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Date: 17 February 12

Dear Fergal

### **Ofcom's Draft Annual Plan 2012/13**

I set out below SSE's response to Ofcom's recent consultation on its draft annual plan for 2012/13.

We have comments on items under 2 of the strategic purposes that Ofcom sets out in section 4 of the consultation document.

#### Strategic Purpose 1: Promote effective and sustainable competition

SSE supports Ofcom's work in this area as it has entered the market in recent years to provide a competitive retail offering to customers for fixed line and broadband services. There are, we understand, hundreds of providers in the market using a similar business model to SSE – that of using active level wholesale products and, in particular, the regulated wholesale exchange line and voice service “wholesale line rental” (WLR). The number of non-BT voice services provided using WLR is of similar magnitude, at over 6 million, to the number of “unbundled” lines, where passive level wholesale products allow operator Communications Providers (CPs) to take more control of the local loop and interface with their own communication networks. The monthly updates from the Office of the Telecommunications Adjudicator report on these volumes.<sup>1</sup>

WLR has a similar place to local loop unbundling wholesale products in the Undertakings provided by BT to Ofcom in 2005. However, while recent market reviews have led to a regulatory requirement for follow-on unbundling wholesale products for fibre access areas, no similar regulatory requirement has yet emerged for a follow-on voice access product although such a product was discussed (known as Voice over Next Generation Access or VoNGA) around 2 years ago. This leads to uncertainty in the reseller community on how a standardised PATS-compliant voice service will be provided competitively in fibre access areas. WLR has up to now provided such a standardised product and features set as BT also provides its own retail service using WLR.

Against this background, we are very concerned, as technology develops and fibre roll-out continues, about the competitive position of those CPs who, like ourselves, rely on active level wholesale products and put this forward as an issue that Ofcom should address under this Strategic Purpose. It appears that the diversity and range of suppliers

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<sup>1</sup> See recent monthly updates listed at <http://www.offta.org.uk/news.htm>



of voice and associated services to end customers could be at risk if there is no follow-on to WLR, thus undermining “effective and sustainable competition” in these markets.

Strategic Purpose 3: Help communications market work for consumers

We have long supported Ofcom’s work in the priority area of consumer switching in order to develop an easy and convenient consumer experience and a “coordinated” approach between relevant CPs behind the scenes. Ofcom rightly notes that switching between CPs can be complex. However, it is not without precedent as other competitive markets based on provision of “utility” infrastructure – such as energy and non-domestic water supply – require similar coordination between relevant parties and the support of centralised mechanisms to underpin a standardised customer-facing approach.

We are aware that Ofcom has recently published its further consultation on this matter and do support Ofcom’s preference for Gaining Provider led processes as the alternative Losing Provider led approach tends to frustrate competition, as discussed in Ofcom’s further consultation. In the other industries mentioned above, a degree of coordination by infrastructure owners and suppliers is absolutely essential to ensure that switching processes work well for customers.

The switching processes also have to be able to evolve, as technology and markets develop. This is touched on in the further consultation with reference to the areas that are currently out of scope of the consumer switching project:

- non-BT access infrastructures (of which there may be more in future, as the Government’s ‘Broadband Development UK’ procurement exercise evaluates different tenders to provide superfast access infrastructure in more remote areas); and
- fibre to the premises (FTTP) areas on BT’s access network.

In our view, the necessary change control to allow development and evolution of switching processes is best governed by industry participants in a transparent and inclusive manner on a co-regulatory basis such that Ofcom, without being drawn into the detail of day-to-day management, is able to understand and have some input to the overall direction of that development. We urge Ofcom to consider this aspect of “future-proofing” its planned intervention on consumer switching as the project progresses.

I hope these comments are helpful as Ofcom finalises its plans and priorities for 2012/13.

Yours sincerely

Aileen Boyd  
Regulation Manager

