OFCOM DIRECTIONS FOR REGULATORY FINANCIAL REPORTING

Response by British Sky Broadcasting Limited ("Sky")

1.1 This is Sky's response to Ofcom's consultation on Directions for Regulatory Financial Reporting, dated 10 December 2014 ("the Consultation").

1.2 In summary, Sky agrees with Ofcom that revenues and costs reported in Openreach's Regulatory Financial Statements ("RFS") should reflect regulatory decisions; however the current directions, that require BT to report the impact of some pricing decisions only in aggregate, is likely to limit stakeholder engagement. Publishing the impact of each adjustment on revenues and costs would be preferable, as the current proposal will limit CPs' ability to understand the impact of regulatory decisions. Ofcom may also need to consider whether VULA reporting obligations should capture BT's VULA margin reporting requirements. Sky's position is set out in more detail below.

1.3 BT's RFS are an important tool to provide transparency to CPs to enable an understanding of the impact of regulation on BT and its ability to recover common costs. The RFS also help Ofcom to monitor BT's compliance with its regulatory obligations. Ofcom's determination that costs reported for each market should, in principle, reflect regulatory decisions made in setting charge controls, will help CPs to understand their impact. However, by only directing Openreach to report costs after adjustments, CPs' ability to understand the impact of the adjustments on Openreach's cost recovery and returns is limited.

1.4 Additionally, Sky does not agree with Ofcom's proposal that, for a number of regulatory decisions that impact the prices charged by Openreach without changing the costs incurred, that Openreach should publicly report the impact of these pricing decisions on its returns only in aggregate form, at a market review level.

1.5 Although Sky understands there is a trade-off between preserving confidentiality of Openreach data, and transparency; not requiring Openreach to provide the impact of each decision, at a more granular level, limits the ability of CPs to engage with the RFS. In particular, this approach will hinder CP efforts to monitor BT's returns, understand the impact of pricing adjustments, and raise potential concerns. Sky considers that more effective stakeholder engagement would be achieved if Openreach was required to publish the impact of each adjustment on revenues and costs.

1.6 Ofcom should also consider whether the proposed VULA reporting obligations should be amended to capture VULA margin reporting requirements. The Consultation sets out a proposed VULA reporting framework to enable Ofcom to monitor compliance with the obligation to provide VULA on fair and reasonable terms, conditions and charges (SMP Condition 1.2) as well as to support Ofcom's decision making in relation to VULA. Subsequent to the publication of the Consultation, Ofcom published its draft statement on its approach to the VULA Margin on 15 January 2015. This will likely result in the introduction of a new VULA margin control (SMP condition 14) on BT which is expected to take effect from 1 March 2015.

1.7 While BT will be subject to separate monitoring obligations in relation to the VULA margin control, it is important for Ofcom to maintain, to the extent that it is practicable, the VULA reporting requirements within BT's financial reporting obligations to ensure effective monitoring. Sky considers it important for Ofcom to ensure that BT includes all appropriate information in its regulatory financial reporting. Accordingly, the proposed

VULA reporting obligations in the RFS may need to be amended to capture any additional requirements of the VULA margin control (over and above the separate VULA monitoring obligations), or in the alternative Ofcom should ensure it reviews VULA reporting carefully as part of its annual reconciliation exercise of BT's RFS to ensure appropriate VULA reporting.

Sky **28 January 2015**