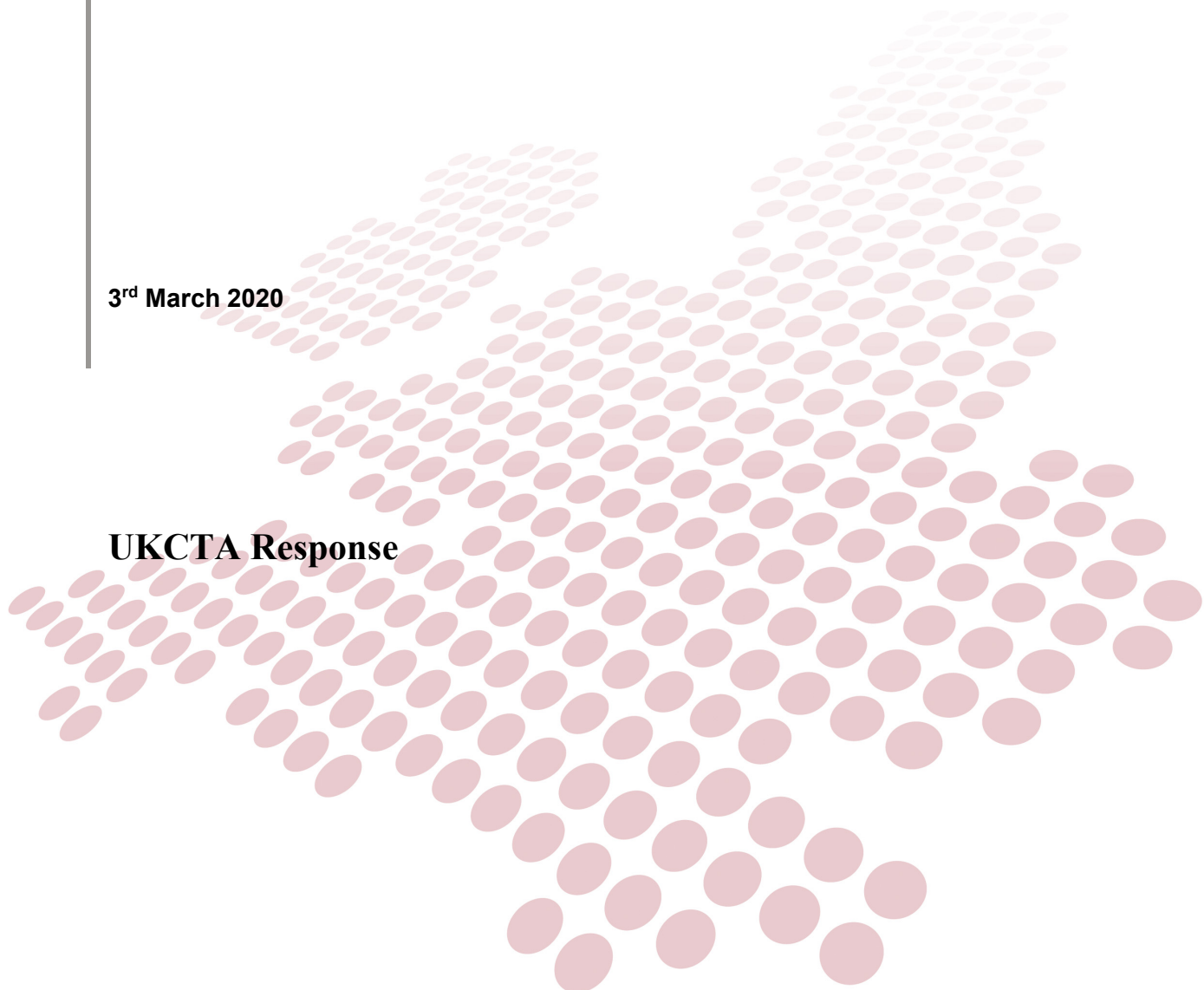


Ofcom's proposed Plan of Work 2020/21

3rd March 2020

UKCTA Response



Introduction

1. UKCTA is a trade association promoting the interests of fixed line telecommunications companies competing against BT as well as each other, in the residential and business markets. Its role is to develop and promote the interest of its members to Ofcom and the Government. Details of membership can be found at www.ukcta.org.uk.
2. UKCTA is grateful for the opportunity to comment on Ofcom's proposed Plan of Work for 2020/21.
3. UKCTA supports Ofcom's proposed strategic priorities for 2020/21 within the context of Ofcom's statutory obligations:
 - a) to further the interests of citizens in relation to communications matters; and
 - b) to further the interests of consumers.
4. UKCTA members represent a broad spectrum of communications providers. UKCTA believes that Ofcom should acknowledge that the business and consumer markets have very different characteristics and that Ofcom must differentiate between these markets and most specifically when addressing fairness consumer protection issues.
5. UKCTA members acknowledge that each of the strategic priorities identified in the proposed work plan are indicative of the essential requirements for setting the framework for a vibrant communications sector which will benefit customers (both consumer and business), whilst promoting fair and effective competition within the market.
6. It is also acknowledged that Ofcom has a very full agenda for the coming year, and that already it may be necessary for Ofcom to review its planned priorities. UKCTA members are conscious that since the draft work plan was published:
 - a) A new Chief Executive has been appointed
 - b) The Government announced that it is minded to appoint Ofcom as the online harms regulator
 - c) A search has begun for a new Chairman.

7. UKCTA members look forward to working with Ofcom as it navigates its path through the new environment. Ofcom must ensure that it is transparent with stakeholders on the potential for priorities to change over the coming year.

Business Sector

8. We continue to believe that it is vital for Ofcom to recognise that the business market and the consumer market often have very different characteristics. We need a business champion at Ofcom who understands the large business communications market and its providers. We do not believe anyone within Ofcom currently has that responsibility. The lack of a business champion results in simple inconsistencies that can have major and often unnecessary impacts. For example, inconsistent terminology (e.g. end-user vs customer vs consumer) makes compliance extremely difficult. The requirements on end of contract notification and the monitoring programme should focus on ‘consumers’ not ‘customers’.
9. UKCTA supports the Government’s ambition to sponsor, through appropriate policy and regulatory tools the effective rollout of gigabit capable broadband. This is particularly critical to business providers who have poor coverage. Ofcom has responded in a small way to UKCTA’s representations that the statistics in the Connected Nations Report lack the granularity required to show the true coverage as far as business customers are concerned. We encourage Ofcom to continue in its efforts to report availability of superfast broadband for all premises not just residential properties. Data limitations should be made clear in Ofcom publications so as to avoid confusing the narrative.
10. We would urge Ofcom's wider engagement with industry on IP interconnect regulation to facilitate a workable solution for the full migration to digital lines. The impact of the digitalisation of networks will be felt across both the consumer and business market and it is vital that all CPs are as fully involved as possible. Awareness of the effect of the network modernisation programme on b2b and b2c products and services is limited and the potential for harm to both consumer and business customers is significant.
11. Ofcom has commenced its public consultation phase for the Wholesale Fixed Telecoms Market Review (WFTMR). Following its consultation and assessment the rules Ofcom will set will be in place until 2026. The WFTMTR comes at a

time when the UK is seeing significant development by communications providers other than Openreach. However, there is a considerable way to go to ensure that customers in all areas of the UK are able to benefit from the nascent competition. Ofcom needs to balance the desire to relax regulation, where there is evidence of effective competition, with the reality that competition needs to be promoted across all areas of the UK.

Information gathering and monitoring activities

12. UKCTA is encouraged by Ofcom's response to the many representations made on the burden imposed by Section 135 requests for information and the other various informal requests and general monitoring activities. The adoption of an information registry system will go some way to identifying the volume and timing of information requests, but it appears that it will have little impact on the lack of consistency and repetitive nature of some requests. UKCTA would like to liaise with Ofcom to monitor the effectiveness of the newly developed system to ensure that problems are highlighted and resolved at the earliest opportunity.

Consumer policy and the fairness framework

13. UKCTA is supportive of Ofcom's consumer fairness programme.

European Electronic Communications Code

14. UKCTA will be responding to the standalone consultation, however it is worth making a comment in this response. Implementation of the EECC requirements will take far longer than Ofcom has permitted. The changes will require all CPs to make significant systems and operational changes and undertake considerable staff training, all of which will require significant budget allocation and time.

15. In May 2015 the Commission stated that its review of the telecommunications framework would focus on measures that will ensure effective protection of consumers.¹ Ofcom must consider the potential for consumer harm if CPs are forced to implement changes without sufficient time. UKCTA suggest that Ofcom allocates more time to working with CPs to identify realistic timeframes that UKCTA members can work towards without risking harm to customers.

Social tariffs

¹ Recital 3 DIRECTIVE (EU) 2018/1972 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2018 establishing the European Electronic Communications Code <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972&from=EN>

16. UKCTA notes that Ofcom intends to publish something in Q1 of 20/21. It would be helpful to understand sooner rather than later the purpose of the publication (and indeed the purpose and necessity for the measure given the array of other proposed fairness interventions).

Digital Wallet

17. Information on this subject is sparse. UKCTA members would be grateful if Ofcom could publish more details about its plans for a digital wallet. Is this part of the project on smart data open communications initiative²? Might it be appropriate to review the need to prioritise this project in the light of the potential increase in workload Ofcom now faces and defer the project until the other consumer fairness initiatives (via the EECC) are progressed?

Cyber security

18. UKCTA members are keen to work with Ofcom and other relevant agencies to ensure network security. However, we believe that more clarity and transparency is needed around security and cyber security work. In our response to the 19/20 Annual Plan consultation we highlighted concern about the coordination between the numerous bodies that have varying degrees of responsibility and expertise in this area. It is worth repeating that the multiplicity of stakeholders presents a significant barrier to individual CPs ability to have an understanding of the coordination of these various stakeholder activities. Once again, we would encourage Ofcom to carefully define its role within the community of stakeholders to provide clarity to CPs about the division of responsibilities.

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² Recital 3 DIRECTIVE (EU) 2018/1972 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2018 establishing the European Electronic Communications Code <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972&from=EN>

² “an Open Communications initiative ... will require communications businesses to provide consumers’ data to third party providers at the consumer’s request” (See https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/808272/Smart-Data-Consultation.pdf)