

- monitoring BT's progress against the agreed milestones for operational systems separation; and

- reviewing the effectiveness of the Openreach Service Level Agreements and Service Level Guarantees that came into effect in summer 2008 and which aimed to ensure that Openreach's incentives are better aligned to the delivery of high-quality services.

2) Completing our work on the new pricing framework for Openreach. This will set revised charge controls for the key regulated access products supplied by Openreach, including LLU and Wholesale Line Rental products. These regulated products will in turn have a key role in underpinning competition in voice and broadband markets.

3) Completing our work on the leased lines charge control, which will set price caps for BT's wholesale traditional interface and Ethernet leased line services for the next 4 years, in the markets in which it has SMP. Amongst other things, these controls will help to ensure that the cost of backhaul circuits declines, following BT's investment in more efficient WDM technology. We expect this to have an important role in supporting the development of higher bandwidth broadband services, in both fixed and mobile markets.

4) Promoting competition in the retail and wholesale narrowband (voice) markets, which will include completing the relevant market reviews and the review of the network charge control. Amongst other things, this will involve looking at the extent to which fixed and mobile telephony services are now regarded as substitutes of one another, and the best way of handling BT's planned migration to its 21C Network.

5) Monitoring the impact of our new policies in the wholesale broadband and business connectivity markets. Markets reviews were completed for these markets during 2008, so we are not planning any major new initiatives over the next 12 months. We will, however, keep the evolution of these markets under close review.

6) Developing the regulatory framework for next generation access and core networks, as set out below.

Enabling clear regulation for next generation access and core networks

3.10   Super-fast broadband is becoming a reality in the UK. Virgin Media launched a 50Mbps broadband product in December 2008, BT confirmed its plans to deploy next-generation access to about 10 million UK households by 2012 and several new entrants have all announced detailed plans for next generation access network deployment, although with different timescales and geographical coverage. In the past 12 months there has also been a step change in the interest shown by local authorities and communities in delivering super-fast broadband to their areas. At the beginning of 2009 more than 30 local projects were active in the UK[13], even though the majority of them are still going through their initial stages.

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[13] http://www.communicationsconsumerpanel.org.uk/Local initiatives on Next Generation Access in the UK.pdf

3.11   On 3 March 2009 we published our statement on super-fast broadband[14], in which we set out our policy positions and regulatory framework. This allows private-led investment in next generation access to progress by providing the certainty stakeholders need to make informed commercial decisions. Throughout next year there will be continued involvement from Ofcom on other more detailed issues and questions which will emerge together with further market developments, especially in relation to the promotion of sustainable competition.

3.12   Similarly, the public debate on broadband and super-fast broadband will gain momentum as the deployment of new networks takes place. We will continue to contribute to this; for example, by informing wider public policy development with respect to next generation access by the government, including ongoing contribution to the Digital Britain work areas. This will include close liaison with the government and other stakeholders to understand the likely scope of private sector investment and consider whether there is a need for public sector involvement to bring the benefits of superfast broadband to even more people.

3.13   Significant progress is also expected in the development of next generation core networks: BT is planning the launch of various next generation wholesale products as part of its 21CN deployment, and other fixed and mobile network operators are also expected to continue the process of moving to next generation technologies.

3.14   These developments are likely to stimulate active debate around the regulation of BT's 21CN products, including clarification of how equivalence of input (EOI) will be applied, possible implications for the BT Undertakings and the links between next generation core and access networks regulation.

3.15   Specific Ofcom activities in this priority work area include:

- Supporting early network deployments with flexible and pragmatic regulation, while continuing to promote competition.

- Implementing the action plan outlined in our super-fast broadband statement: this includes implementing our decision following the consultation on the proposed Undertakings variation which enables Openreach to offer EOI next generation access products[15]. We will also feed relevant policy decisions into forthcoming market reviews, and other policy development activities.

- Contributing to the development of government thinking on initiatives around super-fast broadband communications policy. This will include engaging with all stakeholders in the debate around public sector involvement for those areas of the UK in which purely market-led mechanisms are unlikely to provide sufficient incentives for the further development of broadband.

- Responding proactively to new issues as they arise from super-fast broadband service launches and trials.

- Publishing a consultation document on the regulatory issues raised by next generation network deployments and following this up with stakeholder engagement and a further publication during the 2009/10 planning year. This will include discussion of how regulated products should evolve in a next generation networks environment, consumer issues raised by the transition to new networks,

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[14] http://www.ofcom.org.uk/consult/condocs/nga_future_broadband/statement/
[15] http://www.ofcom.org.uk/consult/condocs/fttc/

and the longer term implications of next generation core networks for competition and interconnection.

Promoting competition in pay TV

3.16 The pay TV market has seen substantial growth in recent years, and is now worth £4 billion per year. Subscription revenues are now more important than advertising revenues as a source of funding for the broadcast industry. Recently, the industry has seen a number of significant developments which will shape the sector for years to come. These include:

- the emergence of new platforms for delivering pay TV services (DTT, IPTV and mobile TV);

- the consolidation, restructuring and re-branding of the existing cable platform; and

- measures by the European Commission to change the way in which key football rights (those at the Football Association Premier League) are sold, to enable more providers to enter the market.

3.17 Early in 2007 we received a submission from four major industry stakeholders: BT, Setanta, Top Up TV and Virgin Media. This submission asked us to investigate the pay TV industry and to consider whether to make a market reference to the Competition Commission under the Enterprise Act 2002. In April 2007 we also received a proposal from Arqiva / Sky to remove the three free-to-air channels that Sky currently provides on digital terrestrial television, and replace these with five pay TV channels as part of Sky's *Picnic* service.

3.18 We published first consultations on each of these areas at the end of 2007, in which we detailed some initial concerns. We issued further consultations in September 2008[16], which explored those concerns in more detail and set out our proposals for addressing them. These proposals include the application of a 'wholesale must-offer' obligation, under which certain premium channels controlled by Sky would be supplied on a wholesale basis on regulated terms.

3.19 We are now in the process of considering whether to proceed with this proposal. If so, we would issue a further consultation in which we will propose specific conditions of supply. We are also likely to consult if we decide to proceed in some other manner. If we decide to take no further action, we anticipate issuing a statement to that effect. We plan to publish this further consultation / statement during the first half of 2009.

Assessing our regulatory approach in mobile

3.20 The mobile sector is facing significant change. Therefore, in 2008, we started an assessment of our overall approach to regulation of the sector. This work seeks to answer four primary questions:

- What are the implications of market change for mobile and wireless services?

- How are citizens and consumers affected by developments in the mobile sector?

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[16] *Pay TV second consultation* http://www.ofcom.org.uk/consult/condocs/second_paytv/condoc.pdf

- What is the purpose of mobile regulation and where should its focus lie?

- What is the scope for deregulation, competition and innovation in the mobile sector?

3.21 On 28 August 2008 we published the first consultation of our Mobile Sector Assessment (MSA)[17], which closed on 6 November 2008. This first phase focused primarily, but not exclusively, on the first three questions. It highlighted a number of issues that we are now taking forward:

- A small but significant minority of customers are dissatisfied. By some measures, consumer concern is rising about issues like disputed bills, poor customer service and, in some cases, unacceptable practices like mis-selling.

- We are observing that 'not-spots' – places with poor or uneven coverage – seem to persist, despite competition. Different areas of the UK have quite different experiences of, for example, the extent of 3G roll-out. These problems are particularly evident in parts of Scotland, Wales and Northern Ireland.

- Some groups may be excluded from making full use of mobile services. For example, those who are older, and those who are disabled, are less likely to use mobile services.

- We want to adapt our regulation as convergence occurs. Our concern is that, without due care, regulation can become an obstacle to innovation and competition. We want to move quickly as new technologies enable us to remove or adapt rules.

3.22 We also see a need for a wide-ranging debate about what should happen after 2011, when the current mobile termination rate regime ends. Termination rates are the charges which network operators charge each other to complete calls. We are actively participating in the European debate and are analysing the possible approaches.

3.23 As a result of our first consultation and further research, we aim to publish proposals aimed at answering the final question of our initial scope for this assessment: What is the scope for deregulation, competition and innovation in the mobile sector?

3.24 We plan to publish these proposals in a further consultation at the beginning of 2009/10. We will address the specific points respondents have made in their consultation responses both to the Annual Plan and the MSA itself, e.g. regarding competition in the market (acknowledging that we have not conducted a market review), pricing of service, our approach to consumer policy and its aims and objectives. We will also look at access and inclusion with a focus on the disabled and elderly, as well as breadth and coverage of mobile coverage.

3.25 In parallel we will also publish the first consultation of our review of Mobile Termination Charge Controls.

Promoting access and inclusion

3.26 Ofcom's duties to further the interests of citizens and consumers mean that we are concerned with the availability of digital communications services, and with citizens'

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[17] *Mobile citizens, mobile consumers* - http://www.ofcom.org.uk/consult/condocs/msa08/

and consumers' take-up and effective use of these services, enabling them to participate in the economy, democracy and society as a whole.

3.27   Our primary involvement to date has been in three key areas: telephony, television, and media literacy, each of which is significant in its own right and our work in these areas will continue. This will include a review of the *Television Access Services Code.* This will consider the existing framework for the provision of subtitling, sign language and audio description, in the light of economic and technical developments to ensure that the Code continues to deliver access services to citizens and consumers in a proportionate and effective way. Our work in relation to Media Literacy is discussed on page 28.

3.28   However, given the significance of developments in digital technologies and a revolution in the social and economic use of such technologies, notably broadband and mobile services, we have reviewed our overall approach to access and inclusion and published a consultation on 18 March 2009[18] on where we should focus our efforts. This work complements the upcoming debate on a universal service commitment for broadband led by the European Commission and the UK Government's Digital Britain initiative.

3.29   As set out in our consultation, in 2009/10 we will step up our work in the following areas:

- **Broadband availability and take up**: We intend to help achieve a better understanding of the obstacles to increased availability and take-up of broadband and to work with others, including the Government's Digital Britain project, to overcome them. As part of this we will publish research into the reasons why key groups of people have chosen not to take-up internet at home and what could be done to promote wider take-up.

- **"999 mobile roaming":** In the UK, it is not currently possible to make an emergency call over any available mobile network when out of range of your home network. Ofcom is working with mobile network operators, the emergency authorities and call handling agents to introduce this in the UK. Subject to successful testing, this will be introduced later this year.

- **Services for disabled people:** We propose to review the difficulties disabled people face when using communications services. One specific aspect will be to assess the policy case for improving the existing text relay service, which enables hearing and speech impaired people to use the telephone.

- **Review of the existing Universal Service Obligation:** We intend to assess the way the USO currently works: its fitness for purpose and the extent of any financial burden it imposes.

- **Media literacy:** This remains a priority area, as outlined at page 28.

3.30   We will publish a statement on our access and inclusion priorities and work plan that incorporates consultation responses.

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[18] *Access and Inclusion: digital communications for all*
http://www.ofcom.org.uk/consult/condocs/access/

Preparing for the future of public service broadcasting

3.31   The Communications Act 2003 requires Ofcom to carry out a review of public service television broadcasting at least once every five years. We recently completed our second Public Service Broadcasting review and published a final statement and recommendations on 21 January 2009[19].

3.32   In summary, the final statement set out what we believe to be the four top priorities for public service broadcasting in the future:

- To **maintain the BBC's role and funding** for its programmes and services at the heart of the overall system.

- To support investment in and wide availability of high quality original programming and UK and international news, by positioning the **Channel 3 and Channel 5 services as commercial networks with a limited public service commitment**, with modest licence benefits balanced by appropriate obligations on a sustainable basis.

- To plan now to ensure the supply of **a choice of high quality news alongside the BBC in the devolved nations and English regions.** This should include developing proposals for a new approach based on independently funded news consortia.

- To ensure there is a financially robust **alternative provider of public service content alongside the BBC**, with Channel 4 at its heart, preferably based on partnerships, joint ventures or mergers, with the scale necessary to sustain effective delivery of public purposes across digital media. A new remit, governance and accountability will be essential.

3.33   We also recognise the value of choice in public service content for children and in the devolved nations. If these needs cannot be met sufficiently by these recommendations then we recommend that Government should consider funding specifically for children's content, and the case for specific approaches in each of the devolved nations for the delivery of public service content other than news.

3.34   We believe that, by acting now, there is an opportunity for government and Parliament to establish a healthy public service system for the future. Our final statement set out our recommendations in order to achieve this.

3.35   Alongside the work that the government is doing in this area to consider further our recommendations, Ofcom is taking forward work in a number of areas, including:

- Implementing the decisions in the short-term in relation to licence conditions set out in the document published alongside our PSB statement.

- Where necessary, further analysis and evaluation of the BBC's partnership proposals, such as Project Canvas and sharing the iPlayer with other broadcasters.

- Undertaking an assessment of the future viability of local media as a whole and to identify what policy approaches might be appropriate for the future including

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[19] *Ofcom's Second Public Service Broadcasting Review: Putting Viewers First*
http://www.ofcom.org.uk/consult/condocs/psb2_phase2/statement/psb2statement.pdf

but not restricted, to local TV. This will involve detailed research and market analysis and engagement with a wide range of stakeholders. We intend to publish later in the year.

- Working with government and its Digital Britain review across a range of issues including the options and implications of new partnership models involving Channel 4, sustaining plurality of regional news, and supporting digital radio across UK while sustaining localness.

- We are also due to undertake a review of the existing media ownership rules which are relevant to this area. More detail on this is on page 34.

3.36   Ofcom's next Public Service Broadcasting review will occur around the conclusion of digital switchover and towards the end of the current digital broadcast licences. This will be an important point to assess whether changes to the public service broadcasting system in the UK have been successful in navigating the transition from analogue to digital and most fundamentally, in meeting the needs of audiences throughout the UK.

Supporting the evolution of radio

3.37   We will continue to work with the Digital Britain review to take forward the outcomes from the Digital Radio Working Group. In particular we will focus on the implications for the future regulation of analogue and digital radio. Should the government decide to take forward further work on new legislation in relation to the outcomes from Digital Britain, we will provide advice and input as appropriate.

3.38   At all times we will also work closely with the radio industry, to meet the significant challenges posed by changing technologies and the more severe economic conditions.

3.39   In addition to the work outlined above, we will undertake a programme of work in relation to the ongoing licensing and regulation of radio broadcasting. This is described further on page 34.

Promoting media literacy

3.40   Ofcom's work to promote media literacy is intended:

- to give people the opportunity and motivation to develop competence and confidence to participate in digital society, and

- to inform and empower people to manage their own media activity (both consumption and creation).

3.41   Our approach has been, and continues to be, to provide leadership and to influence stakeholders (including policy makers, education, industry and the third sector) to promote media literacy for all members of society throughout the UK. We take positive direct action where necessary and appropriate to achieve our goal of promoting media literacy.

3.42   The Digital Britain interim report calls on Ofcom to make an assessment of its current responsibilities in relation to media literacy and, working with the BBC and others, to recommend a new definition and ambition for a National Media Literacy Plan. We have established a Media Literacy Working Group, Chaired by Stewart Purvis,

Partner for Content and Standards and comprising representatives of relevant government departments and education and training agencies, Nations, industry, and adult learning providers to take this work forward.

3.43   The National Media Literacy Plan will outline the basis of Ofcom's contribution to the step change in media literacy called for in the Digital Britain Interim Report.

3.44   The Byron review[20] recommended the creation of a UK Council for Child Internet Safety (UKCCIS). We will contribute to the work streams identified by the Executive Board in December 2008 as the Council's initial priorities. We will also contribute to the research programme to support the Council's work.

3.45   As promoting media literacy increases in importance in a converged world, there is a growing need to maximise efforts to understand and share learning about emerging issues at a European and international level. Ofcom has been joined by leading organisations with an interest in promoting media literacy in Australia, Canada, Ireland, New Zealand and the United States as founder members of the International Media Literacy Research Forum. The forum will facilitate the sharing of information and best practice in this area among researchers, academics and policy-makers and regulators across those countries.

3.46   In 2009/10 we will also work with a range of partners, including education providers, UK online centres, libraries and other support networks, to ensure that information about media and telecommunication services is made available to those sections of society who are not yet online, who may be hard to reach or have access requirements.

Developing and enforcing consumer protection policies

3.47   This work includes establishing a strategic approach to empowering consumers, ensuring that there is appropriate consumer protection and taking enforcement action where there is inadequate compliance.

3.48   We will progress work to ensure that consumers are protected from the potential for mis-selling of fixed-line voice services, and complete our review of whether improvements to the current regulations are needed. We will also continue to address slamming practices.

3.49   This priority area also covers our work relating to additional charges and, in particular, on how we expect suppliers to comply with the Unfair Terms in Consumer Contracts Regulations. The terms covered include non-direct debit charges, charges for terminating a contract early and automatically-imposed new minimum contract periods.

3.50   Additionally, this work area includes development of an understanding of providers' debt management practices and of the causes of unexpectedly high bills ('bill shock'), and the development of policies to address consumer harm arising from premium rate services. New issues may also emerge during the year as a result of complaints and via alternative dispute resolution outcomes, which we will reserve a share of capacity to enable us to respond effectively.
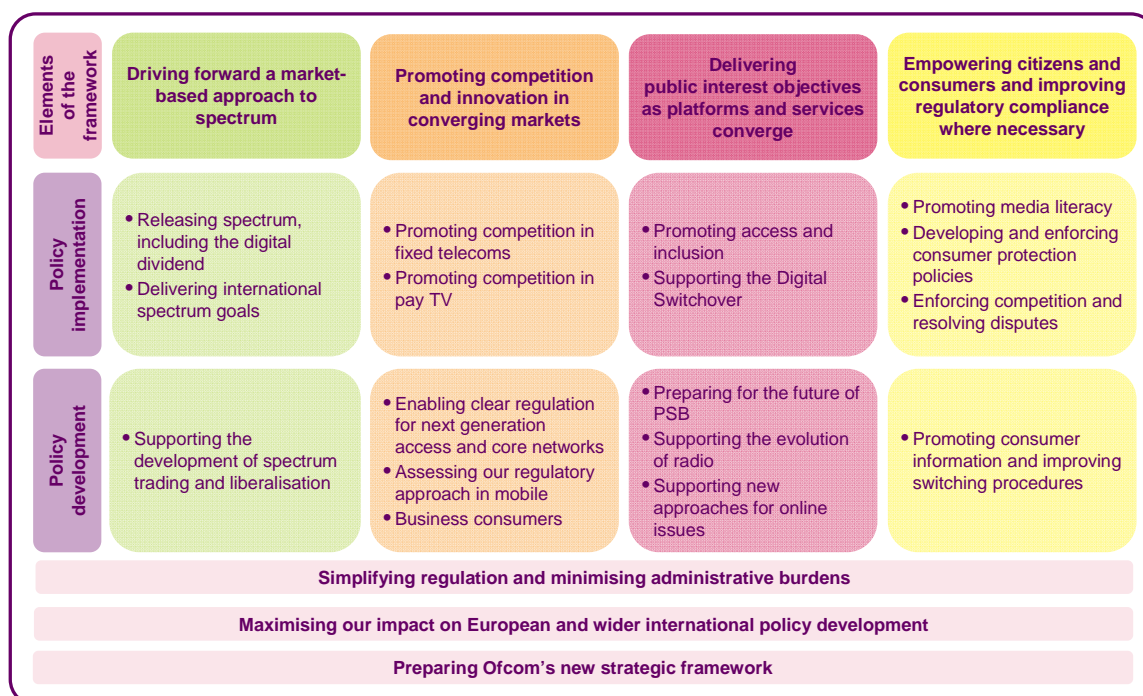
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[20] http://www.dcsf.gov.uk/byronreview/

Wider work programme for 2009/10

3.51   In addition to the policy priorities identified above, we have included a number of other major work areas in our proposed work programme. In the remaining part of this chapter we discuss these, grouping them under each of the four key elements of our strategic framework:

- driving forward a market-based approach to spectrum;

- promoting competition and innovation in converging markets;

- ensuring the delivery of public interest objectives; and

- empowering citizens and consumers and improving regulatory compliance where necessary.

Figure 6: Ofcom's work programme for 2009/10

Elements of the framework	Driving forward a market-based approach to spectrum	Promoting competition and innovation in converging markets	Delivering public interest objectives as platforms and services converge	Empowering citizens and consumers and improving regulatory compliance where necessary
Policy implementation	• Releasing spectrum, including the digital dividend • Delivering international spectrum goals	• Promoting competition in fixed telecoms • Promoting competition in pay TV	• Promoting access and inclusion • Supporting the Digital Switchover	• Promoting media literacy • Developing and enforcing consumer protection policies • Enforcing competition and resolving disputes
Policy development	• Supporting the development of spectrum trading and liberalisation	• Enabling clear regulation for next generation access and core networks • Assessing our regulatory approach in mobile • Business consumers	• Preparing for the future of PSB • Supporting the evolution of radio • Supporting new approaches for online issues	• Promoting consumer information and improving switching procedures

Simplifying regulation and minimising administrative burdens

Maximising our impact on European and wider international policy development

Preparing Ofcom's new strategic framework

Driving forward a market-based approach to spectrum

3.52   In 2009/10 we will continue our work on developing a market-based approach to spectrum management, to achieve optimal use of this valuable resource and to maximise the benefits of competition and innovation in wireless services. By allowing users to determine the best use of spectrum, we will reduce the regulatory burden of spectrum management.

3.53   In 2009/10 we commit to the work programme outlined below.

- **Releasing spectrum, including the digital dividend** – Details of this priority work area are discussed earlier in this section.

- **Supporting the development of spectrum trading and liberalisation** – During the next year we plan to progress the liberalisation of spectrum that has already

been awarded. A particularly high priority in this context is resolving the future of the 900 and 1800 MHz bands, which are presently restricted to 2G GSM technology. In its Digital Britain interim report[21] the government highlighted the importance of resolving quickly this issue, to allow re-use of the spectrum whilst maintaining a competitive market. The government believes that an industry-agreed set of spectrum trades could represent a better and quicker solution than one imposed through regulation. It gave the industry until the end of April 2009 to agree a way forward, or the Government will support an imposed solution. Ofcom too would welcome a proposal from the industry for a set of spectrum trades that would address potential distortions of competition arising from liberalisation of the 2G spectrum, and promote efficient use of this spectrum, for the benefit of consumers. We have recently published a consultation[22] which is intended to provide greater clarity as to Ofcom's concerns in these regards, and hence what we will be looking for a voluntary solution to achieve. It also sets out Ofcom's proposals as to what an imposed regulatory solution could look like, were the industry to fail to agree an acceptable way forward by the end of April 2009. This document proposes that 2x5MHz of 900 MHz spectrum should be released by the current holders and re-awarded by Ofcom. It is estimated the award would be held in 2010 and the spectrum released for use in 2011.

- **Delivering international spectrum goals** – We will continue to work on promoting a market-based approach to spectrum internationally, building on the progress made to date, especially in Europe, and developing a stable international framework to underpin our spectrum awards programme. The programme of work will involve active participation in relevant international fora at the bilateral, European (European Union and Committee on European Postal and Telecommunications Administrations - CEPT) and international (International Telecommunications Union - ITU) levels. Specific objectives include:

  o adoption and implementation of the new EU framework for electronic communications networks and services;

  o promoting harmonisation through the application of technology- and service-neutral approaches in international fora and European spectrum decisions to facilitate spectrum availability on a common and flexible basis;

  o developing international and bilateral agreements to provide regulatory certainty for our spectrum awards and for digital switchover;

  o extending to other countries the principles adopted in the UK for the effective management of public sector spectrum; and

  o preparing to achieve UK goals in the ITU World Radio Conference in 2011, including encouraging more flexibility in the international regulatory environment.

3.54 In addition to the above, in 2009/10 we are also planning the following additional projects:

- implementing the recommendations of the Cave Audit, in particular by defining the spectrum access rights of public bodies;

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[21] http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf
[22] http://www.ofcom.org.uk/consult/condocs/spectrumlib/

- encouraging better use of spectrum in the aeronautical and maritime sectors;

- implementing a new licensing approach for spectrum that is used to support business operations, with increased opportunity for trading and flexibility in use;

- providing better information about current spectrum use; and

- taking stock of the current system of spectrum pricing, which has been developed over the last decade, to ensure that it is well-designed and effective.

3.55   The list of projects and planned outputs relative to our spectrum work, together with relevant Ofcom contacts, is available on our website[23].

Promoting competition and innovation in converging markets

3.56   Competition brings consumer benefits through greater convenience, choice and innovation. The promotion of effective competition is therefore central to the fulfilment of Ofcom's duties.

3.57   In 2009/10 we commit to the work programme outlined below.

- **promoting competition in fixed telecoms;**

- **enabling clear regulation for next generation access and core networks;**

- **promoting competition in pay TV; and**

- **assessing our regulatory approach to mobile.**
  Details of these priority work areas are discussed earlier in this section.

- **Business consumers** – we will launch a new workstream to understand the experiences of business users of telecom services and to assess whether Ofcom needs to do more to ensure business customers' needs are met. As part of this work, we will undertake a research programme to identify whether the needs of business consumers of telecoms services are being adequately met, and will also evaluate the extent to which Ofcom's policies are adequately targeted at addressing any competition or consumer concerns.

In addition to the above, in 2009/10 we are also planning the following **additional projects**:

- review of our long-term strategic approach to the numbering plan in the light of consumers' need for service and price transparency;

- completion of the current market review of the retail and wholesale markets for fixed narrowband (voice) telephony services, together with any associated network charge control; these reviews will also consider the regulatory implications of BT's plans for 21CN voice services; and

- market impact assessments in relation to new services being developed by the BBC, as determined by the BBC Trust.

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[23] http://www.ofcom.org.uk/about/accoun/reports_plans/annual_plan0910/projects/spectrum/

3.58   The list of projects and planned outputs relative to our spectrum work, together with relevant Ofcom contacts, is available on our website[24].

Delivering public interests, as platforms and services converge

3.59   The development and implementation of policies and regulations for the delivery of public interest objectives must be considered in a continuously changing environment.

3.60   In 2009/10 we are proposing the work programme outlined below.

- **promoting access and inclusion;**

- **preparing for the future of public service broadcasting**; and

- **supporting the evolution of radio;**
  Details of these priority work areas are discussed earlier in this section.

- **Supporting the digital switchover** – we will assist Digital UK, the organisation set up to manage the digital switchover process in the UK, and the government, in ensuring a smooth transition to digital television. The process accelerates rapidly in 2009 with the Border, Granada and West Country regions completing switchover and Wales beginning its switchover. We will support this process throughout our activities in licensing, spectrum management and international spectrum co-ordination work, as well as in research and policy activities.

- **Supporting new approaches for online issues** – use of the Internet for the delivery of content and applications, as well as communications, raises a challenging set of new issues for citizens, consumers, industry and Ofcom. For our part, Ofcom is keen to support the growth of legitimate new services, delivered within sensible regulatory frameworks which protect the interests of citizens and consumers. Ideally, this will be achieved through industry-led initiatives. We are happy, if invited, to provide support for such initiatives where appropriate. A recent example is where we responded to an invitation from the major music labels, the Hollywood movie studios and the major UK internet service provider industries to support their discussions on measures to tackle illegal peer-to-peer file-sharing. When undertaking such activities Ofcom continues to have a role to ensure that the interests of citizens and consumers are effectively reflected in any decision we have to take. Going forward, the Government is consulting on legislative measures to address P2P illegal file-sharing and we expect to continue to play some role, but the exact nature of this role is subject to consultation.

3.61   In 2009/10 we are also planning the following **additional projects**.

- **Review of the Broadcasting Code** – In 2008/9 we committed to develop further the Broadcasting Code to reflect changes in society and in the broadcasting and regulatory environment. We have now embarked on a targeted review of the Broadcasting Code to ensure that it remains fit for purpose; that is, providing adequate protection for citizens and consumers, and a consistent and robust regulatory framework for broadcasters.

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[24] http://www.ofcom.org.uk/about/accoun/reports_plans/annual_plan0910/projects/comp/

The review will be aimed at rules where mandatory changes must be made in light of new European legislation (the Audiovisual Media Services Directive) and areas of the Code where we believe revision is necessary. In order to better inform the Code Review, we are commissioning consumer research on attitudes in relation to both sexual imagery and commercial references in radio. We will publish this research, together with a public consultation on the Code Review, in summer 2009. We will also commission consumer research on attitudes in relation to offensive language in order to inform the application of the rules in this area. This research will be published together with a statement on the Code Review, and the revised Code in December 2009.

- **Review of media ownership rules** – Ofcom has a statutory duty under section 391 of the Communications Act to review the operation of the Media Ownership Rules and send a report to the Secretary of State, including our recommendations on whether the Secretary of State should exercise the powers which he has to change Media Ownership Rules. Ofcom must provide a report at least every three years. Our last review was in November 2006. We must report again to the Secretary of State by 13 November 2009. We have commenced work on the review and expect to publish it later this year.

- **Maximising efficient use of DTT spectrum** – in April 2008 we set out a plan to reorganise services on the DTT multiplexes to allow the upgrade of Multiplex B to enable new services, including HD services. In July 2008, legislation came into effect empowering Ofcom to implement this plan. We began implementation by running a competitive tender process, which resulted in us reserving capacity on the upgraded multiplex for Channel 4/S4C and for ITV licensees to provide two HD services (in addition to one BBC service) and continue our support of the practical implementation programme led by the BBC.

  In 2009/10 our primary focus will be finalising the regulatory framework including licensing of the new services and effecting the reorganisation of existing services on DTT. We also expect to award capacity for a fourth HD slot, to continue our coordination of the DVB-T2 technical pilot and to closely monitor progress of the implementation programme.

3.62 **Licensing of radio broadcasting** – in addition to our work to support the evolution of radio, we have planned a significant programme of work in relation to the licensing and regulation of radio broadcasting, including:

- preparation for the future re-advertisement (by auction) of the three national analogue commercial radio licences; we will also proceed with the re-advertisement of existing local analogue commercial radio licences as they approach expiry;

- where appropriate, extending and renewing existing local analogue commercial radio licences to increase their duration in accordance with statutory requirements – during 2009/10, we will also consider the process for the renewal of the first national radio multiplex licence; and

- completing the second round of licensing new community radio services, and considering what form any further community radio licensing might take.

3.63 **Licensing of television broadcasting** – we will continue to undertake a programme of work on the licensing of television broadcasting:

- the ongoing licensing of non-BBC television broadcasting services, including channels on the Freeview and Sky platforms;

- considering requests from licensees for variations to their licences, e.g. changes to the line-up of services on a DTT multiplex service; and

- ensuring that all relevant licences allow for the smooth implementation of the digital switchover process.

3.64 The list of projects and planned outputs relative to our public interest work, together with relevant Ofcom contacts is available on our website[25].

Empowering citizens and consumers and improving regulatory compliance where necessary

3.65 Empowering consumers and citizens is a primary focus of our work. Citizens and consumers can benefit only if they able to make informed choices. It is also likely that our scope for maintaining and improving regulatory compliance will increase over time, as the communications sector becomes increasingly influenced by uncertainty and volatility in the wider economic context.

3.66 In 2009/10 we commit to the work programme outlined below.

- **promoting media literacy**;

- **developing and enforcing consumer protection policies**.
  Details of these priority work areas are discussed earlier in this section.

- **Promoting consumer information and improving switching procedures** – this work area includes the following activities:

  o We will work to improve the information provided to consumers by implementing our accreditation scheme for price comparison websites. We accredited two price comparison websites in June this year.

  o In addition, we will work to ensure that consumers have access to relevant quality of service (QoS) information to empower them to make informed choices in the marketplace. We are currently reviewing the existing Topcomm scheme.

  o We will also progress our work on improving switching processes, in order to ensure that current processes do not inhibit consumers' ability to switch – both for single migrations and in relation to bundled product offerings. We will continue to work with the industry on examining the case for the greater harmonisation of switching processes.

- **Enforcing competition and resolving disputes** – we will continue our work on existing competition investigations and disputes, and address any new issues emerging in 2009/10. Ofcom recognises the importance of its role in resolving commercial disputes: we are under a statutory obligation to perform this function and will ensure that adequate resources are available to ensure this function is fulfilled in a timely manner.

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[25] http://www.ofcom.org.uk/about/accoun/reports_plans/annual_plan0910/projects/public/

3.67   The list of projects and planned outputs relative to our consumer empowerment work, together with relevant Ofcom contacts, is available on our website[26].

Simplifying regulation and minimising administrative burdens

3.68   As the current economic pressures are likely to pose additional challenges to many of our stakeholders, it is important for us to reduce unnecessary burdens of regulation. We are seeking to do this, consistently with our regulatory principles, and where appropriate to further the interests of citizens and consumers. Key areas of work planned for 2009/10 to simplify and reduce regulatory burdens are outlined below.

- As part of the PSB review, we reviewed and consulted on the obligations associated with Channel 3 licences. As a result, we made changes to these licences to allow ITV to make an estimated saving of £54m a year, to reflect the decreasing value of Channel 3 licences.

- In March 2009 we provided further clarity to our proposed approach to regulating next generation access (NGA). Our approach to regulating the planned NGA deployments in the UK is flexible to encourage the development and trial of new products and services, and sufficiently light-touch to allow for experimentation in pricing and business models, while also promoting competition and protecting consumers.

- Our work on extending licence exemptions for an increasing range of radio equipment aims to reduce regulatory burdens and enable the use of innovative new technologies, both of which form part of the implementation of our Spectrum Review. We published regulations on licence exemption in September 2008 and further work is planned for next year.

3.69   Our latest *Simplification Plan*, which was published on 11 December 2008[27], sets out further detail of our efforts in this area.

Maximising our impact on European and wider international policy development

3.70   Wider external developments in recent years have highlighted the need for us to focus on communications policy-making at an international level. In terms of our work programme Europe continues to be our primary focus. We will engage with communications regulators in other European countries, both through our regulatory networks as well as bilaterally to pursue, where appropriate, a coherent and coordinated approach to international communications services regulation.

3.71   We will also continue to actively input into in the development and implementation of EU legislation. There are several important areas of EU-level policy development for us to focus on in 2009/10. To address these we will:

- continue to work with the UK government and engage at a European level to ensure that the interests of UK citizens and consumers are fully represented in the review of the European Framework for electronic communications, as well as

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[26] http://www.ofcom.org.uk/about/accoun/reports_plans/annual_plan0910/projects/empower/
[27] http://www.ofcom.org.uk/about/accoun/simpl08/

other ongoing initiatives which have an impact on the communications sector, such as the *Roaming Regulation*[28] the review of EU Consumer Law.

- actively input, directly and where appropriate, through the European Regulators Group (ERG), to the Commission's future policy thinking and the follow up to the i2010 initiative, particularly in key priority areas for Ofcom such as NGA, termination rates, universal service, access and inclusion, media literacy, and online content; and

- contribute, if the Commission brings forward proposals, to the review of the *E-Commerce Directive*[29] and the *Conditional Access Directive*[30].

3.72   We are conscious that many of our stakeholders are now part of multi-national operations and communications markets around the world, and are having to adapt to current economic challenges. For this reason, understanding the various approaches and developments globally is a key part of our international work. This will involve monitoring market and regulatory developments, participating in dialogue on priority issues to inform our own decision-making, and, where appropriate, share best practice with our international peers.

3.73   During 2009/10, we aim to deepen bi-lateral relationships with North America, China, Japan, and others, and will be bringing greater focus to building a forum for dialogue with other rapidly growing markets of India, South America and Russia, many of which are leading the way with new applications and services on a phenomenal scale.

Preparing Ofcom's new strategic framework

3.74   In 2009/10 we will establish a new strategic framework for developing Ofcom's work programme and priorities in the medium term. Although the current strategic framework is still considered relevant, and is sufficiently flexible to cope with change in the short term, the current dynamic nature of the communications sector means that we must reconsider our approach to strategic planning and developing our work programme.

3.75   The development of a new strategic framework will look at how our role may need to change in the longer term, and will consider the implications for Ofcom of the work that the government has been conducting through the Convergence Think Tank and in the Digital Britain review.

3.76   The work that will lead to the publication of a new strategic framework will consider a wide range of issues affecting the long-term evolution of the communications sector and the evolution of the frameworks for regulation. We received a number of helpful responses to the draft annual plan consultation which raised issues for us to consider as we develop a new strategic framework. This feedback is summarised in on page 58.

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[28] http://ec.europa.eu/information_society/activities/roaming/regulation/index_en.htm#new_rules
[29] The Electronic Commerce (EC Directive) Regulations 2002 – http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0031:EN:HTML
[30] Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 – http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31998L0084:EN:HTML

Section 4

Providing services to citizens and consumers

4.1   As well as policy development, Ofcom delivers key services to citizens, consumers and other stakeholders.

4.2   Every year Ofcom receives around 300,000 requests from the public asking for advice on consumer issues in the communications market, complaining about the poor performance of a service provider, or raising a specific content issue. We take direct enforcement action on behalf of a variety of stakeholders; for example, in keeping the airwaves free from interference.

4.3   In 2009 we expect to support over 220,000 spectrum licences, with over 150,000 renewals and new applications, covering satellite, fixed links, private business radio, amateur, maritime and other spectrum users. We are progressively introducing a new information services system to manage these transactions.

4.4   In this section we provide an overview of the services we deliver to stakeholders as part of our normal business operations, and describe the links between delivering services to stakeholders and achieving our policy priorities.

Keeping the radio spectrum free from interference

4.5   We monitor the radio spectrum and take appropriate action to prevent harmful spectrum interference. The increasing demand for spectrum is leading to more intensive use and greater risk of interference, and we anticipate further work as the London Olympic and Paralympic Games approach (further details in figure 7), together with our continuing commitment to digital switchover. Our Field Operations team handles around 17,000 cases per year. They take action to:

- protect safety-of-life communications, including emergency services and air traffic control;

- prevent illegal use of the radio spectrum;

- enable legitimate use of spectrum by, for example, providing advice and assistance to spectrum users; and

- ensure that non-compliant equipment is removed from the market.

4.6   Our strategy has been to focus our resources on keeping the radio spectrum free from harmful interference. This has involved a wide-ranging transformation of our Field Operations team, including the organisational structure, property, vehicle and equipment strategy, volume and mix of work, and people-management and culture.

4.7   In 2009, we will review our requirement for technical equipment in preparation for the London Olympics. Specifically, we are looking to modernise our current unmanned monitoring system (UMS) and our remote monitoring and direction-finding (RMDF) capabilities, used for detecting illegal spectrum use; and upgrade the test equipment used by our field engineers.

4.8   We constantly review our operational procedures in pursuit of excellence, and will achieve ISO 9000:2000 accreditation in 2009, which will complement the UKAS accreditation renewed in 2008. A continued commitment to the professional development of our colleagues and the recent employment of engineering apprentices will deliver a field force that is fit for purpose in 2009 and beyond.

4.9   Our current focus is on reviewing our approach to enforcement, to ensure that we obtain the best value for money, and maximum effectiveness, in the key areas of illegal broadcasting, equipment compliance, spectrum monitoring and interference resolution.

Licensing access to the radio spectrum

4.10   Ofcom controls access to the radio spectrum by issuing, renewing and revoking licences. Where necessary, we make frequency assignments, perform site clearances and coordinate the use of spectrum internationally.

4.11   In 2008, we replaced legacy licensing systems supporting Fixed Links, Light Licensed and Business Radio products with a new suite of systems. At the same time, we simplified our Business Radio licence products and adjusted the fees charged, providing a better service for our customers in these areas.

4.12   We have improved the web portal supporting Amateur and Ships licensees, to enhance users' experience and simplify processes.

4.13   In 2009 we aim to further improve the licensing service by:

- adding all licensing products, including Space & Satellite, and auctioned licences, to the new licensing system;

- enabling stakeholders to apply for, and receive, Private Business Radio licences online; and

- implementing systems to enable a market-based approach to spectrum in the future.

4.14   We will also publish a consultation on a draft spectrum plan for the London 2012 Olympic Games and Paralympic Games. Further detail on this is provided in figure 7 below.

Figure 7: Preparing for the London 2012 Olympics

The London 2012 Olympic Games and Paralympic Games will take place between 27 July and 9 September 2012, and will be staged at various locations across the UK. Ofcom is responsible for organising a full spectrum plan, licensing users and managing any interference during the event itself. This will be the largest spectrum management exercise undertaken since Ofcom's creation, and our key objective is to deliver our remit for the Games successfully with least disruption to existing spectrum users.

We have responsibilities in a number of areas:

- The design of a spectrum plan that fulfils the Government's guarantees to the International Olympic Committee, as specified in the London 2012 bid.

- Ensuring an effective spectrum licensing system, both ahead of and during the Games, that meets the needs of Olympic spectrum users.

- Ensuring the smooth running of the Games. Our Field Operations team will have to effectively manage any interference on a real-time basis across multiple venues.

We are currently conducting work on spectrum planning and we plan to publish a consultation document with a draft plan in the spring of 2009. Moving forward, we will need to address a number of policy and operational issues, including:

- designing our overall approach to the task and setting the optimal division of labour between Ofcom and other entities;

- defining our approach to licensing, interference management, enforcement and related issues;

- ensuring the availability of the correct people, equipment, infrastructure and systems;

- ensuring that our operational plan is robust enough for unplanned events; and

- minimising the costs involved, both in operational activities and spectrum use.

We plan to work closely with colleagues who have organised, or are organising, similar events in Melbourne, Beijing, Sydney, Athens and the Winter Games in Vancouver. We will also consult and co-operate closely with all the relevant stakeholders.

Our initial findings and overall proposed approach will be outlined in the spring 2009 consultation. Further planning activities will include preparation for the test events, scheduled to take place from 2010 onwards.

Dealing with enquiries and complaints from the public

4.15   Ofcom's Central Operations team deals with enquiries and complaints from consumers about telecommunications services, TV and radio services, and use of the radio spectrum. Every month we answer around 20,800 phone calls, 3,300 messages via our website, 1,200 emails and 1,500 letters and faxes.

4.16   Consumers often complain to us about telecoms issues when they have had inadequate responses from service providers. We aim to help consumers resolve their complaints by pointing them to useful advice and information and by liaising with service providers.

4.17   People usually complain directly to us about TV and radio programmes. We consider complaints relating to a number of areas such as protection of under-18s, harm and offence, fairness and privacy, and impartiality and accuracy in news. However, we do not consider issues relating to impartiality and accuracy in BBC programmes, which is the responsibility of the BBC Trust. We also deal with complaints about programme sponsorship and alleged commercial influence.

4.18   We are investing in information systems to improve our call-handling performance in addressing enquiries and complaints. We also aim to optimise the role of the Ofcom Advisory Team in providing early warning about consumer concerns, such as silent calls, slamming and mis-selling. This is against the backdrop of rapidly changing communications markets; new topics of concern arise all the time and create unexpected increases in the number of complaints we receive.

Allocating telephone number ranges to service providers

4.19 Ofcom plays an important role in allocating telephone number ranges to communications service providers who in turn allocate individual numbers to their customers. The number of applications received from service providers grows steadily. We are now processing in excess of 2,000 applications every year.

4.20 As part of our strategic review of telephone numbers, we established the following principles governing numbering:

- the numbers consumers want should be available when they are needed;

- the numbers consumers currently use should not be changed if this is avoidable;

- the understanding that consumers have about certain types of numbers – such as 080 numbers being freephone – should be maintained;

- number allocation processes should support competition and innovation; and

- consumers should not be exposed to abuse.

4.21 Ofcom has applied these principles to telephone number allocation to ensure that our process is efficient, consumer-driven and market-led. We have introduced number conservation measures in additional geographic areas so that service providers can use numbers more efficiently. We are also introducing a consumer protection test into our number allocation process to ensure best use of numbers and to better protect consumers from scams, fraud and other forms of abuse using telephone numbers.

Providing information services

4.22 Ofcom provides information to the public about use of the radio spectrum. This is an important contribution to the efficient coordination of spectrum use; and also facilitates the trading of spectrum licences by stakeholders. Ofcom plans to extend the online information available to the public, which will be underpinned by our new licensing system currently being introduced.

Publishing market research and communications market reports

4.23 We will publish a wide range of reports on developments in the communications sector and on the attitudes of citizens and consumers:

- our series of *Communications Market Reports* will cover developments in television, radio, telecoms and the internet across the UK and around the world;

- our *PSB Annual Report* will assess the state of public service broadcasting in the UK and the extent to which the purposes and characteristics of PSB are being fulfilled; and

- we will publish our annual *Consumer Experience* report which will assess consumer access choices, empowerment and concerns across all of the sectors regulated by Ofcom.

4.24 We will also publish *Digital Progress* reports on:

- digital TV, every quarter; and

- other fast-moving markets, on an ad-hoc basis.

4.25 Finally, we will publish all research commissioned across the year in support of Ofcom's policy projects. Our approach to research will ensure that we are able to gather an evidence base that allows us to deliver the statutory obligations we face to promote equality.

Links between operational and policy delivery

4.26 The effective delivery of our operational services is closely linked to the key policy areas set out in our strategic framework. For example:

- *driving a market-based approach to spectrum* will be underpinned by the reform of spectrum licensing and effective interference management;

- *developing new mechanisms for delivering public outcomes* is supported by Ofcom's Advisory Team, which handles complaints about programmes broadcast on TV and radio;

- *improving compliance and empowering consumers* will benefit from the early warning system provided by the Ofcom Advisory Team, and effective action to tackle illegal broadcasting; and

- *promoting conditions for competition and innovation* will be supported by the efficient allocation of telephone numbers and technology research and development.

4.27 Figure 8 below provides some examples of the important links between the services we provide for stakeholders and the policy areas identified in our three-year strategic framework.

Figure 8: Links between operational and policy delivery
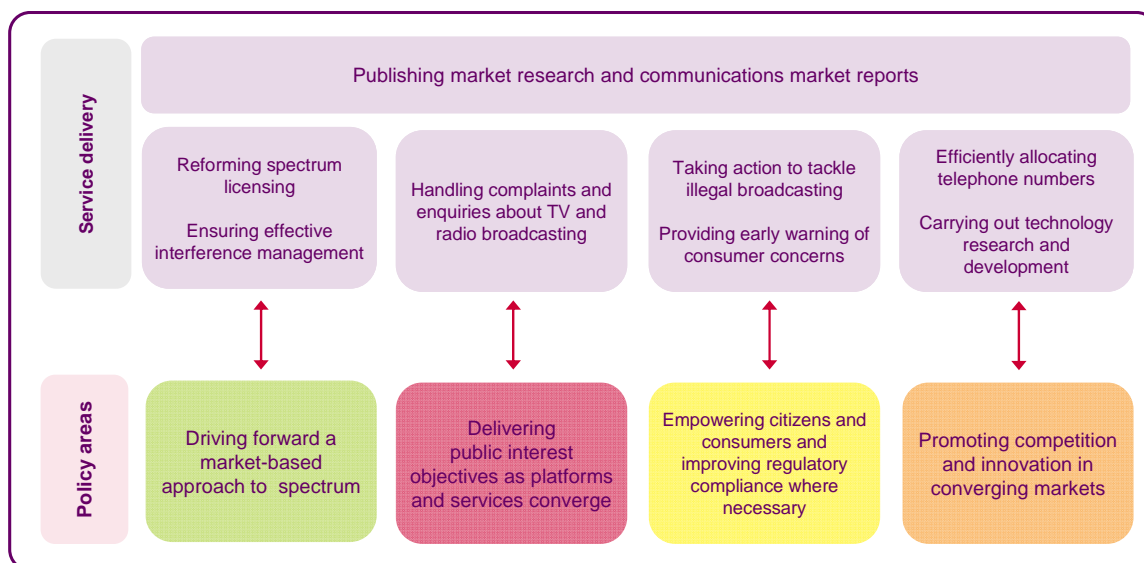
Adopting sustainable practices

4.28   Ofcom seeks to adopt sustainable practices throughout its policy and operational work. In light of growing public concern over environmental issues we decided to develop a comprehensive approach to ensure that our activities are environment-friendly. As part of this effort, we performed an initial audit of Ofcom's carbon footprint in 2007, identifying a number of areas where we could make a positive difference - for example, in employee communing and power consumption of data services.

4.29   Last year we committed ourselves to a target of reducing Ofcom's emissions by 25% by 2012/13, with the longer term aim of a further 25% reduction by 2020. Ofcom is working with Government, environmental advisors, and with regulators in other industry sectors, to share best practice.

Section 5

Delivering value to stakeholders

5.1   Since its inception Ofcom has realised consecutive real-term reductions in its budget to deliver value for money to stakeholders. For 2009/10 our operating budget will be £136.8m. On a like-for-like basis, this is 4% lower in real terms than our budget for 2008/09 and 21% lower than our original budget set in 2004/05.

5.2   During 2008/09, Ofcom has focused on a number of initiatives to further enhance the value for money provided to stakeholders:

- continuing the review of our property portfolio with further rationalisation being achieved this year;

- competitive tendering of major supplier contracts, maximising commercial competitiveness via a targeted category approach;

- adoption of collaborative procurement activity across a broad community of regulators and use of a formal benchmarking methodology for all contracts against our peer group;

- an ongoing drive to reduce the volume of printed publications whilst making sure that all Ofcom's publications can be easily accessed on our website; and

- improving the quality of service and efficiency provided by our Field Operations team. A higher proportion of cases are now resolved in the office rather than through visits.

5.3   A programme of further initiatives are planned for the coming year to improve the efficiency and effectiveness of the organisation, including:

- rationalisation of our printer, photocopier and server estates, both to reduce cost and to contribute towards achieving our carbon footprint reduction target.

- review and revision of our core administration and support processes as part of our continued drive to deliver value for stakeholders;

- continued and ongoing review of the specification of significant supplier contracts and their commercial arrangements; and

- a full review of all Ofcom procurement processes and requirements to promote Diversity and the inclusion of Small Business into the Ofcom supplier base.

Annex 1

Summary of stakeholder comments

General comments

A1.1   During the ten-week consultation period, stakeholder feedback to the Draft Annual Plan showed broad support for our proposed work programme for 2009/10. There was general consensus that our three-year strategic framework remained relevant in its final year. Likewise, there was agreement among stakeholders that the identified top priorities were the right ones for the coming year.

A1.2   We are pleased that so many stakeholders agreed with the ongoing relevance of our three-year framework and with our proposed policy priorities for 2009/10. The work programme proposed in the Draft Annual Plan was developed following extensive analysis of market trends and internal discussions with Ofcom's advisory bodies which represent the interests of various consumer and stakeholder groups.

A1.3   One respondent questioned the order in which the four themes of the strategic framework were presented. Another stakeholder asked whether the priorities were ranked in any way to reflect their relative importance.

A1.4   We deliberately attach equal value and importance to each of the four themes of the strategic framework. Similarly, Ofcom's priorities represent those work areas which we think are most important in the coming year. These priorities are of equal importance to Ofcom so we do not rank them in any way.

A1.5   Several respondents to the consultation highlighted the need for Ofcom to continue to work in the consumer interest, especially in a more challenging economic climate when the risk of consumer detriment may increase. One stakeholder questioned whether Ofcom is always able to operate in the interests of both citizens and consumers.

A1.6   Ofcom has duties to further the interests of citizens in communications matters, and to further the interests of consumers in relevant markets. These twin duties, set out in the Communications Act 2003, recognise that we are all citizens and consumers.

A1.7   As consumers, we participate in the marketplace, typically seeking the best outcome for ourselves in terms of price and quality. Consumer interests are, in most cases, best served by promoting competition, while also ensuring adequate protection and empowerment in markets.

A1.8   As citizens, we are participants in a democratic society, with rights and responsibilities established by Parliament and devolved administrations. While markets can go some way in serving the interests of citizens, broader public intervention is often required. Such interventions often have associated costs and may not always align with our individual interests as consumers.

A1.9   These issues were discussed in more detail in Ofcom's discussion paper *Citizens, Communications and Convergence*, published in July 2008 for consultation[31]. As we noted in that paper, some of the outcomes described in the Communications Act are not defined precisely and, in some cases, the way in which the outcomes

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[31] http://www.ofcom.org.uk/consult/condocs/citizens/discussionpaper.pdf

should be achieved is not specified. We do have some discretion about how we fulfil our remit, although our powers to act are also constrained. Ofcom therefore needs to be as evidence-based, transparent and accountable as possible, and to seek a broad range of views when making policy decisions.

A1.10   One stakeholder asked for our views on Consumer Focus's recently issued report *Rating Regulators[32]*, which considers the performance of six UK regulators from the consumer perspective. The report commends Ofcom for developing a successful organisation-wide consumer focus and puts forward some recommendations for further improvement. We welcome this study as it provides us with a chance to learn from an evaluation of our own practices and that of other regulators. We are now in the process of reviewing the outputs from the report, and will consider its recommendations so that we can better deliver good consumer and citizen outcomes.

A1.11   During our public consultation events, a couple of stakeholders asked for more details about deliverables and timescales relating to specific priorities and work areas.

A1.12   In our planning process we first develop and consult on a broad approach and a proposed work programme, and we subsequently finalise the detail of timing and outputs for specific projects. Alongside the final annual plan, we publish a table on our website containing descriptions of all our planned projects, details of outputs and the appropriate contact responsible for each output. This table is updated periodically throughout the year so that stakeholders can check when we will be publishing consultations they are interested in. We are committed to reviewing and evaluating our performance, and then applying what we have learnt. A number of tools enable us to do that – including impact assessments, our stakeholder survey, and our Annual Report.

A1.13   One respondent asked for more details about how Ofcom proposes to consult with all stakeholders. For us, an effective consultation means allowing all those interested in the outcome of a particular decision to have their say before we make that decision. We have set out our consultation principles in more detail at www.ofcom.org.uk/consult/consult_method/ofcom_consult_guide

A1.14   The same respondent also asked for an indication of whether a move towards greater use of accessible language and defined technical terminology will form part of our work in 2009/10. Our consultation principles include a commitment to making consultation documents as short and simple as possible, with a summary in plain English. If an issue is particularly complicated we provide a shortened plain English summary for smaller organisations or individuals who might not otherwise share their views. This is an ongoing commitment for Ofcom, and will continue to feature in our documents in 2009/10.

A1.15   One respondent asked about potential changes to Ofcom's Board to increase representation of Scottish issues. All appointments to the Ofcom Board are made by DCMS and BERR, so issues about specific National representation are for them to consider.

A1.16   Another stakeholder suggested that Ofcom's objectives should be extended: "ensuring that a wide range of electronic communication services *and the content,*

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[32] http://www.consumerfocus.org.uk/en/content/cms/Consumer_Focus_Publi/Consumer_Focus_Publi.aspx

applications and services that run over them, is available throughout the UK".
Ofcom's duties and responsibilities are set out in the Communications Act 2003, so
any change to Ofcom's duties and responsibilities would require primary legislation.

A1.17   One stakeholder noted that Ofcom should take into account the impact that different
communication technologies and convergence will have on carbon emissions. The
same stakeholder noted that this would be consistent with Ofcom's remit to serve
citizens as well as consumers.

A1.18   While Ofcom currently has no explicit duties in relation to the environment, we
regard protecting the environment as implicitly falling within our principal duties to
protect the interests of citizens and consumers in relation to communications.
Communications services consume energy and so drive greenhouse gas
emissions, but communications also have the potential to contribute towards a
reduction in overall emissions, by acting as a partial substitute for travel and
commuting.

A1.19   Many of the industry stakeholders we regulate are leaders in tackling greenhouse
gas emissions, and we warmly acknowledge the contributions and progress they
are making. We carried out the first-ever audit of Ofcom's own carbon footprint in
2006/07, and last year we committed ourselves to a target of reducing Ofcom's
emissions by 25% by 2012/13, with the longer-term aim of a further 25% reduction
by 2020. Ofcom is working with the government, environmental advisors, and
regulators in other industry sectors, to share best practice.

A1.20   We are currently beginning to explore how to take account of environmental issues
within our regulatory policy-making. We are starting to evaluate, with others, how
environmental costs and benefits might be accounted for within the Impact
Assessments we conduct for our regulatory decisions. We expect environmental
issues to figure more prominently in our work over the coming years.

A1.21   One stakeholder expressed concern that we need to improve the efficiency of our
Competition Act investigations. We strive continuously to enhance the efficiency of
our projects, and have specifically sought to mitigate the risk of unplanned work by
reserving a share of our capacity for such tasks.

Digital Britain

A1.22   A number of respondents referred to the importance of the Government's *Digital
Britain* review, and asked about the implications of the interim report for Ofcom's
work programme. More detail on this is set out at page 15.

Postal regulation

A1.23   One respondent enquired what impact the Hooper report will have for Ofcom's
proposed work programme for 2009/10. Page 15 provides more details.

Driving forward a market-based approach to spectrum

Spectrum release, including the digital dividend

A1.24   Most stakeholders welcomed Ofcom's willingness to release spectrum to the market
to enable new uses. One stakeholder in particular was keen to ensure that Ofcom

proceeds to auctions with minimum delay. We agree on this point: the quicker spectrum is released to the market, the sooner citizens and consumers will benefit from the services that use it.

A1.25   One stakeholder suggested that Ofcom should publish a spectrum plan, identifying the spectrum that we are planning to release, together with the planned release dates and dates of first use. This would provide clear information to all potential participants before bidding.

A1.26   We believe that likely participants in our future spectrum awards already have high visibility of the planned release dates and dates of first use. Details of all of our awards can be found on the spectrum awards page of our website[33], which also has the latest information relating to those awards.

A1.27   The same stakeholder asked Ofcom to give significant notice before proceeding with the auctions, so that approvals and sources of credit can be obtained. This is especially important during challenging economic times. The respondent also advised us to make available options to spread payments as necessary over the lifetime of the spectrum.

A1.28   We will continue to give as much notice of the dates of auctions as we are able. We considered allowing phased auction payments in the context of the digital dividend. The approach is advantageous in that it retains a clear auction process and allows full competition between competing uses. It is relatively simple to implement and may not require the setting of criteria for eligibility or ex-post enforcement if all bidders are given the opportunity to phase payments.

A1.29   Nevertheless, this approach carries potentially significant risks. First, there is a credit risk for us because of the risk of payment default by a bidder who has committed to a payment stream. Second, there is a risk that spectrum is returned to us if the business case of the winning bidder does not prove to be profitable and the payment stream cannot be maintained. In such a case, the return of spectrum to us for re-award would not be straightforward, given the administrative requirements we would need to meet.

A1.30   Several respondents welcomed our recent proposals to align more of the spectrum released as part of the UK's digital dividend with other European countries. A broadly similar subset of respondents highlighted that the digital dividend provides a real opportunity for implementing a broadband universal service obligation. One stakeholder went further in arguing that some spectrum could be given, free of charge, to those investing in next generation access.

A1.31   We believe that the best way to secure broader social value is for service providers to be directly funded to deliver the desired outcomes. Subsidised spectrum reduces incentives to use this scarce resource efficiently, and denies its use to others who might generate greater value for citizens and consumers; this would impose potentially significant costs on society. A more efficient mechanism would be to use the proceeds of spectrum auctions to fund service providers meeting a broadband USO or investing in NGA. Of course, decisions about the use of proceeds from spectrum auctions are a matter for the government.

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[33] http://www.ofcom.org.uk/radiocomms/spectrumawards/

A1.32   One stakeholder argued that some of the released spectrum should be reserved for smaller suppliers; trading mechanisms do not go far enough, as big operators are very unlikely to give away their spectrum to small competitors.

A1.33   We do not agree that spectrum should be reserved for smaller and local players as a matter of policy, because other users who could generate greater value for citizens and consumers, would thereby be denied access. However, where there is a significant risk that a market-based approach will not maximise social value, we will consider intervening, as we did when we identified and released geographic packages of interleaved spectrum suitable for local television operators.

A1.34   A respondent noted that the economic downturn may have an impact on the value of spectrum. He also argued that Ofcom's reaction to this may depend on whether our objective is to maximize the income from the release of spectrum or to ensure that the spectrum is used efficiently.

A1.35   The objective of our spectrum awards is to ensure spectrum is used efficiently. It is not – and, given our statutory duties, cannot be – to maximise auction receipts. We most recently considered the efficiency of spectrum use post-award in the context of the digital-dividend cleared spectrum. We will return to this issue when consulting further on the detailed design of that award later in the year.

International spectrum goals

A1.36   Two respondents emphasised the importance of harmonisation, ideally at global level, but if that is not possible, then at European level. We agree with the importance of harmonisation and the benefits that it can bring to the UK economy and citizens and consumers.

A1.37   Ofcom works extensively across a variety of European and international fora to promote the availability of spectrum, according to common conditions, to facilitate such harmonisation. We believe that this is best achieved by making spectrum available according to common and minimal conditions, and in line with principles of technology and service neutrality, which therefore also promotes innovation and competition. In most cases, the market is best placed to harmonise spectrum use across national borders. This underscores the benefits of EU Member States releasing similar spectrum under similar, flexible conditions, as evidenced by our recent proposals to align the UK's digital dividend with those of other European countries.

Promoting competition and innovation in converging markets

Promoting competition in fixed telecoms

A1.38   Stakeholders' opinions were divided on the potential scope for further deregulation in fixed telecoms markets: some see a significant opportunity for deregulation in narrowband markets, while others warned against the risks of premature deregulation.

A1.39   Since the Telecoms Strategic Review of 2004/05, we have looked ahead to a time when wholesale remedies would have developed to the point where deregulation of downstream retail markets might be justified. Our narrowband market reviews will consider whether this point has now been reached in the various narrowband retail

markets which are currently subject to ex-ante regulation. There may also be some scope for deregulation in wholesale markets. However, we will propose deregulation only where the evidence indicates that it is warranted, and where the removal of regulation will not lead to consumer harm.

A1.40   Two respondents emphasised that, when developing policy, Ofcom should not be overly focused on the position of the larger, infrastructure-based communications providers, but should pay equal attention to the role of smaller operators and of service providers without their own networks.

A1.41   We recognise that smaller service providers have an important part to play in the competitive landscape, and make a valuable contribution to innovation and market development. We will seek to ensure that we give due weight to the interests of the various categories of provider when formulating and implementing policy in fixed telecoms markets.

A1.42   One respondent called for us to carry out the review of 0845 regulation which we had expected to undertake in 2008. This piece of work was put on hold following delays to the implementation of reforms to the regulation of the 0870 number range, but we will be looking again at the case for a detailed 0845 review as part of an ongoing project on price transparency and numbering.

Enabling clear regulation for next generation core and access networks

A1.43   Several stakeholders emphasised the importance of next generation networks to the future growth and competitiveness of the UK economy. We agree that next generation networks have a potentially important role to play for consumers, citizens, businesses and the economy. We see the promotion of efficient investment as one of the main objectives of our policies on next generation core and access networks.

A1.44   A similar number of stakeholders expressed concerns about the potential for commercial developments in super-fast broadband to increase the digital divide. One respondent underlined the value of broadband for economic and social cohesion and called for public sector intervention to ensure the widest possible availability of next generation access (NGA). Another encouraged Ofcom to take into account the lessons learned during the development of first generation broadband and suggested that there might be a value in using trigger schemes, co-ordinated by the public sector, to reveal the level of demand for NGA in local areas.

A1.45   Although we think that private sector-led developments have the potential to provide real benefits to a significant proportion of UK citizens and consumers, we are aware that the commercial deployment of NGA in the UK will be far from universal. This means that there is a risk that many local areas could suffer economic and social disadvantages due to the lack of advanced broadband infrastructure. Our recent super-fast broadband statement focused primarily on enabling the first stage of super-fast broadband. However, it also underlined that in the coming year we will engage with all stakeholders including the government to make sure super-fast broadband will be made available to the widest possible proportion of UK citizens.

A1.46   We think that premature direct public intervention bears the risk of pre-empting efficient private-led investment. However, as the market develops it will become even clearer which areas of the UK will need action from the public sector to avoid a digital divide. The case for society to secure widespread availability of super-fast broadband services is growing and will continue to grow. Addressing this issue will

be a matter for the government as well as Ofcom. We will have a key role to play in finding the right balance between private sector investment, the wider activities of the public sector and the regulatory framework that underpins both areas. Public sector involvement could take various forms, and trigger schemes have already proven useful to foster community-led localised next generation access deployments in other European countries.

A1.47   Industry stakeholders had diverging perspectives on whether Ofcom's support for early commercial deployments should be "flexible and pragmatic"[34], as specified in the Draft Plan. One stakeholder re-stated that this point is fundamental if regulation is to respond effectively to market developments. Another was concerned that this wording could indicate that Ofcom wishes to abstain from its regulatory principles to safeguard commercial developments.

A1.48   Our approach to NGA regulation is based on key principles, which we first consulted on in 2007, and which have since gained widespread support from stakeholders. The principles are designed to deliver the two key objectives of our regulatory approach: the support for efficient investment and the promotion of sustainable competition. We believe that in the short term, regulation should support the development and testing of new technologies, commercial relationships and services. This would help to reduce the significant uncertainties surrounding NGA, thereby concurring in enabling efficient investment. We believe this is consistent with the principles underpinning our regulatory approach and that it still allows us to retain a long-term focus on the aims of regulation.

A1.49   Similarly, industry stakeholders had differing views on how proactive Ofcom should seek to be in relation to next generation core networks: one respondent emphasised that regulation should be focused only on enduring bottlenecks, while other communications providers argued that we should be more active in ensuring that new networks develop in a way which supports effective competition in the future. One respondent emphasised that operators which have made a timely transition to next generation core networks should not be disadvantaged by the call termination rates they are allowed to charge other operators. Some also highlighted the impact of next generation core networks on specific services, such as directory services.

A1.50   We recognise the need to strike the right balance between promoting investment and safeguarding competition, so that the benefits to users of next generation networks can be optimised. This will be a central issue in our work during 2009/10.

Promoting competition in pay TV

A1.51   One respondent argued that the market definition for premium sports content should be widened to cover more than Premier League Football. The same respondent also reiterated specific comments made in previous pay-TV consultations about ancillary conditions for the launch of pay services on DTT.

A1.52   We are planning to publish a new pay-TV consultation or statement in the first quarter of 2009/10. In this document Ofcom will address the views that these and other stakeholders have expressed in previous pay-TV consultations.

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[34] *Ofcom Draft Annual Plan 2009/10*, page 22,
http://www.ofcom.org.uk/consult/condocs/draftap0910/draftap0910.pdf

Assessing our regulatory approach in mobile

5.4   One respondent pointed out that the mobile market had delivered well for consumers through competition and innovation. Despite the issues we have highlighted above, we acknowledge that this is largely the case, and that customer satisfaction with mobile services is very high. Nevertheless, we do not intend to take our attention off those who are not able to benefit from services in the same way as others, or have suffered consumer harm.

5.5   We will address the specific points that respondents made in their consultation responses, both to the Annual Plan and to the Mobile Sector Assessment, e.g. regarding competition in the market (acknowledging that we have not conducted a market review), pricing of services, our approach to consumer policy and its aims and objectives. We will also look at access and inclusion with a focus on the disabled and elderly, and at mobile coverage.

5.6   We also note that some stakeholders made specific proposals with regard to changes to the termination regime. We will address these suggestions in the consultation on mobile termination rates which we plan to publish in Q1 2009/10.

Business consumers

A1.53   Several stakeholders welcomed Ofcom's initiative to look specifically into the needs of business consumers. Some respondents offered to co-operate with Ofcom on this issue. One respondent asked us to provide more detail on our programme of work in this area.

A1.54   Ofcom is now scoping a research programme to identify whether the needs of business consumers of telecoms services are being met. The research findings will inform our evaluation of whether Ofcom's policies are sufficiently targeted at addressing any competition or consumer concerns.

Mobile number portability

A1.55   Two stakeholders noted that Ofcom is now in the process of reviewing mobile number portability, but that the Draft Plan did not mention this workstream.

A1.56   Following the successful appeal by Vodafone[35], Ofcom initiated a new review of number portability arrangements in the UK during the last quarter of 2008. The purpose of the review is to consider if any changes are needed to the process of porting mobile numbers, and the routing arrangements for calls made to ported fixed and mobile numbers.

A1.57   Ofcom wants to ensure that the process to change mobile provider and keep one's number is as simple and hassle-free for consumers as possible. It should foster effective competition in the market between operators, provide an easy method for end-users to keep their number when changing provider, and be available to all end-users as a right.

A1.58   Ofcom is also keen to ensure that there are no barriers in the way of operators routing efficiently to ported numbers. Following the outcome of this review, Ofcom will decide whether to take action, including consultation on any proposed changes.

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[35] CAT judgement available at http://www.catribunal.org.uk/files/Judgment_1094_180908.pdf

A1.59   One respondent noted that it is very difficult for smaller mobile entrants to obtain mobile number portability from established players. Regrettably, this had had a slow start for a number of different reasons, some of which have required Ofcom action. However, we are encouraged that there has been progress recently; one of the smaller new entrants has secured portability, and entrants who have only recently started negotiating portability are making good progress. There has been a lot of learning throughout this process, both by the incumbent operators and by the new entrants, particularly in relation to the technical establishment of porting arrangements. The process for establishing portability is now being documented by the Operator Steering Group (OSG) and should, we hope, serve as a useful tool for others seeking portability in future.

Delivering public interests as platforms and services converge

Access and inclusion

A1.60   A large number of stakeholders welcomed our proposed programme of work in the 2009/10 plan relating to access and inclusion. Several respondents asked for greater clarity about the detail of this work, which is given on page 25-26 of this document and in the access and inclusion consultation document published in March 2009[36].

A1.61   One respondent emphasised that the needs of disabled consumers, particularly blind or partially sighted people, must be considered fully in this work. We have commissioned research into assistive technologies in communications, which was published in March 2009[37]. The report focused on unmet needs, new technologies and ongoing research and development programmes.

A1.62   Ofcom has a duty to promote the development and availability of easy-to-use consumer equipment, but there are no powers attached to this duty. Usability is an issue for all citizens and consumers, but has a particular impact on elderly and disabled consumers, many of whom would like to see mainstream equipment that is usable and accessible rather than having to rely on specialist equipment. We cannot resolve these issues on our own, and we will continue to work with industry, consumer and research groups and others to discuss and promote good practice in this area.

A1.63   One respondent raised questions about our planned review of the *Television Access Services Code*, specifically asking that we increase the audio description target from the current statutory quota of 10% to 20%.

A1.64   We think the time is right to look again at whether we should recommend to the government an increase in the audio description quota. We will examine this issue as part of the review of the *Television Access Services Code* this year and will consult widely with stakeholders. We plan to assess the costs to broadcasters and the benefits to users of an increase in the audio description quota, as well as the implications for the overall provision of access services.

A1.65   It will be important to avoid a situation in which rising quotas for all access services could lead to a significant reduction in the number of broadcasters required to

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[36] http://www.ofcom.org.uk/consult/condocs/access/
[37] http://www.ofcom.org.uk/research/usability/research/

provide them. We will assess the likelihood of this, and consider ways to protect access service users, within the existing legislation.

A1.66   Another stakeholder enquired about the future provision of text relay services. The existing text relay service will continue to be marketed by BT. All communications providers have a duty to provide access to an approved relay service for deaf and speech-impaired people and to publicise the availability of this service. We have also commissioned a study into the social and economic advantages of additional relay services, and we will be considering the findings of this during 2009/10.

A1.67   Another stakeholder commented that the introduction of a 999 mobile roaming service requires a careful technical feasibility study. We believe that the regional trial we are planning with mobile operators and the emergency authorities will ensure that technical issues are fully explored before 999 roaming is introduced.

A1.68   Some respondents asked for clarity around Ofcom's work relating to universal service obligations. During 2009, Ofcom will review the implementation of the existing Universal Service Order, with reference to the existing framework, the extent of any burden and the sustainability of current funding arrangements.

Public service broadcasting

A1.69   Respondents welcomed the recognition that public service broadcasting will continue to be a priority for Ofcom in 2009/10. In doing so, one stakeholder emphasised that we must continue to recognise the different needs of audiences in the devolved nations, and provide clarity about multiplex arrangements in Scotland. Another stakeholder reiterated comments about the future of religious programming in Northern Ireland.

A1.70   We will work towards the optimisation of frequency use in Scotland and other parts of the UK following digital switchover, and will liaise with UK government and other stakeholders on this in the coming year.

A1.71   Two stakeholders expressed the desirability of further work to identify the challenges facing local media, specifically in relation to local TV. In the PSB Review, we concluded that we should undertake further work to assess the future viability of local media as a whole, and to identify what policy approaches might be appropriate for the future, including, but not restricted to, local TV.

A1.72   We intend to publish a consultation later this year, seeking to address three broad objectives:

- to determine what media provision is required at a local level to meet the needs of citizens and consumers;

- to assess the future viability of the provision of local media content, within the context of the broadband vision set out in *Digital Britain*; and

- to assess potential policy approaches for sustaining a healthy and vibrant local media sector, with a role in underpinning local democracy in the UK.

A1.73   The project will involve detailed research and market analysis and engagement with a wide range of stakeholders.

Supporting the evolution of radio

A1.74   Several stakeholders raised questions in relation to Ofcom's work on the future of the radio sector, particularly in the light of the *Digital Britain* interim report and the work of the Digital Radio Working Group.

A1.75   The Digital Britain interim report commissioned an independent review of the sustainability of local radio in a digital world. We will support that review, while also providing our views to the Digital Britain review. We will then seek to consult on potential changes that are within Ofcom's remit and implement any decisions as soon as possible following the publication of the final Digital Britain report.

A1.76   One respondent urged Ofcom to consider commercial radio's proposal for the removal of radio-specific ownership rules. We are due to carry out a statutory review of the ownership rules before the end of 2009 and will make our recommendations to the Secretary of State. However, any changes are a matter for government.

A1.77   Another stakeholder felt that deregulation of localness requirements should be a priority in 2009/10. The rules relating to localness were significantly relaxed after consultation a year ago. This reduced the obligations to provide local hours of radio broadcasting by 50%, and allowed many stations to co-locate. We keep the level of regulation in the radio sector continually under review to ensure that any regulation is proportionate to its benefits.

A1.78   Some stakeholders raised questions about the DAB platform, including future funding and its success around the world. Any decisions about public funding to extend DAB coverage are a matter for government. A number of countries already have adopted DAB, and France and Germany have announced plans to launch DAB services within the next year.

A1.79   Another respondent urged Ofcom to consider closing the DAB platform at a local level and extend all FM local licences for a further 12 years. We believe that DAB provides listeners with significant benefits, and the government has recently stated its commitment to enabling DAB to be a primary distribution platform for radio. Any extension to the term of other radio licences – including analogue and multiplex licences – is a matter for government. The Digital Britain interim report has explicitly rejected calls for the extension of FM licences at this time.

A1.80   Several stakeholders welcomed the forthcoming process for re-awarding independent national radio (INR) licences (or national commercial radio licences). The first INR licence is not due to be scheduled until next year, and we will publish the timetable and process for the advertisement of the licences before the end of 2009.

Supporting digital switchover

A1.81   One respondent questioned the reliability and accuracy of the information provided to consumers about digital television broadcast coverage in different parts of the UK.

A1.82   Information for consumers on digital switchover is available from the Digital UK website www.digitaluk.co.uk. This includes a postcode checker tool that allows consumers to enter their postcode and, among other things, obtain information on when they will switch, and an estimate of the likelihood of receiving good reception

of digital transmissions, both now and after switchover. The information in the postcode checker is based on detailed computer simulations and will be continually updated to reflect the latest plans throughout the switchover period.

Empowering citizens and consumers and improving regulatory compliance where necessary

A1.83   This priority was highly valued among respondents, with many agreeing with our recognition that the economic climate requires even greater attention to the risk of harmful practices. We will work hard in the coming year to ensure that both citizens' and consumers' interests are promoted and protected.

A1.84   One stakeholder expressed reservations about Ofcom's role in additional charges, arguing that it would be more appropriate for the OFT to be responsible. While we are mindful of the synergies with the OFT's work, we have a duty to enforce the regulations in our sector. Publishing guidelines about our approach to enforcing the UTCCRs provides clarity to all stakeholders.

A1.85   One stakeholder commented that although the recent code of practice on broadband speeds reduces mis-selling, it does not significantly improve the level of information available to consumers. We agree that consumers would benefit from having better knowledge about broadband quality of service. We are currently considering how best to provide information to consumers on this, so that they can make more informed decisions on their choice of package and ISP.

Media literacy

A1.86   Stakeholders welcomed the inclusion of media literacy as a priority for 2009/10, while raising a number of questions about the implications of the Government's *Digital Britain* interim report. Several stakeholders emphasised the importance of ensuring that media literacy extends to disabled and disadvantaged people, and the different needs of consumers in the devolved nations.

A1.87   Working with the Digital Britain Media Literacy Working Group, we will propose a National Media Literacy Plan. This plan will include recommendations on a range of actions by government, industry and the third sector to make a step-change in the promotion of media literacy. We will ensure that all members of society, throughout the UK, are able to benefit from the opportunities made possible through media and digital communication technologies. This will include those sections of society which are not yet online, who may be hard to reach or have access requirements.

A1.88   Ofcom continues to work with stakeholders in the devolved nations to promote media literacy. We have established networks of stakeholders in Wales, Northern Ireland and Scotland, and we look forward to continuing this dialogue in 2009/10.

A1.89   One respondent argued that media literacy should aim for 'technological fluency' among consumers. Ofcom's work to promote media literacy covers all aspects of its definition of "the ability to access, understand and create communications in a variety of contexts". The development of skills to use technology effectively and safely is an important element of a person's media literacy.

A1.90   One stakeholder emphasised the importance of creative content, such as film and moving image material, to encourage citizens to become more media literate. We also recognise the importance of creative content in encouraging people to take up and use digital technologies and to enhance their media literacy. We look forward to

working with the creative industries, including the members of the Media Literacy Task Force, to promote the availability, use and enjoyment of film and moving image material.

A1.91   Another stakeholder suggested that the Post Office's network of branches could play a key role in digital inclusion and media literacy, enabling individuals to connect with others. We look forward to continuing discussions with the Post Office to understand what contribution their branches can make to delivering greater access and support to people wishing to develop their media literacy and confidence in using digital technologies.

Consumer information and switching procedures

A1.92   Three respondents commented on the importance of furthering our work on migration and switching. We will shortly be consulting further on the area of cross-product migration and, in particular the case for greater harmonisation of processes for consumers switching their communications services. As part of that, we will look at a range of potential options to take forward this work, including the extent to which industry may be in a position to take the lead in developing processes to improve consumers' experience of switching.

A1.93   One respondent asked whether Ofcom was doing any work to enable broadband customers to port their email addresses when they switch broadband provider. We place a high priority on the existence of effective switching processes. We consider that it is vital to support consumers' ability to switch between products and providers, so that consumers can consider available options and change their current service and provider when they want to, easily and with minimal disruption. In our work to date, we have not identified e-mail portability as a major inhibitor of switching between broadband providers. Indeed, we note that it is already open to consumers to create portable email addresses if they wish to do so. We will continue to monitor and evaluate this issue.

A1.94   One respondent enquired about our work relating to fixed-line voice mis-selling. We have recently published a consultation document which proposes a number of incremental changes to the existing regulations with the aim of addressing certain weaknesses in the way they are drafted. We are consulting on proposals to withdraw the July 2005 Direction concerning BT's use of 'cancel other' and to incorporate reduced requirements as part of a General Condition, applicable to all providers of fixed-line voice services.

Service delivery

A1.95   One stakeholder noted the need to identify potential new solutions for reducing levels of unlicensed radio broadcasting activity. We are aware of the problems caused by illegal broadcasters and we are continually taking action against such broadcasters and seeking longer-term solutions. We welcome proposals from stakeholders about any such solutions, and we would be pleased to engage with individual stakeholders about these issues.

Training in telecoms

A1.96   One stakeholder proposed that there should be a regulatory requirement for employers to provide training in the telecoms sector, akin to that in the broadcasting sector.

A1.97   The Communications Act 2003 requires Ofcom to promote training and development across the broadcasting industry, and to ensure that the arrangements made by broadcasters are effective. However, we do not have any such explicit powers in relation to the telecommunications sector. This is something that the government and Parliament may wish to consider in future revisions to communications legislation.

A1.98   However, Ofcom did initiate the formation of the Telecoms Diversity Network, which launched on 8 September 2008. The network is a voluntary group of telecommunications providers who have agreed to work together as a sector to explore ways to harness the benefits of diversity for their businesses and share best practice. Ofcom is initially acting as a facilitator, to get the network established by hosting events and sharing information. Another conference is due to be held in September 2009.

Maximising our impact on European and international policy developments

A1.99   Several stakeholders suggested that Ofcom should continue to promote harmonised approaches to regulation for competition across Europe. One respondent also noted that Ofcom, given its finite resources, should focus on European regulatory issues rather than sharing best practice beyond Europe.

A1.100 Europe will continue to be our primary focus, given the direct impact of EU policy and legislative developments in our work, and the need for coordinated and consistent action at regional level. Ofcom will continue to work closely with other regulators to share best practice, as well as with the government to pursue the development of an open and liberalised market at the EU level.

A1.101 However, it is also important to recognise that there are some instances where Ofcom has a legitimate role in intervening or representing the UK at a multi-national level (for example at the ITU and the OECD). Operators and investors act at a global level, and decisions made by international institutions and administrations in other countries can have an impact on UK communication providers and consumers. In this context, it is important that Ofcom is aware of major developments overseas, and maintains a dialogue with regulators on issues of key importance.

Ofcom's new strategic framework

A1.102 Many stakeholders provided helpful suggestions and comments about the development of Ofcom's next strategic framework. A key theme emerging from the stakeholder events is the need for us to consider fully the citizen and consumer impact of different communications technologies. Analysis of market trends and consumer research will be a central component of our evidence base in this work. We will also survey best practice in regulation, in the UK and internationally, to ensure that we learn from other markets and regulators.

A1.103 Several respondents suggested that a future regulatory framework should seek to achieve regulatory consistency across different platforms and services. One respondent argued that regulation of traditional media – such as television and radio – is anachronistic and overly interventionist compared to newer forms of media delivery. Another stakeholder felt that we should make a greater distinction between communications infrastructure providers and communications providers which provide services and content. Another respondent argued that Ofcom's new converged framework for regulation should concentrate on the competitiveness and

availability of end-user services, and that we should take a holistic approach to the regulation of the underlying markets, to ensure the maximum benefit to consumers.

A1.104 One respondent suggested that a new strategic framework should retain a commitment to balancing public interest objectives with recognising the benefits of a market-based approach to regulation. Similarly, other stakeholders stressed that a commitment to serving the interests of citizens and consumers must remain at the heart of any new framework.

A1.105 Other stakeholders raised specific points which we will consider over the coming months. These issues include the funding of universal service obligations, the designation of spectrum for small operators, the needs of business consumers, the circumstances in which Ofcom intervenes in consumer issues, and the mechanisms available for grievances. One stakeholder also asked us to consider a greater reliance on industry-led governance arrangements and self- and co-regulatory regimes.

A1.106 Some stakeholders urged us to wait for the outcome of the Digital Britain review before developing a new framework. We agree that any new approach to setting our work programme in the medium term must reflect developments in the sector, and Digital Britain is an important initiative that will inform our thinking and contribute to shaping our new strategic framework.

A1.107 In developing our next strategic framework we will engage with Ofcom's stakeholders later in the year, seeking input on Ofcom's broader direction as well as on our approach to specific policy and priority areas. This will form the basis of Ofcom's annual plan for 2010/11, which we will publish for consultation towards the end of this year.