Your response

Question	Your response
Question 1: Do you agree with our proposal to amend the treatment of excess costs in determining eligibility for a USO connection, where excess costs are above £5,000? Please set out your reasons and supporting evidence for your response.	Please keep my name, email and phone confidential; the text below should be published.

Thank you for the opportunity to comment on the proposed change in approach to the USO scheme as it applies to the USO providers. We do not support the change and believe it is arbitrary and presents a cliff edge, where a user is forced to pay all scheme costs not just their own. It fails to address the fundamental flaws in the USO scheme. These flaws, our reasoning for this view and evidence for requiring further changes to the scheme are set out below.

Summary

1. The £5,000/ property is an arbitrary figure and will lead to undue discrimination. It implements a cliff edge at £5,000. A cut-off (the point at which a user faces all other users cost) should be set at 10 times the USO cap, and a sliding scale of contribution up to 10 times the USO cap should be applied on a per property basis. This would provide a fairer approach to existing and future customers and remove the cliff edge.
2. The USO provider does not include in the denominator (number of properties that benefit):
    - properties that have speeds above 10 mb/s. These properties are simply bypassed by the provider's design, despite the fact that their inclusion would be economic and efficient.
    - properties that should be connected by new infrastructure if the provider was acting in an economic and efficient way, spur connections for example.

    The provider's objective seems to be to minimise the number of properties in a scheme to effectively increase the cost per property, This is a suboptimal approach leads to the inefficient use of public funds. This issue needs to be addressed with strong regulation.
3. The user needs to be able to influence the design of the scheme in circumstances where this can reduce the scheme cost. A central approach with tabletop design fails to provide value for money for consumers and makes it impossible for customers to engage effectively with the process.
4. The benefits associated with meeting carbon reduction targets and rural poverty have not been factored into the assessment

5. A capped scheme where the most a customer pays is set at £3,400 needs to be assessed. This was the consumer expectation of the USO scheme, and this is the scheme that was expected to be implemented.

We make the following comments of the consultation and the detailed analysis contained in the appendix.

1. The denominator problem and demand aggregations

   Our parish has on several occasions tried to engage with the various schemes to obtain faster broadband. We are a semi-rural area some 2.5 miles from one exchange and 500m from a new bulk supply point installed as part of another scheme (August 2020). Over 90% of the properties are below the USO threshold of 10mb/s.

   The table below shows the total cost of the three application and the cost per property.

Scheme and date of application	No. of properties	Total cost	Cost per household
Rural Gigabyte Feb 2019	61	£211,160	£3,461
USO Aug 2020	9	£133,353	£14,817
USO Feb 2021	3	£101,658	£40,663

   The first scheme, Rural Gigabyte, included all properties in the parish so networks were run from the exchanges to serve the community this came in at £3,461/property, so it was very close to the USO limit, but because the USO scheme is on individual property basis we could not apply for this as part of the scheme.

   The first USO application made (Aug 2020) covered nine houses in the group and came in at £14k/property. This connection would have been able to supply a further 25-30 properties that the route passes, but some are above 10 mb/s (just) so get excluded, while others would require a spur connection so again are excluded so the net result the cost is relatively high. The second USO application (Feb 2021) included a subset of the nine properties in the first application and came in at £40,663 per property. The three properties are within a 100m of the other six properties in the previous quote again the connection would have been able to supply a further 25-30 properties that the rout passes. The provider chose not to include them in the quote this increasing the cost far beyond the USO allowance.

   Much of the infrastructure cost is the same for all the schemes (planning, civils etc) as the routes are the same. This detailed information shows that rather than connection costs for the USO scheme being high per household, it is number of properties that the USO provider is selecting to include that is the real issue with the design of the scheme.

   This effectively frustrates the process and makes a mockery of the intent of the scheme, as the infrastructure build was likely the same or similar in all cases. This issue needs to be addressed with strong regulation.

2. The regulator cannot know the level of cost that any consumer would be prepared to pay for a decent broadband connection. Cost for the total scheme can run into hundreds of thousands of pounds with individual households' share dependent on the number of households. Individual households are unlikely to be able to fund tens of thousands of pounds for connections, so amounts in the hundreds of thousands where the user is

effectively funding many other customers cost is simply unaffordable and unfair. The evidence shows that this is self-limiting so higher values users are likely to receive much lower take up under the scheme. Whilst we are uncomfortable with the approach as it fails to address the main issue with the USO scheme, we would nonetheless propose that the cut-off - the point at which a user faces the total cost as opposed to their individual share, is set at ten times USO cap (£34,000). This would be more appropriate and would lead to a similar excess cost based on Ofcom's own analysis given the self-limiting nature of the proposals.

3. The proposed cap £5,000 per property is arbitrary and leads to undue discrimination. If a connection per property is £5,010 why should this property be treated on a different basis and fund all other properties' costs whilst below £5,000 the cost is minimal? It is simply poor regulation to set up such a discriminatory approach, and it is unclear if the regulator has the power to adjust the USO cap as this is set out in legislation. As a minimum, a sliding scale of contributions required, for example from £3,400 to the cut-off (ten times the USO cap , £34,000) could be used. This could be in the form of a contribution factor where:-

$$Contribution\ factor\ = \frac{\text{excess cost above £3,400 per property}}{\text{10 x USO cap (£34000)}}$$

The contribution factor would, then be applied to the per property cost. If an individual property owner was prepared to pay the excess cost per property multiplied by the contribution factor (above) the scheme should go ahead.

For example, a £/property cost of £17,000 would lead to a customer contribution of £8,500 for the scheme to go ahead.

If the cost was above the cut off (10 x USO cap), the user would have to pay their and all other connecters' excess costs for the scheme to go ahead. It is not expected very many individual quotes above £34,000 / property exist so this approach would not be discriminatory and would allow the USO scheme to move forward as expected rather than it being the white elephant that it is today.

This approach will require a modest contribution above the £3,400 threshold initially, but the size of the contribution increase gradually avoiding the cliff edge.

4. The £5,000 cap takes no account of the consumer benefit of connection in terms of rural poverty, and the UK's ambition to meet net zero. Other regulators (Ofgem for example[1]) are currently consulting on a different approach to regulation where domestic connection costs for connection to the distribution network are moving to a more shallow approach (lower connection costs with more of the costs of reinforcement recovered in ongoing use of system charges) as the best way for the UK to meet its environments targets. Improving rural broadband will lead to a significant reduction in carbon and rural poverty. These benefits have not been factored into the regulatory approach. The regulator is failing to address the regulatory issue associated with the rural communities which make up the vast bulk of the USO applications. It is effectively discrimination against this class of users.

5. The analysis does not include connection below the £3,400 threshold so cherry picks only those connection with high connection costs. This invalidates much of the detailed analysis. Many connections costs are significantly below the £3,400 threshold and the cost saving for these is not taken account of in the analysis; only connections above the £3,400 threshold are considered. So, it is not unexpected that there will be some high costs and the

[1] https://www.ofgem.gov.uk/sites/default/files/2021-06/%282%29%20Ofgem%20Access%20SCR%20-%20Impact%20Assessments.pdf

perception of the USO scheme being expensive, as the scheme has by default removed all the lower cost connections.

6. The regulator needs to examine the benefit of a USO capped scheme where the maximum cost a customer pays for a decent broadband connection is capped at £3,400. This was the expectation of customers on the launch of the USO scheme. This analysis does not seem to have been performed, but we expect this to be the solution with the maximum excess cost borne per property set at £3,400. Any addition cost would be smeared across all licensed broadband providers.

7. The detailed technical failings with the current USO scheme that need to be address as set out below.

    a. The costing for the USO scheme is on a different basis compared to the Rural Gigabyte voucher scheme. Our community received a quote from Rural Gigabyte scheme of £3,461/household whereas the USO quotes were for £14k per household and £40k/household all in the same area see [1] above.[2]

    b. The number of households in scheme excludes those houses that are above the 10mb/s threshold even though these properties would need to be included in the scheme. Our example is a linear road from the exchange the first [26] properties have a connection speed above 10mb/s so they are excluded, while the next [9] properties are below 10mb/s so they are included. The actual design of the scheme is full fibre, so all 35 properties will be connected but only the [9] below 10mb/s are used as the denominator for the assessment and cost. The denominator needs to include all properties that will benefit not just those below the 10mb/s threshold.

    c. The USO providers appear to be the adjusting the number of properties in a scheme to maximise the excess cost. One quote we are aware off was for 9 properties subsequent quote for a neighbouring property (included in the first quote) was for 3 properties and neither quote was designed to be connected to the nearest BT Openreach connection. See point [1].

    d. The scheme prevents a user obtaining any information as to the technical build of the project. The design appears to be prepared by Openreach via a tabletop exercise with no local knowledge. The broad breakdown of costs provided are meaningless without an understanding of the design and provide no additional information. In one example, the proposed route is from an existing exchange some 2.5 miles away, whereas an alternate solution from a new connection point around 500m was not considered. It was impossible to ask/arrange for the USO provider to consider using the new connection point despite it being “blindingly obvious” that this was the cheapest option and would deliver a USO connection to around 40 properties as opposed to the 9/3 via the proposed route. [3]

8. We disagree with the view expressed in 1.7 of the consultation where the authority to indicate that’s despite the USO scheme implementation many of the applicants’ connections are likely to be too expensive to connect under the scheme. We would argue the design of the scheme limiting the denominator (number of properties in each application) is the core problem solving this single issue will remove many of the issue with the current scheme.

9. The devolved administrations with their significant purchasing power are bypassing the USO scheme and delivering full fibre broadband to their rural communities. This leaves the USO

[2] Detailed information can be provided to the authority

[3] This is subject to an ombudsman referral

scheme being principally a rural England scheme and where the regulator appears to be failing to appreciate the enormity of the harm being done to rural communities by its current approach.

10. It is useful to compare the approach of Ofcom with other regulators in this area. For example, Ofgem regulates regulate the connection to the electricity network. All connections are regulated and if an area has higher costs (rural Scotland) then all consumers are subject to a small excess cost (AAHEDC) [4] to subsidies the connection associated with the particular area.

We will be happy to provide further details on any of the issue raised in this response.

[4] https://www.ofgem.gov.uk/sites/default/files/docs/2020/11/shetland_cross_subsidy_default_tariff_cap_allowance_-_consultation_letter.pdf