

BT Group's response to Ofcom's proposed Plan of Work

2024/25

9th February 2024



1 Executive Summary

We welcome the opportunity to comment on Ofcom's proposed plan of work. We agree with Ofcom that the current regulatory regime has been delivering good market outcomes for consumers on take up of fixed broadband and 5G, while providing ever faster speeds and greater coverage.

We agree with Ofcom's prioritisation in the following areas, including:

- **Telecoms Access Review 2026-31:** The current regulatory framework is working well and delivering good market outcomes — it is imperative that the regulatory environment remains stable to underpin telecoms as an attractive sector for investors overall.
- **All IP Migration:** We welcome ongoing engagement with Ofcom across the programme and appreciate Ofcom's participation in the newly established Telecare Action Board.
- **Net Neutrality:** Ofcom's planned monitoring regime requires firm timelines and should work alongside Ofcom using its soft power to convene other actors across the value chain to address challenges created by the constraints of the current legislation.
- **One Touch Switch:** We welcome Ofcom's plan to continue working with industry regarding One Touch Switch (OTS) to help ensure that post-launch, the process is going well.
- **Scams:** We agree that it is not appropriate for Ofcom to introduce further policy interventions at this time, e.g. on CLI authentication.
- **Future of TV Distribution:** We welcome Ofcom's work on the Future of TV Distribution. Following publication, we would expect Ofcom to be involved in decisions around the best future use of spectrum, support for vulnerable customers and the economic models of UK public sector and private sector content producers and internet service providers, likely with further public consultation.

We propose the following changes to Ofcom's plan:

- **Spectrum:** The consultation on 1.4GHz SDL spectrum should be deferred to Q4 of FY24-25, rather than Q1 of FY24-25. We also propose a more open position is taken on hybrid sharing in the U6 GHz band given initial indications that managing interference adds disproportionate complexity.
- **Misalignment review for 1800 MHz licence fees:** Ofcom should include provision for a review of the 1800 MHz licence fees in its FY24/25 plan. We already provided initial evidence that these have become materially misaligned with current market value of mobile spectrum and are expecting to submit a formal request for review.
- **Broadband USO:** We agree it is right for Ofcom to advise Government on its review. Additionally, in FY24-25 we expect to submit a claim for compensation for the cost of delivering the broadband USO to date. We believe the time is now right for Ofcom to consider such a request.
- **NIICS:** We believe Ofcom should take a holistic approach to regulating NIICS as part of its work on scams, online harms, nuisance calls and the wholesale voice market, rather than only considering NIICS separately and in isolation as part of each of these areas of work.
- **Pay TV, Electronic communication services:** Ofcom should set out a clear programme of enforcement work following the recent CAT ruling on treatment of pay TV as an electronic communications services (ECS). This should at a minimum include ensuring compliance by providers with existing rules. Ofcom should also consider the possibility of extending General Conditions applicable to other subcategories of ECS (such as switching) to payTV.
- **Wholesale Regulation of Voice Markets:** There have been substantive developments in voice markets since 2021, with the emergence of sustainable competition from number independent interpersonal communications services (NIICS) and substantial migration of customers to all-IP services. In the run-up to its 2026 market review, Ofcom should set out a strategy for its future SMP regulation of voice services including whether it expects this to remain appropriate in the longer term.

2 We agree with Ofcom's prioritisation in the following areas:

2.1 Telecoms Access Review 2026-31

We agree it's important that Ofcom review fixed telecoms markets, with consumer outcomes front and centre. The current regulatory regime has been delivering good market outcomes for consumers on take up of broadband and 5G, while providing faster speeds and greater coverage. For example, over 17m (57%) of UK homes can get full fibre broadband, while 93% of the UK has good 4G coverage and up to 93% good 5G coverage.¹

The context within which this consultation should be considered are the substantial industry achievements since the SSP was launched in 2019, for example:

- FTTP network coverage has risen from 10% in September 2019 to 56% by September 2023, with gigabit-capable coverage rising from 10% to 76% over the same period.
- The average download speed for consumers has tripled.
- Data usage has increase significantly.
- Prices have declined in real terms, and especially for ultrafast broadband.²

The government set clear, ambitious targets for the availability of full fibre and 5G networks, with its 2017 'Future Telecoms Infrastructure Review' (FTIR). As part of this, it examined the market and policy conditions that would enable greater investment in future telecoms infrastructure at pace. It underpinned Ofcom's 2021 WFTMR framework, expected to be in place for at least 10-years. The FTIR's recommendations formed the basis of governments' first SSP issued to Ofcom in 2019. The SSP sets out expectations for: world-class digital infrastructure; furthering the interests of telecoms consumers, and secure and resilient telecoms infrastructure. Ofcom has developed a regulatory regime based on these priorities and government's expectations. The upcoming review should continue to enable the industry to deliver those outcomes.

2.2 All IP Migration

We will continue to share our migration plans with Ofcom and work collaboratively to develop clear and complete policies, processes and reporting that ensures vulnerable customers are protected during digital migrations. We appreciate Ofcom's participation in the newly establish Telecare Action Board.

2.3 Net Neutrality

We welcome the increased flexibility Ofcom's Net Neutrality review has granted. As Ofcom moves into its monitoring phase, we will need reasonable implementation timeframes for reporting of new network performance metrics.

In its final statement, Ofcom stated its intention to give further consideration as to whether an industry forum designed to agree principles around network efficiency is appropriate once its updated guidance beds in. While Ofcom monitors developments, we encourage Ofcom to continue exploring its soft powers to address the challenges of managing inefficient network use created by the constraints of the current legislation.

2.4 One Touch Switch

We welcome Ofcom's plan to continue to work with industry regarding One Touch Switch (OTS) to help ensure that post-launch, the process is going well. We would like Ofcom to understand that delays to implementation by industry have been caused by the need to ensure the best possible customer experience. We would welcome Ofcom's engagement to understand and help with these challenges. Post-launch, we would like

¹ Connected Nations 2023 - UK report (ofcom.org.uk)

² Sources: Ofcom, Thinkbroadband, FDM consumer pricing data.

Ofcom to be active in its monitoring of industry compliance with the new process. OTS will only be successful if there is full compliance across all of industry.

2.5 Scams

We welcome Ofcom's recent consultation on extension of UK fixed CLI blocking. Given the extensive suite of guidance provided by Ofcom on compliance with General Condition 6 in recent years, and the range of new solutions introduced on a voluntary basis by market participants including BT, we agree that it is not appropriate for Ofcom to introduce further policy interventions at this time (e.g. on CLI authentication). Rather, Ofcom should continue its information-gathering work with industry to understand the impact of interventions which are now being rolled out.

2.6 Future of TV Distribution

It is right that the Government has asked Ofcom to fact find across industries and stakeholders to provide advice on this complex topic, which brings together several interrelated, cross-policy issues. It is therefore important that Ofcom's planned report on market changes is shared widely with stakeholders across industries.

Following publication, we would expect Ofcom to be pro-actively follow up on its recommendations including in decisions around the best future use of spectrum, support for vulnerable customers and the economic models of UK public sector and private sector content producers and internet service providers, likely with further public consultation.

3 We propose the following changes to Ofcom's plan:

3.1 Spectrum

A consultation on award of 1.4 GHz SDL spectrum is scheduled for Q1 of FY24-25. There are a number of factors that suggest this consultation would be premature and should be delayed to Q4 of FY24-25. Firstly, the mobile ecosystem for this band is immature: there is a lack of available network equipment and user devices. Secondly, there is material uncertainty created for both Ofcom and stakeholders by the proposed merger of VF/Three.

In the U6 GHz band, BT notes Ofcom's advocates hybrid sharing. We suggest a more open position is taken given that the initial indications from technical studies are that this may be complicated to implement if risk of interference is to be avoided.

Last but not least, there is a need to develop a spectrum roadmap for national mobile networks beyond the mmWave and 1.4GHz bands: the U6GHz, and potentially 600 MHz, spectrum should be explored in this context to meet the future medium-term spectrum requirements of national mobile networks.

3.2 Misalignment review for Annual Licence Fees (ALFs) for spectrum

We ask that a provision for review of these fees is included in Ofcom's 2024-25 plan of work. The current 1800 MHz spectrum fees are based on an interpolation between UK low (800MHz) and high (2600MHz) band auction reference price benchmarks from 2013. However, much more recent relevant UK auction value benchmarks became available in 2021 which are substantially lower value. We believe the current 1800 MHz fees are materially misaligned with current market values of mobile spectrum and will justify a request for review.

Such a review would follow on from Ofcom's review of market mechanisms and ALFs for Government in December 2023, where Ofcom reconfirmed its willingness to review existing annual fee levels where there is evidence of a material misalignment with current market value.

3.3 Broadband USO

BT agrees it is right for Ofcom to advise Government on its review, but Ofcom should also factor in consideration of a funding claim from BT using the process set out in its [May 2022 statement](#) during 2024/25. Additionally, Ofcom's consultation highlights its ongoing programme of monitoring the delivery of the broadband Universal Service Obligation (USO) by BT and KCOM. In this regard the vast majority of USO-eligible premises below the required Reasonable Cost Threshold (RCT) have now triggered a USO request or benefitted from deployment triggered by other eligible premises. We have also seen the number USO orders fall dramatically since launch - in low single digits per month (see [BT's Broadband USO KPI report](#)). As the current scheme is largely delivered and UK Government undertakes its current review of the Broadband USO, we believe the time is now right for Ofcom to consider a request for compensation for the cost of delivering the broadband USO.

3.4 NIICS

Given the widespread popularity of Number Independent Interpersonal Communication Services (NIICS)³, we believe Ofcom should take a holistic approach to regulating NIICS. Consumers are impacted by many of the same challenges whether they consume NIICS or traditional telecoms services, including: scams, nuisance calls and online harms. To ensure alignment of regulatory oversight, Ofcom should also consider regulation of NIICS in the context of the Digital Markets, Competition and Consumers Bill (DMCC).

³ Ofcom 2024, [What super-apps could mean for the communications sector - Ofcom](#)

3.5 Pay TV as an Electronic Communication Service (ECS)

The Competition Appeal Tribunal (1567/3/3/22) has given a clear ruling on the status of pay TV over satellite in the UK as an ECS. Ofcom should therefore ensure all payTV providers are fully compliant with existing consumer protection regulations, for example the provision of pre-contract information, end of contract notification, extended right to exit etc. As such BT would expect to see a work area for Ofcom focused on the implementation and enforcement of obligations under the General Conditions for all pay TV services. More broadly, the ruling places new impetus on Ofcom to consider whether the scope of General Conditions applicable to ECS other than pay TV should be extended given these might present a barrier to competition in some circumstances.

3.6 Wholesale Voice Regulation

There have been substantive developments in voice markets since 2021, with the emergence of sustainable competition from number independent interpersonal communications services (NIICS) and substantial migration of customers to all-IP services. In the run-up to its 2026 market review, Ofcom should set out a clear strategy for its future SMP regulation of voice services including whether it expects this to remain appropriate in the longer term. We are particularly concerned that prospective new SMP regulation in SMS markets will not fully consider the role and substitutability of NIICS.



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