

Question 1: Do stakeholders agree that promoting effective and sustainable competition remains an appropriate strategy to deliver efficient investment and widespread availability of services for the majority of consumers, whilst noting the need for complementary public policy action for harder to reach areas across the UK?:

Yes. A competitive telecoms market has been proven across the world (including the UK) to bring improved services, availability and price to consumers. However, harder to reach areas in the UK have been hampered by existing public policy initiatives. This is true both for superfast broadband markets and for mobile connectivity.

Question 2: Would alternative models deliver better outcomes for consumers in terms of investment, availability and price?:

Yes, in three main respects.

1. OFCOM makes sensible comments in respect of the need for at least four mobile operators: we need a similar number of true network/facilities based fixed line operators to ensure market competition in broadband. The current methodology of providing competition via LLU fails to meet the needs of rural communities and EO lines.
2. The failure of the current models to deliver both voice and data coverage via mobiles means that rural communities are underserved. Community operators should be given frequency allocations where the main 4 operators fail to provide adequate service, and roaming agreements for them should be mandatory
3. The current lack of clarity about premises in or outside current interventions leads to a situation where effort and investment from others is uncertain. OFCOM could and should mandate regulatory action from incumbent operators to publish this information

Question 3: We are interested in stakeholders' views on the likely future challenges for fixed and mobile service availability. Can a 'good' level of availability for particular services be defined? What options are there for policy makers to do more to extend availability to areas that may otherwise not be commercially viable or take longer to cover?:

The challenges for fixed and mobile service availability in hard to reach areas is largely a regulatory legal challenge, not a technological one.

A good level of service availability can and should be defined, and expressed in terms of quality of experience rather than simplistic (and meaningless) download speeds. We note the contract OFCOM has with Actual Experience Ltd in Bath, and regret that more information is not available to the public from this. Also OFCOM should provide its own, independent tests for service levels rather than relying on testing by the incumbents or services such as Ookla. The current situation is probably worse than the equivalent emissions testing in the auto industry.

Further, the fixed and mobile operators should be required to use these 'official' figures in their marketing of services, not the current position where achievement of only 10% of the marketing claim is acceptable

Question 4: Do different types of convergence and their effect on overall market structures suggest the need for changes in overarching regulatory

strategy or specific policies? Are there new competition or wider policy challenges that will emerge as a result? What evidence is available today on such challenges?:

As your strategy quite rightly says, the telecoms marketplace in the UK bears little resemblance to the situation in 2005 when the last review was undertaken. While further convergence of telecom services will undoubtedly occur in the period up to 2025, we believe it would require OFCOM to have crystal balls if it were to attempt to foresee the likely effects.

If telecoms is to be viewed truly as the fourth utility, closer co-operation between OFCOM and the regulators for gas, electricity and water is essential.

Question 5: Do you think that current regulatory and competition tools are suitable to address competition concerns in concentrated markets with no single firm dominance? If not, what changes do you think should be considered in this regard and why?:

We believe current tools are not suitable when looking at the 'final 5%' -- equivalent to some 50% of the country's landmass.

The need generally is to ensure that more network based operators (fixed and mobile) emerge, and in rural areas this should be focussed on local community initiatives.

Question 6: What do you think is the scope for sustainable end-to-end competition in the provision of fixed communications services? Do you think that the potential for competition to vary by geography will change? What might this imply in terms of available regulatory approaches to deliver effective and sustainable competition in future?:

In fixed services, the need is to balance the availability of local connection points ('digital village hubs') served by one or more backbone infrastructure providers with local community networks providing last mile access. Regulatory approaches that OFCOM should consider are:

1. mandated provision of a digital hub from at least one supplier where there are no published plans to provide superfast broadband by the end of 2016. These hubs should be provided with a fixed price for both bearer provision and ECCs
2. the PIA rules and processes should be reviewed and amended to ensure alternative network operators can make use of existing ducts and poles
- 3 We need to set in train mechanisms where the only 'natural' monopoly relates to the provision of duct and pole space (and which would be shared with electricity, gas and water supply). Incumbent telcos and altnets could then start to compete effectively in the provision of fixed line voice, broadband and video services

Question 7: Do you think that some form of access regulation is likely to continue to be needed in the future? If so, do you think we should continue to assess the appropriate form on a case by case basis or is it possible to set out a clear strategic preference for a particular approach (for example, a focus on passive remedies)?:

We believe that continued access regulation will likely be required, and are content with the approach to be agreed on a case by case basis

Question 8: Do you agree that full end-to-end infrastructure competition in mobile, where viable, is the best means to secure good consumer outcomes? Would alternatives to our current strategy improve these outcomes, and if so, how?:

We are of the opinion that current infrastructure completion in mobile (with four operators) is appropriate for the majority of consumers. However, those (substantial) areas of the country which are full or partial not-spots have failed to become part of the enhanced consumer base. Hence we suggest that community groups in these areas be given frequency allocations to build local micro-networks. The major four operators should be required to provide (via roaming agreements) services to these localities

Question 9: In future, might new mobile competition issues arise that could affect consumer outcomes? If so, what are these concerns, and what might give rise to them?:

The investment required for 5G will mean that the cycle of 'city first' implementations will start all over again. So much of our country fails today to receive 4G or 3G signals -- and even GPRS or simple voice.

Question 10: Does the bundling of a range of digital communications services, including some which may demonstrate enduring competition problems individually, present new competition challenges? If so, how might these issues be resolved through regulation, and does Ofcom have the necessary tools available?:

Competition can only survive and prosper where a level playing field exists for all entrants. The current dominance of the incumbent over base network infrastructure (particularly ducts and poles) needs to be addressed. This is particularly true in respect of business needs, where current PIA rules do not cover.

Question 11: What might be the most appropriate regulatory approaches to the pricing of wholesale access to new and, risky investments in enduring bottlenecks in future?:

See answer to 6 above. The regulatory environment suggested is for the provision of digital hubs and duct and pole access at nationwide standard pricing where no current competitive networks exist.

Question 12: How might such pricing approaches need to evolve over the longer term? For example, when and how should regulated pricing move from pricing freedom towards more traditional charge controls without undermining incentives for further future investment?:

When competitive services from a minimum four network based operators can be shown to exist

Question 13: Are there any actual or potential sources of discrimination that may undermine effective competition under the current model of functional separation? What is the evidence for such concerns?:

Wansdyke (like B4RN and other altnets) has many cases where proactive competition and investment is being hampered by actions of both incumbents and local authorities. Please advise should you wish detailed evidence of such anti-competitive practices

Question 14: Are there wider concerns relating to good consumer outcomes that may suggest the need for a new regulatory approach to Openreach?:

Our view is that simply splitting off Openreach but preserving its dominance over the last mile infrastructure is probably a red-herring. The function of Openreach should be the provision of common duct and pole access nationwide, for all services and not just telecoms. As such its ownership by BT or other becomes of lesser importance -- the logic is that it needs adequate investment from either BT or the market to achieve its goals. As such it should probably fall under the remit of Lord Adonis and his national infrastructure remit rather than being a concern of OFCOM

Question 15: Are there specific areas of the current Undertakings and functional separation that require amending in light of market developments since 2005?:

Yes -- see 14 above. The likely preferred outcome should be a steady transition and progression to full market competition, not a simplistic approach to tightening current Undertakings

Question 16: Could structural separation address any concerns identified more effectively than functional separation? What are the advantages and challenges associated with such an approach?:

The suggested access separation outlined under Q14 will likely make this question irrelevant. Clearly Openreach today is not the provider of access services which consumers need or demand, and basic service levels are recognised as being inadequate. In the suggested approach, structural vs functional separation essentially becomes irrelevant

Question 17: What do stakeholders think are the greatest risks to continuing effective consumer engagement and empowerment?:

The current risks are that we continue to measure performance of fixed or mobile services in ways which are simplistic (i.e. download speeds, homes passed, %age mobile coverage outdoors etc) do not reflect the quality of experience actually received by the consumer. OFCOM has an important role to play in establishing and monitoring benchmarks (cf the emissions issues now facing Volkswagen)

Question 18: What indicators should Ofcom monitor in order to get an early warning of demand-side issues?:

Quarterly reports of actual customer experience against quality of experience benchmarks

Question 19: What options might be considered to address concerns about consumer empowerment at each stage of the decision-making process (access, assess, act)? What more might be required in terms of information provision, switching and measures to help consumers assess the information available to them? What role may Ofcom have to play compared to other stakeholders (including industry)?:

Consumer empowerment will follow almost automatically if true experience figures are measured and published. We believe this to be an area where case by case OFCOM oversight is the preferred approach

Question 20: Are there examples in competitive or uncompetitive sections of the market where providers are not currently delivering adequate quality of services to consumers? What might be causing such outcomes?:

The experience of Wansdyke and the community networks it works with are all in the areas where commercial implementations or current government/BDUK procurements have largely failed. We believe the outcomes are predominantly caused by the lack of any form of transparency about which premises are covered by other real or potential investments

Question 21: What further options, if any, should Ofcom consider to secure better quality of service in the digital communications sectors?:

OFCOMs rule should be twofold:

1. Act as the consumer champion in creating and measuring benchmark performance by both fixed and mobile operators
2. Ensure that there is full and fair completion from at least four network based operators in each sector

Question 22: Might there be future opportunities to narrow the focus of ex ante economic regulation whilst still protecting consumers against poorer outcomes?:

Wansdyke believes that there should be more focus on providing effective completion and oversight in the SME business sector rather than the current perceived focus on domestic residential services

Question 23: Where might future network evolutions, including network retirement, offer opportunities for deregulation whilst still supporting good consumer outcomes?:

More action by OFCOM to support the government's goals for shared use of government owned networks such as JANET, National Rail etc

Question 24: What are the potential competition and consumer protection implications of the rise of OTT services? Might the adoption of such services enable future deregulation without raising the risk of consumer harm?:

We believe this to be an area where market pressures should be the driver

Question 25: Are there any areas where you think that regulation could be better targeted or removed in future? What would be the benefit of deregulation as well as the main risks to consumers and how these could be mitigated? Please provide evidence to support your proposals.:

Already outlined in questions 1 through 24 above. The needed targeting should be largely focused on hard to reach areas, and in support of community based initiatives