

18th May 2015



CWU Submission to Ofcom Strategic Review of Digital Communications: Terms of Reference

Introduction

1. The Communication Workers Union (CWU) has over 60,000 members in the telecommunications industry working in around twenty companies including BT, Telefonica UK, Virgin Media, EE and TalkTalk. We are therefore a major stakeholder in the digital communications industry and we bring an important perspective as the largest representative body for workers in the sector. The CWU welcomes the opportunity to respond to the terms of reference for Ofcom's Strategic Review of Digital Communications, and we look forward to engaging further as the review develops.

Background

2. Ofcom notes that it has been ten years since its first Telecoms Strategic Review (TSR), and that there have been substantial benefits for consumers in that period, including a significant drop in mobile prices and an increase in broadband adoption from 31% to 78%. It states that the UK leads the EU's five biggest economies on most measures of coverage, take-up, usage and choice for both mobile and fixed broadband.
3. The CWU recognises there have been many positive developments in digital communications since 2005. However, we are concerned that the pursuit of ever lower prices inhibits much needed investment, and that the UK falls behind several other European countries¹ on coverage and take-up of next generation access broadband services².

Purpose and scope of the review

4. The CWU supports the overall aim of the review to ensure digital communications markets continue to work for consumers, citizens and businesses. We agree that key questions should include how incentives for efficient investment and effective competition drive good outcomes, including coverage, choice, price and quality of service.
5. However, we believe there are a number of other important and related outcomes that should be treated as priority objectives, including: take-up; the ability to exercise choice; and customer satisfaction. The importance of decent labour standards in achieving good outcomes should also be recognised in the review and in future regulation. Finally, given the growing reliance on

¹ The European Broadband Scorecard, Ofcom, 5th February 2015 shows that the UK is ranked 9th out of 28 EU countries for NGA broadband coverage, and 11th out of 28 countries on take-up of NGA broadband connections.

² Next Generation Access broadband is defined as providing 30+ Mbit/s download speeds

broadband in modern life, we believe the introduction of a universal service obligation (USO) for broadband should be considered as part of the review.

Incentives for efficient investment

6. The CWU has long called for a regulatory framework that places greater emphasis on investment in digital networks and services. We are therefore encouraged by the focus of the review on how incentives for efficient private sector investment and innovation can be strengthened to ensure widespread availability and high quality of service. The lack of broadband availability in some areas³ is partly due to a regime that has been overly focused on short term considerations of price and cost cutting which has been unhelpful to the investment climate. We believe a shift in emphasis is needed from Ofcom to incentivise further private investment to deliver better broadband services to all premises across the UK.

Promoting effective and sustainable competition

7. The CWU recognises the benefits of effective competition in reducing prices and increasing choice for consumers. However, the UK already has one of the most competitive telecommunications markets in the world, with the highest level of choice and the lowest prices for services amongst the leading EU countries against a number of measures⁴. We believe there is now a need to reassess Ofcom's approach to price controls to adjust the focus away from even greater competition and towards enabling investment to flourish.
8. Ofcom raises the question of whether it is necessary to vary the existing model of functional separation for Openreach to promote continuing competition⁵. The CWU is concerned that a move to distance Openreach further from BT Group would be damaging for Openreach's programme of investment in fibre based broadband. We believe it would be unhelpful to broadband customers and to BT's retail competitors who rely on the Openreach network to deliver their own services.

Identifying opportunities for deregulation

9. In our view there should be deregulation where the market is functioning well and where there is effective competition, and we agree this should form part of the review. There are areas where we believe Ofcom has introduced regulation which was not warranted based on the level of competition, in particular in relation to the Virtual Unbundled Local Access (VULA) margin. Competition is already advanced and functioning well in the retail market for fibre based broadband, and we do not believe there is a need for a minimum VULA margin, which could deter future investment by BT in fibre access networks.

³ Ofcom's Infrastructure Report 2014 found that whilst a typical household requires a download speed of around 10mbit/s, 15% of households across the UK still do not receive this level of service, and 3% of households do not receive 2mbit/s speeds. NGA broadband coverage in rural areas is only 22% compared with 75% nationally, and some city areas including parts of central London suffer from poor NGA coverage.

⁴ For example, single service pricing for fixed broadband is cheaper in the UK than in the other EU5 countries (France, Germany, Spain and Italy) according to Ofcom's European Scorecard in February 2015. The same report found that, as a measure of choice, BT operated a lower proportion of lines than the incumbent provider in any other EU market.

⁵ Strategic Review of Digital Communications: Terms of Reference, Ofcom, 12th March 2015, para 1.33, p.7

Addressing take-up and the digital divide

10. We strongly believe that addressing take-up and the digital divide should play a key focus in the review. If take-up of services remains low or does not fulfil its potential, the incentive for private sector investment is reduced. Recent data suggests there are approximately 7.2 million adults still offline and that 9.8 million adults lack basic online skills⁶. We believe Ofcom should make it a priority to examine ways of promoting take-up of digital services amongst citizens and consumers.

Exercising choice

11. Rather than simply aiming for the expansion of choice, Ofcom must ensure consumers have the ability to exercise informed choice in the marketplace. This means providing key performance information to help compare services, and addressing barriers to switching between operators.

Quality of service and customer satisfaction

12. It is unhelpful to consumers if regulation seeks continued price reductions without taking account of the quality of services and so we welcome the focus on quality in the review. We also believe that a market that provides the best outcomes for citizens and consumers should take into account customer satisfaction levels. This should involve regular surveys by Ofcom on how satisfied customers are with the service they receive, covering issues such as billing, faults and repair.

Workforce training and labour standards

13. Achieving good outcomes in digital communications relies on a skilled and motivated workforce delivering world class networks and services. That is why we believe it is important for the review to take account of the interests of those who work in the industry and the need for decent training and labour standards. Effective fault management for example - a key component of network resilience⁷ - relies on a well trained, dedicated workforce. Increasing cost pressures and growing demand for broadband mean the workforce is becoming more thinly stretched and subject to increased workloads. If communication providers are to continue to meet customer demand for high quality networks and rapid fault repair, the regulatory environment must allow them to fully fund their network costs and associated labour costs.

Universal availability of services

14. The CWU believes that simply increasing coverage is not sufficient and the growing reliance on broadband services to participate fully in the economy calls for a universal service obligation (USO) for broadband. The previous Government recognised the importance of this issue, stating that it would look to raise the USO from dial up speeds to 5Mbps broadband⁸. We believe that an assessment of optimum download and upload speeds for a broadband USO and the

⁶ Media Literacy, Understanding Digital Capabilities follow-up, September 2013 and March 2014, BBC/Ipsos MediaCT

⁷ Ofcom has identified the UK telecoms infrastructure resilience as a possible wider policy issue to consider as part of the review under the terms of reference.

⁸ The digital communications infrastructure strategy, DCMS, 18th March 2015

<https://www.gov.uk/government/publications/the-digital-communications-infrastructure-strategy/the-digital-communications-infrastructure-strategy#broadband>

associated benefits for citizens, consumers and the UK economy should form a central part of Ofcom's review.

Timescales and stakeholder engagement

15. The CWU welcomes the intention to use stakeholder responses to help inform a discussion document, followed by a document setting out initial views and next steps by the end of 2015. As a major stakeholder in the sector, the CWU will want to be closely involved in the review, including by participating in direct meetings and workshops to share our views in more detail. The process of the TSR in 2005 was open and inclusive with seminars held on the two consultation documents, and we hope this review will be conducted in an equally inclusive way.

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