

Plan of Work Team
Ofcom
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15 February 2022

Dear Ofcom Plan of Work Team,

Ofcom's proposed plan of work 2022/23: Response from CityFibre

CityFibre welcomes the opportunity to respond to Ofcom's consultation on its plan of work.

We note that the overall focus of Ofcom's activities in the Plan appears to be substantively on content policy issues. It remains the case that the telecoms part of Ofcom's remit is hugely important to the long-term economic prospects of the UK and the interests of consumers. In particular, the UK is at the relatively early stages of a major upgrade of its broadband infrastructure, with CityFibre and others investing billions of £s in full fibre technology. Supporting this once-in-a-generation investment programme should remain at the heart of Ofcom's operations.

Most of the telecoms projects which are identified in the plan relate to consumer policy initiatives and fairness/equity issues such as affordability. Again, whilst we recognise the importance of these we consider it equally important that Ofcom is focused on creating long term sustainable competition in full fibre networks. Ultimately, a strong, competitive market will deliver enormous aggregate benefits to consumers. In 2021, Ofcom set out a strategic approach in the Wholesale Fixed Telecoms Market Review which had the promotion of effective infrastructure competition at its heart. The 2022/23 period is the critical timeframe in which the success or failure of Ofcom's strategic goal of promoting infrastructure competition in the fixed market will be determined. We therefore consider that there needs to be significant focus on the ongoing monitoring and implementation of the WFTMR, and supporting programmes already identified by Ofcom that will facilitate this.

With this in mind, our substantive comments on the proposed work programme are set out below

Projects included in Ofcom's Draft Plan of Work

Consumer information on gigabit capable/ultrafast broadband: CityFibre is pleased to see this project included in the work programme. We have been fully engaged with the industry working group discussions that have already taken place. The Ofcom summary of the project is light on deliverables and silent on timescales for completion of this work. We consider that the project must ensure that consumers are able to understand and navigate the different technologies now in the market, in particular addressing the customer confusion identified by the GigaTAG between part and full fibre technologies. Given the critical timescales already mentioned, we believe this project should be taken forward as an urgent priority, given that consumers are already being harmed by misinformation and the problem will only grow more serious over time.

One Touch Switch: We welcome Ofcom's introduction of OTS obligations. We are actively involved in industry implementation discussions and would urge Ofcom to be ready to intervene if necessary to ensure these remain on track, noting that across industry there are diverging commercial incentives in relation to this important project.

Areas absent from the Draft Plan of Work

CityFibre considers Ofcom should include the following strategically critical projects in its work programme.

PIA improvements: The introduction of Passive Infrastructure Access, allowing reuse of Openreach civil infrastructure by competing network builders, is at the heart of Ofcom's strategy to promote infrastructure competition. Whilst acknowledging that significant progress has been made on PIA operational improvements during 2021, and that Ofcom introduced important changes to the price controls for PIA in the WFTMR, we want to emphasise that PIA requires further substantial operational improvements to be made, in particular to ensure that there is a level playing field between third party use of Openreach civil infrastructure and its own use.

Build Transparency: Given the overarching context of the Government's national coverage targets for Gigabit-capable networks, there is general recognition that greater transparency of operators' full fibre build plans would allow more efficient investment to maximise geographic coverage. We note that this issue was first highlighted in the Government's Future Telecoms Infrastructure Review in 2018 and was an important consideration when the Government chose to grant Ofcom the powers to conduct geographic surveys when transposing the European Electronic Communications Code into UK law.

We are aware that Ofcom is now gathering information about operators' plans using its statutory powers in order to produce an aggregate picture of operators' build plans. Greater clarity of such plans would allow Ofcom to monitor and where necessary intervene in relation to a specific concern identified in the WFTMR, strategic overbuild behaviour by Openreach intended to destabilise rival operator's business plans.

In order to address the issue identified in the FTIR by the Government, it will be necessary for the form of publication of information obtained by Ofcom to be sufficiently transparent to allow operators to act upon it by tailoring their investment plans to maximise geographic coverage. We see no compelling public policy or competition arguments for anything other than comprehensive publication of the results of the exercise to all stakeholders.

Monitoring and enforcement of WFTMR obligations: We welcome Ofcom's recent statement that going forward the Openreach Monitoring Unit will shift its focus towards the obligations introduced in the WFTMR, and that this will where necessary involve fast-track enforcement of these obligations. This is a fundamental shift in approach which underpins investor confidence and as such should also be specifically reflected in the Plan as a strategically important area of work.

Yours sincerely,

Alex Blowers

Director of Regulatory Affairs