

*Representing the Communication Services Industry*



Ofcom's Annual Plan 2014/15  
Invitation to Comment

FCS response – 24 October 2013

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## Introduction

The Federation of Communication Services, FCS, is the trade association for the UK communications services industry representing more than 300 companies delivering services and products to business and individual consumers via spectrum, copper and fibre. A list of FCS members can be found in the members' directory on the website [www.fcs.org.uk](http://www.fcs.org.uk). We welcome this opportunity to input to Ofcom's annual plan for 2014/15, particularly in the areas that directly affect FCS member companies.

The major issues of importance to FCS members, who are generally small businesses, are to ensure that for a healthy market there should be:

- A fair, competitive and open retail environment
- Equality of access to infrastructure- fibre, copper and spectrum
- Clear regulation that will deliver the above

### **A recap on the FCS Response to the Draft Ofcom Annual Plan 2013/14**

Ofcom will recall that we felt that these Items were missing from the draft plan last year and we believe there is still a need to include them going forward:

- a. No mention of a work-stream to examine the spectrum needs of the emergency services and the Critical National Infrastructure providers. The existence of a plan to have such a work-stream was publicly confirmed by Steve Unger of Ofcom at the Westminster e-Forum Seminar on spectrum (7<sup>th</sup> December 2012).
- b. It is believed that, due to the timings of the potential changes in the Band Plan, the 2013/14 Ofcom Annual Plan should contain the necessary references. It cannot be left to future annual plans we believe.
- c. In order to garner opinion, Ofcom are going to have to undertake a meaningful dialogue with hundreds of individual CNI providers. FCS's CNI Business Radio Users Group stands ready to help facilitate this process.
- d. No mention of the need to set UK 999 services in readiness to cope with the new data/voice functionality required by e-Call, the pan-European automobile emergency call system which is mandated for inclusion in all new vehicles from 2014.
- e. No plans to regulate mobile phone operators' entry into the fixed line space. This is already creating new market distortions, as existing fixed line providers cannot compete on an equivalent footing in the mobile market.
- f. No specific plans or time-frame to regulate BT Group's fibre connectivity services in a similar manner to WLR3 for the copper network. Failure to act in a timely manner risks creating a new monopoly position in the fibre network.
- g. No commitment to provide legally reliable guidance on the General Conditions

## **Comments on Ofcom's approach to fulfilling its remit**

As stated in our response to last year's annual plan, the FCS strongly believes Ofcom's principal objectives are generally best achieved by promoting effective competition in the markets it regulates. Regulation imposing potentially intrusive consumer protection obligations on communication providers should always be a last resort.

In acting as a proxy for competition, the regulator has a duty to consider the effects of competition upon a variety of users, including – crucially in FCS's view – the business user in general and the SME business user in particular. Choosing to concentrate on consumers and citizens effectively precludes any regulatory stance which might address specific distortions peculiar to the business-to-business sector.

The FCS believes that it is imperative that Ofcom imposes tighter controls on Openreach, via KPI and SLAs, that work to improve the level of service offered to the CPs that offer (in the main) B2B services. The BMSI project has demonstrated the benefits that can be gained by focussing on areas with particularly poor performance from Openreach, but this should be driven by Ofcom going forward, rather than CPs having to band together to achieve change.

## **Achievements during 2013/14**

The FCS welcomes the stance taken by Ofcom to move for a GPL switching process, starting with copper products and hopes that now this has been decided upon, the rate of progress for following up with other markets will be speedier.

## **Consultation Questions**

*Are there areas of Ofcom's overall strategic approaches and purposes outlined in last year's annual plan that may need to change?*

As mentioned in the introduction to this response, we would welcome inclusion of those items listed which we feel are still important for Ofcom to take forward.

*What are the issues and areas that should form Ofcom's priorities or major work areas in 2014/15?*

We believe that Ofcom should continue to ensure that Openreach delivers high quality service on an equivalent basis to all communications providers. This needs to be measured against specific KPIs and SLAs.

*Are there any specific areas for deregulation or simplification in the coming year?*

The FCS does not have any particular areas to highlight at this time, but will look to members for views that can be submitted when the formal consultation is published.