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# Ofcom's Plan of Work 2021/22 – stakeholder responses

Making communications work for everyone

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[Ofcom's Plan of Work 2021/22 – stakeholder responses](#) – Welsh translation

## **STATEMENT ANNEX:**

**Publication Date:** 26 March 2021

**Updated:** 21 May 2021

# A1. Responses to the consultation

## A Consultation events and responses

- A1.1 We published our proposed plan of work on 11 December 2020 for consultation.
- A1.2 In January and February 2021, we hosted a series of virtual events. This gave us the opportunity to engage with a wide range of stakeholders and hear diverse views on Ofcom’s priorities.
- A1.3 We received 227 written responses to our proposed plan of work from communications and media firms, trade bodies, consumer interest organisations and individuals.
- A1.4 We have considered all submissions in finalising our plan of work and have published all non-confidential submissions in full on our website.<sup>1</sup> Below we provide a summary of the submissions received, as well as our responses to key points, grouped by strategic priority.

## Investment in strong, secure networks

### 26GHz spectrum band

- A1.5 Qualcomm urged Ofcom to release spectrum in the 26 GHz band as soon as possible to allow a range of technologies including 5G Fixed Wireless Access to be deployed. The Joint Radio Company expressed concerns with potential interference in the band to fixed links from 5G deployments and noted the importance of working with stakeholders to better understand the risk of harm and options for mitigation.

#### Our response

- A1.6 Our roadmap for spectrum for mobile including 5G identified different bands across different frequency ranges.<sup>2</sup> We have already opened access to 26 GHz for indoor use and to 66-71 GHz and will issue a consultation during 2021/22 about the award of frequencies in 26 GHz. We acknowledge the importance of working with stakeholders to avoid interference between different services.

### Spectrum Strategy

- A1.7 Stakeholders including the Joint Radio Company were supportive of the development of the spectrum strategy, noting the importance of engagement to understand stakeholder requirements. Wi-Fi Alliance noted the importance of Wi-Fi in future connectivity and requested that Ofcom consider expanding Wi-Fi access to the 6425-7125 MHz band. The Joint Radio Company suggested that Ofcom review barriers to entry for Shared Mobile Network Operator (MNO) spectrum access.

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<sup>1</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/plan-of-work-2021-22>

<sup>2</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/111883/enabling-5g-uk.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/111883/enabling-5g-uk.pdf)

- A1.8 BT suggested that Ofcom consult on broadcast spectrum pricing reflecting opportunity costs and encourage industry-wide dialogue on the safest way to authorise drones.
- A1.9 OneWeb asked Ofcom to consider low earth orbit (LEO) spectrum technology to deliver UK communications.

### **Our response**

- A1.10 The increasing use of mobile and wireless technologies across a wide range of industry sectors is driving the development of many new use cases. Ofcom's objective is to ensure that spectrum users can access the resources they need, where and when they need. We have published our statement to open up access to 5925-6425 in July 2020. As wireless continues to play an increasing role in delivering digital transformation, we will continue to monitor demand from all users and will engage with industry verticals to better understand their evolving needs and ensure spectrum is not an inhibitor to innovation.
- A1.11 We note the Joint Radio Company comments and acknowledge the importance of working with stakeholders to avoid interference between different services.
- A1.12 We have no plans to start work on introducing Administered Incentive Pricing (AIP) for broadcasting while the Public Sector Broadcasting (PSB) Review is underway and while there are ongoing discussions on future use of the UHF spectrum at the world radio conference 2023. However, we will continue to keep the situation under review. We are planning to publish a spectrum roadmap that will outline our areas of focus taking into account international market and technology developments.
- A1.13 We note the points made by OneWeb on using LEO technology to provide access to remote and rural communities. We will continue our spectrum work to enable use of this technology, and further consider its capabilities to provide connectivity to rural and remote locations.

### **Other spectrum issues**

- A1.14 The Joint Radio Company noted the importance of spectrum to meeting the UK's climate change objectives and to the energy sector, encouraging Ofcom to establish spectrum sharing arrangements to support enhanced network functionality, but suggested that meeting net carbon zero objectives will be a challenge.
- A1.15 Stakeholders including Federated Wireless Inc were supportive of Ofcom's efforts to automate spectrum licensing and allow dynamic spectrum sharing. The Joint Radio Company encouraged Ofcom to test automated authorisation systems and establish appropriate guidance by working with existing license applicants. Federation of Communication Services (FCS) raised concerns about the automated authorisation systems and noted that there have been issues with technically assigned licenses which have been entered on the current system which have not been completed.
- A1.16 The Joint Radio Company also noted that whilst the refinements to the Electromagnetic Fields (EMF) and Health reference criteria are welcome, they may present challenges for

multi-user sites, encouraging Ofcom to review the effectiveness of regulations once implemented.

### **Our response**

- A1.17 Our work looking at the communication needs of the energy sector (and other utilities), and how these needs are best met, is ongoing (to conclude in 2023). We will continue to work with industry, Governments and other regulators in support of the UK's carbon neutral objective.
- A1.18 We note the comments raised by the FCS in relation to issues with Technically Assigned Licences and these issues are being addressed.
- A1.19 We note the comment made by the Joint Radio Company on EMF and the challenges for multi-user sites. We will continue to work with industry on any practical compliance challenges.

### **Network security and resilience**

- A1.20 Stakeholders were supportive of our work to ensure that UK networks are secure and resilient, BT and TalkTalk encouraged Ofcom to engage with stakeholders and consult on the framework, business impacts and technical specifications for an appropriate amount of time. FCS urged Ofcom to ensure that requirements on smaller providers are proportionate and practical. The Joint Radio Company noted that network resilience requirements may require providers to have access to additional spectrum to manage capacity. The Ofcom Wales Advisory Committee encouraged Ofcom to undertake more research into ensure that Wales has resilient gateways to access international connectivity.

### **Our response**

- A1.21 The basis for the majority of Ofcom's existing work with telecoms providers on security and resilience comes from Section 105A-D of the Communications Act 2003. The Telecoms (Security) Bill, currently passing through Parliament, looks to replace this with a new telecoms security framework. This is expected to consist of changes to the Act, accompanying Secondary Legislation containing Regulations, and Codes of Practice issued by the Government. Ofcom's role will be to ensure compliance with this framework, and we intend to consult on and issue procedural guidance which will set how Ofcom expects to achieve this. However, consultation on the framework itself, namely the Statutory Instrument and Codes of Practice, are matters for Government.
- A1.22 Provisions in the Bill require its application to be proportionate, and Ofcom will therefore necessarily need to consider issues such as the size and nature of the given provider when monitoring and assessing compliance. Furthermore, the Department for Digital, Culture, Media and Sport has indicated its intention to introduce three tiers of providers in its initial

code of practice, with the expectations and Ofcom oversight of each tier varying in accordance with their size.<sup>3</sup>

- A1.23 Resilience of telecommunications networks is an important consideration in our work looking at the role of spectrum in supporting energy distribution networks to meet the Government targets on carbon neutrality.
- A1.24 International connectivity to the UK is provided by a wide range of communications providers using a number of sub-sea fibre cables and other facilities that are widely dispersed and provide the levels of redundancy that is needed to ensure appropriate resilience.

## Openreach

- A1.25 Ravi Savur noted an issue with responsibilities around poor broadband service for providers on the Openreach network and highlighted a case where BT was able to launch a Full Fibre product before other providers, suggesting that BT were able to access rollout information before other providers. BT suggested that Ofcom update the commitments to remain current and fit for purpose.
- A1.26 Giuseppe Sollazzo suggested that Openreach should be required to consider deprivation when planning fibre deployments.

## Our response

- A1.27 In July 2017, Ofcom set up the Openreach Monitoring Unit (OMU) to monitor the adoption of the commitments that established the legal separation of Openreach from BT. The OMU will continue to monitor these arrangements during 2021 and will produce the next annual monitoring report on the progress during the course of the year. As part of this, we will continue to monitor Openreach's commitment to engaging with industry and acting in ways that ensures its customers are receiving fair and equal treatment and are able to use Openreach's services in the same way as BT.
- A1.28 Ongoing monitoring of the commitments will remain a priority for Ofcom, but we agree that it is important that the commitments remain relevant and appropriate. During the coming year, we will reflect on the appropriate timing for us to conduct a broader review on whether the commitments and the legal separation of Openreach are delivering the outcomes intended by the Strategic Review of Digital Communications, including whether this arrangement is delivering the right outcomes for consumers.

## Mobile Strategy

- A1.29 The Scottish Government Minister for Energy, Connectivity and the Islands, Paul Wheelhouse MSP, asked that Ofcom keep Scottish Government officials involved in the process of developing the mobile strategy. BT asked that Ofcom take a wider view of the

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<sup>3</sup> More information can be found here: [Factsheet 2: New Telecoms Security Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/factsheets/new-telecoms-security-framework)

mobile strategy project, focusing on converged communications as well as traditional mobile considerations.

### **Our response**

A1.30 The mobile strategy will take a forward-looking approach as we aim for it to underpin our future regulation as well as support high quality connectivity and promote innovation. We plan to engage with a broad group of stakeholders throughout this project and will be running a consultation in the autumn.

## **Net Neutrality**

A1.31 BT suggested that the move to digital means now is the time consider how net neutrality rules can best support consumer outcomes and network investment.

### **Our response**

A1.32 We have added looking at the net neutrality framework to the plan of work. We will be looking at the framework to ensure it continues to best serve citizen and consumer interests, while supporting innovation and taking account of how both networks and services have developed in recent years.

## **Wholesale Fixed Telecoms Market Review (WFTMR)**

A1.33 The Scottish Government expressed the importance of ensuring that the WFTMR takes account of particular deployment challenges for Scotland and proposals for fibre deployment in Scotland such as the Reaching 100% programme. TalkTalk raised concerns about the balance between protecting businesses and consumers and encouraging investment, arguing that the WFTMR may only deliver a small increase in investment. TalkTalk suggested that Ofcom apply the price cap to the FTTC80/20 product rather than the FTTC 40/10 product, set the price cap at CPI-CPI in competitive areas, prevent subsidies from being provided to Openreach in non-competitive areas where FTTP has already been rolled out, modify stop-sell proposals to better incentivise Openreach to enter risk-sharing agreements and strengthen quality of service proposals. TalkTalk also suggested that Ofcom revise the WFTMR proposals to reduce proposed broadband price rises and monitor altnet FTTP rollout with a view to reducing barriers to deployment. Finally, TalkTalk raised a concern about transparency and accountability around Openreach's additional build commitments. City Fibre were supportive of WFTMR and price control regulations of Full Fibre and emphasised the importance of ensuring that price regulation does not undermine the incentives of fibre investors. FCS noted a concern with the new wholesale fibre products, suggesting that they may change the wholesale consumption model, preventing resellers from buying relevant wholesale services direct. FCS were supportive of Openreach API developments but suggested that alternative network providers also be required to provide wholesale access.

### Our response

A1.34 We consulted extensively on the WFTMR during 2020 and have published our final Statement on 18 March 2021.<sup>4</sup>

### Other Network issues

A1.35 BT sought more clarity on Ofcom's continued commitment to fibre investment, plans to respond to pricing considerations and potential future access regulation.

A1.36 The Consumer Council for Northern Ireland noted that more work is needed to improve services in rural areas and called for collective work to raise awareness of Project Stratum, Local Full Fibre Networks (LFFN) Challenge, Rural Gigabit Connectivity and Broadband Universal Service initiatives to ensure such schemes are effective.

A1.37 CityFibre is supportive of Ofcom's work on infrastructure competition in full fibre networks but have emphasized the importance of take up by informing consumers of the benefits. City Fibre have also mentioned the need for continuous improvement to maximise the potential of Physical Infrastructure Access (PIA).

A1.38 TalkTalk suggested that more work is needed on the migration to gigabit-capable networks in addition to the implementation of the USO.

### Our response

A1.39 Our Wholesale Fixed Telecoms Market Review published on 18<sup>th</sup> March sets out rules that provide clear direction for industry in support of our objective of promoting investment and competition between networks. We expect Openreach to continue to work with industry to ensure that the Physical Infrastructure Access remedy supports that objective.

A1.40 We are considering what more can be done to ensure that consumers and businesses understand the capabilities of different broadband services, in particular gigabit-capable broadband networks, so that they can navigate the market effectively. We are collaborating with the Gigabit Take-up Advisory Group (GigaTAG), convened by Which? for DCMS, which is examining the options for industry and regulators, and we plan to work with industry to ensure that consumer information about broadband is clear and consistent.

A1.41 We will continue with our work focussed on improving services in the hardest to reach areas. BT is already required to raise awareness of the Broadband universal service obligation, however, we will consider whether further action to raise awareness of this and other publicly funded schemes, could improve the effectiveness of these schemes and how that might best be achieved.

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<sup>4</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-1/2021-26-wholesale-fixed-telecoms-market-review>

## Getting everyone connected

### 2G/3G switch-off

A1.42 Stakeholders including Energy UK, noted the importance of cross sector engagement and planning with regards to 2G/3G sunsetting plans. Stakeholders highlighted smart energy meters as an important use case to be considered.

#### Our response

A1.43 Ofcom is continuing to consider the impact of switching-off 2G and 3G infrastructure in the UK in the future. We will continue to work with MNOs and the Government on this issue, as well as engaging with stakeholders across sectors to further understand the implications of 2G and 3G switch-off.

### PSTN switch-off and copper retirement

A1.44 A range of stakeholders including communications providers, devolved administration and consumer advocacy bodies shared their views on the planned copper network retirement and public switched telephone network (PSTN) switch-off.

A1.45 BT requested that Ofcom and the Government take a more active role in preparation for the switch-off and urged the importance of preparing both communications providers and communications service users. Openreach noted the importance of appropriate regulatory conditions to facilitate the switch-off and suggested that regulatory signals to communications providers could help them prepare. TalkTalk suggested that greater strategic priority should be given to the migration to gigabit-capable networks, with more co-ordinated policy interventions to aid migration..

A1.46 Openreach also encouraged Ofcom to work with a wide range of stakeholders to identify and address potential issues including; trade bodies, device manufacturers and consumer groups. The Welsh Government noted concerns about consumers' ability to contact authorities in the event of a power cut and life preserving services, urging Ofcom to ensure that network providers identify and resolve issues.

#### Our response

A1.47 The next five years will see a significant transformation of telephony and broadband infrastructure, and new products being developed to support that transformation. Ofcom will continue to help facilitate industry, other stakeholders and end-users to work together to ensure a smooth transition to IP and will monitor the progress of this migration. As mentioned above, we will also continue our work on improving services in the hardest to reach areas, consider information to consumers on gigabit-capable networks, and making it easier to switch across networks.

A1.48 Our decisions on the rules for copper retirement are set out in our Wholesale Fixed Telecoms Market Review, published on 18<sup>th</sup> March. We plan to consult on the

circumstances in which some premises may be excluded from the definition of a completed ultrafast exchange, which will trigger the removal of the charge control on copper services, as more evidence emerges of Openreach's progress on its exchange-based fibre rollout and the constraints on completing coverage in an area.

- A1.49 We are continuing to work with the broadband and phone companies who are leading this switch. We want to make sure customers experience minimal disruption and are protected from harm. Ofcom's rules mean that phone users must receive equivalent protections, however their landline is delivered. Communications providers (CPs) have an obligation under our General Conditions to ensure their customers are able to contact the emergency services, particularly in the event of a power cut. We are holding conversations with CPs about their resilience solutions, particularly for vulnerable customers, as part of our wider monitoring of the migration to IP voice services.

## Numbering

- A1.50 TalkTalk suggested that Ofcom consider improvements to number porting and set out a roadmap for assessing potential future improvements to number management alongside simpler switching proposals, which they anticipate will generate an increase in number porting. Magrathea telecommunications suggested that there is more work for Ofcom to do in relation to number management and porting in the context of the migration to IP voice calling. The Internet Telephony Services Providers' Association (ITSPA) requested that Ofcom develop a new plan for reforming number portability in 2021/22.
- A1.51 TalkTalk also suggested that Ofcom consider the impacts and costs of a centralised numbering database, which may be expensive to implement for individual providers.

## Our response

- A1.52 We continue to expect a common numbering database to be considered as an important part of our nuisance and scam calls programme. We also expect that a common approach could in time support improvements to number management, switching and porting.
- A1.53 We encourage providers to work together to seek ways to improve number porting as they implement the new switching process. We will review whether we need to intervene if we see significant problems with number porting.

## Post and the universal postal service

- A1.54 Royal Mail made several requests with regards to the upcoming review of postal regulation; that the review be concluded in a timely manner with a clear timetable, a targeted review with an early indication of areas which are out of scope and greater regulatory flexibility to support innovation.
- A1.55 Citizens Advice Scotland noted several concerns with the postal sector, highlighting concerns with the affordability of services, suggesting that operators other than Royal Mail should be included in baseline requirements to reduce consumer harm and noting issues such as delivery delays for consumers in rural areas and parcel surcharging.

- A1.56 The Consumer Council for Northern Ireland and Consumer Communications Panel and Advisory Committee on Older and Disabled People ACOD also urged Ofcom to consider the issue of parcel surcharging as part of our regulatory review. They, and the Ofcom Advisory Committee for Northern Ireland, expressed concern that parcel surcharging may be exacerbated by implementation of the Northern Ireland Protocol which could have significant impacts on parcel deliveries from Great Britain to Northern Ireland. They urged Ofcom to continue to engage with relevant stakeholders on this matter.
- A1.57 The Communications Consumer Panel and ACOD also suggested that the postal sector should hold a ‘vulnerability register’ to ensure that any postal user’s additional access requirements are recorded.
- A1.58 Robert Archer requested that Ofcom review whether and how the monopoly of Royal Mail can be removed for certain item types in the interest of efficiency. The Mail Competition Forum requested that Ofcom set efficiency targets for Royal Mail and hold them to account for hitting these targets, consider price control mechanisms to limit or reduce Royal Mail’s price rises of bulk mail, research the needs of large volume mail and parcels users and consider widening mandated access to the universal postal service network.

### Our response

- A1.59 We have recently published a call for inputs on the regulation of postal services, which gives stakeholders a chance to engage on issues regarding the regulation of Royal Mail. We look forward to further engagement on these issues. More widely, we will keep stakeholders up to date about areas of work as part of the review, and will consider Royal Mail’s regulatory asks, alongside those from other stakeholders, as part of the review.
- A1.60 We will continue to scrutinise Royal Mail’s quality of service as part of our ongoing monitoring programme.
- A1.61 We believe that access competition for bulk letters, facilitated by Ofcom’s regulation of access to Royal Mail’s network, has brought about benefits to access operators, Royal Mail and customers (both senders and recipients of mail). We will consider further how to support access competition in our forthcoming review of postal regulation.
- A1.62 In November 2020, we published our assessment of whether the minimum requirements of the universal postal service reflect the needs of users. It is now for the UK Government to determine whether any changes are needed to the minimum requirements and to bring any proposals before Parliament. Meanwhile, we published analysis of geographic variations for bulk parcel services as part of our annual monitoring update on post in November 2020, to inform the wider debate on parcel surcharging.
- A1.63 Implementation of the Northern Ireland Protocol is a matter for the UK Government. We will continue to engage with the UK Government, postal operators and consumer groups to understand the implications for the postal market.
- A1.64 We note the respondent’s comments about a vulnerability register for post. Whilst we do not require postal operators to keep such a register, (while in other sectors, such as telecoms, we issued guidance and expect telecoms providers to monitor this), we do

expect all our stakeholders across all sectors to consider the needs of vulnerable consumers, and will consider this further in our future review.

- A1.65 As part of our work on postal users' reasonable needs we conducted a series of interviews and questionnaires with bulk mailers and large volume users of mail to listen to their views and understand their needs. Large users do not use universal service products and are therefore not central to the questions of universal service scope considered in the review of postal users' reasonable needs. We will continue to engage with large users of mail services and take onboard their views and opinions as part of our forthcoming review of postal regulation where appropriate.

## Postcode address files

- A1.66 Many stakeholders including the Open Data Institute and the Centre for Public Data have requested that Ofcom review the UK Address data held by Royal Mail known as the Postcode Address File (PAF). Stakeholders have requested that Ofcom review the price of the PAF and its governance structures. Many respondents highlighted the importance of robust and up to date address data to charities, businesses and academics and several went on to request that this data set be made into a publicly available open source database. Several respondents also noted concerns with the governance model of the PAF, highlighting a lack of clarity on where responsibilities lie between Ofcom and the Geospatial Commission.
- A1.67 Ofcom received over 50 responses on this issue, including the following individuals and organisations; Andy Turner, Christopher Billows, David Clifford, Open Health Hub CIC, Christopher Billows, Adrian Sevitz, Alex Bickerton, Alex Farley, Andy Parkhouse, Chloe Rutland, Cranfield University, Simon Ellis, Stephen Lovelady, Tam Watson, Tom Neill, NHSX, Global Witness and Elin Barrett.

## Our response

- A1.68 The Postcode Address File is a list of over 30 million delivery points to which mail items are delivered in the UK. It is owned by Royal Mail, which is required to maintain it and to make it available to any person wishing to use it on reasonable terms (which can include the payment of a fee).<sup>5</sup>
- A1.69 Royal Mail fulfils this obligation by making PAF available through a licensing regime whereby end-users pay a licence fee in order to use PAF data although some users, such as smaller charitable organisations, are exempt from paying fees.<sup>6</sup>
- A1.70 We last carried out a review of the PAF pricing framework in 2013 where we considered the following key areas: the recovery of the costs of PAF, the simplification of the licensing regime, and the terms on which PAF is made available. We also sought views from

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<sup>5</sup> Section 116(1) of the Postal Services Act 2000.

<sup>6</sup> Specifically, organisations with less than £10m per annum income who are registered charities or community interest companies (CICs). Independent micro businesses (0-9 employees and/or £2m turnover) can also have free access to PAF for one year and individuals can look up, for free, 50 addresses a day on Royal Mail's website.

stakeholders on quality measurements for PAF. We concluded, among other things, that the pricing of PAF licences at that time was reasonable in that it allows Royal Mail to recover its costs and does not give rise to excessive profits.<sup>7</sup>

- A1.71 Our decision took into account our primary duty to secure the provision of a universal postal service (including the need for that provision to be financial sustainable), as well as our principles of pricing and cost recovery.<sup>8</sup> We also published guidance outlining some of the factors we may consider when assessing whether the terms on which PAF is provided to users are reasonable and said that Royal Mail should develop robust quality measures that are meaningful and constructive for PAF users. We have not received any complaints on the pricing or other terms of access to PAF in recent years.
- A1.72 Earlier this month, we published a call for inputs on the regulation of postal services, which gives stakeholders a chance to engage on issues regarding the future regulation of post.<sup>9</sup> If respondents have concerns about whether the terms on which PAF is made available are reasonable or similar licensing concerns that fall within the scope of our regulatory powers, they can respond to our call for inputs, providing supporting evidence where available.
- A1.73 Finally, we note that Ofcom's powers in relation to the PAF are limited. For example, the question of whether PAF should be made an open data set that is freely available to all or to some specific sectors in light of broader public policy considerations, would be a matter for Government.

## **Broadband Universal Service Obligation (USO)**

- A1.74 Stakeholders welcomed Ofcom's continued focus on the broadband USO, with BT and the Welsh Government expressing their concern that the USO will not resolve rural connectivity challenges in isolation.
- A1.75 The Welsh Government argued that the premises cost cap does not reflect the reality of the costs associated with providing sustainable broadband to the most rural areas of Wales and suggested that Ofcom commit to an annual review and adjustment of the USO and scrutinise USO provider operations to ensure comprehensive delivery.
- A1.76 Scottish Minister for Energy, Connectivity and the Islands, Paul Wheelhouse MSP, criticised the effectiveness of the USO in Scotland and requested that Ofcom investigate BT's approach to shared costs and any impacts that it has on broadband deployment schemes run by other governments. Andrew Croome suggested that a cost sharing model be implemented to reduce costs to individuals. Citizens Advice Scotland urged Ofcom to investigate how to ensure affordable, high quality connections.
- A1.77 Giuseppe Sollazzo raised concerns with 4G connections being recognised as providing the broadband USO, suggesting that they should not be recognised and that BT should be

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<sup>7</sup> Ofcom, July 2013. Postcode Address File Review (Statement).

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/62628/statementpaf.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/62628/statementpaf.pdf)

<sup>8</sup> These principles were developed by Oftel and have been used by Ofcom to analyse various pricing issues. Paragraph 5.2 of the Postcode Address Review statement above sets out these principles in full

<sup>9</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-1/postal-regulation-review>

required to prove that 4G will supply USO speeds to a premises without consumers testing their speed with a 4G hub. Jeff Jones raised concerns with the effectiveness of the USO in areas without 4G and noted the challenges of incentivising investment in connectivity for rural areas. Giuseppe Sollazzo also suggested that the USO be amended to include provisions for situations where a number of households are reporting slow speeds in a single area, mandating an upgrade at the local cabinet.

### Our response

- A1.78 The USO allows individuals to request a decent broadband connection if one is not available. The specification of the USO, including the definition of decent broadband and the level of the cost threshold up to which connections should be provided without a charge to customers is a matter for Government. We implement it through conditions imposed on universal service providers and monitor the effectiveness of the USO, working with the designated providers, BT and KCOM, on an ongoing basis.
- A1.79 Some premises will receive high quotes under the USO because of their remoteness and the cost of building networks to these locations. Therefore, we recognise that the broadband USO is unlikely to provide connectivity to the hardest to reach premises and we will continue our work to consider how access to broadband services for these premises can be improved.
- A1.80 In accordance with our USO conditions, the costs of building connections should be shared amongst those premises that could make use of the same infrastructure that are eligible for the USO. We are concerned that BT may not be complying with the regulatory conditions correctly where it assesses excess costs for a given connection. In October 2020 we opened an investigation into this issue and we plan to publish an update in March 2021 and we will then consider next steps as appropriate.
- A1.81 The USO requires that services should be affordable. In setting conditions on BT (and KCOM in the Hull Area) we concluded that, based on commercial services in the market, an affordable decent broadband service should cost no more than £45 per month (in 2018), rising annually by CPI. This applies to all services irrespective of the technology used to deliver them. This does not preclude commercial offers being priced above this, but means customers would be eligible to request a connection under the USO.
- A1.82 The USO is technologically neutral, so that where a fixed wireless service provided via the BT 4G network (the 4G service) or another fixed wireless service can provide decent broadband, the premises is not eligible for the broadband USO. We have undertaken work to verify the capabilities of the 4GEE service in meeting the broadband universal service specification and are conducting similar work to verify other fixed wireless access services. It may be possible to provide fixed wireless connectivity even where a good mobile service is not always available (for example through the use of an external antenna) and this may require tests to determine the speeds for a specific customer. Where a fixed wireless access service is not capable of delivering decent broadband BT will progress the customer through the USO process.

- A1.83 While the specification of the USO is a matter for Government, we are conducting work to assess the needs of customers and how these needs might evolve in the future.

## Shared Rural Network (SRN)

- A1.84 The Welsh Government requested that Ofcom set out details on its role in relation to ensuring that the SRN delivers on its plan to eliminate not-spots across Wales and shares data more transparently. Which? stressed the importance of monitoring the progress of the SRN and suggested that there may be an opportunity for Ofcom to consider whether similar approaches could be used to support the rollout of new mobile technologies. Scottish Minister for Energy, Connectivity and the Islands, Paul Wheelhouse MSP, asked Ofcom to play a role in information sharing around SRN deployment.

### Our response

- A1.85 Ofcom's core role in the implementation of the SRN programme will be to confirm operators have complied with their licence commitments, and we take our role in holding operators to account in this regard extremely seriously. This process is laid out in the SRN compliance methodology, which reflects negotiations between the UK Government and the network operators. The mobile operators have produced commercially confidential data that has been submitted to Ofcom with regard to the SRN, and Ofcom is unable to provide more information directly. However, we continue to make the case for more information to be made available by the operators, who are best placed to explain the detail of their plans, and we will continue to report on operators' progress as part of holding them to account on their commitments.
- A1.86 Ofcom will continue to actively monitor the progress of the SRN and report on progress through our Connected Nations publication. We will take account of lessons from the SRN process where applicable in future policy initiatives.

## Connectivity for businesses

- A1.87 The FCS raised the importance of high bandwidth broadband in business focused areas such as business parks and number portability and compliance in VOIP services.

### Our response

- A1.88 Our Wholesale Fixed Telecoms Market Review, published on 18 March, set out rules that support of our objective of promoting investment and competition between networks serving both businesses and residential customers.
- A1.89 The next five years will see a significant transformation of telephony and broadband infrastructure, and new products being developed to support that transformation. Ofcom will continue to help facilitate industry, other stakeholders and end-users to work together to ensure a smooth transition to IP and will monitor the progress of this migration. As noted above under 'numbering', we will review whether we need to intervene if we see significant problems with number porting.

## Fairness for customers

### End-of-contract notifications (ECNs)

A1.90 Both Which? and uSwitch encouraged Ofcom to review the effectiveness of ECNs. uSwitch cited its own research into ECNs and urged Ofcom to define success criteria for ECNs and monitor provider behaviour closely. Which? suggested that trialling and testing remedies will ensure that relevant information is included, and that ECNs are having the intended effect.

#### Our response

A1.91 We agree with Which? that trialling and testing remedies is important. We are reviewing how providers have implemented end-of-contract notifications and their impact on customer behaviour. We are in the process of obtaining data directly from providers which will provide insight into how effective these rules have been to date. We will also review the impact of the voluntary pricing commitments made by a number of mobile and broadband providers as part of our package of measures to ensure fairness for customers.

### Open communications

A1.92 Stakeholders including the Open Data Institute (ODI) were supportive of Ofcom's proposals on Open communications. BT requested more detail on next steps for this work. TalkTalk queried whether Ofcom has produced sufficient evidence highlighting the need for open communications and asks that Ofcom consider the implementation costs to providers in the context of other consumer protection measures.

A1.93 Openreach highlighted the importance of industry alignment on the type and nature of data to be shared as well as the process for sharing, requesting more detail on how information will be sourced and the role of wholesale operators. Openreach also suggested that an industry working group would be appropriate to determine and standardize metrics.

A1.94 The ODI and Which? did note caution around the potential risks caused by sharing of personal data, especially with regard to sensitive data or for vulnerable consumers and those with shared accounts.

#### Our response

A1.95 We intend to publish a further update on Open Communications in Q1 2021/22 setting out what we have learned from the consultation and how we intend to proceed.

A1.96 In considering next steps for our work on Open Communications, we will take into account the impact on industry of other interventions that help ensure that people and businesses are better served by the communications market. The scope of any Open Communications initiative should be proportionate to the potential benefits and we will take into account the potential costs to industry of making available data which it would benefit customers

to share. However, it is a matter for Government to decide whether to give Ofcom the necessary powers to introduce Open Communications legislation, and if so on what basis.

- A1.97 We agree that it would be important for any Open Communications initiative to clearly identify the types of data to be shared and for data to be made available across industry in a standardised form.
- A1.98 We agree that security should be at the forefront of the design of any Open Communications initiative, including secure authorisation and authentication processes. We know that customers will have different views on what data they are comfortable sharing with third parties. Therefore, users of any Open Communications initiative would need clear and consistent information from third parties about how they use customer data and about any risks.

### **Protecting consumers where a provider fails financially**

- A1.99 Openreach noted its ‘Supplier of Last Resort’ process for Wholesale Line Rental, which aims to ensure that customers are given the opportunity to make alternative arrangements for voice services when their supplier fails and expressed its willingness to support work across a wider range of services. The Federation of Communication Services urged that any scheme should be fair to all players.

#### **Our response**

- A1.100 We believe that assessing whether there is a need for a scheme to ensure customers are protected in the event of the financial failure of a provider remains important. However, as part of prioritizing our resources, we have now decided to pause this work in the coming year and we have therefore removed it from our list of planned projects. When we revisit this issue we will ensure that we engage closely with industry in scoping our work, and in reviewing the design of any proposed scheme, to ensure it is fair, practical and proportionate.

### **Simpler Switching**

- A1.101 Stakeholders were supportive of Ofcom’s Simpler Switching proposals, the FCS urged Ofcom to actively participate in industry discussions to establish a new switching platform, process and hub. Openreach noted the requirement to develop an industry hub to facilitate switching but argued that the hub should not be deployed at the access level, Openreach also argued for a phased implementation approach, citing the potential risk of market disruption. City Fibre were also supportive and have highlighted that simple switching is a critical piece of work for supporting the migration to new full fibre services.
- A1.102 BT suggested that Pay TV be included in the simpler switching proposals and TalkTalk requested that Ofcom continue to seek to remove blocking factors such as TV contracts which expire at different times to broadband contracts, making it challenging for consumers to switch away without spending time out of contract for at least one product.

- A1.103 TalkTalk raised a concern about the December 2022 deadline and urged Ofcom to set out the implementation approach as soon as possible whilst developing the governance framework in parallel. uSwitch suggested that Ofcom accelerate timescales to implement the new switching process.
- A1.104 Ombudsman Services flagged that complaints they have received from consumers suggest that switching can still be a confusing process and highlighted the importance of consistent messaging and support across the industry. Harry Green suggested that one barrier to switching is in-home equipment, proposing that Ofcom should separate contracts for installation and customer equipment and giving customers the statutory right to provide their own equipment. Harry Green also proposed that contracts for broadband services be terminable at short notice, with early termination charges applied to installation and equipment instead.
- A1.105 Harry Green highlighted eSims as a potential barrier to simpler switching, noting that many Mobile virtual network operators (MVNOs) do not support eSims and related features at present and urging Ofcom to investigate whether Apple might directly or indirectly prevent MVNOs from supporting eSims.

### **Our response**

- A1.106 We recently confirmed a number of changes we will be making to rules on contracts, which were required to implement changes to European rules. We also published guidance on non-conterminous contracts setting out circumstances in which we consider some could act as a disincentive for customers to switch provider. Rules on contracts, including against unfair terms, are also prescribed more broadly as part of general contract and consumer law, which Ofcom has a role in enforcing. We will continue to monitor complaints about contract issues and where we identify issues, we will take action as appropriate.
- A1.107 In relation to our Simple Switching proposals, we will meet with communication providers to discuss plans for the implementation phase, and about establishing an industry forum to support implementation.
- A1.108 The current focus of the switching proposals for fixed services is for a process for residential customers to switch their landline and broadband services. We are not looking to extend this to include Pay TV at this stage.
- A1.109 Providers need to comply with the new switching rules by December 2022, which is 24 months after the publication of the notification of the revised General Conditions. In setting this implementation date, we took into consideration providers' concerns regarding the significant systems and process changes needed to implement the requirements, particularly in relation to the development of a new switching process for voice and broadband services.
- A1.110 Customers being able to switch easily and take advantage of good deals is an important priority. Where there is evidence there are barriers to this, we will investigate and take action as required.

## Vulnerable consumers and accessibility

- A1.111 Stakeholders including Citizens Advice Scotland welcomed Ofcom’s focus on protecting vulnerable customers. Openreach highlighted their plans to simplify the process for requesting repairs and BT suggested that providers need time to implement Ofcom recommendations on best practice before they can improve data recording. The Joint Radio Company encouraged Ofcom to explore approaches of other regulators such as Ofgem and Ofwat with regard to vulnerable consumers.
- A1.112 The National Association of Deafened People (NADP) noted a lag in the implementation of accessibility features through the shift to remote communication caused by the pandemic. They also queried Ofcom’s role in ensuring that public services such as GPs only procure communications platforms with wide accessibility features and make use of those features.
- A1.113 The National Association of Deafened People suggested that the existing telephone relay services are inadequate and advocated for the implementation of a service which offers transcription at a similar speed to speech. The Communications Consumer Panel noted the importance of promoting accessibility and inclusion by design as new technologies are developed.
- A1.114 Harry Green noted that many networks impose short limits on the maximum number of rings on phone calls before network services such as voicemail and diversion occur, this short limit may cause issues for those who are less mobile and therefore unable to answer calls in the limited time allowed. Harry suggested that Ofcom should implement a requirement for networks to increase the configurable maximum delay to two minutes.

### Our response

- A1.115 BT develops and tests the Relay UK app based on a common design across the different platforms, and it is supported on Android 6, iOS 10 and later mobile software versions. Whilst these operating systems were released in 2015 and 2016 respectively, many older phones are still capable of upgrade to these, or later software versions. Sometimes the vendors of the software that BT relies on for development and publishing (Apple, Google, Microsoft) choose to discontinue support for older versions of their operating systems, but BT aims to be able to run the app on the earliest version allowed as far as possible, whilst maintaining compatibility across new devices and operating system updates as they come in. BT also tracks device types as generic data, which gives a good indication of which are the most popular devices that Relay UK users are using to access the service, thereby helping the development and testing focus. Customer feedback from the 2020 Relay UK satisfaction survey did not highlight any Relay UK compatibility issues with older devices, and contact with the Helpdesk (including via the app feedback form) has similarly not raised any significant concerns about this to date. BT has told Ofcom that it would be happy to investigate any cases where NADP members have experienced any issues using the Relay UK app, whether this be related to the operating system, compatibility, or any other usability issues.

- A1.116 Finally, NADP raised points about video conferencing software, public procurement and GPs' lack of deaf awareness. These are not issues where Ofcom has any regulatory powers or duties.
- A1.117 Improving the consistency of data recording across industry will be an important part of our work to protect vulnerable customers in 2021/21. We also expect providers to continue to review their own performance against the vulnerability guide and take steps to improve the support available to vulnerable customers where necessary.

## Affordability

- A1.118 Stakeholders including the Carnegie UK trust were supportive of Ofcom's work to ensure affordability of communication services and encouraged Ofcom to explore market innovations which may reduce the cost of digital access and enhance protection for those on low incomes.
- A1.119 The Consumer Council for Northern Ireland was supportive of the work of Ofcom and Governments to improve broadband speed and provision but noted that there may be affordability challenges for higher bandwidth services. BT suggested that Ofcom consider the affordability of Pay TV services. Ombudsman Services offered to share its experience around affordability challenges with Ofcom and highlighted in particular the opportunity to reassess protections for small businesses.
- A1.120 Carnegie UK trust additionally requested that Ofcom review its role and position in providing a 'digital safety net' to protect public access to digital services through, for example, public libraries.
- A1.121 Citizens Advice Scotland and the Older People's Commissioner for Wales welcomed the provision of voluntary social tariffs by some providers. Citizens Advice Scotland suggested that these be made available from a greater range of providers to allow for more consumer choice and that access criteria should be widened.

## Our response

- A1.122 Ensuring that people can access affordable communications services, such as fixed and mobile broadband, is a priority for Ofcom. We have therefore strongly encouraged providers to put in place targeted affordable tariffs, and to promote them to customers who may be eligible. We are in the process of assessing the provision of such tariffs and, if we establish any affordability concerns that would not be addressed by existing tariffs and support from providers, we will set out proposals for any further measures.
- A1.123 To reflect the importance of people being able to access the internet, we pay particular attention to the affordability of fixed broadband and mobile-internet services. There are separate protections in place to ensure the affordability of services for landline only customers.
- A1.124 In addition, we monitor and report on the prices of all communications services, including pay TV, through our regular 'Pricing trends for communications services in the UK' reports.

A1.125 Public access of digital services is outside Ofcom’s remit and would be a matter for the Government.

## Transparency of broadband information

A1.126 Ravi Saur noted a lack of transparency around broadband speed reductions caused by high demand and suggested that providers should be required to publicise details of slowdowns and the amount of time minimum speed guarantees were achieved. Openreach noted an issue for consumers seeking coverage data from different sources, noting that Ofcom’s coverage data is 3-4 months behind provider data. Openreach also noted that legacy product removals will need to be reflected on broadband availability checkers.

A1.127 The Ofcom Advisory Committee for Northern Ireland urged that more should be done to inform consumers about options for improved connectivity that are or will soon be available to them, noting the challenge for consumers to make informed choices. CityFibre echoed this point, highlighting that the lack of understanding of full fibre undermines take up.

A1.128 City Fibre have suggested introducing a market wide broadband label which will help consumers identify the quality of broadband services and compare packages.

## Our response

A1.129 To help give people and businesses certainty about the speeds that their broadband service will deliver, Ofcom has secured commitments from most of the UK’s largest broadband providers under the voluntary Broadband Speeds Codes of Practice. Under the terms of the Codes, when customers are unable to access their minimum guaranteed speeds, their provider will either resolve the issue within thirty days or allow the customer to leave their contract without charge. Ofcom also publishes its research on the performance of residential fixed broadband connections in the UK Home Broadband Performance report. The last report<sup>10</sup> considered the demands placed on networks by the lockdown in March 2020.

A1.130 As set out above under ‘Other Networks Issues’, Ofcom is collaborating with the GigaTAG advisory group on take-up of gigabit-capable services. In December GigaTAG published its interim report, which recommended that Ofcom and the Government should encourage clearer and more consistent information about broadband products from industry, potentially via product labelling. We are continuing to work with GigaTAG as it further develops its thinking on how to improve the information available to people and businesses.

## European Electronic Communications Code (EECC)

A1.131 The FCS sought further clarity on changes to the General Conditions implemented in accordance with the EECC. uSwitch urged Ofcom to critically review the timelines of these

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<sup>10</sup> [UK Home Broadband Performance: technical report \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/hbperf/hbperf1920/hbperf1920.pdf)

changes to see if any could be more ambitious. Scottish Minister for Energy, Connectivity and the Islands, Paul Wheelhouse MSP, queried Ofcom’s role in the UK Government’s consultation on reforms to the EECC and access to infrastructure regulations (ATI), requesting that Ofcom ensure that the UK Government takes account of the unique challenges in Scotland when discussing the ATI and EECC.

### **Our response**

- A1.132 Ofcom has been working with DCMS on proposals for EECC reform for some time and will seek to ensure that they properly reflect the needs of the entire UK. We are engaging closely with industry on the implementation of the end-user rights provisions of the EECC ahead of the December 2021 and June 2022 deadlines, as well as December 2022 for switching.
- A1.133 The implementation of the new EECC rules will require providers to make a number of complex system and process changes, at a time when the coronavirus has had a significant impact on provider resources. We consider that the 12-month period we have given providers to implement most of the rules, with an extension to 18 months for the most significant changes (to pre-contract information and customer's right to exit), is appropriate and proportionate.

### **Nuisance and scam calling**

- A1.134 Which? were supportive of Ofcom’s plans around nuisance calling but suggested that Ofcom could take a more active role through facilitating intelligence sharing between providers. TalkTalk highlighted its proposal to tackle scam calls from abroad, suggesting a mandated block on all calling line identities (CLIs) delivered to the UK outside of proposed routes. TalkTalk also discussed the case for implementing the Secure Telephone Identity Revisited (STIR) standard in the UK, noting concerns around STIR’s limitations and requirement to implement a central numbering database.

### **Our Response**

- A1.135 We chair a strategic working group on nuisance calls collaborating with the major communications providers. We collect and share data within the group and will be looking at how we can build on the work of this group as well as considering other initiatives.
- A1.136 We are working with industry to explore whether some aspects of CLI authentication could be introduced more quickly, ahead of the migration to Voice Over IP services which is due to be completed by the mid-2020s. In the meantime, we are also exploring whether more can be done to ensure that only calls with valid telephone numbers are connected to the recipient of the call. For example, applying more stringent checks on calls that originate from outside of the UK that use UK telephone numbers.

## Independent oversight of fairness commitments

A1.137 The Ofcom Advisory Committee for Northern Ireland urged for more rigorous and independent monitoring of Ofcom's Fairness for Customers Commitments, requesting that Ofcom consider more independent methods of measuring how well the principles are applied to add to the information it receives from operators.

### Our response

A1.138 We continue to monitor companies' performance against the Commitments and are due to publish a progress report, reviewing whether companies are delivering what they have promised, shortly. Following the publication of this report we will consider what further monitoring of progress against the Commitments may be appropriate.

## Other Fairness issues

A1.139 Ravi Saur noted potential issues for customers living in areas served by a single telecoms provider, suggesting that as providers are able to issue a letter of deadlock to customers unsatisfied with poor service they are disincentivised to serve customers facing poor service. Ravi Saur also suggested that Ofcom prevent new customers from being charged lower prices than existing customers. Harry Green suggested a range of pricing-related interventions to improve consumer outcomes including banning mid-contract price rises, ensuring seamless switching for bundled services, allowing consumers to opt out of unwanted services, allowing consumers to opt out of subscription services, preventing charges for 'standard rate' texts and investigating price rises.

A1.140 Harry Green also suggested that networks should provide automatic failover to each other's networks where there is a fault and requested that Ofcom consult on this proposal.

### Our response

A1.141 The fact that customers pay different prices for their services is not necessarily concerning and often occurs in competitive markets. Customers who shop around can take advantage of discounts offered to encourage switching or to support the take-up of new services. In the broadband market, a significant proportion of low-income customers benefit from discounted prices. We would expect to see providers continue to discount new services, and therefore some differences between the prices different customers pay.

A1.142 However, to ensure people who find it harder to engage are not disadvantaged by the practice of discounting, Ofcom has secured commitments from all major broadband providers to help their vulnerable customers get better deals, for example by conducting price reviews for their vulnerable customers and providing automatic discounts where vulnerable customers are unable to engage. There remains work for providers to do in better identifying and recording customer vulnerability and we will be monitoring companies' performance in this area, as well as their adherence to the commitments they have made. We have also secured commitments from all major mobile providers (except

Three) to apply a discount to customers on bundled handset deals when they go out-of-contract.

- A1.143 As part of recent changes we've made to implement changes to European rules, we will also be strengthening customers rights to exit when providers make changes to their contracts which are not to their benefit, and unless of a purely administrative nature and have no negative effect on the customer, or are directly imposed by law, and ensuring customers get clearer information up front before they enter into a contract, including a contract summary and details of all services they are opted into.
- A1.144 We have no plans to conduct a review to impose national roaming obligations at this stage. In the past when national roaming has been considered in the context of resilience one concern that has been raised is that any network would not in general have the capacity to support a sudden increase in demand resulting from a fault in a competitor network, and the effect of transferring that demand could undermine the service available to all customers.
- A1.145 We remain vigilant on fairness issues and will investigate where we identify issues of concern.

## Supporting and developing UK broadcasting

### Small Screen: Big Debate

- A1.146 BT encouraged Ofcom to consider how PSB services are delivered and how PSB delivery interacts with network investment, noting the potential for complimentary digital inclusion and PSB policy. The Voice of the Listener and Viewer noted the importance of the 600MHz spectrum band and Freeview to delivering PSB.
- A1.147 The Scottish Government urged Ofcom to consider Scottish audiences and Scotland produced content, noting that it will continue to engage with the PSB review process. The Welsh Government urged that any work would need to provide sufficient opportunity to engage with audiences across the UK and noted the importance of the Welsh Language to meeting audience needs in Wales.

### Our response

- A1.148 In regards to the delivery of PSB services, we remain mindful that broadcast TV continues to be the most popular way for audiences to watch PSB content and note that in his foreword to the Government's recent consultation on Digital Terrestrial Television (DTT) multiplex licensing, the Minister of State acknowledged "the continued importance of the Freeview platform to audiences and to the PSB system as a whole for the foreseeable future."
- A1.149 In our Small Screen: Big Debate consultation document looking at the future of public service media, we highlighted the continuing importance of universality - the ability of people of all backgrounds to access content which is valuable to them and through which

they are connected to others across the UK - as a vital component of public service delivery.

- A1.150 This consultation has made clear that a number of aspects of the regulatory framework must be updated to ensure public service media remains both widely available and easy to find. We will continue to carry out a substantial amount of research and analysis to understand how audience needs and expectations are changing and work to support investment in the networks required to ensure the benefits of public service media can be delivered in the future. We will set out our recommendations to this review in the summer.
- A1.151 In relation to audience satisfaction, public service broadcasting continues to play a key role in securing types of programming that are important to society. As we stated in our Small Screen: Big Debate consultation, the framework for public service media should promote innovation as well as adapting to audience and market changes.
- A1.152 We noted the role PSBs continue to play in reflecting the diversity of the UK's nations and regions as well as the importance that the content feels authentic to the lives and experiences of the audience. We continue to see this as a key aspect of public service delivery and will ensure that our regulatory approach takes into account the needs of citizens across the UK, including Scotland and Wales. In relation to BBC Scotland, we will assess its performance, as part of our overall assessment of the BBC's delivery of its fourth public purpose to reflect, represent and serve the diverse communities of all the UK's nations and regions in our next Annual Report on the BBC. In addition, we will look at BBC Scotland's online performance to provide context to its first year performance.

## **Diversity and inclusion in broadcasting**

- A1.153 The Campaign for Broadcasting Equality (CBE) set out a range of concerns and recommendations in relation to diversity and inclusion in broadcasting. CBE requested that Ofcom take steps towards bringing back people from minority ethnic backgrounds who had left the broadcasting industry, particularly the BBC. Specifically, CBE suggested that Ofcom research into why former members of the broadcast industry had left and require broadcasters to report on what they are doing to bring back former minority ethnic broadcasting industry employees back. CBE also suggested that Ofcom undertake more research, including research to understand the scale of racism in broadcasting, and appoint a Director of Diversity research. CBE recommended that Ofcom establish an independent racism reporting body for the broadcast industry. CBE requested that Ofcom review the possibility of ring-fenced funding to drive black, asian and minority ethnic (BAME) employment in the broadcasting industry and that annual stakeholder diversity events should be held. Finally, CBE suggested that stakeholder meetings should be more transparent and that parties with a critical view of broadcasters should be invited to stakeholder meetings.
- A1.154 The Communications Consumer Panel and Advisory Committee on Older and Disabled People (ACOD) noted an interest in representation and inclusion of older individuals or

people with disabilities in broadcasting. The Scottish Government were supportive of work to improve diversity in broadcasting and noted the importance of socio-economic and geographic diversity.

A1.155 The National Association of Deafened People highlighted ongoing issues with subtitling on television and noted that there have been no changes to subtitling policy since a review in 2015. The National Association of Deafened People also highlighted that the 2021/22 plan of work does not include plans to designate a single point of complaints as set out in the Audiovisual Media Services Directive.

### **Our response**

A1.156 Our 2020 report on diversity in broadcasting makes clear that in order to make meaningful progress, it is not simply a case of recruiting a more diverse range of employees, but retaining them too.

A1.157 A key part of this is to better understand the make-up of those who have left the industry - particularly in terms of gender, ethnicity and disability - and whether leavers appear to be over-represented by people with certain characteristics, and if so, why.

A1.158 We have asked broadcasters to voluntarily provide information on the make-up of staff turnover since 2017, and published the data as part of our annual reports. We have also asked broadcasters to report on the actions they have taken to increase diversity, including in the recruitment process and in progression and retention of colleagues. We ask broadcasters to evaluate any initiatives and show us how they have established what works and what doesn't. To help further improve our collective understanding of these and related areas, we have commissioned London School of Economics to conduct a gap analysis to recommend where further research is needed.

A1.159 We are determined to drive systemic change, where employees of all backgrounds - past or present – feel that they have fair and equal opportunity to progress, or indeed return to a career in the TV and radio industry.

A1.160 Ofcom meets hundreds of individuals and organisations spanning its broadcasting work, and diversity is a key part of that broad engagement. Over the years we've participated in events, held by think tanks, government bodies, union groups, broadcasters and their employee network groups, universities and many other bodies.

A1.161 We are actively looking at how we can further increase transparency in this area, notwithstanding that it is important that all our meetings provide a forum for a frank and honest exchange of views. Our annual diversity in broadcasting reports will continue to present the latest insights, activity, outcomes and future objectives resulting from our engagement with stakeholders during the course of the year.

A1.162 As we said in our latest Diversity in Broadcasting report, we remain very open to constructive criticism and we are open to feedback on how we can make the most of our position to influence change. We will host an event this year to provide a platform for open and honest debate about diversity across the broadcasting sector and what more needs to

be done to drive faster change. We are aiming to hear new and fresh perspectives from as wide an audience as possible.

- A1.163 Our online diversity hub also provides a rich source of information and links for those interested in advancing diversity and inclusion within broadcasting, and actively invites users to contact us with queries at a dedicated email address.
- A1.164 Ofcom’s legal duties in promoting equality of opportunity relate to broadcasting licensees which employ more than 20 people in connection with the provision of their service, and are licensed to broadcast for more than 31 days a year. But we recognise the role that community media can play in the diversity of the broadcasting industry more generally, and are keen to engage with smaller broadcasters on an informal basis, to understand their experiences of diversity and inclusion. We have supported community media as a vital service throughout the pandemic, with a significant number of awards relating to emergency funding. We recognise that the lived experience of underrepresented groups is crucial and are developing connections with and between employee networks across a range of broadcasters.
- A1.165 We stated in our third Annual Report on the BBC published in November 2021 that the BBC’s announcements on its Creative Diversity Commitment and Creative Diversity Fund, ringfencing £100million and £12million for diverse TV and radio production respectively, are encouraging, and that we will closely monitor progress, engaging with the BBC on the detail, so that we can effectively assess the contribution these make to the delivery of the BBC’s diversity obligations within Public Purpose 4.
- A1.166 Our diversity monitoring includes data on the number of older and disabled people working for television and radio broadcasters. Our 2020 report highlighted the continuing lack of representation of disabled people at all levels of these organisations. We highlight the particular need for representation off-screen in decision-making positions, to ensure on-screen content which reflects the diverse population it is intended to serve.
- A1.167 We know that the quality of access services such as subtitling is also of utmost importance and Ofcom enforces statutory requirements of such services available on broadcast television. This is why we undertook our previous extensive monitoring of the quality of live subtitling. We acknowledged that there are trade-offs between the speed, lag, and accuracy of live subtitling and conducted research into user preferences. We subsequently held a roundtable with user groups to further understand user preferences, and have continued to engage with broadcasters with respect to progress in this area. In 2020 we commissioned further research into user preferences in relation to access services more generally. This research and other engagement will feed into revisions to our ‘best practice guidelines’ which will be published alongside the introduction of new requirements for on-demand accessibility.
- A1.168 Under the Communications Act 2003 (as amended by the Audiovisual Media Services Regulations 2020) Ofcom must provide a single, easily accessible (including by people with disabilities), online point of contact for providing information and receiving complaints regarding accessibility issues dealt with in the Act. We already provide an online point of

contact for complaints which offers a variety of ways to contact Ofcom depending on personal circumstance and preference (online form, dedicated email, phone number, and textphone number). We hope to work with charities representing disabled people to increase awareness of this point of contact for those who need it.

## Radio Licensing

- A1.169 Several stakeholders, including the Community Media Association, Bedford Radio, Bedford Borough Council, Better Media, Bath Radio, Shire Sounds and Leicester Community Radio and their listeners requested that Ofcom undertake a round of FM community radio licensing. Some of these stakeholders urged Ofcom to consider local needs, Small Scale DAB (SSDAB) rollout progress, coverage areas of SSDAB, and areas where SSDAB might not be sustainable.
- A1.170 Ofcom received over 100 responses in support of Leicester Community Radio, including the following individuals and organisations; Alex Scoppie, Andrew Titcombe, Barbara Grant Bennet, Clifford Brandbury, John Tulley, Keith Jayes, The Leicester City Mayor, Les Young, Mat Wise, Max Edwards, Wendy Anita and John Ashworth MP.
- A1.171 Stakeholders including the Community Media Association raised a concern that some consider SSDAB an ineffective alternative to FM radio as listeners from low-income backgrounds may not be able to buy a DAB receiver and some retailers continue to sell legacy DAB receivers which are incompatible with DAB+. Additionally, the Community Media Association raised challenges for broadcasters operating under temporary emergency Covid-19 licenses which are unable to raise funds through advertising.
- A1.172 Barry Clack requested that Ofcom improve its speed and approach to licensing, issuing any extensions or improvements to the community radio sector. Barry also suggested that Ofcom be clearer in its timeframes to allow SSDAB multiplex (MUX) operators to prepare financially. Finally, Barry suggested that Ofcom and DCMS should provide more information and financial support for SSDAB MUX operators.
- A1.173 The Community Media Association suggested that Ofcom should establish a service level agreement with community radio stations to notify them of license renewals at least three months before expiry.
- A1.174 The Community Media Association also suggested that there should be a London weighting for community radio volunteer hourly rates due to the higher living expenses.
- A1.175 The Scottish Government asked Ofcom to develop and maintain a radio network in Scotland that meets the needs of the audience.

## Our response

- A1.176 Ofcom is not currently planning any further analogue community radio licensing as we continue the process to license small-scale DAB. We believe that small-scale DAB represents an appropriate use of spectrum, meeting demonstrable demand from community radio, smaller commercial radio stations and new entrants for an affordable

pathway to terrestrial digital radio. This, in turn, will help to ensure the continued availability of a diverse range of radio services across the United Kingdom, on a platform which accounts for an increasing amount of radio listening.

- A1.177 We consider that it is currently in the interests of audiences as a whole for us to prioritise small-scale DAB, even accepting that this will result in delays before any potential new FM services could be licensed, because small-scale DAB will ultimately offer audiences more stations, more efficiently, and in more locations, than FM ever can. We will keep this position under review. We are, however, willing to listen to arguments as to whether a specific station considers that there are exceptional circumstances which would warrant Ofcom departing from its policy prioritisation to justify opening a round of local licensing in a particular area.
- A1.178 There is evidence from Ofcom’s Tech Tracker survey that there is not an overwhelming affordability issue when it comes to accessing digital radio. The survey asks respondents whether they are likely/unlikely to purchase a DAB receiver in the next 12 months. 66% of C2DE respondents confirmed that they were unlikely to purchase a DAB radio, but only 12% of those (so just under 8% of C2DE respondents overall) said this was because they couldn’t afford one. The most common responses were from respondents who did not see a need to (58%) and from those who were content with existing services (54%).
- A1.179 Our plans for licensing small-scale DAB were set out in our ‘Licensing Small-scale DAB’ statement. Ofcom has provided extensive information about the technical requirements of small-scale DAB, including an online workshop.
- A1.180 Details of which small-scale radio multiplex licences will be advertised in each batch and will be announced shortly prior to the date of advertisement. The areas will be chosen using the eight criteria set out in our ‘Licensing Small-scale DAB’ statement
- A1.181 Our initial plan was to complete an isolated round of applications for community radio improvements and extensions in 2018/19. However, given the demand for these technical changes, we confirmed in September 2019 that this window would remain open indefinitely. In our statement, we confirmed that our ability to assess and approve improvement or extension requests from existing analogue radio stations is dependent on the availability of resource to complete the work. Therefore, there may be times when we have to delay our approach to this work and prioritise other aspects of our work. This continues to be the case while we prioritise the licensing of SSDAB multiplexes and community digital sound programme (C-DSP) licences.
- A1.182 We note concerns around radio licensing renewals and continue to work with stakeholders to alleviate this concern. We have, very recently, completed a significant number of decisions in this area of work which provides licensees with far more notice ahead of the original expiry date of their licence. We will continue to keep this under review and will build the request for notifications to be sent to licensees three months ahead of the existing expiry date into our existing processes
- A1.183 London weighting for community radio volunteer rates is an issue that we will need to consider in detail. However, our initial analysis indicates that volunteer hours reported by

community radio stations are currently much higher than the value needed to offset advertising income, which would indicate that there isn't necessarily a need for a review at this time.

- A1.184 We note the Scottish Government's continuing support of the radio sector in Scotland. Small-scale DAB will provide opportunities for more stations in Scotland to broadcast.

## Community Radio Funding

- A1.185 The Community Media Association requested that Ofcom undertake the next round of community radio funding as soon as possible and argued that the current fund is not adequate to provide significant support to the sector. The Community Media Association suggested that Ofcom commission research into the community radio fund and how it has been used by stations to access other funding and called on Ofcom to work with the Community Media Association and DCMS to put forward the case for an enhanced fund which is able to offer more support to community radio stations.
- A1.186 The Welsh Government welcomed Ofcom's intention to deliver new restricted service licenses and noted that it was keen to work closely with Ofcom to ensure any funding made available in 2021/22 benefits eligible community radio stations in Wales. However, the Welsh Government also stressed that it would not wish to see further relaxation or removal of the current localness rules on commercial radio.

## Our response

- A1.187 The community radio fund is owned and managed by DCMS and therefore it is DCMS' decision on how this fund should be used and whether it should be re-purposed to support emergency funding. Ofcom is not yet aware of DCMS' plans in this regard for 2021/22. We would be happy to engage in research in this area but since Ofcom only administers the Community Radio Fund, any research initiative needs to be instigated by DCMS. Ofcom has no current plans to amend how localness on commercial radio is regulated. We note the support of the respondent in relation to new restricted service licences and future funding for community radio stations in Wales. Ofcom's team in Wales will work with the Welsh Government and licence holders on hosting a workshop on the implementation of the community radio fund in order to encourage applications from Wales.

## The BBC

- A1.188 The Welsh government expressed an interest in engaging with Ofcom on the evolution of the BBC Operating License and performance measures and have requested that any monitoring or review of BBC delivery include an assessment of delivery in Wales. MG ALBA suggested that Ofcom ensure that indigenous minority language provision is adequately and equitably provided for in Ofcom's review of the BBC.
- A1.189 The Voice of the Listener and Viewer noted concerns around BBC funding, arguing that it must remain independent and that its mission should not be subverted due to a lack of funding or to a dependence on commercial funding. The Voice of the Listener and Viewer

also argued that audience satisfaction and reach should not be the dominant success measures for the BBC or PSBs more broadly, noting the importance of innovation and ensuring that citizens extend their view and experiences through broadcasting.

### **Our response**

- A1.190 In our Annual Report on the BBC, we assess the BBC's performance in delivering its Mission and Public Purposes across the Nations, including in Wales. We draw on a wide range of evidence and metrics to support our performance assessments.
- A1.191 Support for Gaelic-language broadcasting is an important part of how the BBC delivers for audiences in the nations of the UK. Serving the nations audiences is a key strategic issue for the BBC and relates directly to its public value. We therefore expect to look at this area more broadly as part of our first periodic review of the BBC.
- A1.192 Ofcom will continue to report on the BBC's performance and, as part of our periodic review, consider how effectively it can continue to serve all audiences across the UK. As part of the Small Screen: Big Debate consultation we identified a range of different options that could play a role in funding public service content, but note that questions about the future funding of the BBC specifically are matters for the Government and Parliament as part of the next BBC Charter Review.

## **Commissioning in the independent production sector**

- A1.193 The Ofcom Advisory Committee for Northern Ireland noted a growing concern that more commissioning is reverting back to the London and the south east of England in the wake of the coronavirus. The Committee requested that Ofcom investigate this concern and consider if any interventions are required to protect progress made to date.

### **Our response**

- A1.194 In our Small Screen: Big Debate consultation document we recognise that the PSBs continue to be the largest investors in new UK-made content for UK audiences. As well as contributing to the creative economy, we note that this also contributes to the UK's culture in a way that viewers still value highly. We state that the Public Service Media system needs to be able to deliver a wide range of diverse and high quality, engaging and entertaining content, impartial news and current affairs, and content which reflects the nations and regions of the UK. We will continue to monitor PSB performance for productions from Northern Ireland, as well as Scotland and Wales.
- A1.195 In our Small Screen: Big Debate consultation document looking at the future of public service media, we noted the role which it continues to play in reflecting the diversity of the UK's nations and regions as well as the importance that audiences attach to content which feels authentic to their own lives and experiences. We will continue to ensure that PSBs comply with obligations designed to secure a vibrant production industry across the UK.

## Content standards

- A1.196 The Welsh Government and Ofcom Wales Advisory Committee asked Ofcom to consider the response of broadcasters to misreporting information around the Wales position on the coronavirus crisis. The Ofcom Wales Advisory Committee called on Ofcom to commission audience research to investigate this issue so that robust data will be made available to inform future policy, noting their view that the coverage raised potential issues around inaccurate reporting and the risk of misleading audiences across the UK.
- A1.197 The Older Peoples Commissioner for Wales noted a concern around ageism in broadcasting.
- A1.198 The Community Media Association requested that Ofcom take a more pragmatic approach to listener complaints in radio, noting that stations are expected to respond to a complaint in a short window but have to wait for a long time before Ofcom gives its judgement.

## Our response

- A1.199 Ofcom received a small number of complaints about reporting by broadcasters on their UK-wide news output about the response of the devolved nations to the coronavirus pandemic that the complainants considered was inaccurate. Having carefully assessed these complaints, we considered they did not raise issues under the Broadcasting Code that warranted further investigation. However, in light of the fundamental importance of the accuracy of news, particularly when dealing with issues of significant public importance, we are currently considering commissioning audience research about how UK news broadcasters have covered issues falling under the responsibility of the administrations in the different nations of the UK, including in relation to the Pandemic.
- A1.200 Ofcom has a duty to consider every complaint it receives. However, Ofcom will only contact a broadcaster for recordings, information or formal comments on how it has complied with its licence conditions and/or Ofcom's codes and rules where a complaint raises issues which Ofcom considers warrants further assessment or investigation. Ofcom's published procedures for handling complaints, both about a broadcaster's compliance with its licence conditions and its broadcast content, set out the timescales within which broadcasters are required to provide information to Ofcom as well as the timescales Ofcom aims to conclude assessments of any complaints resulting in investigations. However, Ofcom recognises that matters beyond a broadcaster's reasonable control may mean that the broadcaster cannot provide recordings and information within the timescale requested, and that small broadcasters, in particular those in the community radio sector who are often staffed by volunteers, are likely to have fewer resources for compliance purposes compared to larger stations. Therefore, we are flexible where possible and take appropriate action by considering requests from broadcasters for extensions to our deadlines in providing recordings and information, taking into account the amount of content/information requested. However, there will be occasions where the nature of an issue will mean that Ofcom will require licensees to provide recordings and/or responses to Ofcom according to the timescales set out in our procedures, or on an expedited basis e.g.

where we are considering potential issues of incitement, uncontextualised hate speech and/or harm.

- A1.201 Under Rule 2.3 of the Broadcasting Code, broadcasters must apply generally accepted standards to ensure that material which may cause offence is justified by the context. This includes content that is discriminatory on the grounds of age. Ofcom has received a small number of complaints from viewers and listeners about content they considered was ageist. After careful assessment, we concluded that none of these complaints raised issues warranting investigation under our rules. Ofcom is currently conducting new research about audience attitudes to offensive language and content. As with our previous research in this area, we have ensured that the views of older people are included so we can take these into account in our decision making.

## Indigenous languages

- A1.202 The Welsh Government requested that radio licensing for stations in Wales should give consideration to the Welsh language and specify that a number of hours be broadcast in Welsh and with a statement about Welsh-Language web content. The Scottish Government requested that Ofcom support indigenous media service providers and the BBC in planning for the strategic challenges of Gaelic broadcasting and, more widely, request that Gaelic be referenced alongside Welsh in Ofcom's Plan of Work. MG ALBA specifically requested Ofcom to consider establishing metrics for indigenous minority language services and suggested that indigenous languages could be supported through minimum service level provision and securing prominence in the online domain

## Our response

- A1.203 Support for Gaelic-language broadcasting is an important part of how the BBC delivers for audiences in the nations of the UK. Serving the nations audiences is a key strategic issue for the BBC and relates directly to its public value. We therefore expect to look at this area more broadly as part of our periodic review.
- A1.204 Ofcom cannot force the programming commitments (in Welsh local TV services), key commitments (in community radio services) or formats (in commercial radio services) to be amended to require the inclusion of Welsh language in the services, however delivered. This would need to be requested by the licensee as an amendment to its licence. Ofcom takes the fulfilment of its Welsh language obligations very seriously and strives to comply with its standards as set out by the Welsh Language Commissioner. Careful consideration would be given to any requests to amend licences in this way, should they be made by licensees.
- A1.205 Our Small Screen: Big Debate consultation identified both the significant role that public service broadcasting plays in reflecting the diversity of the UK, including its linguistic diversity and the importance of ensuring that the content is accessible to audiences if it is to deliver the greatest public service benefits. Through our work, we will continue to consider the role regulation can play in ensuring that the full range of public service objectives are delivered.

## Preparing to regulate online harms

### The Online Harms regime

- A1.206 Many stakeholders were supportive of Ofcom’s appointment as the future Online Harms regulator. Stakeholders including the Welsh Government and Carnegie UK Trust requested further detail from Ofcom on how plans have changed since its appointment
- A1.207 Better Media suggested that Online Harms be designated as a separate matter of public concern that is independent from economic and platform regulation.
- A1.208 The Ofcom Advisory Committee for England suggested that Ofcom take a broader approach to Online Harms than set out in the online harms regime including looking at financial harm resulting from calls which appear to come from a valid source, online trolling, and access to inappropriate content for children. Which? also suggested that online scams be included within the Online Harms bill. The Welsh Government requested that Ofcom engage with them to ensure that future work reflects priorities in Wales and the Scottish Government noted an expectation that Ofcom would expand its presence in Scotland, particularly with the expansion of responsibilities for Online Harms
- A1.209 Stakeholders including TalkTalk, the Scottish Government and Ombudsman Services noted the importance of collaboration in this area or offered their expertise for collaborative efforts. TalkTalk also expressed their expectation that Ofcom would consult with Internet Service Providers (ISPs) on the proposed website blocking enforcement tool.
- A1.210 Stakeholders were also interested in the interaction between the Video Sharing Platform and Online Harms regimes.

### Our response

- A1.211 Ofcom is a well-established independent regulator and we have a strong track record of protecting audiences from harm while also upholding freedom of expression. Later this year, we’ll set out further thinking on how we see the online harms regime working in practice.
- A1.212 We do not underestimate the scale of the job and we’re gearing up for our new role, starting to acquire new skills and build areas of capability and capacity – both through training and by hiring specialist colleagues in areas like data and online technology.
- A1.213 We will focus particular attention on tackling the most serious harms, including illegal content, although the range of harms within the scope of the forthcoming regime is a decision for the UK Government. The Government intends to bring draft legislation forward this year. Ofcom will not receive any new powers until the legislation has received Royal Assent. We understand that the UK Government’s intention is for the regulator to develop its own Codes of Practice and Guidance following the passage of legislation, and we will take a consultative approach to developing our regulatory regime. We look forward to working with the UK and devolved governments, offering expert technical advice through the legislative process.

- A1.214 The earlier introduction of regulation to UK-established VSPs will provide a solid foundation to inform and develop the future online harms regulatory framework. Through our work regulating VSPs we will grow our existing skills and expertise, gain practical ‘on-the-job’ experience, and engage with key stakeholders in the online space. The regimes are aligned in their shared objective to hold services to account for protecting users through the adoption of appropriate systems and processes, however the full extent of the intersection between the regimes will become clearer as the legislative process for the online harms regime develops.
- A1.215 Later this year, we’ll set out further thinking on how we see the online harms regime working in practice. Ahead of acquiring new powers and duties to regulate online harms, we will make use of our powers to regulate Video Sharing Platforms established in the UK and our Making Sense of Media programme to improve online safety for internet users. We will focus particular attention on tackling the most serious harms, including those affecting children, although the range of harms within the scope of the forthcoming regime is a decision for Government and Parliament. We will take a consultative approach to developing our regulatory regime.
- A1.216 We see huge benefit in our geographical diversity and will be looking to grow our presence in our offices in Belfast, Cardiff and Edinburgh to ensure that we are able to attract the best talent the UK has to offer and that we are representative of all parts of the UK. We’ve grown our office in Edinburgh in recent years and have invested in technology to enable us to do this.
- A1.217 In developing the regime, we will continue to draw on strong relationships with industry, policymakers, academic experts, charities and other regulators. We recognise that to maximise the impact of online regulation, it’s important for us to continue to build partnerships with a range of expert organisations, both in the UK and internationally.

## **Making Sense of Media**

- A1.218 The Communications Consumer Panel and Advisory Committee for Older and Disabled people (ACOD) expressed their support for Ofcom’s Media Literacy programme. Better Media suggested that the media literacy model used by Ofcom lacks regard for citizenship, civic engagement and participative media practice, and as a result cannot support the building of media literacy capacity within society.

### **Our response**

- A1.219 We welcome the support for this important programme, noting the importance of media literacy within the OH regime but also the broader links to areas such as digital markets regulation. Ofcom’s Making Sense of Media (MSOM) advisory panel and network (now with over 200 members) support us in ensuring that we take a broad view of media literacy and that we are able to work with partners to drive best practice across the sector.

## Online Markets

A1.220 Stakeholders including Carnegie UK Trust and Which? expressed their support for Ofcom's work in digital markets and under the Digital Regulators Cooperation Forum (DRCF). Carnegie UK Trust suggested that Ofcom engage widely with other regulators, not just those within the DRCF to maximise the effectiveness of the Online Harms regime.

### Our response

A1.221 On 10 March 2021 the DRCF published its workplan for 2021-22. We welcome engagement on the DRCF work and are actively facilitating broader cooperation and coordination beyond the DRCF. On 1 April the Financial Conduct Authority (FCA) will join the DRCF, and we will work closely with the Advertising Standards Authority (ASA), the Prudential Regulation Authority, the Payment Systems Regulator, the Intellectual Property Office, the Gambling Commission and other agencies as appropriate. The DRCF also set out plans for engaging with industry and stakeholders as part of the workplan.

## Other online issues

A1.222 Harry Green raised a concern around the difficulty of unsubscribing from certain online services, suggesting that all companies which offer an online subscription service be required to make unsubscribing as easy as subscribing.

### Our response

A1.223 We agree companies should make it as easy to leave a service as it is to enter into a new contract. The Fairness for Customers commitments reflect this, specifically Commitment 5 (Customers can sign up to, change and leave their services quickly and smoothly).

## Strengthening Ofcom for the future

### Diversity and inclusion

A1.224 The Older People's Commissioner for Wales is supportive of Ofcom's diversity and inclusion strategy, noting the importance of commitments to retain and recruit older workers and consider improvements to flexible working practices.

### Our response

A1.225 Every year we publish our Diversity at Ofcom report, a statistical report which sets out the diversity make-up of our workforce overall as well as the outcomes for particular groups of colleagues, from joining us to leaving us. This includes our age breakdown overall including by grade and new starters, as examples, as well as outcomes in areas such promotion and performance. We recently published our five-year Diversity and Inclusion strategy, vision and workforce targets, and our statistical report provided an input into shaping that. Although we have prioritised the three core areas where we had the greatest under-representation, we have also taken age, and other characteristics, into consideration.

We've committed to an increased and wider set of internal reporting and monitoring, with age being included as part of this.

- A1.226 A quarter (24%) of our colleagues are aged 50 years and above, with 5% over 60 years old. We have inclusive recruitment practices to ensure we minimise bias in the recruitment process such as inclusive job description wordings or removing degree level requirements when not essential to a role.

## Emerging technologies

- A1.227 uSwitch agreed with Ofcom's commitment to supporting emerging technologies and noted a lack of coordinated effort in consumer engagement around these technologies, suggesting that more could be done to educate consumers on the benefits of new products. Better Media highlighted the importance of public accountability and transparency to any future investigations of the effects of emerging technologies.

### Our response

- A1.228 Ofcom is committed to publishing the outcomes of its technology research wherever practical to inform consumers and stakeholders of our findings.<sup>11</sup>
- A1.229 As set out above under 'Other Networks Issues', Ofcom is collaborating with the GigaTAG advisory group on take-up of gigabit-capable services. In December GigaTAG published its interim report, which recommended that Ofcom and the Government should encourage clearer and more consistent information about broadband products from industry, potentially via product labelling. We are continuing to work with GigaTAG as it further develops its thinking on how to improve the information available to people and businesses. The open communications project is also seeking to explore ways in which consumers can be informed about the right communications services for them.

## Underpinning our wider work

### Consultations

- A1.230 The Communications Consumer Panel and ACOD welcomed recent changes to Ofcom's consultations and encouraged Ofcom to continue holding virtual consultation events to capture views across the UK nations and urged Ofcom to make every policy consultation accessible to the widest range of potential respondents.

### Our response

- A1.231 We are keen to make Ofcom's consultations accessible to the widest range of potential respondents. We welcome the Communications Consumer Panel and ACOD's recommendations, which we will discuss further with them in the coming months.

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<sup>11</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/emerging-technologies>

## Evaluating our work

A1.232 The Carnegie UK Trust was supportive of Ofcom’s commitment to evaluating its work, noting that regulators should regularly publish and promote their impact and outcomes data to support shared learning and visibility of progress against key metrics.

### Our response

A1.233 We take seriously the importance of evaluating our performance and endeavour to understand the effectiveness of our interventions and regulatory activity. We have various monitoring and evaluation programmes which consider the qualitative and quantitative impact of our activity across communications markets. We have also committed to undertake in-depth reviews of selected policy interventions ex-post.

## Planning and prioritisation

A1.234 Many stakeholders were supportive of Ofcom’s plan and priorities in general. TalkTalk challenged Ofcom on its focus on the Telecoms sector in the face of its expanding remit and urged that fixed broadband should be given greater priority in the Plan of Work.

A1.235 TalkTalk noted the GigaTag taskforce, which is looking at encouraging take-up of gigabit capable networks and is due to report in the spring, asking that Ofcom take into account any recommendations in the report.

### Our response

A1.236 In determining Ofcom’s plan of work we balance the needs of UK citizens and consumers in communications matters against our resources. We believe that the projects and strategic priorities which we have set out appropriately balance Ofcom’s powers and duties across our remit. We note TalkTalk’s concerns and continue to prioritise the needs of the Telecoms sector through our organisational structure and strategic themes.

A1.237 We are collaborating with the Gigabit Take-up Advisory Group (GigaTAG), convened by Which? for DCMS, which is examining the options for industry and regulators.

## Ofcom’s research

A1.238 Stakeholders were supportive of Ofcom’s research. The Carnegie UK Trust urged Ofcom to expand the number and type of participants in research groups to ensure that hard to reach groups are heard from. The RNIB suggested that Ofcom research the accessibility needs of video game players to facilitate and encourage accessibility in games. The RNIB also suggested that Ofcom host the access and inclusion report and media use and attitude reports in the same location online, making accessibility needs of consumers more visible.

A1.239 The Carnegie UK Trust also asked that Ofcom consider offering data, expertise and advice to researchers developing a digital inclusion baseline, the ‘minimum digital standard’.

### Our response

- A1.240 In our market research programme we always balance budgetary constraints with the need to engage with a wide range of different groups of consumers. For all of our main programmatic tracking surveys we include quotas to ensure we have sufficient sample sizes for some ‘hard to reach’ groups (e.g. rural consumers, consumers in the devolved UK nations, ethnicity, vulnerability). The same applies to our qualitative research depending on subject matter. Additionally, when required we invest in researching large samples of consumers in order to ensure that all the groups we need to research are included.
- A1.241 Video games are currently outside Ofcom’s direct regulatory remit. However, we recognise the importance of video games in both entertainment and communication and are seeking to better understand consumers use of and attitudes towards them, including through our media literacy research. On hosting the Access and Inclusion reports alongside other media use and attitudes reports; we welcome this suggestion and have added links between the access and inclusion research page and the children’s media use and attitudes and adults’ media use and attitudes pages to the Ofcom website.
- A1.242 We continue to have an open data policy with all quantitative data sets shared on our website. We are also very open to sharing our expertise and advice, as well as benefitting from the expertise and advice of others. An example of where we work collaboratively with external researchers and experts is our Making Sense of Media advisory panel and network, established in July 2019 and now with over 200 members, which brings together expert representatives from across industry, the third sector and academia, to debate and inform the development of Ofcom’s media literacy research and policy work. We will continue to publish all research conducted and we are increasingly offering interactive datasets to make data as accessible as possible to all stakeholders

## Information registry

- A1.243 Many of our stakeholders were supportive of the development of the information registry, BT noted that information requests continue to be a burden on stakeholder resources, suggesting that there are efficiencies to be gained. Openreach noted an interest in sharing any teachings which could be used to improve the response process and proposed that Ofcom define and publish key performance indicators around information requests, for example the volume, costs and benefits of requests.

### Our response

- A1.244 Last year, Ofcom launched the Information Registry, a new team designed to centralise and streamline Ofcom’s information gathering activities. During 21/22 the team will continue its work with Ofcom project teams and stakeholders to ensure we have a co-ordinated approach to gathering information, providing operational support to project teams within Ofcom and act as a central contact point for companies on information gathering matters. We have carefully considered feedback on our activities to date and have taken this into account in developing our priorities for the Registry over the next year.<sup>12</sup> This includes

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<sup>12</sup> <https://www.ofcom.org.uk/about-ofcom/policies-and-guidelines/information-registry>

continuing our work to increase transparency; identify and manage potential peaks of activity; continuously seek feedback and continue to work with stakeholders to understand how we can continue to improve our information gathering processes.

## Northern Ireland

- A1.245 The Ofcom Advisory Committee for Northern Ireland noted a concern around the absence of an Ofcom Board member for Northern Ireland.
- A1.246 The Consumer Council for Northern Ireland welcomed Ofcom’s role in supporting plans for full fibre rollout and improved mobile coverage, and they hoped to contribute to this work by making the voice of consumers heard as the plans are developed.

### Our response

- A1.247 We are seeking to agree a memorandum of understanding with the NI Executive, NI Assembly and DCMS which will include the appointment of an Ofcom Board Member for Northern Ireland. We will continue to engage with The Consumer Council on the various broadband and mobile rollout initiatives in Northern Ireland.

## Wales

- A1.248 The Welsh government noted its review of the memorandum of understanding between itself and Ofcom, and its aim to strengthen elements of the MoU in setting the strategic priorities of Ofcom with respect to activities in Wales.
- A1.249 The Ofcom Wales Advisory Committee raised concerns about the health of community radio in Wales and expressed support for community radio hardship funds across the UK.
- A1.250 The Ofcom Wales Advisory Committee also highlighted the potential value of Welsh rural environments for developing Ultra High Frequency (UHF) white space technology and higher frequency service developments, using mmWave 5G or other technologies for rural connectivity.

### Our response

- A1.251 Discussions regarding the review of the MOU between Ofcom, the Welsh Government, the UK Government and Senedd Cymru are ongoing.
- A1.252 Ofcom’s team in Wales will work with the Welsh Government and licence holders on hosting a workshop on the implementation of the community radio fund in order to encourage applications from Wales.
- A1.253 We are part of the UK 5G Test and Trial steering group on connected communities in the rural economies.<sup>13</sup> We have organised workshops on 5G for verticals in Wales.

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<sup>13</sup> <https://uk5g.org/discover/testbeds-and-trials/connected-communities-rural-economy-cocore/>

## Business Champion

A1.254 The Internet Telephony Services Providers' Association (ITSPA) suggested that Ofcom appoint a 'business champion' within Ofcom to foster a better understanding of the commercial landscape.

### Our response

A1.255 Having a deep commercial understanding of the markets we regulate is imperative to carrying out our duties as a regulator. We will focus on these capabilities by recruiting colleagues with commercial experience, using secondments, and continuing our programme of commercial and consumer research.

## EU Exit

A1.256 BT encouraged Ofcom to explore any areas where European Legislation might be adjusted to better reflect the UK market and sought clarity on guidance for EU-related regulation, particularly around international roaming. The Ofcom Advisory Committee for Northern Ireland also requested assurances that there will be sufficient protection for Northern Ireland consumers from mobile roaming charges, noting that the current legal framework around roaming may not provide adequate consumer protections.

### Our response

A1.257 Under the terms of the UK/EU Trade and Cooperation Agreement, UK mobile providers are no longer subject to EU law on roaming, and Ofcom does not have the power to require providers to cap EU retail or wholesale roaming rates under UK law. We have asked all the mobile network operators to keep us abreast of developments in this area, and at this stage we understand that they have no current plans to reintroduce EU roaming surcharges as long as this position remains commercially viable. We are mindful of the particular issues that can affect people in Northern Ireland and will continue to monitor developments closely.

## Enforcement

A1.258 The Community Media Association noted concerns around the volume of unlicensed radio broadcasters and suggested that the frequencies they operate on could be made available to community radio stations.

### Our response

A1.259 Ofcom's Spectrum Compliance team continues to work on removing illegal broadcasters from the airwaves. The frequencies are not viable for new services and the unlicensed users generally cause interference to legitimate services and their listeners.