Title:

Ms

Forename:

Aileen

Surname:

Boyd

Representing:

Organisation

Organisation (if applicable):

SSE plc

Additional comments:

SSE welcomes the chance to respond to Ofcom's invitation to comment at the early stages of Ofcom's development of its Annual Plan for 2014/15.

We support the development of Ofcom's workplan from year to year within a framework of themes and priorities that remain substantially the same. This allows comparisons to be readily made between different years and between plans and outcomes. As a relatively new entrant in the retail market, SSE is interested in both the theme of promoting effective competition and also the one on protecting consumers from harm. In particular, we have long supported Ofcom's work to ensure easy switching for customers, which provides benefits under both these themes and we note the growing consensus that 'hassle-free' switching is best provided by standardisation on gaining provider led (GPL) processes.

Following on from this, we have also noted that it is increasingly recognised - including in Ofcom's own proposals for GPL switching - that relevant Communications Providers (CPs) need to "cooperate and coordinate" to secure good outcomes for consumers such as a smooth switching experience in the communications market. We strongly advocate that Ofcom adopt an objective for the 2014/15 year to put in place a governance vehicle for the consumer/small business-facing sector of the communications market, so that the necessary cooperation/coordination to achieve ongoing consumer benefit can be formally, independently and transparently captured.

The formal processes of such a body would include ongoing change control to keep the relevant industry processes up to date with developments in the market. Amendments to market processes could thereby be agreed and prioritised in a democratically controlled manner, allowing the industry as a whole to adapt to market developments and to address prospective issues before they have the chance to cause significant consumer harm, whilst also working in the most efficient, cost effective manner. This work could thus readily take place under the theme of protecting customers from harm.

We believe that a useful by-product of such a development would be to create a representative 'industry body' for this sector of the market with which Ofcom could interact, whilst also acting as the ultimate arbiter on change. This would allow Ofcom to influence the direction of development of market processes at high level. It would also provide an official body that Ofcom could consult about major prospective changes affecting this market - for example, those on non geographic numbering; on metering and billing; and on changes to industry rules on price changes - to name a few that have been significant issues in the last year. This could result in smoother implementation of necessary changes that have already been informally discussed with "industry" (in an inclusive manner due to the cascading of information via the industry body to all relevant CPs) prior to the consultation stage and could even provide a channel for industry to highlight developing issues and proposed remedies to Ofcom. It could also provide a market body to arrange centrally for certain services needed by the market as a whole such as relay facilities for disabled customers; emergency call handling; supplier of last resort arrangements and so on.

In developing this type of governance, it would be natural to focus on the roles of different types of CP involved in delivering service to domestic and small business customers. In our experience, there is a fundamental difference between CPs providing access networks and other types of 'infrastructure' and those providing services over networks. We consider that it would be helpful for there to be a review of the General Conditions to more clearly assign different roles to different types of CP as required, as well as considering the overall clarity and relevance of the set in today's world.

In considering the different roles of CPs, it is clear that Openreach occupies a unique place in providing services to other CPs in the market, as has been recognised in the BT Undertakings and various market reviews. Comparing the communications market to other utility sectors, Openreach occupies the role of a natural monopoly network provider, although not to the exclusion of competitive network provision in some areas. Rather than considering this role in a fragmented manner by means only of the market review framework of 'narrowband' and 'broadband' access and services, we believe that there would be merit in Ofcom considering the role of Openreach and the form of regulation appropriate for it in a holistic manner. With communications increasingly being seen in government and consumer circles as a utility service, we believe there is a case for adoption of well-established principles of monopoly network regulation from other sectors. We see these as including:

- core revenue controls based on analysis of overall cash flow requirements for a ring-fenced monopoly entity over set periods such as a 5 year horizon;
- wholesale customer engagement on investment plans and priorities, particularly focussed at the time that allowed overall revenue is set but allowing for ongoing involvement due to the fast pace of technological change in this market;
- assured and audited reporting to the regulator on compliance with revenue controls;
- rigorous non-discrimination and business separation requirements;
- transparency on structure of charges methodologies and provision for stakeholder engagement on an ongoing basis into the development of these over time; and
- performance standards and guaranteed compensation payments for the range of services that are important to wholesale and retail customers.

We believe there would also be benefits to Openreach under this approach in terms of a greater certainty of requirements, priorities and revenue recovery. There may therefore be scope for agreement on a way forward along these lines: perhaps as part of a review of the terms of the Undertakings and what these should now be seeking to achieve on behalf of competition and consumer benefit, almost a decade after their initial establishment.

Question 1: Are there areas of Ofcom?s overall strategic approaches and purposes, outlined in last years? annual plan that may need to change?:

see comments above

Question 2: What are the issues and areas that should form Ofcom?s priorities or major work areas in 2014/15?:

see comments above

Question 3: Are there any specific areas for deregulation or simplification in the coming year? :

We would suggest that a recasting of the more long-standing, prescriptive 'code of practice' requirements in GC14 (annexes 1 and 2) towards more high-level requirements, supported by guidelines, would be helpful.