

FCS Response to the Ofcom Consultation - Compensating providers delivering universal service

Introduction

The Federation of Communication Services represents companies which provide professional communications solutions to (primarily) business users. Our members deliver telecommunications services via mobile and fixed line telephony networks, broadband, satellite, wi-fi and business radio. Most FCS members operating in the fixed services space are customers of Openreach which is a critical provider to this sector.

Our members' customers range from SMEs, home-workers and micro-businesses up to the very largest national and international private enterprises and public-sector users. FCS is the largest trade organisation in the professional communications arena in the UK, representing the interests of around 300 businesses who supply B2B services nationwide.

Overview / Key Points

We welcome the opportunity to respond to Ofcom's consultation on compensation of the designated providers delivering the new broadband Universal Service Obligation.

We broadly support the approach that Ofcom has proposed for compensating BT and KCOM for any "unfair" costs which they may incur in meeting these new obligations and we agree that in order to qualify for any compensation, the USO providers should be obliged to demonstrate that they have incurred an unreasonable level of unfair costs.

We are pleased that Ofcom has noted that intangible benefits accruing to USO providers (such as enhanced brand value) must be balanced against direct financial costs when making the calculation.

We also agree with the principle that claims should be made annually in arrears supported by evidence specified and required by Ofcom.

However, we believe that, although the new obligation may result in some additional costs to BT and KCOM, it is likely that an additional cost burden at initial levels is likely to be relatively short term as the demand stimulated is likely to be highly "front loaded" - absent a broadband USO until now, demand has effectively been held back for a number of years. We believe that demand in subsequent years, therefore, is likely to be much lower once initial demand has been satisfied.

On this basis, therefore, we propose that no industry fund should be created until longer term demand, over a number of years, has been assessed. Creation of an industry fund is in any case also likely to be the most expensive and intrusive method of compensating providers and should be resisted. Use of government funding would be a more appropriate method, during any assessment period.

If Ofcom does decide to create an industry fund, we agree with the principle of sharing contributions based on “net relevant turnover” and that a threshold should be operated below which CPs should not be asked to contribute. The threshold should be set in a way which minimises the number of contributing CPs and the associated administration.

Finally, we would like to make the point that any connections provided under the USO should be available for switching to another provider at the end of the initial minimum contract period where the customer wishes to do so.

Answers to individual consultation questions:

Question 1: Do you agree with our proposed procedures for commencing a review of a net cost of complying with universal service conditions?

Yes, we agree that the change to a USO based on broadband is likely to have a significant impact on demand and it is timely to review the cost implications.

Question 2: Do you agree with our proposed procedures for making an application requesting compensation for any unfair burden?

Yes, we agree that the onus should be on providers to make a claim and that the process envisaged is appropriate.

Question 3: Do you agree with our proposed procedures when making determinations when assessing a net cost claim, including our proposed approach to finality?

Yes we agree broadly with the proposed process and also that “retrospective” claims should not be entertained.

Question 4: Do you agree with our proposal on the information the Universal Service Provider should provide alongside an application to review a net cost?

Yes. The proposals seem proportionate.

Question 5: Do you agree with our proposed approach to calculating, verifying and auditing a net cost?

No view on this..

Question 6: Do you agree with the proposed factors we will consider when assessing an unfair burden?

Yes. Specifically, we agree that any benefits accruing to the provider should be assessed alongside the cost burden.

Question 7: Do you agree with our proposed approach to determining whether an industry fund industry fund should be set up?

We believe that the creation of an industry fund should be a “last resort” as it is likely to be the least efficient way of reimbursing the USO providers. We do not believe that Ofcom has considered sufficiently the impact of “front loading” of demand. Ofcom should strongly resist creating such a fund based on the level of cost incurred by providers in the initial years of operation of the new broadband USO.

Question 8: Do you agree with our proposed approach to determining which providers will contribute to any industry fund?

We agree with the criteria being considered but we strongly believe that the number of participating companies should be minimised to reduce administration costs and in consideration of proportionality

Question 9: Do you agree with our proposed approach on calculating contributions from fund contributors?

In principle, we agree with the approach.

Question 10: Do you agree with our proposed approach to collecting contributions to an industry fund?

No view on this.

Question 11: Do you agree with the proposed process by which we would compensate the Universal Service Provider?

No view on this.

Question 12: Do you have any comments on the specific provisions of the draft funding regulations?

Question 13: Do you agree with our proposed approach to the choice of the counterfactual for the calculation of a net cost of the broadband USO?

No view on this.

Question 14: Do you agree with our proposal to use a NPV methodology to calculate a net cost of the broadband USO?

No view on this.

Question 15: Do you agree with our proposed reporting requirements in respect of the broadband USO?

No view on this.

Question 16: Is there anything else you would like to tell us about the proposals set out in this document?

We have nothing further to add at this stage..

FCS hopes that these comments are helpful to Ofcom in its considerations and we would be happy to discuss any aspects of our response in further detail.

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