

Your response

Question	Your response
<p data-bbox="188 1727 735 1794">Question 1: Functioning of the net neutrality framework</p> <p data-bbox="188 1832 756 2007">(a) Which aspects of the current net neutrality framework do you consider work well and should be maintained? Please provide details including any supporting evidence and analysis.</p>	<p data-bbox="794 1727 1369 1827">Meta appreciates Ofcom’s attention to these important issues and welcomes the opportunity to provide feedback.</p> <p data-bbox="794 1868 1358 2007">As discussed in more detail below, Meta encourages Ofcom to (a) maintain a framework of strong net neutrality protections while ensuring any innovative technologies or use</p>

(b) Which aspects, if any, of the current net neutrality framework do you consider work less well and what impact has this had? What, if any, steps to you think could be taken to address this and what impact could this have? Please provide details including the rule or guidance your response relates to and any supporting evidence or analysis.

cases are supported within the parameters of that framework, and (b) provide additional flexibility for zero-rating offers that benefit consumers and connectivity through a holistic, case-by-case approach.

Response to (a)

Meta is a strong supporter of net neutrality and believes it is critical for keeping the internet open for everyone. Meta works closely with partners and supports the use of innovative, new technologies and use cases to benefit consumers and connectivity. It is important, however, to explore innovative solutions while maintaining and working within the framework of strong net neutrality protections. Maintaining strong net neutrality principles ensures consumer choice while preserving the ability of the entire internet ecosystem to innovate.

For these reasons, Meta supports maintaining core net neutrality principles in Ofcom's current net neutrality framework,¹ including:

- **No Blocking or Throttling:** Providers of internet access should not be permitted to block, slow, or degrade people's ability to use, send, receive, or offer any lawful content, application, or service of their choice on the internet. Providers of internet access also should not be permitted to limit the ability of consumers to use a non-harmful device of their choice to access the internet.
- **No Paid Prioritization or Fast Lanes:** Providers of internet access should not be permitted to enter into arrangements to deliver specific content on the internet at faster speeds or require content providers to pay in order to ensure a certain quality of service to end-users on the internet.
- **Reasonable Traffic Management:** Any network management practices should be based on objective technical and

¹ See "Ofcom's approach to assessing compliance with net neutrality rules; Frameworks for assessing zero rating offers and traffic management measures for compliance with the Open Internet Regulation" (16 May 2019) available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0014/148100/ofcom-approach-net-neutrality.pdf.

non-discriminatory considerations, and should be tailored to achieving a legitimate network management purpose. Any such practices should not result in preferential treatment of the internet access provider's affiliated content or services, or the blocking or throttling of specific classes of content, applications or services.

- **Transparency:** Providers of internet access should be transparent about their network practices (including the provider's approach to traffic management) and the speed of the traffic that flows over their networks.
- **Technological Neutrality:** Providers of internet access should abide by these net neutrality principles regardless of how internet access is provided — i.e., via wireless or wireline.

Response to (b)

With respect to zero-rating, we encourage Ofcom to maintain its position that zero-rating is not a *per se* violation of net neutrality, and to allow for additional flexibility through *ex post* review on a holistic, case-by-case basis.

Rather than finding any single factor to be determinative, a holistic approach can enable Ofcom to provide greater flexibility for zero-rating offers that benefits consumers and connectivity while addressing any practices that are shown to cause actual harm to consumers or the open internet.

Zero-rating provides an important tool for helping people stay connected with access more consistently – particularly where people have temporarily exhausted their data balance or have not yet purchased data:

- **Supports more consistent connectivity:** Even among consumers who are already online, a segment remains under-connected and not able to afford data consistently all the time (e.g., someone purchasing pre-paid data packs while living paycheck to paycheck). Zero-rating offers can help

under-connected consumers' data balance last longer so that they can stay online more consistently. Additionally, rather than dropping off the internet completely when they run out of data (or have not yet purchased data), zero-rating offers can help keep consumers connected more consistently until they are able to purchase data again.²

- **Providing Increased Access to Health and Other Resources:** As demonstrated during the COVID-19 health crisis, zero-rating offers can also provide consumers with increased access to important online resources such as health and COVID-19 information, education resources, local government information, communications tools, job tools, and resources for small businesses.³

Given the significant consumer and connectivity benefits of zero-rating, Ofcom should not adopt *ex ante* restrictions. Instead, any concerns with particular practices should continue to be assessed *ex post* on a holistic, case-by-case basis and only restricted with evidence of actual harm.

To help guide any review (as envisaged in the step-assessment laid down in paragraphs 3.11-3.24 of Ofcom's current net neutrality framework), Ofcom can continue to holistically consider factors including whether offers are:

- **Non-exclusive:** Whether the zero-rating arrangement involves any exclusivity

² See e.g., "Nesta Data Poverty Report for Scotland and Wales" (April 2021) (finding that more than 10% of adults in Scotland and Wales with monthly mobile contracts regularly run out of data before the end of each month), available at: https://media.nesta.org.uk/documents/01-FS_NEST_DPENG_Book_Ho3AqpW.pdf; see also generally "New Survey Explores Key Benefits of Zero-Rating" (Feb. 2021) (finding in other regions that key benefits of zero-rating include keeping consumers connected when they run out of data between top-ups and helping their data packs last longer), available at: <https://www.ipsos.com/en-us/new-survey-explores-key-benefits-zero-rating>.

³ For example, the COVID-19 Information Center on Meta has provided consumers with health information and updates from national health authorities and global organizations; in conjunction with the World Health Organization, the WhatsApp Chatbot has provided consumers with updated information on Covid-19; various apps and websites, such as NHS resources, have been zero-rated to provide consumers with important health information or other online resources. See, e.g., <https://faq.covid19.nhs.uk/article/KA-01164/en-us>.

requirement between the internet access provider and content provider, or whether either provider is free to enter into the same, or similar, arrangements with others.

- **Independent/non-affiliated**: Whether the zero-rating arrangement is between an internet access provider and content provider who are non-affiliated and independent, thereby not favoring the internet access provider's own content over other content providers.
- **Open**: Whether the zero-rating program is open to content providers under transparent, objective criteria.
- **Transparent**: Whether the internet access provider discloses the terms of the offering and its scope in a clear and transparent manner.

In particular, we encourage Ofcom to allow for additional flexibility where consumers can continue accessing zero-rating programs for some period of time when they have temporarily exhausted their data balance or have not yet purchased data in the first place.

Rather than consider this a *per se* violation, we encourage Ofcom to provide flexibility in assessing this aspect of any zero-rating offer as one factor in the holistic review.

For example, Ofcom might consider the benefits of a given offer that allows consumers to continue accessing an open category of zero-rated services for some period of time (e.g., a number of days) after exhausting their data balance so that they can stay connected until purchasing data again. Alternatively, an offer might allow consumers who have not yet purchased data to try an open category of zero-rated services for some period of time before deciding to purchase data. Providing this flexibility for zero-rating offers would help under-connected consumers in the UK stay connected more consistently with access to important online resources.

Taking a flexible approach would remain consistent with Ofcom's existing net neutrality framework. For example, paragraph 3.8 of Ofcom's current net neutrality framework

	<p>provides the following flexibility regarding Ofcom’s assessment of zero-rating offers:</p> <p><i>“However, depending on the specific circumstances of the case, other factors may also be relevant. Therefore, individual cases will always need to be analysed on a case-by-case basis. The framework is also intended to be a living document and may be revised by Ofcom from time to time based on further experience.”</i></p> <p>Separately, we welcome some of the creative ways in which MNOs and regulators - including Ofcom - have worked together with respect to various zero-rated offers.⁴</p> <p>As Ofcom considers its approach for zero-rating going forward, given the significant consumer benefits various innovative offers can provide, we caution against a prescriptive approach that might provide greater flexibility for only specific use cases or types of content over others. While some of the subject areas (e.g., health apps) may be clearly beneficial for consumers, we encourage a principled approach which can holistically consider consumer and connectivity benefits of future offers and programs.</p>
<p>Question 2: Use cases, technologies, and other market developments</p> <p>(a) What, if any, specific current or future use cases, technologies or other market developments have raised, or may raise, particular concerns or issues under the net neutrality framework?</p> <p>(b) What, if any, steps do you think could be taken to address these concerns or issues and what impact could this have? Please provide details of the use case, technology or market development and the rule or guidance your response relates to, as well as any supporting evidence and analysis.</p>	<p>Meta supports the use of innovative technologies and business models to benefit consumers and connectivity. It is important, however, that any new technologies and use cases stay consistent with the framework of core net neutrality principles without weakening or circumventing Ofcom’s open internet protections. In particular, we address below (i) network slicing; and (ii) specialised services.</p> <p><u>Network slicing</u></p> <p>As stakeholders explore how network slicing and related practices can provide consumer and connectivity benefits going forward, we encourage Ofcom to ensure that such practices stay consistent with existing net neutrality</p>

⁴ See e.g., initiatives in the UK to zero-rate a variety of websites and apps (e.g., resources that support victims of crime, government health apps, and educational content for children).

protections and Ofcom's net neutrality framework.

Providers of internet access service should not be permitted to deploy network slicing or related practices in a way that would circumvent the core net neutrality protections discussed above, or to engage in practices that would otherwise be prohibited by those protections, including prohibitions against blocking, throttling, or engaging in "paid prioritization" to create fast lanes for specific content or services.

Network slicing should not be considered to raise any unique concerns or analysis that cannot be accommodated within existing net neutrality rules and guidelines. New technologies and use cases can be supported and pursued without weakening or providing exceptions to core net neutrality principles.

Specialised Services

As recognized by Ofcom, specialized services (i.e., a service offered separate from internet access service) are generally intended for enterprise customers and used in cases where some form of enhanced quality of service (QoS) is required that cannot be supported by regular internet access service -- e.g., autonomous vehicles or telemedicine.

Without strong protections, the offering of specialized services could undermine net neutrality principles and the availability of robust internet access service for consumers in the future.

We encourage Ofcom to adopt strong protections for consumers -- along the lines of those that have been adopted in jurisdictions such as the European Union, India, and previously in the United States (in the Federal Communications Commission's (FCC's) 2015 Open Internet Order).⁵

⁵ FCC 15-24, Adopted February 26, 2015 and Released March 12, 2015, available at: <https://www.fcc.gov/document/fcc-releases-open-internet-order>

	<p>These protections should ensure that specialized service offerings are not allowed if they:</p> <ul style="list-style-type: none"> ● Have the purpose or effect of evading net neutrality protections that apply to internet access service; ● Provide a functional equivalent of internet access service; ● Provide services that should function and be supported over regular internet access service ; or ● Negatively affect the performance of regular internet access service. <p>If specialized services are permitted consistent with the protections above, Ofcom also should require ISPs to offer any specialized services in a way that is non-discriminatory between similar types of services.</p> <p>Where specialized services are permitted, consistent with the above, we would also encourage Ofcom to consider:</p> <ul style="list-style-type: none"> ● Conducting a regular assessment and updating expected minimum speeds and quality of internet access service to ensure improvements and investment over time, and to assess any negative impact of specialized services on the relative quality of internet access service. ● Requiring ISPs to seek prior approval for any specialized services, and to transparently disclose their specialized service offerings. ● Making clear that any specialized services are subject to review and enforcement if they fail to satisfy the protections described above or other applicable rules.
<p>Question 3: Value chain</p> <p>Are there particular business models or aspects of the internet or other value chains that you think we should consider as part of our review? Please explain why, providing</p>	<p>N/A</p>

<p>details including any supporting evidence or analysis.</p>	
<p>Question 4: International cases studies</p> <p>Are there any international case studies or approaches to net neutrality that you think we could usefully consider? Please include details of any analysis or assessments.</p>	N/A
<p>Question 5: Guidance and approach to compliance and enforcement</p> <p>Are there specific challenges with the existing guidance that we should be aware of (e.g. ambiguity, gaps)? Assuming the rules stay broadly the same, which areas could Ofcom usefully provide additional clarity or guidance on? Please provide details.</p>	<p>As outlined above in our response to question 1(b), we would welcome, in particular, the inclusion of additional flexibility for zero-rating offers through Ofcom's implementation of a holistic, case-by-case approach. In particular, we encourage Ofcom to consider providing greater flexibility for zero-rating offers that enable continued use for some period of time when consumers run out of data balance, or have not yet purchased data, so that they can stay connected until they top up.</p>
<p>Question 6: Annual report</p> <p>Do you find Ofcom's annual monitoring report useful or are there any changes you think we could usefully make either to the content or how we communicate this?</p>	N/A
<p>Question 7: Other</p> <p>Is there any other evidence or analysis that you are aware of and/or could provide to aid our review?</p>	N/A
