

Broadband Stakeholder Group Response to Ofcom's Call for Input on Designing the Broadband Universal Service Obligation



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The Broadband Stakeholder Group (BSG) is the UK government's leading advisory group on broadband. It provides a neutral forum for organisations across the converging broadband value-chain to discuss and resolve key policy, regulatory and commercial issues, with the ultimate aim of helping to create a strong and competitive UK knowledge economy.

Executive Summary

The BSG welcomes this opportunity to respond to Ofcom's call for input on designing a Broadband Universal Service Obligation (USO). The BSG strongly supports a goal of universally available good quality broadband access, at a price that allows everyone to connect to the internet and access the range of services enabled by digital connectivity. This is why we were one of the foremost proponents of the Universal Service Commitment (USC) (of 2Mbit/s by 2017) which we were pleased to see become reality at the end of last year.

We welcome the Government's efforts in ensuring that all UK premises have access to broadband, however, the introduction of a legal obligation raises challenges and concerns among communication providers, particularly as deployment of superfast broadband (BDUK and commercial schemes) is underway. There are a number of considerations to assess prior to its introduction, including the scope of the USO, its objectives and specifications, and importantly, its potential impact on the market.

Achieving universal coverage

Ofcom have been tasked¹ with providing advice on any other matters that it considers should inform Government decisions on the development of policy around the USO. The BSG believes that it is essential that this includes consideration of the overarching objective of giving "everyone the

¹ Department for Culture, Media and Sport, [Letter to Ofcom; designing the USO](#)

opportunity to be able to have access to the enormous benefits that can be gained from getting online”² and assess the impact that a USO could have on achieving this goal.

The BSG strongly supports a goal of universally available good quality broadband access, at a price that allows everyone to connect to the internet and access the range of services enabled by digital connectivity. Further, we believe that where there is a clear public policy goal that is not delivered by the market, then it is correct for the Government to intervene in a manner which minimises market distortion.

We do not, however, believe that the USO is the correct intervention at the scale and time currently being considered.

The Department for Culture, Media and Sport’s consultation³ stated that nearly 1 million households could expect to be addressed by a USO set at 10Mbit/s. A USO on such a scale may produce significant market distortions and could, in fact, detract from the overarching goal of universally available good quality broadband access. This is both because of the potential to undermine commercial investment being made in these areas and, if the cost of such a USO was borne by industry only, that cost would likely be passed onto existing users. Any increase in retail prices is likely to have an impact on those users who are price-sensitive, leading to fewer people being online as a consequence. Indeed 21% of those who do not have a home broadband connection already cite cost as one of the reasons⁴ for not doing so.

As we stated in our response to DCMS, failure of the market to deliver in the remaining areas (see Q4 for more information) is an economic issue, therefore Government should seek to address the economic issues preventing deployment in these areas. There would be considerable challenges in designing, implementing and operating such a framework without causing significant market distortions. There are therefore a range of measures that should be considered before introducing a USO, from ensuring that gain share funds are used as efficiently as possible, continued commercial deployment, upgrades in existing wireless technology (including fixed wireless and satellite), demand aggregation schemes, and vouchers such as those used in the USC. We recognise the substantial level of public investment already made alongside commercial investments for superfast broadband

² Department for Culture, Media and Sport, [A New Universal Broadband Obligation Consultation](#)

³ Department for Culture, Media and Sport, [A New Universal Broadband Obligation Consultation](#)

⁴ Ofcom, [Communications Market Report 2015](#)

rollout. Now that BDUK has confirmed £408m of public funding remains available for further rollout, there is merit in getting further clarity around its deployment before finalising the USO specifications. This is due to the difficulty in design, implementing and operating such a framework without causing significant market distortions, which we explore below.

The broadband USO as a safety net to ensure digital inclusion – EU criteria

Once these avenues have been pursued, the BSG believes that any broadband USO could be implemented as a safety net to prevent social exclusion, facilitate access to online public services and encourage social and economic development. We believe that a broadband USO should ultimately be focussed on those premises which, because of the cost and complexity of reaching them, are unlikely to receive the designated minimum speed through either commercial or BDUK rollouts.

The EU Universal Service Directive⁵ sets the framework for introducing a universal service, and with regard to a right to requesting access to an Internet access, the scope of intervention is narrowly defined. The Directive states that “Member States shall ensure that all reasonable requests for connection at a fixed location to the public telephone network [...] are met”. And that “the connection provided shall be capable of allowing end-users to make and receive [...] data communications, at data rates that are sufficient to permit functional Internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility”. The European Commission, in its Communication on the past review of the scope of the Universal Service Directive (COM/2005/0203), indicated that the universal service should allow access to the services “considered essential for participation in society⁶”. Whether or not the UK remains a member of the EU by the time any secondary legislation is introduced, we believe that this interpretation of the universal service as a safety net should apply to the proposed broadband USO in the UK.

Facilitating essential participation

In designing a USO, careful thought must be given to this idea when expressing it from a technological perspective. Simplistic and direct links to the supply of bandwidth – e.g. the average download sync speed – should be treated carefully as it may be divorced from the concept of ‘essential participation’. As the supply of bandwidth increases across the country – a very welcome development – either

⁵ [Article 4 of Directive 2002/22/EC on universal service](#)

⁶ [Communication from the Commission on the review of the scope of Universal Service, COM\(2005\)203](#)

through new network builds or upgrades – this could see an acceptable USO threshold increase quickly and substantially, which naturally would have an impact on the overall cost.

In the Connected Nations report 2015⁷, Ofcom linked download speed with average monthly data usage per household and found that below 10 Mbit/s there appears to be constrained demand. Whilst there may be other reasons for this than capacity constraints, what is clear is that data is an important element of usage.

One potential way of defining ‘essential participation’ in technical terms may be a matrix, potentially drawing on the methodology used for the BSG’s work on domestic demand modelling⁸, that identified the types of application that meet this. The exact design of this would necessarily require consultation and be a political decision to an extent – for instance whether the ability to use technologies which are currently the preserve of the early-adopters only, such as watching concurrent streams of 4K content or using Virtual Reality could now be considered essential. There are also numerous grey areas, not just on the inclusion aspects that such content may deliver but whether some applications, such as telehealth services should be prioritised over others.

Nevertheless, such a matrix would play a critical role in reviews of the USO and could be constructed to serve as a benchmark to future demands, including the impact that compression technology will have on some data categories.

USO – 10Mbit/s

Whilst the make-up of such a model would need to be agreed, we acknowledge the existing logic of a USO at around 10 Mbit/s average speed. Indeed our own demand model for households, which included activities such as gaming and importantly game downloads, forecasted that all households would need in the region of 12 Mbit/s by 2018.

We believe that the 10Mbit/s download speed should be defined as an average speed to ensure digital inclusion, rather than a guaranteed speed, which would require a connection that delivers high sync speed beyond 10Mbit/s.

⁷ [Connected Nations 2015, Ofcom](#)

⁸ Broadband Stakeholder Group, [Domestic Demand for Bandwidth](#)

We also recognise that download speeds are not the sole factor in achieving good quality of experience for the end user. Upload speeds in particular are important for applications that may have wider societal and public benefits such as for two-way video calling, viewing video streams including public service broadcasting, telecare/medicine applications and for small businesses, as demonstrated in our demand bandwidth study⁹. Contention ratios and the resilience and reliability of connections are also relevant parameters which affect the extent to which citizens will receive a service which can truly serve as a safety net for digital inclusion.

Affordability

It is important that the USO is an efficient mechanism to ensure that is as cost effective as possible in deploying digital infrastructure. Depending on the potential footprint of a USO and the demand within that footprint, there are questions around whether a supply or demand led deployment would be the most efficient.

Regardless of the general mechanism, there is then the question of how the cost of it would be apportioned between a Universal Service Fund, Government or the end-user. For the voice USO there is a clear cost threshold (£3400) which the Universal Service Provider (USP) bears before the end-user is required to contribute. It may be harder to undertake such a simplistic model during a supply led deployment of infrastructure but clearly there is logic in setting some sort of reasonable request threshold to ensure that a fund delivers value for money.

There is then the separate issue of ensuring that people are able to access the level of connectivity that the USO provides. Several operators already have a social tariff of some kind, normally based on receipt of certain benefits. As part of any procurement or process for being appointed a USP, it seems reasonable that there be a requirement to offer such a tariff. There would need to be careful study to understand the cost implications on both the USP and the value for money test of the scheme overall.

Potential demand for the USO

If the USO is defined as a safety-net, it is essential that it is only implemented in areas where market failure occurs. The eligibility criteria need to be defined so that consumers requesting a broadband

⁹ For evidence that 50% of small businesses already require more than 1Mbit/s upload see BSG, [Small Businesses' Connectivity Requirements Study](#)

connection, only do so where there is evidence that BDUK deployments are not planned and commercial deployments are not viable in their geographical areas (post end of 2017).

Assessing potential demand involves some forecasting of the likely reach of both commercial builds and the continued development of the BDUK schemes to determine where market failure is likely to occur. The satellite based USC scheme could be used as an evidence base for those unable to receive 2Mbit/s.

Designation of the USP and funding of the USO

In designating a USP, it is important to first establish the location of USO households and the technology most appropriate to deploy. A competitive process is the preferred approach but more work is needed to assess whether it should be run on a regional or national basis to ensure efficiency.

If, as we believe, the USO is designed to be a safety net then should be considered a public policy objective worthy of Government funding. Industry-funded USO likely to be more complicated than public funding and lead to greater and significant market distortions.

Minimising market distortion

The decision to implement the USO is likely to take place at the time when deployment of superfast broadband would have progressed to a near universal level, when compared with other utilities definition of universal. Therefore, we believe the broadband USO, if defined as a safety net, should only be deployed in geographical areas where there is market failure so as to minimise market distortions.

Even with this basic guarantee there remains a possibility that the benefits of a USO, on the scale being discussed, would be outweighed by the negatives. This could be in the form of undermining potential commercial investment (as the business case of moving customers from a level of poor ADSL connectivity to a new infrastructure is different from doing so when those customers now receive a good level of ADSL connectivity), raising the cost of broadband across the piece to the detriment of customers who are price-sensitive and the technology implications of some potential solutions.

Review of the USO

It is important that the USO is defined as a tool to provide broadband access to those located in areas which are not covered by planned deployment of superfast broadband network (BDUK and commercial schemes).

On this basis, we don't believe it appropriate that the USO and its specifications be defined on the basis on consumers' demand for bandwidth, but the review shall be carried on the basis of the evolution in applications contributing to digital inclusion, as well as evolution in the availability of technologies available to majority of UK subscribers. Recital 25 of the USD – which addressing the considerations which should be the subject of an EU wide review of the USO - also gives a good indication of factors relevant to the trigger for a national review of the level of a USO, when it identifies *“evolving social, commercial and technological conditions and the fact that any change of scope should be subject to the twin test of services that become available to a substantial majority of the population, with a consequent risk of social exclusion for those who cannot afford them.”*