
Ofcom's Plan of Work 2020/21 – stakeholder responses

Making communications work for everyone

STATEMENT ANNEX:

Publication date: 30 April 2020

Responses to the consultation

Consultation events and responses

- A1.1 We published our Proposed Plan of Work on January 7 2020 for consultation.
- A1.2 In January 2020 we hosted events in Belfast, Cardiff, Edinburgh and London. 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 6,467 responses to our Proposed Plan of Work. Of this, 6,420 related to a campaign facilitated by 38 Degrees. The remainder were 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 website¹, with the exception of the 38 Degrees responses from members of the public. We have provided a summary of the 38 Degrees campaign in the section, ‘Supporting UK Broadcasting’. Below we provide a summary of the submissions received, as well as our responses to key points, grouped by priority area.

Better broadband and mobile for everyone – investment and innovation matter more than ever

Encouraging investment in fibre networks

- A1.5 **Which?** and **TalkTalk** highlighted that people’s understanding of new networks is vital.
- A1.6 **BT** stated that a regulatory regime that provides long-term certainty and stability, and sufficiently recognises the significant risks involved in scale investment (including in harder-to-reach locations), is a vital enabler to delivering full-fibre. **CWU** said that Ofcom should give operators the pricing flexibility and regulatory stability they need to justify long term network investment, especially in harder to reach areas.
- A1.7 **Federation of Communication Services** stated that smaller communications provider must not be disadvantaged regarding fibre products. It sought clarity on implications from PSTN switch off. It also commented on the proposed new definitions in the European Electronic Communications Code (EECC), alongside stating concerns around implementation.

Our response

- A1.8 We welcome Which?’s and TalkTalk’s comments and would highlight our extensive work in aiding people’s understanding of communications technology. People and businesses need the right information to understand the different broadband services that may be available to them, including gigabit capable / ultrafast services, and make a choice about which is

¹ <https://www.ofcom.org.uk/consultations-and-statements/category-2/plan-of-work-2020-21>

best for them. We will consider whether further information or other measures are needed to help people understand the options available to them and whether they should take them up.

- A1.9 In response to BT, we published our Wholesale Fixed Telecoms Market Review consultation on 8 January 2020 setting out our proposals for regulation for the period from 2021-2026. This will provide long-term certainty for fibre investors and access seekers alike. We welcome stakeholders views on our proposals together with any supporting evidence by the closing date of 1 April 2020. Our current intention is to publish a Statement containing our final decisions in Q4 2020/21.
- A1.10 In response to the Federation of Communications Services, in December 2020, we proposed a package of measures to implement the European Electronic Communications Code (EECC) and provide greater protection to consumers. The consultation closed on 3 March. We have noted the comments on EECC implementation made in response to the draft Plan of Work. We will take these, and all responses to the EECC consultation itself, into account when finalising our position. We intend to publish our decision by the end of Q2 2020/21.
- A1.11 The EECC requires that no direct charges are applied to consumers for number porting and that the pricing among providers related to the provision of number portability is cost-oriented. This is reflected in our proposed new rules.

Delivering universality of broadband services

- A1.12 **The Consumer Council** encouraged Ofcom to ensure Northern Ireland consumers are aware of the Universal Service Obligation (USO). **Citizens Advice Scotland** also asked about customer communication, and offered to support consumers in Scotland.
- A1.13 **Citizens Advice Scotland** commented on customer implications from PSTN switch off. It asked about customer satisfaction measurements for the Highlands and Islands of Scotland. **TalkTalk** commented on customer bills on legacy copper products. The **Welsh Government** commented on bills for users in rural areas. It sought Ofcom’s commitment to actively support the Welsh Government’s Open Market Reviews.
- A1.14 **Kai Hendry** stated that Ofcom should popularise upload speeds.
- A1.15 **Which?** asked for detail on the Shared Rural Network (SRN). **BT** asked for clarity on “Enabling additional spectrum for mobile including 5G services”, and the Spectrum Management Strategy.
- A1.16 The **Communications Workers Union (CWU)**, **UK Competitive Telecommunications Association (UKCTA)**, **BT**, the **Welsh Government**, **IPSA** and **TalkTalk** commented on balancing regulation to ensure appropriate outcomes.
- A1.17 **BT** stated that the financial burden of building the infrastructure necessary for the broadband Universal Service Obligation (USO) cannot be for BT alone.
- A1.18 **BT** encouraged Ofcom, industry and government to keep in mind that a mix of technologies, some known and others currently unknown, will contribute towards fast and

reliable broadband and mobile services. **Intelsat** called on the UK government to include satellite technology in its national broadband plans, and noted the importance of inflight connectivity. Intelsat expressed disappointment that Ofcom's planned measures in relation to broadband do not include satellite technology.

- A1.19 **UK Competitive Telecommunications Association (UKCTA)** desired continued reporting availability of superfast broadband for all premises.

Our response

- A1.20 In relation to the broadband universal service obligation (USO), we note that the Universal Service Providers responsible for delivering the USO, BT and KCOM, are required to take reasonable steps to ensure they raise awareness of the USO. BT will be writing to consumers that cannot get decent broadband, across the UK, making them aware of the USO and how they can request a connection. Ofcom also has an important role in raising awareness of the USO. We engaged with consumer bodies, across the UK, ahead of the USO going live to ensure that they had the factual information necessary to be informed and prepared. The USO launched on 20th March.
- A1.21 In response to Communications Consumer Panel (CCP), the technical specification in the Order is set by the UK Government and aims to ensure that people can use the digital communications they need today, but it may have to increase over time to meet rising customer expectations and demands. The Digital Economy Act 2017 includes an automatic review of the USO to ensure it remains relevant and must be reviewed when at least 75% of premises in the UK subscribe to a broadband service that provides a download speed of at least 30 Mbit/s.
- A1.22 Ofcom will continue our work to promote choice for consumers and to help providers deliver better broadband and mobile services for all. With the migration to IP telephony, Ofcom rules will continue to ensure that universal service providers have to meet all reasonable requests for voice telephone services and also that all providers take additional measures to protect consumers who are dependent on their landline so that they can access emergency services in a power cut.
- A1.23 The Customer Satisfaction Tracker (CST) is Ofcom's key data source on levels of overall satisfaction across the communications markets (see the 2019 data tables. This covers residential consumers only; however we do conduct regular research among SMEs.² This survey is nationally representative and allows for reporting by nation, however the base sizes achieved are insufficient to report on Scotland by urbanity. We work closely with colleagues in our Scotland office (along with colleagues in our Wales and Northern Ireland offices) to understand the issues faced by people across the breadth of the country.

² The most recent research we conducted specifically included SMEs in rural Scotland and can be found here: https://www.ofcom.org.uk/__data/assets/pdf_file/0010/113113/sme-communications-needs.pdf.

- A1.24 In response to Kai Hendry, we note that Ofcom publishes information regarding residential fixed broadband performance in its Home Broadband Performance reports and plans to continue to do so.
- A1.25 In response to Which? the Shared Rural Network programme represents a significant investment by the UK Government and industry in improving the mobile experience in rural areas. These proposals, which were agreed on 9 March 2020, were made in response to previous plans put forward by Ofcom to include coverage obligations in the 700 MHz and 3.6 GHz auction. These new commitments have been made binding as obligations in the operator's spectrum licences and Ofcom will be responsible for assessing compliance against. As part of this, Ofcom will report on the progress that operators make towards these targets, and will retain the power to hold operators to account if they do not deliver (with fines up to 10% of annual turnover possible for breaches of licence conditions). Improving mobile coverage remains a top priority for Ofcom, and we will continue to consider what further action we should take – including making more and better information available to consumers on the options open to them.
- A1.26 As the mobile operators' commitments to deliver the Shared Rural Network have been entered into spectrum licences as coverage obligations, we have concluded that it is no longer necessary to include coverage obligations in the 700 MHz and 3.6 GHz auction. We would expect that mobile operators will develop plans to communicate the impact of their commitments at a more local level over time.
- A1.27 In response to CWU, BT and UKCTA, we published our Wholesale Fixed Telecoms Market Review consultation on 8 January 2020 setting out our proposals for regulation for the period 2021-2026. Our aim is to create the best possible conditions for companies to invest in ultrafast broadband so consumers in all parts of the UK can enjoy the benefits it provides, while protecting consumers as the UK transitions to new, faster fibre networks. This will provide long-term certainty for fibre investors and access seekers alike.
- A1.28 To ensure that people in the hardest to reach areas have access to fibre broadband, the UK Government has committed to a £5bn public funding programme. This will ensure that public funding is targeted at areas where the deployment of gigabit-capable networks is unlikely to be commercially viable. In addition, people and businesses need the right information to understand the different broadband services that may be available to them, including gigabit capable / ultrafast services, to make a choice which is best for them. We will consider whether further information or other measures are needed to help people understand the options available to them.
- A1.29 Our consultation includes business connectivity, and will respond to stakeholder concerns through that process. We recognise the importance of business services and we will continue to engage with stakeholders on a bilateral basis and through industry groups. We will publish our decision statement before the new regulation will take effect in April 2021.
- A1.30 We have noted BT's points regarding the financial implications of building the infrastructure necessary for the broadband Universal Service Obligation. We will respond to specific points in the context of our forthcoming Statement on compensating providers

delivering universal services. We have set out our ambitions to work towards universal access to decent broadband services across the UK and will continue to monitor technology developments that could assist with extending decent broadband coverage.

- A1.31 We will engage internationally at both European and the global level to ensure that technical conditions for the priority spectrum bands are appropriate for mobile, including 5G services. Building on our policy of making the lower part of the 26 GHz band available for indoor use cases, we are continuing to develop our thinking with regards to how best to authorise access to the full 26 GHz band (such as outdoor high power mobile) in a way that promotes optimal use of the spectrum. Important inputs into our thinking are work on understanding future spectrum demand and the future supply-side technical eco-system.
- A1.32 In response to Intelsat, Ofcom recognises that satellite connectivity can provide an important option for locations that are hard to reach with other technologies. We continue to support the development of new satellite broadband options that could benefit people in those locations and on aircraft and ships.
- A1.33 We have introduced detailed reporting requirements on the delivery of the USO which will include how many premises will be connected through the broadband USO. Some premises that cannot access decent broadband will cost significantly more to connect than the £3,400 cost threshold that was set by UK Government, leaving some consumers unable to benefit from the USO. We are looking closely at the options for connecting these premises and will engage closely with nations governments as we develop this work.

Helping to improve mobile coverage, particularly in rural areas

- A1.34 The **Scottish Government** commented on the broadband Universal Service Order (USO), the SRN, the Reaching 100% (R100) programme, its voucher scheme, the work of the Scottish Futures Trust, mapping telecommunications vulnerabilities, and ongoing engagement with Ofcom.
- A1.35 **Which?** stated plans for the spectrum auction should wait until the SRN was finalised. The **Communications Workers Union (CWU)** and the **Communications Consumer Panel (CCP)** stated Ofcom should encourage the SRN and monitor progress going forwards. **The Consumer Council** asked that Northern Ireland consumers do not get left behind in the SRN scheme.
- A1.36 **Ewan Sutherland** asked a range of questions asking for clarity on a number of terms such as ‘good quality mobile coverage’.

Our response

- A1.37 In response to Scottish Government, we recognise that the R100 Programme is a key priority for the Scottish Government and is an essential part of its drive for Scotland to become a world-class digital nation. Although Ofcom has no formal role delivering the R100 programme, we will continue to work with the Scottish Government on the interaction with the Broadband USO, providing technical and regulatory advice where required. We recognise the importance of providing policy makers with a common

- evidence base, and we currently provides the Scottish Government with address-level broadband speeds data to assist with the planning for its 'Reaching 100%' programme.
- A1.38 We note the Scottish Government's reference to a possible broadband voucher scheme and will continue to engage with officials as these plans develop.
- A1.39 We agree that premises in receipt of a fixed wireless service should enjoy a quality and reliable service. That is why we have implemented quality of service conditions under the Broadband USO and why we are continuing to monitor the service experienced by these consumers. If consumers do not receive a decent broadband service with a fixed wireless connection, they could be eligible for the USO.
- A1.40 The Shared Rural Network carries coverage targets for each nation, which are legally enforceable obligations that are attached to the mobile network operators' spectrum licences. For further detail on the Shared Rural Network, please refer to our previous response in para A1.25.
- A1.41 All relevant coverage information, including operator comparisons can be found in the interactive charts that are published in association with the main Connected Nations report. Given the amount of data available, only a subset is selected to be included in the narrative reports, but as much as possible is [published](#)³ in the accompanying open data sets and charts.
- A1.42 In reply to Ewan Sutherland, we define good mobile coverage as where a sufficiently strong mobile signal is available to deliver a good experience to smartphone users. This is where nearly all 90-second telephone calls are very likely to complete without interruption and nearly all 4G connections will deliver a connection speed of at least 2 Mbit/s. This is fast enough to browse the internet and watch glitch-free mobile video. For further information on these topics, please see our Connected Nation Report.

Improving opportunities for spectrum sharing and improved spectrum use

- A1.43 **Facebook** asked that automated spectrum sharing to be industry-led, within Ofcom established parameters. **Federated Wireless Inc** believed that a shared spectrum approach will achieve the goals that Ofcom has identified. The **Dynamic Spectrum Alliance (DSA)** encouraged Ofcom to implement an automatic approach to dynamic spectrum sharing in the bands it has identified.
- A1.44 The **BBC** stated there was a lack of reference to international spectrum policy in the Plan.
- A1.45 **Intelsat** asked Ofcom to adopt the existence procedures in relation to Ku band in the 14.25 -14.50 GHz. Intelsat stated that allowing aeronautical ESIM to use the 12.75-13.25 GHz band, while protecting incumbent services in the band, could further increase the efficiency of spectrum use and to allow administrations to make better use of the national FSS allotments in Appendix 30B. The use of the band by aeronautical ESIM is based on

³ <https://www.ofcom.org.uk/research-and-data/multi-sector-research/infrastructure-research/connected-nations-2019/interactive-report>

European harmonized decision ECC DEC (19)04. Intelsat stated it would welcome tangible measures to help to enable growth in satellite broadband communications. Intelsat would like Ofcom to consider ways to avoid interference risk in the 3.8-4.2 GHz spectrum band and 11GHz band.

- A1.46 The **British Entertainment Industry Radio Group (BEIRG)** commented on programme-making and special events (PMSE) and the importance of security of tenure for PMSE spectrum users.

Our response

- A1.47 Dynamic spectrum access has the potential to enable flexible and efficient spectrum management and we agree it can provide an effective authorisation mechanism that can supplement or replace licensed or licence exempt access to spectrum. Consequently, where and when appropriate, we will consider the option of DSA in our future spectrum management decisions. In those circumstances where we consider DSA appropriate we will collaborate with industry to establish the parameters for automated authorisation technologies. In the shared access bands we identified in July 2019, we are assessing whether it would be appropriate to transition towards dynamic spectrum access and how best this could be implemented. We will continue to engage with industry and stakeholders on this and provide an update in due course.
- A1.48 We believe that Intelsat’s assessment of the number of aircraft that can be supported by 250 MHz spectrum in 14GHz is rather conservative. However, we recognize that inflight broadband is growing and will continue to enable this market by examining spectrum needs in a variety of spectrum bands, including Ku band. Separately, any necessary protection of 3.8 to 4.2 GHz band uses from mobile emissions in the 3.6 to 3.8 GHz band is addressed in the [statement](#)⁴ for the award of 700 MHz and 3.6 to 3.8 GHz, published in March. At this early stage of the WRC-23 process, Ofcom is looking at how best to address the issues of interest to the UK and UK stakeholders, including agenda item 9.1c, and will work closely with the UK Government and stakeholders.
- A1.49 Ofcom recognises the importance of the PMSE sector in supporting the UK’s social and cultural wellbeing. We will continue to work and engage with BEIRG and the wider PMSE industry to ensure its requirements are included in any future spectrum decisions. We have promoted the potential of the new spectrum we have made available for PMSE with other administrations, and shared information on its successful use in the UK. Our commitment to the PMSE sector on security of tenure remains as set out in our August 2010 statement on future spectrum access for PMSE.

Facilitating the launch of new mobile services for consumers and industry, including 5G

- A1.50 **Citizens Advice Scotland** commented on 5G customer education.

⁴ https://www.ofcom.org.uk/_data/assets/pdf_file/0020/192413/statement-award-700mhz-3.6-3.8ghz-spectrum.pdf

A1.51 The **Welsh Government** stated that the proposed plan of work should highlight a commitment to work with the Welsh Government to encourage the use of new 5G technologies such as LoRaWAN in Wales.

Our response

A1.52 With regards to concerns that citizens may have around where 5G masts are located, Ofcom published in February measurements of electromagnetic field (EMF) emissions close to sixteen 5G-enabled mobile phone base stations in 10 cities across the UK. In all cases, we have recorded measurements well within the levels for general public exposure from the international ICNIRP Guidelines. The highest level measured was approximately 1.5% of the levels identified in the ICNIRP Guidelines. We are also currently consulting on proposals to include a specific condition in Wireless Telegraphy Act licences requiring licensees to comply with the relevant levels from the ICNIRP Guidelines.

A1.53 We acknowledge the interest from the Welsh Government on new technologies such as LoRaWAN. Last year, we engaged with stakeholders in Wales to promote the benefits of wireless connectivity and all the different technologies available. We also hosted a meeting with Ofcom's Advisory Committee for Wales at Glynllifon Agricultural College to see this technology in action.

Public Switched Telephone Network (PSTN) switch off and migration to voice over IP

A1.54 **ITSPA, Federation of Communication Services, Joint Radio Company (JRC), the Welsh Government and UK Competitive Telecommunications Association (UKCTA)** had various comments on copper PSTN switch off.

A1.55 **ITSPA** asked Ofcom to reconsider plans for the microenterprise definition in the EECC.

A1.56 **Federation of Communication Services** stated that some of the General Condition A3 regulation needed updating.

Our response

A1.57 Ofcom set out our expectations of the roles and responsibilities of the various stakeholders involved in the migration to IP in our statement, *The Future of Fixed Telephone Services*, in February 2019. We recognise the critical importance of providers having clear and timely communications with their consumers. Ofcom will continue to help facilitate industry and stakeholders to work together to ensure a smooth transition to IP. In addition, we have started our wholesale voice market review which will include, among other things, consideration of wholesale call origination and interconnection over the period of the market review. We plan to consult with stakeholders ahead of our statement to be published in Q4 2020/21.

A1.58 It is important that disruption to landline voice consumers, both business and residential, is minimised and we will continue to work with providers and stakeholders to help facilitate a smooth transition.

- A1.59 We have recognised that the operational communication requirements of utilities are changing as a result of UK Government policy objectives to transition to a greener economy. This includes reducing greenhouse gases through increased renewable energy generation and electrification of heat and transport, and environmental policies to address pressure on water supplies. We have initiated a project to assess the spectrum requirements for these evolving operational communication needs. We are working with the utility industries, governments and other regulators to ensure access to sufficient spectrum to support delivery of the UK Government's environmental objectives. The project will consider the effect of distributed energy resources and changes on the demand side from the electrification of heat and transport. The project will also consider the effect of PSTN switch-off, and how this will affect the demand for wireless communications.
- A1.60 Ofcom will continue our engagement with UK Government and devolved governments to promote awareness of the changes to the PSTN so that they are able to assess the impacts for critical services and ensure that mitigating measures are being put in place. Ofcom is planning wider engagement with industry on IP interconnect regulation following the publication of our consultation on our proposals for wholesale voice services, later on in the year.
- A1.61 In December 2019, we proposed a package of measures to implement the European Electronic Communications Code (EECC) and provide greater protection to consumers. The consultation closed on 3 March. We have noted the comments on EECC implementation made in response to the draft Plan of Work. We will take these, and all responses to the EECC consultation itself, into account when finalising our position. We intend to publish our decision by the end of Q2 2020/21.

Future of Numbering policy

- A1.62 **BT** asked that the existing rules around numbering be clarified. BT asked that the geographic number charging 'pilot' scheme be ended if appropriate.

Our response

- A1.63 We have initiated a review of the UK's telephone numbers to ensure that the National Telephone Numbering Plan promotes confidence in telephone services. One issue we identified in our First Consultation document on the Future of Telephone Numbers published in April 2019, was that when practices relating to call prices lead to anomalies, this can have a detrimental impact on consumers, resulting in unexpected expense, lack of trust in numbers and ultimately reduced confidence in voice telephony.
- A1.64 As part of our review, we plan to identify and address call pricing anomalies to establish a position where consumers can be confident about the cost of a call based on the phone number and the information that it conveys. As part of this work we plan to look at rules around revenue sharing in the Numbering Plan to ensure they are functioning properly, as well as addressing irregularities in the cost of calling UK numbers.

A1.65 Number scarcity remains a risk in some geographic area codes and the charging scheme was introduced to help address number shortages in a way that would have the least impact on consumers. We have considered proposals from BT and other stakeholders for alternative measures and for changes to the charging scheme. We continue to monitor the effectiveness of the charging scheme and will be looking at issues involving geographic number management as part of the Future of telephone numbers review.

Fairness for consumers – helping consumers at all times

Putting fairness at the heart of providers' businesses

A1.66 A **confidential stakeholder** stated that there was no mention of radio consumers in the 'Fairness' statement.

A1.67 **The Consumer Council, the Scottish Government, Which?** and the **Communications Consumer Panel (CCP)** urged Ofcom to be prepared to take swift action if required, if Fairness for Consumers commitments are not fulfilled or customer harm is identified.

A1.68 The **Communications Consumer Panel** urged Ofcom to conduct wider-ranging research to help gauge consumers' telephony needs.

A1.69 **UK Competitive Telecommunications Association (UKCTA)** expressed that it would be helpful to understand the purpose of the Social Tariffs publication.

Our response

A1.70 In response to the confidential stakeholder, in our final fairness framework, we noted that the focus on telecommunications services, which fall within the statutory definition of 'electronic communications services', is in line with the current focus of the public debate around fairness in the sector, such as the potential for longstanding broadband or mobile consumers to pay considerably higher prices than new consumers. As such we intend to apply it to assessing fairness concerns in relation to landline, broadband, mobile and pay-TV services. However, the application of the framework is not intended to be static and we will keep under review whether it should be adapted in future as new matters arise.

A1.71 Consumers throughout the United Kingdom expect to be treated fairly and fairness is a priority for Ofcom. Our fairness framework explains how we are likely to assess fairness concerns when they arise and the kinds of problems that might prompt action from us. In line with our regulatory duties, this framework makes clear that we are more likely to be concerned where vulnerable consumers are not being treated fairly, and that we will have regard to the different interests of people in the different parts of the United Kingdom in considering whether to intervene. We are monitoring providers' practices closely, and where we identify harm, we will seek to take swift action as appropriate.

A1.72 Regarding auto compensation, Ofcom agrees that losing mobile connectivity can cause consumers harm. When Ofcom looked at introducing automatic compensation for mobile in 2017, we found that there was insufficient evidence to conclude that consumers are currently receiving inadequate redress for the harm caused by mobile loss of service. We

will, however, keep this under review. The automatic compensation scheme for broadband and landline consumers launched in April 2019 and Ofcom will be publishing its review of the first year of the scheme this year.

- A1.73 Ofcom has set out the principles we expect providers to adopt to ensure a smooth transition to IP and the protection of consumers. We will monitor providers' progress, including the Salisbury and Mildenhall trials, to ensure they are meeting our expectations.
- A1.74 Regarding VoIP, Ofcom supports the use of common terminology around the migration to IP services wherever practical. We welcome the work of the Broadband Stakeholder Group to develop generic communications material for consumers. Regarding telephony needs, Ofcom will continue to monitor consumers' use of telephony services and of the migration to IP through our ongoing research programme.
- A1.75 We will work with the UK Government to consider broadband prices in the market and consider the role of a social tariff. We will consider the case for a collective switch trial designed to help the least engaged consumers, including vulnerable consumers. We will be publishing an update on this work in our Broadband pricing review publication in Q2 2020/21.

Making data work for people

- A1.76 **Which?** highlighted that any Open Communications initiative must be developed with people's considerations at its core.
- A1.77 **Citizens Advice Scotland** asked that the data from the Open Communications initiative is easily accessible and usable for people.

Our response

- A1.78 Understanding the expectations of people and businesses around sharing their data will be an important part of any Open Communications initiative. We are conducting customer research in this area and will set out initial thinking in our consultation in Q2 2020/21. It is our objective to ensure that all people are able to share their data with third parties under the Open Communications initiative.

Protecting end-user rights and helping consumers switch

- A1.79 **Which?** asked that switching is made as easy and clear as possible for consumers.
- A1.80 **UK Competitive Telecommunications Association** and **BT** stated that European Electronic Communications Code (EECC) should be transposed into the General Conditions in an appropriate way.
- A1.81 **BT** stated that the consultation on legacy Universal Service Obligations services will need to encompass the USOs on *inter alia* public call boxes, phonebooks, and itemised billing.
- A1.82 **BT** asked to align policy on broadband social tariffs and the migrations from PSTN.

- A1.83 **TalkTalk** asked for a ‘one size fits all’ approach to the Fairness commitments. **TalkTalk** supports reforms to strengthen customer advocacy arrangements. **TalkTalk** believed that any requirements on communication providers relating to Open Communications needed to be underpinned by robust evidence to demonstrate that they are proportionate.
- A1.84 **Ombudsman Services** and **IPSA** commented on outcomes to measure and ensure vulnerable consumers are treated fairly. **IPSA** requested that Ofcom take a more iterative approach to customer regulation, that fully considers the impact of current interventions before proposing and implementing further changes.
- A1.85 **Openreach** welcomed the involvement of the OTA2 to facilitate pan industry engagement and enable a customer switching process that can be implemented across networks.

Our response

- A1.86 Consumers need to be able to switch providers easily to take advantage of the deals available and ensuring consumers can switch easily is a long-standing priority for Ofcom. We will publish our decision on new rules to protect consumers when they switch home phone, broadband or mobile provider in Q3/4 2020/21. At the same time, we will consult on a new broadband switching process for residential consumers.
- A1.87 In December 2020 we proposed a package of measures to implement the European Electronic Communications Code (EECC) and provide greater protection to consumers. The consultation closed on 3 March. We have noted the comments on EECC implementation made in response to the draft Plan of Work. We will take these, and all responses to the EECC consultation itself, into account when finalising our position. We intend to publish our decision by the end of Q2 2020/21.
- A1.88 In respect to legacy USO services, the scope of universal service, which currently includes facsimile services, is set in the Universal Service Order which is made by the UK Government. Ofcom implements the Order. Ofcom will work within the framework for the review and decision making set by the UK Government (DCMS set out its proposals in its consultation on the EECC in July 2019).
- A1.89 In Q4 2020/21 we will publish a report assessing the progress providers have made against each of the six fairness commitments in the first year since they signed up. The report will highlight areas of good practice and call out any areas of concern. In line with the approach to assessing fairness concerns set out in our fairness framework, we will step in and take action as appropriate where we see firms falling short. Ofcom strongly believes that all consumers should get a fair deal for their communications services. We will publish a further report into broadband pricing practices in Q2 2020/21, in which we will set out the steps we are taking to ensure broadband consumers pay a fair price.
- A1.90 On Open Communications, in our spring consultation we will set out initial views on the potential benefits of the initiative to people and businesses, as well as the potential costs to industry. In support of the consultation, we have commissioned market research on the extent to which Open Communications could make it easier for people and businesses to engage with the market and choose the best package for them. Our approach will take into

account proposals in our EECC consultation that could enhance the information that retail providers make available to digital comparison tools. In December 2019, we proposed a package of measures to implement the European Electronic Communications Code (EECC) and provide greater protection to consumers. The consultation closed on 3 March.

- A1.91 We have noted the comments on EECC implementation made in response to the draft Plan of Work. We will take these, and all responses to the EECC consultation itself, into account when finalising our position. We intend to publish our decision by the end of Q2 2020/21.
- A1.92 On customer advocacy, decisions relating to the future statutory advocacy arrangements for consumers of communications services are a matter for the UK Government and Parliament. Ofcom continues to work closely with the UK Government as it considers its response to its 'Reforming Consumer Advocacy in Telecoms' consultation and stands ready to work with the UK Government to ensure any revised arrangements are implemented smoothly and effectively.
- A1.93 In respect to Ombudsman Services, the measures listed in our draft Plan of Work are not exhaustive. In 2020/21, we will continue to closely monitor and report on the extent to which consumers are treated fairly by their providers. This will include information on outcomes for vulnerable consumers. We are also publishing a guide for providers on treating vulnerable consumers fairly, which will set out a range of measures that providers can adopt to help ensure they identify vulnerable people and give them the help, support and services they need. We will continue to consider use of mandatory and voluntary remedies where appropriate, and will step in where we see firms falling short, in line with the approach to assessing fairness concerns set out in our fairness framework. In line with our regulatory duties, this framework makes clear that we are more likely to be concerned where vulnerable consumers are not being treated fairly. In developing and implementing our programme of work to protect vulnerable consumers, we engage extensively with a wide range of stakeholders. We value Ombudsman Services' input on vulnerability issues and will continue to engage with them on this topic in 2020/21.
- A1.94 Consumers expect to be treated fairly and fairness is a priority for Ofcom. We have made significant progress towards this goal and will be monitoring and reporting on key interventions in 2020/21. At the same time, we will consult on a new broadband switching process for residential consumers.
- A1.95 When considering whether to take action, it is necessary for us to take into account the impact of current relevant regulation. For example, in our mobile and broadband pricing reviews we took account of the fact that end of contract notifications and annual best tariff information would come into force from February 2020. We will be reviewing how providers are implementing these notifications and their impact on customer behaviour, alongside the impact of the voluntary commitments providers have made as part of our mobile and broadband pricing reviews. More can be done to improve the fair treatment of consumers and so we will consider and implement further changes, where needed, taking account of the impact of our interventions as appropriate.

Protecting people from scams

- A1.96 **Which?, Stuart Fawcett** and The **Communications Consumer Panel (CCP)** highlighted that scams continue to be an issue for people and more action must be taken to address this problem.
- A1.97 The **Older People’s Commissioner for Wales** raised concerns about using the term ‘scams’ in regard to nuisance calls and scams.

Our response

- A1.98** Ofcom understands that scams continues to be an issue for people, and is very empathetic to the damage that is caused by scam calls, especially those that are older and/or stay at home. Dealing with these types of calls is a priority for Ofcom. We have historically taken action in this area, for example, by working with telecoms providers on called party held, and the SMS phishing work with the banks and mobile network operators.
- A1.99 The scam calls work we undertake comes under the nuisance calls programme which continues to be one of Ofcom’s priority areas of work. We fully appreciate the devastating consequences that can occur as a result of these calls, which is why we have increased focus in this area. On average 70 million nuisance calls are successfully blocked by the networks every month following an Ofcom requirement, introduced in October 2018, that providers must implement solutions to identify nuisance and scam calls where they have technical capability. In 2020, Ofcom will continue to work with providers in order to understand the technical solutions that are on offer to consumers.
- A1.100 In October 2018, we also introduced new rules in the form of changes to our General Conditions to enhance the reliability of numbers. Specifically, we introduced new requirements on telephone companies with respect to the numbers used on calls they carry, so that;
- a) telephone companies are banned from charging consumers for caller display services which helps people to screen unwanted calls;
 - b) telephone numbers displayed to people receiving calls must be valid and allow a person to call the number back;
 - c) telephone companies must take steps to identify and block calls which carry invalid numbers; and
 - d) Ofcom will be able to take back blocks of numbers from telephone companies if they are found to have been systematically used to cause harm or anxiety to people, such as to make nuisance calls or perpetrate scams or fraud.
- A1.101 We also regularly share lists with providers of phone numbers which are likely to be scam or nuisance callers. Where possible, network providers will block calls originating from those numbers, preventing those calls from being connected to people. Our work developing this ‘Do not originate’ list has led to significant successes, for example HMRC has reported a 25% reduction in scam reports.

- A1.102 We have increased our focus on tackling scams cross-sector through supporting an industry initiative, Stop Scams UK. The initiative aims to bring together banks, telecoms and possibly tech companies, to identify and deliver industry led solutions to prevent scams from reaching people.
- A1.103 Additionally in our ‘Promoting Trust in Telephone Numbers’ consultation, we suggested that Calling Line Identification (CLI) authentication could be introduced for some calls from around 2022 and grow until Public Switched Telephone Network (PSTN) switch off is complete in 2025. We have already started work with the UK telecoms industry in considering what changes are necessary to introduce authentication and our ‘Promoting Trust in Telephone Numbers’ consultation is an important step in our efforts to tackle scams.

Supporting UK broadcasting – maintaining a media environment that supports our society

More robust and consistent support information after all television programmes that feature sexual violence

- A1.104 In response to our public consultation, 38 Degrees, an online campaigning organisation, called for more robust and consistent support information for viewers after all television programmes which feature sexual violence. It facilitated a [campaign⁵](#) which collected over 90,700 signatures from the public and called for Ofcom to:
- a) Ensure that links to support information are provided after all programmes containing sexual violence, whether they're shown live, downloaded or streamed on websites or online.
 - b) Set up a written code of ethics, so that support information is provided consistently, including instances where sexual violence is hinted at or is less explicit, for example in storylines involving coercion.
 - c) Ensure that links to support information is similarly provided consistently around other serious issues including domestic violence and suicide.
- A1.105 38 Degrees asked members involved in this campaign to engage with Ofcom’s public consultation and Ofcom received 6,420 email responses from 38 Degrees members. In addition to calling on Ofcom to enact the two core requests, respondents also provided other comments. The largest category of these comments called for more extensive support to be made available to those who might find such programmes upsetting. Examples of these comments included:

It is such a small and simple thing for TV networks to provide helpful information after a potential disturbing broadcast, yet the benefits can be life-saving.

⁵ <https://you.38degrees.org.uk/petitions/provide-support-information-after-tv-programmes-available-online>

Survivors need help accessing support. If a scene on TV has triggered their own memories, it is vital that there is clear signposting for support provided by the networks.

- A1.106 Some respondents called for better warnings before programmes depicting sexual violence begin. Example comments included:

When someone who has been the victim of an attack sees violent sexual attacks portrayed on television it can make that person relive their attack. Please make sure viewers are given warnings before such programs are aired.

Networks have a moral responsibility when showing sexual violence in a realistic setting, causing victims to be re-traumatised. Clear prior warnings at the start of the programme and before the actual scene would provide viewers with opportunity to avoid the scenes.

- A1.107 Other respondents expressed concerns about sexual violence being depicted at all within programmes, and some respondents called for less sexual violence content to be shown. Example comments included:

Ofcom needs to regulate the amount of sexual violence shown on television in addition to ensuring support information is provided afterwards. Rape and sexual abuse are not entertainment and, especially with storylines shown before the watershed, channels should be responsible.

The effects of sexual violence remain with the victims for life. Scenes will re-ignite feelings. There are far too many scenes of sexual violence on TV programmes. They are not essential and should be reduced. When shown there should be contact details for people who have been upset by the scenes.

- A1.108 A number of respondents stated that depicting sexual violence within programming risks normalising the behaviour, or inspiring copycat behaviour. Example comments included:

Too many story lines seem to normalise violence within relationships and rarely depict the long term results like PTSD and anxiety. In fiction the offender is usually brought to justice whereas in life support is poor and our justice system causes even more suffering.

Sadly, violent culture content is popular with viewers. Those viewers may become insensitised to violent acts and feel that having violent tendencies is more normal than it is. If you continue to transmit violent content for entertainment, then you should do more to protect survivors of sexual violence.

- A1.109 Beyond these topics there were a wide range of other comments including on: perceptions of how the legal system dealt with cases of sexual violence; how society perceives victims of these crimes; the lack of support (such as effective counselling) available for victims of sexual violence; and programme producers using depictions of sexual violence as entertainment without taking due care. A large number of respondents commented on the profound and long lasting effects of sexual violence upon victims, and that memories of events could be triggered by programming.

Our response

- A1.110 It is important that broadcasters have the freedom to include sensitive and challenging subject matters in their programmes, providing they take steps to adequately protect the audience. [The Broadcasting Code](#)⁶ (“the Code”) includes rules to ensure that viewers are protected from harmful and/or offensive material. In particular, Rule 2.1 requires that:
- “Generally accepted standards must be applied to the contents of television and radio services and BBC ODPS [on demand programme services] so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material”.
- A1.111 Rule 2.3 requires that:
- “In applying generally accepted standards broadcasters must ensure that material which cause offence is justified by the context... Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language...Appropriate information should also be broadcast where it would assist in minimising offence.”
- A1.112 Broadcasters should consider, for example, the effect of programmes on those who may come across them unawares, and, whether the nature of the content should be brought to the audience’s attention by giving information. Ofcom takes into account a range of factors when assessing content against these rules, including the support given to viewers who may be affected by issues raised in programmes. Our [published guidance on Section Two of the Code](#)⁷ also sets out that “giving clear information and adequately labelling content may also reduce the potential for offence”.
- A1.113 As the Code currently enables Ofcom to hold broadcasters to account on ensuring that audiences are adequately protected from harmful and/or offensive material, we do not consider that it would be proportionate to adopt prescriptive guidance setting out how broadcasters must achieve this when portraying sexual violence on TV. Ofcom acknowledges there have been some examples of programmes featuring sexual violence (for example in soaps) where broadcasters have alerted viewers in advance that content may be distressing and have provided relevant support information. However we have asked 38 Degrees to submit complaints to us if they are concerned that any broadcast programmes might breach our rules, so we can assess the content against the Code.
- A1.114 The Broadcasting Code does not apply to on-demand programme services (ODPS), with the exception of the BBC’s ODPS. Ofcom’s [ODPS Rules](#)⁸ are much more limited than those applying to broadcast TV and radio but do cover important matters such as incitement to hatred, avoiding certain types of harmful content, and types of prohibited sponsorship and product placement. Although we cannot require ODPS providers to include information in programmes which would assist in minimising offence, we welcome ongoing discussion

⁶ <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code/section-two-harm-offence>

⁷ https://www.ofcom.org.uk/_data/assets/pdf_file/0023/104657/Section-2-Guidance-Notes.pdf

⁸ https://www.ofcom.org.uk/_data/assets/pdf_file/0021/132087/Broadcast-On-Demand-Programme-Service-Rules-Part-Three.pdf

between 38 Degrees, broadcasters and on demand services to encourage the protection of audiences in this area.

Considering the future of the PSB system

- A1.115 **Pact** expressed concern that BBC's involvement in BritBox may, as a result of the relationship with the Public Service, distort that market. **Pact** stated that Ofcom's review of BBC Studios should clearly set out metrics that measure the BBC's performance. **Pact** stated that the UKTV split between BBC Studios and Discovery should be reviewed.
- A1.116 **Pact** and **Directors UK** requested that Ofcom should carefully monitor the impact of the changes to the BBC's activities and operations. **Directors UK** would like to see the obligatory publication of diversity and equality data on individual senior production roles.
- A1.117 The **BBC** stated it would appreciate further discussions with Ofcom on the future model of the Operating Licence, and would welcome clarity on Ofcom's plans for work in this area. The BBC stated that it anticipated Ofcom would work closely with DCMS and relevant other stakeholders regarding the World Radiocommunications Conference. The BBC asked that Ofcom will be proportionate in its review of the BBC Studios.
- A1.118 **Carol Davenport** stated that Ofcom should ensure that there is no diminution of the BBC's freedom as a broadcaster for the public good.

Our response

- A1.119 We welcome PACT's engagement and input to our Future of PSB Review which will consider a range of fundamental questions about the PSB system and its impact on the wider creative economy. One of the questions we are considering is how the overall system can best support a healthy UK production sector in the future.
- A1.120 Ofcom has met with the BBC to discuss work on how the BBC Operating Licence could evolve, taking account of the BBC's changes to its service provision, and the BBC and Ofcom have agreed to continue liaising on this.
- A1.121 We have measures in place, through the BBC Operating Licence, to assess how well the BBC is delivering its public purposes including the provision of high-quality, impartial news and a range of different genres including arts programming. We will continue to monitor and assess the BBC's performance against these measures and will report on this in our BBC Annual Report.
- A1.122 Given the pace of change in both consumption and content delivery, the BBC needs to be able to evolve, and adapt its services to ensure that it can continue to meet its Mission and Public Purposes. When we set the first Operating Licence, we were clear that we may amend it over the duration of the Charter, and we have already done so on several occasions to take account of changes that the BBC has made to its services. In our recent annual report on the BBC we said that we anticipate we will need to consider making further changes to the Operating Licence to keep aligned with people's viewing and listening habits as the BBC looks to improve how it delivers against its remit. We will

continue to monitor the effectiveness of the current Operating Licence in holding the BBC to account while allowing it enough flexibility to innovate. We also said that our view was that we needed to see improved commitment to transparency from the BBC before we could consider wholesale revisions to the Operating Licence to give the BBC greater flexibility. The BBC has requirements to deliver its Mission & Public Purposes as set out in the Charter and we do hold them to account on this through our Annual Report and performance assessment, as well as putting reporting requirements on the BBC.

- A1.123 We will continue to monitor the implementation of arrangements between the BBC Public Service, BritBox and BBC Studios to ensure there are appropriate measures, controls and processes in place to prevent sharing of information that would result in the BBC's commercial activities or BritBox having an unfair competitive advantage. As set out in our final determination on the materiality of the BBC's involvement in BritBox, this will include reviewing the final details of the long form agreement (between ITV and the BBC) and the implementation of the programme release policy. We will also continue to monitor how these changes impact different segments of the market (and we will discuss with Pact how to ensure any impact on smaller producers is taken into account).
- A1.124** Our review of BBC Studios will include looking at any potential advantages that BBC Studios receives as a result of its relationship with the Public Service and what, if any, additional reporting might be needed to ensure there is sufficient separation between the Public Service and BBC Studios. We also intend to look at the impact of the recent changes to the activities of BBC Studios (including the dissolution of the UKTV agreement). We will take account of the outcomes of the recent BBC and NAO reviews of BBC Studios, and in particular we will look to reduce the impact of this review on BBC Studios where possible (for example if similar information had been provided in the NAO review). Stakeholders will have an opportunity to comment on our intended next steps later in the year, with the report to be published in Q4.
- A1.125 The BBC needs to adapt its services to meet changing customer preferences on how they access content. However, as we have set out in both our annual reports on the BBC, and our competition assessment on changes to the BBC iPlayer, in doing so, it needs to be more open to engagement with third parties, where possible given commercial confidentiality issues. We consider that this should include setting out more detail on what it plans to do in its annual plan and better engagement with stakeholders in advance of publishing its proposals. This will ensure that it properly assesses the impact on competition as per its duties under the Charter.
- A1.126 As part of our ongoing work we will continue to monitor how the BBC complies with its requirement to commission content on a fair, reasonable and non-discriminatory basis, including content commissioned in the Nations. We will report on this in the next BBC Annual Report. In this report we will also comment on how the BBC meets its wider competition requirements.
- A1.127 We note the BBC's statement about being proportionate. We liaise closely with the BBC, and we would always seek to run any regulatory processes in a flexible and timely fashion.

- A1.128 In response to Directors UK, the BBC needs to adapt its services to meet changing customer preferences on how they access content. This has led to a series of different requests that we have considered through our various powers under the Charter and Agreement. We acknowledge Directors UK’s concerns in this area but consider that commercial negotiations between the BBC and the production/broadcast sector are a matter for the parties involved. We note that our Small Screen: Big Debate review of Public Service Broadcasting will consider a range of fundamental questions about the PSB system and its impact on the wider creative economy. One of the questions we are considering is how the overall system can best support a healthy UK production sector in the future.
- A1.129 As mentioned, the BBC needs to adapt its services to meet changing customer preferences on how they access content. This has led to a series of different requests that we have considered through our various powers under the Charter and Agreement. We acknowledge Directors UK’s concerns in this area but consider that commercial negotiations between the BBC and the production/broadcast sector are a matter for the parties involved. We note that our Small Screen: Big Debate review of Public Service Broadcasting will consider a range of fundamental questions about the PSB system and its impact on the wider creative economy. One of the questions we are considering is how the overall system can best support a healthy UK production sector in the future.
- A1.130 Legislation limits Ofcom’s information gathering powers to monitoring the gender, racial group and disability of UK broadcasters’ employees. We cannot require broadcasters to provide information on the characteristics of their freelancers. We can only collect this information on a voluntary basis and there are considerable gaps in the data provided. We continue to strongly encourage broadcasters to provide this important information. Freelancers can take part in CDN’s monitoring of diversity data if they are working on a UK-originated production that is commissioned by one of the main five UK broadcasters. CDN collect data via a production monitoring system called Diamond and is committed to publishing diversity data by programme genre, broadcaster, role type and seniority.
- A1.131 Over the coming year we plan to focus on commissioning roles which have direct impact on the diversity of freelance production teams, as well as on-screen diversity. We will also work with the Creative Diversity Network to understand the findings from their Diamond diversity monitoring scheme, with the aim of a getting a fuller picture across the production workforce.
- A1.132 In response to the BBC, at this early stage of the WRC-23 process Ofcom is looking at how best to address the issues of interest to UK and UK stakeholders, and will work closely with the UK Government and stakeholders.
- A1.133 In response to Carol Davenport, Ofcom has no role in setting the level of the licence fee, this is entirely a matter for the UK Government. Equally, the UK Government sets out the BBC’s Mission and Public Purposes in the BBC’s Royal Charter. Ofcom’s role is to hold the BBC to account on behalf of audiences, to ensure that it delivers against its obligations in the Charter. We have measures in place, through conditions in the BBC’s Operating Licence and through a separate performance measurement framework, to assess how well the BBC is delivering its Public Purposes including the provision of high-quality, impartial news and

a range of different genres including arts programming. We will continue to monitor and assess the BBC's performance against these measures and will report on this in our BBC Annual Report.

The future of TV distribution

A1.134 BT suggested that Ofcom includes the future of TV distribution in the PSB review process.

Our response

A1.135 Distribution is a theme we are exploring as part of Small Screen: Big Debate, our review of public service broadcasting (PSB). We welcome BT and other stakeholders' ideas on this, as well as other ways to secure positive outcomes for all audiences, as part of this work programme. We will be consulting on options for the future of PSB in Q3 2020/21, before making recommendations to the UK Government.

Challenging the broadcast industry to improve on diversity

A1.136 The **Scottish Government** asked for data on diversity and equal opportunities in television and radio to be broken down by nation. It urged Ofcom to assess the BBC's performance in delivering for viewers in Scotland.

A1.137 The **Scottish Government** encouraged an inclusion of a reference to support the UK's indigenous languages and the role of MG ALBA.

Our response

A1.138 Ofcom is continually assessing the BBC's performance in delivering its Mission and Public Purposes and ensuring that audiences across the UK are well served. We have imposed a set of enforceable regulatory conditions in the BBC's Operating Licence. We have also set a series of performance measures to provide a broader picture of how well the BBC is delivering its remit, beyond the regulatory conditions. We publish our assessment of the BBC's performance in our annual report on the BBC each year.

A1.139 Ofcom's diversity monitoring of television and radio is a means of increasing transparency for all UK broadcasters when it comes to promoting a more diverse workforce. We report on this data annually at an industry and broadcaster level, with a focus on the main broadcasters. In our last television report, we published an 'in-focus' summary of workforce diversity at STV and shared information covering STV's activities to promote equal opportunities and diversity across Scotland, both on and off screen. As part of our diversity monitoring, we ask all broadcasters to provide information on initiatives in place that promote equal opportunities in the nations and regions amongst employees of different national origin. Our annual diversity reports continue to spotlight how the industry is reflecting the diverse needs and interests of audiences in all of the UK's nations and regions.

A1.140 For the first time last year, we invited MG ALBA, on a voluntary basis, to participate in our diversity data monitoring for television. This step was taken so that MG ALBA could be

supported in better promoting diversity within its organisation, and also to potentially benefit from the sharing of best practices and collaborative measures that we continue to offer to promote better representation across UK television. We are hopeful that MG ALBA will continue to participate in our diversity in television monitoring this year.

- A1.141 When the new BBC Scotland channel was launched, we have made changes to the BBC's Operating Licence to ensure it helps deliver the Mission and Public Purposes. We will look at how audiences in Scotland perceive the BBC's performance following the first full year of broadcast for the BBC Scotland channel in this year's Annual Report.
- A1.142 Following the publication of our review of BBC news and current affairs in October we will continue to engage with the BBC to discuss the steps it is taking in each of the areas the report identified. To ensure transparency, we expect the BBC to report on progress against each of the recommendations in its next annual report.
- A1.143 In line with our statutory remit, Ofcom's recent appointments to the Board of MG ALBA are intended to support the organisation and the strategic challenges it faces in the context of a fast-changing media landscape. Ofcom will also continue to collaborate closely with MG ALBA as part of our 'Small Screen: Big Debate' work, which is considering the future of the PSB system. This will include building on an event co-hosted with MG ALBA in Stornoway in February 2020. In addition, Ofcom will actively engage with MG ALBA, the Scottish and UK Governments and other stakeholders on the proposal by the Chair of MG ALBA in their 2018/19 Annual Report for a review of the overall framework for Gaelic media provision.
- A1.144 Ofcom will continue to deliver its regulatory duties, which includes making any necessary appointments to the Board of MG ALBA and scrutinising aspects of its Operational Plan. This will support MG ALBA's statutory role under the Communications Act 2003 to ensure that high quality television programmes in Gaelic are made available to people in Scotland.

Responses regarding past or ongoing regulation

- A1.145 The **BBC** asked for Ofcom to be flexible in addressing material changes for the UK Public Services. It asked how to achieve positive outcomes for UK radio and audio audiences.
- A1.146 The **Welsh Government** expressed disappointment that there is no specific mention of S4C or of assessing the BBC in the section on Wales, and emphasised that it is vital to fulfil PSB obligations in Wales. It asked how BritBox would be regulated, and if Ofcom will undertake any changes to the BBC's Operating Licence as a result of the BBC's news and current affairs provision review. The Welsh Government asked Ofcom to specify in contracts for TV and radio licences that a set number of hours be broadcast in Welsh alongside a statement about Welsh-language web content. The Welsh Government re-emphasised a number of serious concerns that it had raised in response to Ofcom's consultation on the BBC's Operating Licence in 2017.⁹

⁹ This can be found here: https://www.ofcom.org.uk/__data/assets/pdf_file/0016/105361/Welsh-Government.pdf

Our response

- A1.147 We note the BBC’s statement that Ofcom may need to undertake work at short notice in relation to material changes they have planned for the UK Public Services. We liaise closely with the BBC on its proposed changes to its services, and we would always seek to run any regulatory processes in a flexible and timely fashion. As we pointed out in our Annual Report into the BBC, the more information that the BBC can share with Ofcom, and the more engagement that it can undertake with stakeholders about its plans in advance of publishing them can aid the speed of regulatory intervention. We expect the BBC to provide sufficient detail in its annual plan of proposed changes to its services.
- A1.148 We agree with the BBC that it is important that our work on ‘Supporting UK Broadcasting’ encompasses radio and audio. Our review of public service broadcasting, Small Screen: Big Debate will include a focus on audio, we have plans to engage with radio providers and will also look at the developing podcast market. We will continue to report on diversity in the UK radio industry, to provide a comprehensive picture of how well individual broadcasters – and the industry as a whole – are promoting equality of opportunity, diversity and inclusion within their organisations. We will continue to issue licences for all analogue, digital commercial and community radio services to help to secure a range and diversity of services available across the UK. Having now published our plans for the implementation and licensing of small-scale DAB, we will advertise the first small-scale radio multiplex licences as soon as practicable.
- A1.149 In response to the Welsh Government, the UK Government’s independent review of S4C found that the current regulatory arrangements for S4C were broadly effective and did not propose changing Ofcom’s regulatory responsibilities or those of the Secretary of State. We will continue to discharge our regulatory remit in respect of S4C including duties to assess S4C’s compliance with quotas agreed by the S4C Authority and Ofcom, including independent production, original production, news and current affairs; and to monitor compliance and consider complaints relating to Ofcom codes, including the Broadcasting Code. In the plan we make clear that we will continue to work with public service broadcasters in Wales to ensure public service content in Welsh and English reflects the needs of audiences. We are keen to hear the views of audiences on the future of PSB in Wales as part of our Small Screen: Big Debate programme of work.
- A1.150 BritBox has been notified to us as an on demand programme service (“ODPS”). Other than public service BBC ODPS (iPlayer), which have to comply with the Broadcasting Code, all other ODPS, including BritBox have to comply with the statutory rules applicable to ODPS.
- a) List of video of regulated video on demand services:
https://www.ofcom.org.uk/data/assets/pdf_file/0021/67710/list_of_regulated_video_on_demand_services.pdf
- b) Statutory rules:
https://www.ofcom.org.uk/data/assets/pdf_file/0022/54922/rules_and_guidance.pdf

- A1.151 Ofcom's role is to hold the BBC to account on behalf of audiences, to ensure that it delivers against its obligations in the Charter. We have measures in place, through conditions in the BBC's Operating Licence and through a separate performance measurement framework, to assess how well the BBC is delivering its Public Purposes including that it is serving all audiences throughout the UK and that it is accurately representing and portraying the diverse communities of the different nations of the UK. We will continue to monitor and assess the BBC's performance against these measures and will report on this in our BBC Annual Report. Our performance monitoring of the BBC which we publish annually, also examines how the BBC is performing against each of the public purposes for audiences in Wales. We have strengthened the reporting and compliance regime for regional production to will be introduced to improve enforcement with requirements. We have already begun collecting additional information from the PSBs including the BBC to evidence more clearly how productions have met the criteria for out of London productions including within Wales. We have also updated the Plan of Work to include a specific mention of assessing the BBC in the section on Wales.
- A1.152 Audiences from across the UK were at the heart of our review of BBC news and current affairs. During the review we gathered views from people across the country, including in each nation. We commissioned research to give us a detailed insight into how people get their news, and we looked at the range and depth the BBC offers compared to other news providers. We also spoke to around 50 media organisations, industry bodies and academics across the UK. Our review did not recommend any changes to the BBC's Operating Licence, but we continue to monitor the BBC's performance to assess how it is fulfilling the Mission and promoting its Public Purposes.
- A1.153 Ofcom is aware of the Welsh Government's aim of having one million Welsh speakers by 2050 and its desire to incorporate Welsh language programming obligations into local television, commercial and community radio stations. We do not have the statutory power to impose such conditions on licensees. When applying for a licence it is up to the applicant to propose what kind of service it intends to provide. Changing this would require primary legislation.

Community radio

- A1.154 **Hospital Broadcasting Association** asked Ofcom to consider continuing new community radio FM licence applications beyond Round 4, and alongside small-scale DAB.
- A1.155 The **Community Media Association** believe that there should be another round of analogue licensing for community radio and wished to know the associated timeframe. It asked for the publication date for Ofcom's statement on "Licensing small-scale DAB - How Ofcom would exercise its new powers and duties being proposed by Government". It requested that Ofcom commission research into the Community Radio Fund, and to make case to the Treasury for a Community Radio Fund.

Our response

- A1.156 In response to the Hospital Broadcasting Association and Community Media Association, Ofcom consulted on its future priorities for community radio in 2016 and subsequently published a statement in April 2017 confirming these priorities. Similarly, we provided an update on these priorities on 26 September 2019. This statement explained the work that we had committed to completing and informed readers of our progress against these commitments.
- A1.157 In reply to Community Media Association, we recognise that, in the original 2017 statement, we expected a licensing framework to be in place by 2018 to enable us to begin the process of licensing small-scale DAB services. Given the delay in implementing this framework, we invited applications in 43 areas given the clear demand evidenced in the expressions of interest we received. The deadline for these applications was 26 March 2019. This work coincided with the significant effort involved in analysing 130 applications for licence improvements and extensions.
- A1.158 While we recognise that there is demand for further rounds of analogue licensing, we have decided that we cannot currently carry out the complex and resource-intensive frequency planning and licence award process which would be required if we were to open another round of analogue community radio licensing. We strongly believe that any move to license more analogue services would inappropriately delay our work on the launch and rollout of small-scale DAB.
- A1.159 We have now published our plans for the implementation and licensing of small-scale DAB. As can be seen in this document, Ofcom has decided not to mandate the use of DAB+.

Making sure that online communications work for people and businesses – people need to remain both connected and safe

Helping internet users to understand online services and protect themselves from harms online

- A1.160 **Clean Up The Internet** encouraged Ofcom to include within the development of the regulation of online harms policy a number of points on democratic spaces, design choices, and anonymity. **Kai Hendry** also commented on online safety. **Which?** was keen to for Ofcom to bring ‘content that enables scams’ under its powers. The **Welsh Government** felt consideration on the capacity needed to manually and automatically moderate content in the Welsh language is required.
- A1.161 The **BBC** and **TalkTalk** asked how the UK Government’s announcement on online harms regulator would affect Ofcom, and how to protect users.
- A1.162 **TalkTalk** encouraged Ofcom to engage with Internet Matters to share evidence bases on media literacy issues. The **Older People’s Commissioner for Wales** raised concern for the vulnerability of some of the older people taking on digital connectivity.
- A1.163 The **Scottish Government** expressed concern about online harms, particularly regarding integrity of news. **News Media Association (NMA)** asked details on Ofcom’s wider duties.

A1.164 **The Welsh Government** are very concerned about lower standards applied to streaming services than broadcast content, especially relating to protection of children, hate speech and commercial references, and are therefore keen to understand the outcomes of this research and Ofcom's conclusions. The Welsh Government note that this this research does not appear in the annex listing Project Work for the year in the proposed Plan and would like this rectified for the Final Plan.

Our response

A1.165 A number of the responses above relate specifically to the forthcoming online harms regime. The UK Government has announced that it is minded to appoint Ofcom as the new regulator of harmful content and conduct online. If confirmed, these proposed new responsibilities would constitute a significant expansion to our remit, and preparing for them will be a major area of focus in 2020/21 and beyond.

A1.166 As we prepare to undertake new regulatory responsibilities under the forthcoming online harms regime, we will take every precaution to ensure that our existing regulatory functions are appropriately resourced and prioritised.

A1.167 Ofcom has an effective working relationship with other regulators in the online space, including the ICO. We will continue to co-ordinate where aspects of our duties may overlap to ensure clarity and coherency for industry.

A1.168 In our media literacy research, and our related Making Sense of Media (MSOM) programme, we acknowledge the importance of highlighting the varying nature of digital literacy and engagement by different groups within society. We note the issues that lack of confidence and isolation can bring about in terms of getting the best from being online.

A1.169 One of the MSOM programme objectives is to engage with a wide range of stakeholders to build up a comprehensive evidence base to improve media literacy across UK adults and Children. Our Making Sense of Media Advisory Panel, established in July 2019, brings together expert representatives from across industry, the third sector and academia, to debate and inform the development of Ofcom's media literacy research and policy work. Claire Levens, Policy Director at Internet Matters, is a current panel member.

A1.170 Under our media literacy duties we will continue to work to help improve the online skills, knowledge and understanding of UK adults and children. We will do this by providing robust research, and via collaboration with/coordination of relevant stakeholders and their activities, including news providers. We would also highlight our research during the BBC news review which showed that many people check the validity of online news content and look to established news providers to sort fact from fiction. People consistently saw 'trust' and 'accuracy' as the most important characteristics of what they want to see in a news organisation, and these were qualities they saw in the BBC's news provision. It was also notable that users of social media and news aggregators told us that although these platforms offered an array of perspectives during breaking news events, they were aware that they carried a greater risk of 'fake news' when using them.

- A1.171 The rules for regulated on-demand programme services (“ODPS”) are set out in legislation and include a requirement that any material which might seriously impair the development of children is made available in a way that children can’t normally access it. Some other harmful material (including material likely to incite hatred) is prohibited entirely and there are rules on advertising and commercial references.
- A1.172 We continue to look at audience expectations of ODPS regulation relative to broadcast regulation, to inform the broader debate (and development of any legislation). This includes our research on Audience Expectations in a Digital World, which was published on our website on 3 April 2020¹⁰.

Enabling strong, secure networks – ready to meet current and future challenges

Working with industry

- A1.173 **Nominet** welcomed greater visibility on any TBEST charging model that might be applied. Nominet urged Ofcom to consider how its ambitions for new initiatives to share best practice and close gaps in security could draw upon previous work. **BT** asked Ofcom to continue to collaborate with others on the new TSRs (Telecoms Security Requirements). **British Standards Institution (BSI)** highlighted using existing industry good practice for ensuring the safety and security of the UK’s communications networks. **UK Competitive Telecommunications Association (UKCTA)** believe that more clarity and transparency is needed around security and cyber security work.
- A1.174 **BT** stated it would be happy to facilitate a conversation on sharing expertise and best practice, such as through secondments, practice in ensuring the safety and security of the UK’s communications networks. The **Communications Consumer Panel (CCP)** believes Ofcom should consider the possibility of an independent audit process and customer compensation. **British Standards Institution (BSI)** highlighted using existing industry good practice for ensuring the safety and security of the UK’s communications networks.

Our response

- A1.175 We will continue engaging with communications providers to carry out a threat intelligence-led penetration testing scheme (TBEST). As this is a new initiative for the Operators of Essential Services (OES) under the Network and Information Security Directive, we will engage with the OESs and explore how they can carry out TBEST testing. As part of this engagement we aim to discuss our cost recovery approach and work towards ensuring it is reasonable and proportionate.
- A1.176 Ofcom’s role in relation to cyber security is as the enforcement authority for relevant regulation. As such, we work closely with other bodies involved in cyber security, such as DCMS and NCSC (National Cyber Security Centre). DCMS’s Supply Chain Review, found that

¹⁰ <https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/audience-expectations-in-a-digital-world>

there was the need for a new set of Telecoms Security Requirements, and regulatory changes to enable it to be legally enforced. DCMS has indicated that it intends to introduce new legislation to enhance our enforcement powers in relation to the issues identified in its Supply Chain Review.

- A1.177 NCSC have since been leading on the development of the Telecoms Security Requirements (TSR). Ofcom has been working with NCSC and DCMS on the development of the TSR and are also participating in the stakeholder engagements, which NCSC are leading on.
- A1.178 Across both network security and resilience, we plan to work closely with the UK Government, NCSC and industry to draw and build on previous work. Ofcom, where relevant and appropriate, looks to draw from other similar regulatory regimes. In the event there is a view that Ofcom is duplicating other regulatory regimes, we welcome industry sharing this information with us. With regards to regulatory burden, Ofcom aims to ensure its oversight role is proportionate and reasonable. We expect all communication providers to take relevant standards and best practice into account when assessing risk and developing appropriate security measures. Recruitment in the area of cyber security is challenging and we welcome BT's offer to discuss sharing expertise and best practice.
- A1.179 With regard to the suggestion of compensation, in April 2019, Ofcom introduced the Automatic Compensation Scheme. This means broadband and landline consumers will get money back from their provider when things go wrong, without having to ask for it. Currently there are seven providers signed up to the scheme. Additional [information](#) can be found on our website.
- A1.180 We note the comments around local resilience strategies, and that this is an area which is led by Local Resilience Forums (LRFs), which in turn fall under Ministry for Housing, Communities and Local Government. Ofcom is not directly involved in the work of LRFs. However, we are members of the telecoms industry group which coordinates the engagement of the telecoms companies with LRFs. An important part of this engagement is ensuring that LRFs understand the resilience of telecoms services and can plan accordingly. As noted above, more broadly, we are working closely with DCMS on the implementation of its recent Supply Chain Review recommendations, which include new security obligations on telecoms providers.

Sustaining the universal postal service, through a period of possibly accelerated change in letters and parcels volumes

Overall comments

- A1.181 **Royal Mail** believe a modern and contemporary Universal Postal Service is vital to the UK economy. Royal Mail highlighted that at present, the high fixed cost Universal Service network is funded by the market, unlike Broadband where there is considerable public subsidy, therefore the economics of the Universal Service are fragile. Royal Mail asked Ofcom to engage with them on developing a supportive regulatory environment to maintain a market-funded USO (Universal Service Obligation). It asked for further detail on

the activity where “industry and Ofcom... work together to secure the long-term sustainability of the sector”.

- A1.182 **Mail Competition Forum** stated that they believe using the heading ‘Sustaining the universal postal service’ means Ofcom is not adequately recognising that its statutory duty in relation to universal service provision requires such provision to be efficient. The **Mail Users’ Association (MUA)** believes that categorising the ‘Review of user needs’ and the ‘Review of the future regulatory framework’ under the heading of “Sustaining the universal postal service’ means that Ofcom is failing adequately to recognise that its statutory duty in relation to universal service provision also requires such provision to be efficient, and for its provision to continue to be efficient. The **Mail Users’ Association** and **DX** stated that Ofcom’s draft workplan includes no work to address the regulator’s statutory duty to further the interests of consumers, where appropriate by promoting competition, in respect of the mail market.
- A1.183 The **Communications Consumer Panel** asked Ofcom to prioritise the issue of parcel surcharges to outlying areas (and noted the importance of this for Northern Ireland). The **Communications Workers Union (CWU)** called on Ofcom to prioritise the financial sustainability of the universal postal service.
- A1.184 The **Mail Users’ Association (MUA)** noted that Ofcom now has new regulatory responsibilities in the area of social media and expressed hope any new regulatory duties will not reduce Ofcom’s resource to devote to the postal market, or reduce the priority given to that work.

Our response

- A1.185 We will begin work, to conclude in 2022, on the future of postal regulation. This work will be in accordance with our duties in relation to postal services, to carry out our functions in a way that we consider will secure the provision of a universal postal service in the UK (having regard to the need for that service to be financially sustainable and efficient before the end of a reasonable period) and our duty to further citizen and consumer interests). This work will include revised cost modelling of Royal Mail’s operations, a review of Royal Mail’s efficiency, further consider the findings of the review of user needs and consideration of our future approach to regulating Royal Mail. We will review access and parcels competition and consider whether additional customer protections are required.
- A1.186 Whilst we note that there are some synergies, there are also many differences between Postal and Broadband markets, making direct comparisons difficult. We will however seek and consider stakeholders’ views on the future regulatory framework as part of our 2022 Review.
- A1.187 We note Royal Mail’s comment on Ofcom to provide further detail on the activity where “industry and Ofcom.... work together to secure the long-term sustainability of the sector.” We will be engaging further with stakeholders as part of the 2022 review.

- A1.188 The Plan of Work headings are high-level and are designed to be easily understood by the public. Ofcom will of course act according to our duties, and the description for this section of the Plan should not be read as indicating otherwise.
- A1.189 We will continue to engage with stakeholders on surcharging, including on how we can support the work of the CCP. We anticipate publishing our latest research into parcel surcharging by delivery operators later this year. We will seek and consider stakeholders' views on efficiency expectations as part of our 2022 review.
- A1.190 We note that the UK Government's announcement¹¹ that it is minded to appoint Ofcom as the regulator to enforce rules to make the internet a safer place, we will continue to act in accordance to its duties for the postal sector.

Understanding the needs of postal users

- A1.191 **Royal Mail** have asked for clarity on the process and timing of the 'Understanding the needs of postal users' project. **Mail Competition Forum** asked for assurance that Ofcom's work in 'Making future postal services work for all consumers' and Citizens Advice's 'Review of user needs' in this area will be coordinated so there is not duplication.
- A1.192 **Mail Competition Forum and Mail Users' Association, DX and Whistl** stated that Ofcom should assess the needs of users of high-volume, contract services.
- A1.193 **Mail Competition Forum** asked for further detail in the Plan of Work on what is meant by "extra consumer protections". The **Communications Workers Union (CWU)** desired new regulations and incentives for the market to deliver a better customer experience.

Our response

- A1.194 As our proposed Plan of Work explained, we are continuing to assess whether the postal market is meeting the reasonable needs of postal users and we are planning to publish our findings in Q3 2020/21. We will continue to engage with Royal Mail and other stakeholders over the course of the year.
- A1.195 Our review of postal users' reasonable needs will include engagement with large consumers to further understand their use of mail and what service levels meet their needs. While the bulk mail products used by larger postal users are not part of the universal service, this research will feed into our overall assessment of whether the market is meeting the reasonable needs of postal users. We also engage with large mailers directly or via the Mail Competition Forum (MCF) and Mail Users' Association (MUA) as part of our monitoring programme.
- A1.196 Our work on the 2022 Review will consider whether appropriate customer protections need to be put in place, particularly in the parcels market given the increasing importance of parcels to postal users. We will scope this work and consider the evidence in more detail during this financial year.

¹¹ <https://www.gov.uk/government/news/government-minded-to-appoint-ofcom-as-online-harms-regulator>

A1.197 We will begin work, to conclude in 2022, on the future of postal regulation. This work will include revised cost modelling of Royal Mail's operations, a review of Royal Mail's efficiency, further consideration of the findings of the review of user needs and consideration of our future approach to regulating Royal Mail. We will also review access and parcels competition and consider whether additional customer protections are required.

Monitor Royal Mail's performance

A1.198 **Mail Competition Forum, Mail Users' Association (MUA), DX and Whistl** stated that Ofcom's 2020/21 workplan needed to include considerable work on assessing the need for, and application of, new regulatory conditions setting efficiency improvement targets for Royal Mail. Mail Competition Forum and Mail Users' Association (MUA) also commented on constraining the level of price increases for bulk mail services.

A1.199 **Mail Competition Forum** believe that Ofcom should use its understanding of Royal Mail's cost drivers when considering how to require Royal Mail to improve productivity. **Whistl** stated that it would welcome Ofcom extending its Royal Mail cost allocation work to include a "scorched earth" approach. The **Communications Workers Union (CWU)** stated that Ofcom should not benchmark Royal Mail's cost efficiency against unregulated, low cost parcel delivery operators.

A1.200 The **Welsh Government** would like to ensure that Ofcom's monitoring of the Royal Mail's performance includes the impact of changes Royal Mail is making as it transforms its parcels business to become the primary focus of its activity.

Our response

A1.201 We will begin work, to conclude in 2022, on the future of postal regulation. This work will be in accordance with our duties in relation to postal services, to carry out our functions in a way that we consider will secure the provision of a universal postal service in the UK (having regard to the need for that service to be financially sustainable and efficient before the end of a reasonable period) and our duty to further citizen and consumer interests. This work will include revised cost modelling of Royal Mail's operations, a review of Royal Mail's efficiency, further consider the findings of the review of user needs and consideration of our future approach to regulating Royal Mail. We will also review access and parcels competition and consider whether additional customer protections are required.

A1.202 We consider that Royal Mail's cost data, prepared in accordance with our requirements set out in the Universal Service Provider Accounting Condition (USPAC) and the Regulatory Accounting Guidelines (RAG), provides a useful starting point for analysis for specific regulatory questions. However, we recognise that the data will not necessarily provide an appropriate measure of costs for all the regulatory questions we may need to answer. Depending on the nature of any specific regulatory concerns, we may adjust Royal Mail's

cost allocations, or apply different cost allocation methods, or use alternative cost standards.

- A1.203 The Ofcom team working on the review of postal users' needs has recently met with the Citizens Advice team working on parcels delivery issues, which is part for their making 'markets work for consumers' theme. We aim to co-ordinate and avoid duplication. We will prioritise our activities for best promoting customer interests in light of our statutory duties. We will seek and consider stakeholders' views on any efficiency benchmarking as part of our 2022 Review.
- A1.204 Our post monitoring programme does include assessing Royal Mail's progress in delivering on its Journey 2024 transformation programme, including its stated aim to become a 'parcels-led business'. We will publish our latest annual monitoring update at the end of 2020.

Work on the future of postal regulation

- A1.205 **Mail Competition Forum** and **DX** stated that Ofcom should consider where the requirement for Royal Mail to agree access to its network could be widened (access mandate). Mail Competition Forum and DX requested that Ofcom should engage proactively with the postal industry in that.
- A1.206 **Whistl** stated that they would welcome both the re-mandation of packet traffic and mandated access to Royal Mails tracked services before the 2022 review.
- A1.207 **Royal Mail** asked that Ofcom sets out the structure and a timetable for its future regulatory review at its earliest opportunity, alongside it being proportionate.
- A1.208 The **Communications Workers Union (CWU)** suggested that Ofcom must ensure a supportive regulatory environment that promotes investment and innovation. The CWU called on Ofcom not to set unreasonable efficiency expectations for Royal Mail.
- A1.209 The **Communications Workers Union (CWU)** consider that Ofcom's failure to introduce minimum quality standards in the unregulated parcels market is very damaging for the postal industry.

Our response

- A1.210 In order to mandate any form of wholesale access, Ofcom would need to be satisfied that it meets the requirements of the Postal Services Act 2011 and, in particular, the requirements of Section 38. In those circumstances, Ofcom would be entitled to impose a USP access condition. However, in our 2017 Review of the Regulation of Royal Mail Statement we concluded that the access regime introduced in 2012 is appropriate and should remain in place until 2022. For Ofcom to consider imposing such mandated access before 2022, we would need strong evidence that clearly indicates that imposing such regulation before 2022 is appropriate and proportionate. In particular, we would need to have evidence of why mandating this form of access would be market enhancing and not

detrimental to the USO. We will seek and consider stakeholders' views on revising our regulations in relation to mandated access as part of our 2022 Review.

- A1.211 The Post 2022 review is currently being scoped. We will seek to inform and update stakeholders on this programme of work as soon as it is practicable. We will seek and consider stakeholders' views on efficiency expectations, customer protection and quality standards as part of our 2022 Review.

Continue to innovate in regulation and data to help people and businesses – remaining relevant and efficient

Energy efficiency

- A1.212 **Joint Radio Company (JRC)** believes there is an increasing need for spectrum access for the energy utilities to facilitate UK Government policy outcomes such as net-zero targets.
- A1.213 **BT** asked for Ofcom to champion the role of ICT as an enabler of decarbonisation, and asked Ofcom to undertake research to develop UK specific forecasts and scenarios of the sector's emissions and energy consumption.
- A1.214 **Ewan Sutherland** requested more information on the carbon implications of the use of various telecoms services.

Our response

- A1.215 Ofcom does not have powers or duties with regards to the environment and hence historically has not collected data on the topic. This year we will examine how we can help the UK Government to achieve its net-zero emission target for 2050. We have had work in place to reduce our own carbon footprint since 2007, and we will continue to explore how we can reduce our footprint further. Other work in this area will include:
- a) analysing how our industries affect the environment and are affected by it;
 - b) what actions we and industry can take to tackle these environmental challenges; and
 - c) collaborating with other organisations, including other regulators, on this topic.
- A1.216 We have recognised that the operational communication requirements of utilities are changing as a result of UK Government policy objectives to transition to a greener economy. This includes reducing greenhouse gases through increased renewable energy generation and electrification of heat and transport, and environmental policies to address pressure on water supplies. We have initiated a project to assess the spectrum requirements for these evolving operational communication needs. We are working with the utility industries, governments and other regulators to ensure access to sufficient spectrum to support delivery of the UK Government's environmental objectives. The project will consider the effect of distributed energy resources and changes on the demand side from the electrification of heat and transport. The project will also consider the effect of PSTN switch-off, and how this will affect the demand for wireless communications.

Adopting new approaches to policy-making

- A1.217 **ITSPA** would like more industry engagement on the blockchain number portability project.
- A1.218 **UKCTA** members would like Ofcom to publish more details about its plans for a digital wallet and asked if this is part of the project on smart data Open Communications initiative. **Citizens Advice Scotland** asked for assurances that the Open Communications data would be easily accessible and usable for people.
- A1.219 The **BBC** stated that it would welcome further information on where Ofcom considers data-driven approaches to regulation could be applied in its broadcasting regulation.
- A1.220 **BT** and **Openreach** stated it would welcome a collaborative approach to the creation of a Data Innovation Hub.

Our response

- A1.221 Our work in data-driven approaches to policy making is intended to transform Ofcom's capability to manage and extract value from complex data sets and is therefore relevant to any policy or operational activity that requires, or could benefit from, the analysis of data. Our activity involves both the training of colleagues, including data specialists, and the development of the necessary tools to manage and analyse complex data sets. We have yet to determine how the enhancement of our data processing and analysis capabilities will benefit our work on broadcasting.
- A1.222 We welcome discussions with industry and other stakeholder about how we can collaborate to make better use of data, including exploring ways to improve how we obtain and share data, where we are able to.
- A1.223 The blockchain project is open to ITSPA and we welcome their participation. Members have contributed via the NPESG and NICC working groups. We are in the process of deploying a community test network and interacting with a variety of members. We are happy to support the hosting and testing of a blockchain node by ITSPA and its members. We will contact members via the NICC and NPESG working groups.
- A1.224 Ofcom developed a proof of concept digital identity system, called a digital wallet, in order to learn more about digital identity, an area which is likely to be increasingly relevant and important to our sectors in the future. This work was funded through a second round of funding (£245K) from the Regulator's Pioneer Fund, which also funded our exploratory work into using blockchain for telecoms number portability. The knowledge gained from this experimental project may help inform future work in the sectors we regulate, for example in relation to our open communications project.

Engaging with stakeholders

- A1.225 Ewan Sutherland requested clarity on the external partners referenced in the section, "Collaborating externally".

A1.226 **Ewan Sutherland** suggested more engagement with ‘metro mayors’ potentially through UKRN and would like clarity on engagement with local authorities.

Our response

A1.227 Our innovation work covers a broad range of projects looking at data, technology and policy and we will need to work with a wide range of different stakeholders to develop skills and deliver innovative regulation. This will be an ongoing process, and the list of stakeholders will grow and change over time. Some examples of our current engagement include other regulators, such as Ofgem to learn from their approaches to innovation; government departments, such as attending BEIS better regulation events; and Nesta and the Design Council, by attending their States of Change innovation program.

A1.228 We recognise that national, devolved and local government all have an interest in the work we do and may well consider interventions in the market to improve outcomes for people and businesses. Wherever possible, we publish any formal advice we provide to the UK Government. For example, one area of close engagement has been on policies to improve mobile coverage. We provided technical [advice](#)¹² to the UK Government on further options to improve mobile phone coverage in 2018. We engaged with the UK Government as they developed industry proposals for a ‘Single Rural Network’, and we will continue to support the Government with technical advice when necessary.

A1.229 Beyond working with the UK Government, we are accountable to Parliament and appear regularly before relevant Committees in Westminster and the nations.

A1.230 We develop plans of engagement on individual policy areas and on pieces of research, which can include with local authorities and with metro mayors. We actively engage with UKRN, the UK Competition Network and other regulators on cross-sectoral issues. Our statutory Advisory Committees (including for England) also engage with local stakeholders and provide advice on issues to Ofcom. National interests are also represented by members of Ofcom’s Content Board and by the Communications Consumer Panel.

Improving the consultation and reporting process

A1.231 **BT** welcomed inclusion of a chapter devoted to delivering good outcomes for consumers. BT encouraged Ofcom to embed such outcomes throughout work in 2020/21, including a similar section in each consultation published. BT would value a multiyear roadmap allowing BT and other communication providers to plan more effectively. BT requested that updates to the workplace are provided on a regular basis. BT suggested that Ofcom involved stakeholders earlier in the process of developing next year’s Plan of Work, taking an iterative approach.

A1.232 **Ewan Sutherland** suggested a review of the consultation process, alongside greater transparency on the effectiveness and process for consultations and responses.

¹² <https://www.ofcom.org.uk/phones-telecoms-and-internet/coverage/advice-government-improving-mobile-coverage>

Our response

- A1.233 We welcome BT's point. Making communications work for citizens and consumers is central to everything we do and all our work is ultimately towards this aim. Wherever appropriate, we aim to include a view on how policy action will benefit consumers and businesses, either qualitatively or quantitatively. The outcomes section included in this years' plan of work is different than that for individual policies: it draws together the range of activities we undertake in support of broader customer outcomes. It is not always possible, or desirable to focus on individual policies compared to the wider strategy and combination of activities.
- A1.234 Ofcom is developing its strategic and planning capability, improving both long term planning and horizon scanning activities. This year, in view of the coronavirus, we will keep our plans live and flexible, and will publish an updated plan in September, plus quarterly updates on our outputs and milestones. Ofcom assesses how it can most effectively engage stakeholders in its Plan of Work process. It is not possible to adopt an interactive approach due to the resource and time implications of such a method. Due to the volume of stakeholders involved and timescales required in the Plan of Work, Ofcom takes a pragmatic approach of consulting stakeholders via publishing documentation and holding roadshows and providing a consultative window for interested parties to provide input. Ofcom consults widely with stakeholders, such as through publishing documentation and holding roadshows for interested parties to provide input. It is the intention gather feedback from as broad a representation as possible and experiment with different routes to do this: for example, our Small Screen: Big Debate nation-wide forum which involves discussions with broadcasters, production companies, Government, Parliament, industry bodies, viewers' groups and national and regional representatives on questions around PSB's future, alongside listening to television viewers across the country through focus groups. We regularly review our process to ensure we are being effective and implement improvement where identified.
- A1.235 Ofcom publishes a wide variety and large volume of publications each year, which can be viewed on its website. Details on our work (such as the types and number of consultations etc can be seen within our Annual Report). We do not publish information on reading ages or reading times for our documents. However, as part of our commitment to make communications work for everyone we want our documents to be clear and easy to read for all our audiences, including people with visual or other disabilities.
- A1.236 In response to Ewan Sutherland, Ofcom regularly liaises with other regulatory bodies in the UK and abroad to adopt and share best practice and to ensure that we operate to the highest standards.

Increasing diversity and inclusion – helping the UK to reflect itself

Diversity in broadcasting

A1.237 The **BBC** stated that it considered there is a lack of detail in Ofcom’s consultation document about its work in relation to audiences in the English regions.

Our response

A1.238 Ofcom’s role is to hold the BBC to account for its delivery of the Mission and Public Purposes. Our performance monitoring of the BBC which we publish annually, will examine how the BBC is performing against each of the public purposes for audiences in England. When we look more closely at audience sub-groups, those in England have consistently rated the BBC more highly against delivery of the public purposes than do all adults. We have already set out how we have strengthened the reporting and compliance regime for regional production to will be introduced to improve enforcement with requirements. We have already begun collecting additional information from the PSBs including the BBC to evidence more clearly how productions have met the criteria for out of London productions including within England.

A1.239 Our reports on the diversity of the broadcasting industry workforce will continue to include information on initiatives to improve representation of talent from the English regions. We will be asking broadcasters to tell us how they have followed Ofcom’s recommendations on best practice, including the aspiration to reflect the working population of the city or region that the broadcasters’ workforce is based in. We will be collecting information on commissioning roles to ensure that audiences in the regions are served with content which reflects their experiences.

Ofcom Diversity and Inclusion Programme update

A1.240 The **Older People’s Commissioner for Wales** stated that it expected that Ofcom will commit to retain and recruit older workers in its flexible working policies.

A1.241 **Ewan Sutherland** asked, in a post-binary world how can gender be balanced 50:50?

Our response

A1.242 In response to the Older People’s Commissioner, Ofcom is committed to employing people of all ages and backgrounds and 24% of our colleagues are aged 50+. By job level, representation ranges from 21% at our Administrator and Associate grades to 29% at our Principal and director levels. Our inclusive recruitment policy, process and guidance aims to ensure we have a consistent, fair and inclusive approach across the organisation. All hiring managers and colleagues involved in the recruitment process (such as those on interview panels) must be accredited before they can recruit and they must have undertaken unconscious bias awareness training in the last twelve months (and are encouraged to take refresher sessions). We have a senior director who is an age and generations sponsor at Ofcom to support our inclusive culture related to age.

- A1.243 All our jobs offer flexible working and are location neutral, wherever possible. Our flexible working options include part-time working, compressed hours and working from home. We've invested in new, lightweight technology for all colleagues, freeing people from their desks and giving them flexibility to work in other parts of our office, different offices and other locations. Colleagues can call, video call or instant message from their laptops.
- A1.244 In response to Ewan Sutherland, we set our gender targets in 2015 and it was important to us to remain committed to them until they expire in 2020. We recognise that there are different forms of gender identity and expression and that an estimated 1% of people in Britain identify as trans, which can include people who are non-binary (Stonewall). We have set an ambition to work through all our systems internally to ensure we capture and ask for broader, non-binary gender data from our colleagues (as well as giving people the option to prefer not to say) so that we can understand our gender diversity better, beyond male or female. We have made all our policies gender neutral, working with external experts on best practice. At Ofcom we have a vibrant LGBTQ+ community, Ofcom Affinity network, and have extensive policies in place to support LGBTQ+ colleagues. Our women's network, open to all genders and gender identity, is actively considering how they can better understand and reflect gender minorities into their work, while also focusing on equality for colleagues who identify as women.

Providing support through the EU exit transition period, and building on our international relationships

Engage with and support consumer and industry stakeholders through the EU exit transition period

- A1.245 **Ewan Sutherland** asked for clarity on Ofcom's external engagement and its relationship with government regarding Brexit.
- A1.246 The **Communications Workers Union (CWU)** stated that it is vital that the minimum protections currently in place for consumers and workers in the sector are at least maintained, alongside the maintenance of the six day universal postal service. Other legal requirements and protections for the communications sectors afforded by European legislation should be improved where there is scope to do so.
- A1.247 The **Communications Workers Union (CWU)** called on Ofcom to steer Government towards a legal framework for the UK communications sectors that will protect and where possible improve on the standards set by EU legislation.

Our response

- A1.248 Based on the terms of the Withdrawal Agreement and Commission guidance issued on 31 Jan 2020, Ofcom does not expect to participate in any EU body or committee during the transition period. Any participation thereafter will be subject to negotiations between the UK and the EU. Ofcom will continue to engage in all other bodies, including European regional bodies such as CEPT, CERP, IRG and EPRA, where our rights to participate are not

impacted by EU membership. Ofcom will also continue to participate in a range of global fora, including the ITU (where it represents the UK Government under a Ministerial direction). Finally, we will continue with our programme of bilateral engagement with regulatory counterparts around the world.

- A1.249 Ofcom holds an International Stakeholder Forum meeting three or four times a year to inform interested UK stakeholders of its international activities and collect their views. In relation to our spectrum activities specifically, we hold an International Spectrum Stakeholder Briefing two or three times a year with the same objective.
- A1.250 The Postal Services Act 2011 sets out the minimum requirements of the universal service, including 6 days delivery of letters each week across the United Kingdom. Ofcom does not have the power to change the minimum requirements in the Postal Services Act 2011. It is for the Government to decide on the minimum requirements.
- A1.251 The Review of postal users' needs will assess the extent to which the postal market is meeting the reasonable needs of postal users'. We will also seek and consider stakeholders' views on customer protection and quality standards as part of our 2022 Review.

Other areas

Goals across the UK

- A1.252 The **Welsh Government** understands Ofcom intends to increase visibility and presence in Scotland. The Welsh Government asked if there any intention for a comparable expansion in the other devolved nations to ensure parity.
- A1.253 The **Welsh Government** stated that it is crucial that Ofcom's Wales office is sufficiently resourced in light of recent announcements on potential new duties.
- A1.254 The **Welsh Government** welcomed the Memorandum of Understanding (MoU) outlining the relationship between the UK Government, the Welsh Government, the National Assembly for Wales and Ofcom and stated that there should be a commitment to explore and develop opportunities to strengthen the MoU in the proposed Plan of Work.
- A1.255 The **Welsh Government** suggested an annual, jointly-agreed, forward work plan with Ofcom.

Our response

- A1.256 Wherever possible, our roles are advertised as location neutral and we have already seen a number of additional colleagues begin to be based from our Cardiff office. We hope that this will continue and have increased our office space to prepare for this.
- A1.257 We will be working closely with the Government in the coming months, as the details of the new online regime are developed. A key part of these discussions will be agreeing a funding model that ensures we can continue fulfilling our existing duties alongside any additional responsibilities.

- A1.258 Our Plan of Work is not an exhaustive list of all of the work that Ofcom expects to carry out during the year. Ofcom welcomes the fact that the Memorandum of Understanding is fully operational and that the Board Member for Wales has been in post for a year. The MoU includes a provision to review it periodically at official level, and we expect a review to begin in the coming months.
- A1.259 Ofcom welcomes the opportunity to continue to work closely with the Welsh Government to ensure that we are jointly addressing the needs of citizens in Wales. We are open to conversation to ensure there is alignment of thinking in relation to the priority areas for Wales and how Ofcom and the Welsh Government can work together on these matters. When considering its Plan of Work, Ofcom needs to consider all workgroups and nations and balance its resources to maximise the benefit we are able to deliver.

Additional points regarding Ofcom's role

- A1.260 **John Pink** asked what Ofcom's principle of 'proportionality' meant, and how it was applied. **Ewan Sutherland** asked Ofcom to define 'world class'.
- A1.261 **John Lyons** suggested that Ofcom could adopt an amended mission statement with a focus on balancing the presumption of freedom of speech with wider responsibilities.
- A1.262 **IPSA** was concerned that the volume of consultations and information requests reduces industry's ability to engage in the regulatory process.
- A1.263 **Nominet** urged that Ofcom's spending cap is commensurate with its new responsibilities under the Government's online harms proposals.

Our response

- A1.264 Ofcom has a statutory duty to ensure its regulatory activities are, amongst other things, proportionate. In general, this means that we ensure that any regulatory action we take does not go beyond what is necessary in the circumstances. In response to Ewan Sutherland, we recognise that the definition of an assessment criteria is difficult in the regulatory environment and we increasingly aim to measure the effectiveness of intervention and the customer outcomes delivered.
- A1.265 Ofcom's vision is to make communications work for everyone. One of our main legal duties is to ensure that people are protected from harmful or offensive material, unfair treatment and invasion of privacy on the television and radio. We also note the Government's announcement that it is minded to designate Ofcom as the new regulator for online harms. We put the interests of people and businesses at the heart of everything we do.
- A1.266 Ofcom appreciates the consequence of regulation and aims to balance the need for regulatory input against the impact on those in the sector. Whilst we consider the impact to industry as we plan our activity, we must ensure that we maximise benefit to the UK and undertake activity that deliver optimal outcomes. We are refining our planning process and as part of this look to optimise our approach where possible and will take into account the comment on coordination.

A1.267 We will be working closely with the Government in the coming months, as the details of the new online regime are developed. A key part of these discussions will be agreeing a funding model that ensures we can continue fulfilling our existing duties alongside any additional responsibilities.