

We thank you in advance for taking the time to review Westminster City Council's response to Ofcom's Strategic Review of Digital Communications.

Westminster is particularly concerned about patchy connection across the City and feels that more needs to be done to ensure Westminster and London delivers world-class connectivity to its residents, visitors and businesses.

We welcome this review being led Ofsted and its recognition of the importance of effective competitive markets to deliver world class connectivity.

We would welcome closer strategic collaboration with Ofcom to resolve some of issues raised in our response and if helpful, we would be happy to meet in person and discuss our response further or provide any further information to aid the review.

We look forward to hearing the outcome of this review and next steps towards better connectivity.

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, we agree. We also believe that to further promote effective and sustainable competition there needs to be greater public transparency of the market including the availability of broadband, performance and reliability. In addition, there needs to be greater recognition of public and private expectation of good connectivity levied at local public bodies with little scope to directly influence improved outcomes.

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

We ask that Ofcom and Government review the impact of "state aid" conditions on the broadband market. "State aid" conditions limit the potential for alternative ventures that could offer greater access, and therefore inclusivity of superfast broadband. EU rules on "state aid" are generally interpreted as forbidding the use of public funds to invest in fibre optic provision in urban areas. However cities like Stockholm have successfully developed interventions leading to extensive fibre coverage leading to very high speed gigabit services being offered for €20-30 per month. This high quality infrastructure has had a positive impact on business growth, particularly in the creative and digital sectors.

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?:

Westminster supports the idea of a Universal Service Obligation (USO) for broadband. A stretching USO target will, we believe, encourage continuous innovation and development for broadband connectivity. As a USO only entitles a consumer to request that a supplier meets the USO, it would seem appropriate for it to be set, at least, in line with the 10Mbps called for by members of the Federation of Small Businesses.

We also believe there is further scope for policy makers to raise awareness consumer awareness and knowledge of broadband and promote collaborative approaches to incentivise investment in broadband infrastructure in their area.

National policy makers should also seek collaborate further with local infrastructure bodies to improve the availability of broadband and mobile connections can through better coordinated activity of infrastructure development and access to existing public assets.

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?:

No comment.

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?:

There is a lack of transparency on the availability of broadband and superfast broadband across an area. In particular, this includes public information on reliability and performance (e.g. strength) of a broadband provider. There also needs to be more publicly available information about the difference between FTTC (Fibre - to - Cabinet) and FTTP (Fibre - to - Premises) given the substantial difference in performance, consumers should be better informed of this difference when they choose a broadband provider. Providers also heavily rely on solely advertising download speeds with no transparency on the demand to download data on upload speeds. Upload speeds particularly suffer a peak times. Upload speeds are just as important as download to businesses that need upload wage/payroll information, information to their websites etc... Businesses have reported instances where it has taken over 12 hours to upload information onto their website.

Given the role and importance of internet / broadband provision/ digital connectivity, often now referred to as the 4th utility and in addition to greater performance transparency led by Ofcom, Government and should have an easy to understand website on broadband/connectivity , how it works and suggested key things to consider when choosing a provider.

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?:

No comment.

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)?:

No comment.

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?:

No comment.

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?:

No comment.

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?:

No comment.

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?:

No comment.

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?:

No comment.

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?:

No comment.

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

Geographically patchy service provision, expensive connection and rental costs, and excessive delays in dense, urban and historic areas is evidence of a lack of commitment and innovation on behalf of industry to provide world-class broadband connection to the UK.

Slow broadband speed in central London is well documented; it has a significant impact on Westminster's residents and businesses and the international reputation of London. According to OfCom data, Westminster experiences pockets of poor connectivity with only 47% of premises in available to access to 'superfast broadband'. Such exclusivity hinders the connections, commercial appetite and growth of a digitally innovative world city.

As a minimum, a review of the regulatory approach to Openreach is required to understand and address industry barriers to investing in world class connectivity.

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

No comment.

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?:

No comment.

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

Public information about broadband; this includes information about our national infrastructure, easy to understand explanation about how broadband works and performance, information about how broadband works in other countries and how the UK plans to invest in this infrastructure. Ofcom should run a campaign to raise public awareness of broadband.

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

Given the social and economic importance of broadband infrastructure - some consideration should be given to an annual survey on customer experience of broadband, mobile connection and Wi-Fi.

This should be with residents, businesses and visitors to get an understanding of performance and areas for development and investment. This may be something Ofcom could work with industry to deliver.

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)?:

More public information needs to be made available about broadband to better inform consumers and Ofcom should facilitate this transparency by reporting on broadband reliability and performance. We also think Ofcom should build further relations with councils who are well placed to support consumer empowerment given the close links with their communities and local businesses.

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?:

It is three times more expensive to deploy fibre broadband compared to the rest of the UK. At present, BT are seeking 'gap funding' to meet local demand, however it is Westminster's view that the need for 'gap funding' is evidence of market failure. This does not reflect an adequate quality of service.

Westminster's view is that:

- providers are unwilling or unable to invest in the development of superfast broadband infrastructure within an urban, dense and historic area
- legacy copper networks (previously established network which deliver slower internet speeds) are a distraction for whole scale modern investment in a superfast broadband network
- the delay of negotiations in relation to landlord and telecoms providers agreeing the installation of apparatus - this adds considerable time and expense to the process (some negotiations have taken over 12 months)
- cooperation and coordination regarding access to street works is fragmented

In particular, confusion over Wayleave, site access agreements and associated planning requirements can also significantly increase the costs of connecting businesses in urban, dense and historic cities. The average legal cost for negotiating a non-standard Wayleave/access agreement is £[X]; nearly as much as the average cost of installation £[X].

Westminster also has concerns regarding the mobile market. As demand for mobile broadband and Wi-Fi increases, there are increasing reports of 3G overloading and a race to offer 4G and 5G network access. Other world cities such as New York are innovating to find ways to deliver 1 Gigabyte public Wi-Fi access anywhere in the city. Westminster is concerned of the lack of collaboration at a local level to contribute to the strategic planning of such future technologies that will inevitably impact on local residents, business growth and

demand access to public assets and infrastructure. Furthermore, Westminster has a responsibility to respond to the complaints received by residents, visitors and businesses about broadband or Wi-Fi connection with limited levers to resolve local concerns. Ofcom should seek to work more closely with local public organisations to further understand local challenges.

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

No comment.

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

No comment.

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

No comment.

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?:

No comment.

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.:

No comment.