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# Ofcom's plan of work 2022/23 – stakeholder responses

Making communications work for everyone

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[Ofcom's plan of work 2022/23 – stakeholder responses](#) – Welsh translation

**Statement Annex:**

Publication date: 25 March 2022

# A1. Responses to the consultation

## A Consultation events and responses

- A1.1 We published our proposed Plan of Work on 15 December 2021 for consultation.
- A1.2 On the 24 January 2022 we hosted a virtual event across the nations to gain feedback on the proposed Plan of Work. 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 55 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.

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<sup>1</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/plan-of-work-2022-23>

## Investment in strong, secure networks

### Mobile Strategy Review

- A1.5 Several contributions noted the importance of Ofcom’s mobile strategy review, including, amongst other aspects, its potential for getting hard-to-reach areas connected.
- A1.6 BT noted in relation to the mobile strategy review that policy and regulation must recognise the challenges that exist for the industry and evolve to support the long-term investments that BT is already making.
- A1.7 The Communications Consumer Panel (CCP) welcomed increased monitoring and testing to ensure that all UK consumers have a decent, reliable and affordable signal, in relation to geographical factors beyond consumer control, noting the risk of inadvertent roaming in Northern Ireland.
- A1.8 The Scottish Government stressed that the mobile strategy review must serve to facilitate the delivery of improvements to rural, remote and island communities – and, accordingly, the appropriateness of regulation to be considered at a more granular level than in the past.
- A1.9 The National Association of Deafened People (NADP) offered their assistance in providing input into how telecommunications could be improved to ensure equivalence for all levels of hearing loss for the future, noting the strategy should encompass the full range of telephone relay services with inclusion of captioned relay services, particularly in the light of switch to tele-health and telephone health consultations.
- A1.10 The Dynamic Spectrum Alliance (DSA) recommended that when defining its mobile strategy, Ofcom consider the important role licence-exempt technologies, and specifically Wi-Fi, play in providing connectivity for mobile devices.
- A1.11 Vodafone noted the need for Ofcom to ensure that competition is maintained across the broader value chain (outside pure retail services). They emphasised the need for a level playing field across the telecoms value chain, ensuring equal treatment for equal digital services.
- A1.12 Apple emphasised the importance for Ofcom to take into consideration the spectrum needs for licence-exempt technologies to ensure an appropriate balance is achieved with licensed spectrum requirements.
- A1.13 One individual contribution further noted that a common understanding of the terminology used, such as 5G, would be of great help the public in assessing the value offered by providers.

### Our response

- A1.14 We note the above comments which focussed on our mobile strategy review. We published a discussion paper on our future approach to mobile markets alongside a

discussion paper on mobile networks and spectrum in February. We are inviting comments on both documents by 8 April 2022. We plan to set out our conclusions by the end of 2022.

- A1.15 We note the points made by Apple. Ofcom was one of the first regulators in Europe to provide access to the 5925-6425 MHz band for low power Radio Local Area Network (RLAN devices). We have also opened a number of frequency bands above 100 GHz on a light-licensed basis. Ofcom continues to work with stakeholders and other administrations on providing access to spectrum for other technologies.
- A1.16 We agree it is important that people and businesses have the right information to make informed decisions about the mobile technology and services that are best for them. We will continue to work on this in 2022/23.

## Digital Markets

- A1.17 BT expressed its disappointment that Ofcom is not seeking to take an active role in the new digital markets regime, noting its experience in communications markets makes it well placed to take a primary role in some aspects of digital competition regulation. It requested Ofcom to clarify its role under the Digital Regulation Cooperation Forum (DRCF) as the Plan of Work does not mention any specific projects or areas of work that Ofcom will contribute to under the DRCF. The Consumer Council for Northern Ireland (CCNI) noted it is essential that there is regulatory co-ordination so consumers are protected from harm.

### Our response

- A1.18 We are undertaking an examination of digital markets in the communications sector, including their relationship to the services we currently regulate and the potential for competition issues in such markets. This will inform Ofcom's assessment of the priority for engagement in specific digital markets over the next few years. As part of this work we will develop our understanding of the market for cloud computing and in particular its role in telecoms and broadcasting. We expect to provide more detail on the outcome of this review mid-2022. We also expect the joint Competition and Markets Authority (CMA)/Ofcom advice on how a code of conduct might address concerns about the online platforms/content publishers relationship to be published in the coming months.
- A1.19 Through the past year, we have been active in promoting regulatory cohesion and coordination through the shared initiative with the CMA, Information Commissioner's Office (ICO) and the Financial Conduct Authority (FCA) to create the Digital Regulation Cooperation Forum (DRCF). In our Plan of Work we also note several areas where our work through the DRCF will be important to delivering on Ofcom's priorities, including in establishing regulation of online safety and strengthening Ofcom for the future. We are currently working with the other DRCF members on the public work plan for the DRCF in 2022-23. Along with publishing these plans, the four regulators will provide a report on progress against the DRCF work plan for 2021-22.

## Migration to voice-over-IP services

- A1.20 A number of submissions raised concerns regarding the migration to voice-over-IP services, noting the lack of awareness among (vulnerable) consumers and businesses about the switch-over process and raising concerns about the timeline. All raised the need for the relevant parties, such as communication providers, Ofcom, and the UK Government to come together to ensure there is appropriate coordination to protect and inform (vulnerable) consumers and minimise disruption during the switch-over process. In this respect the Advisory Committee for Northern Ireland (ACNI) noted some evidence of improvements in processes and customer care amongst key providers, which should be further developed and replicated across the broad range of suppliers, including the smaller players.
- A1.21 BT observed in its submission that Ofcom is uniquely placed to ensure that all Communication Providers (CPs) have robust migration plans in place as part of the All-IP programme and that it should use its position to anticipate where issues may arise well before Wholesale Line Rental (WLR) withdrawal in 2025, helping industry, where it can, to find resolutions for those emerging issues. BT states it is working with the government to, amongst other things, ensure that critical national infrastructure is safely migrated from the Public Switched Telephone Network (PSTN) and would welcome Ofcom's support in those ongoing discussions.
- A1.22 Individual Protection Solutions (IPS) raised concerns regarding the potential for scammers to take advantage of consumers during and after the switchover, noting that that Voice over Internet Protocol (VoIP) makes the faking or spoofing of Calling Line Identification (CLI) numbers much easier.
- A1.23 Several submissions further noted specifically the need for a reliable battery back-up for a VoIP based system when power-cuts occur, especially for vulnerable customers which may lose essential access to devices such as personal alarms and communication equipment with no accessible alternatives. The Welsh Government noted in its submission the requirement by network providers to ensure the possibility to connect to emergency services will exist for a small timeframe, but questions whether this is sufficient.
- A1.24 Both NADP and Wavelength noted (previously raised) concerns with regards to the impact the migration can have on legacy equipment. In addition, Wavelength raises significant concerns in relation to affordability.
- A1.25 The Federation of Communication Services further noted competition challenges rising from the migration, noting the need to ensure smaller retailers/resellers are not disadvantaged when compared with for example the larger retailers of vertically integrated companies.

### Our response

- A1.26 We have set clear expectations on the providers of landlines around the switch to digital calls. Among other things, they should communicate effectively with customers and

identify people who may be at risk because they depend on their landline. We will continue to monitor the migration and how providers meet those expectations. We also welcome BT's forthcoming public awareness campaign and the establishment of a co-ordinating function across the main CPs based within TechUK to raise awareness of the migration.

- A1.27 We agree that providers need to learn from the progress of the migration to IP and will continue to engage with providers on their plans and approaches to the migration, and with stakeholders to understand risks and issues.
- A1.28 On access to emergency services during power cuts, our guidance states that telecoms providers must have at least one solution, such as a mobile solution or a battery back-up unit, that enables access to emergency organisations for a minimum of one hour in the event of a power cut. As typical residential power outage scenarios last for less than an hour, we would anticipate that most consumers would be able to use their mobile phone to make emergency calls in the majority of power outage situations. We recognise that providers cannot be expected to predict where power cuts due to exceptional circumstances will occur or provide solutions that protect customers in all exceptional circumstances. However, together with the telecoms companies, the UK and devolved governments and other regulators, we will identify what lessons can be learned for future network resilience given the impact of the recent storms.
- A1.29 We will consider the raised competition challenges as part of our planned review of regulation in wholesale telecoms markets from 2026.

## **Gigabit-capable services**

- A1.30 The DSA concurred with Ofcom that making reliable, affordable broadband internet and access to high-quality services available for everyone is of fundamental importance for the future digital society of the UK. It further observes that gigabit-capable networks, based on fibre as well as other access technologies such as satellite, cable, and Fixed Wireless Access (FWA) will play a crucial role here.
- A1.31 CityFibre raised concerns in its submission around the availability of consumer information on gigabit-capable/ultrafast broadband, observing that the Ofcom summary of the project is light on deliverables and silent on timescales for completion of this work. They raised the need for the project to ensure consumers are able to understand and navigate the different technologies now in the market, in particular in relation to confusion between part- and full-fibre technologies, stating this project should be taken forward as an urgent priority, given that consumers are already being harmed by misinformation.
- A1.32 Both Openreach and an individual submission further raised concerns surrounding terminology relating to gigabit/ultrafast noting that the lack of common terminology is leading to customer confusion as highlighted in the recent GigaTAG research and report. Both submissions note the need to create a new naming framework with well understood narratives to support consumers to make the shift from copper based to full-fibre technology.

- A1.33 The Scottish Government expressed in its submission the need to better understand how Ofcom is using its findings from the Wholesale Telecoms Fixed Access Review 2021-26 to assist in the delivery of the UK Government’s Project Gigabit.
- A1.34 Citizens Advice Scotland (CAS) noted that many consumers may not understand what broadband packages are available and which will meet their requirements best. It stated that providers may use different terms to describe speeds and consumers may not know what service they need to undertake their everyday activities, whether these be emails, streaming or online meetings. CAS felt that, with the advent of gigabit-ready services, consumers may need more support to understand what services are best for them and to prevent mis-selling.

### Our response

- A1.35 People and businesses need the right information to make informed decisions about the broadband services that are best for them. We have convened an industry working group to develop common terminology for broadband services, including next generation gigabit-capable networks. If the industry working group is unable to make progress at this stage, we will swiftly decide on appropriate next steps. This work aligns with the recommendations of the GigaTAG working group that industry should look to develop consistent terminology and use cases.
- A1.36 We will continue to provide technical and regulatory advice, as well as relevant data (where appropriate), to help the Scottish Government to deliver its key telecommunications infrastructure projects and ensure as smooth an interaction as possible with other publicly funded schemes.

### Net Neutrality

- A1.37 BT, Vodafone and Which? welcomed the review of the net neutrality rules.
- A1.38 In its submission BT requested Ofcom look broadly across the internet value chain and consider how the rules can be updated to reflect the changes in the internet ecosystem since the rules were first drafted.
- A1.39 Vodafone set out its view that net neutrality regulations are unnecessary and harmful to investment, noting that the ability for consumers to readily switch mobile provider means that network operators do not have an incentive to engage in network management practices that could risk consumer harm.
- A1.40 On a similar note, Which? noted the importance of a new net neutrality framework to help spur innovation and allow businesses to grow, while emphasising the need to ensure consumers’ interests are safeguarded and remain an important part of the framework.

### Our Response

- A1.41 The net neutrality framework is set in legislation and requires networks to treat all internet traffic equally and not favour certain websites or services. Our review will consider whether the current framework is working well and whether any changes or additional

guidance is needed, taking into account market developments since the framework was put in place, in order to support innovation whilst continuing to protect customers. We will publish a consultation on our review in Summer 2022.

## Network Security and Resilience

- A1.42 Several submissions, including those made by BT, Vodafone and the Federation of Communication Services, raised the need for more clarity regarding the implementation of the Telecoms Security Regulations, noting the need for a clear, well communicated framework and timeline.
- A1.43 BT noted in its submission the need for Ofcom to increase its focus on security and resilience in communications infrastructure more widely given the potential risks for consumers and business in critical internet infrastructure and services.
- A1.44 The Federation of Communication Services (FCS) noted their concerns in relation to the increased costs their members could potentially incur and how responsibilities are to be apportioned. FCS believes the obligation/regulation should be targeted at infrastructure parties and for OTT services on the supplier/provider themselves.

### Our response

- A1.45 The Department for Digital, Culture, Media and Sport (DCMS) is the Government policy lead for telecoms sector security, and they are currently consulting on their proposals for new regulations and code of practice that forms the telecoms security framework. Ofcom has been given new powers to monitor and enforce compliance with the new duties and must take into account the measures set out in the code of practice when carrying out its regulatory activities.
- A1.46 We will continue to work with the UK Government to implement our responsibilities under the new telecoms security framework, carrying out our compliance monitoring and enforcement role and issuing guidance for industry.
- A1.47 We will also continue to make sure operators of essential services are managing security risks and will engage with communications providers to carry out a threat intelligence-led penetration testing scheme (TBEST).
- A1.48 We will further work with industry to identify and close gaps in standards and best practice, issue guidance in relation to network resilience and continue the programme of pro-active monitoring of resilient design in current network deployments. Ofcom, through its Annual Report, aims to reflect what we have done in the year against our Plan of Work.
- A1.49 Ofcom is currently consulting on its proposed policy on ensuring compliance with the duties arising out of the Telecommunications (Security) Act 2021, this encompasses our procedural guidance and resilience guidance.

## Openreach Monitoring Unit (OMU)

- A1.50 Openreach considered that the annual OMU report, which covers compliance with BT's Commitments and will provide a commentary associated with the Wholesale Fixed Telecoms Market Review (WFTMR) outcomes going forward, should be identified as a distinct report within Ofcom's Plan of Work. This is because it is an important report within the telecommunications environment and the regulatory framework which is underpinned by the WFTMR for the next 5 years.
- A1.51 CityFibre noted that Ofcom's recent statement regarding the shifting focus of the OMU towards the obligations introduced in the WFTMR should be specifically reflected in the Plan as a strategically important area of work.
- A1.52 The Independent Networks Cooperative Associate (INCA) would welcome a consultation on how the OMU could be used to best effect in the market. INCA notes that there are a number of areas where Ofcom should be formally monitoring the impact of the WFTMR.

### Our response

- A1.53 We will continue to engage with all stakeholders over the current regulatory period. This includes monitoring fibre deployment of Openreach and other companies building gigabit-capable networks. We are not planning any formal consultations at this time.

## Passive infrastructure access

- A1.54 CityFibre noted that the introduction of Passive Infrastructure Access, allowing reuse of Openreach civil infrastructure by competing network builders, is at the heart of Ofcom's strategy to promote infrastructure competition. Whilst acknowledging that significant progress has been made on Physical Infrastructure Access (PIA) operational improvements during 2021, and that Ofcom introduced important changes to the price controls for PIA in the WFTMR, they want to emphasise that PIA requires further substantial operational improvements to be made, in particular to ensure that there is a level playing field between third party use of Openreach civil infrastructure and its own use.

### Our response

- A1.55 Investment in fibre will remain an area of focus for Ofcom. We will continue to promote fibre deployment through our work, ensuring providers have access to Openreach's ducts and poles, supporting the take-up of higher-speed service alongside our broader engagement with a range of stakeholders including investors.

## Build Transparency

- A1.56 In its submission, CityFibre referred to Ofcom using its statutory powers to gather information about and produce an aggregate picture of operators' build plans. CityFibre stated that greater clarity of such plans would allow Ofcom to monitor and (where necessary) intervene in relation to a specific concern identified in the WFTMR, strategic

overbuild behaviour by Openreach. CityFibre urged Ofcom to publish this information in a sufficiently transparent form to allow operators to act upon it by tailoring their investment plans to maximise geographic coverage.

- A1.57 INCA and its members noted that they did not feel that Ofcom was well informed about Alternative Network (altnet) plans and activities prior to or during the WFMTR process. INCA said in its response that Ofcom does not have the opportunity to gain the same level of understanding of other broadband stakeholders as it does of BT/Openreach, and that Ofcom needs to invest substantially in a much deeper and broader market involvement programme. INCA believes that Ofcom should add a workstream to its 2022/23 plan that specifically involves active engagement with all stakeholders to gain a balanced and comprehensive understanding of the whole sector.

### Our response

- A1.58 We are currently gathering network build plans from Communications Providers as part of our Connected Nations reporting programme, which will result in a report to the Secretary of State and an associated public report. The structure and contents of these reports will be determined once the underlying data has been received and analysed, taking due regard of our obligations and duties. In addition, via the Openreach Monitoring Unit (OMU), we will gather additional information about Openreach's fibre to the premises (FTTP) build plans which will allow us to quickly assess any potential concerns about strategic overbuild.
- A1.59 We consulted extensively during the WFTMR process, including meeting many altnets, and consider we were sufficiently informed about industry plans and activities to enable us to conclude the review in a reasonable and proportionate manner. Going forwards we are keen to remain engaged with a broad range of stakeholders to understand how their plans are developing.

## Getting everyone connected

### 2G/3G switch-off

- A1.60 Several submissions, including from NADP, Wavelength and the Welsh Government raised concerns about the proposed switch-off of 2G/3G mobile networks and the impact this could have on consumers, especially for those in rural areas that do not have access to 4G who will depend on earlier generations to stay connected for voice and text services.
- A1.61 NAPD noted that there will be a significant proportion of the population who have a hearing loss and so have had little need to upgrade their mobile handset to a 4G device. It is therefore more likely that people with a hearing loss will need to be encouraged to move to 4G with the associated cost. NAPD would welcome the opportunity to work with Ofcom to help it better understand how to address this population whilst also assisting in the communication to the NADP's members and followers.

A1.62 Wavelength urged Ofcom to review and consider the proposed changes in relation to the possible impacts they could have on loneliness and placing additional costs on consumers, as well as accessibility issues.

### Our response

A1.63 We recognise the importance of ensuring that, as Mobile Network Operators (MNOs) switch off their 3G and 2G networks, adequate mitigation is put in place to minimise the impact on customers. Some MNOs have announced plans to switch-off their 3G networks in the next few years, and they have confirmed to the Government that they do not intend to offer 2G and 3G networks past 2033 at the latest. We will work closely with the mobile providers and other relevant stakeholders to support the process and make sure issues are identified and addressed with the aim of protecting customers from harm and minimising disruption. As part of this we are happy to engage with stakeholders about any specific impacts on particular groups or services.

### Post and the universal postal service

A1.64 A number of stakeholders, including Royal Mail, Citizens Advice and IPS, submitted responses about post and the universal postal services, particularly raising concerns about the affordability and universality of the postal system.

A1.65 Royal Mail noted that it looks forward to working with all its stakeholders to ensure it keeps the Universal Service relevant and sustainable given changing customer needs and market dynamics. Royal Mail asks that this is factored into Ofcom's future Plan of Work.

A1.66 The Professional Publishers Association (PPA) supported the requirement for Royal Mail to set and report against five-year expectations as an absolute minimum requirement. However, it noted that Ofcom should review progress made against targets year by year with Royal Mail and benchmark the progress against international comparisons. Although the PPA appreciates that Ofcom cannot give a firm commitment of what further action it will take if efficiency expectations are not met, it should at least give an indication of what action it would consider.

A1.67 Ofcom's Advisory Committee for England (ACE) noted the challenges of reducing volumes under the postal Universal Service Obligation (USO), but more work is needed to find a solution which enables delivery targets to be met while maintaining an economically viable and sustainable operation.

A1.68 CAS encouraged Ofcom to consider measures to ensure Royal Mail meets quality of service targets as required in the USO. CAS also highlighted a concern that Ofcom had not got the correct balance between consumer interests and competition for postal services, proposing that Ofcom should be more focused on securing positive outcomes for postal customers and preventing harm, rather than fixing problems that have already happened. CAS also suggested Ofcom should be more proactive and agile in its regulatory approach to meet the challenges of a rapidly evolving market.

- A1.69 Citizens Advice recommended that Ofcom includes a desired outcome for postal services in its Plan of Work, which focuses on making sure postal services are universal, affordable, consistent and fair for both residential and business customers. Citizens Advice also notes that only a very small percentage of proposed projects included in the work plan relate to post and suggests that Ofcom should include postal services in more of its existing work. Citizens Advice also proposes a new project in Ofcom’s work plan relating specifically to affordability issues in postal services.
- A1.70 Citizens Advice recommended that Ofcom specifically brings in postal services in its work relating to its ‘Affordability of communications services’ work. Citizens Advice also recommends that Ofcom includes postal services specifically in its work relating to its ‘Supporting vulnerable customers’ theme.
- A1.71 In its response, CAS stated that while it was pleased to see recent changes in relation to redirections for consumers in receipt of benefits, it believes more remains to be done on affordability issues. When considering how to improve outcomes for vulnerable consumers, CAS urges Ofcom to embrace a wide definition of vulnerability.
- A1.72 CCNI also suggested that Ofcom include an affordability of postal services project in its work plan, as well as including another consumer outcome to focus its approach in 2022/23 ensuring access to a reliable and affordable postal service for consumers and small and microbusinesses.
- A1.73 ACNI noted it is vital that Ofcom’s current Review of Postal Regulation takes full account of the interests of consumers in Northern Ireland who have a particular need for the USO for 2nd class letter and parcel services. This is especially considering many other parcel providers levy a surcharge to send goods to Northern Ireland from Great Britain.
- A1.74 ACNI’s response also referred to the growing use of online shopping by consumers as well as the impact these arrangements could have on the postal universal service obligation – in particular the higher level of detriment that can be experienced by vulnerable or disabled consumers who are more reliant on online shopping. There can also be significant impact on some small businesses relying on delivery from Great Britain to maintain their supply chains, with wider economic and consumer impacts. ACNI recognises that Ofcom has limited powers here but asks it to continue to use its convening and advisory role to ensure the issues are well understood.
- A1.75 IPS raised concerns about junk mail and the lack of regulation enabling households to opt out of this economy. IPS encourages Ofcom to consider the risk of potentially damaging personal data contained in discarded mailings, and notes that there is no enforcement to permanently opt-out which appears to be a failure in scope.
- A1.76 Ofcom’s Advisory Committee for England (ACE) noted the challenges of reducing volumes under the postal Universal Service Obligation (USO), but more work is needed to find a solution which enables delivery targets to be met while maintaining an economically viable and sustainable operation.

## Our response

- A1.77 We will publish our statement on postal regulation in 2022 which will cover the following five years and will consider sustainability of the USO, efficiency and appropriate consumer protections. We are not planning to further review user needs or the scope of the USO in 2022/23 unless directed to do so by Government, or we otherwise consider that there are compelling reasons to do so.
- A1.78 We know how important a reliable postal service is to customers, and we can take action if Royal Mail fails to meet the annual targets we set for its performance. These targets require Royal Mail to deliver at least 93% of first-class post – across the UK – within one working day of collection, and 98.5% of second-class post within three working days, over the whole financial year. We assess Royal Mail's performance against these targets for each financial year – looking at how it has performed over the year as a whole. We also gather additional data to help us monitor Royal Mail's service performance. For example, we receive information relating to regional delivery performance. This monitoring work has intensified during the pandemic, as set out in our Annual Monitoring Update.
- A1.79 As explained in paragraph 5.2 of the Plan of Work, the outcomes listed in section 4 of the Plan of Work are a short list and they are not intended to be exhaustive. As we set out in our Review of postal regulation consultation one of our key objectives is to "ensure all postal users have access to simple, affordable and reliable postal services that meet their needs. This applies not only to universal services users but also wider postal users, including all users of parcels and letters services, and both senders and receivers". We consider this an appropriate objective for our regulation of postal services and one that is focused on user outcomes.
- A1.80 Ofcom's postal services tracker closely monitors the affordability of postal services on an ongoing basis, including throughout the pandemic. Our work on postal services carefully considers how best to support vulnerable consumers in postal services markets, and joins up with colleagues working on vulnerable customer issues in telecoms markets where appropriate.
- A1.81 We note CAS's comments that our proposals to help ensure parcels services better meet disabled consumers needs is "a positive step towards ensuring that postal services are accessible for all consumers". We also note CAS's comments on vulnerability and we are considering this issue further as part of our Review of postal regulation. We will consider responses to our consultation carefully before finalising our new rules in a Statement in Q2 2022/23.
- A1.82 We consider the appropriate projects to undertake carefully, based on our duties and an objective assessment of the available evidence. The two projects we listed in section A2 of the Plan of Work consultation are our monitoring of postal services and our Review of postal regulation, both of which are large projects looking a variety of issues for consumers in the postal services market. The affordability of postal services will be considered in detail in our review of safeguard caps on second class mail which we plan to consult on in 2023. We thoroughly assessed the affordability of redirection services as part of our

Review of postal regulation, and we consistently monitor affordability issues for consumers and businesses through our postal tracker survey research.

- A1.83 We will consider issues around the growing use of online shopping as part of our Review on postal regulation, and we will continue to engage with stakeholders and policy makers on parcel surcharging.
- A1.84 Following the UK's exit from the European Union, we acknowledge there has been continuing uncertainty about declaration requirements and implementation timelines, including for Royal Mail's universal service operations. Implementation of the Northern Ireland Protocol is a matter for the UK Government. We continue to engage with the UK Government, postal operators and consumer groups to advise on, and understand, the implications for the postal market.
- A1.85 Management of personal data, including that used for mail advertising, is regulated by the Information Commissioner's Office.
- A1.86 We recognise the importance for Royal Mail of investing in Ultra Low Emission Vehicles (ULEV) or electric fleets in order to put it on a sustainable footing. Sustainability issues and the transition to net zero is of increasing importance across the economy and to all of our stakeholders. We will continue to engage with our industry stakeholders to understand their approach to sustainability and efforts to reduce carbon emissions. Ofcom does not currently have a formal role to consider environmental sustainability goals in our statutory framework. We are however, exploring what we can do within our existing powers, and through voluntary collaboration, on how we might support our regulated industries in the transition to net-zero.

## **Broadband Connectivity**

- A1.87 The CCP welcomed Ofcom's continued monitoring of the Broadband USO and its considerations around affordability. The CCP hopes that Ofcom will listen to consumers and micro-businesses in hard-to-reach areas to understand how to best address their connectivity needs and will consider solutions with industry.
- A1.88 In Openreach's response, it recognised that remote and rural areas pose particular challenges for the provision of fixed broadband. Openreach notes it will continue to assist many of the homes Ofcom as without access to decent broadband as a Universal Service Provider, as well as through its continued commitments to numerous publicly funded broadband schemes. Openreach also encourages Ofcom to work with industry to help build stronger connectivity in remote areas, learning also from international examples.
- A1.89 ACNI recognised that it is not Ofcom's role to set or resource government policy regarding broadband connectivity, but it notes that, Ofcom nonetheless has an important contribution to make in informing and progressing this process and ensuring that it is high on the agenda for all concerned, reflecting consumer, citizen and societal priorities. ACNI would like Ofcom to give this work a higher priority in its work plan.

A1.90 Ofcom’s Advisory Committee for Scotland (ACS) advised that Ofcom’s stated objective in its Consumer Outcomes Measures of 'a reduction in the number of homes unable to get 10Mbit/s broadband' is not sufficient. The ACS also advised that the annual report should also report on the number of homes and businesses getting 30 Mbit/s and 100 Mbit/s broadband.

### Our response

A1.91 The broadband USO is set out in legislation by the UK Government and any changes to it would be a matter for them. The USO as currently set launched 20 March 2020 and we will continue to monitor its delivery by the designated providers (BT and KCOM). Alongside this, we will work with UK and Nations Governments to understand how people’s connectivity needs are evolving, and how they can be met through public schemes and/or the USO where commercial rollout does not occur. Satellite services may also be an option for customers in poorly served areas - we plan to work with satellite providers to understand in more detail what can be delivered on these networks.

A1.92 We publish regular updates on the availability and capability of broadband and mobile services through our Connected Nations reports, in particular identifying the availability of different speeds. Alongside the main UK report, we also publish separate reports for Scotland and each of the UK nations. Our interactive dashboard allows people to easily access data for different parts of the UK and specific types of services. This data is also available at local authority, Scottish Parliament (and Welsh Parliament and Northern Ireland Assembly) and UK Parliament constituency level.

### Call Boxes

A1.93 NADP remained concerned (as expressed in their response to the previous consultation on public call boxes) that people with a hearing loss will be less likely to use public call boxes without a screen on which they can read the text to access Relay UK services. The NADP also noted that people who are unable to use their voice need a means in which to type what they would like to say. The NADP would welcome the opportunity to discuss options to ensure this significant part of the population are not left out of this service, particularly in an emergency situation in an area where mobile coverage is limited.

### Our response

A1.94 We recognise that some public call boxes are still needed - our recent consultation set out proposals to ensure that public call boxes on which people rely are protected from removal (including those in areas with poor mobile coverage or which are still regularly used). We expect to publish a decision on our proposals in the spring.

A1.95 We further proposed to amend our rules to allow BT and KCOM greater flexibility in the services offered from public call boxes - this would allow BT to choose to replace its older call boxes with its newer Streethubs which offer additional facilities such as screens and free Wi-Fi.

## Mobile coverage data

- A1.96 Two individuals responded about how Ofcom presents coverage data. One individual urged Ofcom to use real-world data to indicate coverage and stated that possible population coverage should be changed to geographical coverage. The other individual set out their view that using averages to indicate progress is disingenuous when it is households who already have excellent speeds and coverage who receive improvements.
- A1.97 NADP were enthusiastic in anticipation of the findings of the research to examine how people are using mobile phone services and the quality of performance provided to them by mobile network operators, provided it allows the data to differentiate between the consumers with normal hearing and those with hearing loss - ideally broken down into the extent of their hearing loss. NADP also noted that it would be interesting to identify the extent to which consumers use Relay UK compared to the potential population who would benefit from this service.

### Our response

- A1.98 We will continue work on developing our approach to improving consumer information on mobile coverage. We consider that real world data and verified predictions continue to have important, complimentary roles to play in this work.
- A1.99 We will also continue our work to establish how we can develop our approach to utilising crowd source data. However, we would note that such data typically does not include personal individual data and may not allow the analysis envisaged here.

## Fairness for customers

### Simpler Switching

- A1.100 We received a number of responses about simpler switching, including from BT, Openreach and CityFibre, many of which supported Ofcom's industry engagement for One Touch Switch (OTS).
- A1.101 In BT's response it stated that it is supportive of this new process and wants it to be implemented as soon as possible. However, BT noted that the deadline of April 2023 is extremely challenging. This is in view of the need to design, procure and build a new communications hub through which all switching orders will be managed, and to establish the industry governance structures around this. BT called for Ofcom's engagement to help drive the industry's decision-making, and to provide a timely steer where needed to help industry make the rapid progress required.
- A1.102 The Federation of Communications Services (FCS) noted that sufficient Ofcom focus needs to be allocated to the business market to ensure the success of this simpler switching, which will stimulate the UK's economic recovery and future growth. FCS seeks to engage with Ofcom to discuss the industry governance solution and entity for all stakeholders to deliver the industry OTS solution and related industry projects such as Number porting. FCS views this as a fundamental work item that requires extensive Ofcom engagement to deliver a coordinated, functional operational industry solution. FCS remains concerned that the OTS timeline is potentially too challenging. FCS also recommended that the OTS requirements just be mindful of the needs of businesses, and that Number Porting should be incorporated in initial thinking for OTS.
- A1.103 Openreach also expressed concerns with the OTS timeline in its responses. Openreach noted that while its plan is achievable within the required timescale of April 2023, there is a clear dependency on CPs and retailers to be in a position to test systems, etc. in sufficient time for launch. Openreach also raised that a clear policy objective in relation to switching is to enhance the end customer experience – and noted its view that, while the current proposals enable this for dual play (voice and broadband), the exclusion of pay TV may undermine this objective.

### Our response

- A1.104 In our view, it is important that consumers are able to benefit from the new switching process as soon as possible. We recognise the significant amount of work involved in implementation, and remain of the view that April 2023 is an achievable deadline. Our expectation remains that implementation be transparent and consultative, while recognising the need for timely action and decisive leadership.
- A1.105 The industry, with the support of the Office of the Telecommunications Adjudicator (OTA), has set up the One Touch Switch Steering Group to manage the implementation process. This group is formed of members representing different sectors of the industry, including retailers that serve businesses. The industry has also set up a separate One Touch Switch

Process Group which will consider, among other things, the interaction between One Touch Switch and other industry processes. We welcome these developments, noting that any telecoms provider who has something to contribute on a constructive basis should not be excluded from participating in the implementation process.

- A1.106 It is for industry to deliver One Touch Switch. However, Ofcom attends One Touch Switch Steering Group meetings as an observer. We are closely following developments and remain in contact with the OTA to offer our support and ensure that the new process is consistent with our policy decisions and providers' obligations.

## **Vulnerable consumers and accessibility**

- A1.107 We received many responses, from individuals as well as organisations such as BT, the CCP, Openreach and the NADP about making sure that vulnerable consumers have their needs met.
- A1.108 The CCP noted that there is still no consistent language in the communications sector around what it means to be 'vulnerable' and it is concerned that consumers who would benefit from additional support do not know what is available or that they can ask for it. Similarly, Openreach recognised that the causes of vulnerability are complex and can cover a broad range of circumstances. To support vulnerable customers, Openreach thought the industry should come together to better define and serve such vulnerable groups, that there is an important role for Ofcom to help as part of this process.
- A1.109 BT said it fully supports Ofcom's proposal to monitor communication providers to ensure customers in vulnerable circumstances are being treated fairly. It noted it is important providers that effectively distinguish between the needs of different groups within the broader category of vulnerability.
- A1.110 In its response, Wavelength Charity further raised various other issues around vulnerabilities and access to services, including: under-representation of people with impairments or health conditions in research; Ofcom's remit and operations to include inclusivity of people with health conditions; reporting of spending on issues regarding different impairments; accessibility of online services; complaints monitoring; approving changes by service providers that cause loneliness; and the need for help schemes that cover switch to VOIP and reduction in analogue radio services.
- A1.111 NADP believes more needs to be done to proactively promote the Relay UK service to all consumers to ensure that anyone with a hearing loss is aware of the existence of the service and able to continue to communicate by telephone, by voice, as necessary. The NADP understands that CPs have an obligation under the General Conditions to provide information on the service, but it feels this is currently failing to reach the majority of the population with hearing loss. NADP would also welcome the opportunity to discuss how deafened people who use English as their first language can better access emergency services in an equivalent manner and speed to their peers who use BSL or are hearing.
- A1.112 NADP further noted that more development is needed to Automated Speech Recognition (ASR) packages in video conferencing solutions by utilising existing research and

experience of providing subtitles, and reaching out to users with hearing loss to make these fully accessible. The way in which the Speech To Text Reporters (STTR) industry has adapted through use of new technology could be further investigated to see if communication services offered to people with hearing loss such as Telephone Relay services and live subtitles could be improved cost effectively. However, the NADP noted they have seen an increasing use of AI in the generation of speech in ASR with varying degrees of success. There is an increasing concern that the development of such solutions may be deemed suitable to replace human transcribers such as STTR, but without any qualitative and consistent measure to justify such a replacement. They believe Ofcom could use its position to ensure that this is prioritised before damage is caused by ASR being introduced prematurely

- A1.113 NADP reiterated its view that all On Demand Programme Services (ODPS) providers should provide subtitles for all content that has been previously broadcast with subtitles. They believe further discussion and investigation needs to be held about the quality of live subtitling both on terrestrial TV and ODPS and that the methodology and metrics used in the Ofcom review of live subtitling (2013-15) should be further developed and implemented to ensure that the quality of live subtitles meets the necessary standards of equivalence.
- A1.114 ACNI and NADP drew attention to the Red Bee outage in September, which had a significant and prolonged impact on consumers who depend on subtitles, signing and audio description to have access to some key services, noting the importance for Ofcom to consider what further work is required to ensure greater resilience and quicker fixes. The NADP also noted the improvements that could be made in terms of communication from Ofcom regarding outages.

### Our response

- A1.115 We take an inclusive and broad approach to the circumstances that can make people vulnerable in our work and our guide to treating vulnerable customers fairly sets out some examples. We regularly collect data on the experience of vulnerable customers in using services in the telecoms and postal sectors, which feeds into our policy work and decision-making. Each of our consumer research trackers (typically run annually) collects data on vulnerable customers as standard, the results of which are available on Ofcom's statistical release calendar<sup>2</sup>. We also conduct ad hoc consumer research among vulnerable groups, for example last year we conducted research which explored the experiences of some vulnerable customers who have recently been in contact with their communication providers.
- A1.116 We note CCP's work in this area which has synergies with our plans to monitor whether providers are treating customers in vulnerable circumstances fairly and giving them the support and services they need. We also note Openreach's comments on our planned work

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<sup>2</sup> <https://www.ofcom.org.uk/research-and-data/data/statistics>

regarding vulnerable customers and are happy to engage with Openreach regarding this work.

- A1.117 We will be engaging with communications providers about the need to promote emergency video relay ahead of the launch in June, and will take this opportunity to remind them of the need to promote text relay. We would also be happy to work with NADP to promote text relay to its members. Deaf people with English as their first language are able to use text relay and/or emergency SMS to contact the emergency services. Total Conversation is defined in an International Telecommunications Union (ITU) standard<sup>3</sup>, but this standard does not refer to relay services. Total Conversation direct to the emergency services would be a matter for the emergency services rather than Ofcom.
- A1.118 Ofcom does not regulate videoconferencing software and is not able to set quality standards for Automatic Speech Recognition (ASR) for this purpose. However, we are aware that captions using ASR can be valuable for deaf or hard of hearing users of videoconferencing software. We do set quality standards for text relay, with average voice to text transcription accuracy required to be better than 98%. There are no plans to replace human relay assistants with ASR, but we know that some deaf people use captions generated via ASR in applications such as Microsoft Teams.
- A1.119 The Digital Economy Act (2017) paved the way for accessibility requirements for regulated on-demand services, and we have since made two sets of recommendations to Government on how such requirements should work in practice. Once such regulations are introduced, we will also update our best practice guidelines on provision of access services. We would welcome NADP's input in this process as we may be able to give guidance to broadcasters and on-demand providers on the areas raised in NADP's response. For example, we will further consider what guidance we might provide on ensuring the quality of subtitling, particularly where fully automated means of generating subtitles are being considered.
- A1.120 We note ACNI's and NADP's comments regarding the Red Bee Media outage. Ofcom is conducting an investigation into a potential under-provision of subtitles by Channel 4 on the Freesat platform as well as the extent to which the broadcaster promoted the awareness of the availability of its access services across all its channels and platforms during the period of the outage. In addition, we are also undertaking a wider review of the transmission arrangements and backup facilities that affected broadcasters had in place at the time of the incident, and what changes they have made as a result. We will use the findings of this review to ensure that steps are taken to avoid future such incidents. We will also consider whether further regulatory action may be required to ensure a reliable access services provision remains in place for audiences, no matter what incidents may occur to the broadcast infrastructure that is used to provide them.

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<sup>3</sup> <https://www.itu.int/rec/T-REC-F.703/en>

## Affordability of communications services

- A1.121 Various consumer groups responded emphasising the importance of affordable communications services, especially in the context of wider cost of living concerns.
- A1.122 ACNI asked that Ofcom seeks, possibly in collaboration with other organisations, to undertake research to better understand the fuller picture of financial pressure as it is experienced in different ways across the UK. ACNI believes that this will provide a richer understanding of the issues and opportunities for mitigation.
- A1.123 The CCNI noted that Ofcom and industry must better protect consumers who are experiencing financial vulnerability and are unable to pay their mobile, broadband and pay TV bills to reduce the risk of a harmful debt cycle and a loss of access to an essential service.
- A1.124 Which? encouraged Ofcom to consider how End of Contract Notifications (ECNs) impact different types of consumers, particularly those who are vulnerable or less likely to engage. Which? also recommended that Ofcom should continue to monitor the steps being taken by providers to help those consumers at risk of debt and disconnection. As set out in Which?'s response to Ofcom's consultation on this issue, it would like to see more consistency from providers when it comes to the provision of information about the steps they can take in introducing service restrictions and disconnecting customers. In addition, Which? felt Ofcom should work with providers and other organisations to help raise awareness of social tariffs.
- A1.125 BT stated that Ofcom should also ensure that all providers offer social tariffs. CAS would welcome further work perhaps in the form of a communications campaign, to raise awareness of targeted/social tariffs. Furthermore, CAS highlighted the significant lack of choice consumers have in the mobile market in relation to targeted or social tariffs as, currently, no mobile provider offers a targeted or social tariff.

### Our response

- A1.126 Ensuring people can access affordable fixed broadband and mobile internet services remains a priority for Ofcom.
- A1.127 As an evidence-based regulator, many of our decisions are informed by our consumer research, which helps us have a thorough, robust and up-to-date understanding of UK consumers. Our regular monitoring of the affordability of communications services has found that around 5% of households struggle to afford their fixed broadband service, while a similar proportion face affordability issues with their mobile smartphone services. We have also found that people who are on lower incomes or more financially vulnerable engage with mobile markets differently in some respects. For example, results from our Technology Tracker 2021 show households on the lowest incomes are around twice as likely as the overall population to rely on their mobile as their only source of internet access.

- A1.128 We intend to carry out further work to better understand the drivers of affordability issues for smartphone users. Alongside this, we plan to conduct research into mobile internet-only users. This will include exploring motivations/preferences for accessing the internet primarily through mobile data (rather than fixed broadband) and assessing the extent to which this group of consumers face affordability issues.
- A1.129 We carried out an assessment of the impact of end-of-contract notifications (ECNs) in 2021. This found that ECNs appear to have had a positive impact on customer engagement and that engagement among vulnerable out-of-contract broadband customers increased at broadly the same rate as out-of-contract broadband customers overall. We will continue to monitor key trends in pricing and customer engagement, in particular as ECNs and Annual Best Tariff Notifications (ABTNs) become more established.
- A1.130 On 17 March 2022, we published a consultation<sup>4</sup> setting out proposals to help ensure customers in debt or struggling to pay are treated fairly. These proposals are intended to ensure better outcomes for consumers on a more consistent basis. We are working with a range of partners to raise awareness of social tariffs.
- A1.131 Six fixed broadband providers now offer social tariffs to people in receipt of means-tested benefits at prices ranges from £10 – 20 per month. We continue to urge major providers to offer social tariffs and to do more to raise awareness of them among eligible people. In addition, Ofcom is working directly with a range of partners to raise awareness of social tariffs. We will also continue to engage with providers and consumer organisations across the UK, as well as other sectoral regulators, including via the UK Regulators Network to share information to help ensure people are appropriately supported.

## **Nuisance and scam calling**

- A1.132 IPS felt that greater resources and energy should be allocated to monitoring and investigating the non-compliant and fraudulent use of the telephony network. It urged that of both Ofcom investigation and enforcement action towards telecoms firms giving nuisance and scam callers access to their networks needs to be made real. IPS also believed that the deterrent effect on firms carrying out nuisance and scam calling, underpinned by misleading, un-dialable and perpetually changing CLIs would be increased if Ofcom also investigated and acted against them, in parallel with the ICO.
- A1.133 CCNI noted in its response that the level of consumer detriment in Northern Ireland caused by scams is a major concern. It felt that significantly more effort must go into preventing scams and that this must be a strategic priority for Ofcom. It recommended that there needs to be a rebalancing of the risk with banks being required to reimburse consumers that have been exploited rather than allowing banks discretion on whether to refund customers.

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<sup>4</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-1/call-for-inputs-review-of-measures-to-protect-people-in-debt-or-at-risk-of-disconnection>

A1.134 Which? encourages Ofcom to ensure that customers of Mobile Virtual Network Operators (MVNOs) also receive the benefits of the recent efforts by the MNOs to tackle smishing, in particular through the adoption of SMS spam filters. Which? would also like to see Ofcom introduce a standardised approach across the mobile industry to ensure all consumers have the same protection against SIM swap or number porting fraud.

### Our response

A1.135 Ofcom has recently published a policy statement setting out its approach to scams<sup>5</sup>, along with two consultations<sup>6</sup> which propose to introduce new measures to reduce the impact of scams calls on UK consumers.

A1.136 Mobile network operators either have introduced or are in the process of introducing technology that can detect the key traits of scam texts sent over their networks, allowing them to block more suspicious messages (“SMS filtering”). We understand that SMS filtering is already offered by mobile providers on some of their MVNO services and will continue to engage with industry to understand the technical feasibility of applying SMS filtering more widely.

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<sup>5</sup> <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/tackling-scam-calls-and-texts>

<sup>6</sup> Consultation: Good practice guide to help prevent misuse of sub-allocated and assigned numbers (<https://www.ofcom.org.uk/consultations-and-statements/category-2/good-practice-guide-on-sub-allocated-assigned-numbers>) ; Consultation: Improving the accuracy of Calling Line Identification (CLI) data (<https://www.ofcom.org.uk/consultations-and-statements/category-2/improving-cli-data-accuracy>)

## Enabling wireless services in the broader economy

### Spectrum Allocations

- A1.137 BT welcomed Ofcom's continuing work on its spectrum programme, in particular the award of 26 GHz, the future spectrum roadmap and authorisation of drones. BT noted that Ofcom should ensure that it has assessed the different options for the future use of UHF spectrum currently used for digital terrestrial television ahead of the ITU-World Radiocommunication Conference-23 (WRC-23) next year. BT would also welcome further clarity on what Ofcom's next steps are on its spectrum roadmap.
- A1.138 Nokia observed that availability of spectrum is of crucial importance for stakeholders to allow deployment and development of their services. In respect to the mmWave, Nokia said around 1000 MHz of contiguous spectrum should be made available per operator to enable the real features of 5G.
- A1.139 Apple generally agreed that spectrum should be made available as soon as practically feasible. They emphasised that they did not necessarily agree that bands should be specifically cleared prior to release if coexistence and sharing is feasible, unless some form of incentive pricing had been applied or a full cost benefit analysis undertaken. They further noted their interest in which frequency bands Ofcom is considering for mmWave above and beyond the 26 GHz and 66 GHz bands. In relation to 6G, Apple considered that there is a need to distinguish new spectrum and its implication on radio technologies from usage/licensing rules for both new and existing spectrum. Investigations should include licensed vs. flexible and increased shared use of spectrum. Architecture design and spectrum rules should enable local and private network extensions and service extensions. Consideration should be given to flexibility to enable new business and use cases, adaptivity to local (and temporal) needs, enabling ubiquitous and equitable access and avoiding fragmentation (of standards and spectrum).
- A1.140 Ericsson observed that the mobile industry alongside GSMA has reviewed spectrum requirements between 2025 and 2030. The conclusion from the GSMA assessment is that an average of 2 GHz of mid-band spectrum is needed to ensure efficient use and to take into consideration all users in a fair and equitable manner. Ericsson noted they did not see any specific item in the Plan of Work in relation to 6G. However, they have noticed a recent consultation on THz in relation to 6G: Unlocking the potential of Terahertz radio spectrum.<sup>7</sup> Ericsson recommended that regulators consider a wide range of spectrum for 6G including lower ranges, in particular 8-15 GHz. Ericsson noted that Ofcom could consider exploring 6G as part of the 2022/23 work programme.
- A1.141 One individual submission noted that non-public networks offer great advantages to UK PLC and should be prioritised over public networks who should be encouraged to ensure efficient use (and coverage) of their existing allocations. Any review should further take

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<sup>7</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0032/228929/terahertz-spectrum-paper.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0032/228929/terahertz-spectrum-paper.pdf)

into account whether current allocations are effectively being used and their coverages is maximised.

- A1.142 Vodafone noted that spectrum policy should also be reviewed through a pro-investment lens to support the 5G vision and that the system of Annual Licence Fees (ALFs) should be revisited. Ofcom should revise its approach for estimating ALFs with a view to minimising distortions and more accurately reflecting societal value and the public service provided by the MNOs. Earmarking ALF revenues for (re)investment in mobile networks should be considered.
- A1.143 Vodafone also noted that Ofcom should ensure that there are effective market mechanisms to allow spectrum licence holders to trade un-used or under-utilised spectrum, creating a strong incentive for network operators to optimise their spectrum holdings. They further state that Ofcom should prevent unmatchable spectrum advantages by retaining the legacy European rule prohibiting Ofcom from taking auction receipts into account when designing awards, and revise the approach to spectrum auctions where there is scope for spectrum sharing. Vodafone further notes the inconsistent treatment of public and private mobile networks should be addressed, to prevent unfair preferential spectrum access. The current arrangements distort incentives and undermine investment in public mobile network infrastructure.
- A1.144 The Joint Radio Company noted their concern that utilities are having access to other spectrum allocations curtailed or removed completely. They note specific concern around the withdrawal of the 1.4 GHz band from 2024 (to be repurposed for Supplemental Downlink), which is resulting in considerable migration works to alternative frequency bands, as well as recent announcements regarding changes to the 26 GHz microwave band (to be used for 5G and 6G services), as both are incurring costs which will ultimately be borne by energy customers. They observe that the major changes to these three frequency bands seem at odds with the current work activity to review the changing (increasing) requirements for utilities to have access to dedicated radio spectrum to facilitate ‘Smart Grid’ developments.

### Our response

- A1.145 Ofcom intends to publish a call for input on WRC-23 later this year which will set out our emerging thinking on the various Agenda Items (including Ultra High Frequency (UHF) spectrum) that will be addressed at WRC-23. We note BT’s comments on the spectrum roadmap and plan to publish it soon and welcome stakeholder feedback.
- A1.146 We note the comments raised by Apple and Nokia on millimetre wave (mmWave) spectrum, and will consider these comments within our upcoming consultation on making mmWave spectrum available for new services, including 5G.
- A1.147 We published a discussion paper<sup>8</sup> on mobile networks and spectrum in February which considered how mobile networks may need to evolve to meet to meet future demand and

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<sup>8</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0017/232082/mobile-spectrum-demand-discussion-paper.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0017/232082/mobile-spectrum-demand-discussion-paper.pdf)

deliver the quality of experience needed by consumers and businesses in the period to 2035. We are inviting comments by 8 April 2022, including on whether there are specific frequency ranges which should be considered for mobile access to support capacity provision in the future.

- A1.148 The process for defining what the characteristics of 6G will be is still in progress and we are monitoring developments. We consider that there is a strong case for using existing spectrum to deliver 6G whilst also looking at extremely high frequencies such as THz spectrum as the new frontier for 6G.<sup>9</sup> As we take forward our work on mobile networks and spectrum we will take account of the views provided above.
- A1.149 Ofcom opened up access to shared and localised spectrum in 2019 and continues to engage with stakeholders to understand how their demands are evolving. Our spectrum management strategy has identified localised access and innovation as key areas of increased focus.
- A1.150 We acknowledge the desirability of encouraging investment and innovation in UK networks to benefit consumers, and will continue to take these factors into account alongside our other duties as we consider ALFs in applicable bands. We agree with Vodafone’s emphasis on the importance of market mechanisms to allow trade; and on the importance of spectrum sharing, and will continue to champion these. The level of auction receipts is not a relevant consideration when designing awards.
- A1.151 We recognise the importance of wireless communications to the utilities. As we develop our proposals for enabling new uses of the 26 GHz envisaged by international harmonisation decisions, we will have an eye to potential for coexistence with some incumbent uses.

## Upper 6 GHz Band

- A1.152 Vodafone, BT, Nokia, Huawei and the Wi-Fi Alliance all expressed concerns about allowing operations in the upper 6GHz band, noting that any action here is premature given international harmonisation for mobile usage is being considered under the World Radiocommunication Conference (WRC-23) and preparatory coexistence studies are already underway. BT further voices concern that Ofcom’s proposed timing for a statement on licensed use of the Upper 6GHz band does not appear to allow adequate time for consultation.
- A1.153 Apple requested Ofcom advocate that no International Mobile Telecommunications (IMT) identification is needed in the 6 GHz band under WRC-23 Agenda.
- A1.154 The Wi-Fi Alliance asked Ofcom to consider that even if WRC-23 designates 6425-7125 MHz band for IMT in some countries, significant time (i.e. years) and investments (i.e. billions of pounds) will be required to develop, implement, and deploy commercial broadband networks in the 6 GHz band, whereas the latest Wi-Fi technology (Wi-Fi 6E)

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<sup>9</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0032/228929/terahertz-spectrum-paper.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0032/228929/terahertz-spectrum-paper.pdf)

operating in the 5.925-7.125 GHz band is already on the market, empowering tremendous connectivity benefits.

- A1.155 Apple, Broadcom, Cisco, HP, Intel, Meta, Microsoft recommended in their joint submission that Ofcom makes the upper 6 GHz band (6425-7125 MHz) available for licence-exempt use. They highlighted that additional licence-exempt spectrum would not only benefit consumers but also, and very much so, businesses of all sizes, from SMEs to large corporations. The 6425-7125 MHz band is the only remaining piece of spectrum that could reasonably be used by licence-exempt RLAN. As Ofcom considers its future plans for Wireless Access Systems (WAS)/RLAN in 6 GHz, the ultimate objective should be a sustainable, robust ecosystem for Wi-Fi and other WAS/RLAN devices throughout the 6 GHz band.
- A1.156 The joint submission further expressed concerns about considerations for sharing the 6425-7125 MHz band, or parts thereof between licensed and licence-exempt technologies. One of the issues we see is that to avoid interference between systems using different technologies, comparatively large separation distances might be required which could result in a highly inefficient use of spectrum.
- A1.157 Apple noted in their submission support for making 5925-7125 MHz available for Low Power Indoor (LPI) Wireless Access Systems / Radio Local Area Networks (WAS/RLAN) and Very Low Power portable indoor/outdoor WAS/RLAN including narrow-band Frequency-Hopping Spread Spectrum (FHSS) on a licence-exempt basis. If Automated Frequency Coordination (AFC)/Citizens Broadband Radio Service (CBRS)/light-licensing is being considered for 6425-7125 MHz we recommend that it should only apply to higher power WAS/RLAN while still enabling, without additional restrictions, Low Power Indoor (LPI) and Very Low Power portable indoor/outdoor WAS/RLAN on a licence-exempt basis. For all or part of the 5925-7125 MHz range, Apple believes that user equipment or client devices should not be subject to light-licensing or registration.
- A1.158 The DSA believed the most efficient use of the 6425-7125 MHz band can be made by opening it for licence-exempt use. The 6425-7125 MHz band is the only remaining piece of spectrum that could be reasonably used by licence-exempt RLAN. If this band was identified and eventually allocated to IMT, as envisaged in WRC-23 AI 1.2, there would be no spectrum available for RLAN when it will be needed. The final link between the access network and the user ('local connectivity') is typically established via Wi-Fi. For users to be able to enjoy the benefits of future gigabit access networks, this final link must be adequately resourced, i.e., it must be able to utilize a sufficiently large amount of spectrum. To close the remaining gap, DSA recommends that Ofcom also make the upper 6GHz band (6425-7125 MHz) available for licence-exempt use.
- A1.159 The DSA further expressed concern about considerations for sharing the 6425-7125MHz band between licensed and licence-exempt technologies. One of the issues seen is that to avoid interference between systems using different technologies, comparatively large separation distances might be required which could result in a highly inefficient use of spectrum.

- A1.160 Ericsson noted that it is a critical decision to ensure the most efficient use of the 6GHz spectrum as it represents the largest remaining single block of mid-band spectrum that can be allocated for 5G use cases. When considering options for assigning 6GHz it is also key to consider the supply and demand of both mobile and RLAN, and where the spectrum allocation will enable the delivery of high-quality connectivity and innovation in the broader economy.
- A1.161 Huawei recommended that Ofcom launches a consultation on the upper 6GHz, addressing a number of alternative options, including not only licensed low-power indoor Wi-Fi-like equipment but also macro-cellular 5G mobile networks, and aim to publish a statement in 2024 accounting for the outcome of international studies at the World Radio Conference in 2023.

### Our response

- A1.162 In carrying out our functions, one of the things that Ofcom is required to ensure is the optimal use of spectrum for use by wireless telegraphy. We authorise access to spectrum under both licensing and licence exemption regimes. In 2019 we opened up access to an additional 500MHz of spectrum under licence exemption and have also opened access for licence exempt use at 57-71GHz, in addition to spectrum already in use for WLAN and SRDs. Our discussion paper on Mobile Networks and Spectrum, Meeting future demand for mobile data,<sup>10</sup> sets out our initial thinking on future demand for mobile services and how mobile networks may need to evolve to meet that demand. It has taken into account the role RLAN technologies might play in meeting future connectivity demand and we continue to monitor how market demand is evolving, whilst maintaining our technology neutrality.
- A1.163 We published a consultation<sup>11</sup> on our proposals for licensed use of the upper 6GHz band on a localised, low power indoor-only basis on 28 February. We designed our proposals in a way that does not diminish our ability to authorise future mobile use, or other potential uses such as licence exempt Wi-Fi.
- A1.164 We further note the expressed views on the upper 6GHz band and we will consider them alongside responses to our discussion document as we develop our future strategy for mobile spectrum. We plan to set out our initial conclusions by the end of 2022 and this will inform our approach to the upper 6 GHz band at WRC-23.

### Wi-Fi

- A1.165 In a joint submission, Apple, Broadcom, Cisco, HP, Intel, Meta & Microsoft raised a number of observations and concerns regarding the future of Wi-Fi regulation. In this respect they note the importance of availability of a sufficient amount of licence-exempt spectrum for Wi-Fi, or RLAN in general and call on Ofcom to give due consideration to this important

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<sup>10</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-3/discussion-paper-meeting-future-demand-for-mobile-data>

<sup>11</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/spectrum-sharing-upper-6-ghz-band>

aspect in their Plan of Work 2022/23 and their strategy for realizing the UK gigabit society. This point is similarly raised in the DSA submission.

- A1.166 In this respect the Wi-Fi Alliance noted in their submission that the 500 MHz (5925-6425 MHz) increase in spectrum available under licence exemption, while significant and much needed, does not offer sufficient bandwidth to support the ever-increasing demand for Wi-Fi. The Wi-Fi Alliance therefore requests to include consideration of expanding licence-exempt (i.e., Wi-Fi) access to 6425-7125 MHz band in the 2022/23 work plan, as access to less than the entire 5925-7125 MHz band (1200 MHz) for licence-exempt use would substantively reduce Wi-Fi 6E performance in terms of latency and data throughput.

### Our response

- A1.167 In carrying out our functions, one of the things that Ofcom is required to ensure is the optimal use of spectrum for use by wireless telegraphy. We authorise access to spectrum under both licensing and licence exemption regimes. We have opened access to an additional 500MHz of spectrum under licence exemption in 2019 and have also opened access for licence exempt use at 57-71GHz, in addition to spectrum already in use for WLAN and SRDs.
- A1.168 Our discussion paper<sup>12</sup> on mobile networks and spectrum, ‘Meeting future demand for mobile data’ has taken into account the role RLAN technologies might play in meeting future connectivity demand and we continue to monitor how market demand is evolving, whilst maintaining our technology neutrality. In light of the evolving demand, we are consulting<sup>13</sup> on proposals to enable access to the upper 6 GHz on a localised, low power indoor-only basis. We believe that these proposals would not impact incumbent users or diminish our ability to authorise future uses.
- A1.169 We are aware of industry interest in the use of the upper 6 GHz band for licence-exempt consumer Wi-Fi or for licensed 5G mobile networks. Technical compatibility work to establish whether and how 5G mobile and licence-exempt Wi-Fi could share the band with each other or other incumbents is still ongoing. We are actively participating in the international preparations for the World Radiocommunication Conference 2023 (WRC-23) and separate work in CEPT, including technical compatibility activities for the upper 6 GHz band, and gauging views from interested UK stakeholders. It may be some time before we can form a view on these uses – therefore they are out of scope of this consultation. For further discussion of the upper 6 Ghz Band, see the response above.

### Interference

- A1.170 European Utility Telecom Council raised concerns in relation to the challenge of monitoring interference in a digital age. They note in their submission that in the digital domain, sophisticated monitoring and analysis is required to determine if the source of degradation

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<sup>12</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-3/discussion-paper-meeting-future-demand-for-mobile-data>

<sup>13</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/spectrum-sharing-upper-6-ghz-band>

is external interference or internal issues. They stress the important role of Ofcom's interference and monitoring capability and note its essential role in maintaining the reliability and efficiency of radio communications."

### Our response

A1.171 We note the comments raised by European Utility Telecom Council in their response on digital interference and will continue to develop our interference and monitoring capability as technologies evolve.

## Innovative approaches to Spectrum Management

A1.172 The Wi-Fi Alliance supported introduction of innovative approaches to spectrum management, including databases, but stated that these approaches, to the greatest extent possible, should be harmonised internationally and balanced noting the complexity in the design and implementation. They noted a light licensing regime using a database solution is an effective spectrum management technique but only in specific frequency bands and use cases. The Wi-Fi Alliance therefore supports a light-licensing regime for higher-power license-exempt operations in the 5925-7125 MHz band under the control of databases to manage spectrum access by identifying permissible frequencies at a given geographic location.

A1.173 Apple suggested that any introduction of innovative approaches to spectrum management, including light-licensing possibly using databases, needs to be carefully considered; harmonised globally to the greatest extent possible; and balanced noting the complexity in the design and implementation of databases.

A1.174 Apple, Broadcom, Cisco, HP, Intel, Meta, Microsoft welcomed Ofcom's initiative to consider innovative spectrum sharing techniques in their joint submission. They believe that systems such as AFC can be very efficiently used to enable licence-exempt standard power RLAN to share a band with incumbent users. Given the additional complexity of database systems, their application should be carefully considered and limited to standard power RLANs only. They note that Low-power indoor (LPI) and Very Low Power RLANs, for instance, are generally able to coexist with other users and hence do not require coordination through a database.

A1.175 The DSA welcomed the Ofcom's initiative to consider innovative spectrum sharing techniques and believes that systems such as AFC can be very efficiently used to enable license-exempt standard power RLAN to share a band with incumbent users, particularly in outdoor deployments. DSA further reiterated its support for automating the process for Shared Access Licenses.

A1.176 One individual submission expressed their support of spectrum databases, noting an expanse of this would speed up allocations, providing there is a human option for allocations which may not fully fit within the database configuration.

## Our response

- A1.177 We continue to look to improve our licensing processes, and our Licence Platform Evolution programme will deliver a cloud-hosted licensing platform to replace the legacy systems. This will support greater efficiencies in our licensing processes, including online access and self-service licensing management for our stakeholders i.e. ‘automation to the licensee’.
- A1.178 We will look in detail at new and innovative spectrum management models including the role and appropriateness of dynamic spectrum access (DSA) databases in different authorisation frameworks. We recognise the importance of harmonisation not just for technology but also the principle of DSA where other countries also introduce dynamic spectrum management models to generate economies of scale. We will engage with stakeholders directly on this in the coming year.
- A1.179 We are considering further automated access to shared spectrum and we continue to monitor demand for more localised access to spectrum. Local access has been identified as one of the key areas of increased focus in our spectrum management strategy.

## Programme Making & Special Events (PMSE)

- A1.180 A number of submissions, including those from the British Entertainment Industry Radio group (BEIRG) and Shure, raised concerns about the lack of discussion of PMSE in the work plan.
- A1.181 BEIRG expressed their belief it is essential Ofcom demonstrates a firm commitment to continue working with the PMSE community, which in turn will give manufacturers the confidence to invest in the future development of technology. When it comes to spectrum sharing, BEIRG continued to urge Ofcom to adopt a holistic approach that considers the needs of the PMSE community. BEIRG stated that squeezing the sector any more could seriously damage its ability to provide high quality content.
- A1.182 BEIRG further noted the clearance of both the 800 MHz and 700 MHz bands has already caused significant disruption to the PMSE sector and despite Government financial support, it has negatively impacted the industry over the last 10 years and concern exists that there will be another clearance programme.
- A1.183 Shure noted it is essential to recognize the global significance and social and economic value of PMSE and the efforts the PMSE industry has made to improve spectral efficiency to mitigate the losses. Continued access to spectrum for PMSE, especially in the 470-694 MHz range, should be a top priority for Ofcom.
- A1.184 An individual submission noted the potential importance of WRC-23 for PMSE and a much greater proactive approach is required by Ofcom to ensure the continued access to the 470-694 MHz tuning range on a Region 1 basis in both the near and far future.
- A1.185 BEIRG also urges Ofcom that Digital Enhanced Cordless Telecommunications (DECT) technology and spectrum is not just utilised for “granny phones” [that] can now be swept

aside in favour of newer technologies. The loss or erosion of the dedicated licence exempt DECT spectrum would be devastating to PMSE.

### **Our response**

- A1.186 We recognise and value the importance of the PMSE sector and its contribution to the creative economy and cultural life of the UK. We will continue to engage closely with the PMSE sector in relation to any future developments.
- A1.187 We are conscious of the effect on the PMSE sector of successive spectrum band clearances, most recently the 700 MHz band. While we recognise the importance of security of tenure for the PMSE sector, spectrum use changes over time and Ofcom has a general duty with regards to spectrum. This general duty requires us to have regard to the different needs and interests, so far as the use of the electro-magnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to use spectrum. This duty applies to all our spectrum management decisions.
- A1.188 We have no plans to alter the regulatory status of the DECT band (1880 – 1900 MHz). We recognise the importance of that band for all users of equipment that satisfies the Licence Exemption Regulations applicable to the band.
- A1.189 Our Plan of Work mentions our international engagement with other national administrators and industry to ensure that UK interests are appropriately reflected and protected in international spectrum decisions and debates. Our international work in relation to policy questions that affect the PMSE sector (for example, within European Conference of Postal and Telecommunications Administrations (CEPT) and ITU-R) is included within that.
- A1.190 We have no plans to alter the regulatory status of the DECT band (1880 – 1900 MHz). We recognise the importance of that band for all users of equipment that satisfies the Licence Exemption Regulations applicable to the band.

## **Mobile Phone Repeaters**

- A1.191 One individual submission noted the importance of Ofcom’s work on mobile phone repeaters in 2021 and raised a number of remaining challenges regarding their use on boats.

### **Our response**

- A1.192 We note the comments raised in relation to mobile phone repeaters for use on boats, and will consider these comments in any further work we undertake on repeaters.

## Supporting and developing UK Media

### Audience engagement

A1.193 The Welsh Government submitted that Ofcom should ensure sufficient opportunities for public engagements and consultations with audience across the UK. It argued that these processes are vital for highlighting key differences between audiences, for instance the importance of the Welsh language to meeting audience needs in Wales.

#### Our response

A1.194 We currently seek to engage across the UK to understand the differences in audiences, as was demonstrated in the Small Screen: Big Debate consultation, where the importance of broadcasting in UK's Indigenous minority languages was highlighted. We will continue to engage with audiences across the UK about the importance of linguistic diversity and support the work of those organisations who broadcast in indigenous languages.

### Diversity and inclusion in broadcasting

A1.195 Several respondents emphasised the importance of promoting diversity and inclusion in the broadcasting sector.

A1.196 The Welsh Government welcomed Ofcom's focus on diversity in broadcasting and expressed its willingness to collaborate with Ofcom in the interest of advancing these objectives.

A1.197 The ACE expressed concern with the demographic makeup of employees in the media sector which it argues do not represent the wider UK population. It called on Ofcom to exercise more scrutiny over local radio and television broadcasters as well as the BBC in respect of both programming and staffing diversity.

A1.198 The submission by Better Media centered on Ofcom's obligations under the Equality Act 2010. It argued that these obligations ought to feature more prominently in the Plan of Work and in Ofcom's regulatory practices more broadly so as to better protect and promote its objectives.

A1.199 Ofcom's approach to collecting diversity data was the focus of the NADP submission. They suggest that Ofcom redefines its use of terminology for people with disabilities and shift its conceptual approach away from impairment and towards ability.

A1.200 The Community Media Association requests that Ofcom considers expanding research to include the Afro-Caribbean community, noting that they were not included in Ofcom's report "Broadcast expectations of minority ethnic audiences" published on 3 November 2021. It also states that the choice of stations consulted was rather limited within the ethnic groups targeted. It further suggests Ofcom undertakes a study into why the Afro-Caribbean community appears to be so under-represented on media platforms in the UK.

A1.201 The Scottish Government stated that it would be helpful to understand Ofcom’s specific plans for improving the diversity of the creative sector in Scotland through 2022/23.

### Our response

- A1.202 In our Five-year review of diversity and equal opportunities in UK broadcasting, published in September 2021, we highlighted that we want to see broadcasters voluntarily collect and share diversity data by geographic location. We also proposed that all broadcasters should consider setting themselves inclusion targets and continued to recommend stretching diversity targets. We will keep using our annual diversity reporting to hold broadcasters to account. In addition, we also scrutinise the BBC’s performance in delivering diversity in both its workforce data and within its content - drawing on audience satisfaction with how audiences in both the nations and regions are represented and portrayed and quota data on regional news, regional current affairs and regional non-news programming.
- A1.203 In Spring 2022 we will publish a Call for Inputs on updates we would like to make on the scope of the diversity in broadcasting data we collect via the survey we send out to broadcasters each year. One of the updates we are looking to make is regarding national and regional diversity data, which we could request from broadcasters on a voluntary basis. This includes proposing that broadcasters provide on a voluntary basis diversity data on their workforces in each of their national and regional hubs, including socio-economic background as well as protected characteristics. Our longer-term plan would be to report this data publicly to ensure greater transparency for interested parties in these areas. The exact way in which we will collect and benchmark this data is yet to be determined - we would welcome opinions on this point in response to our Call for Inputs.
- A1.204 Ofcom does not consider the points raised by Better Media require us to amend our Plan of Work for 2022/23. However, we will reply directly to the respondent with our views shortly after the Plan of Work has been published.
- A1.205 We would welcome a response from the NADP to our call for input around our diversity data collection, which will include consideration of the language used around disability.
- A1.206 The Broadcast Expectations of Minority Ethnic Audiences research is one of many studies that Ofcom’s Standards and Audience Protection team have undertaken to understand audience expectations. This report was of a qualitative, not quantitative, nature. The research referred to two issues: firstly, that some minority ethnic audiences perceive that Ofcom-regulated broadcasters targeting their communities may not be subject to the same regulations as mainstream UK channels. Second, while the majority of Ofcom-regulated broadcasters who transmit services aimed at minority ethnic audiences have good compliance records, Ofcom has recorded some of the most serious breaches of its harm and offence rules following the broadcast of content on a small number of channels and stations aimed at minority ethnic communities. We found that the target audiences of these channels were mainly from Indian, Pakistani, Bangladeshi, Black African and Arabic-speaking backgrounds. At the time of commissioning this research, neither of these issues applied to channels or stations aimed at the Afro-Caribbean community.

- A1.207 Other Ofcom reports published between 2018-2021 have included Afro-Caribbean participants to better understand their views (e.g. Representation and Portrayal on BBC Television<sup>14</sup>, Public Attitudes Towards Offensive Language in TV and Radio<sup>15</sup>, Audience Expectations in a Digital World<sup>16</sup>).
- A1.208 On the issue of mentioning specific stations in the annex of the report, we should clarify that the stations cited do not represent services that were consulted as part of the research, but rather a list of relevant services provided to the research agency by Ofcom. The only communication with licensees in relation to this research was to seek consent to use their previously broadcast content as potential stimulus material.
- A1.209 We will continue to carefully consider the most appropriate areas of research to undertake and work to engage with minority ethnic audiences in the future, especially given perspective and tolerances change over time, and we will take the various points made by the respondent into account in future.

## Radio Licensing

- A1.210 The Welsh Government welcomed the opportunity for stakeholders to, where appropriate, continue to make changes to radio licences to ensure continued, relevant broadcasting. They also welcome the licensing of new small-scale DAB digital services throughout the UK and the continued work with community and local radio stations broadcasting on analogue licenses and explained that it would be keen to work with Ofcom to maximise opportunities for community stations in Wales to benefit from the Community Radio Fund.
- A1.211 Both the Community Media Association and the UK Community Radio Network (UK CRN), requested a speedier approach to the licensing of SSDAB. In addition, the UK CRN requested a published plan and roadmap for the entire country, with anticipated timeframes, so that stations can be kept informed, and start planning for their own digital future.

## Our response

- A1.212 Ofcom notes the support of the Welsh Government in relation to future funding for community radio stations in Wales.
- A1.213 We are rolling out small-scale DAB services as rapidly as Ofcom and stakeholder resources allow. We are providing advance notice of licences we intend to advertise, but think it important to retain flexibility over the shape and timing of future rounds.

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<sup>14</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0022/124078/report-bbc-representation-portrayal.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0022/124078/report-bbc-representation-portrayal.pdf)

<sup>15</sup> <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/offensive-language>

<sup>16</sup> <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/audience-expectations-in-a-digital-world>

## Community Radio Funding

A1.214 The Community Media Association requested that Ofcom supports a call to DCMS for a significantly enhanced Community Radio Fund to address the growth in community radio licensees (suggesting baseline investment of £10 million per annum for a transformational impact).

### Our response

A1.215 Ofcom notes the support of the respondent with regard to the future of the Community Radio Fund. Ofcom is willing to be part of any conversation in the future regarding enhancements to the funding available for the Community Radio sector.

## The BBC

A1.216 The ACS urged Ofcom to monitor the BBC's ambition, outlined in this year's Annual Plan, to 'increase the activity, visibility and powers of the BBC Boards committees for England, Scotland, Wales and Northern Ireland'.

A1.217 The ACW reiterated their response to the Ofcom Small Screen Big Debate consultation, noting the need to create a regulatory environment for BBC Cymru Wales that would provide the BBC with an opportunity to take a more holistic overview of its output. They look forward to further engaging with the Ofcom project team to see if more creative options exist for framing non-news requirements by placing a greater emphasis on more detailed reporting requirements rather than meeting hours-based output quotas.

A1.218 The PPA noted that they feel one of the key problems with the current Materiality / Public Interest Test / Ofcom BBC Competition Assessment (BCA) process, is that it allows the BBC to design incremental changes to its services which do not meet the materiality thresholds, avoiding scrutiny. It reiterates its response to Ofcom's 2021 consultation on Regulation of the BBC, to consider limiting the frequency with which the BBC can propose changes and consider implementing a formal consultation process for all changes that the BBC proposes that warrant a materiality assessment, providing stakeholders with the opportunity to fully engage with the process.

A1.219 WaveLength felt that the proposed license fee and funding for public service broadcasting would be better taken at a point of taxation than the way that it is administered at present. They expressed concern that the announcement to freeze the licence fee for two years will cause the BBC to be rushed into cost-saving, which will lead to service cuts or rush changes that potentially could cause isolation and loneliness for UK citizens. WaveLength noted that clarification around what services will be discontinued need to be made far in advance of such changes being implemented and the impact of these changes also needs to be considered, to ensure people aren't losing important services they depend on.

A1.220 The Welsh Government noted it will work with Ofcom on matters concerning the mid-term review of the BBC Charter in 2023, specifically in relation to the requirements of its services to all parts of the UK and its implications for Wales. They note that while the

funding of the BBC is not a matter for Ofcom, any work related to the current and future regulation of the BBC and S4C will need to be considered in the context of recent UK Government announcements on the funding settlement and future of the TV licence fee, given its impact.

### Our response

- A1.221 We will look to engage positively with the BBC's executive and governance bodies across the UK in the coming year, including to understand any planned changes to its services in light of the recent financial settlement. We look forward to working with the new BBC Board member for Scotland as she takes up her role as Chair of the BBC Scotland Committee.
- A1.222 We will be considering how to better enable the BBC to respond to changing audience habits, competitive challenges and financial pressures as part of our review of BBC regulation, including our review of the BBC's Operating Licence. As part of this review, we will specifically consider how best to ensure that the BBC continues to deliver valuable content for the nations and regions and to ensure that our regulation of the BBC is effective and fit for purpose for the remainder of the Charter period.
- A1.223 We will address the issues raised by stakeholders in our review. We will also set out any recommendations for government to consider as part of its Mid Term Review of the BBC Charter and Agreement and our proposals for updating our regulation of the BBC

### In Gaelic-language broadcasting

- A1.224 MG ALBA welcomed the funding certainty that the 2022 BBC Licence Fee settlement has provided for the Welsh language PSB television service S4C, and asks Ofcom to include within its Plan of Work a commitment to ensuring that the Gaelic language PSB television service is treated with the same consideration.
- A1.225 The Scottish Government would welcome broader reference to Gaelic to help address the imbalance that is sometimes seen in the consideration given to Gaelic and Welsh. It is noted that a commitment to encourage and support both MG ALBA and the BBC in taking steps and planning actions which they might need to take to respond to and make progress with the strategic challenges of Gaelic broadcasting.

### Our response

- A1.226 Ofcom will continue to assess the BBC's performance in delivering its mission and public purposes, including the role played by BBC ALBA in representing and portraying audiences in Scotland. However, the BBC Agreement is clear that it is for the BBC Board to decide on funding and strategic decisions for its public services, while MG ALBA's core funding is a matter for the Scottish Government.
- A1.227 We do welcome the commitment by both MG ALBA and the BBC to modernise the partnership agreement between them both and hope that it goes some way to addressing

the challenges highlighted by MG ALBA in the Lèirsinn 2021. We will include this comment in our final Plan of Work for 2022/23.

## Complaints procedure

A1.228 The Community Media Association asked that Ofcom considers undertaking a review of the complaints procedures for broadcast services. The current complaints procedure is anonymous and so complainants with a vexatious agenda are likely to take a complaint directly and anonymously to Ofcom. Removing the veil of anonymity protecting complainants might help to reduce the incidence of vexatious complaints. Additionally, a complainant should demonstrate reasonable efforts to resolve a dispute with the broadcaster first before engaging Ofcom with their complaint.

### Our response

A1.229 Ofcom's General Procedures set out that: "Complaints under these General Procedures can be made to Ofcom by any person or body who considers that a broadcaster has failed to comply with a relevant requirement. Unless a complainant asks Ofcom not to do so, Ofcom may disclose the complainant's identity to the broadcaster that is the subject of the complaint as well as sharing a non-confidential version of the complaint submission with it for comment. Ofcom will consider requests from complainants to remain anonymous. However, it may not be feasible to open or conduct an investigation without revealing the identity of the complainant. This does not apply to whistleblowers."

A1.230 Licensees are required to comply with the conditions of their licence(s) at all times. Where someone considers that a service is not complying with the terms of their licence, they are welcome to raise their concerns with Ofcom, as well as with the broadcaster directly. Ofcom's assessment of a complaint - and subsequent investigation, where appropriate - will be carried out in accordance with the General Procedures, irrespective of the provenance of the complaint.

## Media Plurality

A1.231 The PPA noted a number of concerns regarding potential media plurality regulation in light of platform/publisher relationships, including the need to focus on the role specialist publications play, address non-transparent use of algorithms and bolster the promotion of original source content.

A1.232 Ofcom's Advisory Committee for Wales (ACW) notes that plurality of supply in news remains a key issue and it is vital that both ITV Cymru Wales and BBC Cymru Wales continue to provide comprehensive news and current affairs services for viewers and listeners in Wales. It will therefore seek to engage with Ofcom for the relicensing of the Channel 3 service for Wales, particularly in relation to the report that Ofcom will produce for the Secretary of State by June 2022 on the sustainability of ITV's current obligations.

**Our response**

A1.233 We plan to publish our further considerations on the role of intermediaries in media plurality later this year and will engage with stakeholders for their evidence and insights.

A1.234 We note the Advisory Committee's position and look forward to engaging with it throughout the licensing process.

## Serving and protecting audiences

### AM Broadcasting

- A1.235 A number of individual submissions raised the availability of spectrum in the Medium Wave band and requested consultation with (potential) users regarding opportunities for the future use of this spectrum, such as Community Broadcasting Services.
- A1.236 One confidential response suggested widening the AM broadcast audio bandwidth will not increase interference levels on the broadcasting band, but will provide a much needed “life extension” to the AM band ensuring the viability of licensed broadcasters “who often have no alternative means of broadcasting as of 2022”. They further suggested removing technical constraints prohibiting DRM/C-QUAM on Low Power AM (LPAM) licences will encourage innovation on these frequency bands and be consistent with the Ofcom obligations to provide access to spectrum and ensure optimal use of the spectrum. Removing the requirement for “single contiguous site” and “permanent residential population” from the LPAM license to create a short-range typically 3-5km “AM light broadcasting license”, would make a 5-year 1W LPAM available “on demand” in the same way that a Restricted Service Licence (RSL) or Digital Sound Programme (DSP) license is. They further recommend Streamlining the 1W LPAM technical allocation process using a lookup chart.
- A1.237 The Community Media Association supported a call to remove the technical constraints that prohibit DRM/C-QUAM on LPAM licences so as to promote new innovations in radio broadcasting. Such changes should be consistent with Ofcom’s obligations to provide access to spectrum. They therefore request Ofcom identify those parts of the Engineering Code that might benefit from being updated.

### Our response

- A1.238 There is currently little demand for use of the AM band. In the DCMS Digital Radio and Audio Review, there was a recommendation that broadcasters should move towards considering a switch off of services from 2025. We make available Innovation and Trial licences that would be suitable for anyone seeking to use the AM bands for testing newer technologies. Use of the band needs to remain licensed to prevent interference to existing licensed services.
- A1.239 We are considering updating our analogue radio technical code and will consider the representations made here at that time.
- A1.240 We have recently published a consultation on how we will license RSLs in the future. This sets out our proposals to increase available FM spectrum and simplify our approach to licensing restricted services (including those on AM). We note that under legislation, restricted services are those which are broadcast for the purpose of a particular event or which are broadcast to a particular establishment or other defined location in the UK. To provide a service with a wider coverage area of 3-5km available to all listeners in that coverage area would be more akin to a community radio service and would require a

community radio licence. We make available Innovation and Trial licences that would be suitable for anyone seeking to use the AM bands for testing newer technologies.

- A1.241 To date, we have yet to see any evidence of demand from broadcasters to use these technologies in the AM bands. We make available Innovation and Trial licences that would be suitable for anyone seeking such innovation in the use of the AM bands.

## Community and IP Radio

- A1.242 One confidential response asked that Ofcom carry out analogue community radio licensing in their area.
- A1.243 The Community Media Association noted that there remains a significant and vocal demand for analogue community radio licences, especially for FM. A number of aspirant community radio broadcasters expressed reservations about the SSDAB platform and how long they will now have to wait to apply for a licence if Ofcom will not consider any further rounds of analogue community radio licensing for the near future. The Community Media Association advises Ofcom to not prematurely abandon its capacity to issue additional FM licences to aspirant grassroots broadcasters and suggests that Ofcom restates its previously held position that it will consider licensing analogue radio only for those localities that meet a set of very exceptional criteria - and to make clear the nature of what those licensing criteria might be.
- A1.244 The Community Media Association further requested that Ofcom examines undertaking a review to ensure that community radio will be freely accessible on smart speaker devices in the future.
- A1.245 A confidential submission requested Ofcom starts discussions and work plans to consider the long-term impact of IP radio, what regulatory assistance may be needed and what potential regulatory framework for content may be required.

### Our response

- A1.246 We understand the arguments made by community radio stakeholders, including the Community Media Association that there is evidence of continued demand for analogue community radio licensing in the UK, and that Ofcom should therefore invite applications for community radio licences. Ofcom does not have the resources to do all the licensing work for which there is evidence of demand. It is required to undertake work across all of its statutory duties and functions and must take decisions on prioritisation. At present, we consider it more appropriate generally to prioritise SSDAB licensing.
- A1.247 The radio and audio market is going through significant change, as audiences adopt new habits and technology continues to evolve at pace. We will continue to monitor these changes and value the Community Media Association and other stakeholders insight into the impacts of these changes for audiences and the industry. We will also provide technical support and advice, as appropriate, to the DCMS as they consider any next steps as a result of the Digital Radio and Audio Review.

## Establishing regulation of online safety

### The online safety regime

- A1.248 Antisemitism Policy Trust expressed support for Ofcom’s plans to engage with representative groups in relation to Online Safety planning. It would like to see this engagement extend to discussion of the Codes of Practice and other areas of the Online Safety remit, as well as Ofcom’s wider responsibilities.
- A1.249 Carnegie UK raised concerns on the delays around the Online Safety Bill<sup>17</sup> and the need for clarity to be provided by the DCMS as soon as possible in relation to the definition of harm and/or priority harms. They further noted that the Plan of Work highlights the extensive consultation exercises that Ofcom will have to undertake and urge Ofcom to make the case for paving powers to be implemented by Government, in order to ensure that consultations on codes, where possible, can take place in tandem with the passage of the Bill. In addition to this, Carnegie’s UK submission noted that mechanisms to continue engagement after the passage of the Online Safety Bill should be designed and formalised as early as possible to enable ongoing scrutiny of its effectiveness. They further noted the need to ensure that the voice of the user is part of this and civil society organisations are involved in this engagement.
- A1.250 Carnegie UK noted the need for increasing knowledge of the different online experiences of different users, depending on their background or characteristics, as well as the nature of intersectionality which is particularly relevant to experience of online abuse.
- A1.251 BT broadly expressed support for the requirement in the Online Safety Bill, for all services to minimise CSEA material, and the powers for Ofcom to follow up and impose technical measures if it is not satisfied. BT suggested that: 1) Ofcom develops a regulatory regime with statutory Codes of Practice that adopt a suitably child-centred and harm-based approach. 2) Ofcom develops Codes of Practice for commercial pornography services, issuing guidance which provides users with clarity and consistency on how ‘harmful but not illegal’ content is dealt with and consulting with external stakeholders. 3) Ofcom should have information gathering powers equivalent to those in telecoms and broadcast to enable it to best execute its regulatory role, 4) When Ofcom receives complaints from victims of harm, it should have the powers to investigate, impose meaningful sanctions, and take timely corrective action. BT also raised concerns over the significant role of the Secretary of State, suggesting better decision-making is enabled when a regulator independent and not subject to excessive government oversight.
- A1.252 Full Fact felt that the Plan of Work does not properly explain how Ofcom will prepare for the new online safety regime, and should set this out more clearly. It suggests that Ofcom should be planning to implement the regime imminently, including consulting on the new codes of practice.

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<sup>17</sup> <https://bills.parliament.uk/bills/3137>

- A1.253 The Welsh Government welcomed Ofcom’s positive engagement on this area of work, and raised the importance of this continuing so that plans reflect priorities in Wales and recognise differences in devolved areas, such as education and the curriculum, safeguarding and the Welsh language.
- A1.254 CCNI agreed that online services must be accountable and play their part in preventing consumer harm. It suggested that Ofcom clearly sets out the specific requirements it expects online platforms to comply with, and that these requirements are publicly available, transparent and easy for everyone to understand. It also suggested that Ofcom works closely with the Digital Markets Unit (DMU), Information Commissioner Office (ICO) and the Financial Conduct Authority (FCA) to develop a robust regulatory approach to online services which protects consumers, emphasising the importance of regulatory co-ordination.
- A1.255 Ombudsman Services felt there must be appropriate transparency and accountability for online services to ensure online safety, and offers its support to Ofcom in its work on regulation of online harms.
- A1.256 PPA acknowledged that the Online Safety Bill requires Ofcom to prepare codes of practice, including on journalistic content. It suggested that the duties to protect journalistic content be addressed with a specific code of practice which supports the media literacy objectives in the Bill. It asked Ofcom to start working on the codes of practice immediately, so that Ofcom is ready for enforcement as soon as the Bill becomes law and that Ofcom consults those representing the interests of United Kingdom users of regulated services. PPA welcomes the opportunity to contribute to this work.
- A1.257 FCS felt that the responsibility to ensure online safety should be targeted at the party that has the control and the technical ability to support the industry requirements (generally ISP network providers).
- A1.258 The Age Verification Providers Association raised concerns about the timescales of Online Safety and VSP implementation being slow and the effectiveness of the regime, in particular in relation to protecting younger users from adult content.

### Our response

- A1.259 The legislative framework for the new regime, including the definition of harms, and the list of priority harms is a matter for Government and Parliament. We are providing technical advice to Government and Parliament to ensure the legislation is effective and workable and to support timely implementation. We note that the Government has recently announced a list of priority offences that it intends to include on the face of the legislation.
- A1.260 While the Online Safety Bill does not envisage us adjudicating on complaints about individual items of content, we will take account of individual users' experiences in assessing the effectiveness of companies' safety measures. We anticipate this will include information obtained from user complaints as well as conducting research and data analysis. We agree that it is important to capture views from across the UK, and our survey

research is able to report by nation. Our qualitative research also regularly includes participants from the four nations in order to reflect a diversity of perspectives. We will also have extensive information-gathering powers which will enable us to ensure we have the insight and data necessary to assess compliance, and shine a light on companies' safety practices.

- A1.261 The Online Safety Bill requires all in-scope services to assess whether their services are likely to be accessed by children, and if so, to assess risks that may arise to children, and take proportionate steps to mitigate them and protect them from content that is harmful to children. There are also specific duties to use proportionate systems and processes designed to prevent individuals from encountering priority illegal content, including child sexual abuse material. The Government has also confirmed its intention to require online services that publish pornography to prevent access by children, including by using age verification technologies.
- A1.262 Where an in-scope service has failed to comply with its regulatory requirements, Ofcom will have a range of enforcement powers, including significant financial penalties. In certain circumstances of ongoing harm Ofcom will be able to apply to the Courts to seek an order for business disruption measures.
- A1.263 In keeping with how we approach our existing regulatory duties, we will take a consultative approach to developing the online safety regulatory regime, so that it is informed by the input of industry, organisations promoting the rights of internet users, academics and other stakeholders.
- A1.264 While we can only formally consult after we have been granted the necessary powers once the Online Safety Bill has received Royal Assent and come into effect, we will continue to build relationships with stakeholders this year and ensure we are ready to implement the regime as quickly and effectively as possible once the legislation is in place. We will provide more detail on our approach to implementing the regime during the course of the year.
- A1.265 In October 2021, Ofcom published guidance for UK-established video sharing platforms (VSPs) on measures to protect users from harmful material. This guidance is intended to help VSP providers with their regulatory obligations about the need to have appropriate measures in place to protect under-18s from pornographic material, including robust age verification for VSPs which specialise in pornography. Alongside our guidance, we also published our plan and approach to VSP regulation, which set out that age verification would be an immediate priority area of focus for Ofcom.
- A1.266 As part of that work, we are currently in the process of understanding the measures adult platforms have in place, the risk-based decisions that have been made about safety on their sites, and any challenges to implementing age verification. We are working with the providers to help them understand the requirements of the framework and ensure they have robust systems in place to provide appropriate protections.
- A1.267 We recognise that effective regulation of the digital sector requires a sophisticated, joined-up approach between regulators. We have increased our co-operation with the Competition and Markets Authority, Financial Services Authority and Information

Commissioner’s Office and have launched a joint forum, the Digital Regulation Cooperation Forum (DRCF), to pool knowledge, expertise, skills and resources; and to promote collaborative regulatory approaches.

## **Making Sense of Media/Media Literacy**

- A1.268 The organisation Founders and Mentors raised the question whether Ofcom has any plans under their work on Online safety to teach media literacy in schools to ensure children are taught to discern between truth and falsehoods in media messages.
- A1.269 The Advisory Committee for Scotland noted in their submission that they feel there appears to be confusion between media literacy and online harms (including misinformation and disinformation). In this respect they would like to see Ofcom better articulate their intended actions in each of these areas independently.
- A1.270 Full Fact commented that the Online Safety Bill will impose a new duty to promote media literacy, replacing Ofcom’s existing media literacy duty, and there is limited explanation of what Ofcom plans to do in relation to this revised duty. Full Fact believes that if enhanced media literacy is to play a key role in addressing risks of online harms, including issues of misinformation and disinformation, then a much greater commitment of resources (and a leveraging of resources from others) is going to be needed. That will require Ofcom to step up its efforts in this area and ensure a clear prioritisation of resources to help it do so effectively.

### **Our response**

- A1.271 The UK Government’s Department for Education has observer status at our cross functional external media literacy advisory panel, which allows us to retain an informal working relationship. What children are taught in schools is not within Ofcom’s remit - it is the responsibility of the Department for Education for England and for the devolved governments in the other parts of the UK.
- A1.272 Ofcom's media literacy duties stem from the Communications Act 2003, while our duties regarding Online Safety will be determined by the Online Safety Bill and we plan to outline our approach to fulfilling these duties in 2022/23.
- A1.273 In our Approach to Online Media Literacy Document<sup>18</sup> we detail the five areas we are focusing our work upon. Media literacy does, of course, overlap with online safety as online safety is an inherent part of online media literacy, which also covers digital inclusion and a focus on platform design choices. We will continue to look at mis/disinformation through our ongoing media literacy research programme. Full Fact are also represented on the Making Sense of Media Panel which meets regularly to debate and inform the development of Ofcom’s media literacy research and policy work.

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<sup>18</sup> <https://www.ofcom.org.uk/research-and-data/media-literacy-research/approach>

## Other online issues

- A1.274 The Electoral Commission has raised the point that the Elections Bill will create new legal requirements for political adverts and there would therefore be benefit in comparing approaches as both the Electoral Commission and Ofcom prepare for new regimes that regulate the online space, and therefore will involve some of the same stakeholders.
- A1.275 The Electoral Commission further flagged in their submission that the proposed new duty on social media companies to ‘protect content of democratic importance’, and wider proposals in the Bill to reduce online harm, carry clear implications for the conduct of political debate online, particularly during the campaign period in the run up to elections. As such, they noted it would be beneficial to liaise with both the UK Government and Ofcom as parts of the framework that relate to elections, improving transparency and online campaigning are developed.

### Our response

- A1.276 Freedom of expression is the lifeblood of the internet as well as being central to our democracy, values and society. As the broadcasting regulator, we are experienced in balancing audiences' protection with legal rights to provide and receive a wide range of views and ideas. We will engage with organisations such as the Electoral Commission with expertise in relation to democratically important content, and other relevant regulators and public bodies, as we implement the relevant parts of the regime.

## Strengthening Ofcom for the future

### Diversity and inclusion

- A1.277 ACS noted they are pleased to see a focus on diversity and inclusion highlighted in the Plan of Work, but there appears little mention of inclusion initiatives. They would be keen to understand more about how Ofcom's culture is developing to become more inclusive and would be delighted to see Ofcom role model this for the communications industry.
- A1.278 NADP noted that given that communication is a key barrier for people with hearing loss, they would expect more people with the living experience of hearing loss to provide more extensive input into those areas within Ofcom and wonder if there will be an intentional bias towards employing people with a hearing loss within those areas.

### Our response

- A1.279 It is Ofcom's intention to balance the need for interventions that increase diversity with inclusion priorities that support tangible steps in our workforce culture and leadership. Our strategy outlines the work we will do to measure and track inclusion, to enhance our values; support colleagues in their health and wellbeing; support and invest in our colleague networks and in our leadership to be role models for inclusion. Our desire to be 'fair by design' means that we have also embedded inclusion into a number of our processes and systems and our specific actions in this area are also outlined within the strategy. Our Diversity in Broadcasting Work actively encourages broadcasters to provide qualitative information on their inclusion initiatives and our vision and recommendations for broadcasters in the next five years includes building inclusion into the core of their organisations to foster systemic and cultural change.
- A1.280 Increased disabled representation is a priority for us and we have a target for 15% of our workforce to be disabled (including those with hearing loss) by 2026. To drive our ambition we are part of the Disability Confident scheme, offering a guaranteed interview to disabled people who meet the minimum criteria of a role, and are also a Disability Confident Employer (level 2). We are working towards Level 3 recognition to ensure we continue to attract, recruit and retain disabled people. Our SOUND<sup>19</sup> staff network supports colleagues with direct experience of disability and long-term conditions in the workplace. SOUND run support groups on particular conditions for their members, raise awareness and understanding of disability and support Ofcom by influencing change and helping us to make improvements in the way that we do things. Examples include working with our internal communications team to upgrade our document templates or providing insight and support to our recruitment team. While we do not have a workforce targets specifically for people with hearing loss, we have introduced an additional question on our staff system asking about the nature of people's disability so that we have more granular insight into disabled representation at Ofcom and which will enable us to be able to offer

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<sup>19</sup> <https://www.ofcom.org.uk/about-ofcom/jobs/benefits/colleague-networks-groups>

more targeted support to colleagues. The Advisory Committee for Older and Disabled People (ACOD) advises us on general and specific issues concerning the communications and postal sectors relating to older and disabled people.

## Engagement Strategy

A1.281 Openreach valued the planning and work undertaken by the Information Registry Team. There have been improvements to ways of working and communicating on the timing of Ofcom's planned information requests. An area that Openreach would like to pursue with Ofcom is the definition and publication of information request on key performance indicators (KPIs), for example the number of information requests issued, number of repeat requests or the costs and benefits of requests. This would give stakeholders transparency of how Ofcom uses its powers and to identify opportunities for further efficiency. Openreach would also like to request any teachings that can be shared to improve their responses and process.

### Our response

A1.282 We are in support of improving transparency around our information gathering activities. The Information Registry Team is exploring ways to share more information and is open to such suggestions on how to better support stakeholders.

## Climate Change

A1.283 ACS noted they are delighted to see a commitment to drive towards net zero. Through corporate focus and in discussion with industry, they would further like to understand how Ofcom intends to role model this for the communications industry. For example, is there a set of metrics that Ofcom can put in place to help measure Communication Service Provider progress towards reducing energy consumed by the equipment in their networks and data centres.

A1.284 The Welsh Government noted the following: that Ofcom needs to have a stronger focus on challenging the telecommunications and broadcasting industry on tackling climate change and improving sustainability to contribute to the momentum towards achieving the UK's net-zero carbon target; Ofcom needs to investigate how it can use the regulatory powers it holds and then to use its powers to convene and gather data to drive the changes needed to bare down on carbon emissions produced by the sector; The narrative in this space needs to move away from citing sector level or industry level contributions around enabling home working, reducing the need to travel, etc. to a more granular focus on proactive efforts by all companies within the sector or industry to evidence their individual contributions to this call to arms.

A1.285 BT recommended Ofcom conducts and publishes a telecommunications sector sustainability impact report. Based on such a report, Ofcom can form sustainability guidelines and principles for the sector. Ofcom should put further resource into this area,

such as developing a framework for weighing sustainability impact of any future regulatory decisions and identifying decisions where such a framework could be applied

A1.286 Scottish Government welcomed the role of communications services in reducing carbon emissions and enabling services such as smart meters. The smart meter roll out in Scotland continues to be delayed by communications issues, as Wide Area Network connections to the Arqiva system are too often unavailable, and consumers remain locked out from the benefits smart meters can provide.

### Our response

A1.287 Our view is that the communications sector has a crucial role in enabling the UK to achieve reductions in energy usage and manage resources more efficiently. This enabling role has been estimated to be potentially multiples of the emissions of the communications sector itself. For example, the GSMA estimates that mobile technologies on a global scale could enable avoided reductions on a scale ten times greater than the sector's own greenhouse gas footprint<sup>20</sup>. In that regard, we are already assessing demand for spectrum by the utilities sector which is needed to support smart grids and smart meters in pursuit of decarbonisation objectives.

A1.288 We are therefore encouraged to see that our stakeholders are already proactively and voluntarily committing to reduce their own environmental impacts. For example, in the broadcasting sector, we see impressive levels of collaboration between those UK broadcasters that have signed up to the BAFTA Albert project.<sup>21</sup> It has two aims, namely one on sustainable messaging and the other on “actively eliminating waste and carbon emissions from production” for which they have a carbon calculator.

A1.289 We are working to gain ISO14001 certification by Q1 2022/23 and we hope that our stakeholders will be spurred to taking similar initiatives if not already doing so. Ofcom does not have any statutory functions (objectives, powers and duties) specifically in relation to the environment. There are therefore limitations on our abilities to put in place any binding measures, such as metrics for measuring energy consumption. We nonetheless intend to explore what we can do to support our stakeholders in the transition to net-zero within our existing powers, and through voluntary collaboration.

A1.290 Our statutory powers are not such that we can investigate and compel stakeholders to provide us with data and other information about carbon emissions alone. Nor could we develop a formal framework for weighing the relative sustainability impact of future regulatory decisions without legislative change (something which would require careful consideration by both Government and Parliament).

A1.291 We note that the UK Government is putting in place a range of measures to incentivise all big companies, including communications firms, to reduce and report on their emissions. Over time, there might be additional voluntary approaches that the communications

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<sup>20</sup> <https://www.gsma.com/betterfuture/wp-content/uploads/2020/07/GSMA-Climate-Policy.pdf>

<sup>21</sup> <https://wearealbert.org/>

industry adopts to support robust reporting. We are already in discussions with stakeholders on how they report on their emissions as part of our exploration of how our sectors contribute to the momentum towards net zero.

A1.292 We also intend to continue to explore what additional steps Ofcom can take to give support in providing clarity on some environment-related issues in our sectors. For example, Ofcom has already produced an 'Internet Futures' report in 2021 that discussed energy efficiency opportunities in how data centres are built and in network operation.

A1.293 We note that the Wide Area Network provided by Arqiva for connecting smart meters is part of a contract with Smart DCC Limited who was licensed by the UK Government in 2013 to manage the smart metering service on behalf of its users and to contract with, and manage, the data and communications service providers. The DCC licence is regulated by Ofgem.

## Underpinning our wider work

### Evaluating our work

- A1.294 ACS explained that it would be keen to see an assessment of what, from last year's objectives, worked, and what didn't work as this allows them to better evaluate how achievable the Plan of Work for the year ahead is. They would like to see what initiatives in this Plan of Work are a continuation of what was committed to be delivered last year, what is an extension of this work and what is new. A regular dashboard or status on progress would also be welcome for the year ahead to track progress. They suggested setting out the performance against the 2021/22 Consumer Outcome Measures with a clear articulation of the path taken, success criteria and the development therefore of the new measures detailed. The Plan of Work should demonstrate the same approach to business planning as Ofcom requires from others. For example, transparent performance reporting, risk-based, evidence-informed with a focus on building stakeholder trust and consumer focused thinking. They do not feel the plan meets this high bar currently.
- A1.295 A single picture of the impact on consumers would help demonstrate that Ofcom's new powers do integrate well into Ofcom's existing work, and it would bring the plan to life. It would be interesting to see how the suite of parallel strands of work impact on an individual household. This is something that ACS feels particularly strongly about and has raised as a point of note before. There is a much more holistic view of consumers required by Ofcom to truly understand the digital divide and communications poverty.

### Our response

- A1.296 The performance review section in our Annual Report sets out what we have done during the year to meet the priority areas and the impact it has on people and businesses. The annual report will for 2021/22 is expected to be published in July 2022.
- A1.297 Understanding the impact of our regulation on consumer outcomes is an important aspect of ensuring that we are delivering for people and businesses in the UK. We have plans to assess the impact on consumers in both the digital and telecommunication sectors throughout 2022/23.

### England

- A1.298 ACE stated that the gap between rural and urban coverage still remains in England, as in the other nations of the UK, and is not closing as fast as it needs to. More needs to be done through Government intervention and industry response to meet the needs of unserved individuals and businesses. Progress is too slow, and Ofcom should continue to apply pressure to both industry and government to ensure the gap in coverage is closed in the most cost efficient way. It is encouraging to see that England's Mobile not-spots have reduced from 3% to 2% of the nation over the past year, but the pace of change is still very slow. The Strategic Rural Network initiative should be making a material impact on this gap, but once again, progress is very slow.

## Our response

A1.299 In relation to the ACE’s comments on mobile not-spots and coverage, we published a discussion paper on our future approach to mobile markets alongside a discussion paper on mobile networks and spectrum in February. We are inviting comments on both documents by 8 April 2022. We plan to set out our conclusions by the end of 2022. We will also continue to engage with and monitor work currently underway on the SRN and will report on progress through our annual Connected Nations report.

## Northern Ireland

A1.300 Both the Consumer Communications Panel and CCNI requested Ofcom monitor the issue of roaming charges, specifically in relation to Northern Ireland geographical position.

A1.301 CCNI noted that coverage is still lower in Northern Ireland compared to the UK and that approximately 45,000 residential and business premises in Northern Ireland are unable to get decent fixed broadband coverage, especially those located in rural areas. Broadband services must also be affordable: fewer older consumers, those on a low income and consumers with a disability across Northern Ireland have internet access: it is important that Ofcom understands why these groups are not online and develops a plan to support them.

A1.302 In addition, they noted that Ofcom should monitor, understand and assesses how EU exit, and the outcome of UK and EU discussions around the Northern Ireland Protocol, might affect access to postal services for Northern Ireland consumers and small and micro businesses, this includes the potential future impact on the universal postal service.

## Our response

A1.303 Ofcom will continue to monitor developments on roaming closely including measures to protect consumers, particularly those in Northern Ireland, from paying roaming charges for inadvertently accessing roaming services.

A1.304 We will continue to work with stakeholders in the Northern Ireland government to provide technical and regulatory advice, as well as relevant data (where appropriate), in support of the publicly funded Project Stratum, which will bring superfast broadband to 87,500 (mostly rural) premises in NI in the next few years.

A1.305 Our monitoring programme considers the use of postal services and the provision of delivery networks across all parts of the UK. In last year’s Annual Monitoring Update we provided commentary in relation to the implementation of the Northern Ireland protocol and impacts on parcel deliveries, including between Northern Ireland and mainland Great Britain. We will continue to monitor developments in this area in the next financial year.

## Wales

A1.306 The Welsh Government noted that upon completion of the Shared Rural Network 20 percent of the Welsh landscape will be without coverage from all four operators and

considerably lower than England or Northern Ireland. Linked to this, the Welsh Government said that Ofcom's spectrum policy needs to enable the use of existing spectrum frequencies, particularly in rural areas, to support access to fast and reliable mobile broadband at home. The Welsh Government noted its expectation that the roll-out of 5G will inform the rollout of 4G for home broadband connections, and therefore to shift to a model of routine deployment of both lower and higher frequency bands to cater for home workers, and particularly to cope with large visitors in rural areas, which negatively affects fixed and mobile broadband speeds for local citizens and businesses.

A1.307 The Welsh Government also note that in developing the mobile strategy Ofcom needs to consider how geographically differentiated regulation could play a part in improving mobile connectivity in rural and very rural areas of the UK including in Wales. A precedent has already been set for this approach through the changes to regulation resulting from the Wholesale Fixed Telecoms Market Review 2021-26.

A1.308 The Welsh Government remained concerned that the USO will not deliver connectivity to homes and businesses in Wales that are most at risk of being overlooked. The premises cost cap still does not reflect the reality of the cost of providing a sustainable broadband solution in the most rural areas of Wales. There are still too many premises that fall outside of the scope of the USO. This needs to be addressed as a matter of urgency. In implementing the USO the proposed Plan of Work states that Ofcom will monitor the work of BT and KCOM and whilst welcoming this commitment we believe that there needs to be a commitment to an annual review of and adjustment to the working and effectiveness of the USO. Despite the efforts of the Welsh Government through the Superfast Cymru intervention too many premises in Wales remain without access to fast and reliable broadband. Ofcom needs to look again at how it can use further levers available to it to address this final few per cent. The regulatory focus on competition does not seem appropriate for these hard-to-reach premises.

A1.309 The Welsh Government would welcome the addition of a commitment to Wales on providing technical and regulatory advice, as well as relevant data (where appropriate), to help the Welsh Government to deliver our key telecommunications infrastructure projects and ensure as smooth an interaction as possible with other publicly funded schemes in line with the commitment to Scotland.

### **Our response**

A1.310 Ofcom notes the ACW's position and looks forward to engaging with it throughout the licensing process.

A1.311 In relation to the Welsh Government's comments on mobile coverage, we published a discussion paper on our future approach to mobile markets alongside a discussion paper on mobile networks and spectrum in February. We are inviting comments on both documents by 8 April 2022. We plan to set out our conclusions by the end of 2022.

A1.312 In relation to the Welsh Government's comments on the broadband USO, these provisions are set out in legislation by the UK Government and any changes to it would be a matter

for them. The USO as currently set has launched and we will continue to monitor its delivery by the designated providers (BT and KCOM). Alongside this, we will work with UK and Nations Governments to understand how people’s connectivity needs have evolved and will do so in the future, and how these can be met through public schemes and/or the USO where commercial rollout does not occur. Satellite services may also be an option for customers in poorly served areas - we plan to work with satellite providers to understand in more detail what can be delivered on these networks.

## Scotland

- A1.313 The Scottish Government noted that Ofcom will be growing its presence in its offices across the UK, and are interested to understand Ofcom’s plans for expansion in Edinburgh in 2022/23.
- A1.314 The Scottish Government noted that the USO cost cap of £3,400 per connection does not reflect the higher costs that some customers in remote, rural and island areas will face to obtain that connection. The Scottish Government also said that in order for Scotland’s more remote and rural communities to benefit, consideration should be given as to how the scheme could potentially be adapted to work more effectively alongside other demand-led interventions, such as the Scottish Government’s Reaching 100% (R100) Scottish Broadband Voucher Scheme or the UK Government’s Gigabit Broadband Voucher Scheme.
- A1.315 The Scottish government noted they feel that there could also be a role for Ofcom to work collaboratively with DCMS and the MNOs around greater transparency of expected Shared Rural Network (SRN) coverage uplift – for both the partial and total notspots elements of the programme.

## Our response

- A1.316 In Ofcom’s Diversity and Inclusion strategy, published in January 2021<sup>22</sup>, we recognised that to ensure communication services really do work for everyone in the UK, we must understand the needs of people across the different nations, regions and communities within the UK. Ofcom has colleagues based in all four nations which is important in ensuring that we are representative of the citizens and consumers whose interests we are here to serve. In line with that strategy, our presence in Scotland has continued to grow over the past year and we are currently developing a wider workplace strategy on how we use Ofcom’s estate as we start to come out of the pandemic and adapt to new ways of working. That includes consideration being given to further growth of our Edinburgh office and those in Cardiff and Belfast in the year ahead. We will keep Scottish Government officials updated on the progress of this work over the coming weeks and months.
- A1.317 The broadband Universal Service Obligation (USO) is set out in legislation by the UK Government and any changes to it would be a matter for them. The USO as currently set

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<sup>22</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0012/210900/diversity-and-inclusion-strategy-report-2019-20.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0012/210900/diversity-and-inclusion-strategy-report-2019-20.pdf)

has launched and we will continue to monitor its delivery by the designated providers (BT and KCOM). Alongside this, we will continue to work with the Scottish and UK Governments to understand how people’s connectivity needs have evolved and will do so in the future, and how these can be met through public schemes and/or the USO where commercial rollout does not occur. Satellite services may also be an option for customers in poorly served areas - we plan to work with satellite providers to understand in more detail what can be delivered on these networks.

- A1.318 Ofcom has a responsibility for assessing compliance with the licence commitments associated with the SRN. We continue to engage with and monitor the work that is underway, and will report on progress through our annual Connected Nations report. We continue to act as an observer on the Scottish Government Shared Rural Network Working Group.