Consultation response form

Your response

Question	Your response
Question 1: Functioning of the net neutrality framework **(a) Which aspects of the current net neutrality framework do you consider work well and should be maintained? Please provide details including any supporting evidence and analysis.** **(b) Which aspects, if any, of the current net neutrality framework do you consider work less well and what impact has this had? What, if any, steps to you think could be taken to address this and what impact could this have? Please provide details including the rule or guidance your response relates to and any supporting evidence or analysis.**	For more than a decade, the Broadband Stakeholder Group (BSG) has played a central role in the creation and maintenance of an open internet in the UK: • In 2011, the BSG brokered the UK's first Traffic Management Transparency Code, an agreement between Internet Service Providers (ISPs) and Mobile Network Operators (MNOs) committing signatories to ensuring that traffic management policies were transparent and comparable. Between them, the signatory organisations accounted for some 90% of all fixed and mobile connections; • In 2012, the BSG published the Open Internet Code of Practice, committing signatories to not using traffic management practices to degrade the services of a competitor and ; • In 2016, following the adoption of the EU Connected Continent Regulation, the BSG facilitated the creation of the UK's pioneering Open Internet and Traffic Management Transparency Codes of Practice, merging it with the earlier code. The Code of Practice was agreed with BSG members across the value chain – including ISPs, MNOs and content providers. This led Ofcom to describe industry's commitment to the Code as an "effective self-regulatory model", which fulfilled a "key part of Government policy on Net Neutrality". The BSG continues to firmly support an open internet that meets three criteria: • Users can access all lawful content • Content providers are not discriminated against on the basis of commercial rivalry; and

- Traffic management policies are clear and transparent.

To date, and taken as a whole, the BSG considers the existing open internet regime has worked well. Transparency and competition between providers is strong, full internet access products predominate and negative discrimination of content and services is rare.

Nevertheless, the BSG recognises that some reform to Ofcom's guidance may be necessary to sustain an open internet to its fullest possible extent.

Network-level innovation, service-level evolution and consumer expectations have changed markedly since Ofcom's current rules came into force in 2016. These present new challenges and may lead to uncertainty about what is allowed under the rules. We note in particular:

- Network operators' projections that the gap between "regular" peak traffic (e.g. a typical Sunday evening) and "very occa-sional" peak traffic (e.g. an England World Cup final or Royal wedding, combined with a large software download) will widen over the next decade. At present, these con-sumer-driven surges are double the traffic of a "regular" peak. If nothing changes, these could be to more than four times the traffic of regular peaks by 2031.

- A very broad range of consumer proposi-tions emerging from the development of the Internet of Things (IoT) and associated technologies;

- Widespread 5G take-up and;

- Greater reliance on cloud-based services.

In addition, the Covid-19 pandemic has exposed and accelerated greater consumer expectations for robust, high-capacity and widely available internet-based services for work, access to public services and leisure. Network operators and content providers are responding to these changes, increasing capacity in developing new consumer offerings. The BSG is keen that

	Ofcom's regime supports and encourages such innovations. The BSG believes Ofcom should give consideration offering further guidance to how the rules apply in three areas in particular: • Zero-rating; • Specialised services, where newer services such as private 5G networks and Internet Protocol Virtual Private Networks should be explicitly addressed; and • Interoperability and good practice among value chain participants. In all of these areas, there is now a clear need for a neutral, cross-sector forum in which more detailed examples of good practice and guidance can be developed. This is particularly important given uncertainty created by recent European Court of Justice judgments on zero rating, the Body of European Regulators for Electronic Communications' review of the guidelines, and the need for a pro-innovation approach to future services. The BSG is ideally placed to fulfil such a role via our Open Internet Forum. We therefore propose to initiate a new work programme focused on ensuring that innovation and evolution flourishes within the principles of an open internet and the existing net neutrality rules.
Question 2: Use cases, technologies, and other market developments **(a) What, if any, specific current or future use cases, technologies or other market developments have raised, or may raise, particular concerns or issues under the net neutrality framework?**	Recent research into both 5G and IoT use cases[1] indicates a huge variety of applications and concomitant demand and quality specification. The BSG believes that Ofcom should clarify that new use cases are actively encouraged and consider whether existing guidance is sufficiently flexible to accommodate future services.

[1] https://www.gsma.com/wp-content/uploads/2019/04/The-5G-Guide_GSMA_2019_04_29_compressed.pdf;
https://www.gsma.com/iot/wp-content/uploads/2020/10/2020-10-GSMA-5G-IoT-Private-and-Dedicated-Networks-for-Industry-4.0.pdf;
https://www.gsma.com/futurenetworks/wp-content/uploads/2018/07/Network-Slicing-Use-Case-Requirements-fixed.pdf

(b) What, if any, steps do you think could be taken to address these concerns or issues and what impact could this have? Please provide details of the use case, technology or market development and the rule or guidance your response relates to, as well as any supporting evidence and analysis.	
Question 3: Value chain **Are there particular business models or aspects of the internet or other value chains that you think we should consider as part of our review? Please explain why, providing details including any supporting evidence or analysis.**	The UK's open internet regime works well in part because most providers of popular consumer content services have a shared interest in cooperating with network operators to ensure a good user experience. Network operators want their infrastructure to meet demand patterns; content providers want their offerings to be well distributed. However, there are some examples where networks operators and content providers are not cooperating. Network operators believe that options such caching and peering solutions, off-peak downloads for peak activation and the use of multicast delivery for live TV can all make a material improvement in the consumer experience, but where content providers may respond to better incentivisation. In practice, consumers are choosing these very data-intensive services from among a relatively small number of content providers. Where cooperation between network operators and content providers is poor, and given the ever-increasing demand for data, the potential for periods of insufficient capacity affecting low-latency services such as video conferencing and very high resolution audio-visual content may grow. The BSG believes there should be greater incentives for collaboration between network operators and content providers, either via the framework or via other means.
Question 4: International cases studies **Are there any international case studies or approaches to net neutrality that you think we could usefully consider? Please include details of any analysis or assessments.**	NIL
Question 5: Guidance and approach to compliance and enforcement **Are there specific challenges with the existing guidance that we should be aware of (e.g. ambiguity, gaps)? Assuming the rules stay**	Please refer to question 2.

broadly the same, which areas could Ofcom usefully provide additional clarity or guidance on? Please provide details.	
Question 6: Annual report Do you find Ofcom's annual monitoring report useful or are there any changes you think we could usefully make either to the content or how we communicate this?	NIL
Question 7: Other Is there any other evidence or analysis that you are aware of and/or could provide to aid our review?	NIL