



## SKY'S RESPONSE TO OFCOM'S PROPOSED ANNUAL PLAN 2016/17

1. Sky welcomes the opportunity to comment on Ofcom's 2016/17 Draft Annual Plan.
2. We recognise the important role that Ofcom has in ensuring that the UK communications sector works well to further the interests of consumers and citizens. Clearly, there will be certain activities, such as market reviews and other work required by statute, which constitute 'business as usual'. Over and above that, Ofcom should as a general approach rely on the market to deliver optimal outcomes in the sector, and only look to act further where there is a significant and identifiable consumer issue that needs addressing.
3. Ofcom also has a responsibility to keep its approach to regulation under frequent review, ensuring that it is operating in line with best practice. In this context, we are strongly of the view that a review of Ofcom's guidance on carrying out impact assessments is needed.
4. It is generally recognised that undertaking thorough, robust impact assessments is an important way of ensuring that regulation is warranted and delivers overall net economic benefits. Ofcom has a duty to carry out impact assessments in relation to important proposals for new regulation.<sup>1</sup> Ofcom also must have regard when fulfilling its duties under the Communications Act (2003) to "*principles appearing to Ofcom to represent best regulatory practice*"<sup>2</sup>.
5. Ofcom's approach to impact assessment is explained in the guidance document entitled 'Better Policy Making - Ofcom's approach to Impact Assessment'<sup>3</sup>. This guidance was published over ten years ago. It is arguable that this guidance did not represent best regulatory practice at the time that it was published – for example, as reflected in guidance such as HM Treasury's Green Book<sup>4</sup>, or the U.S.' Office of Budget Management Circular A-4 of 2003 entitled 'Regulatory Analysis'<sup>5</sup>. Notwithstanding this, it is improbable that there have not been important developments in best practice in relation to impact assessment over the ten years since the Ofcom guidance was published.
6. For these reasons a review of Ofcom's guidance on impact assessment is well overdue. Such a review should seek to ensure that the guidance (a) represents best regulatory practice, and (b) ensures that Ofcom's approach to impact assessment of important proposals for new regulation is thorough and rigorous. Accordingly, we consider that Ofcom's Annual Plan for 2016/17 should make provision for such a review.
7. We look forward to further engagement with Ofcom on this issue, as well as other areas of Ofcom's continuing work.

**Sky**

**February 2016**

---

<sup>1</sup> Section 7 of the Communications Act (2003).

<sup>2</sup> Section 3(3) of the Act.

<sup>3</sup> Available at: <http://www.ofcom.org.uk/about/policies-and-guidelines/better-policy-making-ofcoms-approach-to-impact-assessment/>.

<sup>4</sup> Available at: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>.

<sup>5</sup> Available at: [https://www.whitehouse.gov/sites/default/files/omb/assets/regulatory\\_matters\\_pdf/a-4.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/a-4.pdf).