

**In response to a letter addressed to Ofcom by the Secretary of State for Culture, Media and Sport. Reference CMS 281201/DC and dated 22 March 2016.**

**Subject: Designing the broadband universal service obligation.**

In his letter to Ofcom, the Secretary of State for Culture, Media and Sport (SSCMS), makes reference to the Government's intent to introduce a Universal Service Obligation (USO) in respect of broadband communications.

The SSCMS acknowledges the requirements of the European framework but, goes on to suggest, that Ofcom could develop and provide a detailed report on and recommendations concerning the design of the USO. It is the stated intent of the SSCMS to drive a number of activities leading to the preparation of and the passage of USO related legislation through parliament.

It is suggested that the SSCMS might wish to consider being equally mindful of the following:-

That, should the UK decide to remain in the EU and given the supremacy of EU law, it would follow that the devolution of British sovereignty would be accelerated and that any such legislation would, ultimately, be mandated by the EU and not by Her Majesty's Government. Consequently, it is suggested that, the SSCMS should consider waiting for a clear decision with regard to the BREXIT before burdening the taxpayer with, the not inconsiderable costs, involved in pursuing this matter.

With regard to the need for and the efficacy of a USO and related legislation, the SSCMS might also wish to consider the following:-

Since embarking on the process of liberalising its telecommunications market, the UK has enabled an environment in which a plethora of communications providers and their products are open to the general public. A market which despite the best efforts of legislation has succeeded in growing and adapting in accordance with commercial best practises and free-market forces. A market which owes its existence to its resistance against blanket standardisation and due to the dynamics generated between the various telecommunications companies, be they, the heavyweight providers, the niche players, or the disruptive game changers.

A USO, as put forward by the SSCMS, could effectively force the telecommunications providers onto a level playing field with little or no opportunity for tangible commercial differentiation. Ultimately, that could work against the best interests of the general public. A USO might, however, be a useful instrument for procuring and securing a suitable nationwide broadband service for use in government offices and services.

The SSCMS poses a number of questions and makes numerous assumptions concerning the subject matter and the scope of work leading to the preparation of USO related recommendations by Ofcom. Without entering into a detailed point by point response, at this time, it is strongly suggested that the telecommunications infrastructure required and the type of delivery readiness organisation required to meet the goals of a USO, would be wholly incompatible with the conditions supporting a liberalised telecommunications marketplace, that a USO would eliminate any incentives for commercial organisations to participate in the provision thereof and that such a service would, with a high degree of probability, fail due to lack of sustainable funding.

With regard to the term Universal. The Universe is, unquestionably, a very large place and it is suggested that Her Majesty's Government might be hard pressed to implement any statute, requiring enforcement beyond the territorial limits of the United Kingdom. Perhaps a less ambitious title might prove more appropriate.

Yours respectfully.