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UKCTA response to Ofcom's Consultation on Net Neutrality

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13th January 2023

Introduction

1. UKCTA is a trade association promoting the interests of fixed-line telecommunications companies in the residential and business markets. We advocate regulatory outcomes designed to serve consumer interests, particularly through competition. Details of membership of UKCTA can be found at www.ukcta.org.uk.
2. UKCTA is grateful for the opportunity to respond to Ofcom's consultation on the future approach to Net Neutrality in the UK. We welcome the improved clarity that Ofcom's proposed updated Net Neutrality guidance provides communication providers.

Ensuring UK Guidance is Self-Contained

3. While we welcome the update draft guidance provided (Annex 5), we have reservations about the guidance formally referring to any external material (such as BEREC guidance) which lies outside UK jurisdiction and where Ofcom does not have co-authorship.
4. As a matter of best practice, UKCTA members believe the Ofcom's UK guidance should be as comprehensive and self-contained as possible to ensure readability and prevent ambiguity arising. Ofcom should be clear that its guidance takes precedence (for example, where there may be overlaps and conflicting positions). The UK reference material on Net Neutrality should ideally be limited to Ofcom's guidance, the General Conditions, and relevant primary or secondary UK legislation. If it is necessary for Ofcom to rely on other external material (for example, because its own guidance is not comprehensive), then Ofcom should make clear exactly which published materials it is relying on and which elements.

Improved Clarity Around Zero Rating

5. UKCTA welcomes the additional clarity Ofcom have provided on zero rating. It seeks to formally documents the approach that Ofcom have adopted regarding zero rating in recent years. UKCTA is particularly supportive of the clarification provided for Type 1, public benefit zero rating.
6. UKCTA also supports the clear guidance offered around the zero-rating approach proposed to access top up platforms (for pay as you go mobile users). This approach is essential for consumers convenience and to maintain connectivity on the move.

Supporting a Vibrant and Differentiated Retail Market

7. UKCTA welcomes Ofcom's clarification of its support for differentiated quality retail offerings. UKCTA believes that retail differentiation is valued by consumers and helpful to ensure a vibrant and competitive retail market. Different consumers have different needs and priorities and it helpful to address this variation in needs and priorities through suppliers having the ability to provide differentiated retail products.

Supporting Sensible Traffic Management & End User Safeguarding

8. UKCTA members take steps to manage their network traffic loads to benefit their end customers. In periods of very high demands, steps are needed to ensure service is maintained and disruption is minimised. Network efficiency and proper network traffic management go hand in hand, and it is essential that any Net Neutrality regime does not undermine the freedom of action that communication providers need to manage traffic and their networks responsibly.
9. It is vital that access to emergency services like 999 are maintained and protected from degradation caused by network stress events. Communication providers must have the freedom of action to make sure this happens. UKCTA is also keen to ensure communication providers receive regulatory backing for any action taken that is aimed at either preventing or minimising scams, allowing them to protect end users from any activities that may raise potential fraud concerns. Likewise, there should be no impediment placed on the rights of users to activate at a time of their choosing content filtering (such a parental controls), allowing end users the freedom to configure their connections to meet their circumstances, including blocking content that is inappropriate for minors.

Proportionate Information Requirements on Communication Providers

10. UKCTA is concerned that Ofcom's proposed information requirements on communications providers are overly onerous, exceeding what is required. We are keen to ensure that information requests are restricted to areas and circumstances where concerns have arisen, and Ofcom is contemplating investigating those concerns. There should be no standing requirement to provide reporting if the market is functioning well. Ofcom frequently underestimates the cost and disruption inflicted upon communication providers by Ofcom's information requests. As an evidence-based regulator, we recognise the need for Ofcom to make decisions based on well sourced information, however we are keen to ensure any information gathering is properly targeted, necessary. UKCTA maintains a dialogue with Ofcom over the extent of

information gathering to ensure the process is efficient whilst minimising the burden on communication providers.

Ensuring a level playing field for all

11. UKCTA would remind Ofcom of the need for the framework to work for all to ensure a healthy competitive market across all digital communication markets. This means ensuring that the rules are applied fairly and that there is a coherent approach across all segments. Communication providers should not be singled out and left solely responsible for Net Neutrality. Consumers have concerns over the ability of large internet eco systems to prefer as they see fit, with Net Neutrality rules not applying within those eco-systems. It is essential that all relevant regulators work towards a coherent approach to ensure the framework is consistent and applied fairly. This means making the rules balanced and fit for purpose. We would urge Ofcom to make use of the T Digital Regulation Cooperation Forum to work towards this goal.

-End-

UKCTA
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