

OFCOM'S DRAFT ANNUAL PLAN 2011/12: CONSULTATION RESPONSE

1ST MARCH 2011

Cable&Wireless Worldwide welcomes the opportunity to respond to Ofcom's consultation on its draft annual plan for 2011/12. Although our comments are relatively limited we do think it is important for stakeholders to have visibility of Ofcom's priorities for the year and an opportunity to influence those priorities.

Overall we support the plans Ofcom has set out and many of the specific projects that are mentioned. Our comments are limited to the following areas:

- A thorough review of the fundamental principles of regulatory financial reporting
- The SLA / SLG regime and the incentives it drives
- The annual plan itself

Regulatory Financial Reporting

Cable&Wireless Worldwide believes it is now becoming urgent that Ofcom reviews the fundamental principles of regulatory financial reporting and the way the output is used. Over the past 3 or so years some very significant problems have come to light:

- First it became apparent that BT was omitting material aspects of its revenue for certain aspects of PPCs (resilience, third party infrastructure, one time charges, etc) whilst the costs associated with those services was included;
- Secondly BT restated its Regulatory Financial Statements ("RFS") in 2008 with a dramatic change to the volumes of services sold in the business connectivity markets. This revised volumes led to a £230m reduction in revenue for the PPC services that were reported; and
- In 2010 BT re-valued its duct network adding a massive £1.8bn to its net book value in one sudden move.

The role of the RFS is becoming even more important and yet the above examples make it clear that the information within them has been subject to very material inaccuracies and BT has the ability to make significant changes without any effective reply. This has understandably dented stakeholders' confidence in the information. Furthermore, with issues such as geographic regulation and the increased proportion of common costs associated with next generation networks it is apparent that the challenges for the effective use of the RFS will increase.

Therefore we consider a fundamental review of regulatory financial reporting is now overdue and believe that Ofcom should include a comprehensive project within its work plan for this year.

SLA and SLG Regime

Ofcom will be aware of the significant service issues that Openreach is currently experiencing with its provide and repair performance. Although the issues impact all Openreach customers we, and other CPs, are disappointed with the time it has already taken and is likely to take before performance is back on track.

A crucial factor within this issue is the structure of the existing SLA and SLG regime as it fails to provide Openreach with the proper incentives to invest in fixing the issues more quickly. At present Openreach pays SLGs based upon the scheduled date to complete an order but retains flexibility to

set that scheduled date. Therefore we believe that the SLA and SLG regime needs to be reviewed in order to ensure that the incentives for improving performance are working efficiently.

The draft annual plan

We have some further comments on the document and planning process itself which are mainly focused on the process in future years but may also be of relevance for this year:

- We would welcome more detail in the draft annual plan of the specific projects that Ofcom is planning to undertake or considering as candidate projects. In previous years Ofcom has presented additional detail in its final statement, including approximate timescales and the Ofcom lead and we would welcome that information again this year. However, we believe it should be possible to provide some of that additional detail earlier in the process for stakeholders to comment on;
- We would welcome an indicative range for the Ofcom admin fees well before the start of the new financial year. Our budgeting process requires us to agree budgets in advance and it would greatly assist us to have at least an indication of changes from the previous year; and
- We note the House of Commons Public Accounts Committee report on Ofcom which considered that Ofcom could do more to set out its intended outcomes in order that its progress towards them could be better judged. We support this view; while we understand it is not always easy to set out such outcomes clearly we believe there would be value in attempting to do so within Ofcom's annual planning process.