



Verizon Enterprise Solutions response to Ofcom's Draft Annual Plan 2013/14

1. Verizon Enterprise Solutions ("Verizon") welcomes the opportunity to respond to Ofcom's Draft Annual Plan 2013/14.
2. Verizon is the global IT solutions partner to business and government. As part of Verizon Communications – a company with nearly \$108 billion in annual revenue – Verizon serves 98 per cent of the Fortune 500. Verizon caters to large and medium business and government agencies and is connecting systems, machines, ideas and people around the world for altogether better outcomes.

Summary

3. Given the current economic climate and the on-going pressures on resources, which impact both Ofcom and industry alike, it remains vital that Ofcom plans effectively to ensure that it utilises its own resources to maximum effect. Whilst so doing, Ofcom should also ensure that it operates in such a way as to take utmost account of the pressures faced by its stakeholders, both economic and logistical. This relates not just to smoothing the burden that it places on stakeholders across a period and avoiding bottlenecks but also ensuring sufficient transparency so industry can plan effectively.
4. This was a theme highlighted by stakeholders in their responses to last year's draft annual plan but unfortunately this message has remained, largely, unheeded by Ofcom. Once again, it is disappointing that there remains little attention given to planning and co-ordination across functions in the latest draft plan. Indeed this concern is further heightened by Ofcom's increased focus on Postal Regulation, which appears, even at this early stage of 2013, to be impacting on Ofcom's ability to address significant market reviews, such as the Business Connectivity Market Review, in a timely manner. Such delays have a very serious consequence on the competitive landscape, due to the uncertainty associated with 'gaps' in the regulatory controls applicable to important services (eg PPCs, Ethernet) and potentially for narrowband market services as well.
5. During such gaps, Ofcom and industry rely on those with SMP (typically BT) to act in a fair manner, with only ex post remedies to act as any deterrent against unreasonable behaviour. This is an avoidable and unacceptable scenario, especially when the gap stretches for months on end. Unless Ofcom takes significant steps to improve its planning and co-ordination activities, occurrences of such delays and regulatory 'gaps' will increase, with detrimental consequences to competition and resultant higher charges for consumers.



6. A key element of Ofcom's planning and co-ordination activity is the need to communicate clearly and on a timely basis with stakeholders. This element was severely lacking throughout 2012/13, affecting both the policy and dispute resolution functions within Ofcom.
7. A specific example is the question of cost orientation, which Ofcom has proposed to remove as a remedy in the Business Connectivity Market Review, despite the fact that a planned consultation on the subject had not been published. Subsequently, Ofcom have now stated, during the course of discussions on other matters, that there may now not be a consultation on cost orientation at all but either a discussion or position paper instead. For such an important matter, on a critical remedy that industry values, understands and supports, it is incomprehensible how Ofcom are even considering not undertaking a full consultation. The fact that such a stance has 'dripped' out rather than being firmly communicated to stakeholders is indicative of Ofcom's current approach to stakeholder engagement.
8. Another example of Ofcom failing to communicate in a timely and clear manner is the long awaited consultation on Regulatory Accounting. Following a range of meetings with industry, Ofcom declared in September 2012 that they no longer feel industry meetings are appropriate as they need to focus internally on finalising their proposals. Whilst this was perhaps an understandable position to take, we are still awaiting those proposals, and in the meantime have not received any communications on progress or timescales.
9. Given the level of engagement committed by industry to this issue, such a lack of any progress report from Ofcom is a clear demonstration of Ofcom's dismissive approach to stakeholder engagement. Ofcom really must take a fresh and comprehensive look at the issue of transparency and how they communicate internal planning to stakeholders. We recognise that plans will change, and schedules slip from time to time. However, where this happens, Ofcom should take the initiative to provide universal updates via their website where projects fall behind rather than responding to individual requests for updates, which then "seep out" to interested parties. They should also provide more granular information on what they hope to achieve in any given year, department by department, so industry can plan and prioritise accordingly.
10. Judging by the draft annual plan, Ofcom still does not appear to recognise the above failings, or at least does not propose any new initiatives to address these serious deficiencies. This is a significant omission and one that has great potential to diminish not only the efficiency of Ofcom but also its effectiveness, which will be to the ultimate detriment of consumers and citizens, who are the heart of Ofcom's remit.
11. It is regrettable that we have to make the same comments and observations as were submitted to the previous draft annual plan. However, given the lack of progress made on



these issues by Ofcom over the past 12 months and the significant impact such deficiencies have on stakeholders, we were left with little choice.

12. With the above in mind, it is to be hoped that Ofcom is true to its stated strategy to achieve its objectives as set out in the 2013/14 plan, where it states: *"To achieve these aims, we will be consultative, transparent and proportionate."* During 2012 the transparency element was sadly lacking.

Ofcom's Proposed Priorities for 2013/14

13. Verizon now moves on to the content of Ofcom's Draft Annual Plan for 2013/14.
14. Verizon remains concerned over the lack of focus that Ofcom directs on business communication services. The current plan has little to say about business consumers apart from one cursory paragraph in section 6 of the draft plan. Although there was some improvement in this area last year, there is a real danger that the focus will yet again slip, especially given Ofcom's statements in relation to their key focus for the year being to secure the provision of a universal postal service. Accordingly, focus on the Business Communications Market appears to be further de-prioritised, not only in favour of pure consumer issues but also Post. It is critical that Ofcom understands and takes account of the needs of business customers, which are often significantly different from consumer customers, in considering and setting regulatory objectives.
15. Accordingly it is hoped that Ofcom follows through on the actions it identifies in the 'Emerging issues that may inform future Annual Plans' section of the draft plan and in particular the proposal to conduct a wider business telecommunications market review, building on the recent Business Connectivity Market Review.
16. Whilst Verizon understands that Ofcom's remit has broadened, without an equivalent increase in resources, this brings clearly into focus the reason why the reforms highlighted in the first part of this response are so important for Ofcom to adopt.
17. On the issue of competition, Ofcom are signalling a change in focus, with greater emphasis being given to the demand side, whereas in the past the focus has only been on the supply side. The reason for such an approach is to address consumer issues of choice, apparently overlooking the fact that competition, and particularly the lack of it, equally impacts business markets. To this end, Ofcom's approach to geographic markets is of paramount concern, so it is disappointing that the conclusion of the Business Connectivity Market review does not warrant more of a mention in the draft plan.
18. Indeed, Ofcom's three headline projects in the competition arena are stated within the plan as being the promotion of super-fast broadband, promotion of information to



consumers, and improving choice and switching processes, again to enhance consumer choice.

19. Surprisingly there is no mention of the PIA remedy, which if implemented appropriately would greatly aid the roll out of super-fast broadband (and other equally critical business services). Ofcom appear to believe that they have addressed this issue and that the remedy is generally available. This is not the case. BT has placed such contractual restrictions on the provision of PIA that it is not fit for purpose for the provision of business services. Accordingly Ofcom should have included a review of the effectiveness of the PIA remedy in the draft plan, especially as they are fully aware of the concerns of Communication Providers (CPs), especially B2B providers, with the current arrangements following responses to the BCMR consultation. This appears to be another example of the disconnected approach Ofcom takes when developing policy, given the stressed importance of super-fast broadband roll out and the limitations and constraints to such a roll out the current PIA remedy imposes.
20. Another key strategic area for Ofcom is to continue with the review of the framework for regulatory financial reporting in telecommunications.
21. Ofcom state in the draft plan that they intend to “make proposals for relevant and reliable regulatory financial information that serves the needs of stakeholders”, which if delivered would be welcomed. However, the direction of the initial consultation on regulatory reporting issued in September 2012 was concerning, as it seemed to propose a relaxation of the detail provided to stakeholders, whereas in fact more not less detail is required. In the absence of sufficient detail, CPs will not be able to assess whether or not those providers responsible for reporting are meeting their obligations. The ability of CPs to make such assessments is essential to ensure charges are set in accordance with the market remedies and over-charging does not occur, even if this assessment is only possible retrospectively.
22. Given recent market failures, it is essential that reporting obligations are not reduced; such a move cannot be warranted or justified.
23. On a more positive note, Verizon notes with interest Ofcom’s proposals to move forward with its plans to implement the Digital Economy Act 2010 (DEA) provisions on online copyright infringement (Strategic purpose 6). In particular, Ofcom’s proposals in relation to the development of a code to implement and regulate the provisions of the DEA. Indications are that Ofcom’s implementation of the code will be both proportionate and targeted and as such Verizon supports Ofcom’s activities in this area.
24. Verizon also welcomes Ofcom’s statements on its proposed work within BEREC. As a pan-European operator it is vital that consistent policy is adopted and applied across Europe, as such Ofcom’s approach and intentions in this area are supported by Verizon.



We would hope that, where appropriate, Ofcom encourages other NRAs to maintain active participation in BEREC initiatives with the aim of increasing harmonisation of regulation across the EU community.

Verizon Enterprise Solutions
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