

Communications Consumer Panel and ACOD's response to Ofcom's consultations "Delivering the Broadband Universal Service Proposals for designating providers and applying Conditions"

The Communications Consumer Panel, established by the Communications Act 2003, is a group of independent experts with direct sectoral experience. We ensure the citizen and consumer voice is represented in communications policy development.

The Panel's job is to ensure that the sector works for consumers, citizens and micro businesses - and in particular people who may be in a more vulnerable position in society. We carry out research, provide advice and encourage Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD (the Advisory Committee for Older and Disabled people) with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

Response

The Panel welcomes the opportunity to contribute to the delivery of the USO. We believe that 10Mbps should be a minimum guaranteed speed across the UK. This threshold should increase in line with, or ideally anticipate, consumers' needs and the improvements which will become inevitable over time.

Design and cost of the USO

As we have advised previously¹, we believe the USO is needed as a legal 'safety net'; it should be a relatively low-cost, affordable, solution delivering to those in the most need.

We recognise that the cost and funding of a USO is a potentially complex area and we would wish to avoid the unintended consequence of higher prices across the board as a result of the USO. There is - we believe - an argument that providers will benefit long term from the USO by virtue of more consumers buying and using their services; there is also a wider economic and societal benefit, particularly for those vulnerable users who are

¹ <https://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-response-to-dcms-broadband-uso-october-2017.pdf>;
<https://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod-response---ofcom-broadband-uso-23-june-2016-final.pdf>;
<https://www.communicationsconsumerpanel.org.uk/downloads/ccp-acod---broadband-uso-dcms-primary-legislation-consultation-18-april-2016.pdf>



likely to become increasingly dependent on access to broadband for wider support services.

The method of assessing eligibility for the USO appears sensible and reasonable, as long as the communication with the consumer is clear so that they understand fully each step of the process.

Informing consumers, citizens and micro businesses about the USO

Using a diverse range of channels to inform consumer, citizens and micro businesses about the USO is very important. People who cannot currently get reliable or high-quality internet access cannot be expected to only use the internet in order to access information. Similarly, the Panel encourages Ofcom to take account of the needs of all potential USO consumers in terms of how the USO is communicated so that people in vulnerable circumstances or with additional access needs are in no way disadvantaged.

We believe that communication to individuals concerning the USO and their potential eligibility is an essential part of the service's delivery and should also be a measure of success for which the Universal Service Providers (USPs) should be accountable.

In terms of the equality impact assessment within the consultation document, we agree that the proposals are unlikely to have any particular impact on race, disability and gender equality. However, we believe that there may be a risk of an undue indirect impact on consumers in vulnerable circumstances - which may include disabled people - if the USO is not widely and well communicated in a way that reaches all consumers equally. We urge Ofcom to keep this in mind. For the avoidance of doubt, where we highlight the needs of 'consumers' or 'potential broadband consumers' in this response, we intend for Ofcom to consider under this banner the needs of consumers, citizens and micro businesses.

In order to ensure that communication is effective and holistic we support a universal service condition requiring USPs to raise awareness of the USO for all potential beneficiaries. Beyond simply raising general awareness of the existence of the USO we would urge Ofcom and the USO providers to work together to take the necessary steps to ensure eligible consumers are given useful and meaningful information. We would also like to see support provided to vulnerable consumers in a way that mirrors the principles of Ofcom's General Conditions.

We believe that publicity about the USO, its availability and the eligibility criteria will be crucial to its success and we look forward to seeing more detailed plans on this - from Ofcom and from the designated USPs.

Communication of the outcome of a request

We agree with Ofcom's proposed approach to informing consumers of the outcome of their USO request. It is imperative that communications are sent in a readily accessible format and phrased in such a way that consumers can easily understand.

We consider it reasonable that consumers should expect to receive the outcome of their connection request within 30 calendar days, as proposed by BT. A commitment to 30 calendar days is easier for consumers to calculate and understand than the 20-working day expectation previously proposed by Ofcom. We welcome Ofcom's revised proposal.

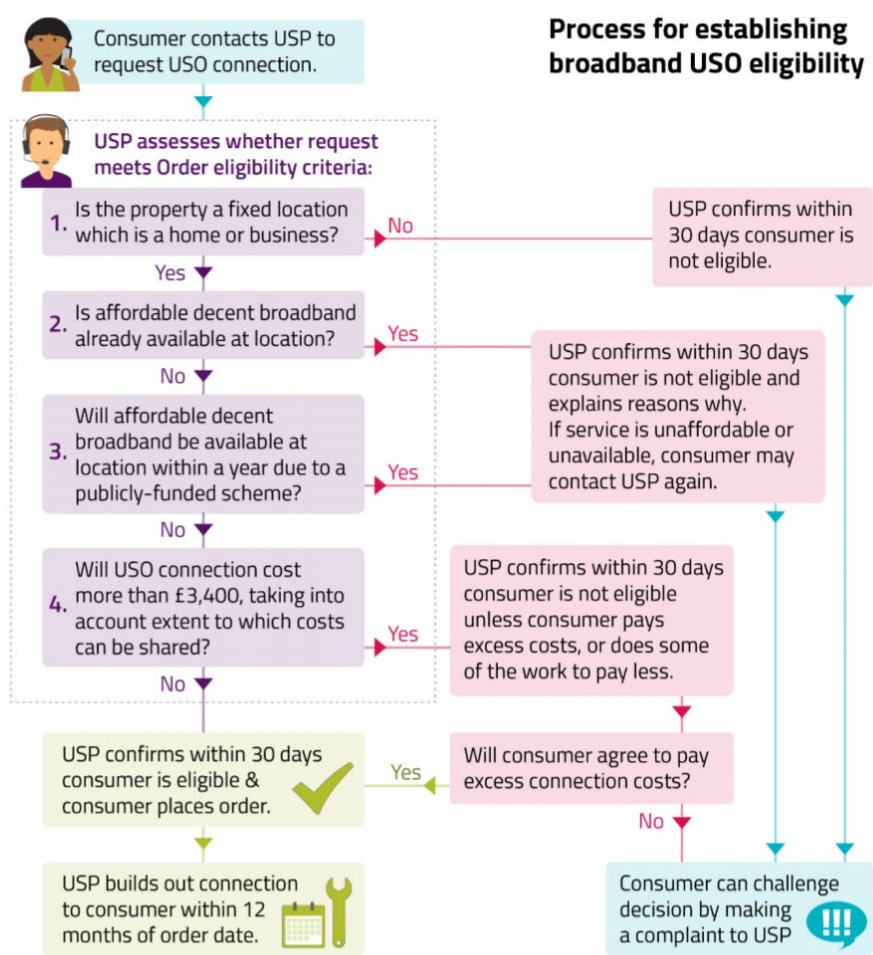
We also support the inclusion of information that allows consumers to understand why a request for connection under the USO has been rejected. Where the reason is that their

property is due to be covered by a publicly-funded broadband rollout scheme within a year of the request, proactively providing the contact details of the local body responsible for the scheme is a welcome proposal.

The question of how to communicate is not one in which consumers are passive, the aim should instead be that individuals are not just included but are able and are encouraged to engage and participate fully. We welcome the opportunity for consumers whose request is initially rejected because it is above the reasonable cost threshold to opt to be contacted if the situation changes and they become eligible (e.g. due to other requests in the local area, reducing cost per request overall).

The diagram shown in the consultation (figure 3 on page 45, copied below) is a clear illustration of the process and we would encourage something like this to be used in giving information to consumers.

Figure 3: Establishing eligibility for the USO



Timescale for connection

Waiting a year for what is widely regarded as an essential service is a long time from a consumer’s perspective and ideally we would like to see the delivery timescale reduced somewhat. However, we do understand the position of the USPs so we agree with the proposal to set an expectation on USPs of an absolute maximum of 12 months for the delivery



of USO connections unless exceptional circumstances have arisen. But that should be an absolute maximum and we would not expect USPs to take that amount of time as a general rule. We believe that setting a meaningful timeframe is an important part of the way that Ofcom can ensure that the USO is not an illusory benefit to consumers. It is vital that consumers do not end up waiting indefinitely for service from a USO provider.

We also agree with the proposal that the USO providers should be given defined exceptional circumstances that might impact upon the commitment to deliver USO connections within 12 months. We encourage Ofcom to consider ways in which those exceptional circumstances - such as the issues of restricted street access and customer or other private wayleaves - could be addressed by regulatory or statutory interventions.

Service quality

The Panel strongly supports Ofcom's goal to ensure that USO customers receive at least the same quality of service as non-USO customers. The fact that consumers are receiving broadband as a result of a universal service obligation should make no difference at all to the quality of service they receive - and that must be a high quality, secure and reliable service for all. Ofcom should monitor services to ensure that no quality or price discrimination takes place.

Alternative Dispute Resolution (ADR)

Clear and effective ADR is an essential part of the consumer's access to all communications services and this extends to the USO.

We agree that, when confirming the outcome of a USO request, the USP must explain that the consumer may challenge an eligibility decision by making a complaint. The provider should inform the consumer how to complain, using an appropriate communication format for that consumer - taking into account any additional access needs and the fact that the consumer may not have access to the internet).

We agree that for simplicity for consumers, the current ADR providers used by CPs should be designated as the ADR providers for USO requests. This decision should be made and communicated to the ADR schemes in time to allow them to train their staff and amend their systems before the first case reaches them.

We would like to see the timescale within which consumers can refer their complaints to ADR without a deadlock letter set at less than eight weeks. Given that USO delivery could take up to 12 months, and that the ADR process itself may take a couple of months, this is we believe essential for consumers.

Performance

The Panel supports the requirement that USPs publish the service metrics listed on page 100 of the consultation document, about their performance in complying with the conditions of the USO. Listing not only the volumes of USO requests, but the timelines for responding with the outcome of the request, connection and supply time and complaints and disputes data will be vital for holding the USPs to account.

We support the suggestion that this information should be independently audited and that the costs of such an audit should not be handed on to consumers. We also believe that meaningful performance targets must be imposed on the USPs with respect to the USO



obligations in order to ensure that the USO offers the same quality of service as for non-USO consumers.

For each case where the USP has taken longer than 12 months from the date on which the individual placed an order, to the activation date, we support the requirements in 9.12 (c), that the following information is published publicly:

- the reason(s) why this timeframe was not met;
- an explanation of the exceptional circumstance leading to the connection taking longer than 12 months;
- an explanation of how the USP sought to manage the risk of the circumstance arising; and
- how the USP sought to minimise the delay caused to the connection being delivered once the exceptional circumstance occurred.

We strongly suggest adding to this list a requirement that the USP states what remedial actions they are taking to prevent similar delays affecting other consumers.

We support Ofcom's proposals that:

- the first publication should occur no later than 30 calendar days after the expiry of the first 6-month period during which the USO obligations are in force; and
- each subsequent publication should occur no later than 30 calendar days after the expiry of each subsequent six month period.

To ensure that the service meets industry standards, we recommend publishing USO service quality information alongside other broadband service information in Ofcom's Comparing Service Quality reports.

Monitoring

The Panel strongly advocates for the requirement that the USPs must monitor actual USO take-up among eligible premises and use actual take-up as the basis for demand aggregation if it exceeds the forecast take-up level at any point after the USO is introduced. It is a key part of the effectiveness of the USO that take-up is monitored in order to measure outcomes and to calculate future costs.

We support the proposal to publish USO take-up and connection data in Ofcom's Connected Nations report. As highlighted above, we would also urge Ofcom to consider monitoring service data as part of its Comparing Service Quality report, which sets the standard for service quality across the sector and would therefore make any discrepancies in service quality transparent and easy to act upon.

The consultation document sets out that if a consumer is told the cost is greater than £3,400, the USP will need to provide them with a breakdown of the estimate. The process appears to allow the consumer to challenge this cost, and potentially resort to ADR if they feel the USP has over-quoted. The monitoring section describes a degree of tracking and scrutiny over those times this goes to dispute.

Our concern is the risk that vulnerable consumers - confronted by an estimate from the USP which significantly exceeds £3,400 - may simply be overwhelmed and just give up. After all they are not the experts on the costs. Or might they pay the extra because they simply feel unequipped to quibble the price quoted?



For the protection of vulnerable consumers, we would therefore recommend the following monitoring takes place:

- tracking and breakdown of the number of quotes in excess of £3,400 which do not go to dispute - to understand the number which have subsequently resulted in the consumer paying the difference, or simply declining to proceed with an order;
- independent scrutiny of a sample of these cases - to provide assurance that the cost breakdown quoted by the USP is fair and objective.

Pricing and a Social Tariff

The consultation document proposes a monthly connection and service provision cap of £45 and highlights pricing quotes provided by BT which are lower than this, pointing out that the cost to USO consumers per month is likely to be lower than the proposed cap. A quick search of price comparison websites accredited by Ofcom reveals a range of broadband tariffs, many of which are lower than the quotes by BT in the consultation document. While we understand the rationale behind Ofcom's proposed cap, we consider that £45 per month is relatively expensive and potentially prohibitive to take-up for lower income consumers. As we understand it, however, USPs must offer connections and services on its network at the same price no matter where in the UK the consumer is located. We urge Ofcom to monitor this closely and, if necessary, to take steps to ensure that all consumers are treated fairly.

As highlighted in the consultation document, the USO does not make provision for a social tariff for the most financially vulnerable people in society. We find this disappointing although we are pleased to see that:

- both of the proposed Universal Service Providers currently offer a voluntary social tariff for broadband; and
- Ofcom will be seeking voluntary commitments from BT and KCOM to offer their broadband social tariff to USO customers, and to upgrade the social tariff to meet
- the technical specification of the USO. We strongly support this and encourage Ofcom not to yield on this if challenged by the USPs.

Summary

- The cost of the USO should not be passed on to consumers overall;
- We welcome a proactive and inclusive communications plan to inform all consumers about the USO;
- Consumers should be able to receive the outcome of their request within 30 calendar days, with a reason for rejection and contact details of the local body in charge if the reason for a request is rejected due to a publicly-funded rollout in the next 12 months;
- Consumers should expect to be connected within an absolute maximum of 12 months, with defined exceptional circumstances set out in advance for providers - we urge Ofcom to consider ways to tackle those circumstances going forward;
- We believe that USO customers should receive at least the same quality of service as non-USO customers - service quality (as proposed) should be measured publicly to ensure that USO customers are not discriminated against;
- We agree that take-up and connection data should be published in Ofcom's Connected Nations Report;



- We agree that the ADR schemes used by CPs should be used to handle USO disputes, but encourage Ofcom to make a decision promptly to give them time to adjust systems and train colleagues to handle those disputes;
- We believe there should be monitoring of cases where the estimate has exceeded £3,400 and the consumers have not disputed it, to understand consumer behaviour and in particular the risk of vulnerable consumers missing out;
- We strongly support a social tariff meeting the agreed technical specification of the USO. Consumers meeting social tariff criteria - who are paying what they can afford - should not expect a lower level of service quality or speed than other USO consumers.