



Designing the broadband universal service obligation: call for inputs

Ofcom

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Executive Summary

- The broadband Universal Service Obligation (USO) must be set within a legislative framework that guarantees a legal right. It should be the responsibility of the telecoms regulator, Ofcom, and not the telecoms industry to design and administer the USO;
- The USO must be seen to provide 100% coverage;
- Ofcom should engage in a comprehensive information and education campaign to underline the importance of a broadband USO to consumers;
- Whilst we accept and support the Government's objective of a USO safety net of 10Mbps, the CLA believes that this benchmark must evolve and increase as technological changes take place in the market;
- In order for the USO to meet the principle of universality, it must be based on a hybrid of different technologies. Simply relying on one technology – this being fibre – will limit the effectiveness of the USO as well as defeating its purpose;
- This also means that there should be more than one Universal Service Provider (USP) given the number of different technologies that are available. This would provide certainty to the consumer;
- In the event of the USO being set at a uniform price, there are likely to be net costs to USPs which would need to be catered for through a shared industry fund;
- An effective USO can be used as a mechanism to increase demand for broadband services. However, it is important that there is effective consumer protection through clear standards of service (through Service Level Agreements) and where compensation is available where the conditions of the USO are not met;
- In the provision of new housing both the infrastructure provider and property developer should be responsible for bandwidth provision and the USO benchmark of 10Mbps should be set as the minimum available speed in providing the appropriate bandwidth;
- Ofcom should retain the responsibility to monitor and review the provision of the USO. Ofcom should also be permitted to intervene in the market in order to maintain the credibility and effectiveness of the USO and to increase the threshold level as and when necessary.

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Introduction

1. The Country Land and Business Association (CLA) represents 33,000 members in rural England and Wales. They are either farmers, landowners or rural businesses but all see the availability of effective, reliable and affordable broadband as essential. However, the lack of effective and affordable broadband creates a major disadvantage for rural businesses that are seeking to grow and increase productivity. All of the CLA's membership will have an intrinsic interest in the design of a future Broadband Universal Service Obligation (USO) and the CLA welcomes this consultation as a means of finally putting in place a structure that will deliver universal coverage at sufficient speeds.

The necessity for a broadband USO

2. The importance of broadband to rural businesses and rural communities cannot be over-estimated. In England, rural businesses in 2014 generated some £229 billion Gross Value Added (GVA) to the overall economy. This is despite many of these businesses having either a limited broadband connection, well below 10Mbps, or no connection at all. It is also generally agreed that access to a reliable and effective broadband connection acts to stimulate economic growth. The CLA believes that putting in place a USO that can legally guarantee sufficient bandwidth will be transformational for many rural SMEs.
3. The CLA has consistently argued that a broadband USO has to ensure complete and universal coverage of the UK population. We believe that it is essential for the USO to adopt this as its fundamental principle. In addition, as with any form of obligation, those who meet the criteria should have a legal right to its protection. Such a legal right necessitates that where the conditions for a USO are not kept, the consumer must have a right to legal redress through compensation.
4. As with any legal guarantee the USO has to have the force of law. The CLA does not agree with the industry attempting to put in place a USO that has no legislative framework and as such, the CLA supports the Government in its present policy objective.

Specification and scope of the USO

How should the minimum technical performance of the USO be specified?

5. The Government has stated quite clearly in its public statements that the minimum speed should be set at 10Mbps. With this we agree. However, it is essential that this is seen as a benchmark of minimum performance, in other words a safety net and a threshold that must be able to evolve upwards as technological changes take place in the market and consumers see greater bandwidth.
6. The CLA also believes that it would be unwise and inconsistent with the approach towards universal coverage if the USO is predicated on one technology only. We are of the view that in order for the USO to work effectively, it has to embrace all forms of technology, from fibre through to satellite and other wireless provision. We are aware of rural wireless networks that have the capacity to provide bandwidth well in excess of fibre speeds and these need to be further developed and exploited.

How should we ensure that the USO is affordable?

7. The CLA recognises that there are different costing packages in the market place, primarily as a result of the different forms of technology employed. For example, the cost of a fibre superfast broadband package may be cheaper than that provided by a satellite provider. The question here is whether there should be a uniform price set for the USO.
8. If the USO is set at a uniform price those infrastructure providers that would normally sell at a higher price will lose money. This would mean that the provider would be expected to receive some form of compensation in order to retain a margin.
9. However, there are a number of other factors that need to be taken into account. Firstly, unlike the USO that applies to the postal market where there is only one provider, there are likely to be a number of providers in the broadband market through different forms of technology. Secondly, it is well known that the costs for the fixed line infrastructure provider are higher in rural areas than in urban ones. This means that there are already two different markets.
10. The question essentially revolves around the definition of what is “affordable”. The CLA would suggest that if the principle of the USO means a universal right to broadband for the consumer, the price of the USO may need to be capped at a level that is not prohibitive.
11. It may also be the case that consideration needs to be given to different price bands for different technologies. For example, the USO for a satellite connection may be more expensive than for a fibre connection. This, potentially, may have the effect of distorting the market. However, two important points need to be stressed. Firstly, it is unclear what percentage of rural areas will have access to a suitable fixed line broadband connection by 2020 although, if the government’s target is met, it should be at least 95% of premises. As the Ofcom consultation states, there is poor rural broadband availability in Wales, Scotland and Northern Ireland than in England which will continue. But importantly this is based on the availability of a superfast fibre connection, well over the 10Mbps benchmark.

12. Secondly, in areas where the availability of a fixed connection is proven to be uneconomic to the infrastructure provider, the current market allows for the provision of alternative technologies. The CLA would point out that wireless technology is now well advanced and will be able to provide a minimum speed of at least 10Mbps. We believe that this benchmark is more than achievable with current technology. What is important is that the 10Mbps threshold in 2020 may be deemed as insufficient in 2025 and therefore, would need to increase. This means that the USO must be able to be easily amended so as to fit the needs of the market place and the consumer.

Demand for the USO

What might the potential demand for the USO be?

13. It is generally accepted that an effective broadband connection, whether it be fixed or wireless, is essential to both rural businesses and rural communities. This is why there continues to be significant frustration in rural areas by the Government's failure to meet its own objectives in terms of broadband rollout.
14. As such, we would expect demand for the USO to be high although we accept it is unlikely to be 100%. We would accept the point made by Ofcom that actual demand will be affected by the technology on offer. However, we would anticipate that those who purchase a broadband connection would want to take advantage of the USO guaranteed speed and the forms of legal redress that would need to be available.
15. We also believe that in designing the USO, Ofcom must have regard for the type of compensation provisions to the consumer. This would be a matter for determining at what point the USO was deemed to have been breached. Factored into this would need to be a realisation that reaching certain speeds will not be achievable in all instances. There may be a myriad of factors that affect the delivery of bandwidth which may well be outside the control of a Universal Service Provider (USP). However, the USO needs to create a standard of service through clear Service Level Agreements under which the consumer would have the opportunity of seeking compensation from the USP.
16. What is also becoming increasingly important is the provision of relevant and up to date information as to what broadband package is available. We also believe that this needs to include ways in which broadband technology can actually be fully utilised which will require far better education provision. The CLA believes that, together with designing the USO Ofcom needs to explore the provision of better information and education to the consumer in order to stimulate demand for the USO.

Cost, proportionality and efficiency of the USO

Cost evidence

17. The CLA agrees with Ofcom that the costs of delivering the USO have to be both fair and proportionate. It makes little sense for a provider to offer the USO at a price that is prohibitive and market distorting. The whole point of the USO is to aim for universal coverage at a benchmark speed at a sensible cost.

18. We are aware that even by 2020 (the anticipated start of the USO) certain rural areas will not be able to benefit from a suitable fixed line connection. This is the direct result of market forces and the lack of demand aggregation. So this means that other technologies must be planned to fill this vacuum.

Proportionality and definition of a 'reasonable request'

19. The CLA recognises that providers will only need to meet requests for the provision of the USO if these are deemed to be reasonable. But as the consultation suggests, the question is the definition of what is reasonable.
20. Under the telephony USO, there is a cost threshold of £3,400. If the costs of connecting a telephone is below this threshold the customer pays a connection charge of £130. If the costs of delivering a service is over this threshold, it is the responsibility of the customer to pay any excess.
21. However, the provision of a telephone service is one technology. Broadband in the UK does not work along these lines given that there are a number of technologies available. The consultation seems to imply that a threshold will be necessary. However, this suggests the availability of only one form of technology, that of fixed fibre optic.
22. For example, a property in rural Cumbria wishes to receive a broadband connection. Given the remoteness of the location and the need for significant infrastructure works, the threshold for providing the USO is exceeded considerably, leading to significant extra costs for the customer. However, as long as there are no geographic barriers, there is still nothing preventing the customer from receiving the 10Mbps USO via a satellite or wireless connection which would not be cost prohibitive although it is accepted there may be an issue of sufficient capacity in the future.
23. In addition, as a result of existing networks, the connection or activation fee for a fixed line connection is lower than for telephony. However, one major drawback for increased demand for the USO on fixed line connections remains the high level of line rental, which simply increases costs at the expense of the consumer. The CLA believes that this must be addressed and that serious consideration given to a real reduction in the costs of renting telephone lines as part of a fixed broadband package.

Ensuring efficiency

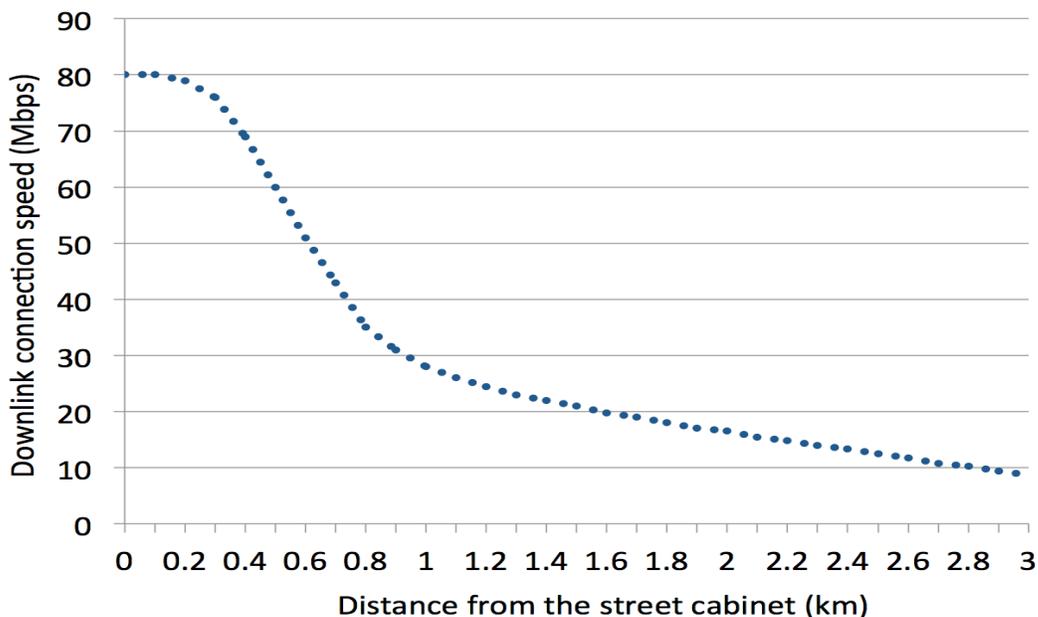
24. We fully support the view that the USO has to be efficiently applied and that it is important that universal service providers do not impose unwarranted costs simply because there may be an opportunity of do so. This would be contrary to the entire principle and objective of the USO. In addition, the USO has to be seen to encourage more collaborative solutions in the market. For example, the ability to aggregate connection vouchers in a community can provide an incentive for local communities to explore alternative technologies, particularly those in remote rural areas, known as the final '5%'.

The universal service provider or providers

How should the universal service provider be designated?

25. It is important to stress that, given the number of infrastructure providers in the market place and the different number of technologies employed, the CLA believes it would be unwise to appoint one universal service provider for the UK. Not only would this place too great a burden on a single provider it could also have the effect of reducing the ability of a consumer to reasonably request the USO, thus negating the important principle of extending consumer choice.
26. However, as long as there is a suitably effective and efficient framework in place to implement the USO we can see merit in appointing Universal Service Providers (USPs) at regional level, particularly when considering other technologies such as wireless.
27. Two further issues arise: the distance of a property from a cabinet and the degradation of signal strength under fixed broadband; and the provision of broadband in new housing developments.
28. The location of dwellings in rural areas is often characterised by their remoteness. Of course, this is likely to be a major disadvantage when it comes to the provision of a reliable and effective broadband signal. As figure 1 below shows, even with VDSL2 technology, signal strength degrades rapidly after 0.6km. For those living 3km or more from the cabinet, the download speed delivered falls below 10Mbps. This would represent a significant number of rural premises and businesses.

Figure 1: Connection speed degradation in relation to distance



Source: BT

29. The impact on those living and working in rural areas will be significant. As a result, it is highly probable that alternative USPs will need to be available in a rural area for consumers to be able to benefit from the USO.
30. A second issue arises over new housing which is increasingly likely to be developed in rural areas. Currently, it is the property developer that requests an infrastructure provider to put in a broadband connection. This means that the developer has to recognise the future digital needs of those living in the new development. However, in a number of cases, the developer has failed to provide for effective, high bandwidth connectivity. The CLA believes that it should be the responsibility of both the developer and the infrastructure provider in delivering sufficient bandwidth where the USO benchmark is set as the minimum available speed.

Funding of the USO and potential market distortions

Funding of the USO

31. As we have stated above we believe that the USO needs to be implemented by a number of providers. With regard to costs, this will depend on the technologies being employed. Whilst we accept that there are likely to be additional costs associated with providing the USO at the point of delivery, we do not accept that where a provider has failed to deliver the benchmark speed and, thus, triggering the payment of compensation to the customer, this is paid for through a shared industry fund. Any such fund should be confined, as stated in the consultation, to any net cost resulting from provision of the USO. We would also urge Ofcom to fully consider that broadband prices to the consumer are not increased, albeit 'inadvertently, by the provider as a way of maintaining an industry fund.

Review of the USO

When, and on what basis, should be USO be reviewed?

32. The CLA believes that to ensure effective implementation of the USO the ability to consistently review is essential. Put simply, the USO must be seen to be effective and credible, not only through increased demand by the consumer but also in its practical application.
33. The CLA is of the view that Ofcom needs to be proactive in monitoring market developments and ensuring the USO remains fit for purpose. Ofcom should be given the responsibility to intervene in the market to increase the benchmark speed when it becomes clear that technology has moved on sufficiently. In essence, the USO must be allowed to evolve upwards to meet the future bandwidth needs of consumers.
34. Therefore, assuming that the USO takes effect in 2020, we would advocate that it is monitored on an annual basis to address the needs of the consumer and changing technology as well as ensuring that the USO is sufficient and competitive. The CLA believes that there should be a formal review every five years with Ofcom retaining the legal authority to intervene and amend the USO where necessary.