

BT Response to Ofcom's proposed Plan of Work 2021/22

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Non-confidential version

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We welcome the opportunity to comment on Ofcom's draft work plan

- 1.1. We believe Ofcom and the industry are working well together to deliver good outcomes for customers, and welcome Ofcom's proposed plan of work. In this response, we have highlighted those areas we think important for future regulatory work and where BT directly or indirectly supports services for customers. We also acknowledge and appreciate the importance of Ofcom's wider priorities, including the introduction of online harmful content and conduct regulation.
- 1.2. In concluding its overall work plan, Ofcom should recognise the ongoing effects of COVID-19 on our sectors' capacity to implement regulation, including large regulatory projects already underway e.g. EECC. We would therefore welcome further clarity on how the work programme will focus on those areas with most customer benefit.

Ofcom could undertake further work in several areas to really help deliver great end-user experiences

- 1.3. We support many of the work areas Ofcom proposes. Below, we focus on how Ofcom could build on its proposed plan to further benefit UK consumers and businesses.

Following the WFTMR statement, Ofcom will need to commit ongoing resources to make its pro-investment policies effective

- 1.4. After Ofcom concludes the WFTMR, it is important that it actively supports its policies through continued regulatory resourcing. Many of Ofcom's proposed WFTMR policies will need continued oversight and activity to make the fibre network investment strategy a success.
- 1.5. We would like to see more details of how Ofcom will, for example:
 - respond rapidly to consider commercial pricing proposals from Openreach;
 - further develop its switchover policy to deliver copper retirement benefits; and
 - track investment levels and BT returns to help inform future decisions on whether or when to introduce any further access regulation.

A mobile review that supports continued market investment is useful, but its scope needs to be broad enough to understand to reflect market realities in communications services

- 1.6. We think there is merit in Ofcom looking strategically at mobile services, including the ability for industry to invest in higher quality and innovative new networks. Such a review needs to look beyond just mobile, covering how wireless services sit in the wider communications and digital service ecosystem. A broader view is crucial in ensuring any regulation is fit for purpose and reflects current and future consumer, business and industry experiences. We look forward to contributing to Ofcom's scoping on this work.

The move to digital means now is the time consider how net neutrality rules can best support consumer outcomes and network investment

- 1.7. We see an opportunity to evolve the current net neutrality regime to improve customer and societal outcomes. Market changes since the net neutrality rules were first established over a decade ago, such as capacity demand, service delivery models and new commercial relationships are highlighting limitations of this regulation in the UK.
- 1.8. We suggest Ofcom reviews the interpretation and longer-term evolution of net neutrality regulations to enable future service innovations, sustainable network investment and high quality customer experiences.

Ofcom, with Government, needs to take a more active and prominent role in All-IP migration

- 1.9. Closing the legacy Public Switched Telephone Network (PSTN) is more than just the move to voice-over-IP. Alongside fibre and 5G investment, core upgrades and network architecture changes, it is one of the key enablers in creating the future communications infrastructure the UK needs.
- 1.10. Achieving a successful migration needs active leadership from all communications providers. It will also need engagement by users of communications services, especially businesses, and the active involvement of Ofcom and Government in helping tackle barriers to the successful and timely migration to new networks and services. Policy makers can help make a difference by ensuring all communications providers have robust migration plans in place. They may also be able to unblock difficulties faced by customers with complex requirements (especially critical national infrastructure) as they put their own plans in place to migrate away from services dependent on the PSTN.

There needs to be a broader debate and updated strategy on connectivity for rural and hard to reach communities

- 1.11. Broadband USO delivery continues - since launch in March 2020, we have commenced network upgrades build to 5.5k premises and 400k premises with poor broadband can now get commercial FWA. But the fundamental problem remains that some premises will face prohibitively high costs for decent broadband connections. Given premises' locations and density, this is not something the USO scheme will resolve.
- 1.12. Resolving rural connectivity needs new thinking and approaches that complement the broadband USO. We think Ofcom and Government, with industry support, should lead a broader debate on bringing decent connectivity to the very hardest to reach.

Ofcom's Public Service Broadcasting (PSB) review should consider digital distribution and social inclusion policy as well

- 1.13. Ofcom's PSB review recognises the fundamental trend of on demand viewing, and its implications for a future PSB framework. Ofcom is clear that 'universal reach and relevance are essential, underpinned by a policy framework that supports the transition to 'public service media' (PSM) across online and broadcast TV'. Ofcom's

policy focus so far is on PSB and content producer relationships and securing access to new platforms.

- 1.14. We believe Ofcom needs to build on these proposals, thinking beyond content creation and platform access policies. Universal reach in future will also depend on how:
- content will be delivered over fixed and mobile access and core networks, both technically and commercially, and
 - all consumers can be 'digitally included', including with future broadband social inclusion policies that support investment and wider public policy goals, including Public Service Media.
- 1.15. An Ofcom view on future distribution and inclusion is needed given current policy developments, including for example Government's consultation on DTT multiplex licences and the 2023 World Radio Conference agenda on broadcast spectrum usage.

Ofcom should set out its thoughts publicly on how digital and communications markets regulation should interact in future

- 1.16. Whilst the CMA's Digital Markets Taskforce recommended a Digital Markets Unit, new digital regulation will not consider whether existing regulation in other adjacent markets needs to be modified to reflect the influence of the tech giants. But the interaction of different regulatory regimes will be a key feature of future policy, as recognised by the creation of the Digital Regulation Cooperation Forum.
- 1.17. Ofcom needs to take a leading role publicly, facilitating a debate on future-proofing network and communications regulation. For example, it could look at how and where global tech giants, communications providers and consumers interact. Mapping these 'touch points' is vital to understand how regulation will affect communication network investment and customer experiences, and whether existing regulation needs to be modified to reflect competitive interactions across adjacent markets.

Ofcom is ideally placed to inform policy decisions on how sustainability and communications regulation should interact in future

- 1.18. Looking forwards, consumer and business behaviours and outcomes across all sectors will be influenced by the wider sustainability agenda. All policy makers should be considering how their activities contribute to wider sustainability goals.
- 1.19. As an expert regulator with a focus on good outcomes for consumers and citizens, Ofcom should help lead the debate on how future comms policy can reflect this vital issue for everyone. We would like to see Ofcom undertake formal work to assess and provide views for public debate on how far the existing, and future, regulatory regime can make a real contribution to long term sustainability.

Annex

Below we set out a summary of those areas where we think Ofcom should either adapt its approach or provide more detail on what and how it intends to deliver:

<p>We support a strategic view of mobile services, but this needs to focus beyond traditional mobile considerations</p>	<p>Ofcom's mobile strategy work is an opportunity to think broadly and creatively about convergence and how new players entering the market will affect competitive dynamics and sector regulation.</p> <p>We also believe the scope of this work needs to be more than just 'mobile' as we see more focus on converged communications. Without this, there is a real risk that any mobile strategy will be too backwards looking.</p>
<p>Implementing the telecoms security framework is a significant undertaking</p>	<p>We welcome the introduction of new best practice standards and more detailed controls in the Code of Practice for the Telecoms Security Requirements (TSRs) Bill.</p> <p>Continued effective stakeholder consultation by Ofcom in this area is vital, covering requirements implementation, their potential business impacts, and how Ofcom plans to exercise its new powers in this area.</p> <p>In its TSR work, Ofcom should set out clearly how these new requirements will interact with resilience policy.</p>
<p>We welcome Ofcom's continued focus on USO. This needs to be complemented by broader policy on rural connectivity</p>	<p>We seek ongoing Ofcom support on this program as we build further USO connections. But the USO alone will not bring decent broadband connectivity to everyone in the UK: this requires a broader policy debate across Government, Ofcom and the industry.</p>
<p>A continued commitment to fibre investment is right as build extends</p>	<p>We support Ofcom's commitment to continue to focus on investment in fibre including the take up of faster speeds after the WFTMR concludes in March 2021.</p> <p>We would like to understand how Ofcom plans to respond to pricing considerations, a switchover policy that works, and working with industry to monitor investment levels and BT returns to help inform future decisions on whether or when to introduce any further access regulation.</p>
<p>A longer-term spectrum roadmap is important, including for new uses such as drones</p>	<p>We agree with the proposed timing for awarding 26GHz once the current auction is complete. We also welcome Ofcom efforts to allow commercial deployments of drones using existing cellular frequencies.</p> <p>Ofcom's spectrum work should also include:</p> <ul style="list-style-type: none"> • consulting on broadcast spectrum pricing reflecting opportunity costs, given Ofcom's 2013 commitment to have this in place by around 2020.

	<ul style="list-style-type: none"> • proactively promoting industry-wide dialogue on the most appropriate and safest way to authorise drones, (e.g. licence exemptions, individual licences or variation to existing mobile licences).
<p>Implementing affordability policy that really works for consumers</p>	<p>Affordable services and securing protections for financially vulnerable customers is even more vital now.</p> <p>Affordability needs to cover a range of communications services, ensuring financially vulnerable customers are supported in making good choices for themselves. We support Ofcom assessing whether pay TV services are affordable for all customers who need them.</p>
<p>Supporting vulnerable customers remains a key priority</p>	<p>To support vulnerable customers, we suggest providers need time first to fully implement Ofcom's recommendation of best practice before the focus moves on to improving data recording.</p>
<p>We support Simpler Switching and the focus on gaining provider led cross platform switching</p>	<p>We want a process that better reflects customers' purchasing decisions. Simpler switching should be extended to include Pay TV, to support great consumer outcomes and ensure customers can just as easily switch these services, especially as part of a bundle.</p>
<p>Making data work for consumers</p>	<p>Effective and meaningful data for consumers, is going to be key to future customer engagement and experiences of comms services. We support Ofcom's work to date in this area but suggest Ofcom could provide more detail on next steps.</p>
<p>Ofcom is a key player in securing an effect migration away from the PSTN</p>	<p>Ofcom and Government must take a more active and engaged role in preparing for PSTN switch-off in 2025:</p> <ul style="list-style-type: none"> • Ensuring all communications providers are actively planning for these migrations • Encouraging end customers, especially those providing Critical National Infrastructure services, to plan for this fundamental change to UK telecoms infrastructure.
<p>Ofcom should focus on both monitoring effective Openreach reform but also enabling the Commitments to remain current</p>	<p>We remain fully focused on making the Commitments work and sustainable for the future. BT will continue to keep the Commitments current and alive through targeted training and communications, to ensure we live both the letter and spirit of the Commitments across the Group.</p> <p>We encourage Ofcom to proactively support keeping the Commitments current and fit for purpose in light of the emerging environment.</p>

Now is the time to consider how public service broadcasting is delivered end to end – not just platform access

We are encouraged by Ofcom's plan to support the UK's broadcasting sector and its future, including a focus on discoverability and carriage on new online platforms.

However, this is not the full story. **We encourage Ofcom to take the lead in also considering how PSB services are delivered** (e.g. via broadband, satellite or DTT) including how such delivery interacts with network investment by fixed and mobile network providers, and **how digital inclusion policy can complement PSB availability policy**.

Analysing the broader impacts of Brexit

We understand the UK and Europe will maintain the status quo in telecommunications regulation, committed to openness and ongoing co-operation.

At the same time, we think Ofcom should work with industry to:

- **identify opportunities to cut 'red tape' at times resulting from European regulation**, particularly where the same policy intent can be achieved in a more proportionate way that reflects the UK's competitive dynamics
- **help us better understand what Brexit means in practice** for the 'soft' regulatory requirements/expectations contained within European guidance, particularly for international roaming

Improve co-ordination and efficiency in statutory information requests

How Ofcom approaches statutory information requests continues to create a significant burden on our resources.

There is **opportunity to improve the efficiency and effectiveness of this process**, spotting overlaps in requests and/or avoiding clashes in timescales, and so minimising the burden on communications providers.
