

T: 0300 244 4000
E: scottish.ministers@gov.scot

Ofcom Plan of Work 2023-24
Email: planofwork@ofcom.org.uk

Copy to:

Minister for Public Finance, Planning and
Community Wealth, Tom Arthur MSP
Cabinet Secretary for the Constitution, External
Affairs and Culture, Angus Robertson MSP

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CONSULTATION – OFCOM’S PROPOSED PLAN OF WORK 2023/24

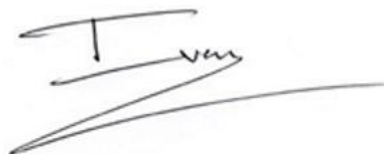
I welcome the opportunity to respond to the Ofcom consultation on the proposed Plan of Work for the forthcoming year 2023/24. I am aware that a separate response will come from the Cabinet Secretary for the Constitution, External Affairs and Culture, Angus Robertson MSP on his portfolio interests.

I note that Ofcom is broadening their remit to cover new duties for video-sharing platforms and telecoms security and the Online Safety Bill. This reflects the ever increasing importance of digital in every aspect of our lives.

Given the broader remit, I have included a section on consumer protection, which is part of the Minister for Public Finance, Planning and Community Wealth, Tom Arthur MSP’s portfolio.

For the purpose of confidentiality, I am happy for Ofcom to publish any reference to the content of my response.

My full response to the Ofcom Proposed Plan of Work 2023/24 is at Annex A.



IVAN MCKEE

BROADBAND AND MOBILE CONNECTIVITY

Given the delivery at pace that Scotland's digital infrastructure programmes – Reaching 100% (R100) and Scottish 4G Infill (S4GI) – are making, I welcome Ofcom's involvement to date and its ongoing commitment to supporting the Scottish Government through the provision of relevant data alongside technical and regulatory advice.

We have made great strides in recent years in increasing both the granularity of the information we provide and the regularity with which we update that information, in large part thanks to the information we receive from third parties – Openreach as our R100 contract delivery partner, other commercial suppliers operating in Scotland, and Ofcom itself. Not only does this information prove useful for the general public, it will also prove valuable for identifying and targeting any future interventions, including those which will be delivered through the UK Government's Project Gigabit.

With this in mind, I welcome Ofcom's continued provision of data on the availability, use and performance of broadband infrastructure and services, and I look forward to reading the report Ofcom has stated it will publish in Q1 of 2023/24. I am also keen to understand how Ofcom intends to use its data to drive greater take-up of telecoms services.

RESILIENCE IN RURAL LOCATIONS – SUPPORTING INTERNET SERVICE PROVIDERS

Of course, telecoms network resilience is vitally important, particularly for Scotland's rural and island communities. These same rural and island locations can increase their residents' reliance on digital connectivity to communicate effectively with the rest of the world, both for private and business needs. Therefore, the continued focus on overcoming challenges to service rollout in these communities is vital for their long term viability and prosperity.

One of the issues that came to light in the aftermath of the outage suffered on Shetland last year is that not all Internet Service Providers (ISPs) who deliver telecoms services to Scotland's islands have the means to deliver a back-up service, in cases where their primary service is unavailable. Given that we have now deployed a further 16 subsea cables to 15 Scottish islands through the R100 North contract, I would ask Ofcom to consider how it can support ISPs in ensuring the resilience of the services it provides, including working collaboratively with Government and other agencies to mitigate against damage to sub-sea infrastructure.

One way in which we believe ISPs, especially smaller providers, would be able to ensure greater network resilience is through easier, more affordable access to backhaul. This is an issue that several stakeholders have raised with us, as they believe that current backhaul charges can prevent providers from ensuring greater resilience, as well as extending their own networks. We have raised this issue recently with Ofcom and I understand that some telecoms suppliers are keen to discuss the merits of a backhaul social tariff.

REFORMS TO THE ELECTRONIC COMMUNICATIONS CODE

I welcome UK Government reforms to the Electronic Communications Code following the passing of the Product Security and Telecommunications Infrastructure Act. Stakeholders have frequently raised issues around wayleaves due to the greater proportion of telegraph poles positioned on private land in Scotland. By bringing on-land infrastructure (poles) into scope for sharing pre-2017 Code agreements, alongside existing Code powers to fly lines, this will facilitate greater use of the Physical Infrastructure Access (PIA) remedy regulated by Ofcom. It is critically important that legislation and regulation address circumstances specific to Scotland.

MOBILE SPECTRUMS

Access to reliable mobile connectivity is a vital part of the Scottish Government's digital ambition for Scotland, from accessing public services and enabling digital transformation to supporting innovation and attracting inward investment. I welcome Ofcom's commitment to embracing innovative approaches to spectrum usage as set out in the 2022 Spectrum Roadmap. The work of the Scotland 5G Centre, notably with dynamic spectrum access, underlines the considerable potential of a flexible and effective regime that facilitates sharing. We also remain keen to explore ways to enable greater use of spectrum at a regional level.

To reiterate some of the points we made in our response to Ofcom's mobile and spectrum discussion papers in 2022, I would welcome Ofcom giving attention to:

- assessing the efficiency spectrum usage (urban vs rural);
- identifying what spectrum could potentially be re-deployed in very hard to reach areas (where private operators currently have little incentive to invest); and
- ensuring efficiencies are achieved.

With specific reference to the 6 GHz upper spectrum band where there are competing potential uses, I recognise that there is a balance to be struck, considering the needs of all spectrum users. I would ask that Ofcom considers the most appropriate route to ensure optimum usage of this spectrum whilst ensuring adequate provision of spectrum to facilitate widespread 5G network rollout in the future.

SATELLITE CONSTELLATIONS

Ofcom's planned work in relation to satellite constellations is welcomed and we are keen to work collaboratively with Ofcom on this. This represents a significant platform for Scotland in terms of connectivity but also represents an emerging economic sector for Scottish manufacturing.

CLIMATE CHANGE RESILIENCE (ADAPTATION)

Another area of increasing significance is Climate Change Resilience (Adaptation). Scotland's climate has already changed, with rainfall having increased by 27% since the early 1960s. As a result, flooding is an ever-increasing risk which can severely impact telecommunications infrastructure and services. One example was in August 2020 when 120,000 customers in Edinburgh lost broadband services after flash flood waters entered the Edinburgh Donaldson telephone exchange causing significant damage. It is essential that climate change adaptation strategies are embedded into new infrastructure builds and mitigation measures are implemented at existing high risk infrastructure facilities.

CONSUMER PROTECTION

I welcome Ofcom's proposed plans to strengthen rules on preventing nuisance calls and encouraging telecoms companies to develop solutions preventing misuse of communication services. However, we recommend creating awareness of the current services available from telecoms providers to block nuisance calls, including awareness of the Telephone Preference Service as part of Ofcom's plan to improve information for consumers and raise awareness of scams.

I also welcome proposed plans to ensure that telecoms providers are treating vulnerable consumers fairly with the correct level of support required.

CYBER RESILIENCE

The Scottish Government recognises the importance of keeping people, particularly children, safe from online harms, as well as the broader cyber security of organisations. We welcome Ofcom's commitment to helping to keep our people and businesses safer and more secure and we look forward to continued engagement in this important area of work.

AFFORDABILITY OF INTERNET SERVICES

Our [Digital Strategy](#) states that there should be no barriers to getting online and benefiting from digital technology. People must be able to access technology, understand its benefits and limitations, develop the skills they need to be safe and creative online and control how their personal information is used.

In order to realise this vision the internet needs to be both affordable as well as being responsive and resilient. Some Internet Service Providers (ISPs) such as 'GiffGaff' already provide short term connectivity packages, which work differently from traditional Pay As You Go packages, and maybe better in terms of affordability. The modes of how we offer connectivity should be considered by Ofcom and the big companies. This is against the backdrop of the recent Lloyds Digital Index Survey where a significant number of people said they were considering giving up their broadband contract due to affordability issues.

AN ETHICAL DIGITAL NATION

Our [Digital Strategy](#) also makes a commitment to positioning Scotland as an ethical digital nation, and we have recently published a report on [Building Trust in the Digital Era: achieving Scotland's aspirations as an ethical digital nation.](#)

Whilst the Ofcom's plan of work has a focus on equality, I would urge there to be a greater emphasis on digital ethics.

MIGRATION TO VOICE-OVER-IP SERVICES

Although the Ofcom plan makes mention of the migration to voice-over-IP services, I am concerned it makes no specific reference to the potential impacts the migration could have on both members of the public and businesses in the event of power disruption. We have seen with clarity the real impact to telecoms access from protracted power disruption, in particular Storm Arwen and the subsequent storms over the winter of 2021/22. As a result, access to 999 Emergency Services was severely impacted in affected areas for both fixed line and mobile telecoms.

I am aware that Ofcom imposed a regulatory obligation under General Condition A3.2(b) which states that Regulated Providers "*must take all necessary measures to ensure uninterrupted access to Emergency Organisations*".

With the duration of recent widespread power cuts being days not hours, the recommendation of a minimum of one hour's protection to ensure customers can access Emergency Organisations during a power cut seems inadequate. Moreover, I am of the understanding that street cabinets which provide broadband services have approximately four hours battery backup therefore, even with home-based protection solutions, for example a router battery backup, under present conditions, customers may not be able to contact Emergency Organisations after this time, which is very concerning.

I would welcome further details on how Ofcom will be working with both the UK Government and the telecoms industry to protect or maintain access to Emergency Organisations during protracted power disruption events.

EU'S DIGITAL ROADMAP

There is also nothing linked to the [EU's Digital Roadmap](#) While I understand the issues on this, I think it is important to recognise what is happening with our European neighbours.

DATA AND INNOVATION HUB

I was pleased to note Ofcom's Data and Innovation Hub's plan to reach out to Scottish stakeholders including the AI Alliance and the Data Lab, and look forward to collaborating with the Hub on shared priorities.

I am also supportive of the Digital Regulation Cooperation Forum and am keen for us to continue being looped into this work so we can comment and contribute from a Scottish perspective