

TELEFÓNICA UK LIMITED RESPONSE TO:

“Proposed Annual Plan 2018/19”

NON-CONFIDENTIAL RESPONSE

February 2018

I. INTRODUCTION

1. Telefónica UK Limited (“Telefónica”) welcomes the opportunity to respond to Ofcom’s consultation on its Proposed Annual Plan 2018/19¹.
2. Telefónica is fully supportive of appropriate actions such as the timely release of spectrum, which can further improve 4G services, facilitate the evolution to 5G, and support long term growth, as well as initiatives which can support network investment and minimise network build costs, for example improving the availability of fibre and use of duct and pole access and working with Government to reduce the enduring planning barriers that mobile operators continue to face.
3. Ofcom correctly identifies that the growing demand for mobile services continues, as a result, Ofcom is right to take full account of this demand and the phenomenal growth of mobile data traffic when making decisions concerning the allocation of spectrum for mobile services and facilitating the availability of fibre which is essential for mobile backhaul.
4. Ofcom must address the strategic challenges facing the UK regarding the growing demand for mobile data and enable timely access to spectrum which does not contain licence restrictions that could limit widespread rollout of mobile services, as well as ensuring the availability of high quality and competitively priced fibre which can be used for mobile backhaul, whilst keeping a strong focus on healthy and sustainable competition and the consumer and economic benefits that it can bring.

II. GENERAL COMMENTS

SUPPORTING NETWORK INVESTMENT

¹https://www.ofcom.org.uk/_data/assets/pdf_file/0018/108324/Proposed-Annual-Plan-2018.pdf

5. Telefónica welcomes the fact that, front and centre in Ofcom's Annual Plan, is a clear statement to support network investment. We agree that it is a key part of Ofcom's role to support network investment by creating the right conditions for companies to invest.
6. Mobile operators have played a central role in driving the progress and success of mobile in the UK by continually investing in their networks. In the current cycle, mobile operators are investing around £2 billion per annum in new coverage, capacity and capability.
7. Investment in fibre infrastructure is often seen through the lens of improved fixed broadband services brought about by FTTP, but there is more to it than that. Improving backhaul capability through investment in fibre is a pre-requisite for the continued improvement in mobile capability and capacity that is necessary to meet the UK's growing demands.

THE DEVELOPMENT OF 5G

8. The UK Government has set out a clear ambition that the UK should be a global leader in 5G to take early advantage of its potential and help to create a world-leading digital economy that works for everyone, with high quality coverage where people live, work and travel. Telefónica recognises the Government's vision for 5G and the benefits it can bring to the UK. We are excited by the possibilities and opportunities presented by 5G and, as a provider of 4G services and a major investor in national infrastructure, Telefónica is well placed to help the Government achieve its vision.
9. Telefónica is already actively laying the groundwork for 5G. This is evidenced by our small cell deployment in the City of London and our position as a founding member of the 5G Innovation Centre (5GIC) at the University of Surrey.
10. As a wider company group, Telefónica is also actively playing a key role in the development of 5G technologies, contributing to relevant international projects, industry associations and standardisation bodies. For example, Telefónica has founded 5TONIC, an open research and innovation laboratory focusing on 5G technologies.
11. Crucial to the future of 5G deployment is the continued evolution of 4G. Telefónica considers that ongoing investment and development in 4G technologies is a decisive step towards 5G deployment. The continued evolution of 4G will ensure that

consumers receive the best possible experience and that networks are able to support new use cases such as the Internet of Things (IoT). Continued investment in 4G is therefore necessary to ensure that 4G reaches its full potential and is, in itself, vital to ensuring the right conditions exist for the development of 5G.

12. Telefónica has identified the following as key enablers of continued 4G evolution and, ultimately, 5G deployment which we are keen to see reflected in Ofcom's ongoing work:

- **Removal of barriers to investment**

Ofcom must continue to work on removing barriers to investment and competition. Whilst Ofcom will necessarily play a crucial role in 5G deployment in the UK, its focus should be on helping to remove the barriers to investment and not prescribing the model that network providers must use. To this end, it is critical that Ofcom continues to focus on, and has success with, measures to promote investment and competition which are imperative to future development. As well as access to fibre networks, it is vital that Ofcom works with Government to reduce the burden for planning regulations and increase the ease with which networks can be deployed. Reform of the strategic planning framework is urgently required across the whole of the UK, and changes that have been implemented thus far in England and are advanced in Scotland, need to be implemented to all regions to remove the inconsistency across the UK which continues to hamper mobile infrastructure deployment. On a day to day basis mobile operators continue to face barriers to rollout and serving UK citizens, adding delay and unnecessary costs and resulting in some planned sites becoming unviable altogether.

- **Access to high quality and competitively priced fibre**

Access to spectrum for mobile services does not negate the need to access high quality and competitively priced fibre. Fibre will play a vital role in 5G by helping to ensure high quality and continuous network coverage throughout the UK and in enabling consumers and businesses to benefit from higher speeds and increased network capacity. Over the last five years, demand for mobile data has grown at a cumulative annual rate of more than 50%. The broad consensus is that mobile data consumption will increase sharply over the next decade. Mobile operators' backhaul will need to accommodate this growth in traffic. Competitively priced fibre based backhaul is essential, commercially viable duct and pole access as well as dark fibre, will be vital to ensuring that the future backhaul needs of mobile sites can be met and provide an economically viable path to small cell deployment. As such, Ofcom's proposals to relax the current DPA usage restriction are essential for the roll out of fibre networks in the UK.

- **Freedom for the industry to determine the best approach to infrastructure sharing and co-investment**

MNOs have proven themselves capable of sharing infrastructure effectively. The own-initiative network sharing arrangements currently in place in the UK are evidence that industry is best placed to determine the risks and opportunities of investment and whether such investment is best made separately or jointly. The most efficacious way of ensuring requisite building of and investment in infrastructure, is for Ofcom to focus on removing barriers to investment.

- **Future deployment of 5G should be based on international standards so as to ensure the widest possible compatibility of equipment and devices**

Technologies and standards must only be chosen once they have been rigorously tested, and deployment must come after requisite technologies have been proven to work. This is especially important given the uncertainty as to demand for 5G services. Ofcom should resist unwarranted prescription of deployment and certain approaches which could restrict rollout. Deployment must be based on the commercial viability of services and the recognition that some areas will need public investment. To this end, Telefónica welcomes Ofcom's offer to make spectrum available in the 3.6-3.8GHz band to facilitate trials and pre-commercial deployments, including for 5G, to support innovation in the UK. Ensuring the effective testing, development and research of 5G technologies is vital to successful deployment.

13. 5G is not a technological revolution, but an evolution of fixed and mobile networks. To this end, operators are already making investments to make their networks 5G ready, but as part of the constant investment cycle. In order to increase the incentives to invest in 5G, Ofcom should:

- Release further spectrum on an exclusively licensed basis, particularly in the pioneer bands 700MHz, 3.4-3.8MHz and 26MHz. The UK is also well placed to develop fixed wireless access systems arising from the US deployment of 5G at 28GHz. Telefónica provides coverage nationally and areas of interest for the usage of the 3.6-3.8GHz band would be UK wide. This leads us to the conclusion that UK wide licensing of the 3.6-3.8GHz, without restrictions on mobile network operators deployment, is essential to ensure a homogeneous deployment of 5G services. Ultimately, 5G services evolution will determine the extent to which regions become a focus for deployment. Telefónica and other mobile network operators have successfully deployed spectrum on a national basis to meet the needs of both businesses and consumers. Ofcom should support this approach so as to ensure that mobile operators including Telefónica can meet the needs of their customers in the future. Unhindered access to 3.6 to 3.8GHz spectrum

for mobile services is vital to facilitate enhanced mobile communications and enable the 5G solutions that will improve connectivity and support increased data demand. This makes it an important band which could be relevant to the success of 5G in the UK.

- Remove any remaining regulatory uncertainty regarding revenue opportunities in the 5G business. Consumer prices and behaviour are poor economic tools to adequately influence the efficient use of network assets by service providers. Net neutrality regulation should not restrict the application of innovative (including two-sided) business models; allowing investments in new infrastructure to be partially funded by the services that are fuelling the growth in data traffic. It is neither efficient nor in the public interest for consumers to shoulder all the burden of funding future networks.
- Ensure that any contradiction between Net Neutrality regulation and Ofcom's duties, in particular with regard to efficient use of spectrum, is pragmatically resolved to ensure that when spectrum is deployed, it can be assigned flexibly to different network slices, including internet access services, based on developing (and uncertain) demand. An overly prescriptive interpretation of Net Neutrality regulation risks removing the operational and efficiency benefits of many services sharing the same platform, rendering 5G investment a pointless exercise.

Legal Separation of Openreach from BT

14. Telefonica agrees with the approach set out by Ofcom in its strategic review of communication in 2016. Specifically, competition between three or more fibre network infrastructure players is best designed to maximise consumer welfare; and access to BT's duct and poles at cost is best designed to maximise the prospect of such competition.
15. Telefonica appreciates that Ofcom has not yet implemented all of the proposals set out in its strategic review. However, we see little evidence of the change in behaviour and outcomes that the review had anticipated.
16. Access to Openreach ducts would reduce cost and speed to deploy fibre where it is needed and provide other benefits, for example less disruption caused by roads which would otherwise need to be dug up.

17. As a result of Ofcom's strategic review in 2016, under which Openreach must treat all of its customers, including downstream BT businesses, on an equivalent basis, it follows that if Openreach deploys BT's FTTH service, Openreach needs to do so on an equivalence basis. That is, the duct network needs to be cleared, repaired and accurately mapped so that other competing providers can use the same ducts on an equivalent basis. Similarly, if third parties request duct access from Openreach, then a truly equivalent service should be provided.
18. The acid test for the equivalence of inputs under Openreach's new separation is that BT must be required to use the same Duct & Pole Access remedy as its competitors. If that remedy does not work for BT's competitors, yet in some way Openreach can service BT alone with FTTH then there is something very wrong with the current legal separation imposed on BT/Openreach.
19. Telefónica supports Ofcom's plan to monitor and report progress on arrangements for the legal separation of Openreach from BT and fully assess the effectiveness of actions taken in benefiting consumers, including addressing competition concerns and encouraging new investment in networks.