

## **Ofcom Spectrum Advisory Board (OSAB)**

### **Input to Ofcom Strategic Review of Telecommunications Phase 2 Consultation**

This document represents OSAB's views on the questions posed by the Phase 2 Consultation Document, but in this respect we have tried to avoid stepping beyond our advisory remit, most directly related to spectrum and research.

OSAB are generally surprised that the emphasis of the document is on connectivity as opposed to applications and "access for all" rather than "skills for all". This may have arisen by treating this as a telecommunications as opposed to a communications review. The review also seems disconnected from the EU "Lisbon Agenda" for 2010, as set in March 2000.

We have also highlighted areas of concern associated with:

- a) The need for wholesale choice; and
- b) the lack of international benchmarking

as key drivers/enablers for ongoing UK communications choice.

Finally, OSAB is generally concerned that this Ofcom (a longer term) Strategic Review underplays the importance of:

- a) Content as key drivers of communications demand. Whilst this may historically be mainly broadcast, convergence is likely to change this within the reach of this Review;
- b) payments – and the importance of trust, security and Interoperability across platforms; and
- c) service/support.

Whilst these may all be for the Market to handle, some Ofcom framework of consistency is surely required to encourage communications uptake?

OSAB will be pleased to support more detailed "next steps" within this ongoing consultation cycle.

Annex B

List of questions

**1. Do you agree with Ofcom's proposed principles for regulation of telecoms markets?**

**1 a) What regulatory role should Ofcom play in the wider telecoms value chain?**

OSAB is neutral on this matter, but spectrum generally needs a UK wide comprehensive approach, compatible with EU-ITU guidance and direction. However, this question could imply a narrow "telecoms" focus, when the broader "communications" and spectrum focus is needed.

**1 b) How should Ofcom reflect differences in competitive characteristics in different geographic areas?**

Whilst there are different geographic needs within the UK, real care should be taken NOT to subdivide spectrum unnecessarily, and risk spectrum wastage with new guard bands that would be required to minimize geographic/regional interference.

**1c) What factors need to be taken into account when considering the scope of demand and supply-side substitution in telecoms markets on a geographical basis?**

**1d) To what extent would it be appropriate in the future to take into account differences in competitive conditions in different areas through (i) the aggregation of similar geographic areas or (ii) through different remedies?**

**1e) Would you support a requirement to provide Ofcom with data on particular products on a geographic basis as part of the regular reporting requirements? What is the correct level of disaggregation?**

**2. Where and to what extent should Ofcom rely on *ex post* competition law rather than *ex ante* regulatory conditions?**

No comment by OSAB.

**3. In what circumstances would it be appropriate for Ofcom to make a reference under Section 131 of the Enterprise Act?**

No comment by OSAB.

**4. Should Ofcom adopt a broad approach of focusing regulation on enduring economic bottlenecks while tackling the problem of inequality of access head-on?**

No comment by OSAB.

**5. How can real equality of access be achieved at the product level?**

Equality of access seems a laudable aim but three concerns need addressing within this process. These are how to assure:

- a) End-to-end quality of service;
- b) improved wholesale transmission choice; and
- c) network integrity, with the benefits of open interfaces where required balance against risk of denial of service or other attacks.

The figure 15 list of wholesale products could also be extended with a wider range of spectrum-based options – a “ wholesale communications choice” review would be welcomed, perhaps by survey to the leading top 10 UK communications carriers. A survey could also identify any restrictions in choice, or onerous terms and conditions of use.

Interconnection for voice and data deserves more attention under Chapter 6, particularly in terms of how this could evolve, with or without spectrum based options.

**5 a) Do you agree with Ofcom’s definitions of the various forms of equivalence?**

**5 b) Do you agree that equivalence of inputs can deliver more effective equality than application of equivalence of outcomes?**

**5 c) Do you agree with the principles proposed on where equivalence should be applied and the specific suggestions for individual products?**

**5 d) How do you suggest the principle of equality is achieved for ‘associated products’ that BT does not depend on (such as migration products)?**

**6. What behavioural changes by BT do you believe would be necessary to achieve real equality of access?**

No comment by OSAB.

**7. How should Ofcom reflect the competing considerations of efficient investment and consumer protection in determining the regulated returns that BT may earn from its network?**

No comment by OSAB.

However, OSAB feels the benefits of the BT 21<sup>st</sup> Century network to the UK, at a user and wholesale/trade level have not been very well explained. The impact

(good or otherwise) on communications providers is not well understood, and the spectrum consequences (more needed or to be released?) are most unclear. In the same way as Professor Martin Cave undertakes a spectrum review of public sector usage, perhaps Ofcom should review whether spectrum will be released or required by BT as a result of this network initiative.

**8. Do you agree with Ofcom's proposed approach to current generation broadband?**

OSAB feels broadband has been described in a wireline centric way, without fully considering the wireless based alternatives. Broadband needs to be reviewed in a more technology neutral way, covering both public/private and wireline/wireless options.

OSAB is generally not in favour of regulatory micro management as defined by technology or spectrum boundaries, provided indirect communications competition exists.

OSAB suggests that the DTI profile for promoting Digital or Broadband Britain may need to be raised, given the current approaches to broadband in Korea and Japan.

It would also be useful if Ofcom reviewed the EU document "EU 2004-Rethinking the European ICT Agenda", as a list of 10 ICT breakthroughs for reaching Lisbon goals. This was published by the Dutch Ministry of Economic Affairs in conjunction with PriceWaterhouseCoopers in August 2004 (<http://www.ictstrategy-eu2004.nl/>)

Otherwise OSAB is neutral to the remaining questions posed by Ofcom in Q8.

**8 a) What should Ofcom's approach be to naked DSL?**

**8 b) Should there be different regulated wholesale products for current generation broadband in different locations?**

**8 c) How should the potential lack of equivalence faced by LLU operators in a 21st Century network environment be addressed?**

**9. Do you agree with Ofcom's proposed approach to deregulation of voice services?**

OSAB is neutral on the more detailed questions below but senses insufficient attention has been paid to:

- a) Wholesale- as it has direct impact on cost/choice of spectrum/quality; and
- b) quality from an end-to-end perspective.

- 9 a) Do you agree that Ofcom should review regulation of retail voice markets in 2005?**
- 9 b) Do you agree with Ofcom's proposals for deregulating call conveyance markets and wholesale IDD?**
- 9 c) When would it be appropriate to remove the requirement on BT to provide indirect access?**
- 9 d) How should PSTN-specific regulation evolve under NGNs? What should next generation CPS and WLR products look like?**
- 9 e) What are the prospects for increased competition for voice services provided using broadband access products (such as LLU and the evolution of DataStream)? What conditions and transitional arrangements would need to be in place to allow service providers to secure access on the basis of commercial terms rather than PSTN-specific regulated products?**
- 9 f) How should Ofcom ensure competition in areas where alternative platforms were not in place?**
- 9 g) When do you expect fixed-mobile substitution to result in a single economic market for voice call origination?**

**10. Do you agree with Ofcom's proposals for deregulation of business voice services?**

OSAB has no comment on this, other than the answer under Q9 above.

- 10 a) Has the voice market for large business become more competitive since Ofcom issued its large business pricing statement, necessitating the conduct of a new market review?**
- 10 b) What wholesale inputs should be provided on an equivalent basis before BT should be granted greater freedom in relation to the pricing of voice services to large businesses?**

**11. How should regulation of narrowband internet evolve as networks migrate to NGNs, and how will functional, low bandwidth internet access be provided in future?**

NGNs need to be viewed from a communications perspective, and not through the narrow lens of Telecommunications. OSAB sense that the mix of public/private and wireline/wireless will change more radically than suggested in the consultation. However much of this is dependant on spectrum availability and wholesale choice.

Whilst OSAB is neutral on the pure regulatory issues, it does seem that international benchmarking (eg. Korean 8-3-9 project) should be undertaken. Also user assessment ought to be a key basis for evidence in this area of NGN policy.

OSAB also suggests the NGNs will change some of the relevance of the current Ofcom numbering policy. OSAB feel that Ofcom should be reviewing the transitional impact on allocation with evolution towards Numbering/Addressing policies. Numbering is a critical national resource but pace of change towards addressing needs planning alongside NGNs.

**12. How can the arrangements for access and interconnection to next generation networks best address our proposed regulatory principles?**

OSAB generally does not wish to comment on the pure regulatory matters here but the options for private access and wholesale choice seem understated.

Linked activities between “access for all” to “skills for all” seem missing. Perhaps a need for better, more pragmatic Ofcom/education links here, which are not viewed as a broadcast-centric “Media Literacy” agenda?

**13. What should Ofcom’s regulatory approach be to next generation access networks?**

As answered in 12 above.

**13 a) In what circumstances should Ofcom forbear from regulating next generation access?**

**13 b) How important is it that the investment be made contestable; is this achievable?**

**13 c) How should Ofcom regulate next generation access if market power were to emerge in this market?**

**13 d) How might structural options help to eliminate the problems of monopoly access assets being owned by vertically integrated operators?**

**14. What set of wholesale access services should BT be required to provide in order to promote competition in the business market?**

Wholesale access seems largely to have been described around existing products that are available. This may constrain innovation and choice going forward.

Wholesale choice could be better assessed through a user needs analysis (wholesale communications choice review) with the top 10 UK communications carriers. These may identify cost, quality, logistics, and other demand drivers as more relevant. Without this the spectrum efficiency and release options are more difficult to assess.

This in turn affects both business and consumer sectors as well as competition and choice.

**15. What can be done to facilitate the migration of complex corporate services (e.g. VPNs) between suppliers?**

No comment, as beyond OSAB remit.

**16. Are any alternative structures for call termination appropriate? Could evolution to IP interconnection introduce market mechanisms that make intrusive regulation unnecessary?**

No comment, as beyond OSAB remit.

**17. What approaches should Ofcom adopt to reducing search and switching costs in telecoms?**

No comment, as beyond OSAB remit.

**18. What should be the arrangements for funding the USO in future?**

USO at a retail level may require different levels of indirect Communications competition in which wireless plays a bigger part. Although wireless in general should be viewed as a shared resource, it could help deliver a wider universal service. Spectrum trading also could be used to attract a levy towards USO or the recently proposed PSP, as coverage without content makes little sense. However, OSAB has doubts on the ongoing justification for USO in a broader communications world.

**19. How could competition for the delivery of the USO be organised in future?**

No comment.

**20. Should mobile technologies be used to help address the existing USO?**

As answered in 18 above.