CityFibre response to Ofcom's proposed plan of work 2021/22

Non-Confidential

2nd March 2021

1.1 We are very pleased to be contributing our views on Ofcom's proposed plan of work for the year ahead,[1] at what is a critical moment in the journey to deploying full fibre connectivity across the UK.

1.2 Since 2016, Ofcom has adopted a new overarching regulatory strategy of promoting infrastructure competition in full fibre networks. We are fully supportive of this strategy and see ourselves as having a key role in helping to achieving it. Given this, we consider that the strategic priorities Ofcom has set out in its draft work plan, most notably those of 'Investment in strong, secure networks' and 'Getting everyone connected' are absolutely the right ones.

1.3 CityFibre has an ambition to deliver full fibre to up to 8 million UK premises and in doing so would become the UK's second largest full fibre network, behind the incumbent Openreach. However, in order to achieve this ambition (and even go beyond it) our investors must continue to fund our network build. Ongoing investment requires favourable market conditions, in terms of cost of deployment (supply-side conditions) and also in terms of consumer demand and willingness to pay (demand-side conditions).

1.4 In regard to ensuring the right supply-side conditions exist, significant work has already been undertaken by Ofcom, including as part of the WFTMR, which we see as a critical component of the overarching strategy. Establishing a market environment that is conducive to investment, requires investors to have a degree of clarity and certainty regarding future regulation. In this regard we were very pleased to see statements from Melanie Dawes regarding Ofcom's commitment to supporting fibre investment (at least through price controls) until at least 2031.[2]

1.5 The supply side however is just one half of the equation for Ofcom's strategy (and indeed for investors deciding whether to commit further capital). This is because it is only once consumers actually start using the new full fibre services that the benefits are realised. In order to maximise the utilisation of new full fibre networks, and the benefits for consumers, it is critical that industry and Ofcom work together to remove (or at least to minimise) any material barriers to full fibre take-up.

1.6 A critical first step is ensuring consumers can understand the benefits of full fibre over and above legacy (i.e. part-fibre) services that are prevalent today and can make informed purchasing decisions going forward. With significant full fibre deployments underway, and a Government ambition of providing high-quality connectivity to the vast majority of UK premises by 2025, it is essential that we quickly get consumers up to speed regarding the real-world benefits of full fibre networks. This is no small task given the current levels of confusion and misunderstanding in the market.

1.7 Given what we have set out above, we consider that Ofcom's stated strategic priorities of supporting network build and getting people connected are absolutely the right ones to be focussing on, not just for the year ahead but also beyond that. Ensuring that the right market conditions exist on both the supply side and the demand side factors are essential for the full

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[1] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/209128/plan-of-work-202122.pdf

[2] "[W]e don't expect to introduce cost-based prices for fibre services until at least 2031" [Link]

fibre investment case and are therefore critical for the achievement of Ofcom's overarching objective of promoting competition and investment in fibre networks.

1.8   We now set out what we consider Ofcom should focus on in the year ahead in order to support investment in full fibre networks and also to ensure the benefits of improved connectively and competition are realised by consumers.

1.9   In regard to the **supply side** (which supports full fibre network investment), we believe that the following areas need to be prioritised over the next 12 months:

- **Continue to improve the effectiveness of PIA:** Over the last 12-18 months the effectiveness of PIA for large-scale deployments has improved significantly as a result of ongoing efforts from Ofcom and industry. However, it continues to frustrate users by failing to deliver the cost and time savings which it could, if implemented effectively. Openreach, industry and Ofcom will need to work together to continue to drive through continuous improvements in order to maximise the potential of PIA.

- **Provide the right build incentives through regulated price caps:** Ensuring that price regulation does not undermine the incentives of fibre investors is a key part of Ofcom's proposals in the WFTMR which we fully support. The progressive movement away from cost-based price caps on active wholesale services is essential for ensuring that investors face the right incentives for deploying new fibre networks.

- **Guard against anti-competitive foreclosure by Openreach:** Ofcom's proposals in the WFTMR Consultation (under Annex 15) would act to address a fundamental risk to nascent competitors of anti-competitive foreclosure by Openreach through the use of wholesale agreements. Ofcom have recognised this risk and propose a number of measures to address it. We are fully committed to supporting Ofcom's ongoing monitoring and efforts to manage the risk of anti-competitive foreclosure by Openreach, including by fully engaging in any public consultations.

- **Support efficient network deployment:** The EECC sets out, under Article 22,[3] conditions for implementing transparency mechanisms to support the efficient deployment of new fibre networks. We consider this to be an important tool for ensuring good consumer outcomes and are already engaged with Ofcom colleagues tasked with implementing the new provisions.

1.10   In regard to the **demand side**, (which supports full fibre network investment but also critically, ensures that the benefits of improved connectivity and competition are realised by consumers), we believe that the following areas need to be prioritised over the next 12 months:

- **Improve consumer understanding of the benefits of full fibre:** We strongly encourage Ofcom to address significant prevailing consumer confusion about broadband services/technologies and their respective benefits. Consumers today appear largely unaware of the breadth of connectivity improvements from new fibre networks.[4] The current gulf in consumer understanding will likely act to deter many consumers from considering take-up of such services in the first place. We consider that confusion among consumers about what different broadband services can offer has been largely caused by the way broadband services are marketed to consumers today. This includes the hyperbolic language used in many broadband advertisements. In light of this, we consider that Ofcom should consider the possible role of a market-wide broadband label that could provide a clear signal to consumers about the quality

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[3] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2018:321:FULL&from=EN

[4] Such benefits include not only faster download speeds, but also; greater speed consistency, symmetric bandwidth, lower latency and packet loss, fewer faults, and lower carbon emissions.

they can expect from a given broadband service. Such a label could help consumers compare different broadband packages more effectively, and to make better informed purchasing decisions. We note that a broadband labelling scheme has already been adopted in Italy.[5]

- **Ensuring consumers are aware of full fibre availability**: Consumers need to understand when they will be able to take advantage of full fibre services. While a seemingly simply issue, there can in fact be confusion about the status of availability. This we believe is in part the result of the current inconsistent use of terms such as 'premises passed' and 'ready for service'. Incentives of some operators may be to maximise the perceived fibre network coverage at any point in time, and in doing so over-state the number of consumers who are actually able to request a full fibre service today. In addition, we note that not all price comparison sites offer information on all fibre networks, meaning that some consumers may be completely unaware that a particular fibre builder has deployed in their area. A general lack of understanding about when full fibre is available acts directly to undermine take-up and therefore the deliver of consumer benefits.

- **Ensure the broadband consumer switching process is quick and simple:** Once consumers understand the benefits, are aware of when full fibre will be available, and are keen to take it up, the final hurdle is for them to actually purchase a full fibre connection. For this we must ensure consumers can quickly and easily switch away from their existing service, with minimal fuss and seamless transition (i.e. no gap in service). We are very pleased to see that Ofcom have now published its consultation on proposals to implement a One Touch Switching process (based on the Gaining Provider Led principle) for fixed broadband which will seek to make switching easier and simpler for consumers.[6] This is a critical piece of work for supporting the migration of consumers onto new full fibre services, and for promoting competition by reducing switching barriers. We urge Ofcom to implement the new switching process with all deliberate speed. The current deadline for implementation of December 2022 seem to us to be too long and would urge Ofcom to expedite the implementation process to the greatest extent possible.

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[5] See, Wik (2020) 'Moving to a fibre-enabled UK: International experiences on barriers to gigabit adoption' Pages 100-102 [Link]

[6] Ofcom (2021) 'Quick, easy and reliable switching: Proposals for a new landline and broadband switching process and to improve information for mobile switching' [Link]