



# BT's response to Ofcom's consultation on its Proposed Annual Plan 2017/18

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## Introduction

1. BT believes Ofcom's Annual Plan is an important guide to Ofcom's work priorities and schedule. In particular we find the work plan and milestones set out in Annex 1 helpful in enabling us to allocate resources and prepare for engagements with Ofcom.
2. With this in mind BT notes that in addition to the 'work plan' detailed within the Annual Plan Ofcom produces a 'programme of work' covering the same material which includes slightly different details and is updated on a quarterly basis.<sup>1</sup>
3. BT does not see the need for or the benefit in Ofcom producing two very similar documents and believes that they can lead to confusion when stakeholders have to examine and reconcile two separate documents. BT therefore suggests that Ofcom consolidate the information from the 'programme of work' into the work plan included within the Annual Plan.
4. Furthermore this 'programme of work' is reissued quarterly to reflect any changes to the plan that have occurred throughout the year. BT understands that this is necessary but requests that when Ofcom does update their programme of work they do so by highlighting where changes have occurred so that stakeholders can easily identify the updates rather than having to compare and contrast the full latest document with the previous ones.
5. BT appreciates the quarterly updates to the programme of work. In addition, it would be very helpful if Ofcom were to keep a fully up to date 'live' programme of work that could be referred to at any point, so that stakeholders could avoid surprises in important regulatory documents being published without notice.

## Ofcom's goals and highlights for 2016/17

6. BT supports Ofcom's goals as detailed in the plan *"to promote competition and ensure that markets work effectively for consumers; to secure standards and improve quality; and to protect consumers from harm."*
7. Although this is not explicitly documented as an objective, we are confident Ofcom will be continuing to seek opportunities to reduce the regulatory burden, which industry will welcome. We note Ofcom's increased focus on consumer protection activities and would encourage Ofcom to continue its approach of setting minimum standards through codes of practice, allowing providers to compete through differentiation.

## Ofcom's strategic review of digital communications (DCR)

8. The DCR has now been underway for almost two years. It is essential that this process is concluded soon to give BT and other communications providers the certainty they need to invest

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<sup>1</sup> Ofcom's 2016/17 work plan can be found here: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0036/59499/annual-plan-2016-17.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0036/59499/annual-plan-2016-17.pdf) on page 16 onwards, whereas its programme of work can be found here: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0034/69793/programme-of-work-2016-17.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0034/69793/programme-of-work-2016-17.pdf)

in the next generation of ultrafast networks that will be required to deliver the UK's future success as a leading digital economy.

9. BT has listened to other stakeholders' views during the DCR, and last July we announced and notified to Ofcom a package of far-reaching reforms aimed at making Openreach more independent and providing greater transparency to its customers. We have made great progress in putting these reforms into practice, in particular through the establishment of the Openreach Board, with its independent Chairman and majority of independent members.
10. We believe our reforms provide a fair and proportionate outcome to the DCR, which strikes the right balance between the interests of the different stakeholders, addresses the concerns that have been raised, and allows BT to maintain necessary oversight of its business. In addition, they are already being delivered.
11. In contrast, Ofcom's model for the future governance of Openreach would impose disproportionate costs on BT and its stakeholders, including material pension-related costs. Before being able to mandate its model, Ofcom would need to secure approval from the European Commission, which could not be guaranteed, and conduct a co-ordinated market analysis. This process would take a considerable time, and the end-result would not, in our view, deliver any greater benefits than the BT model which is already being implemented.

### Other work plans

12. BT does not intend to comment individually on each of Ofcom's pieces of work, instead we will convey our specific thoughts, objections and suggestions at the appropriate junctures throughout the year to Ofcom on a case by case basis. Our comments below are therefore limited to general points regarding Ofcom's approach, or to highlight omissions from Ofcom's plans.
13. BT supports publication of useful information for consumers on the availability, speed, quality of service and pricing of communications services. However, we are concerned that Ofcom's annual plan states that you will focus on "publishing better, **more granular** information"<sup>2</sup>, as granular information is not always better and useful for consumers.
14. To help consumers make informed and effective purchasing decisions, the information Ofcom reports must be clear, accessible, accurate and relevant. We believe Ofcom's focus should be on "publishing better, **more useful** information". Behavioural economics has demonstrated that "choice overload" can reduce consumers' ability to make decisions and Ofcom should avoid the temptation of presenting customers with the maximum amount of data.
15. Ideally the decision to include and exclude particular metrics on the basis of their usefulness to consumers in making purchasing decisions would be evidence-based. In the case of Quality of Service metrics, Ofcom should identify in advance which metrics are of most value to customers.
16. Furthermore, publishing more granular information would require Ofcom to collect greater quantities of information. Industry is already finding it very challenging to cope with the existing information requests originating from Ofcom. Responding to Ofcom's statutory information

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<sup>2</sup> Paragraph 3.8

requests (SIRs) is a task which requires an increasing amount of resource year on year due to the increasing volume, complexity and granularity of the requests.

17. Ofcom opened a [consultation on how it uses SIRs back in October 2015](#). Whilst BT is happy that Ofcom listened to the concerns of industry and in light of them abandoned its proposed changes, BT is disappointed that Ofcom has not proactively engaged with industry since this time in order to improve the processes already in place and reduce the burden upon industry and Ofcom itself.
18. Ofcom's information requests must be proportionate to what they are intended to achieve and Ofcom should be mindful of making requests that require CPs to commit significant resources at short notice. Extremely large data requests may require significant development time, including sizing the request, building systems and reallocating resource from other business-critical projects. The burden falls especially heavily on smaller CPs who may struggle to meet deadlines.
19. BT stands ready to work constructively with Ofcom on improving industry processes to ensure Ofcom receives accurate and relevant information in a timely manner. BT recommends that Ofcom appoints a process owner with the remit of working with industry in 2017 to improve both Ofcom's internal processes and those of industry at the same time.
20. Finally payphone regulation has not changed for over a decade despite significant improvements to mobile affordability, accessibility and geographic coverage during that time, including the ability to make an emergency call using any available mobile network (even when your own provider's network is not available). As technology continues to evolve, we expect legacy platforms and network infrastructure to be replaced by IP interfaces and systems, however the physical hardware present inside BT's 46,000 public pay telephones requires access to the PSTN. Given the continuing decline in the use of and subsequent need for public pay telephones we do not believe the necessary investment to develop and roll out an IP-based solution can be cost-justified against the current regulatory obligation under Universal Service and believe Ofcom should act now to ensure any remaining regulation is appropriate, defensible and sustainable in the longer term.

## Ofcom's consultation principles

21. In paragraph A3.8 Ofcom states that they "think it is important for everyone interested in an issue to see the views of others during a consultation", BT agrees, and it is often vital for BT and no doubt other CPs to see responses of other stakeholders when working on an Ofcom consultation. BT appreciates that Ofcom also says they "would usually publish all the responses we have received on our website" and would encourage Ofcom not just to follow this practice but also to do so as early as possible to allow stakeholders ample time to consider the views of others.