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SUBMITTED VIA EMAIL

16 June 2016



## OFCOM – DESIGNING THE BROADBAND UNIVERSAL SERVICE OBLIGATION

Developing a world class digital infrastructure that will deliver high quality connectivity across the country is a priority for the Scottish Government. A digitally connected Scotland underpins the Scottish Government's core commitment to create opportunities for all to flourish, through increasing sustainable and inclusive economic growth.

Alongside our partners, we are investing over £410 million in the Digital Scotland Superfast Broadband programme which will extend fibre broadband coverage to at least 95% of premises in Scotland by the end of next year. Given the importance of superfast broadband, particularly for our most rural areas, the Scottish Government plans to build on our existing programmes. Unlike the UK Government, we see the case for investing to ensure superfast broadband coverage is extended to the final 5% of premises in Scotland, recognising that this technology can often be most transformational in these areas.

The Scottish Government is keen for the USO to work effectively, even if it may not apply as extensively in Scotland as it would in other parts of the UK. Given our differing ambitions, it is crucial that the Scottish Government is involved in the design of the USO to ensure co-ordination with our planned investment. It still represents an opportunity to improve on the UK's digital infrastructure, enhancing underlying fibre infrastructure in those parts of the UK where there is a gap in commercial supply.

In our response to the Department for Culture Media and Sport's USO consultation, the Scottish Government suggested that a working group involving the devolved administrations would be one way of ensuring shared strategic oversight as the scoping work develops. We continue to believe that this would be a suitable mechanism to ensure alignment and would welcome action from Ofcom and DCMS to take this forward.

Our thoughts on the issues set out in the consultation document are attached. My team would be happy to discuss these further in the weeks ahead.

I am happy for the Scottish Government's response to be published as part of the consultation process.

*Yours sincerely*  
*Fergus Ewing*  
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## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title: Designing the Broadband Universal Service Obligation

To (Ofcom contact): Broadband.USO@ofcom.org.uk

Name of respondent: Fergus Ewing MSP

Representing (self or organisation/s): The Scottish Government

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input checked="" type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

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### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

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Name: Fergus Ewing MSP

Signed (if hard copy)



## SG RESPONSE TO OFCOM CONSULTATION

### Specification and Scope of the USO

The Scottish Government believe that the Universal Service Obligation (USO) for broadband should be seen as an opportunity to ensure that every part of the UK has an underlying fibre infrastructure that supports a range of technologies capable of delivering a 10Mbps service initially; but also one that is dynamic and future-proofed, keeping pace as technology and service capabilities grow. To enable this, the specification and scope of the USO should be kept under regular review. Our expectation is that the USO will not be defined purely on the basis of a headline download speed but will be flexible enough to keep pace with consumer usage. We would expect Ofcom to consider a number of factors when determining technical performance, including upload speeds, contention, latency, affordability and overall quality of service. We would recommend that a quality of experience mechanism be developed to ensure that the USO meets overarching user requirements and expectations.

Affordability will be a key aspect of the USO. Consideration should be given to the introduction of a price cap for service providers for the range of technological solutions available, i.e. fibre, mobile and satellite. For example, if the only viable option available to a rural premise is satellite, they should not be penalised as a result of expensive usage costs.

The Scottish Government would support the introduction of an industry levy. Funds generated as a result of this levy could be used to enhance the underlying fibre infrastructure in those parts of the UK where there is a gap in commercial supply. Using the USO as a mechanism to establish a suitable backbone – enhancing or developing new backhaul connections or creating fibre hubs or Points of Presence – would enable a genuinely demand-led USO to be developed, with consumers able to choose between a range of technologies.

The Scottish Government would be supportive of the introduction of a social tariff however consideration would have to be given to how such a tariff could be funded. In certain circumstances a social tariff for broadband may address individual or household needs and support the provision of effective local, national and UK service delivery. A range of criteria should be taken into account when assessing eligibility to ensure that income fluctuations do not result in an intermittent service, particularly where that service is delivering health or education benefits.

In conjunction with Glasgow Housing Association and BT, the Scottish Government offered broadband access to 138 homes in the Knightswood area of Glasgow as part of a pilot project in 2013. Each property that participated in the study was given Wi-Fi access and a choice of device (either a Chromebook or tablet). Evaluation of this project showed that 79% of resident felt that they benefited from the connection, with 41% of residents sending or receiving an email for the first time. Additionally, 62% of tenants searched for a job online during the study, of which over half did so for the first time since the study commenced. We would be happy to share further learning from this through the proposed working group.

### Demand for the USO

It is vital that the USO is regarded from the outset as a mechanism for improving the UK's digital infrastructure. If it was to focus solely on a demand-led approach, without any investment in underlying fibre infrastructure, it would, in our view, limit the connectivity options of people in rural areas to such an extent that there would be a risk of the USO entrenching a two-speed Britain. It will be important to consider what existing infrastructure is capable of before highlighting the strategic areas in which investment should be made to deliver the best solution for end users.

We are keen to work with Ofcom and BDUK in the first instance, to determine whether our forthcoming Open Market Review (OMR) may provide an opportunity to extract more information on the number of premises receiving <10 mbps connections; but more importantly to determine how future Scottish Government funded interventions can and will change the coverage picture across Scotland and how the USO can best interact and complement this activity.

### **Cost, proportionality and efficiency of the USO**

The consultation document seems to suggest that modifying the technical specification in specific circumstance could be one way of retaining proportionate costs. We would not support dilution of the USO specification in certain areas as this would remove the safety net effect afforded by the introduction of the USO. There is also a need to guard against connection costs being deemed prohibitive by consumers in rural areas. To do so would undermine the effectiveness of the USO and alienate those who should benefit the most from it.

The Scottish Government is compiling cost information derived from the Digital Scotland Superfast Broadband programme and Community Broadband Scotland projects. We would be open to further discussion with Ofcom and other partners on costs associated with delivering the USO through a working group or similar forum.

### **The universal service provider or providers**

The Scottish Government would envisage a number of Universal Service Providers being designated to allow consumers the opportunity to choose the option best suited to their individual needs. Given the timescale for implementation of the USO, there is potential for crossover between the process for identifying USPs and procurements pertaining to the Scottish Government's Reaching 100% programme. It is critical that Ofcom and the Scottish Government work together to ensure alignment and to ensure the market understand the relationship between the respective initiatives.

### **Funding of the USO and potential market distortion**

The Scottish Government are committed to providing 100% superfast broadband coverage across Scotland by 2021. The USO should be designed to ensure that, if our goal is achieved prior to the USO being in place, Scotland is not disadvantaged as a result of taking early action and still benefits from it. There are a number of options that could be explored by Ofcom in the months ahead, including the potential for a clawback or reinvestment mechanism, to ensure that there is no disincentive for public bodies or commercial suppliers in making infrastructure investment in the intervening period.

The cost associated with the provision of a broadband USO needs to be efficient and proportionate. As mentioned earlier, the introduction of an industry levy appears to be an appropriate mechanism, particularly if it is used to enhance underlying infrastructure, which the wider industry will benefit from.

### **Review of USO**

In the context of both strategic oversight and review capability, the Scottish Government believe that UK Government should have a continuing directional role in the USO, with appropriate input from the devolved administrations. A review point should be built in to the USO to allow Government to gauge end-user experience as well as providing an opportunity to engage with suppliers to determine barriers from their perspective. The USO needs to evolve in line with digital advances across the country.