# Your response

## Zero-rating

| Question | Your response |
|---|---|
| **Question 1: Do you agree with our assessment of zero-rating offers and our proposed approach?** | I agree that zero rating is welfare enhancing. Ofcom should not regulate zero rating, and the term is not even included in the law. Over 1 billion people have come online for the first time through zero rating; the overwhelming academic literature favours zero rating. Those who do not like zero rating are essentially offended by the idea that the price of data should be fixed and uniform, e.g. a price control. However, to achieve social goals like education, social care, and employment, the price of data could be discounted or free. This is necessary as at least 5 million UK residents live under a cost of living crisis. While they have mobile connectivity, their ability to purchase data is limited, and they likely have just a single smartphone per family. <br> 1. https://www.forbes.com/sites/roslynlayton/2022/12/12/when-net-neutrality-blocks-end-users-from-freely-learning-online/?sh=1ccfca2cf70e <br> 2. https://www.iicom.org/intermedia/vol-44-issue-3/five-questions-on-zero-rating/ <br> An important case study of some 3 million US veterans demonstrates the value of zero rating for healthcare and egovernment services. https://www.brookings.edu/blog/techtank/2021/04/19/californias-net-neutrality-law-and-the-case-for-zero-rating-government-services/ |
| **Question 2: Do you agree with the criteria we use to define Type One, Type Two and Type Three zero-rating offers and our proposed approach to such offers?** | This regulation is not needed in the first place. My preference is for Ofcom to minimize the bureaucracy and administration of the regulation, for the sake of regulators (so that you do not need to spend time on rubber-stamping a beneficial practice) and for innovators and consumers, so they are not ensnared by complaints and litigation by regulatory philistines who are offended by the prospect that the financially vulnerable can get some data for free. |
| **Question 3: Do you agree with the approach in our guidance in Annex 5 in relation to zero-rating?** | Again, please try to keep the regulatory and administrative burden minimal. |
| **Question 4: What are your views on whether zero-rated content should be able to be accessed once a customer's data** | Again, this is not something for Ofcom to regulate. Should a problem emerge, Ofcom can address it, if there is harm. However, there is little consumer value to regulate these offers before they are tried. |

| allowance has been used up? | |
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| **Please provide any further evidence you have to support your responses.** |
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Please see p. 11, 36-37, and 39 in the attached document.

## Traffic management

| Question | Your response |
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| **Question 5: Do you agree with our assessment of retail offers with different quality levels and our proposed approach?** | I applaud Ofcom for suggesting that consumers and broadband providers should have more freedom of choice in offers and quality. However, I think that Ofcom's approach is too heavy-handed and cumbersome. Ofcom should not regulate traffic management. Ofcom itself found that this was not a good use of regulatory resources and suspending such inquiries.  See p. 10 and 39 of the attached. It is suspicious that large entities like Meta, BBC, Akamai, and Netflix lobby Ofcom to keep practices the same when Ofcom itself observes the tremendous change in the ecosystem, which demands a policy update. Naturally these large players invest in their own systems, but they have disproportionately benefitted from a system which is set up to promote their ever-expanding delivery of video, without a corresponding contribution to reduce costs for end users or to support the last mile delivery cost.  Ofcom is right to review practices that would allow other players to innovate, not the least of which are small and medium sized content providers which could use a software-defined "fast lane" rather than inserting hardware inside the network and broadband providers themselves. Moreover, consumers could benefit by seeing competitive content providers which come to them through new models like sponsored data. |
| **Question 6: Do you agree with the approach in our guidance in Annex 5 in relation to differentiated retail offers, including transparency requirements, improved regulatory monitoring and reporting of retail offers with different quality levels as well as the general quality of the internet access services?** | No. Ofcom does not need more monitoring in this area. Ofcom can address the issue ex post if a situation emerges. It does not need ex ante regulation, to second guess and box-check offers before they are tried. |

| Question | Your response |
|---|---|
| **Question 7: What are your views on a more permissive approach towards retail offers where different quality levels are content and service specific?** | I support a more permissive approach and believe that Ofcom can go significantly further to allow innovation and experimentation. |
| **Question 8: Do you agree with our assessment of how traffic management can be used to address congestion and our proposed approach?** | The proposed conception of congestion is flawed. It suggests that congestion is a one-time event. In reality, congestion can happen anytime, if not all the time. Broadband providers themselves have little to no control over how traffic flows into their network, so they should be regulated for how to manage it. Ofcom should instead focus on consumer experience and measure it through user surveys. See p. 39 of attached. |
| **Question 9: Do you agree with the approach in our guidance in Annex 5 in relation to the use of traffic management to address congestion, including transparency requirements, improved regulatory monitoring and reporting of general network performance metrics, the use of traffic management and the impact on service quality?** | A commitment to transparency, end user outcomes measured by surveys, and reported performance metrics are to be applauded. As much as possible, try to minimize ex-ante, gatekeeper requirements. The proposed approach is too heavy-handed, costly, time-consuming, and labour-intensive regulation which has little benefit for consumers. |
| **Question 10: What are your views on a more focused approach to traffic management to address congestion?** | Ofcom does not need more focus on this area, and should focus less, if not at all. |
| **Please provide any further evidence you have to support your responses.** | |

## Specialised services

| Question | Your response |
|---|---|
| **Question 11: Do you agree with our assessment of specialised services and our proposed approach?** | I support Ofcom's view that the guidance on the net neutrality rules should be revised. Specialised services are not offered today because of regulatory risk. UK consumers and enterprises are denied valuable 5G innovation in social care, creative industries, advanced manufacturing, transport/logistics, and climate solutions because of the misguided net neutrality regulation. See p. 17-19 of the attached. |
| **Question 12: Do you agree with the approach in our guidance in Annex 5 in relation to specialised services, including transparency requirements, improved regulatory monitoring and reporting of the need for** | Transparency is sufficient. More monitoring is not a good use of Ofcom resources and does little to improve consumer outcome. |

| **optimisation of a service, the general performance of internet access services and the impact of specialised services on the quality internet access?** | |
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| **Please provide any further evidence you have to support your responses.** | |

See p. 39 of the attached and summary on next page.

## 1.1. Strand Consult View of Ofcom's Proposal for NN Regulation

| Suggestion | Assessment |
|---|---|
| **Premium Quality Offers** Ofcom tells mobile operators to offer premium retail packages with different levels of disclosed quality (latency, jitter, packet loss etc.) while conversely it imposes regulation on how the qualities should be applied. | • Providers want to offer value-added services and Ofcom should allow premium offers. Developers and consumers could specify their quality requirements and mobile operators could earn revenue on the provision, which is massively helpful in the rollout and adoption of 5G services. <br>• Ofcom's conditions for premium offers are arbitrary and overbearing, e.g. demanding quality levels on the entire subscription, that different services within the same subscription must have the same quality etc. This is a nascent market, and Ofcom does not know what the consumer wants. Let the market evolve. <br>• Many cumbersome requirements create entrance barriers for providers and liability for Ofcom to monitor. These services don't require additional regulation. <br>• Ofcom should take a proportionate approach when asking mobile operators to provide effective disclosure to consumers and to document and justify practices for the purpose of audit and inquiry. |
| **Zero Rating** Ofcom suggests an overlay of regulatory categories for acceptability | • Health and Education are key uses cases, though all offers should deploy without regulatory friction. Ofcom's categories add needless complexity and bureaucracy to a practice which has no meaningful examples of consumer harm. <br>• The UK law does not mention the term "zero rating"; Ofcom shouldn't regulate it. <br>• More than 1 billion people in some 100 countries first came online via zero rating. People in emerging countries have more innovative offers than the UK. <br>• Providers are reluctant to launch outside of "safe harbors." <br>• The problems Ofcom describes are associated with large content/application provider platforms, not mobile operators. These problems should be addressed with the appropriate authorities. Mobile operators should not be regulated for Big Tech's problems. |
| **Traffic Management** Ofcom proposes complex flow charts of "go" and "no go" points for traffic management depending on subjective criteria. | • Ofcom recognizes the reality that traffic management is beneficial for networks. It improves user experience, promotes efficiency, and conserves energy. <br>• Ofcom's proposed 'traffic management decision making flow chart' creates a compliance *burden* that requires Ofcom oversight. <br>• Ofcom should focus on the relevant overall user experience with the goal of improvement over time. This can be measured through user surveys. <br>• Ofcom should take a more 'outcomes focused' approach to traffic management. Many traffic management practices will have an imperceptible or negligible effect on consumers yet are currently prohibited - and will continue to be prohibited under Ofcom's latest proposals. However they can benefit consumers enormously, by optimising critical services or ensuring a fair distribution of available resources. <br>• Traffic management rules based on artificial theories of harm drive economically and technically inefficient approaches to network management. |
| **Specialised Service** Ofcom proposes to maintain an inefficient, arcane regulation on Specialised Services. | • Ofcom's requirement that subscriptions be both specialised and generalised is impossible to achieve. <br>• Some consumers buy a subscription to run specific apps such as a high speed, low-latency video game application, so don't need general applicability. Requirements to maintain quality for an entire portfolio when only a subset is required creates needless cost and waste. Similarly the non-degradation requirement is excessive, when it makes no demonstrable improvement on customer outcome. |

| | • Solution is effective disclosure, noting that the offer is not a public internet subscription. It is better to focus on consumer outcomes measured by surveys rather than technical inputs. |
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