

Ofcom's Proposed Plan of Work 2021/22
Response to Consultation from
Ofcom's Advisory Committee Northern Ireland
5 February 2021

The Advisory Committee for Northern Ireland (ACNI) advises Ofcom on the needs and interests of consumers and citizens in Northern Ireland (NI), across the range of the regulator's work.

As part of this remit, the Committee is consulted annually on Ofcom's Proposed Plan of Work for the next financial year, adding to a wide range of feedback from stakeholders and interested parties. The Committee discussed Ofcom's Plan of Work at meetings on 25 November and 27 January. The Committee was also represented at an online event on 26 January where stakeholders from Northern Ireland fed in their views directly to Ofcom.

Overall, the Committee considers that Ofcom's Proposed Plan of Work for 2021/22 encapsulates the range of work streams that will progress the regulator's remit to make communications work for everyone. Whilst many issues of importance to consumers in NI also resonate elsewhere across the UK, there are also a number of areas where the experience is distinct – and we especially welcome NI specific priorities to reflect these.

ACNI wishes to make a number of comments on behalf of consumers and citizens in NI. It has identified four standout issues:

- **universal connectivity – addressing, as a high priority, the needs of those without the prospect of a decent broadband connection**
- **implementation of Brexit and the NI Protocol - the implications of evolving arrangements on communications, including parcel delivery and mobile roaming charges**
- **switchover of copper landlines to internet calls - ensuring a smooth transition that takes account of the support needs of consumers, including vulnerable groups**
- **growing concerns within the NI independent production sector that the response to the pandemic has resulted in more commissioning reverting back to the London//SE centre**

These, along with other issues relevant to Ofcom's work plan, are detailed below.

1. Universality: The Committee believes that Ofcom's work on universal access, for those who won't be helped by the Universal Service Obligation (USO) or other broadband rollout programmes, should have higher priority in its Plan of Work.

The Covid-19 pandemic has shone a light on the digital divide. Our new ways of living and working mean that the level of detriment for those who do not have good connections has increased dramatically, and the impacts are often felt in multiple ways, eg through employment, access to services, education, health and social, cultural and consumer activity. It is clear that this is a trend which will continue beyond the current Covid-19 restrictions.

NI is very well served by full fibre connection and the rollout of Project Stratum is both encouraging and welcome. Yet this is a story of two parts as, within the United Kingdom, NI also has by far the highest proportions of households unable to access superfast, or indeed decent (10Mbps), broadband.

The year 2020/21 has demonstrated the need to ensure that all consumers have, as a minimum, the USO service. ACNI has serious concerns that the USO is flawed and will not deliver for many households in acute need of broadband services, and certainly not in a timely manner. Project Stratum in NI is a major step forward but will not help all rural areas. Meanwhile, expectations of the UK government's commitment to the roll out of gigabyte-capable services on an 'outside in' approach have reduced. It is therefore imperative that any work on connectivity includes a strengthened focus on addressing the needs of those who do not have a clear path to good broadband. Indeed, as technology and its applications develop at such a rapid pace, invariably requiring higher speeds, the definition of 'decent' broadband may need to be refined upwards to meet the minimum needs as they will present over the next few years.

There is therefore an ever more pressing need to consider solutions for those who will not be helped by current rollout programmes. Whilst ACNI recognises that it is not Ofcom's role to set or resource government policy in this regard, it nonetheless has an important contribution to make in informing and progressing this process and ensuring that it is high on the agenda for all concerned, reflecting consumer, citizen and societal priorities. ACNI believes that Ofcom should give this work a higher priority in its Work Plan and ensure that there are no further delays.

The Committee also believes that much more could be done to inform consumers about the options for improved connectivity that are, or soon will be, open to them. Members are very aware that the complexity of technology solutions, providers and plans can make it very difficult for consumers and small businesses to avail of opportunities as they become available and to make informed choices. Members have observed that a website that provides brings this information together at a granular (eg postcode level and beyond) would bring significant benefits. The Committee believes that Ofcom should use its convening powers, and its role as a trusted provider of information and evidence, to support stakeholders to address this issue as a matter of priority.

2. Implementation of Brexit and the NI Protocol: The Committee is very concerned about the impacts on parcel delivery already being felt by consumers and small businesses, and the prospect of deeper detriment when the current grace period expires on 1 April. Members also wish to be assured that there is sufficient protection for consumers from mobile roaming charges. It notes the high level of uncertainty and fluidity that characterises arrangements impacting on the NI economy and consumer interests and asks for Ofcom's close engagement with this developing situation.

The exit from the EU has had very particular and deeply felt impacts on businesses and consumers in NI with the application of the NI Protocol. This continues to be a very fluid situation with further complex and, quite possibly, enduring new challenges and situations emerging daily. ACNI (along with other bodies such as the Communications Consumer Panel

and NI Consumer Council) has raised two particular areas of concern relating to parcel delivery and mobile roaming costs. It is pleased that the impact of Brexit on communications is reflected in Ofcom's priorities for NI in 2021/22 and emphasises the need for continued focus on working with all concerned because the impacts (both potential and already felt) on consumers and business are very significant.

Parcel delivery: In the autumn ACNI raised with Ofcom concerns that additional customs processes on parcels from GB to NI could result in reduced consumer choice and higher costs passed on by businesses. Although a grace period has been granted for some lower value consumer parcels until 1 April, the effects of this transition are already being felt, with a wide range of retail businesses of all sizes choosing not to deliver to NI. Additional customs processes are being applied, incurring costs for business which may then be passed on to their customers, adding to the existing surcharge problem. ACNI is mindful of the growing use of online shopping by consumers as well as the impact these distinct arrangements could have on the postal universal service obligation. The Committee notes in particular the higher level of detriment that can be experienced by disabled consumers who are more reliant on online shopping. There can also be significant impact on some small businesses relying on delivery from GB to maintain their supply chains, with wider economic and consumer impacts. ACNI recognises that Ofcom has limited powers in this respect but asks it to continue to use its convening and advisory role to ensure the issues are well understood and timely mitigations are fully considered by all concerned.

Roaming: As the only part of the UK with a land border with an EU state, NI consumers are particularly susceptible to roaming charges should they be applied again. This would impact not only on mobile users crossing the border but also on those who inadvertently roam by picking up a signal from across the border whilst still in NI - a feature that ACNI emphasises extends well beyond immediate border areas. On 1 January 2021 roaming charges became a voluntary matter rather than a legal obligation for operators provided they take 'reasonable steps' to avoid or mitigate them, which ACNI observes is a very undefined requirement that may provide little tangible consumer protection. Whilst there are few current indications that mobile operators wish to apply roaming charges widely at this point, the Committee observes that this may be driven by wider commercial considerations where NI as a relatively small market carries less weight and/or could be introduced through a succession of smaller, creeping changes. The impact to a significant number of consumers and businesses would, as we know from past experience, be very high. Having achieved a highly successful solution in 2017 this would be a backward step, and one that many consumers and businesses therefore do not anticipate. The Committee therefore asks Ofcom for continued vigilance and representation with regard to a matter that is both highly significant and unique to NI.

More generally on Brexit, the Committee highlights the uncertain and rapidly changing nature of arrangements which impact directly on the economy and consumer interests. It asks for Ofcom's close engagement with this situation and also with NI stakeholders who can provide insight and evidence into the wider and evolving issues which may impact on communications in NI.

3. Transition to Internet Calls: The Committee believes that the transition to VOIP internet calls is complex and will require a higher level of support and assurance than appears to be scoped.

The process to migrate landline phone services to voice over internet protocol (VOIP) has commenced and will be completed with the retirement of copper by 2025. Members have considered some anecdotal evidence that the process for operators can be technically complex resulting in problems for some consumers which can be very disruptive/detrimental when they occur. It has therefore asked Ofcom to gather more information from operators about the range and volume of issues arising as VOIP is rolled out. The Committee also highlights the need for very good information for consumers and users of equipment which may be affected. It is particularly mindful of the needs of vulnerable consumers in terms of support to migrate and assurance that they will be protected from any costs incurred. The Committee observes that previous transitions (eg digital TV switchover and the recent Freeview retune to release spectrum) have required and benefited from well-developed and resourced support schemes, and suggests that the same consideration needs to be applied to VOIP migration at this critical stage.

4. Independent Production Sector: The Committee highlights growing concerns that more commissioning is reverting back to the London/SE in the wake of Covid-19

The Committee welcomes the focus on the independent production sector around the UK in Ofcom's work, including its Review of Public Service Broadcasting and regulation of the BBC and Channel 4. However, it is concerned that there are signs that commissioning is shifting back towards the London and the south east as a result of the response to the pandemic. It believes that this is an area that Ofcom should investigate further to understand the changing situation, to consider if any interventions are required to deliver the policy outcomes it is pursuing and to protect and build on substantial progress that has been made to date.

5. Fairness for Customers Commitments: The Committee wishes to see more rigorous and independent monitoring of Ofcom's Fairness for Customers Commitments

The Committee appreciates Ofcom's considered relaxation of certain regulatory requirements during the pandemic. It asks Ofcom to continue to closely review these arrangements and to revert to normal practice as soon as possible, where consumer interests are impacted.

In 2019/20 the Committee was very encouraged by the industry's positive response to the Fairness for Customers Commitments and it has taken a particular interest in how these are monitored and the impact they have made. The feedback that the Committee has received suggests that self-reporting by operators does not reflect aspects of poorer experience received by customers, for instance in making a complaint, scaling back services to reduce bills or closing accounts altogether. For example, complaints reporting is affected by any obstacles in the way of making or escalating a complaint, as well as the operator's view of

substantive issues and whether they have been resolved. The Committee wants to be assured that operators are being held to account for practices which would be considered unacceptable and incur penalties in other regulated sectors, where consumer principles and outcomes are comparable. The Committee therefore asks that this year Ofcom considers some more independent methods of measuring how well the principles are applied to add to the information it receives from operators.

6. NI Memorandum of Understanding and Ofcom Board Member: The Committee reiterates its concerns about NI representation and local accountability in the absence of an Ofcom Board member for NI and a MOU between the UK and NI governments, NI Assembly and Ofcom, equivalent to arrangements in the other devolved nations of the UK.

The Committee wishes to extend its sincere thanks and appreciation to Bob Downes, Board Member for Scotland, who has been helpfully fulfilling this role for NI for an extended period.

The Advisory Committee has a continued interest in a wide range of the work streams in Ofcom's Annual Plan, across all of its priorities, and this will be reflected in its business and advice to Ofcom across the coming year. These include, for instance, supporting and developing UK broadcasting including the work under Small Screen: Big Debate; matters of connectivity including the progress of the Shared Rural Network and broadband rollout, alongside the review of the postal USO; customer fairness; and Ofcom's work in preparing to regulate online harms.

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