

## **Annual Plan 2015/16 Invitation to Comment**

### **Response by KCOM**

**15 October 2014**

#### **Introduction**

Ofcom's Annual Plan is important to industry in defining Ofcom's priorities and major work areas for the coming year which can have a significant impact on stakeholders. KCOM therefore has a keen interest in providing input on what we see as the key areas which Ofcom should be focusing on.

Below we identify three specific areas which we would like to see included in Ofcom's work plan for 2015/16. There is a common theme in that we believe review of these areas is necessary wholly or in part due to technological and market developments. Review of these areas now will help ensure that the regulatory regime remains fit for purpose for the future and does not inhibit or discourage investment.

#### **Universal Service Obligations**

KCOM is the designated Universal Service Provider in the Hull area and, together with BT as Universal Service Provider in the rest of the UK, is subject to a number of specific conditions relating to the provision of telephony and functional internet services.

We believe that the universal service obligations are long overdue a review. Ofcom completed a review of the implementation of the USO in 2006 and in its 2009/10 Annual Plan indicated that it intended to assess the way the USO currently works, its fitness for purpose and the extent of any financial burden it imposes. We are aware that work did start on this however the project was not progressed. Since the USO was put in place there have been considerable changes in the market and it is important that a review is undertaken to ensure that it does remain relevant and fit for purpose.



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In particular, we are concerned about continuing obligations with respect to payphones. We have seen significant declines in payphone usage driven by increased mobile usage yet still face a lengthy process to remove payphones which are unprofitable. We note that research carried out by Ofcom into the affordability of essential services found that “Overall, there was a broad consensus among consumers that public payphones were not essential for most consumers in most circumstances, especially given the use of mobile phones.”<sup>1</sup>

### A Regulatory Regime for Fibre

Plans for and deployment of NGA networks have accelerated considerably and we believe there is likely to be a significant increase in the deployment of FTTP over the coming years. KCOM's deployment of NGA is primarily FTTP and we are on track to have passed 45,000 premises in the Hull area by March 2015. We hope to announce plans for further investment in the not too distant future. As a result we can envisage a situation where CPs will want to capitalise on the operational efficiencies that an all-fibre network can deliver, with removal of copper assets being a key enabler to achieving those efficiencies. Provision of all-fibre infrastructure will drive enable the delivery of more cost-effective solutions which can only benefit consumers and businesses.

But to ensure this, it is vital that the right regulatory environment exists in order to provide certainty, encourage the necessary investment and enable CPs to migrate their customers at an appropriate time.

Many of the existing regulatory requirements are based on the provision of analogue services over copper and will require significant review should a provider wish to move to an all-fibre network and realise operational efficiencies by removing copper networks. For example, KCOM has a clear obligation to provide retail voice services, payphone and basic internet access under the Universal Service Obligations but this requirement applies to “narrowband” services. Review of the regulatory framework to ensure there are no barriers to all-fibre networks is an essential prerequisite to ensure continued investment by providers.

Part of this review must encompass current requirements to provide battery back-up for all-fibre services. Ofcom's current guidance, issued in December 2011, requires that a battery back-up

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<sup>1</sup> [http://stakeholders.ofcom.org.uk/binaries/research/affordability/affordability\\_report.pdf](http://stakeholders.ofcom.org.uk/binaries/research/affordability/affordability_report.pdf) Paragraph 4.47



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should always be provided to support publicly available telephone services (PATS) provided over FTTP and the minimum duration of the back-up facility should be 1 hour.

This requirement imposes considerable additional costs on providers wishing to deploy all-fibre solutions and will act as a significant barrier to realising the efficiencies that a move to an all-fibre network will bring. KCOM acknowledges the importance of customers having the ability to access emergency services but would argue that given the low level of risk previously identified by Ofcom and the widespread use of mobiles, placing an obligation on all-fibre providers is an unnecessary and costly measure which has the potential to have a serious impact on the provision of these services.

### **Review of the General Conditions**

For some time Ofcom has talked about undertaking a review of the General Conditions however to date this has not happened. Consequently they have become increasingly difficult to navigate and interpret incorporating numerous amendments to reflect revised European requirements as well as Ofcom's own regulatory initiatives. In some cases the General Conditions have become outdated as technologies and the market have developed.

For example, there are references in the General Conditions to "narrowband" services which require review and revision in light of the increasing availability of fibre services. Additionally, customers are now more likely to purchase bundles of services creating confusion for CPs and consumers alike where some services are covered by the General Conditions, some by general consumer protection law and some by both.

Having delayed undertaking a review for a number of years we believe that Ofcom can no longer put off this important piece of work. It would be to the benefit of all stakeholders to ensure that the General Conditions are clear, relevant and reflect the technological and market conditions within which we now operate.



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