

BT's response to Ofcom's proposed Plan of Work 2022/23

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We welcome the opportunity to comment on Ofcom's proposed Plan of Work

- 1.1. Ofcom and industry are working well together to deliver good outcomes for customers and we welcome Ofcom's proposed plan of work. We have highlighted particularly important areas for future regulatory work in digital and connectivity; areas where further clarification is needed, and additional work areas for Ofcom. We also acknowledge and appreciate the importance of Ofcom's wider priorities, including the introduction of online harms.
- 1.2. We particularly welcome the inclusion of the following policy areas:
 - **Net Neutrality** - the proposed review could lead to better outcomes for consumers;
 - **Mobile Market Review** – this could underpin future network investment and innovation;
 - **All-IP** – where we need continued Ofcom support to safely migrate all users from the PSTN;
 - **Vulnerability and Social Tariffs** – where we want to see fair treatment for vulnerable customers;
 - **Switching reform** – we support this new process but the timing of the changes is very challenging;
 - **Security and Resilience** – we would welcome further details from Ofcom on its proposals; and
 - **Spectrum** – in particular, we welcome the proposed work on releasing the 26 GHz band and on the spectrum roadmap.

We broadly agree with Ofcom's approach to most of these policy areas, which we set out in the next section.

BT supports delivery of Ofcom's Plan of Work on a number of key issues

- 1.3. We support Ofcom's review of the **net neutrality** rules. Ofcom should look broadly across the internet value chain and consider how the rules can be updated to reflect the changes in the internet ecosystem since the rules were first drafted. Ofcom should consider changes to the rules to incentivise efficient use of telecoms networks, encourage innovation and stimulate investment in new and future services for customers.
- 1.4. Ofcom's **mobile strategy review** is a critical piece of work for the future of telecommunications in the UK. Policy and regulation must recognise the challenges that exist for the industry and evolve to support the long-term investments that we are already making. By doing so, it will help to maximise the reach and benefits of our networks, whilst ensuring significant value and influence is retained by UK Plc.
- 1.5. Ofcom is uniquely placed to ensure that all CPs have robust migration plans in place as part of the **All-IP** programme. It should use its position to anticipate where issues may arise well before WLR withdrawal in 2025 and help industry, where it can, to find resolutions for those emerging issues. We are working with the government to, amongst other things, ensure that critical national infrastructure is safely migrated from the PSTN. We would welcome Ofcom's support in those ongoing discussions.
- 1.6. We fully support Ofcom's proposal to monitor communication providers to ensure customers in vulnerable circumstances are being treated fairly. It is important providers effectively distinguish between the needs of different groups within the broader category of **vulnerability**. Ofcom should also ensure that all providers offer social tariffs.
- 1.7. We welcome Ofcom's statement that it will continue to work with industry as it implements the new One Touch Switch process for **consumer switching**. BT is supportive of this new process and wants it to be implemented as soon as possible. However, the deadline of April 2023 is extremely challenging in view of the need to design, procure and build a new communications hub through which all switching orders will be managed, and to establish the industry governance structures around this.

Ofcom's engagement to help drive the industry's decision-making, and to provide a timely steer where needed, will be essential in order for us to make the rapid progress required.

- 1.8. **Security and resilience** are two major but complex areas for infrastructure policy. We would welcome further clarity from Ofcom on how it views its work on implementing the Telecoms Security Bill as it develops its thinking more broadly on resilience policy over 2022-23. We would be keen, in that respect, to understand where there will be any major milestones. Ofcom should also increase its focus on security and resilience in communications infrastructure more widely, mindful of potential risks for consumers and business in critical internet infrastructure and services.
- 1.9. We welcome Ofcom's continuing work on its **spectrum** programme, notably the award of 26GHz, the future spectrum roadmap and authorisation of drones. Ofcom should also ensure that it has assessed the different options for the future use of UHF spectrum currently used for digital terrestrial television ahead of the ITU-WRC-23 next year. We would welcome further clarity on what Ofcom's next steps are on its spectrum roadmap.
- 1.10. Ofcom's proposed timing for a statement on licensed use of the U6GHz band does not appear to allow adequate time for consultation. It may, in any case, be premature to introduce new uses of that spectrum given that WRC-23 will consider the identification of that band for International mobile Telecommunications (IMT), for which UK industry has expressed a clear interest

We have identified areas where Ofcom may wish to consider its proposals further

Ofcom should consider taking a more active role in the new digital markets regime given its experience in communications markets

- 1.11. In its draft Plan of Work, Ofcom is not seeking to take an active role in the new pro-competition regime for digital markets. DCMS is currently consulting on the scope of this new regime, including which regulators should have statutory powers. We understand from Ofcom's Plan of Work that it will not undertake major work on either building the capabilities for the new regime or undertake any market studies or research to build its understanding of digital markets.
- 1.12. We are disappointed that Ofcom is not seeking to take an active role in this new regime. Its experience in communications markets makes it well placed to take a primary role in some aspects of digital competition regulation. Ofcom's previous review of future technologies in telecoms and digital markets looked at areas such as cloud computing and network edge services. This type of analysis and insight may be valuable when applied to the new regime.
- 1.13. Ofcom's Plan of Work states that it will continue its role in the Digital Regulation Cooperation Forum (DRCF), which was established to promote co-ordination between different regulators in relation to regulation of digital markets. Ofcom does not mention any specific projects or areas of work that it will contribute to under the DRCF. It should be clear what its role will be in the DRCF and we look forward to understanding what that role will be.

We are supportive of the proposal for Ofcom to become the UK online safety regulator and have several observations on this

- 1.14. We support the approach in the Bill, to require all services in scope to minimise the presence and dissemination of CSEA material, with powers for Ofcom to follow up and impose technical measures if it is not satisfied.
- 1.15. Ofcom needs to develop a regulatory regime with statutory Codes of Practice that adopt a suitably child-centred and harm-based approach. Ofcom should develop Codes of Practice for commercial pornography services. When establishing the Codes of Practice, Ofcom should consider issuing guidance which will provide platform users with clarity and consistency between platforms on how 'harmful but not illegal' content is dealt with. Ofcom should fully consult with external stakeholders on developing Codes of Practice and any further detail on plans to implement online safety regulation.

- 1.16. Ofcom should have information gathering powers equivalent to those in telecoms and broadcast to enable it to best execute its regulatory role and responsibilities.
- 1.17. When Ofcom receives complaints from victims of harm, it should have the powers to investigate. If necessary, it should be able to impose meaningful sanctions, including requirements for immediate and ongoing corrective action. This corrective action should take place within strict timeframes where content is clearly illegal. Appropriate remedies should be made available for the victims.
- 1.18. The Bill does provide a significant role for the Secretary of State over,
- the implementation of the Bill's provisions by Ofcom (Part 6);
 - from statements of strategic priorities (Clause 109);
 - to directions in special circumstances (Clause 112); and
 - or guidance about how Ofcom should exercise its powers (Clause 113).

The Secretary of State would also be able to issue a direction to Ofcom to reject a draft Code of Conduct for reasons relating to government policy (Clause 33 (1)). Our experience of regulation is that the public and industry are best served when the regulator is independent and not subject to excessive government oversight. Better decision-making is enabled when decisions are not influenced by short term political pressure.

Ofcom should take more of a lead in how communications regulation supports sustainability and the Government's Net Zero and sustainability ambition

- 1.19. As the communications regulator, Ofcom should continue to expand its knowledge and capability on sustainability of its regulated sectors. We recommend that Ofcom conducts and publishes a telecommunications sector sustainability impact report. Based on such a report, Ofcom can form sustainability guidelines and principles for the sector.
- 1.20. The sustainability agenda will in future be weaved into every aspect of policy and regulation making. For example, we note Arcep recently published a report on how environment considerations could be built into France's forthcoming 26GHz spectrum release. Ofcom should put further resource into this area, such as developing a framework for weighing sustainability impact of any future regulatory decisions and identifying decisions where such a framework could be applied.

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