

ISPA response to Ofcom's proposed Plan of Work 2020-21

About ISPA

ISPA welcomes the opportunity to comment on Ofcom's proposed plan of work for 2020/21. ISPA is the trade association for Internet Services Providers (ISPs) in the UK, with over 200 members, 90% of which are SMEs. Our members cover the whole spectrum of access provision in the UK using FTTP, FTTC, wireless and satellite connections at a wholesale and retail level. They play a critical role in delivering broadband and internet services across the UK to consumers and businesses.

Introduction

We welcome Ofcom's recognition that full-fibre broadband provision more than doubled last year and the contribution that this accelerated deployment has made towards achieving rollout targets. We are sure you will agree that we are now at a pivotal point for the industry. Our members are supporting and contributing to the Government's challenge of delivering national gigabit capable connectivity by 2025 and we recognise that Ofcom's current work on market reviews, infrastructure access and consumer policy will be fundamental in enabling our members to accelerate rollout and serve their customers effectively.

Our members will comment on the specifics of the proposed plan of work via their individual responses to this consultation. We have, therefore, focused this response on a number of overarching areas where Ofcom could go beyond the ambitions outlined in the consultation and make a real difference by better enabling the industry to provide networks and services that meet consumer expectations and the Government's ambitions. These are:

1. A proportionate approach to consulting on regulatory changes and information requests
2. A consistent approach engaging with and regulating the business connectivity markets
3. An evidence-based and iterative approach to consumer regulation

1 A proportionate approach to consulting on regulatory changes and information requests

The consultation document states that Ofcom will *"will continue to explore different ways of delivering policy, including how to do so more rapidly and iteratively; building collaborative and high performing teams; and engaging with a wide variety of people affected by, and interested in, the policies that we deliver."* We fully support this vision but believe that Ofcom can do more in this area.

The regulation of telecoms market is a naturally complex endeavour, but Ofcom currently runs the risk of effectively overloading the industry by concurrently running significant consultation exercises and industry engagements. For example, Ofcom is currently consulting on EECC implementation, cross-platform switching and the fixed market access review. This puts significant strain on our member's ability to meaningfully engage with the regulatory process. This is, of course, an even more significant issue for our smaller members who naturally have smaller regulatory teams.

This is in addition to the industry-wide changes such as the migration away from Wholesale Line Rental and the recent guidance on Cyber Security risk from High Risk Vendors; as well as dealing with the implications of Brexit and future trade relationships. Many of these projects will be dealt with by the same teams internally so resources are very strained.

Regulatory compliance is part of the cost of doing business, but we strongly believe that the current level of complexity has an impact on the quality of regulatory interventions and that Ofcom's

regulatory and policy-making process would benefit from assessing industry's ability to effectively engage and to provide Ofcom with high quality evidence.

Broadly connected to this is Ofcom's approach to information requests. We believe a more coordinated approach, that ensures that different teams within Ofcom are aware of requests that are being made by other parts of the organisation, would reduce the administrative burden on industry and increase the overall quality of engagement between industry and Ofcom.

2 A consistent approach engaging with and regulating the business connectivity markets

Business to Business (B2B) communications providers represent a significant part of ISPA's membership and the wider communications market, but there is strong feeling within our membership that this is not fully recognised within Ofcom. Ofcom's regulatory and policy work is primarily focused on consumers but there is a trade-off as the potential impact on business customers and business service provision are often considered late in the process or not at all. There are three areas where this is particularly relevant:

1. **The blurring of lines between the regulation of consumer and business services.** While the consultation process in relation to regulatory interventions tends to be focused on consumer services provision, the actual implementation of these provision often impacts providers of business services too. With this in mind, we would ask Ofcom to adopt a clear, consistent and predictable approach to the regulation of both consumer and business communications services, based on where there is an actual harm to be solved.
2. **The inclusion of business coverage in the publication of coverage figures.** While we welcome the recent clarification that The Connected Nations Report data primarily relates to consumer connections, we urge Ofcom to adopt a more comprehensive approach to the inclusion or exclusion of business coverage from its publicly available data.
3. **The need for a B2B communications focus point within Ofcom.** At present, there is no single point of contact for B2B communications providers within Ofcom with many issues cutting across Ofcom's directorates. A business connectivity champion within Ofcom could draw these areas together more effectively and ensure that they are kept front of mind when developing regulations across Ofcom.

3 An evidence-based and iterative approach to consumer regulation

We fully support Ofcom's goal to further the interests of telecoms consumers. Significant changes in this area have been implemented recently and are due for implementation in the near future, but we have real concerns that the current pace of consumer regulation fails to take account of the impact of ongoing consumer interventions. Instead of stacking consumer regulation, we urge Ofcom to adopt an iterative process that fully considers the impact of current interventions before proposing and implementing further changes. Allowing measures to bed-in and taking account of voluntary measures adopted by the industry would lead towards a more measured and targeted approach.

Conclusion

We would be happy to engage with Ofcom in a conversation about how the points that we highlighted in this response can be addressed and how industry and Ofcom can best work together to meet the demands of consumer and rise to the challenge of rolling out new national networks at an accelerated pace.