

Communications Consumer Panel and ACOD response to Ofcom's call for inputs into designing the Universal Service Obligation for Broadband

The Communications Consumer Panel (the Panel) and the Advisory Committee on Older and Disabled People (ACOD) welcome the opportunity to respond to Ofcom's call for inputs into designing the Universal Service Obligation for Broadband.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and microbusinesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

Response

The Panel is keen to see a Universal Service Obligation (USO) put in place promptly, as a legal 'safety net', to allow all UK consumers, citizens and micro businesses to request a broadband connection that provides the minimum acceptable speed for today's requirements. We welcome the opportunity to contribute to Ofcom's exploration of the options available for Government.

We recognise the effort and investment that has been put into improving broadband coverage and speeds by providers, Government and Ofcom to date. However, while this is to be applauded, there are still big gaps in availability of a usable broadband service. Large numbers of people are being left behind and detriment is disproportionately experienced by vulnerable consumers and micro businesses.

Ofcom has predicted that at least 800,000 premises will be within scope of the USO. We would challenge communications providers to help to reduce this number, by redoubling efforts to provide affordable, reliable broadband of at least 10 Mbits/s wherever possible. The ideal situation would be one where the USO catered for only the very hardest to reach, in the margins of the communications market.

Specification and scope

We believe the USO is needed as a legal ‘safety net’; it should be a relatively low-cost, affordable, solution, delivering to those in the most need.

While the introduction of a USO recognises the vital nature of broadband for consumers today, it is important that the minimum speed provided grows in line with future consumer needs as they develop. It must account for developments in technology (such as the Internet of Things) and changes in the way the internet is used by businesses and government to serve consumers, for example the growing use of video based information, including two way video based customer care . It is also important to factor in the design and implementation period of the USO and the time it will take to get from a decision being made to a good quality broadband service being installed in a consumer’s premises.

The USO should be technology neutral and give consumers and micro businesses the right to a good quality broadband service. We believe that 10Mbps/s should be a minimum guarantee, across the UK, increasing in line with, or ideally anticipating, consumers’ needs.

The essential elements of a universal service should include factors of access, affordability and availability alongside quality of service, transparent information, redress and consumer representation.

The broadband USO must include provision for micro businesses. We await the Government’s forthcoming consultation with interest - in our view the Government cannot move to “digital by default” for provision of services for both businesses and citizens without committing to universal access to both a fast and reliable broadband service.

We also look forward to seeing further investment in order for the Government to demonstrate that “Digital Inclusion is a priority for this Government”¹.

Demand

To accurately predict demand across the UK is almost impossible, where some individuals have had their usage constrained by current speed provision and others have yet to go online to any great extent - or even at all. Consumers in these situations may not know what ‘good’ looks like or what to ask for.

We believe that when Ofcom considers a Universal Service Provider or Providers the Provider(s) should be required to demonstrate how they would also encourage and support take-up within the group of consumers identified as reliant on a USO. Roll-out to a larger number of premises at a time may also prove more cost effective and predictable for providers to manage.

¹ Ed Vaizey, 23rd March 2016, Page 2 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510148/Broadband_Universal_Service_Obligation.pdf

We note that Ofcom's Connected Nations Report², December 2015, still showed that at least 8% of rural UK premises are receiving speeds of less than 2Mbps/s (up to 2% of the whole of the UK). We welcome initiatives such as the supply of satellite connectivity to those who would benefit from it - but we are unsure about the take-up and practical impact so far for consumers of the scheme that the Government announced in December 2015. We therefore believe it is crucial that the USO implementation offers these groups of consumers a good quality, useable service with speeds that they can rely on, and that the service - and how to obtain it - is well publicised.

There is often a lack of effective competition in rural areas, illustrating a market failure that leaves consumers and small businesses disadvantaged. Unless the fundamental economics of rural coverage provision change, the commercial market alone will never achieve universality - so it is imperative that public policy continues to address gaps in the market; is alert to where these are likely to occur in future provision; and takes steps to address them.

However, inner city areas and premises in any location where they are not close enough to a cabinet may also suffer and these consumers must not be forgotten. Ofcom's Connected Nations Report highlights that of the 2.4 million premises unable to receive 10 Mbps/s, 1.5 million are in rural locations, so more work needs to be done to ascertain where the other premises are.

It is vital that other factors in addition to speed are taken into account and that the USO guarantees consumers and businesses a robust level of reliability, to ensure a good quality experience and not just intermittent, averaged speeds.

Government will also need to consider whether the provision allows for multiple users in the same household (or small business premises). The Broadband Stakeholder Group published research³ in 2013 which aimed to predict the demands of domestic consumers and showed a range of variants according to factors such as the number of users per household and the types of usage.

We would recommend that Ofcom continues to promote its advice and tools aimed at consumers, to help them to measure the broadband speeds that they are getting on a regular basis, to build their understanding and that Ofcom continues to conduct and publish regular research into broadband speeds across the UK.

Spectrum

Radio spectrum is an extremely valuable, and limited, national asset. It is important that this asset is used as effectively as possible, and its deployment to solve national problems is not constrained by features of historical or future allocation processes. We have encouraged Ofcom to work with mobile network operators to ensure that operators are fully using their allocated spectrum to best and most efficient effect, rather than allow

²http://stakeholders.ofcom.org.uk/binaries/research/infrastructure/2015/downloads/connected_nations2015.pdf

³ <http://www.broadbanduk.org/wp-content/uploads/2013/11/BSG-Domestic-demand-for-bandwidth.pdf>

some allocated frequencies, for example in rural areas, to sit unused, but remain unavailable to others who may have potentially innovative ideas for their exploitation, for example as the bearer for local or community fixed wireless broadband services.

Given the stated intentions behind the proposed USO, we would therefore encourage Ofcom to think creatively about the way spectrum is licensed, to ensure that spectrum is utilised to best effect as a way of also delivering those intentions. New uses of technology, such as the Internet of Things, which will have many benefits to consumers and micro businesses, will make a USO even more important.

The range and penetration characteristics of the 800 MHz (4G) band are even better than the widely deployed 900 MHz (2G) band, yet we do not seem to see the rapid deployment of this much promoted and highly valuable resource, particularly to support rural data coverage extension which still seems to lag a long way behind voice coverage. We would like to see a much stronger sense of ‘*use it or lose it*’ with spectrum such as this, that could play a really important role in cost effective provision of the USO if made available to innovative users. This is an area where much more active spectrum sharing in licensed bands could help.

Cost and reasonableness

We recognise that the cost and funding of a USO is a potentially complex area and we would wish to avoid the unintended consequence of higher prices across the board as a result of the USO. There is - we believe - an argument that providers will benefit long term from the USO by virtue of more consumers buying and using their services; there is also a wider economic and societal benefit.

Further detail would be required in order for us to engage fully in discussions over issues of both cost and ‘reasonableness’.

Reviews

We believe that the Government should retain accountability, while empowering Ofcom to publicly review the USO. It will be necessary to balance the need for regularity of reviews, to ensure that the USO remains fit for purpose; and the cost to providers, where that cost is ultimately passed on to consumers and businesses.

The measures to be reviewed should be affordability, speed, reliability and quality of service. Where there are gaps in provision, Government will need to have built in enough flexibility in Ofcom’s powers to address these.

We would suggest reviewing the USO every three years, but with discretion to do so more frequently if evidence of detriment to consumers, market failures or detrimental market distortions.

Social tariffs

We believe the USO must provide for an affordable broadband and line rental service, with ‘affordable’ covering both set-up and ongoing costs. It is vital that set-up and ongoing costs for consumers of any potential technological solution are known from the start, so that the needs of those who might encounter difficulty paying for the service can be accounted for. For this commitment to deliver on the intended outcome it is essential that there is no gap between available technical solutions and the consumer experience.

We urge consideration of voucher schemes to allow consumers to pay upfront set-up costs and social tariffs to manage ongoing costs for low-income consumers (following basic telephony, and other utilities). Measures such as these would make the USO more meaningful and democratic, and would support the greater digital engagement of those consumers who most need some help. We would also recommend that households are allowed to amalgamate their allowance, which will allow for more robust funds to be available for harder to reach properties. The USO fund must also be well promoted - particularly to those who are not yet online or are not regular internet users.

We recognise that a basic broadband USO is a more complicated prospect than a basic fixed line USO, due to the range of different measures of quality and evolving technology and technological methods of delivery. It will be necessary for Government to remain focused on the fundamental reason for the USO, which is to make sure that no-one is left behind. As such, we would want to see Government make clear statements about the outcomes required from the USO, so that consumers and providers know what their expectations and obligations look like and the purpose behind them. This would move the USO on from any ‘tick box’ delivery exercise to one that enabled future innovation in achieving these outcomes.

We believe that the Government’s aim should be that individuals are not just included, but are able and are encouraged to engage and participate fully; and that UK businesses are able to compete with overseas companies where those countries guarantee specified broadband speeds. While this overall aim goes beyond the realms of a USO, the USO should be used as a tool to help deliver the larger aim.

Micro businesses

The Panel’s remit includes micro businesses (those businesses employing nine or fewer people). There are an estimated 5.2 million private sector businesses in the UK and 95% of them can be classified as a micro business. They account for 33% of UK private sector employment and 18% of turnover. In 2014/15, we commissioned and analysed new research into the communications experiences of micro businesses. We found that communications services play a vital role for these businesses but their use of these services is hampered - with many of their concerns and frustrations echoing those of individual consumers and citizens. A significant number of respondents in our research were dependent on the reliability and performance of residential grade communications services, particularly with respect to the Internet.

The Panel’s report, *‘Realising the potential: micro businesses’ experiences of communications services’*, highlights that, for micro businesses to gain greater benefit from their communications services, action needs to be taken in three key areas:

- 1) Improved speeds and coverage;
- 2) Tailored services; and
- 3) Information and advice.

The USO should help support all three areas but in terms of improved speeds and coverage, the Panel encouraged:

- Government and Ofcom to investigate the effectiveness of methods of increasing mobile coverage as a matter of urgency - including the possibility of national roaming. Improved coverage must also address road and rail coverage.
- Government to explore, as part of the Digital Communications Infrastructure Strategy, a revised minimum requirement for standard broadband connection which would enable micro businesses to support better their online requirements.
- Government to raise awareness of, and stimulate demand for, its small business initiatives, including the rollout of superfast broadband e.g. ensuring micro businesses are aware of the possibility of aggregating vouchers and are enabled to use growth vouchers to good effect.

We would also urge that consideration be given to upload speeds in the context of micro businesses. For many - especially in the burgeoning creative industry sector - this is a crucial element of business sustainability and success.

Summary

- The USO is needed as a legal 'safety net' guaranteeing at least 10Mbits/s to those in the most need;
- The essential elements of a universal service should include factors of access and availability alongside quality of service, transparent information, redress and consumer representation;
- It is vital that the USO is future-proofed and that review periods are flexible enough to allow speeds to be reviewed based on changes in the market;
- All relevant, cost-effective and reliable technological solutions should be considered.
- Provision should be made for social tariffs; the USO must be affordable and social inclusion should be high on the agenda;
- Micro businesses should be included in the provision of a USO;
- Spectrum allocation should be reconsidered to allow for rural data coverage, including a "use it or lose it" provision in licensing.